

05 February, 2021

Bill: HB139 - Law Enforcement - Use of Force

Position: Favorable with amendment

The proposed additions represent a litany of identified concerns that it is almost staggering to conceive both need to be stated and have yet to be stated, summed up as: *the imperative to protect and serve absolutely includes the imperative to protect the person an officer is confronting*. Any violation of this imperative should be pursuable, to ensure both equal protection of the law and due process thereunder, by citizens who are the victims of such uses of force as can be described as excessive and actionable by those entrusted with protecting due process and equal protection such as the office of the Attorney General.

To those who might argue that it would result in an undue amount of litigation or impair the efficacy of officers on duty, please consider that in most peer countries the use of force is a fairly rare part of police conduct - and even more rarely is it lethal (or potentially so) - with significantly higher population densities and often more complex regulatory environments. This is to suggest that the problem is not inherent to the act of policing, but to the practices thereof. A focus on compliance by any means necessary is a core issue; the recommended additions spell out not only what other ways officers can and should proceed, but provides much needed protection both to officers witnessing excessive force to intercede and protect members of the public and to members of the public who have suffered excessive force at the hands of their sworn protectors.

I would suggest a minor amendment to 3-523 B (2)(VIII)(4) lines 12-13: "apparent distress" or some substantively similar phrase should appear in these lines, as the ability of an officer to discern between an emotional response to duress and signs of pathological impairment is both a) highly improbable in moments of tension or conflict, and b) functionally irrelevant to the desired outcome of engaging people with the ultimate goal of a minimum harm resolution. It is important when we craft legislation governing issues of equity that we not over problematize individuals or misclassify their behavior, which inadvertently excludes them from the protections we explicitly seek to ensure.

Edmund Morris

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Secretary

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