



**WRITTEN TESTIMONY  
REGARDING AAC POLICE ACCOUNTABILITY, LCO 3471**

To: Senator Winfield, Senator Kissel, Representative Stafstrom, Representative Rebimbas and the honorable members of the Judiciary Committee

From: President Michael Barry, Judicial Professional Employees Union, AFT/CT, AFT, AFL-CIO

Date : July 17, 2020

The nearly 1500 members of the Judicial Professional Employees Union (JPEU) know and understand the need for equity and diversity in our court and criminal justice systems. More importantly we know and understand the desire for legislation such as the proposed bill (LCO 3471). However, it appears that in the efforts to draft and pass police accountability legislation, certain classes of state employees are being impacted in albeit an unintended manner. The impacted classes are adult and juvenile probation officers.

Adult and juvenile probation officers are Peace Officers under C.G.S. 53a-3(9) or C.G.S. 46b-125. JPEU has 600 adult and juvenile probation officers as well as their supervisors as members. We believe that the changes proposed in the bill have unintended impact on these 600 peace officers. Adult and juvenile probation officers are authorized to use force as part of their duties but they do not carry firearms. The use of force options available to probation officers are limited to OC (pepper) spray, expandable batons, handcuffs/restraint devices and hands on techniques. The bill proposes sweeping changes to the “deadly force” section of C.G.S. 53a-22 and these changes were most likely designed to address lethal force or firearms. However, any changes to the statute are concerning because even though a less lethal use of force option is used or deployed it can result in death, thus activating the newly created section of C.G.S. 53a-22. As such, probation officers are in fact impacted by the proposed new legal standard.

We wish to be abundantly clear as to the purpose of this written testimony. It should not be construed as opposition to LCO 3471. Rather, it should be viewed as an attempt to point out administrative and procedural shortcomings in the bill that if rectified would strengthen the legislation not dilute it.

Here are the concerns that we have . . .



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## **Section 29 – Changes to C.G.S. 53a-22**

The use of force statutes in Connecticut, the interpretation of such and their application to peace officers have for decades been based upon the holdings in *Graham v. Connor*, 490 U.S. 386, 396(1989). *Graham* created an “objective reasonableness” standard which has guided courts and policy makers for over 30 years. The United States Supreme Court opined that “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” LCO 3471 proposes to change this legal standard. JPEU’s position on this matter is simple, the October 1, 2020 effect date of this proposed legislation would not allow the Judicial Branch the opportunity to modify and amend all its use of policy and practices and to train the 600 plus peace officers it employees before the effective date of the legislation. This policy and training task is made more difficult during the current COVID-19 pandemic where in person “hands on” training is not possible. A “Zoom” meeting, directive or memorandum would be insufficient to undo 30 years of policy and training. “Live” actual “hands on” training and proficiency will be needed if the use of force standards are changed.

**JPEU’s remedy – Delay implementation of the changes to C.G.S. 53a-22 for three years (effective date October 1, 2023) to allow for policy development and training of the probation officers.**

## **Section 34 (line 1688) – Duty to Intervene**

As with any new law, there are potential conflicts and areas that need clarification. As stated previously, probation officers are peace officers. The proposed bill mandates peace officers to intervene in situations where they believe force is being used inappropriately. Failure to intervene may result in prosecution as described in Section 30 of the bill. Whereas Section 34 requires “peace officers” to intervene, Section 30 is only applicable to “police officers”. Moreover, the protections afforded to “intervenor” under Section 30 (line 1316) are not afforded to “peace officers” under Section 34. This is an error or an oversight.

**JPEU’s remedy – If “peace officers” have a duty to intervene, then afford the probation officers the same protection that are afforded to intervening “police officers”.**

Thank you for the opportunity to submit this written testimony.

If the Judiciary Committee or its leadership requires any additional information regarding the positions contained herein, please feel free to contact Teri Merisotis, Legislative Liason for AFT CT (tmerisotis@aftct.org).



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