



State of Connecticut

SENATOR LEONARD A. FASANO
SENATE REPUBLICAN LEADER

LEGISLATIVE OFFICE BUILDING
300 CAPITOL AVENUE, SUITE 3400
HARTFORD, CONNECTICUT 06106-1591
www.SenatorFasano.com

34TH DISTRICT

HARTFORD: (860) 240-8800
TOLL FREE: (800) 842-1421
FAX: (860) 240-8306
Len.Fasano@cga.ct.gov

September 14, 2020

Governor Ned Lamont
Office of the Governor
210 Capitol Avenue
Hartford, CT 06106

Representative Joe Aresimowicz
Speaker of the House of Representatives
Legislative Office Building, Room 4100
Hartford, CT 06106

Senator Martin Looney
President Pro Tempore
Legislative Office Building, Room 3300
Hartford, CT 06106

Governor Lamont, President Looney and Speaker Aresimowicz:

Connecticut needs to restore trust and confidence between our communities and those who risk their lives to serve and protect. The recent vote of no confidence in the Governor's administration by the Connecticut State Police Union reported on September 1, 2020 sends a strong message that Connecticut police officers feel that recent Democrat-approved legislation puts them at risk and makes all our communities less safe.

Considering this vote, and in light of the fact that lawmakers intend to return to the Capitol for a special session this month to address multiple legislative issues, we need to include fixing all problematic policies in the police accountability bill as part of the legislative agenda for the September special session.

While I do not think we should be going into a special session at a time when Democrats who control the legislature continue to refuse to make our Capitol accessible for meetings and in-person committee votes, if it is inevitable that a special session is occurring then we should be addressing those matters that have an immediate impact on our state like the police accountability bill which contains elements that take effect October 1, 2020 and which have already had a negative impact on recruiting, retainment and public trust. I trust you aren't going to use procedure to silence debate on very important topics such as this.

When Democrat lawmakers voted to approve House Bill 6004 (Public Act 20-1) An Act Concerning Police Accountability, many Democrats stated that they were only voting yes at the time with the understanding that multiple elements of the bill would be modified in the future, including but not limited to a qualified immunity provision. It's clear that the damage caused by

this bill is already being felt in our communities. Police officers do not have confidence in the administration. Recruitment is a major issue. Many experienced officers are planning to retire. All at the same time Connecticut is seeing an uptick in crime especially in our urban communities. If you promised to correct these issues, now is the time to act before the situation worsens. Delaying action on all problematic pieces of the new law will only create more public safety issues. We need to address all the public safety issues that have arisen as a result of the police accountability bill, including:

- Restoring protections afforded by qualified immunity and eliminating the new causes of action that can be brought against police officers in order to protect towns and officers from frivolous suits;
- Allowing officers to conduct consent searches in order to take harmful drugs and deadly weapons off our streets. These searches are important to proactive policing and play a key role in enabling police officers to protect their communities and stay safe. Many communities, especially in our urban areas, want more police officers on the beat. [The Hill section](#) of New Haven is just one example. But officers will be less willing to go into high crime areas if they cannot protect themselves and community members with basic proactive policing measures such as consent searches.
- Restoring previous standards for when police can use deadly force so police officers can rely on current training and have certainty about when to act or not act with deadly force;
- Revisiting the new decertification process through POST. The new law establishes a decertification process but does not define the terms of this process, therefore leaving too much discretion and lack of clarity. Any ability to end a career should be based in clearly defined terms.
- Restoring the use of military-grade life protecting equipment;
- Allowing police officers to work as security guards;
- Making it clear and workable when police officers and corrections officers must report the activity of co-workers;
- Eliminating the cost prohibitive accreditation process that is not of any benefit to public safety in Connecticut;
- Revisiting requirements for mental health exams to ensure compliance with the *Americans with Disabilities Act* and address concerns that singling out police could create an equal protection issue;

Furthermore, the new law requires legislative attention due to several constitutional defects further described below. In addition to the oft-mentioned qualified immunity, other problematic sections that raise constitutional concerns include: use of force, duty to intervene, decertification, behavioral assessments and the office of the inspector general.

- The Act changes the use of force to include such vague terms and requirements that would not give ordinary police officers, much less ordinary jurors, notice and an understanding of what is meant by ‘reasonable de-escalation measures’ or ‘any conduct of the police officer that led to an increased risk of the occurrence’. Including terms that are so ambiguous violate the officer’s due process rights. The law fails to adequately put officers on notice of the standards by which they will be judged, but it also places the police in the untenable position of second guessing themselves prior to taking life saving measures.

- The newly imposed duty to intervene and report use of excessive force are equally as unclear. The Act imposes felony criminal liability on a police officer for actions based on an undefined and unknowable requirement to take action after they ‘objectively know’ that another officer is using unreasonable, excessive or illegal use of force. How could an officer witnessing an event know all of the surrounding facts to make an objective evaluation of the force that is being used? And how could the officer know if it was illegal if the other officer had not yet been charged or convicted of those actions?
- The decertification standards in the Act are equally as challenging and blurred. The Act expands the grounds upon which a police officer’s certification may be revoked or canceled, an action that renders the officer unemployable, for “undermining public confidence in law enforcement”. This section was effective upon passage, and although, the Act allows POST to develop issue written guidance no such directives have been released. Thus, it is impossible for an officer to know how their actions, on or off-duty, may be construed and are now vulnerable and left wondering how to conform to an undefined standard.
- The additional behavioral health assessments conflict with the spirit and standards proscribed in the Americans with Disability Act by imposing periodic exams on officers without restriction or regard to the requirement that they be narrowly constrained. While we understand the need for such exams, this section is simply another example of a hastily drafted bill in need of corrective legislation.
- Lastly, the Office of the Inspector General runs afoul of Article XXIII of the Amendments to the Connecticut Constitution in that the office is not part of the division of criminal justice and the newly created position is appointed by the legislature rather than the Criminal Justice Commission as the state constitution may require. We raised these concerns prior to passage and they remain as pertinent today.

As Republicans have warned about, the new law in its current form will leave police with no choice but to stop policing in a way that maintains the level of public safety our communities deserve. There are multiple provisions of the Democrat bill that will force police to become reactionary. It makes protective policing a significant liability to any police officer. Less proactive 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. This law unchanged will also result in the defunding of police. 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.

The reality is our state and our nation need to do more to restore public trust and confidence in public safety. It is disturbing that within the last week a police officer in North Carolina was allegedly targeted and killed, and two Los Angeles police officers were shot and critically wounded in what the sheriff’s office said was an ambush. It was also reported that protestors then blocked the entrance of an emergency room at the hospital where the officers were being treated. These issues are not limited to far away places. Locally we have also seen violence toward police. [In Bridgeport \(https://www.wtnh.com/news/connecticut/fairfield/driver-facing-serious-charges-after-pinning-officer-against-two-cars-in-bridgeport/\)](https://www.wtnh.com/news/connecticut/fairfield/driver-facing-serious-charges-after-pinning-officer-against-two-cars-in-bridgeport/) earlier this month for example a man allegedly struck an officer with his vehicle and pinned her against two cars. Crime is also on the rise across our state putting the public and the officers who protect our communities at

greater risk. In New Haven for example there have been 75 shootings this year as of September 8, up from 56 at the same time in 2019. There have also been 16 homicides, up from seven in the same period last year. New Haven officers [have said](#) (<https://www.nhregister.com/news/article/New-Haven-chief-Department-working-to-end-rise-15562706.php>) multiple factors have contributed to this dangerous situation, including that a greater percentage of individuals having recently been released from prison, including on probation or parole. New Haven is also [struggling](#) (<https://www.nhregister.com/news/article/We-want-you-New-Haven-s-Hill-residents-15527104.php>) to fund police and recruit more officers, as community members and pastors call for [more support](#) (<https://www.wtnh.com/news/connecticut/new-haven/community-calling-for-action-from-new-haven-city-leaders-after-death-of-boxer-in-shooting-incident-uptick-in-gun-violence/>) for police.

Connecticut lawmakers need to make full and comprehensive changes to the new police accountability law as soon as possible in a special legislative session. This cannot be done in a piecemeal fashion where one element is changed, but other equally as damaging provisions are allowed to stand. Again, I trust you will not use legislative procedure to block debate on this issue or any other of such great importance.

I am writing to you today to urge you to include addressing all concerning elements in Public Act 20-1 as part of the agenda for the upcoming September special session as described above. Public safety, confidence and trust are all at risk. We cannot wait to make our communities safe.

Sincerely,



Len Fasano
Senate Republican Leader