

## **Written Testimony Regarding LCO No. 3471 – An Act Concerning Police Accountability**

### **Submitted by Stephen Kennedy for the People's Parity Project at UConn Law School**

Co-chairs Winfield and Stafstrom, Ranking Members Kissel and Rebimbas, and distinguished members of the Judiciary Committee. My name is Stephen Kennedy, and I am the president of the UConn Law chapter of the People's Parity Project (PPP). I write today concerning LCO No. 3471: An Act Concerning Police Accountability.

PPP is dedicated to equalizing power imbalances under the law, and the current state of policing presents an incredible imbalance between powerful state and municipal actors and the ordinary residents of our state. The system as it stands has incredibly harmful, and too often deadly, consequences for the people of Connecticut. There are deep structural problems, within the application of the criminal justice system, the allocation of funding and opportunities within the state, and many other policy areas and in our society, which contribute to the disparate harm brought upon our Black and Latinx communities. The current lack of police accountability represents only a small portion of those systemic problems, and this must not be our only legislative effort to combat them at this critical moment. However, we do write in overall support of LCO 3471 as a promising first step toward ensuring the safety of all of our residents.

#### **We support of the following sections, with some changes suggested:**

Sections 8 and 9 would prevent State Police union contracts from restricting public access to information regarding police conduct, either through FOIA exemptions or restricted access to disciplinary records. In order to increase public trust and ensure proper handling of complaints, it is necessary that the public can review both the policies governing police conduct and inspect how those policies are implemented in practice<sup>1</sup>.

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<sup>1</sup> Moran, Rachel. *Police Privacy*. 10 U.C. Irvine L. Rev 153 at 188 (2019).

Section 29 revises the police use of force standard, most notably moving to a requirement of “objectively reasonable” use of force in any given situation. This is a welcome improvement to the current standard. However, even this “objectively reasonable” standard leaves room for societal biases to inform whether the use of force was necessary. For example, in the United States, Black men tend to be stereotyped as more threatening than others<sup>2</sup>, and as a result may be disproportionately held by police, judges, and juries to have posed an “objective” threat to an officer. To prevent this bias from informing whether the use of force was necessary, we suggest language focused on a reasonable perception of the actions of the target of police force (e.g. language of hostile act causing death or serious injury and/or demonstrated hostile intent of the same).

We support the addition of requirements to exhaust all reasonable alternatives to deadly force in most circumstances. However, we believe that a requirement for a reasonable attempt at proportionality is appropriate, and at the very least, the requirement to exhaust lesser means of force should be applied to all use of force, rather than only the use of deadly force.

Finally, as written, the inclusion of considerations for whether a target of deadly force was armed or appeared to be armed may excuse any use of deadly force on a person legally carrying a weapon. The language should make explicit that deadly force is reasonable only when the person is armed with a deadly weapon and has behaved in a manner generating a reasonable belief that he or she is going to use the weapon to cause death or serious injury.

Section 40 is a welcome step toward demilitarization of civilian police forces in Connecticut. The use of military equipment by the police has no impact on police safety or crime

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<sup>2</sup> Wilson, J.P.; Hugenberg, K; Rule, N.O.. *Racial Bias in Judgments of Physical Size and Formidability: From Size to Threat*. J. Personal Soc. Psych., 113(1) 59-80 (2017).

reduction, but it contributes to the erosion of trust in the police by our public and creates a menacing environment for vulnerable communities<sup>3</sup>.

Section 41 limits qualified immunity for police officers, which currently makes it incredibly difficult to hold police liable in civil court for constitutional violations<sup>4</sup>. The lack of any path to civil liability removes a potential deterrent to bad actors within police departments, and, more importantly, it denies equal access to justice to those unjustly harmed by police action.

**We oppose the following section and urge its removal or significant revision:**

Section 16 would require periodic mental health assessments by a clinician with expertise in diagnosing post-traumatic stress disorder. Although it is important that police officers receive proper treatment for any mental health conditions, the requirement for mental health assessments without any resources allocated for treatment or for some sort of job protections for those seeking treatment seems more likely to increase stigma and reduce treatment seeking than it is to reduce police violence. Controlling for issues such as substance abuse and age, PTSD is not statistically associated with interpersonal violence<sup>5</sup>, but stigma and fear of consequences at work is a powerful deterrent for officers to seek much-needed treatment<sup>6</sup>. This section risks scapegoating those with mental health conditions for systemic problems with policing and with our society at large, and may have the unintended consequence of worsening the situation rather than improving it.

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<sup>3</sup> Mummolo, Jonathan. *Militarization Fails to Enhance Police Safety or Reduce Crime but May Harm Police Reputation*. Proc. Nat. Acad. Sci. 115(37), 9181-9186 (2018).

<sup>4</sup> Congressional Research Service. *Policing the Police: Qualified Immunity and Considerations for Congress*. LSB10492. Updated June 25, 2020.

<sup>5</sup> Blakey, S.M.; Love, H.; Lindquist, L.; Beckham, J.C.; Elbogen, E.B. *Disentangling the Link Between Posttraumatic Stress Disorder and Violent Behavior: Findings from a Nationally Representative Sample*. J. Consult Clin. Psychol. 86(2), 169-178 (2018).

<sup>6</sup> Fox, J. et al. *Mental Health Conditions, Barriers to Care, and Productivity Loss Among Officers in an Urban Police Department*. Conn. Med. 76(9), 525-531.

