

July 16, 2020

RE: Testimony on Draft LCO #3471

Dear CGA Judiciary Committee,

I am a professor of criminal justice who researches policing and crime reduction, and I am a resident of Hartford. I am writing in opposition to An Act Concerning Police Accountability (LCO #3471) in its current form. I am sympathetic to the current cries for necessary change and I deeply empathize with all who are enraged by institutionalized racism and violent acts that have occurred at the hands of irresponsible officers who tarnish the badge. I also stand with efforts to increase accountability for officers and departments and rid the profession of structures that help protect those engaged in misconduct or displaying patterns of bias and discrimination. These reform measures are necessary in all organizations, but especially one in which the consequences for leaving problematic behavior unaddressed are so high. It is also worth mentioning that through discussions I've had with officers and police leaders in the course of my own work, I sincerely believe the majority of police officers stand by these sentiments as well because they want the best for their profession and the communities they serve.

I am not writing to unwaveringly oppose all of the measures proposed in this act. Rather, I am writing to urge you and other legislative members to oppose this bill as it is currently written so that responsible, thoroughly informed steps can be taken. We must take the time consider the consequences of every new measure since the welfare of our citizens, communities, and officers depends on it. While there are several proposed policies that bring up questions regarding legality, constitutionality, and fiscal impact, I do not feel qualified to speak on those issues. Instead, my opposition rests on the need for data, research, and carefully considered plans in multiple areas involved in this proposal. Specifically:

Police Mental Health Assessments

Police officers work in an increasingly stressful occupation subject to numerous operational, organizational, and external stressors. Notably, police officers suffer relatively high rates of depression and PTSD.¹ Unfortunately, we also know that barriers exist that prevent officers from seeking help, including concerns about accessibility² and stigma within the policing profession.³ Officers are keenly aware that seeking help may result in negative professional implications and jeopardize their careers.⁴

Research regarding officers' mental health and the impacts of stress and traumatic exposure are still developing, and it would be irresponsible to make sweeping changes requiring assessments that can significantly affect officers' careers without thorough consideration. Researchers and advocates have begun taking steps to destigmatize issues of mental health and improve help-seeking behaviors in policing. Mandating mental health assessments has the potential to hinder or erase the progress that's been made by increasing the fear and shame associated with seeking mental health treatment. Given the professional consequences, it is unlikely that officers would participate openly and honestly in these sessions. Instead, we should focus on implementing and evaluating policies that improve mental health services and resources in law enforcement, enhance officer education regarding stress symptoms and their effects, and foster organizational practices that normalize conversations around mental health in policing.

¹ Tahera Darensburg, Michael Andrew, Tara Hartley, Cecil Burchfiel, Desta Fekedulegn, and John Violanti. "Gender and Age Differences in Posttraumatic Stress Disorder and Depression among Buffalo Police Officers." *Traumatology* 12, (2006): 220-228.; Katrina Lawson, John Rodwell, and Andrew Noblet. "Mental Health of a Police Force: Estimating Prevalence of Work-Related Depression in Australia without a Direct National Measure." *Psychological Reports* 100, (2012): 743-752.

² Kerry Karaffa and Karin Tochkov, "Attitudes toward Seeking Mental Health Treatment among Law Enforcement Officers." *Applied Psychology in Criminal Justice* 9, (2013): 75-99.

³ David Fair, "Counseling Cops: Learning How to Navigate the Law Enforcement Subculture." *Annals of the American Psychotherapy Association* 12, (2009): 50-51.; Lawrence Blum, *Force Under Pressure: How Cops Live and Why They Die* (New York, NY: Lantern Books, 2000).

⁴ Hans Toch. *Stress in Policing* (Washington, DC: American Psychological Association, 2002)

Mandated Body-Worn Camera/Dashboard Camera Usage

Research by myself and others demonstrates that the use of body-worn cameras (BWC) appears to result in beneficial effects in terms of reductions in use of force incidents and citizen complaints but that those effects are minimal.⁵ This effect is small because contrary to public perception, complaints and use of force encounters are actually relatively rare events.⁶ Still, even if the effect is small, many would still consider the improvement worthwhile, but this cannot be considered a silver bullet solution.

Importantly, these positive effects are likely achieved through the ability of cameras to alter the behaviors of officers *and* citizens during encounters. The presence and visibility of a camera alerts both parties that they are being watched, and we consequently alter our behavior to engage in more appropriate and acceptable conduct in reaction to that knowledge.⁷ Cooling the behaviors of both officers and citizens can reduce the likelihood that an encounter will escalate unnecessarily. Additional benefits of BWC can be gleaned from their evidentiary value in providing visual documentation that may help accelerate and improve case outcomes, though these effects are understudied.⁸ Finally, little evidence exists to show that a de-policing effect (i.e. diminished police proactivity) would result from the adoption of BWC.⁹

Important to this discussion is the fact that cost-benefit analyses are infrequently conducted as part of BWC evaluations. When they've been conducted in large police agencies, BWCs have been shown to result in potential cost savings.¹⁰ However, we know very little about whether this would remain the case for medium or small police agencies where citizen complaints and litigation (where most of these cost savings are achieved) occur less frequently. Mandating the adoption of body-worn cameras or dashboard cameras is reasonable and would likely result in some level of benefit to the community, the police agency, police officers, and justice-related outcomes. Although the proposed measure includes grants for initial costs, ongoing costs associated with both BWC and dashboard camera programs are high, and I would recommend pausing the adoption of this policy until the costs and benefits can be analyzed. Taking more time to assess the financial impacts of these programs, and how to minimize burdens to medium and small sized police departments, which may achieve lesser or no cost-savings, is likely necessary.

Elimination of Consent Searches

I cannot speak to the legality and constitutional issues revolving around the maintenance or elimination of consent searches, but I can speak to the gaps in evidence regarding the potential effects of their use. We do have information that suggests that the liberal use of consent search practices may erode trust in the police and views of police legitimacy.¹¹ Research demonstrates that when people do not feel that their interactions with the police are respectful or based in legitimate circumstances, they are less

⁵ Anthony Braga, Lisa Barao, Gregory Zimmerman, Stephen Douglas, and Keller Sheppard. "Measuring the Direct and Spillover Effects of Body-Worn Cameras on the Civility of Police-Citizen Encounters and Police Work Activities." *Journal of Quantitative Criminology* (2019).; Cynthia Lum, Megan Stoltz, Christopher Koper, and J Maber Scherer. "Research on Body-Worn Cameras: What We Know, What We Need to Know." *Criminology and Public Policy* 18, no. 1 (2019): 93-118.

⁶ Braga et al. "Measuring the Direct and Spillover Effects"

⁷ Barak Ariel et al. "Paradoxical Effects of Self-Awareness of Being Observed: Testing the Effect of Police Body-Worn Cameras on Assaults and Aggression Against Officers." *Journal of Experimental Criminology*, (2018).

⁸ Catherine Owens, David Mann, Rory McKenna, "The Essex BWV Trial: The Impact of BWV on Criminal Justice Outcomes of Domestic Abuse Incidents." London, United Kingdom: College of Policing, 2014.

⁹ Danielle Wallace, Michael White, Janne Gaub, and Natalie Todak. "Body-Worn Cameras as a Potential Source of Depolicing: Testing for Camera Induced Passivity." *Criminology* 56, (2018): 481-509.

¹⁰ Anthony Braga, James Coldren, William Sousa, Denise Rodriguez, and Omer Alper. "The Benefits of Body-Worn Cameras: New Findings from a Randomized Controlled Trial at the Las Vegas Metropolitan Police Department." Final Report to the National Institute of Justice, 2013-IJ-CX-0016, September 2017.

¹¹ Jacinta Gau. "Consent Searches as a Threat to Procedural Justice and Police Legitimacy: An Analysis of Consent Requests during Traffic Stops." *Criminal Justice Policy Review* 24, no. 6 (2013) 759-777.

likely to trust the police, cooperate with the police, or participate in community crime reduction efforts,¹² so any practice that results in such negative impacts should certainly be examined.

But we lack information on the potentially negative crime control effects of limiting their use entirely. Policies that eliminate consent searches are premature, especially when these actions can function as tools in proactive policing strategies, which we know to effectively significantly reduce violent crime and gun crime.¹³ Existing research over the past three decades demonstrates that proactive policing strategies that are strategically crafted and designed and that are implemented collaboratively with the community can effectively significantly reduce violent crime, gun crime, and violent drug dealing without criminalizing low-level offenders or aggressively targeting communities.¹⁴ We need to know how policies like eliminating consent searches would affect these beneficial efforts. After all, at the same time that communities don't want to be over-policed, they also don't want to be under-policed. Confidence in and relationships with the police deteriorate when citizens feel that the police are not attentive or responsive and when they feel that the police aren't doing enough to keep them safe.¹⁵

These two competing interests-- balancing efforts to build trust and legitimacy with crime control benefits-- justify the need for an intermediate action while this issue is examined closer. Ensuring that police agencies develop directives regarding the usage of consent searches and consistently monitor and evaluate their usage is a reasonable intermediate step, and it is one that will likely strike a necessary balance.

Sale or Transfer of 'Militarized' Equipment

Studies regarding the actual use and effects of "militarized" equipment in policing is lacking. Some literature exists to suggest that the acquisition and use of surplus military equipment and advanced technologies is associated with crime reductions and a deterrent effect,¹⁶ but these studies are extremely limited. Additional research focused on perceptions has suggested that community trust and levels of police legitimacy and legal cynicism are linked to how police militarization is viewed. Specifically, when there is more police-community trust, citizens are less likely to believe that the police are too militarized and more likely to support practices associated with militarization.¹⁷ Outside of those characteristics, views toward police militarization are linked to individual-level factors like gender, education, and political affiliation.¹⁸ Beyond these studies, little research regarding the deployment and perceptions of these tools exists.

I am not advocating for either the continued use or elimination of such tools and equipment. Rather, I am urging you to consider that there is a need for us to better understand and weigh public perceptions of militarization, impacts on police-community relations, and potential benefits for deterrence and officer safety before making policy decisions, especially since stances on this issue tend to be polarized and influenced by personal moral attitudes. Steps that enhance transparency in the acquisition and deployment

¹² Rod Brunson and Jacinta Gau. "Race, Place, and Policing the Inner-City." In *The Oxford Handbook on Police and Policing*, Edited by Michael Reisig and Robert Kane (New York: Oxford University Press, 2014); Tom Tyler, *Why People Obey the Law* (Princeton, NJ: Princeton University Press, 2006).

¹³ National Academies of Sciences, Engineering, and Medicine. *Proactive Policing: Effects on Crime and Communities*. Washington, DC: The National Academies Press. 2018

¹⁴ Anthony Braga, David Weisburd, and Brandon Turchan, "Focused Deterrence Strategies and Crime Control: An Updated Systematic Review and Meta-Analysis of the Empirical Evidence." *Criminology & Public Policy* 17, no. 1 (2018): 205-250.

¹⁵ Rod Brunson. "'Police Don't Like Black People': African American Young Men's Accumulated Police Experiences." *Criminology & Public Policy* 6, (2007): 71-102.; Ronald Weitzer. "Race and Policing in Different Ecological Contexts." In *Race, Ethnicity and Policing: New and Essential Readings*, edited by Stephen Rice and Michael White (New York, New York University Press, 2010)

¹⁶ Vincenzo Bove and Evelina Gavrilova. "Police Officer on the Frontline or a Soldier? The Effect of Police Militarization on Crime." *American Economic Journal: Economic Policy* 9, no. 3 (2017): 1-18.

¹⁷ Richard Moule, Bryanna Fox, and Megan Parry. "The Long Shadow of Ferguson: Legitimacy, Legal Cynicism, and Public Perceptions of Police Militarization" *Crime & Delinquency* 65, no. 2 (2019): 151-182.

¹⁸ Brian Lockwood, Matthew Doyle, and John Comiskey. "Armed, but Too Dangerous? Factors Associated with Citizen Support for the Militarization of the Police." *Criminal Justice Studies* 31, no. 2 (2018): 113-127.

of surplus military equipment and advanced technologies can help increase trust and oversight while we seek to better understand these effects.

Elimination of Qualified Immunity

Qualified immunity is legally complex, and I'll leave the discussion of those complexities to attorneys far more well-versed in the intertwined legal and constitutional issues. Regarding the intent of the proposed measures, there is a belief that increasing the perceived likelihood and severity of officers' civil liability will deter unlawful police behavior. However, research suggests that knowledge of civil liability has little impact on police behavior by way of deterring aggressive policing and problematic street-level behavior.¹⁹ We also find this to be true in criminal behavior, where increasing the severity of sanctions has little deterrent effect on criminal behavior. Conversely, there is some evidence that officers cognizant of the potential liability of their action will be less likely to initiate encounters (i.e. proactive police actions) with suspects, but research is limited.²⁰

Research consistently supports assertions that police officer encounters are dynamic, challenging, and quickly-changing, with one recent study in which researchers observed recordings of officer encounters noting that a 'behavior transition,' (i.e., verbal and nonverbal actions that prompt reactions and behavior changes in the involved individuals), occurs an average of every 1.89 seconds.²¹ Being able to operate in these dynamic situations and make sound decisions requires ongoing training, experience, and mental agility. Officers deserve to feel protected for their well-intentioned and reasonable actions (not serious or intentional misconduct) during the course of the extremely difficult and dynamic situations that we are asking them to confront. Furthermore, there are likely a range of negative effects that would result from the removal of these protections including effects on officer engagement, proactivity, retention, and recruitment. Given that hiring and retaining qualified police officer applicants has become increasingly difficult,²² adding to these hindrances could reduce the quality of policing that communities may receive.

The intention of qualified immunity is not to protect government officials engaged in serious misconduct. A thorough examination of police civil liability may be warranted, but until that examination is conducted, more reasonable intermediate steps should be considered. I understand and support the need to hold officers accountable when they engage in serious and/or intentional misconduct. Consider focusing on structures that require department tracking and intervention with potentially problem officers. Ensure that departments are implementing early intervention systems and that they are consistently evaluating these systems to ensure they are operating efficiently and effectively. Develop policies that focus on improving front-line supervision training and practices. Support the adoption of strategic plans that promote external accountability through actions like disseminating citizen complaint outcomes.

Police-Community Engagement

Lastly, we need police officers in this fight with us. We need them invested in reforms and supportive of the progressive and meaningful change. The most consistent underlying factor affecting police-citizen interactions, perceptions of those interactions, and the outcomes of those interactions is police-community trust. Practices focused on emphasizing procedural justice, empathetic policing behaviors, police-community engagement, bridging community and cultural understanding, and developing collaborative crime control efforts with the input and aid of community members all have

¹⁹ Kenneth Novak, Brad Smith, and James Frank. "Strange Bedfellows: Civil Liability and Aggressive Policing." *Policing* 26, no. 2 (2003): 352.

²⁰ Novak, Smith, and Frank. "Strange Bedfellows: Civil Liability and Aggressive Policing."

²¹ R. Longridge, B. Chapman, C. Bennell, D. Clarke and D. Keatley, "Behaviour Sequence Analysis of Police Body-Worn Camera Footage." *Journal of Police and Criminal Psychology*, (2020): 1-8.

²² Orrick, W. "Best Practices Guide: Recruitment, Retention, and Turnover of Law Enforcement Personnel." (Washington, DC: International Association of Chiefs of Police, 2008.)

profoundly positive effects on police behaviors, citizen behaviors, and crime reduction. Yet, this focus is noticeably absent from this bill.

Many of these measures feel punitive toward officers rather than serving as supportive, collaborative efforts toward reform. We need the police as partners, not opponents, if we are going to improve law enforcement and how our communities are policed. Our towns and cities may become more dangerous if the police are not invested. Officer-citizen interactions may become more prone to escalate when tensions are high or when officers are withdrawn. Making officers feel vilified through actions like eliminating liability protections or denying/revoking certifications (since there are a number of reasons an officer may be decertified that are not indicative of a propensity toward violence) does not encourage them to be partners with us in these efforts to improve policing. It instead increases the us-versus-them mentality which has increasingly been acknowledged by the public as a harmful mindset for the police to hold. Perpetuating narratives that paint the police as unrestrained and unprofessional erodes the trust most officers and departments have continuously worked to build in recent years.

Some of these measures may be necessary either as they are written or in an amended form, but they should be given much more thought, they should be backed by evidence, and police officers (not administrators who, although very experienced and knowledgeable, are working in inevitably politicized roles) should be part of all of these discussions. I encourage you to continue voicing your concerns and the concerns of your constituents. But it is also critical to engage police officers, listen to their concerns, see their viewpoints, and take in their experiences. These honest discussions are necessary.

Openness to change is essential in policing and ongoing reform is always needed. But these changes cannot be made in a responsible manner in under two months. These decisions deserve time. They deserve research. They deserve discussion. Incentivize police departments to pilot some of these initiatives. Build boards and committees to lead research efforts. Study the effects of these proposals. Conduct “pre-mortems” of how every proposed action might affect citizens, vulnerable populations, underserved communities, municipalities, officers, and public safety. Attempt to build policies that mitigate any negative effects. And incorporate measures into every action that allow for frequent reevaluation and revision. This is the responsible way forward.

At this moment, we should take a ‘do something, but do no harm’ approach. Focus on training, education, and practices that bolster police-community relations. We may not have evidence to show that training results in significant behavioral changes, but it does seem to result in attitudinal changes with very few potentially negative consequences. We also know strategic, planned efforts to improve police-community relations have far-reaching beneficial effects and very few negative impacts. Where we lack information, implement policies that aim to collect data, increase transparency, and encourage open oversight. I urge you to limit changes that are not supported by evidence and that are likely to significantly alter the work of officers and the safety of our communities until adequate research to support these measures and their proper implementation exists. Simply, without proper research and planning regarding many of these policies, you cannot assure yourself or others that you are doing no harm.

Respectfully Submitted,

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