

State Legislature Testimony 6/23/20

Elliott Young, Professor of History and Director of Ethnic Studies, alternate, co-chair of PCCEP, speaking for myself as an historian.

This is an historic opportunity for transformation of how we think about public safety. This is not the moment to be focused on failed reform measures like trainings and community dialogues. This is the time for narrowing the scope of policing and investing in alternatives.

I encourage you to support all of the policing reform measures being proposed, but there are some loopholes that make these measures less effective than they could be and so I encourage you to add language to address those loopholes.

LC 49 Law Enforcement Arbitration

The arbitration process is the reason why so many officers who have committed egregious acts of misconduct are eventually rehired. The legislature can create a standard of review that makes it less likely for arbitrators to do an end run around accountability.

One standard that could be used is this: *a reasonable person, given the original evidence in the record, could come to the same conclusion as the municipality, even if the arbitrator disagrees with the findings. The limitation on changing findings shall apply to misconduct found in such cases even when that misconduct is not specifically about the force that was used.* The reason Arbitration is ineffective at the moment is because there is no clear standard of

review. Arbitrators cherry-pick the evidence they like and then absolve the officers of any misconduct the agency may have found.

LC 78 Disclosure of Law Enforcement Discipline Actions

- It is essential that DPSST create a central database for all officers disciplinary actions and that reporting is mandatory. Too often officers disciplined in one municipality simply move to another one. The database should also include **allegations of Misconduct, proposed discipline by agency or city, and citizen complaints.**
- Add 16(5): Require the department to submit all data to the appropriate national databases, existing or future.

LC 79 Attorney General Independent Investigation Authority for Use of Force

To have serious and unbiased investigations into use of force allegations, they need to be conducted by the AG and driven by citizen complaints.

- Add section 5(1)b – “Create a citizen-driven complaint process which will also be investigated.”
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- Our concern is that if only law enforcement agencies can initiate AG investigations, there will be resistance to some serious complaints reaching the AG process. Citizens are also less likely to report misconduct directly to a local entity when there are concerns about retaliation.
- There absolutely needs to be some sort of penalty for not notifying the Attorney General. Revocation of funding?
- 5.(1) We wanted to amend this with three things: Use of force reports (covers when a person is injured and not), discipline and proposed discipline (in case officer leaves before being disciplined), and citizen complaints would all be submitted.
- 5(2)a - If an Officer resign in lieu of discipline, we still need the proposed discipline and citizen complaints to make it to DPSST.
- 5(2)b - Add “State Police” and “Investigators with any sort of prior relationship to the officer involved” to the list of restrictions.
- 5(5) - The Attorney General shall use a Preponderance of Evidence standard of review for determining misconduct.
 - o Additionally, the Attorney General must submit the entirety of the investigation report to DPSST and make it public record after completion of the investigation.

- The intention here is that once the Attorney General is finished with their investigation, they submit the entirety of the investigation to DPSST who looks it over and decides whether to discipline the officer. At the same time, the Attorney General's Office either proceeds with criminal charges or not.
- 5(7) - Deadline for rules adoption shall be 1.1.2021.
- Add Section 5(8) – “The Office of the Attorney General shall provide an annual accounting of all investigations and reports made freely available to the public.”

LC 81 Limitation on Munitions Used to Control Assemblies/Protests

There should be a ban on the use of chemical weapons, aerial distraction devices and noise weapons.

These are indiscriminate munitions that affect large bodies of people including peaceful protestors and they have no place in a democratic society.

LC 83 Prohibition on Use of Chokeholds

Ban use of chokeholds or any techniques that restrict bloodflow. You only have to look at Eric Garner and George Floyd to understand why this is necessary.

Use of Deadly Force

- The Use of Deadly Force Statute must be revised and should strongly emphasize de-escalation and the use of all other options beforehand.
- In particular, the only justifiable reason for deadly force is if The officer has probable cause to believe that the individual to be arrested poses a threat of serious bodily injury, either to the officer or to others unless immediately apprehended.