DRAFT

OLR ANALYSIS

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POST Certification for State Police

Current law exempts 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 bill eliminates this exemption, thus requiring State Police officers to be POST-certified (§ 3(f)).

The bill automatically deems as certified any sworn, full-time State Police officers as of the bill's passage, 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 bill requires sworn members of the State Police appointed on or after the bill's passage 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 bill makes various conforming changes to POST's authority to include the State Police. For example, the bill:

1. authorizes POST to develop and revise a comprehensive training plan for state and municipal police, not just municipal police as under current 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)(2-4)); and

4. provides that DESPP's regulations implementing POST-related laws are binding on the State Police (§ 4(c)).

The bill also makes related minor and technical changes.

Drug Tests

By law, police officers must renew their POST certification every three years. The bill 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.

By law, if a police officer is not employed for two years and not on a leave of absence, his or her POST certification lapses. The bill requires these officers to pass such a drug test as a condition of recertification.

These provisions, as well as the provisions below on "Revocation or Suspension of Certification," apply to all police officers under POST's jurisdiction. Under current 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 bill, it also applies to the State Police.

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 bill expands these grounds to include conduct undermining public confidence in law enforcement or excessive force, as explained below. In both cases, the law enforcement unit, under its procedures, must have found that the officer engaged in this conduct.

Under the bill, 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 holder 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.

Under the bill, POST may also cancel or revoke an officer's certification if the officer used excessive force or physical force found to be unjustified after investigation under the law's standards for police use of force. 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.

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 bill 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.

EFFECTIVE DATE: Upon passage

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

Requires police officers to receive mental health assessments at least every five years, authorizes POST to develop written policies regarding these assessments, and makes related changes

Under the bill, starting January 1, 2021, the administrative heads of law enforcement units must require each police officer employed by the unit to submit to a periodic mental health assessment at least every five years as a condition of continued employment.

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

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

EFFECTIVE DATE: Upon passage

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

The bill 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 bill authorizes law enforcement administrative heads to require officers to submit to additional mental 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 bill, 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 mental 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 mental

health assessment.

POST Policies (§ 3(a)(24))

The bill 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 mental health assessments. At a minimum, these policies must address:

1. the confidentiality of these assessments;
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 ability of officers to contest the assessments' results;
4. permissible personnel actions that law enforcement units may take based on the assessments' results;
5. how to select psychiatrists and psychologists to conduct the assessments; and
6. financial considerations that law enforcement units or police officers may incur due to the assessments.

§§ 5 & 6 — CROWD MANAGEMENT POLICY

Requires POST, in conjunction with specified entities, to adopt a uniform statewide policy for managing crowds by police officers

Development and Adoption (§ 5)

The bill requires POST, in conjunction 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 policy for crowd management by police officers. The policy must establish guidelines that protect individual rights and preserve the peace during demonstrations and civil disturbances. It must also address permissible and impermissible uses of force by a police officer, the type and amount of crowd management training that each police officer must undergo, and required documentation after any physical confrontation with a civilian during a crowd management

incident.

The bill requires that the policy be adopted as a state agency regulation in accordance with the Uniform Administrative Procedure Act. It requires the DESPP commissioner, in conjunction 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 crowd management policy and (2) amend the regulations at least once every five years thereafter to update the policy.

Implementation (§ 5)

On or after the date the policy is developed, the bill requires the DESPP commissioner or a chief of police, as appropriate, to 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 take necessary measures to ensure each officer understands it. It also requires, on or after the date the policy is developed, that each basic or review training program conducted or administered by the State Police, POST, or a municipal police department include training on the policy. (Because the bill requires that the policy be adopted as a regulation, it is unclear at what point it would be considered developed.)

Riot Suppression Privileges and Immunities (§ 6)

Under current law, when the State Police participate in suppressing a riot or similar disorder, they are entitled to the same privileges and immunities as the organized militia (e.g., they are generally privileged from arrest and imprisonment). Under the bill, once the crowd management policy is adopted as a regulation, these privileges and immunities apply only to State Police members who 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 bill adds implicit bias training to the cultural competency,

sensitivity, and bias-free training that police officers must receive under existing law. Under the bill, implicit bias training is training about recognizing and mitigating 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 PUBLIC RECORDS DISCLOSURE

Prohibits collective bargaining agreements entered into by the state from blocking the disclosure of certain files

Under current law, the provisions of a collective bargaining agreement or arbitration award between the state and a state employee bargaining unit supersede any conflicting state statutes, special acts, or regulations as long as the superseding provisions are appropriate to collective bargaining.

The bill creates an exception for conflicts with the Freedom of Information Act (FOIA). Under the bill, if the provisions of an agreement or award conflict with FOIA, then FOIA's provisions prevail. The bill applies to agreements and awards entered into before, on, or after the bill's effective date.

The bill also prohibits any collective bargaining agreement or arbitration award between the state and any State Police bargaining unit from prohibiting the disclosure of any disciplinary action contained in a sworn member's personnel file, if it is based on a code of ethics violation. (Presumably this refers to the State Code of Ethics.) The prohibition applies to agreements and awards entered into before, on, or after the bill's effective date.

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

EFFECTIVE DATE: Upon passage

Background— Contracts Clause

The U.S. Constitution's contracts 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 contracts clause challenge against a legislative act, courts use a three-factor analysis to determine whether the act violates the clause: (1) whether the impairment is 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.

§§ 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 bill 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, among other things, requires law enforcement units serving communities with a relatively high concentration of minority residents to make efforts to recruit, retain, and promote minority officers so that the unit's racial and ethnic diversity is representative of the community. By January 1, 2021, and annually thereafter, the bill requires the board of police commissioners, the police chief or superintendent, or other authority over a law enforcement unit that serves 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 bill requires the

annual report POST already provides the governor and the General Assembly to also (1) include information on the recruitment, retention, and promotion of 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 (1) the comprehensive municipal police training plan and (2) an accounting of all grants, contributions, gifts, donations, or other financial assistance.

EFFECTIVE DATE: Upon passage

§ 12 — POLICE TRANSPARENCY AND ACCOUNTABILITY TASK FORCE

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

The bill expands the scope and extends the reporting deadlines of the 13-member task force to study police transparency and accountability established in PA 19-90. The bill extends the reporting deadlines by a year and requires the task force to submit a preliminary report by January 1, 2021, and a final report by December 31, 2021. The task force terminates when it submits the final report or on December 31, 2021. As under the act, the task force must submit the reports to the Judiciary and Public Safety and Security committees.

The act 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 bill requires the task force to also look at this proposal's merits.

Under the bill, the task force must also examine:

1. strategies that communities can use to increase the recruitment, retention, and promotion of minority police officers (the bill requires the task force to examine community efforts required by law, but the law requires law enforcement units, and not

communities, to increase recruitment, retention, and promotion of minority police officers);

2. 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;
3. the establishment of laws for primary and secondary traffic violations;
4. the establishment of a law that requires any police traffic stop to be based on enforcing a primary traffic violation;
5. 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 verification procedures of the address where the warrant is executed and any documentation an officer should leave the residents where the warrant was executed;
6. 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 rearrest warrant or a capias has been issued in Connecticut and other states, including what address verification process is used and whether any documentation is left with a resident where the warrant was executed; and
7. the necessity of requiring a police officer at a road construction site within a municipality.

EFFECTIVE DATE: Upon passage

§ 13 — POST MEMBERSHIP CHANGES

Revamps POST's membership by, among other things, (1) reducing the number of gubernatorial appointments from 17 to 11 and adding six legislative appointments and (2) requiring representation from additional stakeholders

The bill revamps POST's membership beginning January 1, 2021. Under current law, the council consists 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 bill retains the council's overall size and the three ex-officio members listed above. However, it makes numerous changes concerning the 17 appointed members. Principally, it (1) reduces the number of gubernatorial appointments from 17 to 11 and adds six legislative appointments and (2) requires representation from additional stakeholders.

The table below compares POST's appointed membership under current law with its appointed membership under the bill.

Table: POST Appointment Criteria

Current Law (All appointments by governor)	***The Bill (Beginning January 1, 2021)***	
	Criteria	***Appointed by***
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: • 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
One UConn faculty member	One Connecticut higher education faculty member who has a background in criminal justice studies	Governor
Eight members of the Connecticut Police Chiefs Association who are holding office or employed as chief of police or the highest-ranking professional police officer of an organized municipal police department	Three members of the Connecticut Police Chiefs Association who are holding office or employed as chief of police or the highest-ranking professional police officer of an organized municipal police department: • one from a municipality with a population exceeding 100,000 • one from a municipality with a population	Governor

One sworn municipal police officer whose rank is sergeant or lower Five public members	exceeding 60,000 but not exceeding 100,000 • one from a municipality with a population exceeding 35,000 but not exceeding 60,000	
	Two sworn municipal police officers: • one from a municipality with a population exceeding 50,000 • one from a municipality with a population not exceeding 50,000	Governor
	One member of the sworn State Police personnel	Governor
	One public member who has a physical disability	Governor
	One medical professional	Governor
	Two appointees who are members of the Connecticut Police Chiefs Association or the person holding office or employed as chief of police or the highest-ranking professional police officer of an organized municipal police department	One each by the House speaker and Senate president pro tempore
	One member of the Connecticut Police Chiefs Association who is holding office or employed as chief of police or the highest-ranking professional police officer of an organized police department from a municipality with a population not exceeding 35,000	Senate minority leader
	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	House minority leader

As under current law, appointed members serve at the pleasure of their appointing authority for a term coterminous with their appointing authority (CGS § 4-1a). The bill 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 bill retains provisions in current 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 terminates his or her holding of the office or employment that qualified him or her for appointment.

EFFECTIVE DATE: Upon passage

§ 14 — POLICE BADGE AND NAME TAG IDENTIFICATION REQUIREMENT

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

By December 31, 2020, the bill requires the DESPP commissioner and POST to jointly develop and promulgate a model policy to implement the identification requirement. The model 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 practical considerations, such as the sensitive nature of a police investigation or an officer's involvement in an undercover assignment.

EFFECTIVE DATE: Upon passage

§ 17 — CIVILIAN REVIEW BOARDS

Allows each town's legislative body to establish a police civilian review board by ordinance

The bill allows each town's legislative body to establish a police civilian review board by ordinance. The ordinance must prescribe the number of board members, selection method, term of office, and procedure for filling vacancies.

Under the bill, a review board established by ordinance may (1) issue subpoenas to compel witness attendance before the board and (2) require the production of books and papers it deems relevant to any

matter under investigation or in question.

EFFECTIVE DATE: Upon passage

§ 18 — EVALUATION OF SOCIAL WORKERS RESPONDING TO CERTAIN POLICE CALLS

Requires 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 bill requires each municipal police department to evaluate the feasibility and potential impact of the department using social workers to respond to calls for assistance (either remotely or in person) or go with a police officer on calls where a social worker's experience and training could provide help.

Each department must complete its evaluation within six months after the bill's passage and submit the evaluation to POST as soon as it is complete.

The evaluation must consider whether (1) responses to certain calls and community interactions could be managed entirely by social workers or benefit from their help and (2) the municipality would benefit from employing, contracting with, or otherwise engaging social workers to help the police department. 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 — BODY CAMERAS, DASHBOARD CAMERAS, AND RELATED GRANTS

Principally, (1) expands the requirement to use body cameras to all municipal police officers, (2) requires most law enforcement to use dashboard cameras in police vehicles, and (3) restructures the grant program that currently reimburses municipalities that purchased police recording devices and services to fund related equipment and service purchases municipalities make in FYs 21 and 22

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

Beginning July 1, 2022, the bill (1) expands the body camera requirement to all municipal police departments, rather than just those that have received a reimbursement grant, and (2) requires all police officers subject to the body camera requirement (i.e., State Police, municipal police, and public college and university police) to also use dashboard cameras with a remote recorder (i.e., dashboard cameras) in each of their police vehicles.

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

Applying Existing Body Camera Laws to Dashboard Cameras

The bill applies several existing provisions concerning body cameras to dashboard cameras. Specifically, it extends to dashboard cameras the laws:

1. prohibiting the editing, erasing, copying, sharing, altering, or distributing of camera recordings or its 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. prohibiting the use of cameras to intentionally record specific

situations (e.g., encounters with undercover officers or informants), unless an agreement between the officer's agency and the federal government provides otherwise;

4. generally exempting specific recordings (e.g., ones involving minors) from disclosure under Connecticut's Freedom of Information Act and requiring they be confidential;
5. requiring (a) police officers to inform supervisors, as soon as practicable, about lost, damaged, or malfunctioning cameras and (b) their supervisors to ensure that the reported cameras are inspected and repaired or replaced; and
6. requiring law enforcement agencies to follow DESPP-POST guidelines on retaining camera data and storing the data safely and securely.

Grant Program

The bill restructures the grant program administered by the Office of Policy and Management (OPM) that currently 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 bill eliminates the program's reimbursement guidelines and instead requires OPM to administer the grants to fund up to 100% of the cost of municipal purchases of these equipment and devices (as described below) made during FYs 21 and 22, subject to certain program conditions. As under current law, OPM must administer the program within available resources.

Under the bill, OPM may approve grants covering the following municipal purchases made during FYs 21 and 22:

1. body cameras (if a sufficient quantity is purchased, as described below);

2. digital data storage devices or services;
3. electronic defense weapon recording equipment;
4. first-time purchases of dashboard cameras; and
5. dashboard cameras that replace ones purchased before December 31, 2010.

The grants may cover up to 100% of the costs associated with those purchases, except funding for digital data storage services is limited to the cost for up to one year.

By law, the number of body cameras sufficient for funding purposes must be enough to ensure that sworn police department members, constables, police officers, or other individuals who perform criminal law enforcement duties under the supervision of a resident state trooper serving the municipality are supplied with the equipment while interacting with the public in their law enforcement capacities. As under existing law, the sufficient number of cameras must be determined by the (1) police chief if the municipality has an organized police department or (2) first selectman or borough warden, as applicable, if there is no police chief.

Under the bill, OPM must establish qualification requirements and an application process for the grants.

EFFECTIVE DATE: Upon passage, except the provisions concerning the use of body cameras and dashboard cameras 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 – Public University and College Special Police Forces

State law authorizes special police forces at UConn; each state university campus; and all 12 of Connecticut's regional community technical college campuses, subject to the Board of Regents for Higher Education's approval (CGS § 10a-156b).

§§ 21 & 22 — PROHIBITION ON CONSENT SEARCHES

Prohibits consent searches of (1) motor vehicles stopped solely for motor vehicle violations and (2) individuals (e.g., frisking)

The bill generally prohibits consent searches of (1) motor vehicles stopped solely for motor vehicle violations and their contents and (2) individuals (e.g., frisking).

Under the bill, a person consenting to a search is not justification for a law enforcement official to conduct one in the above circumstances, unless there is probable cause.

EFFECTIVE DATE: October 1, 2020

§ 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 a motor vehicle violation

The bill 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, and insurance identity card. This prohibition does not apply if (1) there is probable cause that a felony or misdemeanor offense has been committed, (2) the driver fails to produce a driver's license, or (3) the driver is subject to federal motor carrier regulations (49 C.F.R. 390 to 399).

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 bill 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 the Office of Policy and Management and the Judiciary Committee.

EFFECTIVE DATE: Upon passage

§§ 24-27 — PENALTIES FOR FALSE REPORTING

Raises the penalties for false reporting crimes committed with the specific intent to falsely report due to certain characteristics of the reported person or group (e.g., race, sex, or sexual orientation)

Under specified circumstances, there are criminal penalties for falsely reporting certain incidents, such as a crime or fire (see BACKGROUND). The bill raises the penalties for these false reporting crimes, if committed with the specific intent to falsely report someone or a group of people 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 current penalties and the bill's increased penalties under the circumstances noted above.

Table: Penalties for False Reporting Crimes with Specific Intent Based on Certain Characteristics

Crime	*Current Penalty*	*Bill's Increased Penalty*
Falsely Reporting an Incident, 1st Degree*	Class D felony, punishable by up to five years in prison, a fine of up to $5,000 fine, or both	Class C felony, punishable by up to 10 years in prison, a fine of up to $10,000, or both
Falsely Reporting an Incident Resulting in Serious Physical Injury or Death	Class C felony	Class B felony, punishable by up to 20 years in prison, a fine of up to $15,000, or both
Falsely Reporting an Incident Concerning Serious Physical Injury or Death	Class D felony	Class C felony

Falsely Reporting an Incident, 2nd Degree	Class A misdemeanor, punishable by up to one year in prison, a fine of up to $2,000, or both	Class E felony, punishable by up to three years in prison, a fine of up to $3,500, or both

* Under existing law and the bill, 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 Crimes

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 to an official or quasi-official agency or organization that handles emergencies involving danger to life or property, an alleged or impending fire, explosion, or other catastrophe, or emergency that did not occur or does not exist; 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.

§ 28 — MISUSE OF THE EMERGENCY 9-1-1 SYSTEM BASED ON BIGOTRY OR BIAS

Increases the penalty for the crime of misusing the emergency 911 system, from a class B to a class A misdemeanor, when the offender specifically intended to commit the crime because of bigotry or bias

By law, a person is guilty of misusing the emergency 9-1-1 system, a class B misdemeanor, when the person (1) dials E 911 or causes it to be dialed in order to make a false alarm or complaint or (2) purposely reports false information that could result in the dispatch of emergency services. The bill increases the penalty to a class A misdemeanor when the offender has the specific intent to misuse the emergency system on another person or group of individuals because of the other person's or group's actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

By law, a class B misdemeanor is punishable by up six months in prison, a fine of up to $1,000, or both, while a class A misdemeanor is punishable by up to one year in prison, a fine of up to $2,000, or both.

EFFECTIVE DATE: October 1, 2020

§ 29 — JUSTIFIED USE OF DEADLY PHYSICAL FORCE AND CHOKEHOLDS

Limits the circumstances when a law enforcement officer's use of deadly physical force is justified and establishes factors to consider in evaluating whether the officer's action was reasonable; Establishes when the use of chokeholds and similar restraints is justified

The bill narrows the circumstances under which a law enforcement officer is justified in using deadly physical force. It establishes factors to consider when evaluating whether an officer's use of deadly physical force was objectively reasonable. The bill also limits an officer's use of a chokehold or similar method of restraint to instances when the officer reasonably believes such restraints are necessary for self-defense from deadly physical force.

For these provisions, law enforcement officers include peace officers (see BACKGROUND), special police officers for the Department of Revenue Services, and authorized officials of the Department of Correction or the Board of Pardons and Paroles.

Deadly Physical Force

The bill narrows the circumstances under which a law enforcement officer is justified in using deadly physical force and establishes specific conditions that must be met in those circumstances.

Under current law, officers are justified in using deadly physical force when they reasonably believe it is 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 has 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.

In these circumstances, the bill requires the officer's actions to be objectively reasonable given the circumstances. And, in situations where an officer is making an arrest or preventing an escape, the bill places additional conditions on when deadly physical force may be used. Under the bill, the officer making an arrest or preventing escape must:

1. exhaust all 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.

As under existing law, the officer must also reasonably believe the use of the force is necessary to arrest or prevent the escape of the

specified individual.

The bill further narrows the circumstances under which deadly physical force may be used. It does so by eliminating the justification for using such force in a situation when the officer reasonably believes a person threatens infliction of serious physical injury, both when making an arrest or preventing an escape from custody.

Factors to Determine Reasonableness of Use of Deadly Force

The bill establishes factors to consider when evaluating whether a law enforcement officer's use of deadly physical force was objectively reasonable (see BACKGROUND), including whether:

1. the person upon whom deadly physical force was used possessed or appeared to possess a deadly weapon,
2. the officer engaged in reasonable de-escalation measures before using deadly physical force, and
3. any of the officer's conduct led to an increased risk of the situation that led up to the use of such force.

Limits on the Use of 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. make an 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 bill sets a specific standard by limiting when an officer may use a chokehold or similar method of restraint (i.e., those applied to the neck area, or that otherwise impedes the ability to breath, or that restricts blood circulation to the brain of another person) for these purposes to

instances where the officer reasonably believes the use of these restraints is necessary to defend himself or herself from the use or imminent use of deadly physical force. Thus, under the bill, in these circumstances an officer is justified in using a chokehold or other similar method of restraint.

EFFECTIVE DATE: October 1, 2020

Background — Peace Officers

By law, the following individuals are designated peace officers: state and local police, Division of Criminal Justice 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, Department of Correction officials authorized to make arrests in a correctional institution or facility, investigators in the State Treasurer's Office, 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)).

Subjective-objective Test to Determine if Use of Deadly Force was Justified

A Connecticut appellate court has applied a "subjective-objective" test in evaluating whether an officer was justified in using physical deadly force. Under this test, the jury must first determine whether the officer honestly believed that the use of deadly force, rather than a lesser degree of force, was necessary under the circumstances. If the jury determines that the defendant-officer, in fact, believed that the use of deadly force was necessary, the jury must then determine whether that belief was reasonable from the perspective of a reasonable police officer in the defendant's circumstances (*State v. Smith*, 73 Conn. App. 173, cert den. 262 Conn. 923 (2002)).

§ 30 — OFFICERS' DUTY TO INTERVENE TO STOP USE OF EXCESSIVE FORCE

Requires a police officer to intervene and report another officer's use of excessive force, subject to the penalties of hindering prosecution; prohibits law enforcement units from taking retaliatory action against the intervening officer

The bill requires any police officer, while in his or her law enforcement capacity, to intervene and attempt to stop another officer from using force that the witnessing officer objectively knows is unreasonable, excessive, or illegal.

The bill also requires any police officer who witnesses, or is otherwise aware of, another officer using such force, to report the incident to the law enforcement unit that employs the officer who used such force. The report must be done as soon as practicable and any officer who fails to do so may be prosecuted and punished for 1st or 2nd degree hindering prosecution. By law, 1st and 2nd degree hindering prosecution are both class C felonies, which are punishable by up to 10 years imprisonment, a fine up to $10,000, or both; but a 1st degree violation carries a mandatory minimum five-year prison sentence.

The bill prohibits law enforcement units from taking retaliatory personnel action or discriminating against a police officer because he or she intervened or reported another officer's unreasonable, excessive, or illegal use of force. Under the bill, the intervening or reporting officer is specifically protected by both the whistle-blowing law (CGS § 4-61dd) and the law that protects employees who disclose their employer's illegal activities, among other activities (CGS § 31-51m). The whistle-blowing law protects state law enforcement officers while the law providing protections for disclosing illegal activities protects both state and municipal officers. These laws provide protections that include prohibiting the employer from discharging, disciplining, or penalizing employees for making these disclosures.

EFFECTIVE DATE: Upon passage

§ 30 — USE OF FORCE RECORDKEEPING AND REPORTING

Expands a law enforcement unit's recordkeeping and reporting requirements to include reports on police use of excessive force and requires OPM to review use of force reports

The bill expands a law enforcement unit's recordkeeping and reporting requirement to include reports on police use of excessive

force. It also requires OPM, within available appropriations, to review the reported use of force incidents and report the results and any recommendations to the governor, Judiciary and Public Safety and Security committees' leadership, and the Racial Profiling Prohibition Project Advisory Board.

Law Enforcement 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 or the death of another person; or (3) engages in vehicle pursuit. The bill expands this recordkeeping requirement to include any use of excessive force incident (1) reported by an officer who witnesses such an incident (see above) or (2) otherwise made known to the law enforcement unit.

Under existing law and the bill, the record must include the officer's name; the time and place of the incident; a description of what occurred; and, to the extent known, the names of the victim and witnesses present at the incident.

The bill also specifies that physical force likely to cause serious physical injury includes striking another person with an elbow or knee, using a less lethal projectile on another person, using a method of restraint that impedes the ability to breathe or restricts blood circulation to the brain, or using any other form of physical force POST designates. By law, physical force likely to cause serious physical injury already includes, among other things, striking another person with the hand or certain other objects and using pepper spray, a chokehold, and other restraints to the neck area.

Law Enforcement Unit's Annual Report to OPM

Under existing law, each law enforcement unit must annually submit a report by February 1 concerning the incidents described above to OPM's Criminal Justice Policy and Planning Division. The bill

eliminates the requirement that units provide summarized data and instead, starting with the February 1, 2021, report, requires them 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 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 such person; and
3. any injury the person suffered.

OPM's Review of Use of Force Incidents

The bill 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, the Judiciary and Public Safety and Security committees' chairpersons and ranking members, and the Racial Profiling Prohibition Project Advisory Board.

EFFECTIVE DATE: Upon passage

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

Prevents decertified police officers from acquiring a security services license or performing security officer work

The bill adds decertification as a police officer, including POST's cancelation, 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 bill, 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 prevents the DESPP commissioner from issuing a security officer license, and a security service from employing a license applicant to perform security officer work, for anyone:

1. convicted of a felony;
2. convicted of a sexual offense or crime involving moral turpitude;
3. denied a security service or security officer license for any reason except minimum experience;
4. whose security service or security officer license was ever revoked or is under suspension; or
5. who does not otherwise satisfy the requirements for licensure or employment.

EFFECTIVE DATE: October 1, 2020

§ 33 — OFFICE OF INSPECTOR GENERAL

Establishes the Office of Inspector General

The bill establishes the Office of Inspector General (OIG) as an independent office within the Division of Criminal Justice (DCJ) for administrative purposes only. The bill 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 the use of force was not justified or (b) a peace 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 bill, the inspector general serves a four-year term and must be a prosecutorial official from within DCJ whom the chief state's attorney nominates. The bill requires the chief state's attorney to (1) nominate the initial inspector general by September 1, 2020, and (2) make a new nomination on or before the term's expiration date or upon a vacancy. The bill allows the chief state's attorney to re-nominate an individual who has previously served as inspector general. Under the bill, a person nominated to be inspector general serves in an interim capacity pending confirmation by the legislature.

The bill allows the chief state's attorney to remove the inspector general for cause and the good of the public service after notice and a public hearing.

Legislative Confirmation

The bill 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 chief state's attorney must make a new nomination within five days after receiving notice of the failure.

If the legislature is not in session, the bill allows the chief state's attorney 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 meeting within 45 days (presumably from receiving the name) to approve or disapprove the proposed vacancy appointment by majority vote. The bill deems the appointment approved if the committee does not act within this

timeframe.

Under the bill, 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.

Office Location and Staff

The bill 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. Under the bill, 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.

§§ 34 & 35 — OIG INVESTIGATIONS

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 current law, DCJ must investigate whenever a peace officer, while performing his or her duties, uses physical force that causes someone's death or uses deadly force on another person. DCJ must 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 bill 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 current law. (The bill amends the circumstances under which the use force is justifiable; see § 29 above.) It also makes conforming changes, including 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 bill authorizes OIG to prosecute (1) any case in which the inspector general determines that a peace officer's use of force was not justifiable and (2) any failure to intervene in or report such an incident to the applicable law enforcement unit (see § 30 above). It specifies that 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 bill 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 bill, 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 bill additionally requires the inspector general to investigate whenever a person dies in the Department of Correction'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

Requires the chief medical examiner to investigate all 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 bill additionally requires him to investigate any other death that occurred while the person was in the custody of a peace officer, a law enforcement agency, or the Department of Correction (DOC).

In doing so, the bill extends to the chief medical examiner the authority under existing law to take certain actions for death investigations. Examples of these actions include requiring autopsies for these deaths 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.

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 bill extends this requirement to any other death 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 bill specifies that this includes any state's attorney or assistant state's attorney from the Office of the Inspector General created by the bill (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

The bill prohibits municipal police departments and DESPP from imposing pedestrian citation quotas on their police officers. It defines "quota" as a specified number of citations issued to pedestrians within a specific time period. The bill also specifies that data relative to the issuance of pedestrian citations may be used to evaluate a police officer's performance so long as it is not the only performance measurement.

By law, municipal police departments and DESPP are prevented from imposing quotas regarding the issuance of summons for motor vehicle violations and exclusively evaluating officers based on how many summonses they issue.

EFFECTIVE DATE: October 1, 2020

§ 40 — PROHIBITION ON POLICE USING MILITARY EQUIPMENT

Generally prohibits law enforcement agencies from acquiring or using military designed equipment

The bill generally prohibits law enforcement agencies from acquiring or using certain military equipment for training purposes or to respond to an incident, except in specified circumstances (see below). The prohibited "controlled equipment" is military designed equipment on the U.S. Department of State Munitions Control List (22 C.F.R. 121) or U.S. Department of Commerce Control List (15 C.F.R. 774, Subtitle B), such as small arms, night vision devices, High Mobility Multipurpose Wheeled Vehicles, Mine Resistant Ambush Protected Vehicles, aircraft, and watercraft.

The bill requires each law enforcement agency, within six months after the bill's passage, to lawfully sell, transfer, or otherwise dispose of any controlled equipment in its possession. "Law enforcement agency" means the State Police or any municipal police department.

By February 1, 2021, the bill requires each law enforcement agency to report to the Judiciary and Public Safety and Security committees its inventory of controlled equipment possessed when the bill passed and how each item of equipment was sold, transferred, or disposed of.

The bill allows a law enforcement agency to make a request to the

governor and DESPP to retain or acquire certain vehicles that are controlled equipment. Both the governor and agency must jointly approve the request if the agency proves that it needs the vehicles for disaster or rescue purposes. The agency must also provide public notice about the proposed retention or acquisition. Under the bill, only the State Police may apply to retain or acquire Mine Resistant Ambush Protected Vehicles.

The governor's office and DESPP must notify the Judiciary and Public Safety and Security committees of any approved requests.

EFFECTIVE DATE: Upon passage

§ 41 — CIVIL CAUSE OF ACTION AGAINST CERTAIN POLICE OFFICERS

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

The bill 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. By creating a cause of action against police officers in statute, the bill eliminates the possibility of claiming qualified or governmental immunity (i.e., common law protection from civil suit for the government and its employees) as a defense to such suits.

Civil Suit

The bill prohibits a police officer, acting alone or in conspiracy with another, or any other individual acting under color of state law (i.e., appearance of legal authority) from depriving an individual or class of individuals of the equal protection or privileges and immunities of state law, including the protections, privileges, and immunities guaranteed under the Article First of the Connecticut Constitution.

Under the bill, those who have been aggrieved by a police officer may bring civil action, triable by jury, in Superior Court for damages against an officer who committed the violation and against the law enforcement unit that employed the officer when the violation occurred. If the

plaintiff prevails in the action, the plaintiff may be awarded costs and reasonable attorney's fees. The court may also award punitive damages if it finds the violation was deliberate, willful, or committed with reckless indifference.

Under the bill, a civil action must be commenced within three years after the cause of action accrues.

The bill specifies that neither governmental immunity nor qualified immunity are defenses, nor is it a defense that a violation was not made in furtherance of a policy or practice of the law enforcement unit.

EFFECTIVE DATE: October 1, 2020, and applicable to any cause of action arising from an incident committed on or after October 1, 2020.