

Honorable Members of the Judiciary Committee,

My name is Stephen Egan. I am a police officer and a police supervisor. I have been in law enforcement for over 21 years, serve as a use of force instructor, and am certified a Force Science Advanced Specialist in the Behavioral Analysis in Use of Force Encounters. I have personally supervised a deadly use of force encounter that was completed within seconds.

I would like to thank the committee for raising HB 6462. I believe this is a first good step in enhancing the use of force section enumerated in the Police Accountability Act (PAA) passed into law by PA 20-1. While there were many good things in that bill, several unintended consequences did result.

The current use of force standard, set to take effect on 4/1/21 is simply untenable and not trainable. Simply stated, people will be injured and lose their lives.

HB 6462 is a good first step by first pushing back the effective date on the use of force application until 10/1/22. This will allow continued conversations among all of the interested parties to craft a final use of force section that is acceptable to all vested parties and is effective in its goal and allow sensible use of force training curriculums to be written and trained on. No officer wants to use deadly force. Officers work to de-escalate every day when it's feasible to do so.

Several of the language changes proposed by HB 6462 are again first good steps, but I would strongly encourage the committee to add the following language if Section 2 (B) is to remain:

Section 2 (B) (i) the term exhausted is replaced with considered which is much more palatable. But, please add the term "if feasible" to the end of that sentence.

Many police use of force encounters occur in a rapid, dynamic circumstance. Many UOF decisions are split second and officers are almost always in catch up mode on the "action-reaction curve." An officer may not have time to consider alternatives. I certainly agree that officers should, if feasible. An officer may not have an opportunity to consider alternatives. If the wording "if feasible" is not incorporated, an officer could be found at fault for simply responding to a deadly threat.

Section 2 (B) (ii) The replacement of the term substantial with unreasonable is again a good first step. Again, however, who defines "unreasonable." Is it *Graham v. Connor*, which states that use of force must be examined through the lens of the trained officer, from that perspective, at that critical time and moment, and not with 20/20 hindsight. Or is it defined according to an untrained person sitting on their sofa, statically replaying the video faced with no imminent threat?

Wording such as creates "no intentional risk of physical injury or to a third person or Consciously disregards the unreasonable risk" would be better.

"Physical injury" should be replaced with "Serious Physical Injury" as the application of deadly force inherently increases the risk of the latter.

Section (B) (2) (C) The term "unreasonable" is an excellent addition to this language. However, the same issues apply here as noted above. Better wording would be "intentional conduct of an officer and/or an officer's conduct that "shocks the conscious" that precipitates the use of deadly force. This wording stems from the vast judicial record that exists in current case law.

Again, officers are often behind the reactionary curve. But-for a suspect's actions. Time is often split second.

I look forward to continued conversations with Judiciary members and would be more than willing to sit and speak to any representative or senator on this important topic.

Sincerely,

Stephen Egan