

Written testimony, submitted to the Judiciary Committee for consideration on Friday, July 17, 2020, in opposition to Bill number 3471, the Police Accountability Act.

Submitted by Matthew J. Funchion, Burlington resident

Mr. Chairman, and Members of the Judiciary Committee,
I submit this testimony in opposition to the proposed "Police Accountability Act," Bill number 3471. I am a lifelong resident of Connecticut, and have served as a Connecticut State Trooper for over nineteen years. Since 2015, I have held the supervisory rank of Sergeant with the Connecticut State Police. I am testifying on behalf of myself, and my brother and sister Troopers and police officers, and I do not represent the State Police, or the Connecticut State Police Union in my testimony. I have three major concerns within the bill that I will address: the revocation of Qualified Immunity for police officers, the procurement, possession, and use of military-type equipment in law enforcement, and the concept of consent searches.

I have served my State and my community with pride, working hard to earn the respect of my peers and superiors, and to be a role model for younger Troopers and police officers. I have strived to teach my three children the meaning of duty, service, and honor. In my career, I have missed countless holidays, Christmases, birthdays, family events, weddings, and more. I have been assaulted, injured, and seen death in all its ugly forms. I have done CPR on those that lived and those that have not. I have delivered the news of a loved one's death to countless parents, children, brothers, and sisters, and have collapsed in my wife's arms in tears when I got home afterward. I have seen men, women, and children in all forms of death. I have witnessed Troopers, police officers, and cops perform incredible, almost unbelievable, acts of bravery and heroism. Recently, I watched as a felon in a stolen SUV drove, at a high rate of speed, directly into the side of a police car occupied by two of my detectives. As I watched, my first thought was, "what will I tell their families?" Despite how bad it looked those officers were not injured. But they did nothing to that suspect, other than try to arrest him for stealing a car, and reclaim that car for its rightful owner. These are the sacrifices that police officers and Troopers make for their communities.

Sacrifice and service go hand in hand. Police officers know this. But the understanding is that our departments, and our communities, will support us.

I have arrested around 750 people, many for violent felonies. Out of those 750 arrests, and in a nineteen-year career, I have used force on very few occasions, only when necessary, and never punitively. Although I have never used deadly force, on two occasions, in the same month in 2012, I almost had to. One was during the apprehension of two suspects that had killed one man and paralyzed another in a drive-by shooting mere minutes before I stopped them. The second was during a traffic stop in which the driver was armed with a stolen handgun that was hidden in his waistband. He reached for the gun, but did not draw it. I later learned that the semiautomatic pistol was loaded, but did not have a round in the chamber. I believe that the suspect knew this and that if he had a round in the chamber, he would have shot me.

I have devoted my life to being the best Trooper I could be. I have studied department policies and procedures, memorized statutes, and researched case law to exhaustion. I have made a life of working, proudly, within the boundaries of those documents and regulations.

The police accountability act will change all of this. No. It will end all of this. All of policing in Connecticut will end. For while the Police Accountability Act seeks to modernize, reshape, and update use of force rules for police, which on its face is not a bad thing, it also devastates the policing profession, and its members, as a whole. The most devastating part of this bill is the revocation of QUALIFIED IMMUNITY for law enforcement. Qualified immunity does not protect bad cops from being held accountable. It protects GOOD COPS from being falsely and frivolously sued for what may be lawful action under the color of the law. Qualified immunity protects me. It protects my family. It protects my wife and children. Imagine if the Willington/Derby killer felt that his handcuffs were on too tight. Maybe he felt that the cop that arrested him was angry or demeaning in how he spoke to him. Without qualified immunity, that murderer could sue that officer. The officer would have no department protection from that frivolous claim. Now imagine that another person that same cop dealt with sued him for something frivolous. Then another. Then another. In each case, the cop is on his own, hiring his own attorneys, paying his own fees. That cop would be bankrupted overnight. Then one by one, every other cop is taken down in the same fashion. That is not accountability for misconduct. It is the financial assassination of a noble profession, one officer at a time.

The protection afforded to law enforcement under qualified immunity is not a blind, blanket exemption from duties, standards, or consequence. Rather it is applied on a case by case basis, and measured against applicable precedent, laws, and standard practices. It is applied when the police officer has acted appropriately within the boundaries of his duty, or if the complaint against him is unfounded or has no merit, even if the arrestee or complainant does not agree. This is how our departments and community support us.

We must be supported. The standard for an arrest is probable cause. We cannot be vilified when we make an arrest based upon the probable cause standard. We should not be vilified in the process of an arrest if we have to use force in accordance with existing laws and policy, and in compliance with our training. Police officers ARE held accountable every day, by supervisors, managers, chiefs of police, politicians, the public and the media. Police officers that commit criminal acts ARE arrested. The days of cops sweeping criminal misconduct under the rug are long behind us. There will always be exceptions, but when cops break the law, they are arrested, and they should be. But when we spend a lifetime trying to live honorably, and by the rules, we should be comfortable in knowing our families, homes, and belongings are secure. Does any other citizen deserve differently. Yes we are not like other citizens. We are asked to enforce laws, arrest criminals, defend the defenseless, and to use force when necessary. If you ask that of us, you must protect us from those that knowingly break laws, those that would take from us, those that prey on the weak and defenseless, and those that believe that the only good cop is a dead cop.

Military equipment is another way police are supported by their community and leaders. There is a REALITY that people kill cops. Suspects do this with guns, knives, clubs, bats, their fists and feet, heavy objects, and vehicles. Cops are assassinated as they approach a house from down the street, by people with high power rifles. They are ambushed up close when they ask to speak with someone. They are run over, beaten, choked, and stabbed. Military equipment is a PROTECTION. Armored vehicles are used by SWAT officers in limited scenarios. Body armor is worn daily and rifle-grade body armor is deployed by street cops when going into a known shooter situation. Rifles are deployed when cops know they are under fire, or when responding to active shooters. We NEED this equipment to protect our lives. I need it so my 7-year-old little girl sees her daddy EVERY SINGLE NIGHT. We do not use this equipment to intimidate the public and it is not "the militarization of police." It is there to ensure our safety. Our regular patrol ballistic vests do not stop rifle rounds and are penetrated by many handgun calibers. Our cars do not stop bullets of any kind. We are tasked with stopping criminals with guns. When we are faced with that, WE DESERVE every advantage that we can get to stay alive. It is not supposed to be a fair fight when someone is trying to use deadly force against us. We are supposed to win, and then supposed to be supported by you, our employer and leaders. Please encourage my little girl to sleep soundly knowing that you, her representatives, are protecting her father.

I cannot understand how consent searches are even part of this bill. They are an individual's exercise of free will. Subjects can literally say yes or no to a consent search. Numerous Supreme Court cases have upheld consent as a lawful exception to the Search Warrant requirement. Thousands of contraband seizures and arrests result from good, ethical, lawful consent searches. The standard has, for decades, been Knowingly, Intelligently, and Voluntarily. If all three of these are met, the consent is valid. If ANY type of coercion is used the consent is invalid. I have personally made dozens, if not hundreds, of seizures and arrests after receiving lawful consent from a suspect. I have also walked away from dozens, if not hundreds, of suspects that refused consent. Why? Because it was the lawful, ethical, RIGHT THING TO DO, even if I knew the suspect probably was carrying something illegal (drugs, guns, etc.). Consent to search is NOT "stop and frisk." Consent is consent. They may refuse. Period. It is up to training and policy to ensure that police officers use consent correctly within the law. It is up to the courts to determine if the consent was valid.

Consent has taken illegal guns out of the hands of violent gang members, heroin and crack cocaine off the street, has saved human trafficking and kidnapping victims. Criminals give consent for search knowingly, intelligently, and voluntarily, when they KNOW they have 5 kilograms of fentanyl in their car, when they know that they have three stolen guns under their seat, when they know that they have crack cocaine in their pockets. Banning consent searches will also mean law enforcement cannot quickly ELIMINATE THE INNOCENT as suspects during an investigation, and will leave violent offenders in the community longer. Taking away this FREEDOM of individual thought, the freedom of the individual to make their own choice, as well as this incredible and lawful tool of law enforcement will just mean THAT much more heroin in YOUR communities, that many more illegal guns available for shootings and homicides in YOUR communities, and far fewer police officers making a positive difference in YOUR communities.

So many cops out there want to do good, quality, lawful, and ethical police work. Those same professionals just want go to their homes afterward to enjoy their families.

We all need to be safe at work, and safe in our homes, families, and possessions. Please do not allow this noble profession to be assassinated. Every cop I know is open to increased training and accountability. But being accountable, and being unable to work due to civil vulnerability are two very different things. Please remember we- your Police Officers, Troopers, Law Enforcement PROFESSIONALS, are all people, humans, family members, parents, children, brothers, sisters and citizens. Please allow us to live with the same peace that you wish for all Connecticut residents.

Thank you for your consideration.

I am always available if any of you or your colleagues have question.

Matthew J. Funchion