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## House Debates Tear Gas, Rights of Police Officers

*Friday Policing Reform Debate Follows Two Marathon Sessions*

Chris Van Buskirk and Colin A. Young | 7/24/20 8:29 AM

STATE HOUSE, BOSTON, JULY 24, 2020.....House lawmakers on Thursday delved into the issues of the use of tear gas, due process rights for police officers, and the makeup of a proposed statewide board that would certify and decertify law enforcement officers during a 12-hour debate on policing reform legislation.

As House leadership and members enter a third day of negotiating amendments behind closed doors and on conference calls, the chamber has churned through all but 47 amendments as of Friday morning. Following an [11-hour session](#) on Wednesday, the House on Thursday adopted four individual amendments, two consolidated bundles that dispensed with 46 amendments, and rejected 17 amendments.

"It's not surprising we're trying to do this bill, a complex, complicated piece of legislation in a short amount of time and it's challenging," Minority Leader Brad Jones said after Thursday night's session. "I feel like circumstances have kind of pushed us to go further and faster and I worry at the end of the day we're passing something that is going to be, it's not going to solve the problems that people think it's going to solve and maybe create other problems."

The House on Thursday rejected an amendment from Rep. Mike Connolly (D-Cambridge) that would have instituted a ban on tear gas and other chemical weapons. Rep. Jack Patrick Lewis (D-Framingham) backed the amendment, and said the use of tear gas in Washington, D.C., last month "evokes the horrors of war and authoritarian regimes."

"Tear gas is an indiscriminate and violent way to disperse a crowd and one that is banned in most countries and on battlefields by international treaty," Lewis said. "And while many chiefs of police, at a rally in my own city of Framingham on Tuesday, said that the issues of police brutality don't occur in our communities or in our commonwealth, the question I have today is why the hell then was tear gas used against protesters in Brockton?"

A protest in Brockton in early June later led to a confrontation with police in front of the Brockton Police station where law enforcement used tear gas and pepper spray to disperse the crowd, according to [The Enterprise](#).

Throughout Thursday's session, Rep. Michael Day (D-Stoneham), vice chair of the Judiciary Committee, defended the text of the underlying bill from a series of proposed changes. Speaking in opposition to Connolly's amendment, Day said the bill regulates the use of tear gas and requires police to exhaust all de-escalation tactics before turning to the chemical agent.

Under the bill, officers would have to file a report with the proposed Massachusetts Police Standards and Training Commission detailing all measures that were taken in advance of the event to reduce the probability of disorder, and all de-escalation tactics that were taken at the time.

Noting that police are asked to respond to riots, looting and violent crowds, Day said, "This is an unwise prohibition on how police can control a violent situation in which de-escalation has been attempted, techniques have been exhausted, and our officers must protect the safety of themselves and the crowd in a non-lethal way."

House leaders continue to face pressure and backlash from police unions and associations as the debate over reform legislation continues. The Massachusetts Chiefs of Police Association, a group of nearly 400 municipal and campus law enforcement executives and commanders, has [labeled](#) both branches' proposals a "knee-jerk reaction," and said the group continues "to be hurt, horrified and confused."

"Although [MCOPA] President Jeff Farnsworth has spoken out against the House and Senate bills, legislators have not taken advantage of the MCOPA offers to help draft responsible reform legislation," the group said in a Thursday statement. "Massachusetts is headed in a direction even more extreme than that taken by Minnesota, the state in which the tragic killing of George Floyd took place."

The Massachusetts Coalition of Police, the largest law enforcement union in the state, on Thursday called the Senate-approved bill "grossly deficient and harmful to not only police, but to all citizens of the Commonwealth," and protested "inflammatory rhetoric" and a "punitive tone" in House debate on policing reforms.

"Sadly, as more than 16,000 officers statewide go to work each day at risk of not returning to their families -- there are those on Beacon Hill who wish to punish police officers just for being police officers," the coalition said in an [unsigned statement](#) Thursday.

While supporters of the bill say people need protection from police brutality, the police union, which is a member of the National Association of Police Organizations that endorsed President Donald Trump on July 15, is particularly focused on protecting due process rights for officers in actions involving their employment and preserving qualified immunity protections that protect officers and their families from civil lawsuits.

A MassCOP spokesman said Friday that the union endorses in Massachusetts races "and has not endorsed Trump."

One point of debate during Thursday's session was the standards that must be met in order for a preliminary inquiry into an officer's conduct to be launched and for an officer to be decertified.

The original House bill creates a Police Standards and Training Commission and would have directed that commission to launch an inquiry into an officer's behavior "upon receipt of report, or other evidence which is deemed sufficient by the commission," of a number of specified misdeeds. To revoke an officer's certification, the commission would have to determine "by clear and convincing evidence" that the officer had violated the state's standards.

Early Thursday afternoon, a consolidated amendment emerged with new language. Under the new version, the commission would be directed to start a preliminary review if it finds "by a preponderance of evidence" that the officer was part of an officer-involved injury or death,

committed a felony or misdemeanor, or violated state standards. The standard for decertifying an officer remained "by clear and convincing evidence" in the consolidated amendment.

Rep. Andres Vargas of Haverhill pulled his own Amendment 77 out of the amendment bundle to have it be considered on its own. He said his amendment would apply the "preponderance of evidence" standard to the decision to decertify an officer.

"[The amendment] is a Black and Latino Caucus priority and the same language in Gov. [Charlie] Baker's bill, but was removed by the Senate," Vargas said. "This restores the governor's language to ensure a preponderance of the evidence is necessary before decertifying police officers. This is the same standard we have for other licensed professions."

Rep. Claire Cronin, chairwoman of the Judiciary Committee, asked members to reject Vargas' amendment and likened the two-pronged approach of the consolidated amendment to the way the standard of proof to be convicted of a crime is higher than that to be investigated for a crime.

"The governor's bill, that's not our benchmark. We are not working off the governor's bill. We have our own bill. The governor's bill did not have an independent commission or agency, we did. The Senate did not establish, in their bill, an independent agency. We did. The Senate did not include preponderance of the evidence as their standard. We did, for preliminary inquiries," she said.

Ultimately, the Vargas amendment was rejected on a 46-113 vote, and the first consolidated amendment was adopted on a 147-12 vote.

Later in the night, the House adopted a second consolidated amendment that dealt with the appointment and membership of various commissions including one on facial recognition technology and another on structural racism in correctional facilities.

Two amendments taken out of the bundle from Reps. David Muradian and Sheila Harrington attempted to permit or add law enforcement officials to the Massachusetts Police Standards and Training Commission but were rejected on votes of 68-90 and 53-106, respectively. The commission, as it stands in the original House bill, only includes civilian members.

"We need to make sure that no single citizen in the commonwealth has compromised or mitigated their civil rights through our process," Harrington said. "I believe that without

significant representation on the Police Standards and Training Commission that will be the case. We will be compromising the civil rights of our law enforcement officers."

[Michael P. Norton contributed to this report.]

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07/24/2020

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