

## Discussion and Proposal Regarding S.119

Our discussion covered most of subsections (a) and (b) of Section 1 in Draft No. 2.4, but did not cover the remainder of the document. I believe Attorney Hare was tracking that discussion and has the point-by-point outcome.

We did not come to agreement with respect to the inclusion of subsections (b)(5), (b)(6), and (b)(7), but we were in agreement about the inclusion of non-deadly force in the policy.

To complete a use of force policy in a manner that would allow for adequate input from stakeholders, we propose something along the lines of the following language:

Sec. X. 20 V.S.A. § 23XX is added to read:

### § 23XX. STATEWIDE USE OF FORCE POLICY

(a) On or before July 1, 2021, the Criminal Justice Training Council shall draft a use of force policy in accordance with Section 2368 of this title. The Council shall do so in consultation with stakeholders including, but not limited to, the Department of Public Safety, the Attorney General, the ACLU, the Human Rights Commission, the Mental Health Crisis Response Commission, the Executive Director for Racial Equity, the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, individuals representing communities of color, individuals representing other historically marginalized communities, and individuals with expertise in mental health issues. The Council shall be responsible for the collaborative development of the policy in partnership with these representatives as well as obtaining the input of a broad cross-section of Vermonters. The policy shall provide comprehensive, plain-language standards that meet the requirements of this section and are consistent with best practices while

strengthening relationships between law enforcement agencies and the diverse communities they serve.

(b) The use of force policy shall address, but shall not be limited to, the following topics:

(1) Detailed explanations of the different levels of force and the circumstances where they may come into play;

(2) Detailed discussion of standards of officer decision-making and conduct as they relate to the duty to use force only when necessary;

(3) Detailed discussion of the “the totality of the circumstances” standard as it relates to a variety of encounters with the public;

(4) Detailed discussion of officers’ duty to de-escalate actual or potential conflict when feasible — including specific examples of de-escalation techniques;

(5) Standards for documenting and assessing officers’ use of force; and

(6) A mechanism for incorporating lessons learned from use of force incidents into improved policies, practices, and training.

(7) A mechanism for reviewing and updating the policy at reasonable intervals.

(c) Upon the approval of the use of force policy by the Criminal Justice Training Council it shall become the use of force policy for every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title.