

“Social justice should be the underlying goal of all humanity.”

-Alan V. Lowenstein, Institute Founder



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do social justice.

TESTIMONY FROM THE NEW JERSEY INSTITUTE FOR SOCIAL JUSTICE IN OPPOSITION TO SENATE BILL 3939

Thank you for the opportunity to present my testimony in opposition to Senate Bill 3939, a bill that undermines police accountability.

My name is Yannick Wood. I am the Director of Criminal Justice Reform at the New Jersey Institute of Social Justice. Our Institute's advocacy empowers people of color by building reparative systems that create wealth, transform justice and harness democratic power—from the ground up—in New Jersey.

Over the past year advocates have been fiercely organizing for accountability in policing. Accountability is the reason we need Civilian Complaint Review Boards, public records access to police disciplinary records, ending chokeholds and to end Qualified Immunity. S3939, however, makes police less accountable because it allows officers to view body worn camera footage before writing their initial reports. In doing so, this bill makes it possible for law enforcement to tailor their reports to what can or cannot be seen in the footage.

As a former prosecutor, I have conducted numerous evidentiary hearings and trials and I want to emphasize that accountability is good for witness testimony. Whether one is a prosecutor or a defense attorney, it is only through examining or cross-examining a witness's independent recollection of facts that we can recreate

an event for a judge or jury. Examination creates accountability. Anything that clouds testimony and hampers an examination is not good for getting to the bottom of the truth. And this bill will do just that.

Just one week ago, advocates assembled against A5864, a bill that allowed police officers to review body worn camera footage before writing initial reports with exceptions.¹ A5864 was fatally misguided because of the exceptions. Why was it that in certain cases officers can see body worn camera footage before writing reports and in others they could not? These exceptions are problematic.

This bill, S3939, is a wholesale repudiation of the safeguards in the current law passed by this very legislature² and the Attorney General's recently issued directive.³ This bill is a false solution to a problem that does not exist and it undermines accountability.

S3939, instead, allows for officers' written reports to be based on something other than their own recollections. When an officer acts, their actions are the result of their first-hand observations in the moment and not based on their or their partner's body worn camera footage. S3939 allows for officers to supplement their recollection of an event with evidence that played no part in their initial decision making. It allows for an officer to tailor their testimony to what is or is not depicted on the camera. And worse yet, it creates an environment where a prosecutor or defense attorney will never truly know whether an officer's written report is reflective of their own observations or what they later saw on a camera. It creates a cloud rather than transparency. It creates doubt and uncertainty rather than accountability.

Please vote no on S3939 or pull it from consideration. In this powerful moment when people are demanding transformation in policing, this bill misses the mark. Please advance legislation that truly creates accountability for police officers. Thank you.

¹ A.B. 5864, 219th Leg., (N.J. 2021).

² N.J.S.A. 40A:14-118.5 (P.L. 2020, c. 128), https://www.njleg.state.nj.us/2020/Bills/PL20/129_.HTM.

³ Body Worn Camera Policy, N.J. Off. Of the Att'y Gen. 24 (2021), https://www.nj.gov/oag/dcj/agguide/directives/ag-directive-2021-5_BWC-Directive.pdf.