

MN Coalition for Justice for George Floyd and All Stolen Lives

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April 13, 2021

Rep. Jamie Becker-Finn, Chair
Rep. Kelly Moller, Vice Chair
Committee Members
Judiciary Finance and Civil Law Committee
559 State Office Building
St. Paul, MN 55155

RE: Bills HF 1103, HF 1104 and HF 640

Dear Chair Becker-Finn, Vice Chair Moller and Members:

You have received a letter from the Minnesota Chiefs of Police Association and Minnesota Sheriff's Association dated April 13 2021 regarding the above referenced bills. That joint letter ("joint letter" hereafter) misstates the intention and meaning of a number of law enforcement reforms. The purpose of our letter is to provide clarity on bills HF 1103, HF 1104 and HF 640 and address misleading information in the joint letter.

HF 640 Civilian Oversight

The joint letter expresses concern that HF 640 would strengthen civilian oversight. At the same time, they claim that their goal is to "improve trust between citizens and law enforcement." That goal is best served when agencies are willing to meet community standards for how they wish to be policed.

The language in the bill states that communities MAY create civilian oversight councils and MAY grant them certain powers. During prior testimony, representatives of these organizations claimed that there were no problems with relationships in their communities. If that's true, it is likely members of those communities would see no need to create such bodies. However, in a number of communities in which policing has been problematic, community members are eager to set expectations for the policing to which they are subjected. HF 640 allows them to do just that while still preserving the rights of law enforcement officers to the grievance procedure outlined in their collective bargaining agreement.

In 2012, civilian oversight bodies were stripped of their ability to operate effectively as a check and balance against police misconduct. Had these bodies been given adequate power to truly serve an oversight function, it is unlikely that former Minneapolis Police Officer Derek Chauvin, with 26 civilian complaints and four prior deadly force incidents, would have remained employed by the Minneapolis Police Department long enough to have his fifth deadly force encounter with George Floyd.

HF 1103 Viewing of Body-Worn Camera Footage by Families Within 48 Hours

The joint letter states that allowing "the viewing of body-worn camera footage 48 hours after an incident does not recognize how investigations are conducted." However, law enforcement agencies have certainly been eager to share their footage with the public when they believe it supports their

narrative of what occurred in a critical incident. By contrast, families are often forced to wait months to see the footage that would allow them to know how their loved one died.

Under MN Stat. 13.82, subd. 2, several data elements are already designated as “public at all times in the originating agencies” in police critical incidents. However, under MN Stat. 13.825, body-worn camera footage has been treated as a carve-out. The purpose of HF 1103 is to restore balance by making this footage available TO THE FAMILIES of people killed by police. While law enforcement has tried to conflate these families with the general public, they have distinctly different interests, particularly an interest in knowing what happened to their family members at the hands of police.

HF 1104 Qualified Immunity

In their joint letter, the MSA and MCPA frame individuals and organizations supporting the end of qualified immunity as either misinformed or deliberately misleading. However, it was their representatives who, during prior testimony, have attempted to conflate ending qualified immunity with ending the requirement for municipalities to indemnify their law enforcement officers. Further, they ignore numerous examples of case law that show that even in cases of egregious civil rights violations, unless the victim can point to a prior judicial decision that involved sufficiently similar context and conduct, the officer will be shielded from liability.

Compelling testimony on the problem of qualified immunity by law student Johnathon McClellan, President of Minnesota Justice Coalition, and University of St. Thomas Law Professor Gregory Sisk was provided to the House Public Safety and Criminal Justice Reform Finance and Policy committee. This testimony included abundant evidence of the fundamental and systemic injustices created by qualified immunity and was based on case law and history and supported by facts.

Qualified immunity allows law enforcement officers to violate people’s civil rights with impunity as long as no other case is sufficiently similar in context and conduct to their case. This doctrine also has the effect of freezing civil rights in place. Other states have ended qualified immunity. It is time for Minnesota to join them.

Conclusion

Members of our coalition made the effort to develop and introduce thoughtful legislation with the goal of reducing disparities in the way law enforcement is provided, to ease the pain of families who have lost loved ones at the hands of law enforcement, and to improve the quality of the law enforcement provided to our communities. We are taking the time to testify on these bills to explain their significance to your committee. We are not lobbyists—we are ordinary members of the community who volunteer our time in these endeavors. We do this because we care about the safety of ALL residents of the State of Minnesota.

In the aftermath of the killing of George Floyd and now Daunte Wright, law enforcement has forfeited the right to be the sole determinants of what public safety looks like in our communities. Their continued resistance to common sense reforms is no longer acceptable.

For justice,

Michelle Gross, President, Communities United Against Police Brutality
Jaylani Hussein, Executive Director, CAIR-Minnesota
Toshira Garraway, President, Families Supporting Families Against Police Violence
Noah McCourt, Executive Director, Minnesota Disability Justice Network
Johnathon McClellan, President, Minnesota Justice Coalition
Nekima Levy Armstrong, Racial Justice Network
Jess Sundin, Twin Cities Coalition for Justice 4 Jamar