

RE: Proposed AN ACT CONCERNING POLICE ACCOUNTABILITY, LCO No. 3471

Statement of Neil M. O'Leary, Mayor, City of Waterbury,

Senator Winfield, Senator Kissel, Representative Stafstrom, Representative Rebimbas and members of the Joint Committee on Judiciary:

Thank you for accepting my written statement in opposition to portions of LCO 3471 that expands negligence to include reasonable actions of officer and opposition to any elimination of governmental and qualified immunity. I urge you to reject those portions of the proposed bill and send them to the Task Force for further study.

Prior to being elected to serve as the Mayor of the City of Waterbury, I joined the Waterbury Police Department in 1980. During this time I held every rank up to and including police chief. Policing, and the practices surrounding the profession have changed significantly since I first got on the job, but I firmly believe that the reason myself and others joined law enforcement has not changed. The men and women who serve as police officers choose to do so because they want to protect and serve their communities.

The tragic killing of George Floyd, Breonna Taylor, Rayshard Brooks and others has spurred a critically important conversation in Waterbury, and across our country regarding the role of policing, the training our officers receive, and the mechanisms of accountability that police officers must adhere to.

I firmly believe that many of the proposed changes set forth in LCO 3471 will foster safer, more trusting interactions between the police and the public. I support the provisions on increased frequency of mental health assessments; the oversight of a civilian review board. I also support the requirements proposed for the use of body and dashboard cameras, and the comprehensive reporting requirements of police departments. All these initiatives will enhance transparency with the public.

However, I am deeply concerned that the proposed changes expanding liability for negligence and eliminating qualified and governmental immunity contained in this Bill will have devastating and unintended consequences.

Fiscal Impact on municipalities is unknown and will have unintended consequences

The fiscal impact on municipalities is unknown, but surely it will be enormous. The proposed legislation creates new conditions that allow for the filing of a lawsuit and recovery against police officers and municipalities under circumstances that have never before been recognized under state or federal law.

Specifically, the **reasonable acts** of police officers, otherwise considered justified, would be actionable. This is an expansion of the negligence standard that does not exist in law. Such expansion will create financial liability on police officers and municipalities that is unmeasurable. (Lines 1203 -1205).

The proposed Act allows facts and circumstances that are reasonable to be the subject of liability. It imposes liability notwithstanding that fact that reasonable and due care was exercised by the police officer.

Further, the proposed Act seeks to eliminate governmental and qualified immunity. Eliminating immunity exposes police officers and municipalities to liability for reasonable and discretionary judgment calls of police officers

The enormity of the fiscal impact cannot be measured, but it will be substantial.

This does not appear to be the goal of the well-intended reform legislation that is in contradiction of years of state and federal civil rights and constitutional case law.

Impact on Policing

Removing protections that allow the use of reasonable and due care will impact the quality of candidates willing to accept a job that exposes them to personal liability when performing their job functions.

The essential job function of a police officer will require a significant portion of time to be dedicated to the preparation and participation in the defense of lawsuits. The time needed to focus on defending lawsuits will distract from the mission of protecting the public.

Those that continue in the field of police work may be required to choose between protecting their families' economic wellbeing and acting in furtherance of public safety.

The chilling effect on an officer's decision to act in response to criminal activity will impact the officer's willingness to engage in what would otherwise be considered reasonable action due to fear of liability.

The Police departments will be required to use valuable limited resources defending lawsuits, taking them away from essential duties of protecting their communities.

Dangerous precedent

Eliminating immunity for police officers is a dangerous and slippery slope for all public employers and employees. This begs the next question: does the unequal elimination of immunity for police officers require the elimination of immunity to all public employees, including teachers, firefighters, public works employees, etc. How can the

elimination of the governmental immunity fairly and legally apply to just this one class of public employees and not to all?

Certainly the next evolution will be the abolition of immunity for all municipal and town employees.

Does the Act propose to eliminate sovereign immunity for the same acts of a State police officer? Such is not clearly provided and arguable, a different standard exists for State police officers than for municipal and town officers.

Remedies exist in State and Federal Courts

The right to file a lawsuit for the alleged constitutional violations of a person at the hands of police officers already exists. Such lawsuits can be filed in both federal and state courts. It would serve the public interests to reject those portions impacting liability of police officers and immunity and refer the same to the Task Force for an opportunity to fully vet.

We are at a turning point in our nation's history. There is almost uniformed consensus that change needs to occur to address elements of police culture and instances of abuse such as we saw in Minneapolis. This Legislature has the opportunity to implement policy that will serve as a catalyst for lasting change, but I fear that the intended timeline for passage of this Bill is rushed, and indicative of a response more rooted in emotion than meaningful reform.

Only one state, Colorado, has signed a law eliminating governmental and qualified immunity, but imposes a cap on damages; a policy which has a long history of being disfavored by the Connecticut Legislature. The State of Connecticut does not have to head down the same perilous path. There is an ability to pass comprehensive legislation, while allowing additional time to pragmatically study the consequences associated with the role of qualified and government immunity.

I thank you for your time, and urge the committee to oppose portions of LCO 3471 as it is currently drafted, and ask that you The Waterbury Police Department and I welcome an opportunity to meet with any committee members to further discuss questions or details related to LCO. 3471.

Neil M. O'Leary,
Mayor, City of Waterbury

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