



CONNECTICUT SENATE REPUBLICANS

Myth v. Fact

House Bill 6004 An Act Concerning Police Accountability

During the debate on House Bill 6004 and since the bill's passage, Connecticut Democrats have created misinformation about what the bill does, spreading myths about the legislation in an attempt to rationalize their votes and deflect criticism. The following details the truth about what the bill does through a careful analysis of the language, law and history. It separates myth from fact on how the bill will impact our communities, public safety and policing in the state of Connecticut.

MYTH	FACT
<p>Good police officers have nothing to fear in this bill.</p>	<p>Democrats have now allowed good officers to be sued in state court for the first time in Connecticut's history.</p> <p>All police officers, even when they follow all the rules and are acting in accordance with all best practices, will soon be able to be personally sued in the state. Further, even baseless claims can be brought against a good officer and place them in financial jeopardy.</p> <p>The bill makes officers civilly liable for complaints related to undefined actions, to be determined by the courts on a case by case basis. Connecticut courts will be left to decide what is or is not an infringement of someone's constitutional right, and officers' personal assets and reputations will be put on the line time and time again as the courts shape policy.</p> <p>This bill will encourage frivolous lawsuits against police officers.</p> <p>Although under current law police officers can be sued in federal court, many safeguards exist to protect good police officers against baseless claims. The Democrats have removed those safeguards. The bill removes any ability for police officers to have frivolous lawsuits dismissed early. Every frivolous case that gets tried will increase the burdens our towns and cities by millions of dollars, which will lead to less funding for town needs such as police, social services, education etc. Insurance will also push municipalities to reach settlements to avoid additional costs. They will decide to settle cases without any input from officers, leaving even good officers who do nothing wrong with blemishes on their records the same as bad officers.</p> <p>This bill will cause police officers to hesitate and second guess split second decisions that could have saved lives.</p> <p>Under this system written and approved by Democrats, officers will second guess any and all actions, even ones that are justified and in accordance with all best practices, because the risk of a personal lawsuit damaging their careers and their families will always be present. This will result in reactionary, not proactive policing, which will make communities less safe for all people.</p>

MYTH	FACT
<p>This bill won't impact good policing.</p>	<p>This is a dangerous myth. Simply put, police will be forced to stop policing.</p> <p>The provisions of the bill passed by Democrats will hurt good policing in two ways:</p> <p>1) Police will be forced to become reactionary. This Democrat-approved bill makes protective policing a significant liability to any police officer. This is exactly what the Democrats want. Less policing will place officers and the community in peril. Police officers will face barriers and officers will be put in positions in which they need to wait for bad things to happen before they can act.</p> <p>2) This bill really is a police defunding bill. There will be fewer police officers on a beat. Increased costs for things like insurance and legal fees coupled with a crippled economy will push municipalities to cut back on policing. In addition, a jump in retirements and recruitment problems are already appearing.</p> <p>Reactionary Policing</p> <ul style="list-style-type: none"> <p>Justified use of deadly force. This bill radically changes the standard of when a police officer may use deadly force to defend themselves or the public. It actually requires a third party, who was not in the officer's shoes, to determine if a police officer engaged in reasonable de-escalation measures prior to using deadly physical force and whether the police officer's conduct did not lead to an increased risk of an occurrence of the situation that precipitated the use of force. In some cases, use of force is only justified if the police officer has exhausted the reasonable alternatives to the use of deadly physical force, and reasonably believes that the force employed creates no substantial risk of injury to a third party, and reasonably believes such use of force to be necessary. This is an impossible standard. In particular, when it involves a hindsight approach, this will result in sending good police officers trying to protect ordinary citizens to jail. Another standard changed will require that justified use of deadly force during an arrest attempt require the officer to reasonably believe the person being arrested has committed or attempted to commit a felony which involved the infliction of serious physical injury. The old standard included threatened infliction of serious physical injury. The bill changes this, so officers cannot use deadly force to stop someone from attempting to harm someone, only after they actually commit the harm. These new standards will chill police officers from engaging in life saving activity. With deadly force changes Democrats have legislated hesitation, which can lead to loss of life in hostage situations, domestic violence incidents, and school shooter situations.</p> <p>This bill's deadly force standards conflict with the Supreme Court. The U.S. Supreme Court has clearly stated police officers can use deadly force when their life is in peril and recognizes that hindsight is <i>not</i> the appropriate analysis for determining whether use of force is justified. This bill throws the Supreme Court rulings and history out the window with new drastically different standards. <i>(Continued on next page)</i></p>



MYTH	FACT
	<p><i>(Continued from above)</i></p> <ul style="list-style-type: none">• The threat of lawsuits for violating someone's constitutional rights. As detailed above, any action by an officer can be challenged now that the Democrats removed qualified immunity. The perpetual possibility of a lawsuit for conducting even routine, protocol policing following all the rules will make officers second guess any proactive policing measures.• Changes to search policies. This bill clouds the well settled Supreme Court law that allows police officers to search cars and people for weapons if they have a reasonable suspicion that a crime has been committed by requiring officers to have probable cause before asking permission to search a person or vehicle. This will have an adverse impact on getting illegal drugs and weapons off the street.
<p>Good police officers won't be personally liable, only towns will be and only if someone does something wrong.</p>	<p>This is perhaps the worst myth of all. Good police officers will be sued and have their reputation freely impugned and exposed to personal liability as a result of this bill.</p> <p>This Democrat approved bill holds police officers personally liable if they are determined to have acted in a willful, wanton or reckless manner. These terms are broad and not well defined. In addition, they must be reviewed, and a determination must be reached by a court. Therefore, cases will be brought against police officers going after their personal assets. In cases where an officer had a "good faith belief" he or she was not violating anyone's equal protection rights, the municipality will be the party sued and held liable. Because municipal insurance policies will seek to have the least amount of financial damage, they will force many of these cases to settle. This means even the "good" officers not held personally liable will still have settlements and blemishes as a result of frivolous lawsuits on their records the same as bad officers without even having the opportunity to choose to argue a case to prove no wrongdoing.</p>
<p>This is no different than federal law now. Good officers will not get sued.</p>	<p>This bill creates a brand-new way to sue police officers for almost any reason. This is the first time in CT's history an officer can be sued in state court. Also and equally important a police officer can be sued for virtually any reason.</p> <p>This bill creates new causes of actions for state court so never before made claims can be filed against police officers and municipalities in state courts and almost any arrest can lead to a civil action.</p> <p>The Democrats created a brand new way to sue police officers and remove any ability for a good police officer to have frivolous lawsuits dismissed early, which would be the case in federal court. Every frivolous case gets tried which will increase the burdens our towns and cities by millions of dollars. <i>(Continued on next page)</i></p>

MYTH	FACT
	<p><i>(Continued from above)</i> Officers will have personal liability for snap-second decisions that are considered "willful, wanton or reckless." But there's no clear definition for "willful," leaving this very open to apply to police officers personally. Any other cases deemed not willful, wanton or reckless action will be shouldered by municipalities, whose insurance policies will likely push them to settlements, thereby leaving bad records on even good officers' files no different than bad actors. Officers will not have any say in whether to settle to move forward with a case to prove innocence.</p>
<p>Crime won't increase</p>	<p>Crime has already increased and will continue to, and more crimes will go unsolved.</p> <ul style="list-style-type: none"> • Even before this bill was passed, in anticipation of such a bill, we saw the public engaging in more crimes and less fear of consequences. • Fewer police officers (more retirements and more difficulty recruiting) • More financial burdens on towns and cities tied to the costs associated with having a police force will leave municipalities with little choice but to cut back on police force size. • The Democrat created policies will lead to reactionary policing and will stop preventative, proactive policing measures. For example, consent searches will soon require probable cause rather than actual consent or reasonable suspicion. Consent searches are how a lot of drugs and illegal weapons are taken off the streets.
<p>This bill won't hurt recruitment or lead to more retirements</p>	<p>It already has!</p> <p>We are already hearing accounts of young officers giving up their careers and older officers rushing to retire as a result of the legislation when it was proposed. This has led to concerns in police departments about understaffing, fewer officers, longer response times and less public safety.</p> <p>Connecticut is also already facing recruitment issues, and this bill will only worsen the situation. This year New Haven saw less than 300 new police applicants. Waterbury, which saw 1,000 applicants last year, had only 400 applicants this year – and that's after extending their deadline.</p> <p>Now is the time to be encouraging diverse and bright candidates to become officers, not adding more barriers to recruitment as the Democrats have done with this bill.</p>
<p>The bill won't defund the police</p>	<p>The bill doesn't directly defund the police, but it's severe financial impact on cities and police departments achieves the same result.</p> <p>The cost to municipalities as a result of this bill is large and includes higher insurance premiums as additional coverage for every police officer will be necessary, the untold number of frivolous lawsuits and eventual settlements this bill will lead to, the associated town legal fees and lost work/overtime. <i>(Continued on next page)</i></p>

MYTH	FACT
	<p><i>(Continued from above)</i> While \$4 million is provided for body cameras, there are also significant questions as to whether that will be enough to purchase body cameras and dash cameras for all towns and cities, and municipalities will have to also pay for storage of videos. In total, these new costs approved by Democrats will push towns and cities to either raise taxes dramatically, or cut back on funding for social services, education, or police departments. Many will find that the sheer cost of maintaining the current size of their police force will be unsustainable, and will result in the defunding and shrinking of police departments.</p>
<p>Qualified immunity does not go away.</p>	<p>Qualified immunity for police officers is effectively gone. Make no mistake about it, this bill written and approved by Democrats has removed virtually any legal protection that good police officers were afforded in federal court.</p> <p>The threshold to pierce qualified immunity will be significantly lower and police officers will lose the ability to stop frivolous lawsuits at summary judgement. Thus, frivolous cases will now have to be settled, rather than dismissed, leaving good officers with bad records. The ability for a quick appeal to an adverse decision is gone. Police officers' personal liability will also not be protected by qualified immunity if they are determined to have acted in a "willful, wanton or reckless manner." The definition of "willful" is perhaps most open to interpretation. In all other cases, municipalities will be held liable, with financial costs of frivolous lawsuits falling on taxpayers.</p> <p>The real value in qualified immunity was so that frivolous lawsuits would not be filed or that they would be dismissed early. State courts will be unlikely to dismiss a case on an early motion (summary judgment) because the law is undefined. Thus, now the practical effect is that qualified immunity only exists in federal court.</p>
<p>This will make bad cops accountable.</p>	<p>Prior to this law, bad actors could be held criminally and civilly liable for bad actions; This bill now allows good officers to be sued.</p> <p>Under the laws that already exist today, no police officer can use qualified immunity to deflect criminal charges. Therefore, eliminating qualified immunity (as this bill would do) does nothing to change the current system of what happens when an officer uses excessive force. Instead, it will allow frivolous claims a clearer path to move forward, putting good officers in situations where they and the towns they work for will be held financially liable and be forced to settle even cases that have no standing. All while doing nothing to change the collective bargaining arbitration process that can continue to block the firing of bad officers.</p> <p>The bill does contain a POST decertification component, but it remains unclear if a POST decertification can supersede a collective bargained arbitration process that finds an officer should keep their job.</p>