

To: House Committee on Government Operations; House Judiciary Committee  
From: Paul Erlbaum  
Date: February 5, 2020  
Re: H. 464 and H. 808

I appreciated the thoughtful testimony offered at your January 28 joint committee hearing. Please consider my thoughts below, in light of that testimony:

1. I have enormous respect and appreciation for the necessary and dangerous work of state, county and municipal law enforcement officers. I also support the intent of H. 464 and H. 808 and urge the committees to move these bills, with appropriate amendments, to the full House.

2. Some of the individuals offering testimony and some of the legislators present noted that H. 808 does not contain, and suggested it should contain, a definition of the word "necessary." I agree. The original version of the California statute that served as the model for H. 808 included the following definition which I believe would be appropriate for H. 808:

"[N]ecessary" means that, given the totality of the circumstances, an objectively reasonable peace officer in the same situation would conclude that there was no reasonable alternative to the use of deadly force that would prevent death or serious bodily injury to the peace officer or to another person. The totality of the circumstances means all facts known to the peace officer at the time and includes the tactical conduct and decisions of the officer leading up to the use of deadly force.

3. Individuals offering testimony as well as some legislators indicated a desire to increase transparency and public trust in investigations of death or serious bodily injury to an individual resulting from actions of a law enforcement officer. To this end, I suggest amending H. 808 by adding language that would place such investigations in the hands of a neutral party rather than an arm of law enforcement.

4. Individuals offering testimony who addressed the topic were unanimous: law enforcement officers would benefit from additional training in appropriate use of force, non-lethal force, deescalation tactics, and cross-cultural awareness. I suggest the committees a) seek input from the Vermont Criminal Justice Training Council and the Human Rights Commission regarding optimum frequency and number of hours of course work addressing these topic areas during initial training and refresher courses, and b) amend H. 464 to reflect that input.

5. The testimony on January 28 focused on interactions between law enforcement and people with mental disabilities. While attention to these interactions is key, I hope law enforcement interactions with other minority and marginalized communities will also receive critical attention. Communities that come to mind:

immigrants, people of color, members of minority religions, LGBTQ+, low-income and non-English speaking people, and the Deaf community. (Surely there are other communities that are not coming to my mind.) I urge the committees to invite testimony from representatives of minority and marginalized communities regarding interactions with law enforcement.

6. DPS Commissioner Michael Schirling noted the successful experiment of having a social worker embedded within a municipal police department. I urge the committees to consider amending H.464 to authorize and fund expansion of this experiment to additional police departments.

Thank you for considering my thoughts.

Sincerely, Paul Erlbaum

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