



CHRIS TAYLOR

STATE REPRESENTATIVE ♦ 76th ASSEMBLY DISTRICT

December 12, 2018

Via Electronic Mail

Madison Police Department Policy & Procedure Review Ad Hoc Committee
Attn: Rachel Rodriguez
City of Madison Clerk's Office
City-County Bldg., Room 103
210 Martin Luther King Jr., Blvd.
Madison, WI 53703

MPD Policy & Procedure Review Ad Hoc Committee Members:

Thank you for the opportunity to provide recommendations on additional areas of the Madison Police Department's Policies and Procedures that should be assessed.

As you know, I have previously testified in front of the committee and provided feedback directly to the OIR Group. This testimony and feedback centered on specific additions to MPD's use of force policies, which I incorporated into state legislation introduced this session (attached). The principles in the bill are derived from and consistent with law enforcement training standards, recommendations from law enforcement executives, and best practices from law enforcement agencies throughout this country. These principles include:

- The primary duty of all members of law enforcement is to preserve the life of all individuals;
- Deadly force is to be used only as a last resort;
- Officers should use skills and tactics that minimize the likelihood that force will become necessary, including de-escalating tactics. If officers must use physical force, it should be the least amount of force necessary to safely address the threat; and
- Officers shall take reasonable action to stop or prevent any unreasonable use of force.

I am heartened to see that some of these principles have already been included in MPD's use of force policies.

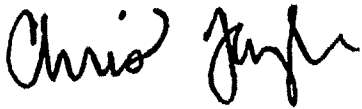
Additionally, I would encourage the committee to make recommendations regarding requiring MPD to shift to an independent internal review model. Currently, internal complaints are conducted within the MPD. This is not the best practice, and at a minimum leads to a perception by the public of bias. Dozens of law enforcement departments around the country use an independent internal review process, which can include a separate, independent ombudsman or board that conducts these investigations. This is the best way to ensure impartiality, increase transparency and enhance accountability.

Finally, I would recommend that the committee look at MPD's "Sexual Assault Investigations" Standard Operating Procedure. The Police Executive Research Forum published an Executive

Guidebook in May 2018 titled "Practical Approaches for Strengthening Law Enforcement's Response to Sexual Assault." I believe MPD's current SOP on this topic could be strengthened so that the public, and especially sexual assault victims, has a better idea of what to expect out of sexual assault investigations. For example, a more robust policy might outline victim rights, interviewing victims, evidence collection, working with victim advocates, providing information on resources, and considerations for specific underserved populations or communities.

Thank you for this opportunity to provide further feedback to this important committee as members prepare final recommendations on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Taylor". The signature is fluid and cursive, with the first name "Chris" being more legible than the last name "Taylor".

Representative Chris Taylor
76th Assembly District



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1260/7
CMH:amn

2017 ASSEMBLY BILL 438

July 14, 2017 - Introduced by Representatives C. TAYLOR, GOYKE, BOWEN, ANDERSON, CROWLEY, BERCEAU, OHNSTAD, SARGENT, CONSIDINE and KESSLER, cosponsored by Senators JOHNSON and RISSER. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to renumber and amend* 66.0511 (2); and *to create* 66.0511 (2) (a), (b),
2 (c) and (d) and (4) and 165.85 (4m) of the statutes; **relating to:** law enforcement
3 agency policies on the use of force.

Analysis by the Legislative Reference Bureau

This bill requires each law enforcement agency to ensure that its publicly available policy on the use of force incorporates the following principles: that the primary duty of all law enforcement is to preserve the life of all individuals; that deadly force is to be used only as the last resort; that officers should use skills and tactics that minimize the likelihood that force will become necessary; that, if officers must use physical force, it should be the least amount of force necessary to safely address the threat; and that law enforcement officers must take reasonable action to stop or prevent any unreasonable use of force by their colleagues. This bill also prohibits disciplining a law enforcement officer who reports a violation of a law enforcement agency's policy regarding the use of force.

This bill also requires the Law Enforcement Standards Board to develop a model use of force policy for law enforcement agencies. The model policy must address interactions with individuals with mental disorders, alcohol or drug problems, dementia disorders, and developmental disabilities; limit the use of force against vulnerable populations; and include other best practices that LESB identifies.

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For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0511 (2) of the statutes is renumbered 66.0511 (2) (intro.) and
2 amended to read:

3 66.0511 (2) **USE OF FORCE POLICY.** (intro.) Each person in charge of a law
4 enforcement agency shall prepare in writing and make available for public scrutiny
5 a policy or standard regulating the use of force by law enforcement officers in the
6 performance of their duties. The law enforcement agency shall provide in its policy
7 the instances in which a use of force must be reported, how to report a use of force,
8 and a requirement that officers who engage in or observe a reportable use of force
9 report it. Each policy or standard shall incorporate the following principles:

10 **SECTION 2.** 66.0511 (2) (a), (b), (c), (d) and (e) and (4) of the statutes are created
11 to read:

12 66.0511 (2) (a) That the primary duty of all law enforcement is to preserve the
13 life of all individuals.

14 (b) That deadly force is to be used only as a last resort.

15 (c) That officers should use skills and tactics, including de-escalation tactics,
16 that minimize the likelihood that force will become necessary.

17 (d) That, if law enforcement officers must use physical force, it should be the
18 least amount of force necessary to safely address the threat.

19 (e) That law enforcement officers shall take reasonable action to stop or prevent
20 any unreasonable use of force by their colleagues.

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(4) WHISTLEBLOWER PROTECTIONS. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any violation of a policy under sub. (2); initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a violation of a policy under sub. (2); or provided any information, or is believed to have provided any information, about a violation of a policy under sub. (2).

SECTION 3. 165.85 (4m) of the statutes is created to read:

165.85 (4m) BEST PRACTICES. The board shall develop, and review at least once every 2 years, a model use of force policy for law enforcement agencies that does all of the following:

(a) Incorporates the principles under s. 66.0511 (2).

(b) Addresses interactions with individuals with mental disorders, alcohol or drug problems, dementia disorders, and developmental disabilities.

(c) Limits the use of force against vulnerable populations, including children, elderly individuals, pregnant women, individuals with physical or mental disabilities, and individuals with limited English proficiency.

(d) Includes other best practices that the board identifies.

(END)