

H. 145 Testimony – Shawn Burke, Chief of Police South Burlington, Vermont

February 11th, 2021

Thank you for the opportunity to testify on this bill. The Vermont law enforcement community has appreciated being involved with a broad group of stakeholders in this process which began last session with S.119. The Vermont law enforcement community has embraced police reform in a meaningful way and views this bill as an important component of enhancing the trust Vermonters have in their police. H. 145 has advanced S. 119 in many ways, most importantly in ways that allow law enforcement the ability to develop policy and training curriculum.

H. 145 has added clarity to the definition of totality of the circumstances and that hindsight not be applied to the objective reasonableness of an officer's decision to employ force. Both elements of this statutory frame work are critical to operationalizing these changes both in terms of policy and training.

H. 145 aims to reduce instances where officers can create the exigency to use force. One concern of the police community is the language of section b(5). The police have to be caring when assisting Vermonters who are suffering dangerously in a diminished capacity. The language in section b(5) clearly states that when an officer knows that a person is in a diminished state the officer must use this information in their decision-making process. It is important that this language reflect that hindsight can not be applied, in many instances' officers are simply reacting to the information provided and observations made in the moment. When we are afforded the time to gather information and make more informed decisions we do so, that is another important element of maintaining the trust Vermonters afford their police.

H. 145 adds clarity to the definition of prohibited restraint which is very helpful but, ambiguity remains around the use of a prohibited restraint. Progressive and contemporary police policy hold neck restraints at a level of lethal force. Removing the officer's ability to use a neck restraint during a lethal force encounter would make an officer resort to other options that may or may not be available. We need a strict prohibition on neck restraints, we have all seen too many videos of officers using this level of force inappropriately. We can achieve this by simply adding language that only allows the use of a neck restraint when lethal force is justified.

In order for the police community to adopt model policy, train, and fully operationalize this bill we ask that the September effective date be used universally for these statutory changes. Again, thank you for this opportunity and I am happy to answer any questions the committee has.