

## Amend H.3050 - Rein in Abusive Policing

### H.3050 would:

- Require non-certified law enforcement officers to be accompanied by a certified law enforcement officer when performing their duties.
- Require a duty to intervene under certain conditions.
- Limit the use of chokeholds under certain circumstances.
- Require the Law Enforcement Training Council to create certain minimum standards, including for:
  - Use of force;
  - Duty to intervene;
  - Body worn cameras;
  - Hiring and firing practices and academy training;
  - Vehicle pursuits;
  - No knock warrants.

**Real policing reform requires a reduction in the size, scope, and power of police, not just procedural reforms.** Contrary to what we see on television, in reality law enforcement spend the vast majority of their time policing low level offenses like marijuana possession and having an open container of alcohol. Of the approximately 10 million arrests each year, only about five percent are for serious offenses like murder, rape, and aggravated assault.<sup>1</sup> The vast majority of arrests are for low level things like “drug abuse violations” and disorderly conduct.<sup>2</sup> South Carolina is not far off the national numbers. According to the most recent FBI data, South Carolina law enforcement arrested people for marijuana *possession* at a rate 4.9 times higher than for *all* violent crimes combined (murder and nonnegligent manslaughter, rape, robbery, and aggravated assault).<sup>3</sup> To make our communities (and law enforcement) safer and reduce the likelihood of harmful police/community interactions, legislators must stop turning police into society’s “solution” for substance use, misbehaving children at school, unhoused people, and people experiencing mental illness, to name just a few.

**This legislation does nothing to address the basic fact that our laws are enforced with a staggering racial bias.** Centuries after policing came to South Carolina in the form of a slave patrol, its modern version continues to enforce laws with a staggering racial bias. For example, in 2018 Black people in South Carolina were 3.5 times more likely to be arrested for marijuana possession when compared with whites, despite both groups using marijuana at roughly the same rate. And, this disparity is on the rise, up from 1.8 times more likely to be arrested in 2001 and 2.8 times more likely to be arrested in 2010. The discriminatory enforcement of South Carolina laws means that Black people are more likely to face the immediate harms of a ticket, arrest, or charge, including potential incarceration, a criminal record, the loss of employment, housing, and child custody. Nothing in this legislation would begin to dismantle this reality in South Carolina policing.

**Law enforcement have ignored previous legislative efforts to hold them accountable.** Following the murder of Walter Scott by the North Charleston Police Department six years ago, South Carolina lawmakers passed legislation requiring all law enforcement officers to wear body cameras.<sup>4</sup> In the years since the law’s

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<sup>1</sup> Vera Institute, Every Three Seconds: Unlocking Police Data on Arrests, Jan. 2019, available at <https://www.vera.org/publications/arrest-trends-every-three-seconds-landing/arrest-trends-every-three-seconds/overview>.

<sup>2</sup> Vera Institute, Every Three Seconds: Unlocking Police Data on Arrests, Jan. 2019, available at <https://www.vera.org/publications/arrest-trends-every-three-seconds-landing/arrest-trends-every-three-seconds/overview>.

<sup>3</sup> Federal Bureau of Investigation, 2018 Crime in the United States, South Carolina. (6,970 people were arrested for violent offenses while 34,229 were arrested for marijuana possession.)

<sup>4</sup> Fleming Smith, *Despite celebrated 2015 law, body cameras for SC law enforcement lack state funding*, Post and Courier, updated June 22, 2020, available at

passage, law enforcement have turned a tool sold to the public as a way to strengthen law enforcement accountability and community trust of law enforcement into a tool to shield law enforcement officers from accountability. For example, despite a South Carolina's Law Enforcement Training Council guideline requiring body cams to be turned on "[w]hen a uniformed officer arrives at a call for service or initiates any other law enforcement or investigative encounter between an officer and a member of the public[.]"<sup>5</sup> the Greenville News found that only nine of the 28 Greenville County deputies involved in shootings in 2017 had their cameras turned on and recording.<sup>6</sup> And, as the Greenville News found, this failure to follow the minimum policy guidelines was not limited to Greenville deputies. Looking at just the next five largest agencies in South Carolina, the Greenville News found that between 2017 and 2018 seven officers did not turn on and recorded during a law enforcement shooting.<sup>7</sup> These officers were from the sheriff's offices in Charleston, Lexington, York, and Spartanburg counties. As history has already shown, strong accountability measures are required.

**Procedural reforms will not stop police violence.** Law enforcement officers ignore department policies and procedures, leading to the serious harm and death of community members. For example, Derek Chauvin violated department policy for the nine minutes and 29 seconds that he kept his knee on George Floyd's neck, and the officers standing next to him also violated department policy for those same nine minutes and 29 seconds by failing to intervene.<sup>8</sup> The same is true closer to home. For example, on May 31, 2020 we witnessed the Charleston Police Department engage in police brutality against community members peacefully protesting in Marion Square in downtown Charleston. CPD and other officers escalated the situation by indiscriminately launching tear gas and pepper balls at a group of people who were engaging in non-violent protest in a public space. This happened despite a clear CPD Administrative General Order limiting the use of chemical agents to situations that were not present at the time.<sup>9</sup> In addition, those officers who did not use excessive force were in violation of CPD Administrative General Orders because they failed to intervene.<sup>10</sup>

**All of the committees, studies, audits, and trainings in the world cannot fix policing's fundamental problem.** Police have handcuffs, guns, pepper spray, tasers, and, under certain conditions, the power to make arrests and use lethal force. They cannot provide health care, treat substance use and mental illness, provide housing to unhoused people, or provide people with a living wage - the issues that truly enable people to live safe lives. Each day that we pretend that procedural reforms can fix policing, more Black, Brown, and other marginalized people are harmed and killed. To truly address the problem of police violence, we must drastically reduce the size, scope, and role of police in South Carolina.

### **South Carolina must invest in people and communities, not police and incarceration.**

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[https://www.postandcourier.com/news/despite-celebrated-2015-law-body-cameras-for-sc-law-enforcement-lack-state-funding/article\\_0741c19e-9aa8-11ea-ad54-33fb0ac91f15.html](https://www.postandcourier.com/news/despite-celebrated-2015-law-body-cameras-for-sc-law-enforcement-lack-state-funding/article_0741c19e-9aa8-11ea-ad54-33fb0ac91f15.html).

<sup>5</sup> South Carolina Law Enforcement Training Council, *Law Enforcement Training Council's Body-Worn Camera Guidelines*, Dec. 7, 2015, available at [https://www.masc.sc/SiteCollectionDocuments/Public%20Safety/BWC\\_guidelines.pdf](https://www.masc.sc/SiteCollectionDocuments/Public%20Safety/BWC_guidelines.pdf).

<sup>6</sup> Daniel J. Gross, *Lethal Force Part 3: Some police shootings in South Carolina aren't captured on body camera. Here's why.*, Greenville News, updated June 17, 2020, available at

<https://www.greenvilleonline.com/in-depth/news/local/south-carolina/2019/09/29/body-camera-use-sc-police-shootings-is-inconsistent-heres-why/3210213002/>.

<sup>7</sup> *Id.*

<sup>8</sup> Nicholas Bogel-Burroughs, *Prosecutors say Derek Chauvin knelt on George Floyd for 9 minutes 29 seconds, longer than initially reported*, Mar. 30, 2021, available at

<https://www.nytimes.com/2021/03/30/us/derek-chauvin-george-floyd-kneel-9-minutes-29-seconds.html>

<sup>9</sup> City of Charleston Police Department Policy and Procedure Manual, Administrative General Order 25 Less-Lethal & Lethal Weapons, Effective Date: 02/01/08, Revised: 05/13/20, available at

<https://www.charleston-sc.gov/DocumentCenter/View/18918/General-Order-25---Less-Lethal-and-Lethal-Weapons> ("[T]he use of a chemical agent may be necessary in circumstances *where a serious danger to life and property exists* and other methods of apprehension would be ineffective or more dangerous.").

<sup>10</sup> City of Charleston Police Department Policy and Procedure Manual, Administrative General Order 23 Response to Resistance / Aggression, Effective Date: 02/01/08, Revised: 02/01/17, available at

<https://www.charleston-sc.gov/DocumentCenter/View/16968/General-Order-23---Response-to-Resistance---Aggression> ("Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of such excessive force. Officers shall promptly report these observations to a supervisor.").