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**TESTIMONY IN SUPPORT OF SECTION 41 OF THE POLICE ACCOUNTABILITY
BILL ABOLISHING QUALIFIED IMMUNITY AND CREATING A STATE CAUSE OF
ACTION FOR POLICE MISCONDUCT**

Senators Winfield and Kissel, Representatives Safstrom and Rebimbas, and other Members of Judiciary Committee:

My name is Lewis Chimes and I am an attorney from Stamford, Connecticut. I am a former prosecutor and have been representing individuals in civil rights cases and employment discrimination cases for over thirty years.

I urge you in the strongest possible terms to pass section 41 of the Police Accountability Bill. This section creates an effective state law cause of action for police misconduct that eliminates qualified and governmental immunity.

This is a unique moment. The horror of George Floyd's murder has created a strong and focused call for change. Please do not let this moment pass. If action on this section is deferred, the current focus will dissipate, the entrenched status quo will coalesce, and Connecticut will never provide a meaningful remedy for victims of police misconduct.

I offer the following reasons why you should include Section 41 this bill.

1. **DETERRENCE**

Any effective police reform must have teeth to hold police departments accountable when their officers do not adhere to their training and ignore the law. Section 41, like other civil rights statutes, is a remedial statute. It is intended, in conjunction with other reforms, to foster change by imposing significant costs to deter future violations. Police departments are much more incentivized to strictly enforce the training, oversight and the other reforms included in this bill if they know with reasonable certainty that if their officers do not comply, the damages caused, and punitive damages in more egregious cases will come out of their budget.

2. **TRANSPARENCY**

This section of the Police Accountability Act is also important because it is transparent. Claims of police misconduct will be filed in open court and allow the victims to get the necessary discovery to prove or disprove their cases. Juries will ultimately decide whether police officers violated the law.

None of the other proposed oversight measures of this bill (Mental health evaluations, revocation of certification for officers accused of misconduct) will be subject to public scrutiny. All the other proposed oversight measures depend on the police departments themselves to administer the oversight and self-report. Although I am sure that most departments will administer these measures in good faith, historically even the most enlightened police departments have had great difficulty overcoming entrenched opposition within their departments to any change.

3. **FAIRNESS**

Any meaningful police reform must include a process for victims of police misconduct and their community to pursue their grievances that they perceive to be fair and legitimate. Qualified immunity and governmental immunity effectively shut the door to our civil justice system. It is a judicially created doctrine barely understood even by most judges and lawyers. Litigation of cases involving qualified immunity is extraordinarily complicated, subjects the victim to interlocutory (immediate) appeals before trial. It sets higher standards for proof of violations (violation must be “clearly established”), and protects the officer if the court determines after the fact, that it believes that the “officer reasonably” believed that is conduct was not violating the victim’s rights.

Section 41 would eliminate this often insurmountable barrier and treat these claims like all civil tort remedies: (1) Did the police officer violate the victim’s rights; (2) Did the victim suffer damages; and (3) Did the violations cause the damages.

Simplifying these claims would reduce unnecessary litigation and attorney’s fees. It would not prevent the officer or department from defending the officer’s conduct. But it would permit both the victim and the defendants to present their evidence to an impartial and unbiased court and jury.

Section 41 would provide the victims a fair process and a meaningful remedy, and one that is fair to both sides.

4. **VICTIMS OF POLICE MISCONDUCT SHOULD HAVE THE SAME PROTECTIONS AS OTHER VICTIMS OF DISCRIMINATION OR CIVIL RIGHTS**

Opponents of this bill fail to acknowledge that under the current law, victims of police misconduct are afforded **less** protection than other traditional victims of discrimination and statutory protection.

There are no qualified or governmental immunities that bars claims by:

- Victims of Sexual Harassment

- Victims of Discrimination in the workplace
- Victims of housing discrimination;
- Female victims of discrimination in education;
- Whistleblowers;
- Denial of free of speech under state law;
- Victims denied payment of wages under Connecticut Wage laws;

I have proudly assisted dozens of police officers over the years to assert their civil rights in these other contexts and will continue to do so. None of their claims were “frivolous.” Their claims were often vigorously defended, but never barred by qualified or governmental immunity. It seems disingenuous, at best for police officers who benefit from other state and constitutional protections to advocate for lesser protections for victims in police misconduct cases.

5. **The Specter of Frivolous Lawsuits and Higher Insurance Costs is a Red Herring**

Any legal remedy intended to change longstanding and entrenched behavior is going to impose costs. There can be no doubt that the laws protecting against sexual harassment-imposed costs on the organizations, government entities, and companies required to comply with the law. But the success of these laws changing culture for women in the workplace cannot seriously be disputed.

The issues raised by Black Lives Matter movement require significant change in longstanding and entrenched behavior in our police departments, no less than the issues previously raised by the MeTwo Movement.

Can anyone really argue that achieving that change is not worth the cost?

I urge you to pass Section 41 to provide a fair and transparent remedy for victims of police misconduct. I thank you for your consideration.

Yours truly,



Lewis Chimes