

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 19-90—SB 380

Public Health Committee

Judiciary Committee

**AN ACT CONCERNING THE USE OF FORCE AND PURSUITS BY
POLICE AND INCREASING POLICE ACCOUNTABILITY AND
TRANSPARENCY**

SUMMARY: This act makes various changes to laws regarding (1) law enforcement's use of force, (2) body-worn and dashboard camera recording disclosures, and (3) police pursuits.

Under the act, each law enforcement unit (see BACKGROUND) must annually prepare and submit a use of force report for the preceding calendar year to the Office of Policy and Management (OPM). It also requires OPM to:

1. complete a preliminary status report whenever a peace officer uses physical force on another person and the person dies as a result and to submit the report to the legislature within five business days after the cause of death is available and
2. make the report it is required to provide at the end of its investigation publicly available on its website within 48 hours after the copies are provided to certain local and state officials.

The act also (1) makes certain body-worn or dashboard camera recordings disclosable to the public within 96 hours after the incident, (2) narrows the instances when deadly force is justified, and (3) generally prohibits a police officer engaged in a vehicle pursuit from discharging a firearm into or at a fleeing motor vehicle.

Lastly, the act (1) establishes a task force to study police transparency and accountability and (2) requires the Police Officer Standards and Training Council (POST) to study and review the use of firearms by police officers during a pursuit.

EFFECTIVE DATE: October 1, 2019, except the provisions on the task force and POST studies are effective upon passage.

§ 1 — USE OF FORCE ANNUAL REPORT

Starting by February 1, 2020, the act requires each law enforcement unit to annually prepare and submit a use of force report for the preceding calendar year to OPM's Division of Criminal Justice Policy and Planning.

Existing law requires each law enforcement unit to create and maintain a record detailing any incident where a police officer (see BACKGROUND) (1) discharges a firearm, except during training exercises or when dispatching an animal or (2) uses physical force that is likely to cause serious physical injury (see BACKGROUND) or the death of another person. The act specifies that physical

OLR PUBLIC ACT SUMMARY

force likely to cause serious physical injury includes a chokehold or other method of restraint applied to another person's neck area. The act also expands this recordkeeping requirement to include incidents when a police officer engages in a vehicle pursuit (see BACKGROUND).

Under the act, the annual report to OPM must include:

1. the records units maintain to fulfill the above requirement (i.e., the name of the police officer, the time and place of the incident, a description of what occurred and, to the extent known, victim names and witnesses present at the incident);
2. summarized data compiled from such records; and
3. statistics on each use of force incident, including (a) the race and gender of the person the force was used upon, based on the police officer's observation and perception, (b) the number of times force was used on such person, and (c) any injury the person suffered.

Before submitting the report, each law enforcement unit must redact any information from the report that may identify a minor, witness, or victim.

§ 2 — BODY-WORN AND DASHBOARD CAMERA RECORDINGS

Under existing law, when a police officer is giving a formal statement about the use of force or is the subject of a disciplinary investigation where a body camera recording is part of the review, he or she has a right to review the recording, together with his or her attorney or labor representative. The act extends this right to review to include recordings from a dashboard camera with a remote recorder, which means a camera that affixes to a police vehicle's dashboard or that electronically records video of the view through the vehicle's windshield and has an electronic audio recorder that may be operated remotely (CGS § 7-277b(c)).

Additionally, in these instances, the act makes a body-worn or dashboard camera recording disclosable to the public, upon request, not later than (1) 48 hours after an officer has reviewed it or (2) 96 hours after the recorded incident if the officer does not review the recording, whichever is earlier. As under existing law, certain scenarios are, generally, not disclosable, including the following:

1. communications with other law enforcement personnel unless within the performance of duties;
2. encounters with undercover officers or informants;
3. officers on break or engaged in personal activity;
4. people undergoing medical or psychological evaluations, procedures, or treatment;
5. people, other than suspects, in a hospital or medical facility;
6. activities in mental health facilities unless responding to a call involving a suspect in such facilities; or
7. certain crime victims if it would be an invasion of personal privacy (e.g., domestic or sexual abuse).

As under existing law and for the body-worn provision, a police officer is any sworn member of a law enforcement agency who wears body-worn recording

OLR PUBLIC ACT SUMMARY

equipment (CGS § 29-6d).

§ 3 — USE OF FORCE INVESTIGATIONS

The act requires OPM's Division of Criminal Justice to investigate and determine the appropriateness of an officer's use of deadly force on another person, when done in the performance of his or her duties. Existing law already requires the division to do this when an officer's use of physical force on another person results in that person's death.

Starting January 1, 2020, the act requires the division to complete a preliminary status report with certain information whenever a peace officer, in the performance of the officer's duties, uses physical force on another person and the person dies as a result. The report must include: (1) the deceased person's name, gender, race, ethnicity, and age; (2) the date, time, and location of the injury causing such death; (3) the law enforcement agency involved; and (4) the toxicology report status and death certificate, if available. The division must complete the report and submit a copy to the Judiciary and Public Safety and Security committees within five business days after the cause of death is available.

The act requires the division to make the report it is required to provide at the end of its investigation available to the public on its website within 48 hours after copies are provided to the chief executive officer of the municipality in which the incident occurred and the Department of Emergency Services and Public Protection (DESPP) commissioner or police chief, depending on police jurisdiction. Under existing law, upon the conclusion of the investigation, the division must file a report with the chief state's attorney with certain information, including the determination of whether the use of physical force by the peace officer was appropriate and any future action to be taken.

§ 4 — JUSTIFIED USE OF FORCE

The act narrows the circumstances under which a peace officer, special policeman, motor vehicle inspector, or authorized official of the Department of Correction or the Board of Pardons and Paroles is justified in using deadly physical force on another person.

Under prior law, such law enforcement official could use deadly force when he or she reasonably believed the action to be necessary to, among other things, prevent the escape from custody of a person whom he or she reasonably believed had committed or attempted to commit a felony that involved the infliction or threatened affliction of serious physical injury. The act narrows this to escape from custody when the official reasonably believes the person committed such a felony, thus the official can no longer use deadly force to prevent the escape of someone he or she reasonably believes has attempted to commit such felony.

§ 5 — POLICE PURSUITS

OLR PUBLIC ACT SUMMARY

By January 1, 2021, and at least once during each five-year period after that, the act requires the DESPP commissioner, in conjunction with the chief state's attorney, POST, the Connecticut Police Chiefs Association, and the Connecticut Coalition of Police and Correctional Officers, to adopt regulations to update the police pursuit policy.

The act also generally prohibits a police officer (1) who is engaged in a pursuit from discharging any firearm into or at a fleeing motor vehicle, unless the officer has a reasonable belief that there is an imminent threat of death to the officer or another person posed by the fleeing vehicle or an occupant in the vehicle and (2) from intentionally positioning his or her body in front of a fleeing vehicle, unless such action is a tactic approved by the employing law enforcement unit.

Under the act, if a pursuit enters another law enforcement unit's jurisdiction, the law enforcement unit that initiated the pursuit must immediately notify the unit with jurisdiction over the pursuit area.

§ 6 — POLICE TRANSPARENCY AND ACCOUNTABILITY TASK FORCE

The act establishes a 13-member task force to study police transparency and accountability. The task force must examine: (1) police officer interactions with individuals with a mental, intellectual, or physical disability; (2) the feasibility of police officers who conduct traffic stops issuing a receipt to each stopped individual that includes the reason for the stop and records the demographic information of the person being stopped; and (3) any other police officer and transparency and accountability issue the task force deems appropriate.

The task force members are appointed as follows:

1. two by the House speaker, one of whom is an individual with a mental, intellectual, or physical disability;
2. two by the Senate president pro tempore, one of whom is a justice-impacted individual;
3. one by the House majority leader, who must be a member of the General Assembly's Black and Puerto Rican Caucus;
4. one by the Senate majority leader, who must be a Connecticut Police Chiefs Association member;
5. two by the House minority leader; and
6. two by the Senate minority leader.

Additionally, the act appoints the following individuals or their designees as ex-officio non-voting members: (1) OPM's Division of Criminal Justice Policy and Planning undersecretary; (2) DESPP commissioner; and (3) chief state's attorney.

Under the act, all the legislative appointments, except the Senate majority leader's appointment, may be General Assembly members. All appointments must be made within 30 days after the act's passage and the appointing authorities must fill any vacancy.

The House speaker and Senate president pro tempore must select the chairpersons from task force members. The chairpersons must schedule and hold

OLR PUBLIC ACT SUMMARY

the first meeting within 60 days after the act's passage. The Judiciary and Public Safety and Security committees' administrative staff must serve as the task force's administrative staff.

The act requires the task force to submit a preliminary report by January 1, 2020, and a final report by December 31, 2020, on its findings and legislative recommendations to the Judiciary and Public Safety and Security committees. The task force terminates on the date it submits the report or December 31, 2020, whichever is later.

§ 7 — POST STUDY

The act requires POST to study and review firearm use by police officers during a pursuit. By February 1, 2020, POST must report its findings and legislative recommendations to the Judiciary and Public Safety and Security committees.

BACKGROUND

Police Officer

By law, a police officer means any sworn member of an organized local police department; an appointed constable who performs criminal law enforcement duties; special police officers appointed under law (e.g., those appointed to investigate public assistance fraud); and members of a law enforcement unit who perform police duties, including the State Police and tribal police (CGS § 7-294a).

Pursuit

By law, pursuit means an attempt by a police officer in an authorized emergency vehicle to apprehend any occupant of another moving motor vehicle, when the driver of the fleeing vehicle is attempting to avoid apprehension by maintaining or increasing the vehicle speed or by ignoring the police officer's attempt to stop the vehicle (CGS § 14-283a).

Law Enforcement Unit

By law, a law enforcement unit means a law enforcement unit in any agency, organ, or department whose primary functions include enforcing criminal or traffic laws; preserving public order; protecting life and property; or preventing, detecting, or investigating crime. It includes the Mohegan and Mashantucket Pequot police units (CGS § 7-294a).

Serious Physical Injury

By law, a "serious physical injury" creates a substantial risk of death or causes serious disfigurement, impairment of health, or loss or impairment of an organ's

OLR PUBLIC ACT SUMMARY

function (CGS § 53a-3(4)).