



Legislative Testimony
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Written Testimony Opposing House Bill 6462, An Act Concerning Use of Force by a Peace Officer

Senator Winfield, Representative Stafstrom, Ranking Members Kissel and Fishbein, and distinguished members of the Judiciary Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in opposition to House Bill 6462, An Act Concerning Use of Force by a Peace Officer.

The ACLU-CT is committed to ensuring that no people die at the hands of police, ever. One step towards eradicating police killings is to make the law clear that police are authorized to use deadly force only in narrow situations, rather than giving police wide latitude to shoot, beat, Tase, or otherwise injure or kill people. In Connecticut, State's Attorneys¹ must determine that a police employee who used deadly force was unjustified in doing so before they can recommend prosecution. The use of force standard in the state codifies the information that a State's Attorney considers when deciding if police killings are justified or unjustified. Accordingly, this use of force standard is a vitally important law for both holding police accountable and for setting societal expectations for police conduct.

When the legislature passed Public Act 20-1 in response to both the nationwide Black Lives Matter uprising and numerous consequence-free police killings in Connecticut, it amended the use of force standard. The changes made in Public Act 20-1 were an improvement over the existing standard, but as we testified at the time, they did not go far enough to create a standard that reflected the value that no one should die at

¹ Once an Inspector General is appointed pursuant to Public Act 20-1, and any amendments that may be made to it this session, the Inspector General, not State's Attorneys, will make these determinations.

the hands of police. The standard the legislature created in July specified that police uses of deadly force are only justified when they are objectively reasonable and either (a) necessary, in the officer's reasonable belief, to defend the police or others from actual or imminent uses of deadly force or (b) when effecting certain arrests or preventing certain escapes, the police employee has exhausted reasonable alternatives to deadly force and determined that the use of deadly force does not pose a substantial risk of injury to third parties. That police accountability bill also identified specific factors for State's Attorneys to consider in making this decision. These factors include the victim's possession, or apparent possession, of a deadly weapon, whether police attempted reasonable de-escalation, and whether the police made the situation more likely to become violent. At the time, we pointed out that this standard was deficient for several reasons. First, it does not limit uses of deadly force to only those incidents where the force is both necessary and proportional. In our testimony, we also pointed out that the bill needed to more clearly define de-escalation and to make it clear that the entire police interaction must be examined. Despite objections from people and groups committed to ending police violence, like the ACLU-CT, this compromise language was adopted and passed into law.

Now, even the compromise standard from last summer is being significantly rolled back through this bill. In the subset of situations where police must exhaust alternatives to deadly force and create no substantial risk of injury to third parties, the standard is weakened. Police no longer have to exhaust alternatives, but merely to consider them. There is nothing in this bill that explains what kind of consideration is necessary or whether a police employee is allowed to consider an alternative to deadly force for the briefest of time periods and then reject it for any reason at all, or none. Further, this bill allows police to choose deadly force even if it creates a substantial risk of injury to third parties, as long as that risk is not "unreasonable."

The factors that State's Attorneys are to consider are also being eroded. The victim's possession or apparent possession of a deadly weapon is expanded to include the victim's possession or apparent possession of a dangerous instrument – whatever that

is. In addition, police actions that make violence more likely are not to be considered, per this bill, unless they are “unreasonable.”

All of these changes simply create too many opportunities for police to opt for risky, unnecessary use of force without accountability. It is important for this Committee to understand that the reason that this bill seeks to delay the implementation date for the new use of force standard is so that police can be trained adequately on this new standard. Police desire for more time to train employees on the new standard demonstrates that the use of force standard is not an obscure, little-used piece of legal marginalia. The use of force standard is a part of all police trainings, well understood by every police employee. It is also an expression of our cultural norms about police violence. We owe it to the people police are most likely to kill – Black and Latinx men² and people in mental health crisis³ – to make this norm clear and strong.

Every change proposed in this bill weakens the already imperfect compromise standard created in the July 2020 police accountability bill. The millions of people in the streets across the U.S. last summer were not there for incremental changes to police violence – they were there to bring about lasting change and an end to police killings. This bill will not do that. We oppose this bill and its unfounded watering down of Public Act 20-1. This Committee must also oppose it.

² See, e.g., Elle Lett et al., “Racial inequity in fatal US police shootings, 2015-2020.” *Journal Epidemiology & Community Health*, Oct. 27, 2020, available at <https://jech.bmj.com/content/early/2020/10/20/jech-2020-215097.info>.

³ A Hartford Courant review of police shootings in the last five years reported that at least 20% of the people killed in that time period were suspected to be in mental health crisis or had chronic mental health problems. Nicholas Rondinone, “Police have killed 21 people in Connecticut in the past five years. Here’s a look at those deadly encounters.” *Hartford Courant*, Jun. 5, 2020, available at <https://www.courant.com/breaking-news/hc-news-clb-deadly-police-shootings-past-five-years-20200605-ol2kfpmh2ngrnhq7hnzcvs5rqr-story.html>. In the state, at least 33% of people Tased in 2015 were described as “emotionally disturbed” at the time of Tasing, while 13% were identified as suicidal. James Post, “Study shows CT cops Taser minorities disproportionately.” *Yale Daily News*, Aug. 31, 2106, available at <https://yaledailynews.com/blog/2016/08/31/study-shows-ct-cops-taser-minorities-disproportionately/>. Nationwide, people with untreated mental illness are sixteen times more likely to be killed by law enforcement. “People with untreated mental illness 16 times more likely to be killed by law enforcement.” *Treatment Advocacy Center*, available at <https://www.treatmentadvocacycenter.org/key-issues/criminalization-of-mental-illness/2976-people-with-untreated-mental-illness-16-times-more-likely-to-be-killed-by-law-enforcement->. A 2018 analysis found that a quarter of people fatally shot by police suffered from a mental illness. Jennifer Mascia, “The growing movement to send counselors – not cops – to mental health crises.” *The Trace*, Sept. 28, 2020, available at <https://www.thetrace.org/2020/09/alternatives-to-police-defund-public-safety-mental-health/>.