

H.464: An act relating to law enforcement training on appropriate use of force, de-escalation tactics, and cross-cultural awareness

Representative Brian Cina

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Purpose of H.464

This bill proposes to require:

- 1) the collection and distribution of data regarding the use of force used in a traffic stop
- 2) the Criminal Justice Training Council to develop a model policy regarding the use of force, de-escalation, and cross-cultural awareness, and for law enforcement agencies to adopt a policy containing each component of the model policy
- 3) the Criminal Justice Training Council to report to the Executive Director of Racial Equity regarding trainings on the model policy and race based data collection

Rationale for H.464

- Use of force along with race data collection, fair and impartial policing policy, and training (implicit bias and otherwise) is another aspect of a broader discussion- appropriate civilian oversight of law enforcement.
- This bill will ensure more robust oversight; enable us the ability to manage our progress; and, provide a consistent approach to use of force, Statewide.
- Oversight and consistency are critical, particularly in police practices of use of force.
- Accurate, complete and consistent data are required to ensure a fair government for all.

Context of H.464

- Use of force data is not currently collected across all state law enforcement agencies.
- During traffic stops, a host of other data is collected. Why not use of force data?
- Burlington Police Department has reported on use of force data twice in the last three years.
- Burlington City Council passed a resolution that the Police Department will collect use of force data annually.
- Collection of data will provide insight into the magnitude of the problem and will allow us to measure our progress.
- Model policy and training will provide consistent expectations for use of force practices across all state law enforcement agencies.

Definition of Use of Force

Definitions



Police Use of Force:

"The amount of effort required by police to compel compliance by an unwilling subject"-IACA

BPD Policy (threshold for writing a report):

Any action other than compliant hand-cuffing that an officer is required to use to:

- 1) arrest an individual suspected of committing a crime
- 2) temporarily detain an individual to complete an investigation
- 3) address an immediate threat to the safety of the public , law enforcement officers, or the person of interest

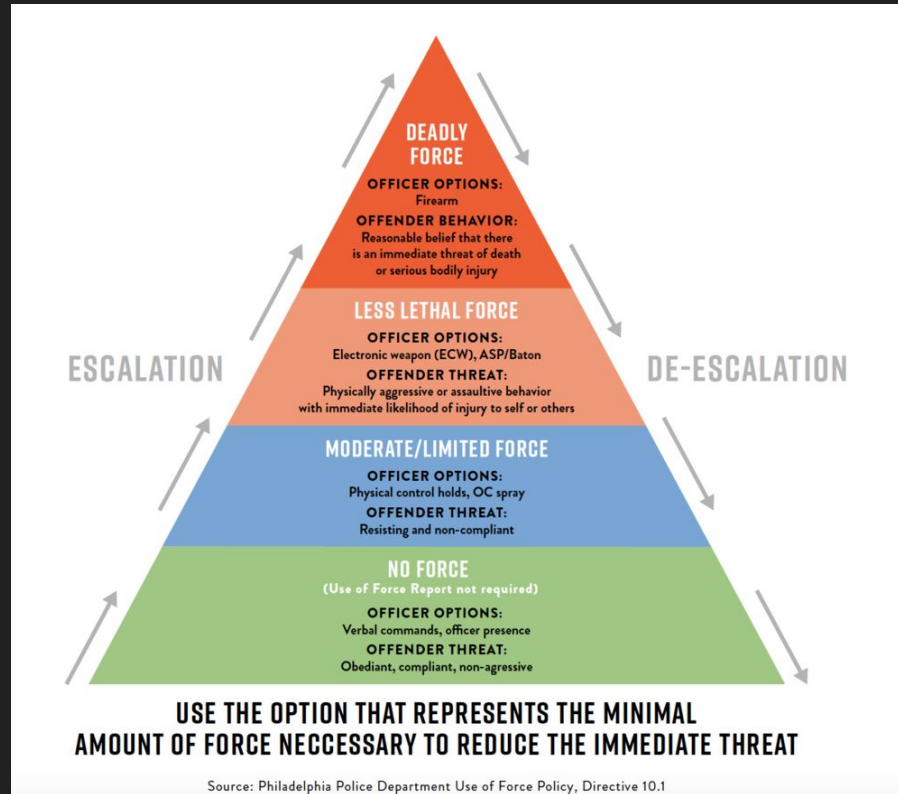
as a result of non-compliance

In determining whether a particular response to resistance (use of force option) is objectively reasonable the officer must consider;

- 1) the seriousness of the offense the officer suspects when the force option is employed;
- 2) whether or not the subject poses an immediate physical threat to the officer or others and the degree of that threat
- 3) whether the subject is actively resisting or attempting to evade arrest by flight;
- 4) whether the totality of the circumstances justify the officer's response

International Association of Chiefs of Police. *Police Use of Force in America 2001*.

Escalation versus De-escalation

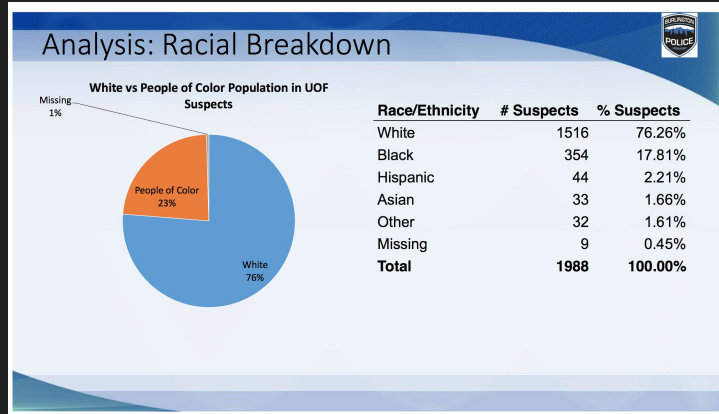


Cross-cultural awareness

- Builds greater understanding of cultural differences including but not limited to race, color, ethnicity, national origin, religion, sex, sexual preferences, gender identity, disabilities, age, socioeconomic class, and veteran status.
- Develops skills for engagement with a diverse population.
- Improves decision making through increased awareness of bias and prejudice.
- Strengthens communication skills and emotional intelligence.
- Increases ability to build trust and to have empathy for others.

Analysis

2016



2019

Race 2012 – 2018	All Use of Force Involvements		Unique Individuals		Known Offense Suspects	Arrestees ¹¹
	%	Count	%	Count	%	%
Black	20.9%	396	19.7%	274	17.6%	17.2%
Asian	2.2%	42	2.0%	28	2.9%	3.0%
Hispanic/Latino ¹²	2.2%	42	2.2%	30	-	-
Other/Not Reported	2.0%	38	2.0%	28	1.6%	1.0%
White	72.7%	1,379	74.2%	1,034	77.9%	78.8%

<https://www.burlingtonvt.gov/Police/Data/Reports>

Estimated 2019
General Population

Race and Hispanic Origin	
White alone, percent	85.0%
Black or African American alone, percent (a)	5.3%
American Indian and Alaska Native alone, percent (a)	0.3%
Asian alone, percent (a)	6.3%
Native Hawaiian and Other Pacific Islander alone, percent (a)	0.0%
Two or More Races, percent	2.7%
Hispanic or Latino, percent (b)	2.8%
White alone, not Hispanic or Latino, percent	82.9%

<https://www.census.gov/quickfacts/fact/table/burlingtoncityvermont#>

Use of Force Deaths in Vermont

- Wayne Brunette, a person struggling with mental illness, shot by police while holding a long-handled shovel on his parents' lawn in 2013. City of Burlington paid \$230,000 settlement to his estate in 2019.
- Phil Grenon, a person in mental health crisis, shot by police while wielding a knife in his apartment in 2016. His death led to the formation of the Mental Health Crisis Response Commission.
- Douglas Kilburn, a person living with disabilities, punched in the head by police officer in the emergency room parking lot. He died 2 days later. His death was ruled a homicide.

Use of Force Injuries in Vermont

- Three lawsuits have been filed against Burlington Police Department in the past year with allegations of excessive use of force.
- All of the plaintiffs in these lawsuits are African-American.
- The city “failed to adequately discipline, train or otherwise direct or supervise police officers concerning the rights of citizens and victims, thereby causing police, including defendants Bellavance, Hodges, Kirby and Campbell, to engage in the unlawful conduct described above,” the lawsuit states.
- The lawsuit also alleges that despite the department’s written policies, police administration allowed “a pattern of behavior to form within the ranks of the Burlington Police Department which encourages the unlawful use of force against minorities.”
- “A person who had committed a crime, and who was known to be a person who has been involved in many crimes in our city, fled from police was pursued, tried to evade and was unsuccessful in doing so and ended up being apprehended,” Murad said last week. “That’s good police work.”

<https://vtdigger.org/2020/01/08/burlington-faces-third-lawsuit-alleging-excessive-force-by-police/>

H.464- Closing thoughts

- Police have a challenging job and are dealing with increasingly complex, stressful scenarios.
- Police are being trained to use force due to current policy- “shoot to control the situation?”
- Changes in policy→ changes in training→ changes in skills→ changes in practice→ changes in culture.
- Data must be collected, reviewed, and shared in a meaningful, transparent way to increase accountability of the government to the people who we represent.
- State government must diligently review data to make informed decisions that take better care of our law enforcement workforce and the general public who they protect and serve.

Proposed witnesses for H.464

- David Scherr, Assistant Attorney General of Vermont
- Michael Schirling, Commissioner of Public Safety
- Richard Gauthier, Executive Director, Vermont Criminal Justice Training Council
- Trevor Whipple, League of Cities and Towns
- Etan Nasreddin-Longo, Chair, Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel
- Major Ingrid Jonas, Vermont State Police
- Jen Morrison, Chief, Burlington Police Department
- Nancy Stetson, Data Specialist, Burlington Police Department
- Xusana Davis, Executive Director of Racial Equity, State of Vermont
- Amanda Garces, Human Rights Commission
- Falko Schilling , ACLU Vermont
- Mark Hughes, Vermont Racial Justice Alliance
- Christine Longmore, CCaleO
- Pat Autillo, Data Analyst, Vermont Racial Justice Alliance
- Family members of people killed by police, people hurt by police, and/or advocates

Questions?

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