

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 20-1, July 2020 Special Session—HB-6004
Emergency Certification

AN ACT CONCERNING POLICE ACCOUNTABILITY.

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§§ 1-4 & 15 — POLICE OFFICER CERTIFICATION AND DECERTIFICATION

(1) Requires State Police officers to be POST-certified; (2) deems current State Police officers to be POST-certified; (3) authorizes POST to require police officers to pass a drug test as a condition of renewing their certification; (4) expands the reasons for which POST may cancel or revoke a police officer's certification to include conduct undermining public confidence in law enforcement or excessive or unjustified force; (5) allows POST to suspend a certification in certain circumstances; and (6) allows POST to develop guidance for law enforcement units on grounds for certification suspension, cancellation, or revocation

POST Certification for State Police

Prior law exempted the State Police and any State Police training school or program from the requirement that police officers serving for more than one year be certified by the Police Officer Standards and Training Council (POST). The act eliminates this exemption, thus requiring State Police officers to be POST-certified (§ 3(f)).

The act automatically deems as certified any sworn, full-time State Police officers as of the act's passage (July 31, 2020), except for probationary candidates (§ 3(d)). It requires these deemed certified officers to apply for recertification within a POST-established time frame unless they retire before then (§ 4(a)).

The act requires sworn members of the State Police appointed on or after July 31, 2020, to become POST-certified within one year of their appointment (§§ 1 & 2). By law, the Department of Emergency Services and Public Protection (DESPP) commissioner appoints State Police officers.

The act makes various conforming changes to POST's authority to include the State Police. For example, the act:

1. authorizes POST to develop and revise comprehensive training plans for state and municipal police, not just a plan for municipal police as under prior law (§ 3(a)(1));
2. requires POST to consult with DESPP when establishing uniform minimum educational and training standards for police (§ 3(a)(11));
3. specifies that POST's authority over police training schools includes schools for both state and municipal police (§ 3(a)(2) & (a)(3)); and
4. provides that DESPP's regulations implementing POST-related laws are binding on the State Police (§ 4(c)).

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The act also makes related minor and technical changes.

Drug Tests

By law, police officers must renew their POST certification every three years. The act authorizes POST to require police officers, as a condition of renewing their certification, to pass a urinalysis drug test that screens for controlled substances, including anabolic steroids (§ 3(a)(10)). (The presence of any substances prescribed for the officer would not constitute a failed test.) Existing regulations already require a drug screening for probationary candidates (i.e., police officers who have met entry level requirements but have not yet completed the basic training program) (Conn. Agencies Reg., § 7-294e-16(k)).

By law, if a police officer is not employed for over two years and not on a leave of absence, his or her POST certification lapses. The act requires these officers to pass a drug test as described above as a condition of recertification (§ 3(b)).

These provisions, as well as the provisions below on “Revocation or Suspension of Certification,” apply to all police officers under POST’s jurisdiction. Under existing law this includes sworn members of organized local police departments, appointed constables who perform criminal law enforcement duties, special police officers appointed for certain purposes, other members of law enforcement units who perform police duties, and other people who perform police functions. Under the act, it also includes the State Police (§§ 3(e) & 15(9)).

Revocation or Suspension of Certification (§ 3(c))

Existing law sets various grounds upon which POST may cancel or revoke a police officer’s certification, such as if the officer falsified a document to obtain or renew the certificate or was convicted of a felony.

The act expands these grounds to include conduct undermining public confidence in law enforcement or excessive or unjustified force, as explained below. In both cases, a law enforcement unit, under its procedures, must have found that the officer engaged in this conduct. In cases of undermining public confidence, the unit must have considered any POST guidance (see below).

Under the act, POST may cancel or revoke an officer’s certification for conduct undermining public confidence in law enforcement, including (1) discriminatory conduct, (2) falsifying reports, or (3) racial profiling in violation of state law. In its evaluation, POST must consider conduct the officer undertook in a law enforcement capacity or when representing himself or herself as a police officer to be more serious than conduct in other circumstances.

The act also allows POST to cancel or revoke an officer’s certification if a law enforcement unit found the officer’s (1) use of physical force was excessive or (2) use of physical force resulting in a person’s death or use of deadly force was determined to be unjustified after an investigation by the Office of the Inspector General (see below). Existing law already allows POST to cancel or revoke an officer’s certification if he or she used a firearm in an improper manner that resulted in someone else’s death or serious injury.

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As under existing law, before cancelling or revoking an officer's certification, POST must (1) give the officer notice and an adequate opportunity for a hearing and (2) make a finding of the improper conduct by clear and convincing evidence.

The act additionally permits POST to suspend an officer's certification for up to 45 days and censure the officer upon any of the grounds that could lead to cancellation or revocation. POST may do so if, after giving notice and an adequate opportunity for a hearing, it finds clear and convincing evidence of improper conduct but that the severity of the act does not warrant cancellation or revocation.

The act specifically provides that any hearing to suspend, cancel, or revoke a certification must be conducted in accordance with the Uniform Administrative Procedure Act (UAPA), and any certificate holder aggrieved by a POST decision may appeal to court under the UAPA. (DESPP's POST-related regulations provide that all adjudicative hearings in contested cases must be conducted in accordance with the UAPA (Conn. Agencies Reg., § 7-294e-21).)

POST Guidance (§ 3(g))

The act allows POST to develop and issue written guidance to law enforcement units on grounds for certification suspension, cancellation, or revocation. The guidance may include, among other things, (1) reporting procedures that chief law enforcement officers must follow concerning these actions; (2) examples of discriminatory conduct and conduct that undermines public confidence in law enforcement; and (3) examples of misconduct that may be serious enough for disciplinary action even though the certificate holder may not have been acting in a law enforcement capacity or representing himself or herself to be a police officer. POST must make the guidance available on its website.

EFFECTIVE DATE: Upon passage

§§ 3 & 15-16 — BEHAVIORAL HEALTH ASSESSMENTS FOR POLICE OFFICERS

Requires police officers to receive behavioral health assessments at least every five years, authorizes POST to develop written policies regarding these assessments, and exempts the assessments' results and records from disclosure under FOIA

Under the act, starting January 1, 2021, the administrative heads of law enforcement units must require each police officer employed by the unit to submit to a behavioral health assessment at least every five years as a condition of continued employment. It authorizes POST, in consultation with DESPP, to develop policies related to this requirement.

An "administrative head of a law enforcement unit" includes the DESPP commissioner, board of police commissioners, police chief or superintendent, or other authority in charge of a law enforcement unit.

The assessment must be conducted by a board-certified psychiatrist or state-licensed psychologist with experience diagnosing and treating post-traumatic

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stress disorder. The person conducting the assessment must give a written copy of the results to the officer and to the administrative head of the unit employing the officer.

The act exempts from disclosure under the Freedom of Information Act (FOIA) (1) the assessments' results and (2) any records or notes a psychiatrist or psychologist maintains in connection with the assessments.

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Schedule; Waiver for Retiring Officers (§ 16(b))

The act allows law enforcement administrative heads to stagger the scheduling of the assessments so that approximately 20% of the unit's officers receive assessments each year over a five-year period.

If an officer submits written notification of his or her intent to retire, the administrative head may waive the assessment requirement for the officer, as long as the retirement will occur within six months after the assessment was scheduled to occur.

Additional Assessments (§ 16(c))

In addition to the required assessments, the act authorizes law enforcement administrative heads to require officers to submit to additional behavioral health assessments for good cause shown. The administrative head must give the officer a written statement of the good faith basis for requiring the additional assessment. After receiving that statement, the officer has 30 days to submit to the assessment.

Officers Previously Employed (§ 16(d))

Under the act, if a law enforcement unit hires a police officer from another law enforcement unit (in Connecticut or elsewhere), the hiring unit may require the officer to submit to a behavioral health assessment within six months of hire. When deciding whether to require this, the hiring unit must consider how recently the officer submitted to a behavioral health assessment.

POST Policies (§ 3(a)(24))

The act authorizes POST, by January 1, 2021, and in consultation with the DESPP commissioner, to develop and implement written policies on the requirement that all police officers undergo periodic behavioral health assessments. At a minimum, these policies must address:

1. the confidentiality of these assessments, including compliance with the federal Health Insurance Portability and Accountability Act (HIPAA);
2. the good faith reasons that law enforcement administrative heads may rely upon when requesting that an officer undergo an additional assessment beyond those that are required;
3. the availability of behavioral health treatment services for any police

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- officer required to undergo a behavioral health assessment;
4. the ability of officers to review and contest their assessments' results;
 5. permissible personnel actions, if any, that law enforcement units may take based on the assessments' results, while considering the officers' due process rights;
 6. how to select psychiatrists and psychologists to conduct the assessments; and
 7. financial considerations that law enforcement units or police officers may incur due to the assessments.

§§ 5 & 6 — CROWD MANAGEMENT POLICY

Requires POST, in consultation with specified entities, to adopt a uniform statewide crowd management policy for police officers

Development and Adoption (§ 5)

The act requires POST, in consultation with the DESPP commissioner, chief state's attorney, Connecticut Police Chiefs Association, and Connecticut Coalition of Police and Correctional Officers, to adopt a uniform statewide crowd management policy for police officers. The policy must define "crowd" and reflect factors that affect police officers' crowd management, including a crowd's size, location, purpose for gathering, and the time of day at which it gathers.

The policy must also do the following:

1. protect individual rights and preserve the peace during demonstrations and civil disturbances,
2. address permissible and impermissible uses of force by police officers and the type and amount of crowd management training that police officers must undergo, and
3. set forth documentation requirements that apply after any physical confrontation between a police officer and a civilian during a crowd management incident.

The act requires that the policy be adopted as a state agency regulation in accordance with the UAPA. It requires POST, in consultation with the above-listed parties, to (1) post on the eRegulations System by December 1, 2020, a notice of intent to adopt regulations containing the policy and (2) amend the regulations at least once every five years thereafter to update the policy.

Implementation (§ 5)

On and after the date the crowd management policy is adopted as a regulation, the act requires the DESPP commissioner and chiefs of police to (1) inform each officer in his or her respective department and each officer responsible for law enforcement in a municipality with no organized police department of the policy's existence and (2) take necessary measures to ensure each officer understands it. It also requires, on and after the date the policy is adopted, that basic and review training programs conducted or administered by the State Police, POST, or a

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municipal police department include training on the policy.

Riot Suppression Privileges and Immunities (§ 6)

Under prior law, State Police members participating in suppressing a riot or similar disorder were entitled to the same privileges and immunities as the organized militia (e.g., they were generally privileged from arrest and imprisonment (CGS § 27-60)). Under the act, once the crowd management policy is adopted as a regulation, these privileges and immunities apply only to State Police members who substantially comply with the policy.

EFFECTIVE DATE: Upon passage

§ 7 — IMPLICIT BIAS TRAINING FOR POLICE OFFICERS

Adds implicit bias training to the required police training components

The act adds implicit bias training to the cultural competency, sensitivity, and bias-free policing training that police officers must receive under existing law. Under the act, implicit bias training teaches how to recognize and mitigate unconscious biases against particular people that might influence judgments and decisions when interacting with them.

By law, police basic and review training programs conducted or administered by the State Police, POST, and municipal police departments must include training on, among other things, (1) using physical force; (2) using body cameras and retaining the records they create; and (3) cultural competency, sensitivity, and bias-free policing.

EFFECTIVE DATE: Upon passage

§§ 8 & 9 — COLLECTIVE BARGAINING AND DISCLOSURE OF DISCIPLINARY MATTERS OR ALLEGED MISCONDUCT

Specifies that the Freedom of Information Act prevails over certain contrary provisions in state employee collective bargaining agreements and arbitration awards; explicitly prohibits agreements and awards involving State Police bargaining units from barring the disclosure of certain disciplinary actions

Under prior law, the provisions of collective bargaining agreements and arbitration awards between the state and a state employee bargaining unit generally superseded any conflicting state statutes, special acts, or regulations as long as the superseding provisions were appropriate to collective bargaining.

The act creates an exception for certain conflicts with FOIA. Under the act, if the provisions of an agreement or award (1) pertain to disclosing disciplinary matters or alleged misconduct and (2) would prevent document disclosures required by FOIA, then FOIA's provisions prevail. This exception applies to agreements and awards entered into before, on, or after the act's effective date. The act specifies that it should not be construed as diminishing a bargaining agent's access to information under state law.

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Separately, the act also explicitly prohibits any collective bargaining agreement or arbitration award between the state and any State Police bargaining unit from barring the disclosure of any disciplinary action based on a violation of the code of ethics contained in a sworn member's personnel file. The act's prohibition applies to agreements and awards entered into before, on, or after the act's effective date.

It is unclear whether applying the act's provisions to existing agreements and awards would conflict with the U.S. Constitution's contract clause (see BACKGROUND).

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Background — Contract Clause

The U.S. Constitution's contract clause (art. I, § 10) prohibits states from passing laws that impair the obligation of contracts. In a 2017 opinion (2017-06), Connecticut's attorney general noted that when a litigant raises a contract clause challenge against a legislative act, courts ask three questions to determine whether the act violates the clause: (1) is the impairment substantial; (2) if so, does the law serve a legitimate public purpose; and (3) if so, are the means of accomplishing this purpose reasonable and necessary (*Buffalo Teachers Fed'n v. Tobe*, 464 F.3d 362 (2d Cir. 2006)).

§§ 10 & 11 — REPORTS ON RECRUITING MINORITY POLICE OFFICERS

Establishes a new reporting requirement and expands an existing one to include information on efforts to recruit, retain, and promote minority police officers

The act establishes a new reporting requirement and expands an existing one to include information on efforts to recruit, retain, and promote minority police officers. By law, "minority" is an individual whose race is other than white, or whose ethnicity is defined as Hispanic or Latino by the federal government for use by the U.S. Census Bureau.

Existing law requires law enforcement units serving communities with a relatively high concentration of minority residents to try to recruit, retain, and promote minority officers so that the unit's racial and ethnic diversity represents the community. By January 1, 2021, and annually thereafter, the act requires the board of police commissioners, the police chief or superintendent, or other authority over a law enforcement unit serving such a community to report to POST on the community's efforts to recruit, retain, and promote minority police officers.

By January 1, 2021, and annually thereafter, the act requires the annual report POST already provides the governor and the General Assembly to (1) include pertinent data on recruiting, retaining, and promoting minority police officers and (2) be provided specifically to the Judiciary and Public Safety and Security committees. Existing law requires POST to report pertinent data on the comprehensive municipal police training plan and an accounting of all grants, contributions, gifts, donations, or other financial assistance.

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§ 12 — POLICE TRANSPARENCY AND ACCOUNTABILITY TASK FORCE

Extends the reporting deadlines and expands the scope of the task force to study police transparency and accountability by requiring it to examine, among other things, the feasibility of requiring police to have professional liability insurance and how police execute no-knock warrants

The act expands the scope of the task force that PA 19-90, § 6, established to study police transparency and accountability. It also extends the task force's reporting deadlines by a year, requiring it to submit a preliminary report by January 1, 2021, and a final report by December 31, 2021. The 13-member task force terminates when it submits the final report or on December 31, 2021, whichever is later. As under PA 19-90, it must submit the reports to the Judiciary and Public Safety and Security committees.

PA 19-90 required the task force to examine several issues, including the feasibility of having police officers who conduct traffic stops issue a receipt to each stopped individual that includes the reason for the stop and records the individual's demographic information. The act requires the task force to also look at this proposal's merits.

Under the act, the task force must also examine:

1. strategies communities can use to increase minority police officer recruitment, retention, and promotion;
2. strategies communities can use to increase female police officer recruitment, retention, and promotion;
3. the merits and feasibility of requiring (a) police officers to procure and maintain professional liability insurance as an employment condition or (b) a municipality to maintain the insurance on its officers' behalf;
4. establishing laws for primary and secondary traffic violations;
5. establishing a law that requires police traffic stops to be based on enforcing a primary traffic violation;
6. how a police officer executes a warrant to enter a residence without giving audible notice of the officer's presence, authority, and purpose before entering in Connecticut and other states, including address verification procedures and any documentation an officer should leave for the residents where the warrant was executed;
7. how a professional bondsman, surety bail bond agent, or a bail enforcement agent takes into custody the principal on a bond who failed to appear in court and for whom a re-arrest warrant or a capias was issued in Connecticut and other states, including the address verification process and whether any documentation is left with a resident where the warrant was executed; and
8. whether any of the grounds for revoking or cancelling a police officer's certification should result in a mandatory, rather than discretionary, POST revocation or cancellation.

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§ 13 — POST MEMBERSHIP CHANGES

Revamps POST’s membership by, among other things, (1) adding a member to the council; (2) reducing the number of gubernatorial appointments from 17 to 11 and adding six legislative appointments in their place; and (3) requiring representation from additional stakeholders

The act revamps POST’s membership beginning January 1, 2021. Under prior law, the council consisted of 20 members: 17 appointed by the governor and three serving ex-officio (the DESPP commissioner and FBI special agent-in-charge for Connecticut, or their designees, and the chief state’s attorney).

The act increases the council’s size to 21 members by adding the Connecticut State Police Academy’s commanding officer. (It also retains the three ex-officio members listed above.) Additionally, it makes numerous changes concerning the appointed members. Principally, it (1) reduces the number of gubernatorial appointments from 17 to 11 and adds six legislative appointments in their place and (2) requires representation from additional stakeholders.

The table below compares POST’s appointed membership under prior law with its appointed membership under the act.

POST Appointment Criteria

Type of Appointee	Prior Law (All appointments by governor)	The Act (Beginning January 1, 2021)	
		Criteria	Appointed by
Municipal officials	One chief administrative officer of a town or city One chief elected official or chief executive officer from a town or city with no organized police department and a population of fewer than 12,000	Two municipal chief elected officials or chief executive officers: <ul style="list-style-type: none"> • one from a town or city with a population exceeding 50,000 • one from a town or city with a population not exceeding 50,000 	Governor
Higher education faculty member	One UConn faculty member	One Connecticut higher education faculty member who has a background in criminal justice studies	Governor
Police chiefs	Eight members of the Connecticut Police Chiefs Association who are chiefs of police or the highest-ranking professional police officers of an organized municipal	One member of the Connecticut Police Chiefs Association who is the chief of police, deputy chief of police, or a senior ranking professional police officer of an organized municipal police department of a municipality with a population exceeding 100,000	Governor

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Type of Appointee	Prior Law (All appointments by governor)	The Act (Beginning January 1, 2021)	
		Criteria	Appointed by
	police department	Two members of the Connecticut Police Chiefs Association who are chiefs of police or the highest-ranking professional police officers of an organized municipal police department: <ul style="list-style-type: none"> • one from a municipality with a population exceeding 60,000 but not exceeding 100,000 • one from a municipality with a population exceeding 35,000 but not exceeding 60,000 	Governor
		Two members who are (1) Connecticut Police Chiefs Association members or (2) chiefs of police or the highest-ranking professional police officers of an organized police department	One each by the House speaker and Senate president pro tempore
		One member of the Connecticut Police Chiefs Association who is the chief of police or highest-ranking professional police officer of an organized police department from a municipality with a population not exceeding 35,000	Senate minority leader
Sworn personnel	One sworn municipal police officer whose rank is sergeant or lower	Two sworn municipal police officers: <ul style="list-style-type: none"> • one from a municipality with a population exceeding 50,000 • one from a municipality with a population not exceeding 50,000 	Governor
Public members	Five public members	One public member who has a physical disability or who advocates on behalf of such individuals	Governor
		A crime victim or the immediate family member of a deceased crime victim	Governor
		One medical professional	Governor
		Two public members who are justice-impacted people	One each by the House and Senate majority leaders
		One public member who has a mental disability or who advocates	House minority leader

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Type of Appointee	Prior Law (All appointments by governor)	The Act (Beginning January 1, 2021)	
		Criteria	Appointed by
		on behalf of such individuals	

As under existing law, appointed members serve at the pleasure of their appointing authority for a term coterminous with their appointing authority (CGS § 4-1a). The act additionally deems a member to have resigned from POST if he or she misses three consecutive meetings or 50% of the meetings held during any calendar year.

The act retains provisions in existing law that, among other things, require the governor to appoint the chairperson and specify that a nonpublic member ceases to be on the council if he or she ceases holding the office or employment that qualified him or her for appointment.

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§ 14 — POLICE BADGE AND NAME TAG IDENTIFICATION

Starting January 1, 2021, generally requires police officers to prominently display their badge and name tag on the outermost layer of their uniform

Starting January 1, 2021, the act generally requires police officers to affix and prominently display their employer-issued badge and name tag on the outer-most layer of their uniform. The requirement applies to officers who are (1) authorized to make arrests or (2) required to interact with the public daily.

By December 31, 2020, the act requires the DESPP commissioner and POST to jointly develop and promulgate a model policy to implement the identification requirement. The policy must include the time, place, and manner for ensuring compliance with the requirement. It may also include specified circumstances when compliance is not required due to public safety-related or other practical considerations, such as the sensitive nature of a police investigation or an officer’s involvement in an undercover assignment.

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§ 17 — CIVILIAN POLICE REVIEW BOARDS

Allows towns to establish civilian police review boards by ordinance

The act allows each town’s legislative body to establish a civilian police review board by ordinance. At a minimum, the ordinance must prescribe the (1) board’s scope of authority; (2) number of members and their terms of office; (3) process for selecting members, whether elected or appointed; and (4) procedure for filling vacancies.

The act allows a review board established by ordinance to (1) issue subpoenas to compel witness attendance before the board and (2) require the production of books and papers the board deems relevant to any matter under investigation or in question. It specifies that it does not affect or limit any civilian police review

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board existing before July 31, 2020 (e.g., those previously established by charter).

Under the act, if a civilian police review board receives a written request from the Office of the Inspector General (OIG, see §§ 33-34 below), it must stay and take no further action on any proceeding that is the subject of an OIG investigation or criminal prosecution (e.g., police use-of-force investigations). Stays may last for up to six months from the day the board receives OIG's request, but OIG may terminate a stay sooner by written notice to the board.

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§ 18 — FEASIBILITY AND IMPACT OF SOCIAL WORKERS RESPONDING TO CERTAIN POLICE CALLS

Requires DESPP and local police departments to evaluate the feasibility and potential impact of using social workers to respond to calls for assistance or accompany a police officer on certain calls for assistance

The act requires DESPP and each municipal police department to evaluate the feasibility and potential impact of social workers responding to calls for assistance (either remotely or in person) or joining a police officer on calls where a social worker's experience and training could provide help. DESPP and each municipal department must complete their evaluations by January 31, 2021, and submit them to POST as soon as they are complete.

The evaluation must consider whether social workers could entirely manage responses to, or assist with, certain calls and community interactions. For municipal police departments, the evaluation must also consider whether the municipality would benefit from employing, contracting with, or otherwise engaging social workers to help the department. Municipal police departments may consider using mobile crisis teams or implementing a regional approach with other municipalities as part of any process to engage, or further engage, social workers to help the departments.

EFFECTIVE DATE: Upon passage

§§ 19, 20 & 45 — BODY CAMERAS, DASHBOARD CAMERAS, AND RELATED GRANTS

Principally, (1) expands the requirement to use body cameras to police officers in all state, municipal, and tribal law enforcement units; (2) requires these officers to use dashboard cameras in police patrol vehicles; and (3) authorizes \$4 million in GO bonds for a new grant program to fund related equipment and service purchases by municipalities

Required Use of Body and Dashboard Cameras as of July 1, 2022

Current law generally requires police officers to use body-worn recording equipment (i.e., body cameras) while interacting with the public in their law enforcement capacity if they are sworn members of (1) the State Police, (2) a municipal police department that has received reimbursement for body camera purchases under the state's grant program, or (3) a public university or college special police force. Current law allows sworn members of all other municipal

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police departments to use body cameras as directed by their departments and in accordance with state law.

Beginning July 1, 2022, the act expands the body camera requirement to all sworn members of law enforcement units and members of those units who perform police duties. By law and under the act, “law enforcement unit” means any state or municipal agency or department (or tribal agency or department created and governed under a memorandum of agreement) whose primary functions include enforcing criminal or traffic laws; preserving public order; protecting life and property; or preventing, detecting, or investigating crime.

Beginning July 1, 2022, the act also requires each law enforcement unit to require the use of dashboard cameras with a remote recorder (i.e., dashboard cameras, see BACKGROUND) in each police patrol vehicle used by any of the officers it employs. The officers must use the dashboard cameras according to their unit’s adopted policy and based on the DESPP-POST guidelines described below. Under the act, a “police patrol vehicle” includes (1) any state or local police vehicle, besides administrative vehicles, with a body camera-wearing occupant; (2) bicycles; (3) motor scooters; (4) all-terrain vehicles; (5) electric personal assistive mobility devices; and (6) animal control vehicles.

The act requires the DESPP commissioner and POST to jointly evaluate and approve minimal technical specifications for dashboard cameras as well as guidelines on their use and retaining and storing their data. Existing law requires the commissioner and council to do so for body cameras and digital storage devices and services.

Applying Existing Body Camera Laws to Dashboard Cameras

Beginning July 1, 2022, the act applies the following provisions in existing law about body cameras to dashboard cameras:

1. prohibiting the editing, erasing, copying, sharing, altering, or distributing of camera recordings or the recordings’ data except as required by state or federal law;
2. permitting police officers to review recordings from their cameras to assist in preparing a report or performing their duties;
3. generally exempting specific recordings (e.g., ones involving minors) from disclosure under Connecticut’s Freedom of Information Act and making them confidential; and
4. requiring law enforcement units to follow DESPP-POST guidelines on using cameras, retaining their data, and storing the data safely and securely.

DESPP-POST Camera Use Guidelines and Recording Prohibition

The act requires the DESPP commissioner and POST to add guidance about the types of detective work that should not be recorded to their guidelines on body and dashboard camera use.

Current law prohibits police officers from using body cameras to intentionally

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record in specific situations or settings (e.g., encounters with undercover officers or informants) unless permitted under an agreement between an officer's unit and the federal government. Beginning July 1, 2022, the act applies this same prohibition to dashboard cameras and adds encounters with officers performing detective work described in the DESPP-POST guidelines to the list of situations covered by the prohibition.

DESPP-POST Data Retention Guidelines

The act prohibits the DESPP-POST guidelines on retaining body and dashboard camera data from requiring law enforcement units to store that data for longer than a year except in cases where units know the data is pertinent to any ongoing civil, criminal, or administrative matter.

Ensuring Functioning Equipment

Current law requires (1) officers to inform their supervisors as soon as practicable after learning that body cameras are lost, damaged, or malfunctioning and (2) their supervisors to ensure that the reported cameras are inspected and repaired or replaced. The act extends these requirements to dashboard cameras and specifies that officers must provide the notice in writing.

Additional OPM Grant Program for Municipalities

By law, the Office of Policy and Management (OPM) administers a grant program that reimburses municipalities for costs incurred in purchasing body cameras, eligible dashboard cameras, and related equipment and services. (The reimbursement is generally up to 50% for eligible purchases made from FYs 19-21 and up to 100% for purchases made in FYs 13-18.)

The act authorizes up to \$4 million in general obligation (GO) bonds to fund an additional grant program to aid municipalities. OPM must administer the program within available resources and distribute grants in FYs 21 and 22. Under the act, OPM may approve grants to municipalities for costs associated with purchasing the following:

1. body cameras for use by the sworn members of the municipality's police department or constables, police officers, or others who perform criminal law enforcement duties under the supervision of a resident state trooper serving the municipality;
2. digital data storage devices or services;
3. dashboard cameras for the first time; and
4. dashboard cameras that replace ones purchased before December 31, 2010.

The body cameras, digital data storage devices and services, and dashboard cameras must conform to DESPP-POST's minimal technical specifications (see above) in order to be eligible for the grants. The OPM secretary must establish the grant application process and may prescribe additional technical or procurement

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requirements as a condition of receiving the grants.

OPM may award grant amounts of up to (1) 50% of the associated costs for distressed municipalities (see BACKGROUND) and (2) 30% for all other municipalities. In both cases, funding for digital data storage services is limited to the cost for up to one year.

EFFECTIVE DATE: Upon passage, except body camera and dashboard camera requirements are effective July 1, 2022.

Background – Dashboard Cameras with a Remote Recorder

By law, a “dashboard camera with a remote recorder” is a camera that (1) attaches to a dashboard or windshield of a police vehicle, (2) electronically records video of the view through the vehicle’s windshield, and (3) has an electronic audio recorder that may be operated remotely (CGS § 7-277b(c)).

Background – Distressed Municipalities

The Department of Economic and Community Development (DECD) annually ranks municipalities based on their relative economic and fiscal distress and designates the top 25 as “distressed municipalities” (CGS § 32-9p(b)). Most recently, in 2020, DECD designated the following municipalities as distressed: Ansonia, Bridgeport, Bristol, Chaplin, Derby, East Hartford, East Haven, Griswold, Hartford, Meriden, Montville, New Britain, New Haven, New London, Norwich, Preston, Putnam, Sprague, Stratford, Torrington, Voluntown, Waterbury, West Haven, Winchester, and Windham.

§§ 21 & 22 — LIMITS ON CONSENT SEARCHES

Limits the circumstances under which law enforcement officials may conduct consent searches on (1) an individual’s body and (2) motor vehicles stopped solely for motor vehicle violations

The act limits the circumstances under which law enforcement officials may conduct consent searches on (1) an individual and (2) motor vehicles stopped solely for motor vehicle violations. A consent search is a search conducted after a person with authority to do so voluntarily waives his or her Fourth Amendment rights (*Black’s Law Dictionary*, 11th ed.).

Under the act, an individual’s consent to conduct a search of his or her body is not justification for a law enforcement official to conduct the search, unless there is probable cause.

For vehicles stopped solely for motor vehicle violations, the act prohibits a law enforcement official from asking for a driver’s consent to conduct a search of the vehicle or its contents. Any search of the vehicle or its contents must be (1) based on probable cause or (2) after receiving the driver’s unsolicited consent either in writing or recorded by body-worn recording equipment or a dashboard camera.

EFFECTIVE DATE: October 1, 2020

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§ 21 — PROHIBITION ON ASKING FOR NON-DRIVING IDENTIFICATION OR DOCUMENTATION

Generally prohibits law enforcement from asking for non-driving identification or documentation for stops solely for motor vehicle violations

The act generally prohibits law enforcement officials, during stops solely for motor vehicle violations, from asking drivers for any documentation or identification other than a driver’s license, motor vehicle registration, insurance identity card, or other documentation or identification directly related to the stop. This prohibition does not apply if (1) there is probable cause that a felony or misdemeanor offense has been committed or (2) the driver fails to produce a valid driver’s license.

EFFECTIVE DATE: October 1, 2020

§ 23 — PRE-DOCKETING PROSECUTORIAL REVIEW OF CRIMINAL CHARGES

Requires the chief state’s attorney, in consultation with the chief court administrator, to prepare a plan to have prosecutors review criminal charges before cases are docketed

The act requires the chief state’s attorney, in consultation with the chief court administrator, to prepare a plan to have a prosecutorial official review each charge in any criminal case before the case is docketed. By January 1, 2021, the chief state’s attorney must submit the plan to OPM and the Judiciary Committee.

EFFECTIVE DATE: Upon passage

§§ 24-28 — PENALTIES FOR FALSE REPORTING OR MISUSING THE EMERGENCY 9-1-1 SYSTEM BASED ON BIGOTRY OR BIAS

Raises the penalties for false reporting crimes or misusing the emergency 9-1-1 system when committed with the specific intent to do so based on certain characteristics of the reported person or group (e.g., race, sex, or sexual orientation)

Under specified circumstances, there are criminal penalties for (1) falsely reporting certain incidents, such as a crime or fire, or (2) misusing the emergency 9-1-1 system (E-9-1-1; see BACKGROUND). The act raises the penalties for these crimes if committed with the specific intent to falsely report someone or a group of people or misuse the emergency system because of the person’s or group’s actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

The following table shows the existing penalties and the act’s increased penalties under the circumstances noted above.

Penalties for False Reporting Crimes and Misusing the E-9-1-1 System With Specific Intent Based on Certain Characteristics

Crime	Existing Penalty	Act’s Increased Penalty
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Crime	Existing Penalty	Act's Increased Penalty
Falsely Reporting an Incident, 1 st Degree*	Class D felony (see Table on Penalties)	Class C felony
Falsely Reporting an Incident Resulting in Serious Physical Injury or Death	Class C felony	Class B felony
Falsely Reporting an Incident Concerning Serious Physical Injury or Death	Class D felony	Class C felony
Falsely Reporting an Incident, 2 nd Degree	Class A misdemeanor	Class E felony
Misusing the E-9-1-1 System	Class B misdemeanor	Class A misdemeanor

* Under existing law and the act, in certain cases the court may order individuals convicted of this crime to make financial restitution to the state and local departments and agencies that provided the emergency response.

EFFECTIVE DATE: October 1, 2020

Background – False Reporting and Misusing the E-9-1-1 System

Under existing law, a person is guilty of falsely reporting an incident in the 1st degree when, knowing the information is false or baseless, he or she:

1. initiates or circulates a false report or warning of an alleged or impending fire, explosion, catastrophe, or emergency when it is likely to alarm or inconvenience the public;
2. reports an alleged or impending fire, explosion, or other catastrophe or emergency that did not occur or does not exist to an official or quasi-official agency or organization that handles emergencies involving danger to life or property; or
3. commits any of the above actions with the intent to cause a large-scale emergency response.

A person is guilty of falsely reporting an incident in the 2nd degree if, knowing the information is false or baseless, he or she gratuitously reports to a law enforcement officer or agency:

1. an alleged offense or incident which did not in fact occur,
2. an allegedly impending offense or incident which in fact is not about to occur, or
3. false information relating to an actual offense or incident or to the alleged involvement of someone in the offense or incident.

There are separate crimes, with higher penalties, for committing (1) either the 1st or 2nd degree crime when it results in serious physical injury or death to another person or (2) the 2nd degree crime by falsely reporting someone else's alleged or impending serious physical injury or death.

By law, a person is guilty of misusing the E-9-1-1 system when he or she (1) dials E-9-1-1 or causes it to be dialed to make a false alarm or complaint or (2)

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purposely reports false information that could result in the dispatch of emergency services.

§ 29 — JUSTIFIED USE OF DEADLY PHYSICAL FORCE AND CHOKEHOLDS

Limits the circumstances under which a law enforcement officer's use of deadly physical force is justified and establishes factors to consider when evaluating whether the officer's action was reasonable; limits an officer's use of a chokehold or similar restraints

Deadly Physical Force

Beginning April 1, 2021, the act narrows the circumstances under which a law enforcement officer (see BACKGROUND) is justified in using deadly physical force and establishes specific conditions that must be met in those circumstances.

Under prior law, officers were justified in using deadly physical force when they reasonably believed it was necessary to:

1. defend themselves or a third person from the use or imminent use of deadly physical force or
2. (a) arrest a person they reasonably believe had committed or attempted to commit a felony that involved the infliction or threatened infliction of serious physical injury or (b) prevent the escape from custody of a person they reasonably believe has committed a felony that involved the infliction or threatened infliction of serious physical injury.

The act narrows the circumstances under which deadly physical force may be used by eliminating the justifications that are based on the threatened infliction of serious physical injury.

For the remaining situations in which deadly physical force may be justified, the act requires that the officer's actions be objectively reasonable given the circumstances (see below). In situations where an officer is making an arrest or preventing an escape, the act additionally requires that the officer (1) exhaust the reasonable alternatives to the use of deadly physical force and (2) reasonably believe that the force employed creates no substantial risk of injury to a third party.

The act also maintains existing law's requirement that the officer reasonably believe the use of the force is necessary to arrest or prevent the escape of the specified individual.

Determining Whether Deadly Force Use Was Reasonable

The act establishes factors to consider when evaluating whether a law enforcement officer's use of deadly physical force was objectively reasonable, including whether the:

1. person upon whom deadly physical force was used possessed or appeared to possess a deadly weapon,
2. officer engaged in reasonable de-escalation measures before using deadly physical force, and

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3. officer's conduct led to an increased risk of the situation that preceded the use of such force.

Limits on Chokeholds or Similar Restraints

By law, law enforcement officers are justified in using physical force to the extent they reasonably believe it is necessary to:

1. arrest or prevent the escape from custody of someone they reasonably believe has committed an offense (unless the officers know that the arrest or custody is unauthorized) or
2. defend themselves or a third person from the use or imminent use of physical force while arresting or attempting to arrest someone or preventing or attempting to prevent an escape.

The act limits when an officer may use a chokehold or similar methods of restraint (i.e., those that are applied to the neck area, impede the ability to breathe, or restrict blood circulation to the brain). It does so by allowing these methods only when the officer reasonably believes they are necessary to defend himself or herself from the use or imminent use of deadly physical force.

EFFECTIVE DATE: April 1, 2021

Background – Law Enforcement Officers

A law enforcement officer includes peace officers (see below), special police officers for the Department of Revenue Services, and authorized officials of the Department of Correction (DOC) or the Board of Pardons and Paroles.

By law, the following individuals are designated peace officers: state and local police, Division of Criminal Justice (DCJ) inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, DOC officials authorized to make arrests in a correctional institution or facility, investigators in the Office of the State Treasurer, POST-certified motor vehicle inspectors, U.S. marshals and deputy marshals, U.S. special agents authorized to enforce federal food and drug laws, and certified police officers of a law enforcement unit created and governed under a state-tribal memorandum (CGS § 53a-3(9)).

§§ 30 & 43 — OFFICERS' DUTY TO INTERVENE AND REPORT USE OF UNREASONABLE, EXCESSIVE, OR ILLEGAL FORCE

Requires police and correction officers to intervene when fellow officers use unreasonable, excessive, or illegal force and to report on those incidents; prohibits law enforcement units and DOC from retaliating against intervening and reporting officers

Duty to Intervene

The act requires any police officer, while in his or her law enforcement capacity, to intervene and attempt to stop another police officer from using force

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that the witnessing officer objectively knows is unreasonable, excessive, or illegal unless the witnessing officer is operating in an undercover capacity at the time. The act also requires correction officers to intervene and attempt to stop another correction officer from using this force.

Under the act, any police or correction officer who fails to intervene in those instances may be held criminally liable and prosecuted and punished for the same acts as the officer who used unreasonable, excessive, or illegal force (CGS § 53a-8).

Duty to Report

The act also requires any police officer who witnesses, or is otherwise aware of, another police officer using this unreasonable, excessive, or illegal force to report the incident to the law enforcement unit that employs the officer who used the force. Likewise, a correction officer who witnesses, or is aware of, another correction officer using this force must report the incident to his or her immediate supervisor. The act requires that both reports be made as soon as practicable. Additionally, witnessing correction officers' supervisors must immediately report on incidents they receive to the immediate supervisors of the correction officers who reportedly used the force.

Under the act, any police or correction officer who is required to report an incident but who fails to do so may be prosecuted and punished for 1st, 2nd, or 3rd degree hindering prosecution. (By law, hindering prosecution applies to a person who renders criminal assistance to another person who has committed a felony.) Hindering prosecution in the 1st or 2nd degree is a class C felony (but a 1st degree violation carries a mandatory minimum five-year prison sentence), while 3rd degree hindering prosecution is a class D felony (see [Table on Penalties](#)).

Retaliation Prohibited

The act prohibits law enforcement units and DOC from taking retaliatory personnel action or discriminating against a police or correction officer for intervening or reporting another officer's use of unreasonable, excessive, or illegal force. It explicitly applies state law's whistleblower protections to intervening or reporting officers. Among other things, this means law enforcement units and DOC cannot discharge, discipline, or penalize intervening or reporting officers (see BACKGROUND).

EFFECTIVE DATE: October 1, 2020

Background – Whistleblower Laws

The state has two primary whistleblower laws. With respect to state government, the law allows anyone to report misconduct in a state agency and prohibits state agencies from taking or threatening to take retaliatory personnel actions. Whistleblowers who believe they have been retaliated against may, among other actions, file a complaint with the chief human rights referee at the

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Commission on Human Rights and Opportunities (CGS § 4-61dd). This law covers the State Police and other state law enforcement units (e.g., the UConn police) and DOC employees, among others.

A separate law covers municipal law enforcement officers (among others) and prohibits retaliation against private or public sector employees who report illegal conduct, or suspected illegal conduct, to the proper authorities or who participate in investigations of the conduct. An employee who is discharged, disciplined, or penalized in violation of this law may, after exhausting all administrative remedies, bring a civil action within 90 days after the violation or final administrative decision (CGS § 31-51m). This law covers all state and municipal employees.

§ 30 — USE OF FORCE RECORDKEEPING AND REPORTING

Expands law enforcement units' recordkeeping and reporting requirements to include reports on police use of excessive force incidents and requires OPM to review and report on those incidents

The act expands law enforcement units' recordkeeping and reporting requirements to include reports on police use of excessive force incidents. It also requires OPM, within available appropriations, to review the reported use-of-force incidents and submit its review results and any recommendations to the governor and Judiciary and Public Safety and Security committees' leadership.

EFFECTIVE DATE: October 1, 2020

Law Enforcement Units' Recordkeeping

Existing law requires each law enforcement unit to create and maintain a record detailing any incident where a police officer (1) discharges a firearm, except during training exercises or when dispatching an animal; (2) uses physical force that is likely to cause serious physical injury to or the death of another person; or (3) engages in vehicle pursuit. The act specifically requires this recordkeeping to include excessive force incidents (1) reported by a police officer who witnesses or is aware of such an incident (see above) or (2) otherwise made known to the law enforcement unit.

The act also specifies that physical force likely to cause serious physical injury or death to include (1) striking another person with an elbow or knee, (2) using a projectile on another person that is less lethal than an electronic defense weapon or pepper spray, (3) using a method of restraint that impedes the ability to breathe or restricts blood circulation to the brain, or (4) using any other form of physical force POST designates. By law, physical force likely to cause serious physical injury or death already includes, among other things, striking another person with the hand or certain other objects; using pepper spray; and using a chokehold or other restraints to the neck area.

Law Enforcement Units' Annual Reporting to OPM

Under existing law, each law enforcement unit must annually submit a report

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by February 1 about use-of-force incidents to OPM's Criminal Justice Policy and Planning Division. The act (1) expands the report's contents to conform to the act's expanded recordkeeping requirements (see above) and (2) eliminates the requirement that units provide summarized data. Additionally, starting with the February 1, 2021, report, the act requires law enforcement units to submit the records electronically in a standardized method and form that allows the compilation of statistics on each use-of-force incident. The division and POST (1) must jointly disseminate the standardized method and form and (2) may revise the method and form and disseminate the revisions to law enforcement units.

By law, the report's statistics on each use-of-force incident must include:

1. the race and gender of the person the force was used upon, based on the police officer's observation and perception;
2. the number of times force was used on the person; and
3. any injury the person suffered.

OPM's Review of Use-of-Force Incidents

The act requires OPM, within available appropriations, to (1) review the reported use-of-force incidents and (2) starting by December 1, 2021, annually report the results and any recommendations to the governor and the Judiciary and Public Safety and Security committees' chairpersons and ranking members.

§§ 31 & 32 — SECURITY SERVICE AND SECURITY OFFICER QUALIFICATIONS

Prohibits decertified police officers from acquiring a security service license or performing security officer work

The act adds decertification as a police officer, including POST's cancellation, revocation, or refusal to renew a certification, to the list of criteria that make a person ineligible for (1) a security service license; (2) a security officer license; and (3) employment with a security service to perform security officer duties while his or her security officer license application is pending.

Under existing law, unchanged by the act, a person is ineligible for a security service license if, among other things, he or she has been (1) convicted of a felony; (2) convicted in the past seven years of any of 11 specified misdemeanors; (3) convicted of any offense involving moral turpitude; or (4) discharged from military service under conditions that demonstrate questionable moral character.

Existing law also prohibits the DESPP commissioner from issuing a security officer license, and a security service from employing a license applicant to perform security officer work, to anyone (1) convicted of a felony, any sexual offense, or any crime involving moral turpitude; (2) denied a security service or security officer license for any reason except minimum experience; (3) whose security service or security officer license has been revoked or is suspended; or (4) who does not otherwise satisfy the requirements for licensure or employment.

EFFECTIVE DATE: October 1, 2020

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§§ 33 & 46 — OFFICE OF THE INSPECTOR GENERAL

Establishes the Office of the Inspector General

The act establishes OIG as an independent office within DCJ. The act requires OIG to do the following:

1. investigate peace officers' (i.e., law enforcement officers') use of force (see § 34 below);
2. prosecute any case in which (a) the inspector general determines that the use of force was not justified or (b) a police officer or correctional officer fails to intervene in or report such an incident; and
3. make recommendations to POST concerning censure and suspension, renewal, cancellation, or revocation of a peace officer's certification.

EFFECTIVE DATE: Upon passage

Appointment and Term

Under the act, the inspector general serves a four-year term and must be a deputy chief state's attorney from within DCJ whom the Criminal Justice Commission nominates (see BACKGROUND). Under prior law, DCJ included two deputy chief state's attorneys. The act requires the commission to appoint a third deputy chief state's attorney, whom it must nominate to serve as inspector general (§ 46).

The act requires the commission to (1) nominate the initial inspector general by October 1, 2020, and (2) make a new nomination on or before the term's expiration date or upon a vacancy. The act allows the commission to re-nominate an individual who has previously served as inspector general. Under the act, a person nominated to be inspector general serves in an interim capacity pending confirmation by the legislature.

The act allows the inspector general to be removed or otherwise disciplined only in accordance with existing law's procedures for removing or disciplining prosecutors (i.e., he or she may be removed only by the Criminal Justice Commission after notice and a hearing).

Legislative Confirmation

The act subjects a nominee for inspector general to legislative confirmation procedures and requirements that are similar to those for judicial nominations. Among other things, it requires (1) referral of the nomination to the Judiciary Committee and action by the committee within 30 legislative days after receiving the referral (but no later than seven legislative days before the legislature adjourns) and (2) a roll call vote by both the House and Senate in order to confirm the nominee. If a nomination fails, the Criminal Justice Commission must make a new nomination within five days after receiving notice of the failure.

If the legislature is not in session, the act allows the commission to fill an inspector general vacancy by submitting the proposed appointee's name to the Judiciary Committee. The committee may, upon either chairperson's call, hold a

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meeting within 45 days to approve or disapprove the proposed vacancy appointment by majority vote. The act deems the appointment approved if the committee does not act within this timeframe.

Under the act, an appointment made when the legislature is not in session is effective until the sixth Wednesday of the next regular legislative session and until a successor is approved.

Powers

The act allows the inspector general to issue subpoenas to municipalities, law enforcement units, and DOC, or any of their current or former employees. The subpoenas may (1) require the production of reports, records, or other documents concerning an investigation by the inspector general (see §§ 34 & 35 below) and (2) compel the attendance and testimony of any person having knowledge pertinent to the investigation.

The act allows a municipal chief of police and the DESPP and DOC commissioners to refer any use of force incident under OIG's jurisdiction to the inspector general for investigation (see §§ 34 & 35 below). The inspector general must accept these referrals.

Office Location and Staff

The act requires that OIG be at a location separate from the Office of the Chief State's Attorney or any of the state's attorneys for the judicial districts. It allows the inspector general to employ necessary staff whom he or she selects from DCJ's staff. Under the act, the staff must include an assistant state's attorney or deputy assistant state's attorney, an inspector, and administrative staff, and, as needed and upon the inspector general's request, additional personnel with these job titles. The Office of the Chief State's Attorney must ensure this additional assistance.

Under the act, the inspector general and any OIG staff not in a state employee bargaining unit must be transferred back to DCJ upon completing employment with OIG. They must be (1) transferred into a position equivalent or comparable to the one they held in DCJ before being employed by OIG and (2) compensated at the same level as they were immediately before returning to DCJ.

Background — Criminal Justice Commission

The state constitution (art. IV, § 27) establishes the Criminal Justice Commission and charges it with appointing a state's attorney for each judicial district and other attorneys as prescribed by law. It consists of seven members: the chief state's attorney and six members appointed by the governor and confirmed by the General Assembly. Two of the appointed members must be Superior Court judges.

§§ 34 & 35 — OIG INVESTIGATIONS

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Requires the inspector general, rather than the Division of Criminal Justice, to investigate use-of-force cases and prosecute cases where the inspector general determines that the use of force was not justified

Use of Force Investigations

Under prior law, DCJ had to investigate whenever a peace officer, while performing his or her duties, used physical force that caused someone's death or used deadly force on another person. DCJ had to determine whether the officer's use of force was appropriate under the law and submit a report of its findings and conclusions to the chief state's attorney.

The act instead requires the inspector general to (1) conduct the investigation and (2) determine whether the use of force was justifiable, rather than appropriate as under prior law. (The act amends the circumstances under which the use force is justifiable; see § 29 above.) It also makes conforming changes that include requiring the inspector general, rather than DCJ, to (1) complete a preliminary status report and submit it to the Judiciary and Public Safety and Security committees within five business days after the cause of death is available and (2) submit the completed investigation report to the chief state's attorney.

The act requires OIG to prosecute any (1) case in which the inspector general determines that a peace officer's use of force was not justifiable and (2) failure by a peace officer or correctional officer to intervene in or report such an incident to the applicable law enforcement unit or DOC, respectively (see §§ 30 & 43 above). It specifies that the deputy chief state's attorney acting as inspector general and any state's attorney, assistant state's attorney, or deputy assistant state's attorney operating under OIG's direction is qualified to act in any jurisdiction in the state and in connection with any matter regardless of the district where the offense occurred (see BACKGROUND).

Other Investigations

The act also requires the inspector general to investigate whenever a person dies in a peace officer's or law enforcement agency's custody. The inspector general must determine whether a peace officer used physical force on the deceased person and, if so, whether it was justifiable. Under the act, if the inspector general determines that the person died as a result of possible criminal action not involving a peace officer's use of force, then he or she must refer the case to DCJ for potential prosecution.

The act additionally requires the inspector general to investigate whenever a person dies in DOC's custody to determine whether the person died as a result of possible criminal action. If the inspector general finds this to be the case, he or she must refer the matter to DCJ for potential prosecution.

In both instances, if the inspector general finds that physical force was used, then he or she must follow the procedures for use-of-force investigations (see above).

EFFECTIVE DATE: October 1, 2020

Background — Division of Criminal Justice

The state constitution (art. IV, § 27) establishes DCJ within the executive branch and charges it with investigating and prosecuting all criminal matters. It vests the state's prosecutorial power in the chief state's attorney and the state's attorney for each judicial district.

§§ 36 & 37 — CHIEF MEDICAL EXAMINER INVESTIGATION OF DEATHS IN POLICE CUSTODY

Generally requires the chief medical examiner to investigate deaths of people in police or Department of Correction custody and makes related changes

Existing law requires the chief medical examiner to investigate all deaths in certain categories, such as violent deaths (whether apparently homicidal, suicidal, or accidental) and deaths under suspicious circumstances. The act additionally requires him to investigate any other death, not clearly the result of natural causes, that occurred while the person was in the custody of a peace officer, a law enforcement agency, or DOC.

In doing so, the act extends to the chief medical examiner the authority under existing law to take certain actions for these investigations. Examples of these actions include requiring autopsies when deemed necessary and appropriate, issuing subpoenas, and accessing any objects in law enforcement custody that he believes may help establish the cause or manner of death.

Under existing law, certain parties (e.g., law enforcement officers, prosecutors, and physicians) must (1) notify the Office of the Chief Medical Examiner (OCME) when they learn of a death requiring his investigation, (2) assist in making the body and related evidence available, and (3) cooperate fully with OCME. The act specifically extends these requirements to DOC employees.

In cases of apparent homicide or suicide, or accidental deaths with obscure causes, existing law requires that the scene not be disturbed until authorized by the chief medical examiner or his authorized representative. The act extends this requirement to any other death, not clearly due to natural causes, that occurred while the person was in the custody of a peace officer, a law enforcement agency, or DOC.

Under existing law, in any case where there is a suspicion that a death resulted from a criminal act, a state's attorney or assistant state's attorney can require that an autopsy be performed by a certified pathologist. The act specifies that this includes (1) any deputy chief state's attorney and (2) any of these prosecutorial officials from OIG (see § 33).

EFFECTIVE DATE: October 1, 2020

§§ 38 & 39 — PROHIBITIONS ON PEDESTRIAN CITATION QUOTAS

Prohibits municipal police departments and DESPP from imposing pedestrian citation quotas on their police officers

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The act prohibits municipal police departments and DESPP from imposing pedestrian citation quotas on their police officers. However, it allows them to use data on the issuance of pedestrian citations to evaluate a police officer's performance so long as it is not the only performance measurement.

Existing law prohibits municipal police departments and DESPP from imposing quotas on the issuance of summonses for motor vehicle violations and exclusively evaluating officers based on how many summonses they issue.

EFFECTIVE DATE: October 1, 2020

§ 40 — POLICE USING MILITARY EQUIPMENT

Prohibits law enforcement agencies from acquiring certain "1033 program" military equipment; allows the governor's office and DESPP commissioner to require the agencies to sell, transfer, or dispose of equipment they find unnecessary for public protection; and requires the agencies to submit an inventory report to the legislature

Prohibition on Newly Acquired Controlled Equipment

The act prohibits law enforcement agencies (i.e., State Police and municipal police departments) from acquiring certain military equipment (i.e., "controlled equipment") beginning on or after the act's passage (July 31, 2020). The act defines "controlled equipment" as military designed equipment classified by the U.S. Department of Defense as part of the federal "1033 Program" (see BACKGROUND) that is:

1. a controlled firearm, ammunition, bayonet, grenade launcher, grenade (including stun and flash-bang), or an explosive;
2. a controlled vehicle, highly mobile multi-wheeled vehicle, mine-resistant ambush-protected vehicle, truck, truck dump, truck utility, or truck carryall;
3. an armored or weaponized drone;
4. a controlled aircraft that is combat configured or combat coded or has no established commercial flight application;
5. a silencer;
6. a long-range acoustic device; or
7. an item in the federal supply class of banned items.

Order to Sell, Transfer, or Dispose of Certain Controlled Equipment

Under the act, the governor's office and the DESPP commissioner may order a law enforcement agency to lawfully sell, transfer, or otherwise dispose of controlled equipment if they jointly find it is unnecessary for public protection. A municipal police department may request that the governor's office and commissioner reconsider the order. They may jointly amend or rescind the order if the police department (1) had a public hearing in the municipality it serves on the request for reconsideration and (2) demonstrates in its request that the use or proposed use is (a) necessary for the department's operation or safety or (b) for

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disaster relief or rescue efforts or other public safety purposes.

The governor's office and DESPP commissioner must notify the Judiciary and Public Safety and Security committees about controlled equipment that is ordered sold, transferred, or otherwise disposed of under the act's requirement.

The act also prohibits law enforcement agencies that are allowed to keep controlled equipment from using it for crowd management or intimidation tactics.

Inventory Report

By December 31, 2020, the act requires each law enforcement agency to report to the Judiciary and Public Safety and Security committees on its inventory of controlled equipment possessed on July 31, 2020. Each agency must also report the equipment's use or proposed use and whether the use or proposed use is necessary for the purposes stated above.

EFFECTIVE DATE: Upon passage

Background — 1033 Program

Under federal law, known as the 1033 Program, the defense secretary may transfer to law enforcement agencies certain excess military property he determines is suitable for use in law enforcement activities (e.g., small arms and ammunition) (10 U.S.C. § 2576a). Law enforcement agencies must submit requests for the property to a state coordinator (e.g., the Adjutant General in Connecticut) and the federal Defense Logistics Agency for approval.

§ 41 — CIVIL CAUSE OF ACTION AGAINST POLICE OFFICERS WHO DEPRIVE INDIVIDUALS OF CERTAIN RIGHTS

Establishes a civil cause of action against police officers who deprive an individual or class of individuals of the equal protection or privileges and immunities of state law; eliminates governmental immunity as a defense in certain suits under certain circumstances

The act establishes a civil cause of action against a police officer who deprives an individual or class of individuals of state law's equal protection or privileges and immunities. In creating a cause of action against police officers in statute, the act, in certain circumstances, eliminates the possibility of claiming governmental immunity (i.e., common law protection from civil suit, see BACKGROUND) as a defense to such suits. (Federal law has a similar but separate provision that allows civil actions against government officials, including police officers, who deprive someone of federal statutory or constitutional rights under the color of state law (42 U.S.C. § 1983)).

As under existing state law, the act generally requires employers to indemnify police officers in such suits. Existing law, unchanged by the act, generally requires state and municipalities to indemnify or protect their employees from financial loss arising out of legal proceedings in certain circumstances when the employee acted in the discharge of his or her duties, unless the act is malicious, wanton, willful, or reckless (CGS §§ 4-165, 7-101a, 7-465 & 29-8a). The courts have interpreted wanton acts as those done recklessly or with callous disregard,

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and willful and malicious acts as those inflicted intentionally without just cause or excuse (*West Haven v. Hartford Ins. Co.*, 221 Conn. 149 (1992), & *Todd v. Administrator of Unemployment*, 5 Conn. App. 309 (1985)).

Under existing municipal employee law, unchanged by the act, an employee must reimburse the municipality for the expenses incurred in providing a legal defense if the employee has a judgement entered against him or her for a malicious, wanton, or willful act (CGS § 7-101a). The act establishes this reimbursement provision specifically for police officers and applies it to state and municipal police.

EFFECTIVE DATE: July 1, 2021, and applicable to any cause of action arising from an incident committed on or after July 1, 2021.

Civil Action

Bringing an Action. The act prohibits a police officer, acting alone or in conspiracy with another, from depriving an individual or class of individuals of state law's equal protection or privileges and immunities, including those guaranteed by Article First of the Connecticut Constitution.

Under the act, those who have been aggrieved by a police officer's actions may bring a civil action for equitable relief (i.e., nonmonetary relief, such as an injunction) or damages (i.e., monetary relief) in Superior Court. A civil action must be (1) commenced within one year after the cause of action accrues and (2) triable by a jury if brought for damages. Statutory notice of claim provisions do not apply to an action brought under this provision (e.g., requirements that notice of one's intention to file suit against a municipality for damages be filed with the town clerk in CGS §§ 7-101a(d) and 7-465(a)).

Liability. Under the act, governmental immunity is not a defense for actions solely seeking equitable relief. It is also not a defense for actions seeking damages unless, at the time at the time of the alleged misconduct, the officer had an objectively good faith belief that his or her conduct did not violate the law. The act prohibits interlocutory appeals of a trial court's denial of a governmental immunity defense.

Similar to existing law, the act requires a municipality or law enforcement unit to generally protect and save harmless the defendant police officer in these actions from financial loss and expense. This includes any legal fees and costs arising out of any claim, demand, or suit against the officer for any action the officer took while discharging his or her duties.

Under existing law for municipal employees, if a court judgment is entered against a municipal employee for a malicious, wanton, or willful act, the (1) employee must reimburse the municipality for incurred defense expenses and (2) municipality must not be held liable to the employee for any financial loss or expense resulting from the employee's act. The act extends this requirement to state police and specifically applies them to municipal police.

The act allows the court to award costs and reasonable attorney's fees if it finds the violation was deliberate, willful, or committed with reckless indifference.

Background — Governmental Immunity

Under the common law sovereign immunity doctrine, the state cannot be sued without its consent. Additionally, both state statutes and common law limit state and municipal liability for their officials' and employees' acts.

State law gives state officials and employees immunity from liability when discharging their duties and acting within the scope of their employment (CGS § 4-165). But they are not immune from liability for wanton, reckless, or malicious acts. Unlike the state, municipalities have no sovereign immunity from suit, but there are several limitations and exceptions to municipal liability (e.g., wanton, willful, or malicious acts) (CGS § 52-557n).

§ 42 — TASK FORCE RECOMMENDATIONS ON POLICE CIVIL CAUSE OF ACTION IMPLEMENTATION

Requires the police transparency and accountability task force to make recommendations on implementing the act's new civil action provisions and their impact on obtaining liability insurance

The act requires the police transparency and accountability task force, established in PA 19-90 (§ 12), to also make recommendations to the Judiciary Committee about implementing the police civil action provisions (§ 41 of this act) and their anticipated impact on a police officer's or municipality's ability to obtain liability insurance. The task force must submit these recommendations by January 1, 2021.

EFFECTIVE DATE: Upon passage

§ 44 — LAW ENFORCEMENT UNIT ACCREDITATION

Starting in 2025, requires law enforcement units to obtain accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc.

Current law requires POST and DESPP to jointly develop, adopt, and revise, as necessary, minimum standards and practices for administering and managing law enforcement units, based in part on standards from the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA). Law enforcement units must adopt and maintain (1) POST-DESPP's minimum standards and practices or (2) a higher level of accreditation standards developed by POST or CALEA.

The act sunsets these provisions after 2024. Starting in 2025, it instead requires law enforcement units to obtain and maintain CALEA accreditation. If a unit fails to meet this requirement, POST must work with them to do so.

As under existing law for the current standards, the act prohibits lawsuits against a law enforcement unit for damages arising from its failure to obtain and maintain the required CALEA accreditation.

The act also (1) removes a prior condition that POST and DESPP only work

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on their standards and practices within available appropriations and (2) makes conforming changes to the law on POST's authority (see § 3(a)(22)).

EFFECTIVE DATE: Upon passage