

***PUBLIC NOTICE**: For information on submitting comments for the Public Comment Section please refer to page 3 of this Agenda. For meeting participation information, please also refer to page 3.

AGENDA

**SPECIAL MEETING
PLAINVILLE TOWN COUNCIL MEETING
COUNCIL CHAMBERS – MUNICIPAL CENTER
July 20, 2020 - 6:00pm**

EXECUTIVE SESSION: **Potential Litigation Matter**

AGENDA

**REGULAR MEETING
PLAINVILLE TOWN COUNCIL MEETING
COUNCIL CHAMBERS – MUNICIPAL CENTER
July 20, 2020 - 7:00pm**

I. PRESENTATIONS:

II. PUBLIC HEARING

III. MINUTES OF PREVIOUS MEETING

June 15, 2020 Regular Meeting

IV. ANNOUNCEMENTS – REPORTS

V. APPOINTMENTS/RESIGNATIONS

1. Police Officer Appointment
2. Probationary Firefighter Resignation
3. Housing Authority Commission
4. Aviation Commission
5. Appointments and Re-appointments to Boards and Commissions

VI. BOARD OF EDUCATION LIAISON (3rd Monday Meetings Only)

VII. REPORT OF TOWN ATTORNEY

VIII. REPORT OF TOWN MANAGER

1. Review of Police Policies – Police Chief Catania
2. Private Developer for White Oak – Draft RFQ
3. Farmington Canal Heritage Trail Update
4. Preliminary FY2020 Year End
5. Bid #2020-13E, High School Security Vestibule
6. Bid #2021-02 Replacement 4WD Mower
7. COVID-19 Update
8. Happenings

IX. PUBLIC COMMENTS

X. OLD BUSINESS

XI. NEW BUSINESS

1. Bid #2020-13E, High School Security Vestibule
2. Bid #2021-02 Replacement 4WD mower
3. Tax Refunds – Addendum

XII. OTHER DISCUSSIONS OF INTEREST

XIII. MATTER APPROPRIATE FOR EXECUTIVE SESSION

XIV. ADJOURNMENT

PUBLIC NOTICE:*Following are ways to submit public comments to the Town Council:**

- 1) Email: tcpubliccomments@plainville-ct.gov Please submit by 4:00pm Monday, July 20.
- 2) Voice Mail Message: 860-793-3256 (3-minute limit)

For either option, please be sure to include or state your name and address and that your remarks pertain to the July 20th **Public Comments**. Emails and voice mail messages will be relayed to the Town Council before or after the meeting, depending on when they are received.

PUBLIC PARTICIPATION INFORMATION – DAY OF MEETING:

- A link to access this meeting in real time via YouTube will be posted on the Town Website 15 minutes prior to the meeting start time. Be advised, streaming will begin at 7:00pm. Please refer to our “Spotlight” section on the Home Page (www.plainvillect.com) for this information.
- For **Audio Only** participation, dial (Toll Free) 888-788-0099 or 877-853-5247 and enter Webinar ID: 834 2100 6784

MINUTES
PLAINVILLE TOWN COUNCIL
COUNCIL CHAMBERS – MUNICIPAL CENTER
REGULAR MEETING
June 15, 2020 – 7:00p.m.

- I. PRESENTATIONS:

- II. PUBLIC HEARING
 - 1. Proposed Ordinance entitled “Ordinance Establishing 4th Quarter Transfers for the Fiscal Year Ending June 30, 2020”
 - 2. Additional Appropriation of \$380,000 from Unassigned Fund Balance

- III. MINUTES OF PREVIOUS MEETING
June 1, 2020 Special and Regular Meeting

- IV. ANNOUNCEMENTS – REPORTS

- V. APPOINTMENTS/RESIGNATIONS
 - 1. Inland Wetlands Commission Resignations
 - 2. Appointments and Re-appointments to Boards and Commissions

- VI. BOARD OF EDUCATION LIAISON (3rd Monday Meetings Only)

- VII. REPORT OF TOWN ATTORNEY

- VIII. REPORT OF TOWN MANAGER
 - 1. WPC Air Conditioning Units
 - 2. Sale/Assignment of Tax Liens
 - 3. CARES Act Grant
 - 4. ClearGov Proposal Recommendation
 - 5. COVID-19 Update
 - 6. Financial Dashboard
 - 7. Happenings

- IX. PUBLIC COMMENTS

- X. OLD BUSINESS

XI. NEW BUSINESS

1. Ordinance Establishing 4th Quarter Transfers for Fiscal Year Ending June 30, 2020
2. Additional Appropriation
3. Bid #2020-14, WPC Air Conditioning Units
4. Sale/Assignment of Tax Lien
5. CARES Act Grant
6. ClearGov Proposal
7. Tax Refunds

XII. OTHER DISCUSSIONS OF INTEREST

XIII. MATTER APPROPRIATE FOR EXECUTIVE SESSION

XIV. ADJOURNMENT

The Regular Meeting was virtually called to order at 7:00pm. Present remotely, were Chairwoman Pugliese, Vice Chairwoman Tompkins, Council members Wazorko, Morante, Gnazzo, Rocco, Underwood, Town Manager Lee, Attorney Chomick, Intern Kylie Boule, Director of Finance Buden and Town Clerk Skultety.

I. PRESENTATIONS

II. PUBLIC HEARING

1. Proposed Ordinance entitled “Ordinance Establishing 4th Quarter Transfers for the Fiscal Year Ending June 30, 2020”
2. Additional Appropriation of \$380,000 from Unassigned Fund Balance

Town Clerk Skultety read the following legal notice:

**LEGAL NOTICE
TOWN OF PLAINVILLE
TOWN COUNCIL PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Plainville Town Council will hold a public hearing at 7:00 p.m. on Monday June 15, 2020 in the Municipal Center to consider:

1. Proposed Ordinance entitled "Ordinance Establishing Fourth Quarter Transfers for the Fiscal Year Ending June 30, 2020."
2. An additional appropriation of \$380,000 from Unassigned Fund Balance

Copies of said proposed ordinances and appropriations are available for public inspection in the office of the Town Clerk.

Dated at Plainville, Connecticut this 11th day of June 2020

Chairwoman Pugliese opened the public hearing for comments.

John Kisluk, 65 Forestville Ave sent an email in support of the transfers and appropriations.

Hearing no more comments the public hearing was closed.

III. MINUTES OF PREVIOUS MEETING

Vice Chairwoman Tompkins motioned to approve the minutes of June 1, 2020 Special and Regular Meeting. The motion was seconded by Councilman Underwood and passed 7-0.

IV. ANNOUNCEMENTS – REPORTS

Councilwoman Morante virtually attended the Conservation Commission meeting and reported they re-elected officers and students at Wheeler School will be planting a pollinator garden.

Councilwoman Morante also attended the Committee on Aging virtual meeting where services and programs were reviewed.

Councilman Wazorko attended the Plainville High School graduation along with Chairwoman Pugliese and praised Town and BOE staff for their efforts to make the programs successful and uniquely special.

Councilman Rocco virtually attended the Parks and Recreation Advisory Board meeting where there was discussion including the opening of Berner Pool and summer camp procedures.

V. APPOINTMENTS/RESIGNATION

1. **Inland Wetlands Commission Resignations**

- a. **Councilman Gnazzo motioned to accept with regret the resignation of Trudy Kijanka from the Inland Wetlands Commission. The motion was seconded by Vice Chairwoman Tompkins and passed 7-0.**
- b. **Councilman Gnazzo motioned to accept with regret the resignation of Steve Emmendorfer from the Inland Wetlands Commission. The motion was seconded by Vice Chairwoman Tompkins and passed 7-0.**

2. **Plainville/Southington Health District Board**

Vice Chairwoman Tompkins motioned to re-appoint Charlotte Politis to the Plainville/Southington Health District Board for the term ending June 20, 2023. The motion was seconded by Councilman Underwood and passed 7-0.

VI. **BOARD OF EDUCATION LIAISON (3rd Monday Meetings Only)**

VII. **REPORT OF TOWN ATTORNEY**

Attorney Chomick reported the agenda item assigning tax liens would be for 100% of what is currently owed the Town at this time.

VIII. **REPORT OF TOWN MANAGER**

- **WPC Air Conditioning Units**

The three air conditioners at the treatment plant need to be replaced. They are over 20 years old, have had numerous repairs and are currently out of order. Bids were solicited by Superintendent Joe Alosso and three proposals were received.

The low bid in the amount of \$26,550 was submitted by North Star Service of Southington. The second low bid was submitted by Perfectemp of Plainville in the amount of \$26,562.

Superintendent Alosso is recommending that Perfectemp of Plainville be awarded the contract because they have been servicing the air conditioning units since 2003 with no increase in their hourly rates.

Additionally, they have always been very responsive when problems occur. Finally, they are a Plainville company and the difference in the bid was only \$12.

If the Town Council decides to accept the recommendation of the WPC Superintendent, the procedure would be to reject all of the bids that were received and then make a motion to waive the bid process and award the contract to Perfectemp of Plainville in the amount of \$26,562.

- **Sale/Assignment of Tax Lien**

Several months ago, the Town Council authorized the sale of tax liens for two properties owned by A. Aiudi & Sons located on Camp Street. The motion was contingent on an amount that was calculated through the end of March. For various reasons, including issues surrounding the COVID-19 Pandemic, that date of sale was not achieved.

According to Town Attorney Mastrianni, the tax lien sale is ready to move forward this month. If the Town Council still wishes to move forward with the sale of the tax lien, a new motion needs to be considered as additional interest has accrued in the interim.

There is an item under **New Business** that would authorize the sale of the tax liens on certain properties owned by A. Aiudi & Sons in the amount of \$302,397.64 through June 30, 2020. This is approximately \$14K more than what was previously approved.

Town staff is recommending that the Town Council re-authorize the assignment of the tax liens with the increased amount.

- **CARES Act Grant**

Recently the FAA announced that Robertson Airport was eligible to receive a \$30K grant through the CARES Act. The monies can be used for various purposes including operating expenses and maintenance items.

In order to move forward the Town Council, acting as the governing body, must authorize the Town Manager to execute the grant on behalf of the Town.

There is an item under **New Business** that would authorize the Town Manager to execute the CARES Act Grant Offer in the amount of \$30K for Robertson Airport.

- **ClearGov Proposal Recommendation**

A work session on the ClearGov Software System was held at the May 18, 2020 Town Council meeting. The mission statement for ClearGov includes: *“to build a community of transparent, data-driven, modern governments...to help local governments operate more efficiently and communicate more effectively, fueling better strategic decision making and increased levels of community support”*.

Town staff is recommending that the Town Council consider moving forward with the ClearGov Budget Suite and the ClearGov Insights Suite.

The Annual Fee for these two programs is \$17,450. This includes a bundled savings of \$7,300 and the “set-up” fee is waived (\$7,200) if a contract is signed by June 30, 2020.

Although this was not budgeted in the FY21 Budget, there are several options that could be utilized to move forward, if desired. In the current fiscal year there are monies available in the health insurance line item that could be utilized to pay for these programs. Other options include anticipated health insurance savings in the FY21 budget as well as making some adjustments to the CIP line item for the fiber project.

None of the above recommendations would require any “additional appropriations” to the FY21 Budget. They may only require transfers.

Additionally, the Town Manager's office currently has a graduate intern currently scheduled to work over the summer who could provide most of the time needed to implement/input the necessary information to get the ClearGov Program up and running. This would allow for Town staff to continue their duties without a significant effort otherwise necessary if an intern was not available.

In conclusion, the ClearGov Program would give the Plainville residents better transparency with respect to the budget, budget reporting and forecasting. Additionally, it would allow the Town Council to make better budgetary decisions as well by having easier to develop historical information and better forecasting techniques. Finally, such a program would make a more efficient use of town staff time in developing the monthly financial dashboard and the annual budget.

- **COVID-19 Update**

To date there are 160 confirmed cases of COVID-19 in Plainville out of 45,088 across the State.

Plainville Library requires improvements to be made to the inside of the building before it can be opened to the public. Probable not occur until mid to late July.

Berner Pool is scheduled to open Saturday June 20.

Summer Camp is currently full with 30 campers for weeks 1 & 2 and 40 campers for the remaining weeks.

- **Financial Dashboard**

The Dashboard was reviewed and has been posted on the Town website.

- **Happenings**

Town Intern Bouly reported on activities and programs including Tax & Assessing Office, Library, Fire Marshal/Emergency Services, Senior Center, Youth Services and 2020 Census. Further information can be found at www.plainvillect.com

IX. PUBLIC COMMENTS

John Kisluk, 65 Forestville Ave commented via email on various topics.

X. NEW BUSINESS

1. **Ordinance Establish 4th Quarter Transfers for Fiscal Year Ending June 30, 2020- See Attached**

Vice Chairwoman Tompkins motioned to adopt a proposed ordinance entitled "Ordinance Establishing 4th Quarter Transfers for Fiscal Year Ending June 30, 2020". The motion was seconded by Councilman Gnazzo and passed 7-0.

2. Additional Appropriation-See Attached

Vice Chairwoman Tompkins motioned to appropriate \$380,000 from Account # 0100-000-32110-0000, Unassigned Fund Balance, to the Accounts outlined for the Fiscal Year 2020 Budget. The motion was seconded by Councilman Wazorko and passed 7-0.

3. Bid #2020-14, WPC Air Conditioning Units

- a. Vice Chairwoman Tompkins motioned to reject all bids for Bid #2020-14, WPC Air Conditioning Units, received by May 29, 2020. The motion was seconded by Councilman Gnazzo
- b. Vice Chairwoman Tompkins motioned to waive the bid process and award Bid #2020-14, WPC Air Conditioning Units, to Perfectemp Inc., Plainville, CT, in the amount of \$26,562. The motion was seconded by Councilman Gnazzo and passed 7-0.

4. Sale/Assignment of Tax Lien

Councilman Gnazzo motioned to authorize Town Manager Lee to assign all current tax liens on certain property owned by A. Aiudi & Sons, LLC identified as Parcels 12-C-7 and 12-C-08 to Towering Oaks, LLC for 100% of their value, currently \$302,397.64 through June 30, 2020 plus reasonable attorney's fees. The motion was seconded by Councilman Underwood and passed 7-0.

5. CARES Act Grant

Councilwoman Morante motioned to authorize Town Manager Robert E. Lee to execute the CARES Act Grant Offer, Grant No. 3-09-0018-2020 for Robertson Field Airport, in the amount of \$30,000. The motion was seconded by Councilman Underwood and passed 7-0.

6. ClearGov Proposal

Vice Chairwoman Tompkins motioned to authorize Town Manager Lee to enter into an agreement with ClearGov, Inc. in the amount of \$17,450 for transparency and budgeting software. The motion was seconded by Councilman Gnazzo and passed 7-0.

7. Tax Refunds- See Addendum

Councilman Gnazzo motioned to approve the tax refunds as listed on the Addendum. The motion was seconded by Councilman Underwood and passed 7-0.

XI. OTHER DISCUSSIONS OF INTEREST

Regarding the three funding options for the ClearGov proposal, the consensus was to have Town Manager Lee and Director of Finance Buden use their judgment.

XII. MATTER APPROPRIATE FOR EXECUTIVE SESSION

XIII. ADJOURNMENT

Vice Chairwoman Tompkins motioned to adjourn at 7:51pm. The motion was seconded by Councilman Gnazzo and passed 7-0.

Respectfully submitted by,

Carol A. Skultety, Town Clerk
& Clerk of the Town Council

	Refunds	6/15/2020 Prior Year	Amount
1	Mongillo, Denise, Southington, CT		\$167.85
	Total		\$167.85

	Sewer User Fee	Amount
1	Czarnecki, Joanne, 51 Bank St	\$196.12
2	Hardisty, Rachel, 53 Burnham St	\$1,828.82
3	Hatch, Robert or Patricia, 50 Pequot Rd	\$25.53
	Total	\$2,050.47

**TOWN OF PLAINVILLE, CT
 ADDITIONAL APPROPRIATION FROM FUND BALANCE - GENERAL FUND
 2019 - 2020 BUDGET**

Additional Appropriation From:

Department	Account Number	Account Description	Reason	Amount
Fund Balance	0100-000-32110-0000	Unassigned Fund Balance		\$ 380,000
		Total Additional Appropriation From		\$ 380,000

Additional Appropriation To:

Department	Account Number	Account Description	Reason	Amount
Police	0100-201-51110-0000	Full Time Payroll	Retirement payouts	\$ 100,000
Police	0100-201-51140-0000	Overtime	Higher costs	140,000
Fire	0100-210-54640-0000	Machinery & Equipment	Unanticipated repairs	20,000
Solid Waste	0100-415-52446-0000	Recycling	Recycling tip fee	100,000
Unclassified	0100-830-52435-0000	Other Contractual Services	COVID-19	20,000
		Total Additional Appropriation To		\$ 380,000

TOWN OF PLAINVILLE, CT
ORDINANCE ESTABLISHING FOURTH QUARTER TRANSFERS
FOR THE FISCAL YEAR ENDING JUNE 30, 2020

BE IT ORDAINED by the Town Council of the Town of Plainville, in meeting duly assembled, that in accordance with Section 7 of Chapter VII of the Charter of the Town of Plainville, funds shall be and are hereby transferred from their original budgetary appropriation as follows:

Transfers From:				
<u>Department</u>	<u>Account Number</u>	<u>Account Description</u>	<u>Reason</u>	<u>Amount</u>
Town Attorney	0100-134-52436-0000	Contractual labor	Less labor negotiations	\$ 11,000
Assessments	0100-137-51120-0000	Part time payroll	No employee in position	27,000
Build Maintenance	0100-315-53512-0000	Elec - B&G	Solar VNM	40,325
Total Transfers From				<u>\$ 78,325</u>

Transfers To:				
<u>Department</u>	<u>Account Number</u>	<u>Account Description</u>	<u>Reason</u>	<u>Amount</u>
Town Council	0100-101-52330-0000	Operating supplies	More frames/plaques	\$ 1,000
Finance	0100-136-51110-0000	Full time payroll	Step increase	1,225
Insurance	0100-160-52498-0000	Workers Comp insurance	More OT (projects) higher ra	8,100
Roadways	0100-305-52460-2012	Rentals - snow removal	Late snow/ice cleanup	10,000
Build & Grounds	0100-310-52340-0000	Repair & maint excl auto	More repairs/aging equip	20,000
Building Department	0100-360-52435-0000	Other contractual services	Higher contractual rate	4,000
Fire Marshal	0100-370-51110-0000	Full time payroll	Retirement payout	19,000
Recreation	0100-510-51110-0000	Full time payroll	Retirement payout	15,000
Total Transfers To				<u>\$ 78,325</u>

Dated at Plainville, Connecticut this 15th day of June 2020

Plainville Town Council

By Carol A. Skultety, Town Clerk
 & Clerk of the Town Council

RECEIVED

JUN 16 2020

Carol A. Skultety

TOWN CLERK

APPOINTMENTS TO BOARDS AND COMMISSIONS PENDING AS OF 7/20/20

COMMITTEE ON AGING: (page 18)

3 appointment due for new term 1/1/20 – 8/1/23 incumbents are:

- Marilyn Petit (R) 150 Broad Street
- Elizabeth Creswell (D) 23 Birch Tree Road
- Charlotte Politis (D) 74 Tomlinson Avenue

ECONOMIC DEVELOPMENT AGENCY: (page 11)

3 appointments due for alternate 2-yr term 8/7/20 – 8/7/22 incumbents are:

- Timothy Maynard (U) 141 Hollyberry Lane
- Marc Romanow (U) 147 Hollyberry Lane
- Robert Berube (R) 12 Eastwood Drive

VACANCIES WITHIN BOARDS AND COMMISSIONS PENDING AS OF 7/20/20

AVIATION COMMISSION: (page 8)

2 vacancies for alternate term ending 10/31/21

CENTRAL CONNECTICUT TOURISM DISTRICT: (page 10)

1 vacancy for term 10/1/18 – 9/30/21

CONSERVATION COMMISSION: (page 10) *Town Manager's appointment with Town Council ratification

1 vacancy for term ending 1/15/21

1 vacancy for term ending 1/15/22

1 vacancy for term ending 1/15/24

HOUSING AUTHORITY: (page 13)

1 vacancy for term ending 1/31/21

INLAND WETLANDS COMMISSION: (page 14)

1 vacancy for regular term ending 1/7/22

1 vacancy for alternate term ending 1/7/21

2 vacancies for alternate term ending 1/7/22

PLANNING & ZONING COMMISSION: (page 16)

2 vacancies for alternate term ending 12/1/23

RECYCLING & SOLID WASTE COMMISSION: (page 17)


2 vacancies for regular term ending 2/1/21

2 vacancies for alternate term ending 3/1/21

1 vacancy for regular term ending 2/1/22

ZONING BOARD OF APPEALS: (page 20)

1 vacancy for alternate term ending 10/5/20

	<p>Chief of Police <i>Matthew Catania</i> Matthew Catania Subject: Policy Governing Use of Force</p>	<p>General Order/G.O.# 13 Original Issuance Date: April 1, 2019</p>
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POLICY GOVERNING USE OF FORCE

PURPOSE:

This policy provides guidelines to the members of the Plainville Police Department on the reasonable use of force. Every member of the Plainville Police Department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

POLICY:

It is the policy of the Plainville Police Department to provide procedures to sworn members regarding the use of force in the performance of their duties. In vesting our police officers with the lawful authority to use force to protect the public welfare, compliance with applicable state and federal law is a policy mandate. Therefore, officers of the Plainville Police Department will use only the amount or level of force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer(s) and members of the community. The legal standard used to determine the lawfulness of use of force is the Fourth Amendment to the United States Constitution.

A. ELEMENTS OF REASONABLENESS

For the purpose of this General Order, the principle of “objective reasonableness” will be relegated to three basic elements: ability, opportunity, and intent. These elements are not to be interpreted as a standard of law. Each element is linked to the other; all three elements must be analyzed to establish the basis of reasonableness in use of force. The elements of reasonableness apply to all uses of force by an officer and not just those where an officer is in jeopardy. The application of the concept of the elements of objective reasonableness will assist an officer in determining whether or not to use force. Officers must remember that no element of objective reasonableness can stand alone or be the singular basis for the use of force. All three elements must be perceived in determining the reasonableness of an officer’s action to employ or escalate force in order to obtain compliance.

1. **Ability:** This element concerns the perceived ability of the subject to carry out a threatened action. The officer must perceive the person proposing the action or threat is capable of performing the action.
2. **Opportunity:** This element indicates the action or threat the officer perceives is imminent but not necessarily instantaneous. The subject must be perceived to be in a position where he/she can carry out the act or threat.
3. **Intent:** This is the mental state initiating an overt act (words or deeds) in the furtherance of a threat, action, or crime.

B. FACTORS OF REASONABLENESS

The department examines reasonableness using *Graham v. Connor*, 490 U.S. 386 (1989) and from the articulated facts from the perspective of a Plainville police officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers will evaluate each situation in light of facts and circumstances of each particular case. Those factors may include but are not limited to:

1. The level of threat or resistance presented by the subject.
2. Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects.
3. The environmental factors and/or other exigent circumstances.
4. The training and experience of the officer.
5. The availability of other resources.
6. The proximity or access of weapons to the subject.
7. The time available to an officer to make a decision.
8. Whether the subject was perceived to be posing an imminent threat to officers or a danger to the community.
9. The seriousness of the crime or suspected offense.
10. The potential for injury to citizens, officers or subjects.
11. The risk or apparent attempt by the subject to escape.
12. The conduct of the subject being confronted (as reasonably perceived by the officer at the time).

C. DEFINITIONS

1. **Deadly Physical Force:** Any physical force that can reasonably be expected to cause death or serious physical injury (C.G.S.53a-3(5)).
2. **Force:** The application of physical techniques, or tactics, chemical agents, or weapons to another person.
3. **Imminent:** A threat, risk, or menace that is perceived as about to happen. Black's Law Dictionary defines imminent as, "Near at hand; impending; on the point of happening."
4. **Less-than-lethal Force:** A use of force which is not likely to cause death or serious physical injury.
5. **Not a Use of Force:** When a person allows him/herself to be searched, escorted, handcuffed, or restrained.

6. **Physical Injury:** Impairment of physical condition or pain (C.G.S. 53a-3(3)).
7. **Reasonable Belief:** When facts or circumstances the officer knows or should know are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
8. **Serious Physical Injury:** A physical injury which creates a substantial risk of death, or which causes serious disfigurement, serious impairment of health or serious loss or impairment of the function of any bodily organ (C.G.S.53a-3(4)).

D. AUTHORIZED USE OF FORCE

1. Members of the Plainville Police Department are authorized to use only that force which meets the “objective reasonableness” principle in order to accomplish lawful goals (C.G.S. 53a-22). The use of force will end when resistance ceases. **Officers shall use de-escalation/calming strategies and/or verbal warnings prior to the use of force when feasible.** Listed below are examples of when the use of force is authorized:
 - a. To effect an arrest or prevent the escape from custody of a person whom the officer reasonably believes to have committed a crime.
 - b. To defend themselves or others from the use or imminent use of force.
 - c. To take persons into protective custody when authorized by law, e.g., persons who are a danger to themselves or others, persons incapacitated by alcohol and/or drugs, and/or runaway children (e.g. C.G.S.17a-503, 17a-683).
 - d. To control a situation and to overcome passive or active resistance to a lawful order.
 - e. To overcome active resistance in an effort to maintain crowd control.
 - f. To prevent someone from committing suicide or inflicting serious physical injury upon themselves.
 - g. To assist a licensed physician or psychologist in providing necessary medical treatment.

The examples above are illustrative only and are not to be considered all-inclusive.

2. Consistent with state and federal law, officers are required to intervene in an effort to stop another officer(s) from using force that is unreasonable.
3. **Officers who directly observe a use of force that is unreasonable, excessive or otherwise in violation of this policy and/or a violation of state or federal statute shall contact a supervisor as soon as practicable.**
4. **Officers who have knowledge of unreasonable, excessive, or illegal use of force against a person shall notify a supervisor and submit a written incident report to a supervisor as soon as practicable.**
5. **Officers are prohibited from retaliating against those officers that intervene against excessive use of force, report misconduct, or cooperate in an internal investigation.**

6. Following the use of force and when the scene is safe officers will promptly provide and/or request emergency medical care, as needed.
7. Under no circumstances will an officer carry a weapon, device, or equipment item without written authorization from the chief of police and documented proper training.

E. OTHER FORCE OPTIONS

1. Handcuffing: The use of handcuffs for arrestee control and officer safety constitutes a use of physical force; however, officers are not required to complete a use of force form each time someone is handcuffed.
 - a. Unless extenuating, articulable circumstances exist, persons taken into custody will be handcuffed with their hands behind their back.
 - b. The cuffs will be double locked, whenever possible.
2. Empty Hand Control: Officers may be required to utilize empty hand control and restraint tactics that have been approved and in which they have received instruction, either through the Police Officer Standards and Training Council (POSTC) Academy or the Plainville Police Department.
3. Oleoresin Capsicum (OC): Officers will be trained prior to issue of Oleoresin Capsicum (OC) aerosol spray. Use of OC will comply with department training.
 - a. OC is an intermediate weapon and should only be used after verbal commands have failed and the subject demonstrates aggressiveness through actions and/or words.
 - b. When non-compliance presents a perceived risk of injury to the officer, others, or the subject him/herself.
4. Impact Weapons: Officers will be trained prior to issue of the ASP or Peacekeeper Expandable Baton. Use of the ASP or Peacekeeper Expandable Baton will comply with department training.
 - a. The approved baton may be used as an instrument to facilitate holds and to control persons.
 - b. When used as a striking weapon, it should only be used when necessary to defend the officer or others.
 - c. Striking the head, throat, neck, or chest cavity, will only be used in extreme circumstances where deadly force would be objectively reasonable.
5. Conducted Electrical Weapons (CEW) / TASER: refer to the General Order which deals specifically with use of force as it pertains to Tasers.
6. Use of Police K-9: Refer to General Order 28.

F. USE OF DEADLY FORCE

1. Officers are authorized to use deadly force to:
 - a. Protect themselves or others from what is reasonably believed to be the use or imminent use of deadly physical force against them or others.
 - b. Prevent a crime where the suspect's actions place person(s) in imminent jeopardy of deadly physical force.
 - c. Effect an arrest or prevent the escape from custody of a person whom they reasonably believe has committed or attempted to commit a felony which involved the infliction or threatened infliction of serious physical injury, and the officer reasonably believes this person still poses a significant threat of death or serious physical injury to the officer or other persons. Where feasible, they have given warning of their intent to use deadly physical force (Tennessee v Garner 471 U.S.1 7 (1985)).
 - d. Officers may use deadly force against an animal that represents a threat to public safety or imminent danger to the officer.

G. FIREARMS AND DISCHARGING A FIREARM RESTRICTIONS

1. The use of firearms is subject to the following restrictions:
 - a. Warning shots are prohibited.
 - b. Weapons may not be fired at or from a moving motor vehicle unless the officer reasonably believes it is necessary to protect him/herself or another person from the use or imminent use of deadly physical force. Officers will, as a rule, avoid tactics that could place them in a position where a vehicle could be used against them. When confronted with an oncoming moving vehicle officers, when practical, must attempt to move out of its path and should generally avoid placing themselves in situations where the use of deadly physical force is more likely.
 - c. Officers are prohibited from drawing and pointing their firearms at or in the direction of a person absent an objectively reasonable determination that the situation may escalate to the point where deadly physical force would be authorized under this policy. When it is determined that the use of deadly physical force is not necessary, officers will as soon as practicable, secure or holster their firearms. Drawing a firearm and pointing it at a person is considered a use of force.
 - d. When officers are about to discharge their firearms, they should be aware of their field of fire, including the backstop, so as to not unnecessarily create a substantial risk of harm to innocent persons. Officers are prohibited from discharging their firearms when, based on the totality of the circumstances, discharging a firearm would constitute a greater risk to innocent human life than the subject's actions.
 - e. Officers may use deadly physical force to kill an animal in self-defense, to prevent substantial harm to the officer or others, or in situations where the animal is so sick or badly injured that humanity requires its relief from further suffering.

- f. Officers may discharge their firearm for the practice, firearms training, when on the police range or other established shooting ranges, or when authorized by the chief of police to participate in law enforcement competition events.
- g. Officers will not carry or use any firearms or weapons while impaired by alcohol, drugs, or any other medical condition that might interfere with their judgment or proficiency.
- h. Officers will be trained in accordance with department guidelines, and will obey all safety rules when handling any firearm or any other weapon. No person other than a Plainville police officer will be permitted access to any department-owned firearm, except police officers from other jurisdictions in the official performance of their duty, for repair or maintenance as approved by the department, or other circumstances with the express permission of the chief of police. Officers will secure and store firearms both on and off duty in such a way as to ensure that no unauthorized person will have access to or gain control over the firearm. All departmental firearms kept at home must be secured in a safe place, which is inaccessible to family members, especially children. Whenever an officer is in the department and removes his/her handgun or other weapon, the firearm must not be left in the open, and must be secured so that it is not readily accessible to civilians, suspects, victims, or witnesses.

H. DEADLY PHYSICAL FORCE RESTRICTIONS

1. The following use of force tactics will only be used in extreme circumstances where the use of deadly force would be objectively reasonable:
 - a. Any **intentional use of a chokehold, neck restraint, arm bar hold, carotid artery hold, lateral vascular neck restraint, neck restraint or hold with a knee**, with or without a device that restricts a person's airway.
 - b. Any strike with an impact weapon or available object to a person's head or neck.
 - c. Any use of a vehicle to strike another person.

The examples above are illustrative only and are not to be considered all-inclusive.

I. MEDICAL ATTENTION

1. Any time a person has visible injuries or complains of being injured as a result of force used against him/her by an officer, the officer must take appropriate actions to promptly provide medical care for the injured person. This includes providing first aid, requesting emergency medical services, and/or arranging for other transportation to a hospital or emergency medical facility.
2. Officers will be trained in proper treatment procedures for persons exposed to chemical sprays and the effects of other less-than-lethal force. If the person is offered and/or refuses treatment, this refusal will be recorded in the police report, along with all relevant information. In addition, the officer will also notify the shift supervisor as soon as practical. The officer and/or shift supervisor will photograph the person's injuries and include the photographs in the police report.

J. USE OF FORCE REPORTING

1. When use of force is applied, the officer using the force will complete a *Response to Aggression Form*. The supervisor will then review and complete the areas of the form that are required. The form will be forwarded to the patrol lieutenant. The patrol lieutenant will review the form and attempt to identify any trends, improve officer safety concerns, and provide timely and accurate information to the department. All Response to Aggression Forms will be filed in records.
2. The Plainville Police Department's Response to Aggression Form will include the following:
 - a. Any action(s) that results in or is alleged to have resulted in, injury to or the death of another person.
 - b. All discharges of a firearm (other than for training purposes).
 - c. Drawing a firearm and pointing it at a person. This requirement will not apply when an officer simply draws or transports any weapon while on scene.
 - d. Any CEW use (probe deployment, or drive-stun) – see Taser General Order.
 - e. Drawing, pointing or “lasering” a person with the CEW – see Taser General Order.
 - f. Arc displaying a CEW and verbally threatening its imminent use.

The examples above are illustrative only and are not to be considered all-inclusive.

K. OFFICER RESPONSIBILITY

1. When an officer finds it necessary to use force to affect an arrest, or for any other law enforcement purpose, whether on duty or off-duty, that officer will:
 - a. Notify a supervisor of the particulars as soon as practicable. Complete a Response to Aggression Form, which will include all other employees involved in or witnessing the incident.
 - b. All use of force reports must be completed and forwarded to the shift supervisor, as soon as practical after the incident, but no later than 48 hours after the incident. When special circumstances exist, such as those incidents resulting in the death or serious injury of a person, the patrol lieutenant may grant an extension for the use of force reports to be completed and submitted.

L. SHIFT COMMANDERS RESPONSIBILITY

1. When a reportable use of force incident occurs, the shift supervisor has the primary responsibility to make certain that all necessary use of force reports are properly completed, reviewed for accuracy, and submitted as required by officers under their command. The shift supervisor will sign the report and forward it to the patrol lieutenant.

2. If the use of force involves an employee who did not report to a patrol supervisor at that time, the employee's immediate supervisor will review and sign the supervisory portion of the report. Supervisors involved in a use of force incident will forward the use of force report to the next level of command not involved in the incident.
3. When an on-duty or off-duty employee has been involved in a use of force incident, which has resulted in death or serious injury to any person, the shift supervisor will immediately report the incident to both divisional commanders. This also includes those cases where any firearm is accidentally or purposefully discharged which results in injury or death to any person.
4. When an on-duty or off-duty employee has been involved in a use of force incident, which has resulted in death or serious injury to any person, the employee may be placed on administrative duty, at the discretion of the chief of police, until an internal review of the incident is completed due to the sensitivities of the public and/or the well-being of the employee. This placement of administrative duty would not be deemed as discipline but necessary for the reason cited above.
5. The chief of police, after conferring with the state's attorney, if necessary, will advise departmental personnel of their specific investigative responsibilities.
6. The patrol lieutenant will review the use of force report to determine:
 - a. Whether the action was consistent with policy and procedure.
 - b. Whether the action warrants further administrative review/investigation.
 - c. Recommendations on equipment upgrades, training, and/or policy issues, if applicable.
7. The patrol lieutenant may confer with department instructors/trainers who specialize in the field of use of force, as needed. The chief of police will be informed about any incident that may not be consistent with policy and procedure or indicates the action warrants further investigation or review.

M. TRAINING

1. All officers will be trained and certified in use of force tactics during their initial training phase at the Police Officer Standards and Training Council (POSTC) Academy.
2. The support services sergeant and the administrative sergeant will ensure that prior to completing the field training phase, all officers are trained and certified in the remaining use of force tactics not covered at POSTC such as TASER CEW, patrol rifle, and shotgun.

N. TRAINING SCHEDULE

All officers will be trained in this policy prior to carrying any lethal or less lethal weapons. Officers will receive the following initial and in-service training on the following lethal and less lethal weapons:

1. **Handcuffing:** Officer will receive the required amount of training while attending the

POST academy or a satellite academy. Each officer will then receive at least one hour in-service training each year.

2. **Empty Hand Control:** Officers will receive the required amount of training while attending the POST academy or a satellite academy. Each officer will then receive at least one hour in-service training each year.
3. **Oleoresin Capsicum (OC):** Officers will receive the required amount of training while attending the POST academy or a satellite academy. Each officer will then receive at least one hour in-service training each year.
4. **Impact Weapons:** Officers will receive the required amount of training while attending POST academy or a satellite academy. Each officer will then receive at least one hour in-service training each year.
5. **Conducted Electrical Weapons (CEW) / Taser:** Officers will receive an initial 4-hour end user certification course as prescribed by the manufacturer's guidelines. Annually, each officer will receive recertification thirty minutes of training as prescribed by the manufacturers' recommendations to include a minimum of two live cartridge fires.
6. **Rifle / AR 15:** Officers will receive an initial 8-hour end user certification class and will satisfactorily qualify with the rifle. Annually, officers will receive a minimum of one hour in-service training and will satisfactorily qualify with the rifle.
7. **Shotgun:** Officers will receive an initial 8-hour end user certification class and will satisfactorily qualify with the shotgun. Annually, officers will receive a minimum of one hour in-service training and will satisfactorily qualify with the rifle.
8. **Glock 45 Firearm:** Officers will receive the required amount of training while attending the POST academy or a satellite academy and satisfactorily qualify with the firearm. Officers will receive, at a minimum, two hours in-service training on the firearm and will qualify two times a year.

All firearms training will be based upon lesson plans submitted to POST by certified firearms instructors.

By Order Of:

Matthew Catania
Chief of Police
Plainville Police Department

There are nine (9) pages contained in this Policy.



Greater Bristol NAACP

P.O. Box 4151

55 South Street

Bristol, CT 06010

Email: bristolct.naacp@gmail.com

Mr. Robert E. Lee
Town Manager
Plainville, CT 06062

Dear Mr. Lee,

The mission of the NAACP is to secure the political, educational, social, and economic equality of rights, to eliminate race-based discrimination and ensure the health and well-being of all persons. Because of this, we feel that the use of body cameras would help to build the sense of safety and equity for all citizens, especially people of color.

People of color have been disproportionately arrested, victims of violence and targets of bias. Body cameras will help to build the assurance that justice is in the best interest of the police department and criminal justice system. It will also help to ensure that police officers are not falsely accused.

The use of body cameras will build trust, faith and community relations within our city. I urge you today to place the need of body cameras for your police officers a top priority.

Thank You.

Best Regards,

Lexie R. Mangum, President

Kametra Hickey, Secretary

OLR ANALYSIS

LCO 3471

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§§ 1-4 & 15 — POLICE OFFICER CERTIFICATION AND DECERTIFICATION

Requires State Police officers to be POST-certified; deems current State Police officers to be POST-certified; authorizes POST to require police officers to pass a drug test as a condition of renewing their certification; expands the reasons for which POST may cancel or revoke a police officer's certification to include conduct undermining public confidence in law enforcement or excessive force; and allows POST to suspend a certification in certain circumstances

POST Certification for State Police

Current law exempts the State Police and any State Police training school or program from the requirement that police officers serving for more than one year be certified by the Police Officer Standards and Training Council (POST). The bill eliminates this exemption, thus requiring State Police officers to be POST-certified (§ 3(f)).

The bill automatically deems as certified any sworn, full-time State Police officers as of the bill's passage, except for probationary candidates (§ 3(d)). It requires these deemed certified officers to apply for recertification within a POST-established time frame unless they retire before then (§ 4(a)).

The bill requires sworn members of the State Police appointed on or after the bill's passage to become POST-certified within one year of their appointment (§§ 1 & 2). By law, the Department of Emergency Services and Public Protection (DESPP) commissioner appoints State Police officers.

The bill makes various conforming changes to POST's authority to include the State Police. For example, the bill:

1. authorizes POST to develop and revise a comprehensive training plan for state and municipal police, not just municipal police as under current law (§ 3(a)(1));
2. requires POST to consult with DESPP when establishing uniform minimum educational and training standards for police (§ 3(a)(11));
3. specifies that POST's authority over police training schools



includes schools for both state and municipal police (§ 3(a)(2-4));
and

4. provides that DESPP's regulations implementing POST-related laws are binding on the State Police (§ 4(c)).

The bill also makes related minor and technical changes.

Drug Tests

By law, police officers must renew their POST certification every three years. The bill authorizes POST to require police officers, as a condition of renewing their certification, to pass a urinalysis drug test that screens for controlled substances, including anabolic steroids.

By law, if a police officer is not employed for two years and not on a leave of absence, his or her POST certification lapses. The bill requires these officers to pass such a drug test as a condition of recertification.

These provisions, as well as the provisions below on "Revocation or Suspension of Certification," apply to all police officers under POST's jurisdiction. Under current law this includes sworn members of organized local police departments, appointed constables who perform criminal law enforcement duties, special police officers appointed for certain purposes, other members of law enforcement units who perform police duties, and other people who perform police functions. Under the bill, it also applies to the State Police.

Revocation or Suspension of Certification (§ 3(c))

Existing law sets various grounds upon which POST may cancel or revoke a police officer's certification, such as if the officer falsified a document to obtain or renew the certificate or was convicted of a felony.

The bill expands these grounds to include conduct undermining public confidence in law enforcement or excessive force, as explained below. In both cases, the law enforcement unit, under its procedures, must have found that the officer engaged in this conduct.

Under the bill, POST may cancel or revoke an officer's certification



for conduct undermining public confidence in law enforcement, including (1) discriminatory conduct, (2) falsifying reports, or (3) racial profiling in violation of state law. In its evaluation, POST must consider conduct the holder undertook in a law enforcement capacity or when representing himself or herself as a police officer to be more serious than conduct in other circumstances.

Under the bill, POST may also cancel or revoke an officer's certification if the officer used excessive force or physical force found to be unjustified after investigation under the law's standards for police use of force. Existing law already allows POST to cancel or revoke an officer's certification if he or she used a firearm in an improper manner that resulted in someone else's death or serious injury.

As under existing law, before cancelling or revoking an officer's certification, POST must (1) give the officer notice and an adequate opportunity for a hearing and (2) make a finding of the improper conduct by clear and convincing evidence.

The bill additionally permits POST to suspend an officer's certification for up to 45 days and censure the officer, upon any of the grounds that could lead to cancellation or revocation. POST may do so if, after giving notice and an adequate opportunity for a hearing, it finds clear and convincing evidence of improper conduct but that the severity of the act does not warrant cancellation or revocation.

EFFECTIVE DATE: Upon passage

§§ 3 & 15-16 — MENTAL HEALTH ASSESSMENTS FOR POLICE OFFICERS

Requires police officers to receive mental health assessments at least every five years, authorizes POST to develop written policies regarding these assessments, and makes related changes

Under the bill, starting January 1, 2021, the administrative heads of law enforcement units must require each police officer employed by the unit to submit to a periodic mental health assessment at least every five years as a condition of continued employment.



An “administrative head of a law enforcement unit” includes the DESPP commissioner, board of police commissioners, chief of police, superintendent of police, or other authority in charge of a law enforcement unit.

The assessment must be conducted by a board-certified psychiatrist or psychologist with experience diagnosing and treating post-traumatic stress disorder. The person conducting the assessment must give a written copy of the results to the officer and to the administrative head of the unit employing the officer.

EFFECTIVE DATE: Upon passage

Schedule; Waiver for Retiring Officers (§ 16(b))

The bill allows law enforcement administrative heads to stagger the scheduling of the assessments so that approximately 20% of the unit’s officers receive assessments each year over a five-year period.

If an officer submits written notification of his or her intent to retire, the administrative head may waive the assessment requirement for the officer, as long as the retirement will occur within six months after the assessment was scheduled to occur.

Additional Assessments (§ 16(c))

In addition to the required assessments, the bill authorizes law enforcement administrative heads to require officers to submit to additional mental health assessments for good cause shown. The administrative head must give the officer a written statement of the good faith basis for requiring the additional assessment. After receiving that statement, the officer has 30 days to submit to the assessment.

Officers Previously Employed (§ 16(d))

Under the bill, if a law enforcement unit hires a police officer from another law enforcement unit (in Connecticut or elsewhere), the hiring unit may require the officer to submit to a mental health assessment within six months of hire. When deciding whether to require this the hiring unit must consider how recently the officer submitted to a mental



health assessment.

POST Policies (§ 3(a)(24))

The bill authorizes POST, by January 1, 2021, and in consultation with the DESPP commissioner, to develop and implement written policies on the requirement that all police officers undergo periodic mental health assessments. At a minimum, these policies must address:

1. the confidentiality of these assessments;
2. the good faith reasons that law enforcement administrative heads may rely upon when requesting that an officer undergo an additional assessment beyond those that are required;
3. the ability of officers to contest the assessments' results;
4. permissible personnel actions that law enforcement units may take based on the assessments' results;
5. how to select psychiatrists and psychologists to conduct the assessments; and
6. financial considerations that law enforcement units or police officers may incur due to the assessments.

§§ 5 & 6 — CROWD MANAGEMENT POLICY

Requires POST, in conjunction with specified entities, to adopt a uniform statewide policy for managing crowds by police officers

Development and Adoption (§ 5)

The bill requires POST, in conjunction with the DESPP commissioner, chief state's attorney, Connecticut Police Chiefs Association, and Connecticut Coalition of Police and Correctional Officers, to adopt a uniform statewide policy for crowd management by police officers. The policy must establish guidelines that protect individual rights and preserve the peace during demonstrations and civil disturbances. It must also address permissible and impermissible uses of force by a police officer, the type and amount of crowd management training that each police officer must undergo, and required documentation after any physical confrontation with a civilian during a crowd management



incident.

The bill requires that the policy be adopted as a state agency regulation in accordance with the Uniform Administrative Procedure Act. It requires the DESPP commissioner, in conjunction with the above-listed parties, to (1) post on the eRegulations System by December 1, 2020, a notice of intent to adopt regulations containing the crowd management policy and (2) amend the regulations at least once every five years thereafter to update the policy.

Implementation (§ 5)

On or after the date the policy is developed, the bill requires the DESPP commissioner or a chief of police, as appropriate, to inform each officer in his or her respective department and each officer responsible for law enforcement in a municipality with no organized police department of the policy's existence and take necessary measures to ensure each officer understands it. It also requires, on or after the date the policy is developed, that each basic or review training program conducted or administered by the State Police, POST, or a municipal police department include training on the policy. (Because the bill requires that the policy be adopted as a regulation, it is unclear at what point it would be considered developed.)

Riot Suppression Privileges and Immunities (§ 6)

Under current law, when the State Police participate in suppressing a riot or similar disorder, they are entitled to the same privileges and immunities as the organized militia (e.g., they are generally privileged from arrest and imprisonment). Under the bill, once the crowd management policy is adopted as a regulation, these privileges and immunities apply only to State Police members who comply with the policy.

EFFECTIVE DATE: Upon passage

§ 7 — IMPLICIT BIAS TRAINING FOR POLICE OFFICERS

Adds implicit bias training to the required police training components

The bill adds implicit bias training to the cultural competency,



sensitivity, and bias-free training that police officers must receive under existing law. Under the bill, implicit bias training is training about recognizing and mitigating unconscious biases against particular people that might influence judgments and decisions when interacting with them.

By law, police basic and review training programs conducted or administered by the State Police, POST, and municipal police departments must include training on, among other things, (1) using physical force; (2) using body cameras and retaining the records they create; and (3) cultural competency, sensitivity, and bias-free policing.

EFFECTIVE DATE: Upon passage

§§ 8 & 9 — COLLECTIVE BARGAINING AND PUBLIC RECORDS DISCLOSURE

Prohibits collective bargaining agreements entered into by the state from blocking the disclosure of certain files

Under current law, the provisions of a collective bargaining agreement or arbitration award between the state and a state employee bargaining unit supersede any conflicting state statutes, special acts, or regulations as long as the superseding provisions are appropriate to collective bargaining.

The bill creates an exception for conflicts with the Freedom of Information Act (FOIA). Under the bill, if the provisions of an agreement or award conflict with FOIA, then FOIA's provisions prevail. The bill applies to agreements and awards entered into before, on, or after the bill's effective date.

The bill also prohibits any collective bargaining agreement or arbitration award between the state and any State Police bargaining unit from prohibiting the disclosure of any disciplinary action contained in a sworn member's personnel file, if it is based on a code of ethics violation. (Presumably this refers to the State Code of Ethics.) The prohibition applies to agreements and awards entered into before, on, or after the bill's effective date.



It is unclear whether applying these provisions to existing agreements and awards would conflict with the U.S. Constitution's contracts clause (see BACKGROUND).

EFFECTIVE DATE: Upon passage

Background— Contracts Clause

The U.S. Constitution's contracts clause (art. I, § 10) prohibits states from passing laws that impair the obligation of contracts. In a 2017 opinion (2017-06), Connecticut's attorney general noted that when a litigant raises a contracts clause challenge against a legislative act, courts use a three-factor analysis to determine whether the act violates the clause: (1) whether the impairment is substantial; (2) if so, does the law serve a legitimate public purpose; and (3) if so, are the means of accomplishing this purpose reasonable and necessary.

§§ 10 & 11 — REPORTS ON RECRUITING MINORITY POLICE OFFICERS

Establishes a new reporting requirement and expands an existing one to include information on efforts to recruit, retain, and promote minority police officers

The bill establishes a new reporting requirement and expands an existing one to include information on efforts to recruit, retain, and promote minority police officers. By law, "minority" is an individual whose race is other than white or whose ethnicity is defined as Hispanic or Latino by the federal government for use by the U.S. Census Bureau.

Existing law, among other things, requires law enforcement units serving communities with a relatively high concentration of minority residents to make efforts to recruit, retain, and promote minority officers so that the unit's racial and ethnic diversity is representative of the community. By January 1, 2021, and annually thereafter, the bill requires the board of police commissioners, the police chief or superintendent, or other authority over a law enforcement unit that serves such a community to report to POST on the community's efforts to recruit, retain, and promote minority police officers.

By January 1, 2021, and annually thereafter, the bill requires the



annual report POST already provides the governor and the General Assembly to also (1) include information on the recruitment, retention, and promotion of minority police officers and (2) be provided specifically to the Judiciary and Public Safety and Security committees. Existing law requires POST to report pertinent data on (1) the comprehensive municipal police training plan and (2) an accounting of all grants, contributions, gifts, donations, or other financial assistance.

EFFECTIVE DATE: Upon passage

§ 12 — POLICE TRANSPARENCY AND ACCOUNTABILITY TASK FORCE

Expands the scope and extends the reporting deadlines of the task force to study police transparency and accountability to require it to examine, among other things, the feasibility of requiring police to have professional liability insurance and how police execute no-knock warrants

The bill expands the scope and extends the reporting deadlines of the 13-member task force to study police transparency and accountability established in PA 19-90. The bill extends the reporting deadlines by a year and requires the task force to submit a preliminary report by January 1, 2021, and a final report by December 31, 2021. The task force terminates when it submits the final report or on December 31, 2021. As under the act, the task force must submit the reports to the Judiciary and Public Safety and Security committees.

The act required the task force to examine several issues, including the feasibility of having police officers who conduct traffic stops issue a receipt to each stopped individual that includes the reason for the stop and records the individual's demographic information. The bill requires the task force to also look at this proposal's merits.

Under the bill, the task force must also examine:

1. strategies that communities can use to increase the recruitment, retention, and promotion of minority police officers (the bill requires the task force to examine community efforts required by law, but the law requires law enforcement units, and not



- communities, to increase recruitment, retention, and promotion of minority police officers);
2. the merits and feasibility of requiring (a) police officers to procure and maintain professional liability insurance as an employment condition or (b) a municipality to maintain the insurance on its officers' behalf;
 3. the establishment of laws for primary and secondary traffic violations;
 4. the establishment of a law that requires any police traffic stop to be based on enforcing a primary traffic violation;
 5. how a police officer executes a warrant to enter a residence without giving audible notice of the officer's presence, authority, and purpose before entering in Connecticut and other states, including verification procedures of the address where the warrant is executed and any documentation an officer should leave the residents where the warrant was executed;
 6. how a professional bondsman, surety bail bond agent, or a bail enforcement agent takes into custody the principal on a bond who failed to appear in court and for whom a rearrest warrant or a capias has been issued in Connecticut and other states, including what address verification process is used and whether any documentation is left with a resident where the warrant was executed; and
 7. the necessity of requiring a police officer at a road construction site within a municipality.

EFFECTIVE DATE: Upon passage

§ 13 — POST MEMBERSHIP CHANGES



Revamps POST's membership by, among other things, (1) reducing the number of gubernatorial appointments from 17 to 11 and adding six legislative appointments and (2) requiring representation from additional stakeholders

The bill revamps POST's membership beginning January 1, 2021. Under current law, the council consists of 20 members, 17 appointed by the governor and three serving ex-officio (the DESPP commissioner and FBI special agent-in-charge for Connecticut, or their designees, and the chief state's attorney).

The bill retains the council's overall size and the three ex-officio members listed above. However, it makes numerous changes concerning the 17 appointed members. Principally, it (1) reduces the number of gubernatorial appointments from 17 to 11 and adds six legislative appointments and (2) requires representation from additional stakeholders.

The table below compares POST's appointed membership under current law with its appointed membership under the bill.

Table: POST Appointment Criteria

Current Law (All appointments by governor)	The Bill (Beginning January 1, 2021)	
	Criteria	Appointed by
One chief administrative officer of a town or city	Two municipal chief elected officials or chief executive officers: <ul style="list-style-type: none"> • one from a town or city with a population exceeding 50,000 • one from a town or city with a population not exceeding 50,000 	Governor
One chief elected official or chief executive officer from a town or city with no organized police department and a population of fewer than 12,000		
One UConn faculty member	One Connecticut higher education faculty member who has a background in criminal justice studies	Governor
Eight members of the Connecticut Police Chiefs Association who are holding office or employed as chief of police or the highest-ranking professional police officer of an organized municipal police department	Three members of the Connecticut Police Chiefs Association who are holding office or employed as chief of police or the highest-ranking professional police officer of an organized municipal police department: <ul style="list-style-type: none"> • one from a municipality with a population exceeding 100,000 • one from a municipality with a population 	Governor

One sworn municipal police officer whose rank is sergeant or lower	exceeding 60,000 but not exceeding 100,000	
Five public members	<ul style="list-style-type: none"> one from a municipality with a population exceeding 35,000 but not exceeding 60,000 	
	Two sworn municipal police officers: <ul style="list-style-type: none"> one from a municipality with a population exceeding 50,000 one from a municipality with a population not exceeding 50,000 	Governor
	One member of the sworn State Police personnel	Governor
	One public member who has a physical disability	Governor
	One medical professional	Governor
	Two appointees who are members of the Connecticut Police Chiefs Association or the person holding office or employed as chief of police or the highest-ranking professional police officer of an organized municipal police department	One each by the House speaker and Senate president pro tempore
	One member of the Connecticut Police Chiefs Association who is holding office or employed as chief of police or the highest-ranking professional police officer of an organized police department from a municipality with a population not exceeding 35,000	Senate minority leader
	Two public members who are justice-impacted people	One each by the House and Senate majority leaders
	One public member who has a mental disability	House minority leader

As under current law, appointed members serve at the pleasure of their appointing authority for a term coterminous with their appointing authority (CGS § 4-1a). The bill additionally deems a member to have resigned from POST if he or she misses three consecutive meetings or 50% of the meetings held during any calendar year.

The bill retains provisions in current law that, among other things, require the governor to appoint the chairperson and specify that a

nonpublic member ceases to be on the council if he or she terminates his or her holding of the office or employment that qualified him or her for appointment.

EFFECTIVE DATE: Upon passage

§ 14 — POLICE BADGE AND NAME TAG IDENTIFICATION REQUIREMENT

Starting January 1, 2021, generally requires police officers to prominently display their badge and name tag on the outermost layer of their uniform

Starting January 1, 2021, the bill generally requires police officers to prominently display their employer-issued badge and name tag on the outer-most layer of their uniform. The requirement applies to police officers who are (1) authorized to make arrests or (2) required to interact with the public daily.

By December 31, 2020, the bill requires the DESPP commissioner and POST to jointly develop and promulgate a model policy to implement the identification requirement. The model policy must include the time, place, and manner for ensuring compliance with the requirement. It may also include specified circumstances when compliance is not required due to public safety-related or practical considerations, such as the sensitive nature of a police investigation or an officer's involvement in an undercover assignment.

EFFECTIVE DATE: Upon passage

§ 17 — CIVILIAN REVIEW BOARDS

Allows each town's legislative body to establish a police civilian review board by ordinance

The bill allows each town's legislative body to establish a police civilian review board by ordinance. The ordinance must prescribe the number of board members, selection method, term of office, and procedure for filling vacancies.

Under the bill, a review board established by ordinance may (1) issue subpoenas to compel witness attendance before the board and (2) require the production of books and papers it deems relevant to any



matter under investigation or in question.

EFFECTIVE DATE: Upon passage

§ 18 — EVALUATION OF SOCIAL WORKERS RESPONDING TO CERTAIN POLICE CALLS

Requires local police departments to evaluate the feasibility and potential impact of using social workers to respond to calls for assistance or accompany a police officer on certain calls for assistance

The bill requires each municipal police department to evaluate the feasibility and potential impact of the department using social workers to respond to calls for assistance (either remotely or in person) or go with a police officer on calls where a social worker's experience and training could provide help.

Each department must complete its evaluation within six months after the bill's passage and submit the evaluation to POST as soon as it is complete.

The evaluation must consider whether (1) responses to certain calls and community interactions could be managed entirely by social workers or benefit from their help and (2) the municipality would benefit from employing, contracting with, or otherwise engaging social workers to help the police department. Police departments may consider using mobile crisis teams or implementing a regional approach with other municipalities as part of any process to engage, or further engage, social workers to help the departments.

EFFECTIVE DATE: Upon passage

§§ 19 & 20 — BODY CAMERAS, DASHBOARD CAMERAS, AND RELATED GRANTS

Principally, (1) expands the requirement to use body cameras to all municipal police officers, (2) requires most law enforcement to use dashboard cameras in police vehicles, and (3) restructures the grant program that currently reimburses municipalities that purchased police recording devices and services to fund related equipment and service purchases municipalities make in FYs 21 and 22

Required Use of Body and Dashboard Cameras as of July 1, 2022



Current law generally requires police officers to use body-worn recording equipment (i.e., body cameras) while interacting with the public in their law enforcement capacity if they are sworn members of (1) the State Police, (2) a municipal police department that has received reimbursement for body camera purchases under the state's grant program, or (3) a public university or college special police force. Current law allows sworn members of all other municipal police departments to use body cameras as directed by their departments and in accordance with state law.

Beginning July 1, 2022, the bill (1) expands the body camera requirement to all municipal police departments, rather than just those that have received a reimbursement grant, and (2) requires all police officers subject to the body camera requirement (i.e., State Police, municipal police, and public college and university police) to also use dashboard cameras with a remote recorder (i.e., dashboard cameras) in each of their police vehicles.

The bill requires the DESPP commissioner and POST to jointly evaluate and approve minimal technical specifications for dashboard cameras as well as guidelines on their retaining and storing their data; existing law requires them to do so for body cameras and digital storage devices and services.

Applying Existing Body Camera Laws to Dashboard Cameras

The bill applies several existing provisions concerning body cameras to dashboard cameras. Specifically, it extends to dashboard cameras the laws:

1. prohibiting the editing, erasing, copying, sharing, altering, or distributing of camera recordings or its data except as required by state or federal law;
2. permitting police officers to review recordings from their cameras to assist in preparing a report or performing their duties;
3. prohibiting the use of cameras to intentionally record specific



- situations (e.g., encounters with undercover officers or informants), unless an agreement between the officer's agency and the federal government provides otherwise;
4. generally exempting specific recordings (e.g., ones involving minors) from disclosure under Connecticut's Freedom of Information Act and requiring they be confidential;
 5. requiring (a) police officers to inform supervisors, as soon as practicable, about lost, damaged, or malfunctioning cameras and (b) their supervisors to ensure that the reported cameras are inspected and repaired or replaced; and
 6. requiring law enforcement agencies to follow DESPP-POST guidelines on retaining camera data and storing the data safely and securely.

Grant Program

The bill restructures the grant program administered by the Office of Policy and Management (OPM) that currently reimburses municipalities for costs incurred in purchasing body cameras, eligible dashboard cameras, and related equipment and services (the reimbursement is generally up to 50% for eligible purchases made from FYs 19-21 and up to 100% for purchases made in FYs 13-18). The bill eliminates the program's reimbursement guidelines and instead requires OPM to administer the grants to fund up to 100% of the cost of municipal purchases of these equipment and devices (as described below) made during FYs 21 and 22, subject to certain program conditions. As under current law, OPM must administer the program within available resources.

Under the bill, OPM may approve grants covering the following municipal purchases made during FYs 21 and 22:

1. body cameras (if a sufficient quantity is purchased, as described below);



2. digital data storage devices or services;
3. electronic defense weapon recording equipment;
4. first-time purchases of dashboard cameras; and
5. dashboard cameras that replace ones purchased before December 31, 2010.

The grants may cover up to 100% of the costs associated with those purchases, except funding for digital data storage services is limited to the cost for up to one year.

By law, the number of body cameras sufficient for funding purposes must be enough to ensure that sworn police department members, constables, police officers, or other individuals who perform criminal law enforcement duties under the supervision of a resident state trooper serving the municipality are supplied with the equipment while interacting with the public in their law enforcement capacities. As under existing law, the sufficient number of cameras must be determined by the (1) police chief if the municipality has an organized police department or (2) first selectman or borough warden, as applicable, if there is no police chief.

Under the bill, OPM must establish qualification requirements and an application process for the grants.

EFFECTIVE DATE: Upon passage, except the provisions concerning the use of body cameras and dashboard cameras are effective July 1, 2022.

Background – Dashboard Cameras with a Remote Recorder

By law, a “dashboard camera with a remote recorder” is a camera that (1) attaches to a dashboard or windshield of a police vehicle, (2) electronically records video of the view through the vehicle’s windshield, and (3) has an electronic audio recorder that may be operated remotely (CGS § 7-277b(c)).

Background – Public University and College Special Police Forces



State law authorizes special police forces at UConn; each state university campus; and all 12 of Connecticut's regional community technical college campuses, subject to the Board of Regents for Higher Education's approval (CGS § 10a-156b).

§§ 21 & 22 — PROHIBITION ON CONSENT SEARCHES

Prohibits consent searches of (1) motor vehicles stopped solely for motor vehicle violations and (2) individuals (e.g., frisking)

The bill generally prohibits consent searches of (1) motor vehicles stopped solely for motor vehicle violations and their contents and (2) individuals (e.g., frisking).

Under the bill, a person consenting to a search is not justification for a law enforcement official to conduct one in the above circumstances, unless there is probable cause.

EFFECTIVE DATE: October 1, 2020

§ 21 — PROHIBITION ON ASKING FOR NON-DRIVING IDENTIFICATION OR DOCUMENTATION

Generally prohibits law enforcement from asking for non-driving identification or documentation for stops solely for a motor vehicle violation

The bill generally prohibits law enforcement officials, during stops solely for motor vehicle violations, from asking drivers for any documentation or identification other than a driver's license, motor vehicle registration, and insurance identity card. This prohibition does not apply if (1) there is probable cause that a felony or misdemeanor offense has been committed, (2) the driver fails to produce a driver's license, or (3) the driver is subject to federal motor carrier regulations (49 C.F.R. 390 to 399).

EFFECTIVE DATE: October 1, 2020

§ 23 — PRE-DOCKETING PROSECUTORIAL REVIEW OF CRIMINAL CHARGES

Requires the chief state's attorney, in consultation with the chief court administrator, to prepare a plan to have prosecutors review criminal charges before cases are docketed

The bill requires the chief state's attorney, in consultation with the

chief court administrator, to prepare a plan to have a prosecutorial official review each charge in any criminal case before the case is docketed. By January 1, 2021, the chief state’s attorney must submit the plan to the Office of Policy and Management and the Judiciary Committee.

EFFECTIVE DATE: Upon passage

§§ 24-27 — PENALTIES FOR FALSE REPORTING

Raises the penalties for false reporting crimes committed with the specific intent to falsely report due to certain characteristics of the reported person or group (e.g., race, sex, or sexual orientation)

Under specified circumstances, there are criminal penalties for falsely reporting certain incidents, such as a crime or fire (see BACKGROUND). The bill raises the penalties for these false reporting crimes, if committed with the specific intent to falsely report someone or a group of people because of the person’s or group’s actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

The following table shows the current penalties and the bill’s increased penalties under the circumstances noted above.

Table: Penalties for False Reporting Crimes with Specific Intent Based on Certain Characteristics

<i>Crime</i>	<i>Current Penalty</i>	<i>Bill’s Increased Penalty</i>
Falsely Reporting an Incident, 1 st Degree*	Class D felony, punishable by up to five years in prison, a fine of up to \$5,000 fine, or both	Class C felony, punishable by up to 10 years in prison, a fine of up to \$10,000, or both
Falsely Reporting an Incident Resulting in Serious Physical Injury or Death	Class C felony	Class B felony, punishable by up to 20 years in prison, a fine of up to \$15,000, or both
Falsely Reporting an Incident Concerning Serious Physical Injury or Death	Class D felony	Class C felony

Falsely Reporting an Incident, 2 nd Degree	Class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both	Class E felony, punishable by up to three years in prison, a fine of up to \$3,500, or both
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* Under existing law and the bill, in certain cases the court may order individuals convicted of this crime to make financial restitution to the state and local departments and agencies that provided the emergency response.

EFFECTIVE DATE: October 1, 2020

Background – False Reporting Crimes

Under existing law, a person is guilty of falsely reporting an incident in the 1st degree when, knowing the information is false or baseless, he or she:

1. initiates or circulates a false report or warning of an alleged or impending fire, explosion, catastrophe, or emergency when it is likely to alarm or inconvenience the public;
2. reports to an official or quasi-official agency or organization that handles emergencies involving danger to life or property, an alleged or impending fire, explosion, or other catastrophe, or emergency that did not occur or does not exist; or
3. commits any of the above actions with the intent to cause a large-scale emergency response.

A person is guilty of falsely reporting an incident in the 2nd degree if, knowing the information is false or baseless, he or she gratuitously reports to a law enforcement officer or agency:

1. an alleged offense or incident which did not in fact occur,
2. an allegedly impending offense or incident which in fact is not about to occur, or
3. false information relating to an actual offense or incident or to the alleged involvement of someone in the offense or incident.

There are separate crimes, with higher penalties, for committing (1)



either the 1st or 2nd degree crime when it results in serious physical injury or death to another person or (2) the 2nd degree crime by falsely reporting someone else's alleged or impending serious physical injury or death.

§ 28 — MISUSE OF THE EMERGENCY 9-1-1 SYSTEM BASED ON BIGOTRY OR BIAS

Increases the penalty for the crime of misusing the emergency 911 system, from a class B to a class A misdemeanor, when the offender specifically intended to commit the crime because of bigotry or bias

By law, a person is guilty of misusing the emergency 9-1-1 system, a class B misdemeanor, when the person (1) dials E 911 or causes it to be dialed in order to make a false alarm or complaint or (2) purposely reports false information that could result in the dispatch of emergency services. The bill increases the penalty to a class A misdemeanor when the offender has the specific intent to misuse the emergency system on another person or group of individuals because of the other person's or group's actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

By law, a class B misdemeanor is punishable by up six months in prison, a fine of up to \$1,000, or both, while a class A misdemeanor is punishable by up to one year in prison, a fine of up to \$2,000, or both.

EFFECTIVE DATE: October 1, 2020

§ 29 — JUSTIFIED USE OF DEADLY PHYSICAL FORCE AND CHOKEHOLDS

Limits the circumstances when a law enforcement officer's use of deadly physical force is justified and establishes factors to consider in evaluating whether the officer's action was reasonable; Establishes when the use of chokeholds and similar restraints is justified

The bill narrows the circumstances under which a law enforcement officer is justified in using deadly physical force. It establishes factors to consider when evaluating whether an officer's use of deadly physical force was objectively reasonable. The bill also limits an officer's use of a chokehold or similar method of restraint to instances when the officer reasonably believes such restraints are necessary for self-defense from deadly physical force.

For these provisions, law enforcement officers include peace officers (see BACKGROUND), special police officers for the Department of Revenue Services, and authorized officials of the Department of Correction or the Board of Pardons and Paroles.

Deadly Physical Force

The bill narrows the circumstances under which a law enforcement officer is justified in using deadly physical force and establishes specific conditions that must be met in those circumstances.

Under current law, officers are justified in using deadly physical force when they reasonably believe it is necessary to:

1. defend themselves or a third person from the use or imminent use of deadly physical force or
2. (a) arrest a person they reasonably believe has committed or attempted to commit a felony that involved the infliction or threatened infliction of serious physical injury; or (b) prevent the escape from custody of a person they reasonably believe has committed a felony that involved the infliction or threatened infliction of serious physical injury.

In these circumstances, the bill requires the officer's actions to be objectively reasonable given the circumstances. And, in situations where an officer is making an arrest or preventing an escape, the bill places additional conditions on when deadly physical force may be used. Under the bill, the officer making an arrest or preventing escape must:

1. exhaust all reasonable alternatives to the use of deadly physical force and
2. reasonably believe that the force employed creates no substantial risk of injury to a third party.

As under existing law, the officer must also reasonably believe the use of the force is necessary to arrest or prevent the escape of the

specified individual.

The bill further narrows the circumstances under which deadly physical force may be used. It does so by eliminating the justification for using such force in a situation when the officer reasonably believes a person threatens infliction of serious physical injury, both when making an arrest or preventing an escape from custody.

Factors to Determine Reasonableness of Use of Deadly Force

The bill establishes factors to consider when evaluating whether a law enforcement officer's use of deadly physical force was objectively reasonable (see BACKGROUND), including whether:

1. the person upon whom deadly physical force was used possessed or appeared to possess a deadly weapon,
2. the officer engaged in reasonable de-escalation measures before using deadly physical force, and
3. any of the officer's conduct led to an increased risk of the situation that led up to the use of such force.

Limits on the Use of Chokeholds or Similar Restraints

By law, law enforcement officers are justified in using physical force to the extent they reasonably believe it is necessary to:

1. make an arrest or prevent the escape from custody of someone they reasonably believe has committed an offense (unless the officers know that the arrest or custody is unauthorized) or
2. defend themselves or a third person from the use or imminent use of physical force while arresting or attempting to arrest someone or preventing or attempting to prevent an escape.

The bill sets a specific standard by limiting when an officer may use a chokehold or similar method of restraint (i.e., those applied to the neck area, or that otherwise impedes the ability to breath, or that restricts blood circulation to the brain of another person) for these purposes to

instances where the officer reasonably believes the use of these restraints is necessary to defend himself or herself from the use or imminent use of deadly physical force. Thus, under the bill, in these circumstances an officer is justified in using a chokehold or other similar method of restraint.

EFFECTIVE DATE: October 1, 2020

Background — Peace Officers

By law, the following individuals are designated peace officers: state and local police, Division of Criminal Justice inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, Department of Correction officials authorized to make arrests in a correctional institution or facility, investigators in the State Treasurer’s Office, POST-certified motor vehicle inspectors, U.S. marshals and deputy marshals, U.S. special agents authorized to enforce federal food and drug laws, and certified police officers of a law enforcement unit created and governed under a state-tribal memorandum (CGS § 53a-3(9)).

Subjective-objective Test to Determine if Use of Deadly Force was Justified

A Connecticut appellate court has applied a “subjective-objective” test in evaluating whether an officer was justified in using physical deadly force. Under this test, the jury must first determine whether the officer honestly believed that the use of deadly force, rather than a lesser degree of force, was necessary under the circumstances. If the jury determines that the defendant-officer, in fact, believed that the use of deadly force was necessary, the jury must then determine whether that belief was reasonable from the perspective of a reasonable police officer in the defendant’s circumstances (*State v. Smith*, 73 Conn. App. 173, cert den. 262 Conn. 923 (2002)).

§ 30 — OFFICERS’ DUTY TO INTERVENE TO STOP USE OF EXCESSIVE FORCE



Requires a police officer to intervene and report another officer's use of excessive force, subject to the penalties of hindering prosecution; prohibits law enforcement units from taking retaliatory action against the intervening officer

The bill requires any police officer, while in his or her law enforcement capacity, to intervene and attempt to stop another officer from using force that the witnessing officer objectively knows is unreasonable, excessive, or illegal.

The bill also requires any police officer who witnesses, or is otherwise aware of, another officer using such force, to report the incident to the law enforcement unit that employs the officer who used such force. The report must be done as soon as practicable and any officer who fails to do so may be prosecuted and punished for 1st or 2nd degree hindering prosecution. By law, 1st and 2nd degree hindering prosecution are both class C felonies, which are punishable by up to 10 years imprisonment, a fine up to \$10,000, or both; but a 1st degree violation carries a mandatory minimum five-year prison sentence.

The bill prohibits law enforcement units from taking retaliatory personnel action or discriminating against a police officer because he or she intervened or reported another officer's unreasonable, excessive, or illegal use of force. Under the bill, the intervening or reporting officer is specifically protected by both the whistle-blowing law (CGS § 4-61dd) and the law that protects employees who disclose their employer's illegal activities, among other activities (CGS § 31-51m). The whistle-blowing law protects state law enforcement officers while the law providing protections for disclosing illegal activities protects both state and municipal officers. These laws provide protections that include prohibiting the employer from discharging, disciplining, or penalizing employees for making these disclosures.

EFFECTIVE DATE: Upon passage

§ 30 — USE OF FORCE RECORDKEEPING AND REPORTING

Expands a law enforcement unit's recordkeeping and reporting requirements to include reports on police use of excessive force and requires OPM to review use of force reports

The bill expands a law enforcement unit's recordkeeping and reporting requirement to include reports on police use of excessive



force. It also requires OPM, within available appropriations, to review the reported use of force incidents and report the results and any recommendations to the governor, Judiciary and Public Safety and Security committees' leadership, and the Racial Profiling Prohibition Project Advisory Board.

Law Enforcement Recordkeeping

Existing law requires each law enforcement unit to create and maintain a record detailing any incident where a police officer (1) discharges a firearm, except during training exercises or when dispatching an animal; (2) uses physical force that is likely to cause serious physical injury or the death of another person; or (3) engages in vehicle pursuit. The bill expands this recordkeeping requirement to include any use of excessive force incident (1) reported by an officer who witnesses such an incident (see above) or (2) otherwise made known to the law enforcement unit.

Under existing law and the bill, the record must include the officer's name; the time and place of the incident; a description of what occurred; and, to the extent known, the names of the victim and witnesses present at the incident.

The bill also specifies that physical force likely to cause serious physical injury includes striking another person with an elbow or knee, using a less lethal projectile on another person, using a method of restraint that impedes the ability to breathe or restricts blood circulation to the brain, or using any other form of physical force POST designates. By law, physical force likely to cause serious physical injury already includes, among other things, striking another person with the hand or certain other objects and using pepper spray, a chokehold, and other restraints to the neck area.

Law Enforcement Unit's Annual Report to OPM

Under existing law, each law enforcement unit must annually submit a report by February 1 concerning the incidents described above to OPM's Criminal Justice Policy and Planning Division. The bill



eliminates the requirement that units provide summarized data and instead, starting with the February 1, 2021, report, requires them to submit the records electronically in a standardized method and form that allows the compilation of statistics on each use of force incident. The division and POST (1) must jointly disseminate the standardized method and form and (2) may revise the method and form and disseminate the revisions to law enforcement units.

By law, the statistics on each use of force incident must include:

1. the race and gender of the person the force was used upon, based on the police officer's observation and perception;
2. the number of times force was used on such person; and
3. any injury the person suffered.

OPM's Review of Use of Force Incidents

The bill requires OPM, within available appropriations, to (1) review the reported use of force incidents and (2) starting by December 1, 2021, annually report the results and any recommendations to the governor, the Judiciary and Public Safety and Security committees' chairpersons and ranking members, and the Racial Profiling Prohibition Project Advisory Board.

EFFECTIVE DATE: Upon passage

§§ 31 & 32 — SECURITY SERVICE AND SECURITY OFFICER QUALIFICATIONS

Prevents decertified police officers from acquiring a security services license or performing security officer work

The bill adds decertification as a police officer, including POST's cancellation, revocation, or refusal to renew a certification, to the list of criteria that make a person ineligible for (1) a security service license; (2) a security officer license; and (3) employment with a security service to perform security officer duties while his or her security officer license application is pending.

Under existing law, unchanged by the bill, a person is ineligible for a



security service license if, among other things, he or she has been (1) convicted of a felony; (2) convicted in the past seven years of any of 11 specified misdemeanors; (3) convicted of any offense involving moral turpitude; or (4) discharged from military service under conditions that demonstrate questionable moral character.

Existing law also prevents the DESPP commissioner from issuing a security officer license, and a security service from employing a license applicant to perform security officer work, for anyone:

1. convicted of a felony;
2. convicted of a sexual offense or crime involving moral turpitude;
3. denied a security service or security officer license for any reason except minimum experience;
4. whose security service or security officer license was ever revoked or is under suspension; or
5. who does not otherwise satisfy the requirements for licensure or employment.

EFFECTIVE DATE: October 1, 2020

§ 33 — OFFICE OF INSPECTOR GENERAL

Establishes the Office of Inspector General

The bill establishes the Office of Inspector General (OIG) as an independent office within the Division of Criminal Justice (DCJ) for administrative purposes only. The bill requires OIG to do the following:

1. investigate peace officers' (i.e., law enforcement officers') use of force (see § 34 below);
2. prosecute any case in which (a) the inspector general determines the use of force was not justified or (b) a peace officer fails to intervene in or report such an incident; and
3. make recommendations to POST concerning censure and suspension, renewal, cancellation, or revocation of a peace

officer's certification.

EFFECTIVE DATE: Upon passage

Appointment and Term

Under the bill, the inspector general serves a four-year term and must be a prosecutorial official from within DCJ whom the chief state's attorney nominates. The bill requires the chief state's attorney to (1) nominate the initial inspector general by September 1, 2020, and (2) make a new nomination on or before the term's expiration date or upon a vacancy. The bill allows the chief state's attorney to re-nominate an individual who has previously served as inspector general. Under the bill, a person nominated to be inspector general serves in an interim capacity pending confirmation by the legislature.

The bill allows the chief state's attorney to remove the inspector general for cause and the good of the public service after notice and a public hearing.

Legislative Confirmation

The bill subjects a nominee for inspector general to legislative confirmation procedures and requirements that are similar to those for judicial nominations. Among other things, it requires (1) referral of the nomination to the Judiciary Committee and action by the committee within 30 legislative days after receiving the referral (but no later than seven legislative days before the legislature adjourns) and (2) a roll call vote by both the House and Senate in order to confirm the nominee. If a nomination fails, the chief state's attorney must make a new nomination within five days after receiving notice of the failure.

If the legislature is not in session, the bill allows the chief state's attorney to fill an inspector general vacancy by submitting the proposed appointee's name to the Judiciary Committee. The committee may, upon either chairperson's call, hold a meeting within 45 days (presumably from receiving the name) to approve or disapprove the proposed vacancy appointment by majority vote. The bill deems the appointment approved if the committee does not act within this



timeframe.

Under the bill, an appointment made when the legislature is not in session is effective until the sixth Wednesday of the next regular legislative session and until a successor is approved.

Office Location and Staff

The bill requires that OIG be at a location separate from the Office of the Chief State's Attorney or any of the state's attorneys for the judicial districts. It allows the inspector general to employ necessary staff whom he or she selects. Under the bill, the staff must include an assistant state's attorney or deputy assistant state's attorney, an inspector, and administrative staff, and, as needed and upon the inspector general's request, additional personnel with these job titles. The Office of the Chief State's Attorney must ensure this additional assistance.

§§ 34 & 35 — OIG INVESTIGATIONS

Requires the inspector general, rather than the Division of Criminal Justice, to investigate use-of-force cases and prosecute cases where the inspector general determines that the use of force was not justified

Use of Force Investigations

Under current law, DCJ must investigate whenever a peace officer, while performing his or her duties, uses physical force that causes someone's death or uses deadly force on another person. DCJ must determine whether the officer's use of force was appropriate under the law and submit a report of its findings and conclusions to the chief state's attorney.

The bill instead requires the inspector general to (1) conduct the investigation and (2) determine whether the use of force was justifiable, rather than appropriate as under current law. (The bill amends the circumstances under which the use force is justifiable; see § 29 above.) It also makes conforming changes, including requiring the inspector general, rather than DCJ, to (1) complete a preliminary status report and submit it to the Judiciary and Public Safety and Security committees within five business days after the cause of death is available and (2) submit the completed investigation report to the chief state's attorney.



The bill authorizes OIG to prosecute (1) any case in which the inspector general determines that a peace officer's use of force was not justifiable and (2) any failure to intervene in or report such an incident to the applicable law enforcement unit (see § 30 above). It specifies that any state's attorney, assistant state's attorney, or deputy assistant state's attorney operating under OIG's direction is qualified to act in any jurisdiction in the state and in connection with any matter regardless of the district where the offense occurred (see BACKGROUND).

Other Investigations

The bill also requires the inspector general to investigate whenever a person dies in a peace officer's or law enforcement agency's custody. The inspector general must determine whether a peace officer used physical force on the deceased person and, if so, whether it was justifiable. Under the bill, if the inspector general determines that the person died as a result of possible criminal action not involving a peace officer's use of force, then he or she must refer the case to DCJ for potential prosecution.

The bill additionally requires the inspector general to investigate whenever a person dies in the Department of Correction's custody to determine whether the person died as a result of possible criminal action. If the inspector general finds this to be the case, he or she must refer the matter to DCJ for potential prosecution.

In both instances, if the inspector general finds that physical force was used, then he or she must follow the procedures for use-of-force investigations (see above).

EFFECTIVE DATE: October 1, 2020

Background — Division of Criminal Justice

The state constitution (art. IV, § 27) establishes DCJ within the executive branch and charges it with investigating and prosecuting all criminal matters. It vests the state's prosecutorial power in the chief state's attorney and the state's attorney for each judicial district.



§§ 36 & 37 — CHIEF MEDICAL EXAMINER INVESTIGATION OF DEATHS IN POLICE CUSTODY

Requires the chief medical examiner to investigate all deaths of people in police or Department of Correction custody and makes related changes

Existing law requires the chief medical examiner to investigate all deaths in certain categories, such as violent deaths (whether apparently homicidal, suicidal, or accidental) and deaths under suspicious circumstances. The bill additionally requires him to investigate any other death that occurred while the person was in the custody of a peace officer, a law enforcement agency, or the Department of Correction (DOC).

In doing so, the bill extends to the chief medical examiner the authority under existing law to take certain actions for death investigations. Examples of these actions include requiring autopsies for these deaths when deemed necessary and appropriate, issuing subpoenas, and accessing any objects in law enforcement custody that he believes may help establish the cause or manner of death.

In cases of apparent homicide or suicide, or accidental deaths with obscure causes, existing law requires that the scene not be disturbed until authorized by the chief medical examiner or his authorized representative. The bill extends this requirement to any other death that occurred while the person was in the custody of a peace officer, a law enforcement agency, or DOC.

Under existing law, in any case where there is a suspicion that a death resulted from a criminal act a state's attorney or assistant state's attorney can require that an autopsy be performed by a certified pathologist. The bill specifies that this includes any state's attorney or assistant state's attorney from the Office of the Inspector General created by the bill (see § 33).

EFFECTIVE DATE: October 1, 2020

§§ 38 & 39 — PROHIBITIONS ON PEDESTRIAN CITATION QUOTAS

Prohibits municipal police departments and DESPP from imposing pedestrian citation quotas on their police officers



The bill prohibits municipal police departments and DESPP from imposing pedestrian citation quotas on their police officers. It defines “quota” as a specified number of citations issued to pedestrians within a specific time period. The bill also specifies that data relative to the issuance of pedestrian citations may be used to evaluate a police officer’s performance so long as it is not the only performance measurement.

By law, municipal police departments and DESPP are prevented from imposing quotas regarding the issuance of summons for motor vehicle violations and exclusively evaluating officers based on how many summonses they issue.

EFFECTIVE DATE: October 1, 2020

§ 40 — PROHIBITION ON POLICE USING MILITARY EQUIPMENT

Generally prohibits law enforcement agencies from acquiring or using military designed equipment

The bill generally prohibits law enforcement agencies from acquiring or using certain military equipment for training purposes or to respond to an incident, except in specified circumstances (see below). The prohibited “controlled equipment” is military designed equipment on the U.S. Department of State Munitions Control List (22 C.F.R. 121) or U.S. Department of Commerce Control List (15 C.F.R. 774, Subtitle B), such as small arms, night vision devices, High Mobility Multipurpose Wheeled Vehicles, Mine Resistant Ambush Protected Vehicles, aircraft, and watercraft.

The bill requires each law enforcement agency, within six months after the bill’s passage, to lawfully sell, transfer, or otherwise dispose of any controlled equipment in its possession. “Law enforcement agency” means the State Police or any municipal police department.

By February 1, 2021, the bill requires each law enforcement agency to report to the Judiciary and Public Safety and Security committees its inventory of controlled equipment possessed when the bill passed and how each item of equipment was sold, transferred, or disposed of.

The bill allows a law enforcement agency to make a request to the



governor and DESPP to retain or acquire certain vehicles that are controlled equipment. Both the governor and agency must jointly approve the request if the agency proves that it needs the vehicles for disaster or rescue purposes. The agency must also provide public notice about the proposed retention or acquisition. Under the bill, only the State Police may apply to retain or acquire Mine Resistant Ambush Protected Vehicles.

The governor's office and DESPP must notify the Judiciary and Public Safety and Security committees of any approved requests.

EFFECTIVE DATE: Upon passage

§ 41 — CIVIL CAUSE OF ACTION AGAINST CERTAIN POLICE OFFICERS

Establishes a civil cause of action against police officers who deprive an individual or class of individuals of the equal protection or privileges and immunities of state law

The bill establishes a civil cause of action against police officers who deprive an individual or class of individuals of the equal protection or privileges and immunities of state law. By creating a cause of action against police officers in statute, the bill eliminates the possibility of claiming qualified or governmental immunity (i.e., common law protection from civil suit for the government and its employees) as a defense to such suits.

Civil Suit

The bill prohibits a police officer, acting alone or in conspiracy with another, or any other individual acting under color of state law (i.e., appearance of legal authority) from depriving an individual or class of individuals of the equal protection or privileges and immunities of state law, including the protections, privileges, and immunities guaranteed under the Article First of the Connecticut Constitution.

Under the bill, those who have been aggrieved by a police officer may bring civil action, triable by jury, in Superior Court for damages against an officer who committed the violation and against the law enforcement unit that employed the officer when the violation occurred. If the

plaintiff prevails in the action, the plaintiff may be awarded costs and reasonable attorney's fees. The court may also award punitive damages if it finds the violation was deliberate, willful, or committed with reckless indifference.

Under the bill, a civil action must be commenced within three years after the cause of action accrues.

The bill specifies that neither governmental immunity nor qualified immunity are defenses, nor is it a defense that a violation was not made in furtherance of a policy or practice of the law enforcement unit.

EFFECTIVE DATE: October 1, 2020, and applicable to any cause of action arising from an incident committed on or after October 1, 2020.



I have been involved in law enforcement since 1971. For approximately 40 of those years my entire professional life has focused on alleged police misconduct. As Civil Litigation Officer at the Hartford Police Department I investigated approximately 100 civil liability claims. As an attorney I have represented hundreds of officers in hundreds of alleged misconduct cases, including 15 appellate decisions. I conceived of the idea of misconduct avoidance training and created the now POST required liability training and trained over 30,000 officers. I have also served on misconduct related projects for DOJ/NIJ, FBI and DEA as well as substantial advisory work for Connecticut police departments. I would appreciate your considering some of my thoughts related to your intended initiatives.

Before I address specific “reforms” I will suggest some basic parameters I hope you will consider.

1. Criticism of police, which is sometimes referred to as the “attack” on police, has accelerated since 2008. The attack is now worse than ever.
2. The attack has led to a “perception” that police are racists who commit acts of brutality and shoot innocent people or unlawfully use deadly force. This conduct is said to be at epidemic rates and calls for major reforms.
3. The COVID-19 virus has taught us that we must carefully analyze conduct and make decisions, not on uneducated opinions, but on objective facts.
4. Government officials and committees, such as this Task Force, should rely on evidence before drawing conclusions and making recommendations for change.
5. The Committee is best served by considering: relevant law; incidents fully investigated and reviewed by professional officials and/or juries and/or courts; and credible statistics.
6. The Committee should not rely on: opinions, allegations and/or one-sided anecdotes that are unsupported by full investigations or above noted reviews (#5).
7. Each recommendation should answer the following questions.

- a. What is the evidence supporting the assumption that the particular problem requires change?
 - b. If there is proof of a need for change what is the cost benefit analysis?
 - c. Is there evidence that the recommendation has already been enacted?
8. The Committee must consider the negative effect of the recommendation.
 9. The Committee has a responsibility to fully explain the basis for the change and the anticipated benefit.
 10. Perhaps most importantly, the Committee should focus exclusively on **Connecticut** policing.

WHAT IS THE EFFECT OF ACCUSING CONNECTICUT POLICE OFFICERS OF WIDESPREAD RACIAL PROFILING, BRUTALITY AND UNLAWFUL USE OF DEADLY FORCE?

1. **Reduced Trust and Respect:** When people do not trust and respect police, they are less likely to cooperate with police and provide information about illegal activities. Without the eyes and ears of the community, the police cannot effectively deter or solve crimes resulting in more crime and more victimization.
2. **Fewer Quality Applicants:** The attack on police has led to a drastic reduction in the number and quality of applicants. Recruiting and retaining exceptional police is the foundation of quality policing. It is especially important to recruit minority applicants. Unfounded or exaggerated allegations of police misconduct are counterproductive to this end. Poorer quality police will lead to increased misconduct and poorer performance.
3. **De-policing and Government Restrictions on the Ability of Police to Perform Their Duties:** Officers who believe they are unfairly attacked are now and will continue to increasingly fail to perform self-initiated duties. Failing to stop motor vehicles for motor vehicle offenses may lead to increased accidents and failing to lawfully stop suspected criminals will increase crime and victimization.

Government restrictions are and will continue to result in reduced protection for the innocent.

4. **Increased Harm to Police:** As of July 6, 2020, twenty-eight police officers have been shot and killed this year; fortunately, none in Connecticut. We do not know how many officers in Connecticut have been assaulted, but it is logical to conclude that the growing contempt for police is likely to increase attacks and altercations with officers.

If the Committee assumes police misconduct without evidence and makes recommendations without cause, the message perpetuates a false negative image of police leading to the above unintended consequences, to the detriment of all who rely on police protection and services.

THE TRUTH ABOUT POLICE

Almost all agree we must improve police community relationships. It is also beyond dispute that demonizing police destroys rapport between police and civilians. The best way to build trust is to tell the truth about policing in Connecticut. If we reach back 50 years we have an adequate sampling of policing in Connecticut to draw some reasonable conclusions. Police in Connecticut probably have well more than 3 million encounters with people every year or over 150 million encounters over 50 years. Criticism of Connecticut police is often based on incidents occurring elsewhere. The primary focus is based on the perception that police unreasonably kill people because of their race. We should ask, “is this true in Connecticut? Where is the evidence supporting this belief? Does evidence even on a national level support this narrative?”

According to the *Washington Post*, there have been an average of 989 police shooting death cases a year from 1/1/15 to 12/31/19. Almost all of the intentional shooting deaths cases involve a combination of factors including the subjects committing crimes, being armed with deadly weapons or dangerous instruments, attacking officers or others, or otherwise acting in a manner where an objectively reasonable person would believe they are about to cause serious injury or death.

Putting these cases in context is important in evaluating the actions of police in general and, in turn, the necessity for major reforms. Police are required to engage violent people in dangerous circumstances to protect people of all races and ethnicities. In such circumstances they are forced to make life and death decisions. Other professionals also make life and death decisions. John Hopkins University conducted an 8-year study finding that more than 250,000 deaths per year are due to medical errors. Unlike police, medical practitioners making decisions are not faced with patients who posed a risk of serious injury or death to medical professionals or others. They often do not have to make split-second decisions, but very often can consult, research and thoughtfully consider alternatives. Presumably all of the people who die due to medical errors are innocent people of all races and ethnicities. Simply put, approximately 250,000 innocent people die every year due to medical errors. Compare that to innocent people who die each year due to police use of force decisions.

We could argue about how many intentional shootings might have been avoided when considering facts learned after the incidents and speculating about what might have occurred in our cushy lounge chairs. But when standing in the shoes of the involved officers, few have been or could be found unjustified. If we assume that every police shooting is unlawful and continue at the present rate, the number of shooting deaths this century would equal the number of medical error deaths in under 5 months. In reality, if we take the number of unlawful shootings and continue this pace for the next hundred years the number of unlawful police shootings would be fewer than deaths due to medical error in one day. But we do not see medical professionals condemned by protestors, interest groups, politicians or the media.

There is no hard evidence that medical decisions resulting in deaths or police shootings are motivated by racial or ethnic animus. But unlike medical professionals it is assumed that police who use force resulting in death are racists. That unsupported conclusion has resulted in the present turmoil and calls for police reform.

CHANGES IN POLICING IN CONNECTICUT MUST BE BASED ON EVIDENCE IDENTIFYING THE PARTICULAR PROBLEM AND THEN A COST (Human and Financial) BENEFIT ANALYSIS OF ANY PROPOSED REMEDY

Connecticut residents deserve a rational evaluation of our State's issues. The Accountability and Transparency Task Force should study any perceived problem before recommending any reform. On June 11, 2020, Glenn Loury, an African-American economics professor from Brown University responded to the present turmoil in the United States. He talked about the "empty thesis of racism" that distracts us from the real problems of black Americans. "There are approximately 330 million people in the United States, and there are many tens of thousands of encounters between citizens and the police every day. We take half a dozen, admittedly outrageous, disturbing incidents of police violence, and we form this into a general account of how people are treated. I think that's dangerous." (CITY Journal, Racism Is An Empty Thesis, June 11, 2020).

Professor Loury goes on to say he refuses to follow the mob opinion. He logically recognizes that the likelihood that an individual will come in conflict with police depends on the frequency with which that individual behaves in a manner that attracts police attention. "Criminal behavior is not equally distributed across all population groups. African Americans are overrepresented in prison because they commit more acts that can be punished with prison. The main threat to the quality of life of people living in black areas is the criminal behavior of their fellow citizens, most of whom happen to be black. Black people in American cities are victims of rape, robbery, and murder to a very significant degree, and the perpetrators are almost always black. The protection of life and property is the most important task of the state, and many African-Americans cannot feel safe in their homes. The police are part of the solution to this problem. Black people need the police more than other people do."

Professor Loury's conclusions are amply supported by objective evidence. What is the evidence supporting the conclusion that police are murdering innocent black men because of their race?

The lack of evidence supporting the vilification of police speaks volumes. The critics reach back six years citing tragic cases of police citizen encounters. Fourteen of those cases were fully investigated by the Department of Justice and state prosecutor offices and some were submitted to grand juries and/or trial juries. The findings of these prosecutorial officials or judicial bodies resulted in findings that the use of force was justified or lacked sufficient evidence to proceed, acquittals or dismissals. (2014- Tamir Rice, Eric Garner, Michael Brown, John Crawford; 2015- Freddie Gray, Samuel DuBose, James Clark, Jeremy McDole, Anthony Hill, Tony Robinson; 2016-Philando Castille, Alton Sterling, Keith Lamont Scott; 2018 Stephon Clark.)

The allegation of police critics is that racist cops intent on killing these men because of their race committed all the above deaths. These critics believe their opinions hold more weight than the public officials and juries of all races and ethnicities that considered all available evidence and evaluated the officers' actions within the law. One would hope that our political leaders and decision-makers would not jump to the same conclusions but would respect our legal process and judge officers based on facts discovered after investigations by entities outside of the involved police departments and findings based on law in the judicial process.

Only five of the cases commonly cited by police critics resulted in prosecutions. Three were intentional targeted shootings including Anthony Hill, 3/9/15, who was an emotionally disturbed man who attacked the officer while naked; Walter Scott 4/4/15 shot after fleeing, fighting with an officer and then fleeing again; and William Chapman, 4/22/15, who fought with an officer attempting to arrest him for shoplifting. One was a ricochet off a wall in an apartment building hallway, Akoi Gurly, 11/20/14, and the other involved an officer who thought he drew his taser but drew his gun on a suspect, Eric Harris, during a sting operation on 4/2/15. While tragic, these cases were not incidents where police intentionally shot innocent people. Remarkably, the number of illegal shooting cases repeatedly exploited by police critics over the past six years approximates the number of African Americans shot and killed on an average weekend in Chicago.

Sandra Bland's death is justifiably used against police although it is not a use of force case. We use the *Bland* case to teach officers in Connecticut how not to treat people because we don't have a similar example in our State of outrageously wrongful actions by an officer that ultimately resulted in her suicide. In light of over a billion police civilian encounters, tens of millions of arrests and violent incidents officers have responded to over the past six years in our country, we should reflect on Professor Loury's comments before condemning police. The Floyd case represents an action by an officer that was so clearly unreasonable that it need not be fully adjudicated before being placed in the column of wrongful police actions.

To condemn officers for allegedly killing people because of race, the Task Group should consider the seven wrongful deaths or other fully investigated and reviewed cases task force members may identify over the past six years, and put forth evidence that the officers acted with some discriminatory motive. The Committee should also consider that over the past six years there have been over a million law enforcement officers having encounters in likely a billion or more incidents and making over 60 million arrests and responding to millions of violent incidents. Putting the allegations in context and telling the truth to the public is a crucial responsibility of the Task Force in order to build trust between the police and their communities. Ultimately the question is, whether the present broad brush condemnation of police for a relatively few isolated incidents justifies major police reforms. Given the number of officer encounters each year and the violent situations they respond to, we can never expect to eliminate isolated incidents of misconduct resulting in wrongful deaths. These isolated incidents do not prove systematic killing of black men because of their race. They certainly do not justify smearing Connecticut police.

It is crucial that the Task Group consider only the fully investigated and/or adjudicated incidents. Jumping to conclusions based on initial protest opinions and media accounts is dangerous. The initial allegations against the Baltimore officers in the Freddie Gray incident led to death, destruction of property and cost Baltimore taxpayers tens of millions of dollars. In the end it was judicially determined the officers did not use force and were not guilty. If we care about lives, perhaps we should not endorse the protests. The number of wrongful

deaths at the hands of police is dwarfed by the number of deaths occurring during the protests and the number of deaths of innocent mothers, fathers and children resulting from reduced police activity. We will never remember the names of the innocents who have died or the names of innocent police officers shot and killed. Twenty-six-year-old Officer Anthony Dia who left a wife and 2 children was the 28th officer shot and killed in 2020. These facts should be considered when demonizing police as the primary cause of social injustice in our country.

We have a sufficient sampling of police actions in Connecticut over the past 50 years to evaluate our problems. Are we proposing solutions for “perceived” or “actual” problems? We must keep in mind that when we demand changes we are communicating to the public that officers are committing wrongful acts in such proportions that legislative mandates are necessary. This has the unfortunate effect of creating public mistrust and disrespect for police, de-policing and shrinks the pool of quality applicants with all the downstream negative consequences.

The national misperception is fueled by repeating the above cited incidents creating the false perception that there is an epidemic of police killing men because of race. These unsupported allegations are driving the narrative in Connecticut. Like Professor Loury, we should not follow the mob. Taking necessary steps to reform policing based on “evidence” identifying particular problems is essential. Accusing Connecticut officers based on some isolated incidents in other parts of the country is not only unfair but dangerous. Assuming wrongdoing without basis destroys police community relations and poses the risk of more crime, more victimization and greater conflict. Looking for the truth and evidence of misconduct is incumbent upon the Task Force.

Is There an Issue with Police Unlawfully Using Deadly Force in Connecticut? Police accountability is not a numbers game. The goal should be that all police shooting death cases are lawful. On June 7, 2020 *The Hartford Courant* summarized 21 shooting death cases in the last five years. Three of those cases involved African-Americans and none included evidence of racial motivation. Twenty-two years ago Officer Scott Smith shot Franklyn Reid following

a foot pursuit. Reid had an extensive criminal record including violent felonies. Officer Smith's manslaughter conviction was overturned. Before the retrial Smith pled to a lesser charge that did not include prison time. Although the case was not fully litigated, it is the only shooting death case resulting in a criminal trial in the past 50 years and maybe ever. There have been numerous shooting cases investigated by our State's Attorneys involving wounded and no injury incidents. One is presently being prosecuted and several are pending. Relying on the hard evidence, it is clear that no innocent person has been intentionally shot by a Connecticut officer (there have been bystanders near dangerous suspects accidentally wounded). There is no evidence a person has been shot because of their race or ethnicity. The Committee should search for cases where shootings in Connecticut did not involve felony suspects or where the subject did not pose a perceived risk of serious injury or death. Compare those cases with the number of arrests, felony arrests and violent situations Connecticut officers respond to before concluding we have a serious problem with officers illegally using deadly force that must urgently be addressed by legislative action.

In the past five years I have trained over 4,000 officers. I ask two questions. First, has anyone ever shot someone, and second, has anyone been involved in a situation where you could have used deadly force but chose not to. I never fired my gun at someone as a Hartford police officer. I will never forget opening the cellar door to look for a man who had assaulted his wife. When I opened the door, he was standing at the bottom of the stairs pointing a gun at me. After repeated orders he dropped the gun. I'll never know why I was so foolish as to risk leaving my children without a father. On more than one occasion I let felons escape rather than lawfully shooting them.

Officers surveyed had similar experiences. Usually no one in class had shot someone, which is no surprise as most Connecticut officers never fire weapons at someone during their entire careers. Close to 60% of each class reports they could have legally shot, but chose not to, often at risk to their own safety. This also comes as no surprise. Going back 50 years we have had tens of thousands of officers responding to violent calls and dealing with dangerous criminals yet we have only 4 or 5 shooting deaths a year and often the question is, why did the

officer wait so long before shooting? Going forward we should collect statistics on deadly force situations where police used restraint. Such statistics would help increase trust.

I ask the Task Group to consider the number of illegal shootings and in-custody deaths in the context of the number of violent crimes and dangerous incidents Connecticut officers have responded to and the history of policing in our State. Do our officers deserve to be vilified for shooting innocent people or people because of their race?

How Serious is the Issue of Racial Profiling in Connecticut?

No officer should ever stop, search, arrest, use force or take any law enforcement action against someone because of their race or ethnicity. Officers should not let bias enter into any law enforcement decision. This is why we have separate racial profiling and bias training every 3 years.

Connecticut's *Racial Profiling Prohibition Act* was enacted in 1998. In 2013, the Racial Profiling Prohibition Advisory Board was created and the Racial Profiling Prohibition Project began. Racial profiling has been an issue long before these initiatives. Racial profiling was an issue when I became a police officer in 1971.

So how many racial profiling claims have been ultimately sustained in Connecticut in the past 50 years? I have never been able to identify a single complaint that has ever been sustained. The closest we have come is the Jones v. East Haven case ultimately dismissed by the Second Circuit for a lack of sufficient evidence to prove discriminatory intent. The media cites five cases where East Haven officers were arrested for discriminatory acts against Latinos, but 4 of the 5 alleged victims of the civil rights violations were white males.

The above titling of these initiatives as "Prohibitions of Racial Profiling" communicates to the public the impression that racial profiling is pervasive in Connecticut. Some say it is difficult to prove racial profiling, but is it? A person illegally stopped for a broken taillight that isn't broken could take a picture or travel a few minutes to a garage to preserve evidence of the illegal stop. A person stopped for an alleged moving violation may turn to a body, cruiser, traffic or personal cell camera to capture the event or record words of the officer to substantiate a claim of racial profiling. The question is not whether there are racial profiling

incidents, but whether there is sufficient evidence to paint Connecticut officers as racists? Does the portrayal of police officers as racists create a true picture of Connecticut police? There can be no dispute that the perception of police as racist negatively effects police community relations with all the attendant downstream negative consequences. Would telling the truth improve the image of police and improve the ability of police and the community to make their communities safer? Shouldn't that be the objective?

How Often do Connecticut Police Commit Acts of Police Brutality?

We have to separate excessive force from police brutality. Police must use force to perform their responsibilities. Sometimes minor use of force incidents, in retrospect , may be deemed more than reasonably necessary. Our courts have often addressed the grey area between reasonable and unreasonable force. Police critics apply the term “brutality” to questionable or marginally excessive use of force incidents. When discussing police brutality people often refer to Rodney King. Now people can point to George Floyd. These are cases of clearly unjustified use of force appropriately characterized as acts of brutality. The Task Group should ask how often do Connecticut police engage in multiple unjustified uses of force by one or more officers (King) or egregious unjustified use of force (Floyd) resulting in injury.

I ask officers in class to provide examples of such police brutality in Connecticut so I can use these examples in other classes. Examples are few and far between. When they fail to provide examples, I turn to a clear act of brutality that occurred on May 20, 2011 at Beardsley Park in Bridgeport. Three officers appear to be kicking a suspect on the ground. Rational people know that videos on TV do not tell the whole story. When slowing down the video frame by frame one of the kicking officer's feet does not touch the suspect, but shows him kicking the taser wire off his foot. The third kicking officer was clearly outrageous. He was tried and found not guilty of excessive force. I was not at the trial and only the jurors know what was contemplated in the jury room, but this 9 year-old case is the worst case I can provide as an example of Connecticut police brutality. I do know the suspect was a dangerous felony recidivist, believed to be armed with a Desert Eagle gun capable of piercing a police vest. The gun was later found in his vehicle. If incidents of police brutality are common in

Connecticut, the Task Group certainly can provide numerous other examples in our State to substantiate needed reforms.

SOLUTIONS TO THE PROBLEM OF PERCEIVED POLICE MISCONDUCT

1. RESEARCH AND COMMUNICATE THE TRUE STORY ABOUT POLICE CONDUCT IN CONNECTICUT

Rather than extrapolating a few outrageous incidents from other states to determine what reforms are necessary in Connecticut, we should study police conduct in Connecticut. We should then effectively communicate the truth about our policing and make reforms consistent with actual police performance in Connecticut.

Instead of relying on uninvestigated, one sided anecdotes or examples of out of state police conduct we should require Connecticut departments to fully report on a variety of police activities. Assuming and focusing on alleged misconduct repeatedly screamed by protestors, media and others who are ill-informed, serves no purpose other than causing racial division and hate for police. We can throw rhetoric and hyperbole at each other or we can rationally look at evidence and work together to resolve problems.

In 2016 FBI Director James Comey announced an initiative to address the narrative of an epidemic of police shooting black men because of their race. He stated that there was no evidence to support the narrative but that the FBI was going to start to collect information on police use of force. The narrative requires an equal protection analysis.

To conduct a valid equal protection analysis the law and common sense requires an examination of facts related to how members of the particular class is treated as compared to other classes who are “similarly situated.” Upon reviewing all the police shooting death cases collected by the Washington Post since 2015, it is readily apparent that almost all cases involve subjects actually or perceived to be posing a risk of serious injury or death to others. The majority of persons shot have, immediately before the shooting, been involved in felony activities and/or are armed and/or attacking or threatening others. People involved in such dangerous activities should be compared to others similarly situated. Evidence comparing

similarly situated groups involved in violent crimes is found in FBI UCR crime statistics broken down by race and ethnicity.

On October 25, 2015 the Washington Post did an analysis of the types of circumstances leading to police shooting deaths. 224 involved the subject shooting a gun at someone, 242 were brandishing or pointing a gun, and 129 were armed with weapons such as knives, hatchets, chemical agents and vehicles. 595 of the shootings followed a wide range of violent crimes, including shootouts, stabbings, hostage situations, car jackings and assaults. Unfortunately, the Washington Post has not conducted a similar analysis in subsequent years but a review of individual cases follows a similar pattern. FBI UCR arrests from 2014-2018 shows that Black/African Americans account for 52.7% of arrests for Murder/Intentional Manslaughter; 55.1% for Robbery; 33.2% for Aggravated Assault; and 37.3% for all violent crimes. The percentage of Black/African Americans shot and killed by police is well below the percent of violent crimes.

On June 23, 2020 Roland Fryer, Jr., a black Harvard economics professor wrote an opinion piece in the *Wall Street Journal* about his study of police use of force. He concluded, "There are racial differences in use of nonlethal force, but not in officer-involved shootings." Those of us who are not in Dr. Fryer's profession cannot vouch for his conclusion that police are not actually more likely to shoot a civilian who is black, but such studies bear more weight than protestors, journalists or politicians citing names of people found to have been killed in justifiable deadly force incidents. Dr. Fryer also stated, "...we do ourselves a disservice in the battle against racial inequality if we don't adhere to rigorous standards of evidence, if we cherry-pick data based on our preconceptions."

There have been initiatives to require the collection of data on police use of force for 30 years. Perhaps the President's executive order tying reporting to funding will accomplish this goal on a national level. Police officers welcome a comprehensive collection of evidence that includes not only when police use force, but when they don't. It is just as important to know when an officer disarms a knife-wielding suspect without a use of force as when he

shoots him. It is just as important to know when an officer talks down an angry drunk as it is to know she deployed her taser.

We can start the collection of evidence related to all police encounters in Connecticut by 2021. The collection of this evidence will show the true scope of police use of force and will help build trust between police and the community.

Exploring the nature of policing and honestly reporting what police do can have an enormous positive effect on police community relations. Building trust through knowledge and understanding will enhance working relationships between honest citizens and police. Connecticut does not have to wait to start collecting information on a myriad of police actions to provide a more complete and accurate picture of police conduct.

On the state level we should account for all the medical calls, rescues, missing person situations, protective custody incidents, motor vehicle and other personal injury incidents, successfully resolved violent incidents and other calls for service where officers save lives and reduce the risk of harm to citizens. The collection of information and statistics on such police actions will help people understand how much police care about people and save lives regardless of race or ethnicity.

There is no rush to initiate expensive reforms that might do little if anything to make effective positive change. The Task Group should take its time to identify deadly force cases in Connecticut where the subject was not a dangerous felon or creating a risk of serious injury or death immediately before the shooting. The Task Group should study the cases of “brutality” over the past 50 years, then the scope of deadly force and brutality can be evaluated. No one and no group of people deserve to be called murderers. Accepting the vilification of police and actively or tacitly supporting those who unfairly mischaracterize police is dangerous. Doing so without factual basis is ignorant and also dangerous. Why wouldn’t we want Connecticut citizens to know the truth about police? Merely saying many or most police properly do their jobs is not enough.

We should consider evidence of a problem before we recommend a reform. For example, a mandate to prohibit chokeholds without evidence that police actually use this

tactic and without evidence that anyone has ever been harmed, conveys the false message that Connecticut officers employ this use of force and the State must take action to protect citizens from police choking them out. If the Task Group decides to prohibit chokeholds the recommendation should explain that Connecticut police have not used this tactic in years and when it was used over 30 years ago, there was no evidence anyone was harmed. Telling the truth is crucial to build trust between police and their communities. An explanation providing evidence as to why each reform is necessary should be included with each recommendation.

2. HELP OUR CHILDREN MAKE BETTER LIFE DECISIONS

We are leaving too many children behind. We need to confront the national tragedy that we are failing to help our children make better life decisions. We have to break the family to prison or death pipeline. On 9/10/20 Ricky Reyes, age 40, is scheduled for sentencing in federal court. He faces a minimum sentence of 10 years following a history of drug and weapons offenses. His sister, Janicette, also has pending federal charges. Twenty-eight years ago they beat an East Hartford officer who was lying on the ground holding their 14 year-old brother, Eric, who was a recidivist offender who had escaped from our state juvenile facility. Eric told them, along with 3 other children ages 9-10, to get the officer's gun. The children began to beat and kick the officer. Janicette testified that she beat the officer so hard with a mop handle that her hands were red. After about 5 minutes Officer Proulx who was about to lose consciousness, saw a gun in Eric's hand, pulled it away and shot Eric. I deposed Ricky and Janicette who were both 12 years old at the time. They testified they knew they were beating a police officer but it didn't matter. If Eric had decided not to commit crimes and had perhaps been a role model for his younger siblings, he would not have been involved in this violent encounter and they wouldn't have beaten the officer and helped him take the officer's gun. Maybe Eric would be alive today and maybe Ricky and Janicette would not have entered a life of crime.

I work on several of these youth tragedy cases every year. These children are not born criminals. They once were beautiful babies and adorable children. Can we do anything to help them toward honest productive lives? The most effective way of reducing confrontations is

to guide our children by instilling a sense of responsibility and respect for others. Wes Moore wrote a book, "The Other Wes Moore" comparing his life with another of the same name who grew up under similar circumstances. The author had responsible adults to positively influence him while the other ended up with a life sentence for murdering a police officer. Years ago I deposed another young man who drove a stolen car through a red light killing two people. When he asked me to tell the family how badly he felt, I saw a kid who was not a bad person, but a young man who made some bad decisions.

The FBI Uniform Crimes Reports for 2017 and 2018 indicate that 59.2% of those under 18 years of age arrested for murder and intentional manslaughter and 65.4% of those arrested for robbery were Black/African Americans. (Aggravated Assaults 41.8% and Violent Crimes 49.8%). We have to bring down these percentages by teaching children in comprehensive programs to choose not to engage in crime or other at risk behaviors.

Utilizing the aforementioned FBI UCRs and Washington Post analysis it becomes readily apparent that to bring down the number of police shootings we must reduce the number of deadly force encounters. With regard to the racial disparity issue we must reach the youth of our country and guide them toward honest productive lives. We have to do this at a very early age before they start traveling down the wrong road. Too many of these children who begin a life of crime continue, as the Reyes children did, into adulthood.

Police have unique knowledge and experience to assist educators in teaching children important life lessons. Police have real life experience responding to and investigating criminal activities, drug overdoses, shootings, unsafe driving and numerous other types of incidents leading to death and serious injuries to juveniles and caused by juveniles. Police can explain the legal consequence of poor decisions and have a special authority that may positively influence children. Bringing police into the classroom starting in kindergarten to provide safety lessons and thereafter, each year through high school to teach other age appropriate lessons may help our youth lead better lives and will improve relationships between police and the community. Comprehensive classes addressing at risk behaviors every year will undoubtedly make a difference. There are many stories about how police have

positively affected lives of at risk youth. One of the more inspirational stories was written by Caron Butler, “Tuff Juice: My Journey from the Streets to the NBA.” Caron Butler began selling drugs when he was 11 years old. An encounter with one officer made the difference between a minimum 10-year jail sentence and a successful career in the NBA.

Taking police out of the schools is not the answer. The recommendation to have officers work in inner city communities for 500 hours to help develop better understanding and relationships is a reason to have more police in schools. Using police to help educate children is equally important. If only one student learns one lesson and avoids one tragic decision having police as teachers will be well worth the effort.

3. PROVIDE MISCONDUCT AVOIDANCE TRAINING TO ALL RECRUITS AND IN ALL REVIEW TRAINING PROGRAMS

Connecticut police need to be trained on issues to reduce alleged misconduct. Many POST courses inform officers on how to perform their duties and thus reduce incidents of misconduct, but there is no specific course identifying past alleged acts involving claims of misconduct and what officers should or shouldn't do to avoid such claims in the future.

We need a practical nuts and bolts course training officers about what to do and what not to do in their everyday tasks to avoid misconduct complaints. We also must focus on how to develop better relationships with members of their communities particularly the children. The course should cover everything from stop and frisk to racial profiling to arrests and searches, duties to protect and operation of vehicles. It should cover all use of force issues from handcuffing to deadly use of force and all other types of potential misconduct. Such a course can be provided to all recruits without any additional cost.

COMMENTS ON RECOMMENDATIONS

ELIMINATE QUALIFIED IMMUNITY FOR POLICE:

The common misconception is that there is a special immunity for police that insulates them in liability cases to the extent that officers who commit egregious acts of misconduct are fully protected from liability. The perception is that this shield from liability serves the officer's personal interests and therefore encourages misconduct. Those condemning this

immunity convey the message that police can brutalize innocent citizens who have no remedy for their harm. **These are gross misrepresentations.**

On June 24, 2020, the Connecticut Supreme Court maintained immunity for officers who make discretionary decisions leading to lawsuits in Borelli v. Renaldi. The Court reiterated the well-established law that municipal employees are liable for the misperformance of ministerial duties requiring duties to be performed in a proscribed manner but have qualified immunity for acts, which require the exercise of judgment.

This case is especially important today where interest groups and politicians are seeking to eliminate qualified immunity for police. The politicians should know that they, as well as all government employees, are entitled to qualified immunity. The debate about qualified immunity focuses on the allegation that police are not being held accountable for misconduct because they are immune from liability. This term the United States Supreme Court denied certiorari in six qualified immunity cases pertaining to 42 USC § 1983 actions. Governmental immunity addressed in Borelli and qualified immunity for § 1983 actions are different but serve the same purposes.

As the Connecticut Supreme Court stated, “Municipal officials are immunized from liability for negligence arising out of their discretionary acts in part because of the danger that a more expansive exposure to liability would cramp the exercise of official discretion beyond the limits desirable in our society...” Society has an interest in allowing public officials to perform discretionary duties “unhampered by fear of second guessing and retaliatory lawsuits...” This same interest is the reason the United States Supreme Court created qualified immunity for § 1983 lawsuits. The Court went further in holding officials have a fundamental right to have qualified immunity decided at the earliest stages of litigation to protect officials from the burdens of litigation. Simply put, these immunities encourage governmental employees to perform their duties without fear of unwarranted lawsuits and allow them to perform their duties instead of spending time and resources defending such claims.

The present attacks on qualified immunity focus on alleged police excessive force. The critics ignore the fact that it is difficult to dispose of a use of force case on qualified immunity because the plaintiff can overcome the defense by showing some disputed issue of fact regarding the reasonableness of the use of force. Therefore, for the *reasonableness* prong of qualified immunity the plaintiff merely has to hang his hat on the possibility that the jury could find the use of force to be unreasonable. Unwarranted lawsuits are eliminated under this prong. The second prong provides immunity if no *clearly established law* would have informed the officers under similar circumstances that her use of force was unreasonable. Because numerous excessive force cases have been decided by the Supreme Court and Circuit Courts most use of force cases have some commonality creating clearly established law. It is relatively rare that an officer will escape liability because his use of force under the circumstances is unique under the particular circumstances.

As a practical matter the argument that removing qualified immunity will reduce excessive force has little merit. Most, if not all states have indemnification statutes for government employees. It is not the police who pay for the judgments or litigation, it is the taxpayers. The legal requirement for police to pay punitive damages is an existing deterrent to egregious excessive force but if such force were found to be egregious the qualified immunity defense would not survive.

A factual review of almost all alleged excessive force cases would reveal some common denominators. The plaintiff has violated the law, the police officer responds and the plaintiff refuses to comply, resists, threatens or attacks the officer resulting in the officer's use of force. The beneficiaries of the elimination of qualified immunity in use of force cases will be the people who violate the law and then commit some of these additional illegal acts. Of course, the elimination of this immunity will be a boon for their attorneys. Who will be the biggest losers? The taxpayers will suffer the burden of paying the litigation costs and settlements or judgments. All of the members of communities will suffer the loss of less effective law enforcement because officers will be reluctant to perform their duties and they will be tied up defending unwarranted lawsuits instead of serving their communities.

The most recent example of a § 1983 qualified case is Jones v. Treubig, decided by our Second Circuit on June 26, 2020. The Court explained that the first step is to determine if the officer's action was unconstitutional. The jury in this case determined Lt. Treubig used excessive force when he discharged a taser a second time. His first taser discharge was deemed reasonable against a resisting arrestee. The second step in the qualified immunity analysis is whether the right at issue was clearly established "—That is, whether it was objectively reasonable for [Lt. Treubig] to believe [his] acts did not violate those rights." " ... this inquiry must be undertaken in light of the specific context of the case, not as a broad general proposition."

The jury found Treubig believed the second deployment was necessary to handcuff Jones, but his mistaken belief did not shield him from liability unless it was objectively reasonable. "It is not the honesty of [the police officer's] intentions that determines the constitutionality of his conduct; rather it is the objective reasonableness of his actions." In other words, it is not the officer's subjective belief that controls but the objective reasonableness of his actions.

This case contradicts allegations that qualified immunity commonly protects officers who commit acts of brutality or that officer are not held accountable. This was not an act of brutality but a use of unreasonable force that was so minor that the arrestee suffered no compensable damages. The jury first came back with an award of thirty thousand dollars in punitive damages but no compensatory damages. After the judge instructed them on the necessity of awarding nominal damages even in the absence of compensable damages, the jury returned with an award of 25¢ in nominal damages.

In summary, the first taser discharge was reasonable but the following taser several seconds later was unreasonable. The arrestee claimed he felt numbness for 30 or 40 minutes, an injury the jury determined did not warrant damages. Was the officer held accountable for this minor use of force? Yes, he was held liable for \$30,000.00 in punitive damages. In Connecticut he would not be indemnified and would be personally responsible to pay all

damages. Jones v. Treubig demonstrates how even in marginal liability cases with little harm plaintiffs can defeat qualified immunity and officers are held accountable.

ENSURING EACH OFFICER COMMITS TO 500 HOURS OF COMMUNITY ENGAGEMENT ACTIVITIES WITHIN CONNECTICUT'S MAJOR URBAN CENTERS PRIOR TO RECEIVING INITIAL OFFICER CERTIFICATION:

The intent of this proposal to provide an experience where officers will learn to understand others is unquestionably worthwhile. Although paying all new recruits and administering such a program may be cost prohibitive some initiative to improve relationships through knowledge and understanding of others should be explored. The Task Force should consider expanding this idea to include having legislators and other government administrators who make decisions about police to participate in ride along programs to better understand what police officers are like and the realities of law enforcement.

1. DEVELOP AN INDEPENDENT EXTERNAL INVESTIGATIVE AUTHORITY; 2. REFORM CITIZEN COMPLAINT PROCESS; 3. MANDATE COMMUNITY OVERSIGHT; 4. REFORM CITIZEN COMPLAINT PROCESS; 5. IDENTIFY STATE LABOR ISSUES THAT PREVENT POLICE ADMINISTRATORS FROM EASILY REMOVING UNFIT OFFICERS:

These 5 recommendations appear to allege that disciplinary processes in Connecticut police departments are inadequate as are appeals to the State Labor Board. Shootings and use of force death investigations are by law undertaken by State's Attorneys. Many other cases of alleged police misconduct are also reviewed by State's Attorneys. Some complaints are false and many others lack merit. Republishing defamatory complaints against officers serves no interest. The cost of an outside agency to investigate disciplinary complaints may be prohibitive.

The question remains as to whether there is evidence of a serious failure to investigate and discipline officers in any particular department. For decades plaintiff counsel have alleged failure to discipline against numerous police departments. There is no qualified immunity for such claims, but none have prevailed and almost all lacked sufficient merit to survive summary

judgment. If there are departments that do not adequately investigate or administer disciplinary matters there may be a more direct, simpler and more cost effective resolution.

Chiefs of police are ultimately responsible for controlling officer misconduct, how their internal affairs investigations are conducted and ultimately what discipline is imposed. In the rare case where an incompetent Chief is covering up misconduct or utterly failing to administer discipline, perhaps a complaint could be made to the State's Attorney and if such failure is found it would amount to just cause for terminating the Chief.

I have been on both sides of arbitrations at the Labor Board and found as a deliberative body they fairly consider evidence presented and generally render balanced decisions. The Task Force review of cases where unfit officer terminations were overturned should be relatively easy as written decisions delineating evidence and the rationale for findings is available. The burden on our judicial system and cost of disciplinary review by our courts may not be the best idea.

The basis for these reforms seems to be the perception that police are not held "accountable" for misconduct. The reality is that officers are subjected to more scrutiny and punishment than probably any other profession. If an officer intentionally lies or commits an act of dishonesty he/she will almost certainly lose his/her career. If an officer responds to a dangerous call, risking his/her life to protect others and is forced to use deadly force that is clearly lawful, justifiable and unavoidable he/she is still placed on administrative duty. Such officers are prevented from doing their jobs or work overtime or private duty jobs. They are subject to criminal investigations even when there is not a scintilla of evidence to create any doubt as to the reasonableness of their actions. Unlike most people they work and live in a media fishbowl subjected to attacks on their integrity and reputations before investigations.

What remedies are available for officers who have committed acts of misconduct? Assume Ofc. A uses excessive force and Ofc. B fails to intervene and Ofc. C who is not in a position to intervene fails to report the use of force.

- All 3 may be subjected to discipline up to and including termination.
- All 3 may be subjected to state tort claims.

- All 3 may be subjected to liability for federal claims.
- If any are found liable for punitive damages they will not be indemnified.
- Ofc. A may be subjected to state prosecution for assault.
- All may be subjected to federal prosecution. Ofc. A for excessive force, Ofc. B for failure to intervene and Ofc. C for obstruction of justice.

The reality is all of these remedies have been imposed on officers in Connecticut. A review of cases should make the Task Force feel comfortable that Connecticut officers are being held accountable.

MAKE IT MANDATORY THAT OFFICERS REPORT MISCONDUCT AND INTERVENE WHEN THEY SEE WRONGDOING WITH CRIMINAL PENALTIES IF THEY FAIL TO DO SO:

Starting in 1983 all recruits received special misconduct/liability avoidance training, which emphasized Duty to Intervene. Officers were taught that they have a duty to intervene whenever they are on notice that another officer is, or is about to violate a person's civil rights. They are taught that this duty applies to excessive force, searches, arrests, investigative stops or any potential constitutional violation. They are also instructed that they must intervene to stop senior officers, supervisors, officers from other departments and even federal agents. They are told that if they fail to intervene they can be disciplined, sued under 42 USC § 1983 and arrested under 18 USC §§ 241 or 242. They are provided with case examples from Connecticut where such sanctions have been brought against officers.

This training continued through 2011 and should be recommenced. The question is whether additional measures need to be taken since the sanctions for failing to report and failing to intervene are in place. The answer to that question may be determined by identifying incidents in Connecticut where people have suffered harm because officers have failed to intervene under existing legal standards.

CHANGING POLICING FROM A "WARRIOR TO "GUARDIAN" CULTURE:

Calling for this “change” falsely communicates to the public that Connecticut police operate under a warrior mentality. This same conversation took place in Connecticut 48 years ago. Starting in 1972, the Hartford Police Department required officers to develop relationships with members of the community. We were required to get out of our cruisers and visit with people in our districts and attend community/police meetings. Community Police positions were created and department substations were established where residents could visit, ask questions and find helping officers. I participated in a National Police Foundation study in the early 1970’s in which we discussed the understanding that police officers are servants of the community. The majority of police work has always been service-oriented and the importance of ensuring good community relations has always been stressed to keep lines of communication open so that citizens would feel comfortable working with police for the benefit of all.

If this initiative is pursued perhaps it should reflect the truth that police have cherished their roles as guardians and want to seek to continue police community relations to ensure that efforts continue to maintain and improve police community relations.

Evidence? Is there evidence that there is a “warrior culture” in Connecticut? The guardian culture is taught in all recruit, and most or all review training programs. While use of force and show of authority and strength are sometimes necessary is there evidence that citizens have suffered any harm due to some alleged warrior culture.

PUBLICALLY ADDRESS THE ROLE OF POLICING IN PAST INJUSTICES:

There is no question that police enforced discriminatory Jim Crow laws from Plessey v. Ferguson, 163 U.S. 537 (1896) to Brown v. Board of Education, 347 U.S. 483 (1954). These laws were created by legislators and reviewed by courts. Unfortunately, police were placed in the position of having to enforce these laws. Although police acting alone have some discretion, the circumstances involving the most visible enforcement of these laws involved officers acting under orders pursuant to legislative mandates affirmed by judicial decisions.

While there were fewer Jim Crow laws in Connecticut and even fewer, if any police

enforcement actions executed by presently employed police, a component of this history should be included in recruit training. In 2016 IACP President Chief Terrence Cunningham, in response to the same recommendation from the President's Task Force on 21st Century Policing, acknowledged and apologized for the actions of the past and the role that our profession played in society's historical mistreatment of communities of color. "At the same time, those who denounce the police must also acknowledge that today's officers are not to blame for the injustices of the past. If either side in this debate fails to acknowledge these fundamental truths, we will be unlikely to move past them."

The Congressional Record includes arguments calling for the passage of the Civil Rights Act of 1871. The advocates recount stories about newly freed slaves and republicans being killed, tortured and beaten because of their race and political affiliation. Local and state government officials participated, supported or acquiesced to these abuses. Although police made arrests the mob mentality throughout the south prevented successful prosecutions of the perpetrators of these discriminatory crimes. President Grant's initiative to bring order and justice to the south led to the enactment of the Civil Rights Act of 1871. There was no rational basis for the mistreatment of blacks or republicans. Such blind hatred and bias against groups of people who are members of certain groups supported by government officials is nothing new. Attacks on groups because of race, ethnicity, religion, political affiliations and even beliefs should not be tolerated. We are now outraged looking back at "Blacklisting" of Hollywood entertainment professionals by the House on Un-American activities because of alleged communist sympathies. Blacklisting goes back to 1639 leading to publically accepted and government supported mistreatment of groups without justification.

The present attack on police is characteristic of the unsupported attack on other groups who have been accused of fabricated personality defects and misconduct. "When one side only of a story is heard and often repeated, the human mind becomes impressed with it insensibly." ~George Washington. Protestors, media and government officials assume widespread racism, police brutality and illegal use of deadly force by Connecticut police. The drumbeat about alleged police misconduct is deafening. It is incumbent on all responsible

government leaders and this Task Force to discover the truth about policing in Connecticut before condemning law enforcement officers by calling out for reforms.

PROHIBIT CHOKEHOLDS AND NECK RESTRAINTS:

POSTC Standard #16 prohibits chokeholds or other neck restraints except when deadly force is justified. The remaining question is whether neck restraints should be prohibited even if deadly force is justified. The history of police use of neck restraints in Connecticut is necessary for an informed decision on this issue.

Prior to the mid-1980's, Connecticut police were trained to use chokeholds in response to any justifiable use of force encounter. In 1983 the United States Supreme Court rejected an injunction on the use of chokeholds but ruled that an excessive force claim could proceed under circumstances where such use of force was not reasonable. City of Los Angeles v. Lyons, 461 U.S. 95 (1983). Since the decision, use of chokeholds has been restricted to a point where this type of force is *rarely used*.

There is no evidence that any person in Connecticut either before or after 1983 has suffered any injury after being subjected to any neck restraint. When considering the validity of the deadly force exception, there can be no argument that if deadly force is justified it would be preferable to subject a suspect to temporary pain by a neck restraint leaving no residual injury than to shoot him.

I was trained to use chokeholds and used the technique in almost every struggle to avoid harming the suspect with my blackjack or baton. In my experience using or observing others, no suspect was ever injured.

The present deadly force exception is reasonable. Enunciating a prohibition sends a false message to the public that there is or has been a misuse of neck restraints in our State and falsely suggests Connecticut officers have caused harm to suspects when using neck restraints. Creating this false negative perception will harm all persons in Connecticut. An absolute prohibition would eliminate a reasonable and if used properly, harmless alternative

to the use of more harmful deadly force alternatives.

PROHIBIT NO KNOCK WARRANTS:

This is another reform to prevent alleged actions that Connecticut police rarely if ever do. Again addressing this as a “reform” communicates an existing problem creating a false perception of Connecticut police. Our State’s Attorneys are far more able to address the scope of Connecticut police seeking and executing no knock warrants. Case law does not evidence a problem. State v. Pelletier, 209 Conn. 564 (1989) was not a no knock warrant case but explained that an officer may dispense with knocking and announcing when the officer reasonably believes that announcing might place him or his associates in physical peril. In that case officers went to arrest Pelletier the day after he had fired a machine gun through the garage door of Purolator Armored Car Company killing 3 guards including an off duty Hartford police officer. I do not think anyone on the Task Force would require officers to stand at the door of Pelletier’s house knocking and announcing when he still possessed the machine gun. The Task Group should also look to the U.S. Supreme Court case of Richards v. Wisconsin, 520 U.S. 385 (1997) requiring officers to believe *exigent circumstances* exist before forcing entry and U.S. v. Banks, 540 U.S. 31 (2003), holding no specific time limit to wait as entry may be made at the moment officers have exigent circumstances. There are some cases from the Second Circuit where federal officers have executed no knock warrants, but a state prohibition may not apply to them. This may yet be another “reform” not needed but sending the false message that Connecticut officers commonly commit misconduct by seeking and executing no knock warrants.

END BROKEN WINDOWS POLICING, INCLUDING ELIMINATING STOPS FOR LOW-LEVEL ADMINISTRATIVE AND EQUIPMENT OFFENSES AND CONSENT SEARCHES OF MOTOR VEHICLES:

The primary reason to stop vehicles for minor motor vehicle offenses including equipment defects is highway safety. Police have no personal interest or desire to stop cars

for equipment violations. They stop these vehicles because the defects make the vehicles less safe. The legislature passed these laws for safety purposes. A tangential benefit to such stops is the secondary offenses including finding people who may have existing arrest warrants. On occasion such criminals are dangerous criminals. Timothy McVeigh, the Oklahoma Bomber who killed 168 people and wounded 680 was found during a motor vehicle stop. Alex Sostre who murdered East Hartford Officer Brian Aselton was detected when his get away driver was stopped for a motor vehicle violation. Consent searches have led to a number of significant arrests. Hartford Detective Campbell found 13,000 baggies of heroine during a motor vehicle stop for motor vehicle offense, when the driver consented to a search (upheld by Second Circuit United States v. Gomez).

We all agree that only legal stops and legal actions should be taken during motor vehicle stops. We also all hope officers act professionally and treat people with respect during such stops. The questions become, *do we want officers to act for the purpose of increasing the safety of the operator driving the defective vehicle and his/her passengers and other travelers of the highway? Do we want officers to effectively enforce laws?* These interests should be balanced against the inconvenience to those violating minor motor vehicle laws.

WE LIVE IN CONNECTICUT AND MUST CONSIDER NECESSARY REFORMS IN THE CONTEXT OF CONNECTICUT POLICING

In 2015 Public Act 15-4 was passed to make changes in law enforcement to deal with issues of alleged police brutality and racism. Little, if anything, has changed over the past 5 years. This is not because the initiatives did not include some fine ideas. It is because there was not significant room for change. The public act was passed in reaction to a few alleged acts of misconduct in other parts of the country. Some of these incidents were justifiable and reasonable but some were not. What they all had in common was that they were widely covered by the media as were the protests against police. These rare instances of alleged misconduct were part of the hundreds of millions of police encounters that occurred during the same years. Another commonality is that the alleged claims did not compare to similar

incidents in our State. There is always room for improvement. We should always strive to recruit and hire the best available candidates and to weed out those not fit to perform the duties of police and fairly punish those who commit acts of misconduct. We should also try to ensure that those who train officers deserve to be certified and in fact, provide quality training on what officers need to know.

The ultimate question is, *is it fair to paint Connecticut police with broad-brush condemnation as racists who shoot men because of race and commit widespread acts of brutality and are not held accountable for their egregious acts?* These allegations are based on isolated incidents in other parts of the country, which, in truth, don't even support the demonization of officers in the municipalities where such incidents occurred. Some will say that the same things happen in Connecticut but rational decision-makers would look for the evidence to support such claims. When there is an act of alleged police brutality or racism there are no secrets. Such alleged acts are widely publicized and sanctions are brought against Connecticut police. Exaggerating issues of alleged police misconduct will exacerbate racial tensions and make our communities less safe.

- THE ATTACK ON POLICE IS UNJUSTIFIED
- THE ATTACK ON POLICE HAS RESULTED IN VIOLENT REACTIONS CAUSING THE LOSS OF LIFE FAR GREATER THAN THE LOSS OF LIFE RESULTING FROM UNREASONABLE POLICE USE OF FORCE.
- THE ATTACK ON POLICE HAS RESULTED IN PHYSICAL INJURY TO INNOCENT PEOPLE, DESTRUCTION OF PROPERTY AND BUSINESSES.
- BLAMING POLICE FOR ALLEGED SOCIAL INJUSTICE IS UNJUSTIFIED.
- GOVERNMENT OFFICIALS WHO ACCEPT THE RHETORIC OF THE MOB AND PRETEND POLICE ARE THE PROBLEM ARE DOING A DISERVICE TO THEIR COMMUNITIES.
- PERPETUATING PERCEPTIONS THAT RACISM AND BRUTALITY IS WIDESPREAD IN POLICING WILL LEAD TO MORE CRIME AND VICTIMIZATION ESPECIALLY IN INNER CITIES.

The worst chapters in human history pertained to the demonizing of groups of people based on false representations of their inferiority or evil ways. Those who spread the lies created fear and the fearful joined the haters and the vilification of the subject group became the truth in the minds of the ignorant crowds. Some political leaders joined the fervent crowds providing legitimacy to false hateful messages until official action was taken against the subject group resulting in shameful harm to the group.

Today's subject group is POLICE. The premise of the hate against police is that officers are killing black men because of their race. That premise has become the focal point of cries for social justice. The killing of Blacks by police is said to represent social injustice in our country. The BLM movement began after the acquittal of George Zimmerman in the death of Trayvon Martin. Police had nothing to do with Martin's death or the acquittal. The movement gained momentum with the death of Michael Brown in 2014. The shooting of Michael Brown was investigated and reviewed by Eric Holder's Justice Department. Holder's agenda at the time was to prosecute more police officers. Still, even Holder's DOJ had to clear Officer Wilson based on evidence finding the shooting to be justified as self-defense. The State's Attorney brought the evidence to a Grand Jury that refused to return an indictment. Neither case supports the premise of police killing black men because of their race.

I previously addressed cases commonly used by the movement to support the premise of Black Lives Matter (BLM) on pages 5-6. We should consider the findings in these cases after investigations and review by legal authorities and juries. There were five convictions of officers since 2014. The lack of successful prosecutions in police shooting cases is the basis for the unjustified claim that police are not held accountable. The allegation of lack of accountability is not made by people who heard and contemplated the evidence and applied the law in these cases. Could it be that all of the independent investigators, prosecutors, judges and jurors of all races and ethnicities in all of these cases are incompetent or racists?

Those who attack police ignore the whole story, assume every use of force is unreasonable and based on racism. Rational people should consider the complete story to properly evaluate what led to the incident, so we can try to identify and remedy any problems.

It is fair to review the officer's history and what he knew at the time he acted. We should fairly assess the objective reasonableness of his perception. We should also consider what brought the parties to the point of conflict. What was the subject's criminal history? What did the subject do that led to the police interaction? What was the subject doing immediately before and during the confrontation?

We must distinguish the sentiment that black lives matter from the BLM organization. Falsely demonizing police will not help build trust and heal the wounds. Unjustifiably attacking police has and will continue to increase crime. Unlike other historical attacks on groups because of race, ethnicity, religion, political affiliations and other discriminatory motivations, the attack on police is not only harming them but has and will cause more harm to the innocent victims in our communities. Who will want to stay in or join law enforcement agencies? What will happen if fewer quality applicants become police? What officers will be willing to actively protect their communities at the peril of the enormous personal risk when public officials and communities do not support them? Do we care about working with police to protect all lives?

It is incumbent upon this task force and all public entities and officials to search for and consider the evidence supporting their decisions. The task group should go beyond the cases previously noted and search for other deadly force incidents concluding that officers unjustifiably killed blacks. If there are more cases they should be considered in the context of national policing and more specifically Connecticut policing. If there aren't significantly more unjustified cases then the perceived systemic problems lack support and we should look outside of police reforms to reduce the perceived problems.

BUILDING TRUST REQUIRES THAT WE TELL THE TRUTH ABOUT THE NATURE OF POLICING.

REDUCING POLICE USE OF FORCE REQUIRES THAT WE REACH OUR CHILDREN FROM KINDERGARTEN THROUGH HIGH SCHOOL WITH COMPREHENSIVE EDUCATIONAL

PROGRAMS SO THEY DO NOT COMMIT CRIMES, ENGAGE IN DANGEROUS ACTIVITIES OR OTHER RISKY BEHAVIORS THAT LEAD TO CONFRONTATIONS.

Our efforts should be directed toward developing better relationships so that we can work together to make our communities safer. Most importantly, we should exploit the knowledge and experience of police to help our children make better life decisions. Unjustifiably condemning police and filling our children's minds with hate for police is counterproductive and dangerous.

Respectfully submitted,

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PRELIMINARY

LCO-3471

AN ACT CONCERNING POLICE ACCOUNTABILITY.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 21 \$	FY 22 \$
Criminal Justice, Div.	GF - Cost	616,239	821,652
Department of Emergency Services and Public Protection	GF - Potential Cost	25,000-50,000	50,000-100,000
State Comptroller - Fringe Benefits ¹	GF - Cost	283,174	377,565
Comptroller - Adjudicated Claims Account	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Correction, Dept.	GF - Potential Cost	See Below	See Below
Office of the Chief Medical Examiner	GF - Cost	30,000	40,000
Treasurer, Debt Serv.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 42.09% of payroll in FY 21 and FY 22.

Primary Analyst: AN
Contributing Analyst(s): DC, DD, EMG, PR

7/17/20

Municipal Impact:

Municipalities	Effect	FY 21 \$	FY 22 \$
Various Municipalities	STATE MANDATE ² - Cost	At least \$4 million	At least \$4 million
Various Municipalities	Potential Revenue Gain	See Below	See Below

Explanation

This bill changes freedom of information law related to contract agreements, establishes an office of the Inspector General, places numerous requirements on state and municipal police departments, and will result in a net cost to both state agencies and various municipalities.

Sections 1-2 require all state police officers appointed after the effective date of the bill to obtain certification by the Police Officers Standards and Training Council (POST). There is no cost anticipated from this requirement.

Section 3 requires POST to create a statewide policy concerning mental health evaluations. Any fiscal impact to the state or municipalities would depend on the regulations developed by POST regarding mental health assessments.

This section also requires that state and municipal police officers pass a urinalysis test to receive POST recertification after a lapse in employment. The cost to POST to conduct these tests is expected to be less than \$5,000 annually, with each test costing approximately \$50.

Sections 5-6 require that POST, in conjunction with the Department of Emergency Services and Public Protection (DESPP) and the Chief's State Attorney, develop regulations regarding crowd management for state and municipal police departments and that any basic training programs for police include such regulations. Any cost to the state or municipalities would depend on the regulations adopted.

² State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

Section 7 requires that police training programs include implicit bias training. As training programs already include other bias training requirements, there is no anticipated cost from this section.

Section 8 states that the Freedom of Information Act shall prevail over provisions of a collective bargaining agreement or arbitration award if they are in conflict. This has no fiscal impact.

Section 9 states that any collective bargaining agreement with DESPP shall not include language that prohibits the disclosure of any disciplinary action based on a violation of the code of ethics contained in the personnel file of a sworn member of said division. This has no fiscal impact.

Sections 10-11 require that certain municipal law enforcement units and POST report their efforts in recruiting and retaining minority police officers. It is expected that these reports can be completed within existing resources.

Section 12, which extends the date of the task force report to January 2021 and adds certain requirements to be included in said report, has no fiscal impact.

Section 13, which alters the membership of the Police Officer Standards and Training Council, has no fiscal impact.

Section 16 requires that all state and municipal police officers receive mental health assessments by a licensed psychiatrist once every five years. It is anticipated that mental health assessments will cost DESPP and municipal police departments between \$300-\$500 per officer if the policies developed by POST per Section 3 of this bill require employers to fully cover costs.

The total cost to DESPP is anticipated to be between \$50,000-\$100,000 annually to provide mental health assessments to 20% of its sworn troopers. The cost to each municipality will vary based on how many officers are employed. For large cities, the cost is expected to be at least \$20,000 annually.

Section 17 allows towns to establish police civilian review boards. There is no fiscal impact associated with provision. The bill does not mandate any staffing or resource requirements for these boards.

Section 18 requires that each municipal law enforcement department evaluate the benefits of using social workers during emergency response situations and provide a report to POST. It is anticipated that these reports can be completed within existing resources.

Sections 19-20 require the use of body worn cameras and dashboard recording devices by all state and municipal police officers and increase the reimbursement rate for related costs to municipalities by the Office of Policy and Management (OPM). It is estimated that the total cost to municipalities that have yet to purchase these devices is at least \$8 million, less all grants-in-aid provided for reimbursement.

To date, OPM has expended approximately \$6.2 million in general obligation (GO) bond funding to provide grants-in-aid to municipalities for the purchase of body worn camera and dashboard recording devices and their associated data storage costs. Under current law, reimbursement rates for such costs are 50% or 100%, depending on the timing of purchases. This bill requires 100% of the costs to be reimbursed by OPM. Costs related to data storage are expected to total at least \$4 million annually for the remaining municipalities and are not reimbursable after the first year.

It is estimated that 53 municipal police departments, representing approximately 3,970 (53%) of all municipal officers will need to purchase body worn cameras at a total cost of approximately \$4 million. It is unknown how many additional dashboard cameras police departments will need to purchase to conform with the provisions of this section.

There is currently approximately \$3.6 million in unallocated bond authorizations left for the OPM reimbursement program, of which \$3 million is reserved for DESPP. Therefore, it is anticipated that current funding available for reimbursements to municipalities will not be enough to cover costs associated with new requirements.

This section is not expected to result in any additional costs to DESPP, as they are currently in the process of outfitting all officers with body worn camera devices.

This section does not change GO bond authorizations relevant to the program. Future General Fund debt service costs may be incurred sooner under the bill to the degree that it causes authorized GO bond funds to be expended more rapidly than they otherwise would have been.

Sections 21- 22 provide further definition for law enforcement searches and probable cause and does not result in a fiscal impact.

Section 23 requires the Division of Criminal Justice and the Judicial Department to prepare a plan for prosecutorial review and does not result in a fiscal impact.

Sections 24-27 increase the penalty for falsely reporting an incident in certain circumstances. Violations of this provision may result in a potential cost for incarceration or probation and a potential revenue gain from fines assessed. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800¹ while the average marginal cost for supervision in the community is less than \$700² each year. There are zero people currently incarcerated under these charges, 60 people on probation, and \$1,185 in fines collected in FY 19.

Section 28 increases the penalty for misuse of the emergency 9-1-1 system in certain circumstances. Violations of this provision may result in a potential cost for incarceration or probation and a potential revenue gain from fines assessed. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800³ while the average marginal cost for supervision in the community is less than \$700⁴ each year. There are zero people currently incarcerated under these charges, 5 people on probation, and no fines collected in FY 19.

Section 29 provides additional definitions for the justification of the use of deadly physical force and does not result in a fiscal impact.

³ Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

⁴ Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

Section 30 charges police officers with hindering prosecution if they are aware of and don't report another officer using excessive force. To the extent that violations occur, this provision may result in a potential cost for incarceration or probation and a potential revenue gain from fines assessed. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800¹ while the average marginal cost for supervision in the community is less than \$700² each year.

This section also prevents police departments from taking retaliatory action against police officers who report unreasonable, excessive, or illegal use of force, and requires the Office of Policy and Management to create an annual report concerning such incidents. This has no fiscal impact.

Sections 33-35 create an Office of the Inspector General within the Division of Criminal Justice (DCJ) for administrative purposes only and results in a FY 21 cost of \$616,239 for seven positions and associated costs of \$2270,424 to the State Comptroller (OSC) for fringe benefits. The full year annualized costs are \$821,652 to DCJ and \$360,565 to OSC in FY 22. It is anticipated that the newly created Office of the Inspector General would require an Inspector General and a staff of five, including a senior Assistant State's Attorney, two Inspectors, a forensic analyst, and a paralegal. It is estimated that the office will conduct less than five full investigations annually. Not included in this estimate is any cost DCJ may incur for separate office space. This cost is dependent on available state office space that may be available or other space that may need to be leased.

This office will investigate all instances of deadly force and where physical force by a peace officer results in death. In addition, it will be the duty of the office to prosecute any case where the finding is not justifiable and make further recommendations concerning the peace officer in question to the Police Officers Standards and Training Council.

Sections 36-37 amend current statute to a) require the Office of the Chief Medical Examiner (OCME) to investigate "any [human] death that occurs while the deceased person is in the custody of a peace officer or a law enforcement agency or the Commissioner of Correction", b) expand the list of entities that can require an autopsy to be performed by OCME to include the Office of the Inspector General, and c) require OCME to go to the scene of the event of any "death that occurs while the deceased person is in the custody of a peace officer or a law

enforcement agency or the Commissioner of Correction" and take charge of the body. Existing law requires scene investigations in cases of an apparent homicide, suicide, or accidental deaths for which the causes are obscure.

These provisions are expected to result in cost of approximately \$40,000 to OCME annually for a 0.5 FTE Special Investigator and an addition \$17,000 annually to OSC for fringe benefits.

Sections 38-39 expand the prohibition of the use of quotas by municipal police departments. This has no fiscal impact to the state or municipalities.

Section 40 requires the state and municipalities to sell or otherwise dispose of any controlled equipment they possess. The fiscal impact depends on the ability of state or municipal police departments to sell such equipment. Any equipment that could be sold would result in a potentially significant revenue gain. Any equipment that had to be disposed of could result in a cost associated with such disposal.

Section 41 results in a potential cost to the general fund and municipalities from eliminating qualified immunity as a valid defense in any civil suit brought against either party. Any potential costs would vary based on the amounts awarded to plaintiffs and the number of suits brought annually against either party. Payments from court orders by the state are paid out of the Adjudicated Claims Account within the State Comptroller's Office.

This section results in no fiscal impact to the Judicial Department as the court system disposes of 400,000 cases annually.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

TOWN OF



PLAINVILLE

ONE CENTRAL SQUARE, PLAINVILLE, CONNECTICUT 06062

TO: Robert Lee

FROM: Cal Hauburger

SUBJECT: Draft RFQ – Former White Oak Construction Brownfield Redevelopment

DATE: July 8, 2020

I'm attaching a draft request for qualifications (RFQ) for the Council's information. The RFQ is aimed at engaging development firms for the purchase, remediation, redevelopment and marketing for the White Oak property. After conversations with Mark Lewis of DEEP, and Don Friday of DECD, an RFQ is the logical next step in the project and will move the Town closer to our goal of seeing the property become a multi-use anchor tenant in the downtown.

Please note that the RFQ is written with the assumption that the Town has received approval from DEEP for a groundwater reclassification, acceptance into the state's Abandoned Brownfield Cleanup Program, applied for and received Brownfield remediation grant funds, and has taken title of the property.

The two state applications are currently in the review process. There is correspondence included following the draft RFQ as to the state of both as of July 1, as well as the steps the Town will need to take in order to enroll in the state's voluntary remediation program. A notice of grant funding has yet to be received from the Bond Commission as meetings have been delayed due to COVID, but we've been told by DECD staff that it should be announced during the end of summer or beginning of fall.

The RFQ will be finalized and solicited after receiving approvals and acceptances from the state. A pre-bid site walk through will be held prior to the submission deadline. After RFQ responses are received, staff will review submissions, create a "short-list" of developers, and engage these developers through a separate request for proposal (RFP) process where, in addition to the conceptual submissions submitted via the RFQ, they will submit a financial component illustrating an ability to produce or acquire financing for each step of the purchase, remediation, redevelopment, and marketing of the White Oak property.

As there are multiple moving components, details of the document are subject to change, however, I did want to provide a project update to both yourself and the Council. Please let me know if you have any questions.

Request for Qualifications #2020-15

Town of Plainville, CT



Former White Oak Construction Brownfield Redevelopment

One & Sixty-Three West Main Street, Plainville, CT 06062



**Issued by:
Town of Plainville, CT**

Date: _____

Due: _____

GENERAL OVERVIEW

PROJECT SUMMARY: The Town of Plainville (“Town”) is seeking a qualified and experienced development team for the purchase, remediation, and redevelopment of a 14.59-acre Town-owned Brownfield parcel located at 1 & 63 West Main Street, Plainville, CT 06062 (“Site”). The Town encourages creative proposals supported by market analysis conditions that achieve the Remedial Action and Redevelopment Plan’s vision for a vibrant, mixed-use anchor development in the downtown area. Alternative concepts and uses will be considered so long as they meet the general vision of the Plans noted above and can generate significant economic activity in the downtown area.

SITE INFORMATION: 1 & 63 West Main Street, Plainville, CT 06062

14.59 acres

The site is developed with three (3) individual structures totaling approximately 50,000 square feet of industrial space and 10,500 square feet of office space over two floors.

Owner: Town of Plainville – purchased for value of back taxes

SITE CONDITION: Completed Phase 1, 2, 3 environmental site assessments. Completed Hazardous Building Material Investigation, Floodway Assessment, three (3) conceptual redevelopment scenarios, Potential Reuse Study, and Remedial Action Plan.

The Site has also received a groundwater reclassification approval from CT DEEP, going from GA to GB, and has been accepted into the Abandoned Brownfield Cleanup (ABC) Program. Please note, the chosen developer will need to re-apply, and gain acceptance, into the ABC Program as well as enroll in one of the State’s voluntary remediation programs.

ZONING: The property is currently zoned as General Industrial (GI). The Planning & Zoning Commission has discussed the possibility of rezoning the parcel to Central Commercial (CC), matching the rest of the downtown district, as well as having identified the property as a Planned Development District (PDD), (Plan of Conservation and Development, 2019, p.55-57).

RESOURCES: The following documents are available by clicking on the respective links below.

Phase 1 Environmental Site Assessment (Will get finalized draft from LEA when appropriate. Give 24-48hrs notice for fileshare link)

[Phase 2 & 3 Environmental Site Assessment](#)

[Well and Sensitive Receptor Surveys](#)

[Remedial Action Plan](#)

[Potential Reuse Report](#)

[Hazardous Building Material Investigation, Hazardous Roof Materials](#)

[Floodway Assessment](#) and pending updated FEMA maps

Conceptual Redevelopment Scenarios ([A](#), [B](#), [C](#)) – B was chosen by Town Council as preferred outcome of the three.

Ground Water Reclassification notification

Notice of Acceptance into Abandoned Brownfield Cleanup program

CONTACTS: For inquiries related to this RFQ, please contact:

Cal Hauburger, Economic Development Coordinator - hauburger@plainville-ct.gov

REQUEST FOR QUALIFICATIONS
COVER SHEET
TOWN OF PLAINVILLE
RFQ # 2020-15
PLAINVILLE, CONNECTICUT 06062

RFQ NUMBER: 2020-15

ISSUED:

DATE OF BID OPENING:

TIME OF BID OPENING:

LOCATION OF BID OPENING: Town Manager's Office

SUMMARY DESCRIPTION OF BID: Request for Qualifications for Brownfield Remediation and Redevelopment located at One and Sixty-Three West Main Street, Plainville, CT 06062

Sealed responses will be received at the Office of Town Manager, Town Hall, 1 Central Square, Plainville, Connecticut until [Date and Time] listed above at which time the responses will be opened and reviewed by Town staff. Late responses will not be accepted – no exceptions. Submittal of response by fax is not acceptable.

Questions regarding this RFQ may be directed to Cal Hauburger, Economic Development Coordinator by email only at hauburger@plainville-ct.gov.

The Town Manager, his designee, or Department Head may reject or accept any or all responses in whole or in part or to waive any informality in the responses received if, in his/her opinion, it is in the best interests of the Town to do so.

Responses may be held by the Town of Plainville for a period not to exceed 2 months from the date of the bid opening for the purpose of reviewing the submissions and investigating the qualifications of the bidder prior to awarding the contract.

Please submit three (3) hard copies plus one electronic copy on a flash drive of all completed and required RFQ submission materials and attachments.

INSTRUCTIONS TO VENDORS & GENERAL CONDITIONS

All Vendors shall observe the following instructions and specifications:

1. RFQ COMPLIANCE

Responses shall be submitted on the enclosed forms. Incomplete forms may be cause for disqualification of the RFQ. The authorized Representative/Agent of the vendor must sign the response. **Please submit three (3) hard copies plus one electronic copy on a flash drive of all completed RFQ submission materials outlined in “Section 17 Submittal Documents” and all attachments included at the end of the bid packet.**

The Town of Plainville shall be the sole judge as to whether any and all responses comply with these specifications, and as such a decision shall be final and conclusive. Vendors shall state any exceptions taken to the specifications.

2. RFQ SUBMISSION

The information requested in this Request for Qualifications must be identified as **“RFQ #2020-15 Former White Oak Construction Brownfield Redevelopment”** and must be submitted with three (3) hard copies plus one electronic copy on a flash drive and be addressed to **Robert Lee, Town Manager, Town of Plainville, One Central Square, Plainville, CT 06062**, and received no later than **DAY, DATE at TIME**. Late responses will not be considered. All costs incurred in the preparation and presentation of the RFQ shall be wholly absorbed by the respondent. Any material submitted shall become property of the Town of Plainville and is available for review under the Freedom of Information Act.

3. WITHDRAWAL OF RESPONSES

Responses may be withdrawn personally or in writing (letter form or faxed) by the prior to RFQ opening.

4. RIGHT OF REJECTION

The Town Manager, their designee, or Department Head may reject or accept any and all responses in whole or in part or to waive any informality in responses received if in their opinion, it is deemed in the best interest of the Town to do so.

5. FAMILIARITY WITH LAWS, SITE CONDITIONS AND DOCUMENTS

Each respondent is required to be familiar with and to comply with the terms and conditions of the specifications and all other contract documents and with all Federal, State and Local Laws, Ordinances or Regulations which in any manner relate to the furnishing of the equipment, material or services in accordance with the Contract. Each respondent shall thoroughly familiarize themselves with all conditions of the bid documents and specifications before preparing their

response. The submission of a response shall be construed as an assurance that such examination has been made, and the failure of the respondent to familiarize themselves with conditions related to the specifications shall in no way relieve any respondent from any obligation in respect to this bid.

6. QUALIFICATIONS OF VENDER

The Town may make such investigations as it deems necessary to determine the ability of the respondent to perform the work. The respondent shall furnish to the Town all such information necessary to complete this investigation as the Town may request. The Town reserves the right to reject any bid if the evidence submitted by, or investigation of the respondent fails to satisfy the Town that such respondent is qualified to carry out the obligations of the contract and to the work contemplated therein.

7. ERRORS, INTERPRETATIONS AND ADDENDA

Should the respondent find any omissions, discrepancies or errors in the specifications or other RFQ documents or should they be in doubt as to the meaning of the specifications or other RFQ documents, they should immediately notify the Town, which may correct, amend or clarify such documents by a written interpretation or addendum. All information given by the Town except by written addenda shall be informal and shall not be binding upon the Town nor shall it furnish a basis for legal action by any respondent against the Town.

8. INDEMNIFICATION

The respondent shall at all times indemnify and hold harmless the Town of Plainville and its officers, agents and employees on account of and from any and all claims, damages, losses, judgments, workers' compensation payments, litigation expenses and legal counsel fees arising out of injuries to persons (including death) or damage to property alleged to have been sustained by (a) officers, agents and employees of the Town of Plainville or (b) the respondent, their subcontractors or material men or (c) any other person, which injuries are alleged to have occurred on or near the work or to have been caused in whole or in part by the acts, omissions or neglect of the respondent or their subcontractor or material man or by reason of his or their use of faulty, defective or unsuitable materials, tools or equipment of defective design in constructing or in performing the work. The existence of insurance shall in no way limit the scope of this indemnification. The respondent further undertakes to reimburse the Town of Plainville for damage to property of the Town of Plainville caused by the respondent, or their employees, agents, subcontractors or material suppliers or by faulty, defective or unsuitable material or equipment used by him or them.

The respondent shall hold and save the Town and its officers, agents, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process article, or appliance manufactured or used in the performance of the contract, including its use by the Town unless otherwise specifically stipulated in this bid.

9. RISK OF LOSS

Respondents agree to bear all risk of loss; injury or destruction of goods and material ordered herein which occurs prior to acceptance. Such loss, injury or destruction shall not release the bidder from any obligation under this bid. Delivery shall be F.O.B.

10. GRATUITIES

The Town may, by written notice to the respondent, cancel the contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the respondent or any agent or representative of the respondent, to any officer or employee of the Town, amending, or the making of any determinations with respect to the performing of such contract. In the event the Town pursuant to this provision cancels this contract, the Town shall be entitled, in addition to any other rights and remedies, to recover or withhold from the respondent the amount of the gratuity.

11. ENVIRONMENTAL CERTIFICATIONS (when applicable)

If the contract entails any exposure to a regulated material including but not limited to asbestos or lead, the respondent certifies that it and each of its subcontractors and their workers will be certified and trained under all OSHA and other relevant regulations for such work.

12. PURPOSE

The Town of Plainville is seeking a qualified and experienced development team for the purchase, remediation, and redevelopment of a 14.59-acre Town-owned Brownfield parcel located at 1 & 63 West Main Street, Plainville, CT 06062 (formerly White Oak Construction). The Town encourages creative submissions supported by market analysis conditions that achieve the Remedial Action and Redevelopment Plan's vision for a vibrant, mixed-use anchor development in the downtown area. Alternative concepts and uses will be considered so long as they meet the general vision of the Plans noted above and can generate significant economic activity in the downtown area.

13. OVERVIEW

In November of 2017, the Department of Economic and Community Development awarded the Town of Plainville a Brownfield Assessment Grant in order to hire an LEP to complete a Phase One, Two, and Three Environmental Site Assessment, a Hazardous Building Material Inspection, Sensitive Receptor Survey, and planning items that included a Remedial Action Plan (RAP), Planning-Reuse Study, and Floodway Assessment of the former White Oak Corporation Construction Company. To date, all testing has been completed and final reports are available by clicking the links listed at the beginning of this bid packet.

Additionally, the site has received approval from CT DEEP for a groundwater reclassification, going from GA to GB, and has been accepted into the State's Abandoned Brownfield Cleanup (ABC) program, allowing the Town to take title of the Site. Please note, the selected respondent

will need to apply, and be accepted into, the ABC program separately, as well as enroll in one of the State's voluntary cleanup programs. Ideally, the Town would like to see the site become a mixed-use development, that closely relates to the described end goal of the RAP, serving as an anchor tenant in the downtown area.

Although currently zoned General Industrial (GI), discussions have occurred among the Planning and Zoning Commission about rezoning the property to Central Commercial (CC), matching the rest of the downtown area, or accepting the site as a Planned Development District (PDD), as identified in the Plan of Conservation Development, allowing for creative redevelopment of the property and individualized zone standards and regulations as approved by the Planning and Zoning Commission.

14. HISTORY

One & Sixty-Three West Main Street in Plainville, CT is an approximate 14.59-acre property located on the north side of West Main Street in Plainville's downtown. The site is developed with three (3) individual structures totaling approximately 50,000 square feet of industrial space and 10,500 square feet of office space over two floors. The buildings were constructed and/or added on to at various times since 1920.

The most recent use of the property was the White Oak Corporation, a former highway/bridge construction firm that has been out of business since the early 2000s and hadn't had contractual obligations for longer. The initial use of the property was for the Plainville Strand Theatre and attached retail shops. While dated, a survey of the site can be found here: Site Plan.

In November of 2017, the CT Department of Economic and Community Development awarded Plainville a Brownfield Remediation Grant in the amount of \$200,000. These funds allowed for Loureiro Engineering, the selected LEP, to complete a Phase One, Two, and Three Environmental Site Assessment, a Hazardous Building Material Inspection, Sensitive Receptor Survey, and planning items that included a Remedial Action Plan (RAP), Planning-Reuse Study, and Floodway Assessment of the former White Oak Corporation Construction Company. All reports can be found through the links at the beginning of the bid packet.

15. PROJECT SCHEDULE

The Town understands Site contamination, its extent, and possible paths to remediation, along with estimated clean-up costs, and possible redevelopment scenarios provided by our LEP. An application for additional remediation funding through the CT DECD's Brownfield Municipal Grant Program has been completed, allowing the Town to provide remediation funds to the project. It is not the Town's desire to maintain ownership of the property for a long period, nor to serve as a landlord. In such light, the Town would like to form a public-private partnership with a development team to acquire, remediate, and redevelop the property into a desirable mixed-use anchor tenant in the downtown district as soon as possible.

The Town of Plainville will review qualifications and submittals of respondents. After reviewing, the Town will select a short list of "preferred developers". These preferred developers will be scheduled a time to meet and interview with Town staff. The Town will be responsible

for selecting a developer and negotiating the eventual disposition of the development site under mutually beneficial terms. Depending on the number and quality of responses, the Town reserves the right to request additional information from some or all respondents, or to issue additional information requests to advance the review process.

16. CONSULTANT SELECTION

Respondents to this RFQ will represent a firm possessing experience and expertise in mixed-use site redevelopment, especially as it relates to the redevelopment of a Brownfield property. Additionally, respondents should have a good working relationship and be in good standing with CT DECD and CT DEEP. Each proposal will be evaluated by the Town upon the following criteria:

Project Approach:

- Compliance with the RFQ submission requirements
- Clear and comprehensive submittal
- Rational, detailed, and thorough approach to implementation
- Degree to which the project complies with local plans

Team Qualifications and Experience:

- Demonstrated experience in completing similar projects
- Strength of team including project management, engineering, architectural design, construction, financial management, post-construction marketing, etc.
- Team's knowledge and experience with redevelopment of Brownfield sites, and remediation of hazardous and/or regulated materials
- References for similar projects

Project Viability, Ability to Execute Project Schedule:

- Demonstrated project marketability
- Evidence to support project financing
- Demonstrated on-time completion of past projects
- Ability and willingness to accept and implement Town and public input

Benefit to Town:

- Financial offering and benefit to the Town, including increase to tax base upon full build out
- Quantitative and qualitative benefits to the Town
- Building design and efficient use of property
- Other community benefits (public use, amenities, "sense of place", other)

17. SUBMITTAL DOCUMENTATION

Respondents are required to provide three (3) hard copies of their submission plus one electronic copy on a flash drive. Each submission must contain all information as outlined below as well as the attachments found at the end of this bid packet. Relevant supplemental information will be accepted within and in addition to the submission format. Submissions that omit requested information may be subject to disqualification.

Title Page: Respondent's firm name, RFQ title, and date of submittal

Letter of Introduction: Provide a brief description of the organization, year established, number of employees at the firm, and type of business services offered. Also provide a name, address, and contact information of firm and/or individual responding to the solicitation.

Experience and References: Provide a list (and corresponding contact information) of a minimum of three (3) projects, Brownfield or otherwise, with similar development criteria, environmental sensitivity, and location characteristics, with a short description of each project, work completed, budget, and project length.

Please also include the resumes of key individuals that will be assigned to this project. If subcontractors planned to be used, please include contact information for them as well.

Financial Viability: Provide a statement and worksheet to indicate the firm's financial capability to accomplish the project should it be selected.

Narrative Description of Project: A broad narrative description of the proposed development concept, illustrating the firm's understanding of the Town's desires, previously established environmental concerns and conceptual redevelopment ideas that culminate in the firm's vision for the site. The description can include proposed use of site, scale of development, use of existing infrastructure and/or development of new infrastructure, and quantitative and qualitative projections and impact/benefit to the Town.

Conceptual Site Plan: A draft site plan based on the above narrative to assist in the visualization of the site's development. Can include new/repurposed building use and design, configuration, size, height, number of units, traffic circulation, road improvements and parking, etc.

Development Team: An overview of the firm's abilities as it relates to project management, architectural design and engineering, construction management, relationships with general contractors, and post-construction marketing team. Define whether these parties exist within the firm, or if they are contracted out. If contracted out, please provide contact information for each firm.

Completion of Town Documents: For your bid to be considered complete, respondents must also complete an Affirmative Action Statement and Non-Collusive Statement. Both forms are included at the end of this bid packet.

18. ABOUT PLAINVILLE

The Town of Plainville, CT has a rich heritage of commercial activity, hard work, and community spirit. Ours is a small, business-friendly community in the heart of Connecticut – approximately 12 miles southwest of Hartford. The Town of Plainville encompasses approximately 9.6 square miles and a population of over 17,500, balanced between single-family residential neighborhoods and a wide variety of manufacturing businesses. The Town is bordered on the west by Bristol, on

the north by Farmington, on the east by New Britain, and on the south by Southington – giving immediate access to a population to roughly 200,000 people. With easy access to Interstates 84 and 91, State routes 72 and 9, and nearby access to the CT Fastrack bus line, Plainville, and the White Oak property, offers easy access to a significant portion of the State. Plainville has a median household income of \$62,459 and a median home sale price of \$205,400. Comparison data for the aforementioned towns can be seen below.

Employment Information					
Municipality	Jobs in Municipality	Jobs/Housing Balance	Median HH Income	Per Capita Grand List	Percent Business Tax Base
Berlin	11,725	1.43	\$93,328	\$160,094	17.4%
Bristol	22,345	0.91	\$64,586	\$92,429	18.5%
Farmington	31,126	3.09	\$94,785	\$208,413	21.6%
New Britain	24,848	0.87	\$43,611	\$50,329	15.5%
Plainville	9,730	1.21	\$62,459	\$107,492	21%
Southington	16,850	0.92	\$90,796	\$127,262	12.9%
State	n/a	1.11	\$73,781	n/a	n/a

Plainville POCD (2019), Advance CT

Housing Information					
Municipality	Percent Single Family	Percent Owner Occupied	Average Household Size	Median Sales Price	Affordable Housing
Berlin	79%	85.3%	2.51	\$281,100	8.8%
Bristol	55.6%	65.1%	2.43	\$190,500	13.6%
Farmington	61.5%	72.9%	2.47	\$327,900	7.7%
New Britain	30.9%	40.8%	2.62	\$156,800	18.2%
Plainville	60.2%	69.1%	2.38	\$205,400	6.4%
Southington	71.2%	82.5%	2.55	\$271,900	5%
State	59%	67%	2.66	\$270,100	11.3%

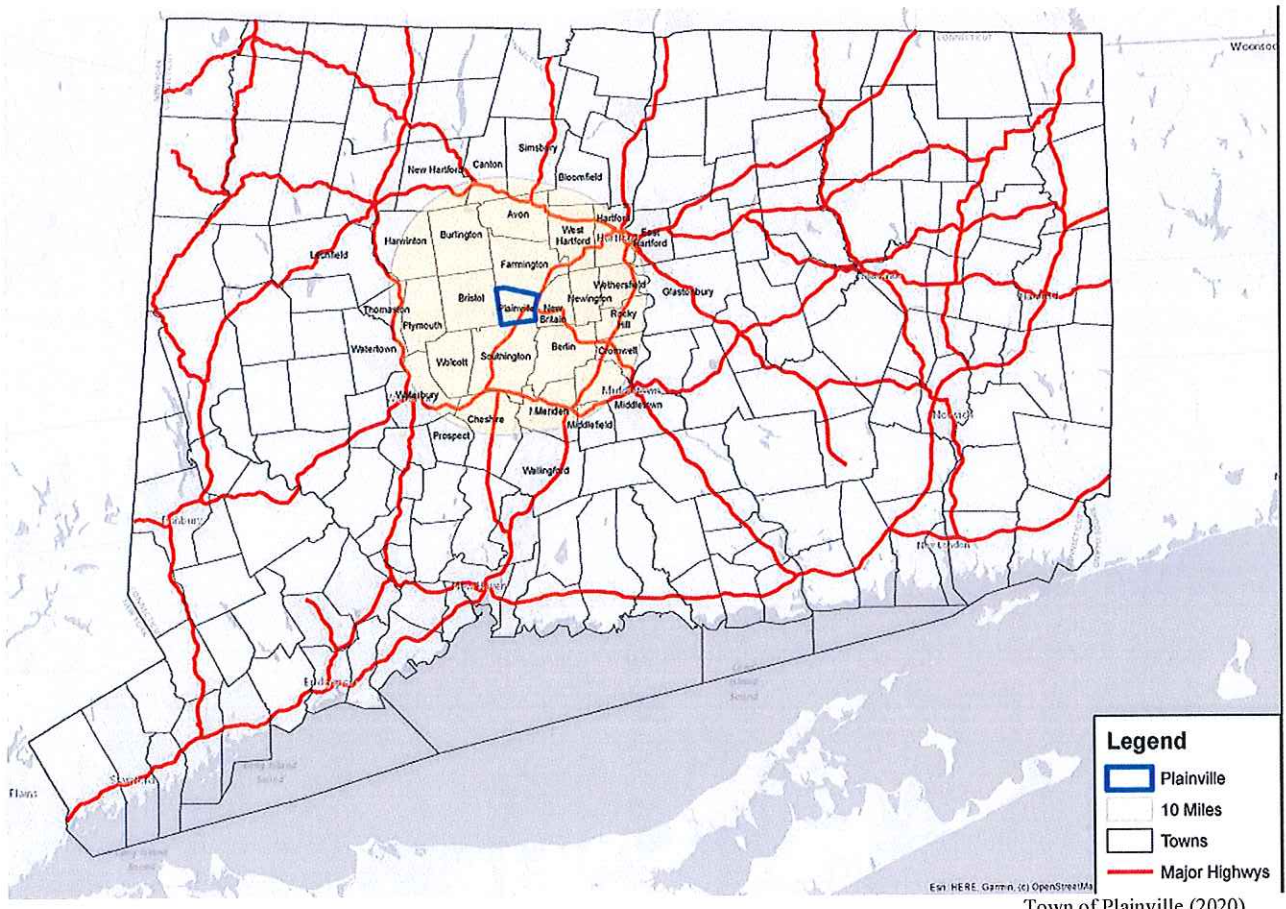
Advance CT (2019), DOH (2018)

Median Rental Cost vs. County, State	
Berlin	\$1,118
Bristol	\$950
Farmington	\$1,277
New Britain	\$956
Plainville	\$995
Southington	\$1,042
County	\$1,044
State	\$1,123

Advance CT (2019)

Age Distribution (% of pop.)							
Municipality	0-4	5-14	15-24	25-44	45-64	65+	Median Age
Berlin	654 (3%)	2,403 (12%)	2,905 (10%)	3,915 (19%)	7,149 (35%)	4,368 (21%)	49
Bristol	2,931 (5%)	7,289 (12%)	7,344 (12%)	16,275 (27%)	17,069 (28%)	9,590 (16%)	40
Farmington	1,176 (5%)	2,923 (11%)	2,923 (11%)	6,028 (24%)	7,069 (28%)	4,751 (19%)	44
New Britain	4,471 (6%)	10,984 (15%)	10,984 (15%)	21,128 (29%)	17,270 (24%)	9,607 (13%)	34
Plainville	993 (6%)	1,967 (11%)	1,967 (11%)	4,708 (26%)	5,442 (31%)	3,041 (17%)	43
Southington	2,255 (5%)	4,823 (11%)	4,823 (11%)	9,790 (22%)	12,171 (30%)	8,733 (20%)	45

Advance CT (2019)



Town of Plainville (2020)

10 Mile Radius Data

Population: ~808,000
 Average Median HH Income: ~\$79,000
 Labor Force: ~413,232
 College Educated (Bachelor & Higher): ~175,000

Advance CT (2019)

19. PRE-BID SITE WALK THROUGH

There will be an optional pre-bit walkthrough of the site on [date/time] and [secondary time slot]. A rain date of the event will be [date/time]. In order to maintain compliance with State Executive Orders related to social distancing, there will be a cap of each walkthrough time slot of 20 people. Preregistration will be required and can be completed by emailing Cal Hauburger, Economic Development Coordinator, at hauburger@plainville-ct.gov. Every effort will be made to accommodate developers' preferred time slot, but reservations will be handled on a first come, first serve basis. All questions will be recorded, and responses will be made available to all RFQ respondents by the Town.

TOWN OF PLAINVILLE

**AFFIRMATIVE ACTION STATEMENT
CERTIFICATION OF BIDDER**

Concerning Equal Employment Opportunities and/or Affirmative Action Policy

The bidder certifies that it:

- 1) Is in compliance with the equal opportunity clause as set forth in the Connecticut State Law.
- 2) Does not maintain segregated facilities.
- 3) Has filed required employer's information reports.
- 4) Lists job openings with Federal and State Employment Services.
- 5) It is in compliance with the American with Disabilities Act.

Check Appropriate One:

- Yes/bidder certifies to having an Affirmative Action Program.
 Not applicable/bidder employs 10 or less people.

Company Name

Date

Name & Title (Printed)

Signature

TOWN OF PLAINVILLE
NON-COLLUSIVE STATEMENT

RFP for: Private Developers for Brownfield Remediation and Redevelopment: One & Sixty-Three West Main Street, Plainville, CT

The undersigned firm, having fully informed themselves regarding the accuracy of the statements made herein certifies that:

- a. The proposal has been arrived at by the firm independently and has been submitted without collusion with, and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment or services described in the request for proposals designed to limit independent bidding or competition, and;
- b. The bidder has not communicated the contents of the proposal to its employees or agents to any person not an employee or agent of the firm or its surety on any bond furnished with the proposal and will not be communicated to any such person prior to the official opening of the proposal.

The undersigned firm further certifies that this statement is executed for the purpose of inducing the Town of Plainville to consider the proposal and make an award in accordance therewith.

Please complete & sign

Legal Name of Firm	
Business Address	
Name & Title of Authorize agent	
Signature	
Date	
Phone # & Fax #	

Robert E. Lee

From: Bushee, Scott <Scott.Bushee@ct.gov>
Sent: Friday, June 26, 2020 4:06 PM
To: Robert E. Lee
Cc: Hogan, William
Subject: Trail- status update

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Hi Robert,

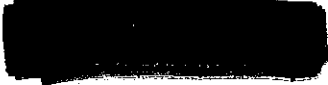
Just providing an update on the trail design. Vitalij has transferred to the consultant design side of DOT. Bill Hogan will be the new project engineer.

- Phase 1 (south of Norton Park)- we feel the alignment is now solid after wrapping up the hydraulics at Town line Road. We have requested structure design for the boardwalk and bridges as well as soil borings to back up the structural analysis. Once we have a preliminary structure design, we will be able to begin the hydraulic analysis work needed for flood management certification. Number of piers on the boardwalk and size will be needed to complete that work. We are planning for an internal design review fall 2020, and should be in a position to hold a public information meeting Winter 2021. We are not certain yet on the implications related to the historic designation that go with the canal. Our planning office has initiated a review related to the specific details on the national register and if there is any mention of the canal or towpath elements within this specific section of trail, combined with a field survey to evaluate those specific elements from a historical perspective. This sounds like a lot, but if the result is that they don't find anything it will significantly strengthen our position at the public involvement meeting, if the public is claiming concern over the potential historic resource. If we do find something, it will put us in a better position to address those specific elements which may already be avoided in the design of the project. It may be the canal itself that's more critical and not towpath. It's important to know that and will be helpful in advancing the project.
 - If you have communication with the historic society, please follow up on my request, if they are interested in putting historic related signing along the trail. I will need them to provide the images and the text that they want on the signing. This could be of great value in mitigating historic impacts that may be identified with the construction of the project. If I need a section 4F review due to historic concerns, we could include the draft signing for consideration and it may go a long way with approval of the design by the feds.
 - We plan to provide plans and an alignment soon to the motor coach stakeholder. I will copy you on the email. He is very interested in making improvements on his property and has been on hold waiting to see where we put the trail crossing and how his property may be affected. Providing him with the design information as early as possible, will allow him to continue with plans on his property.
 - We obtained survey on the Soli property. The property owner is aware from a meeting with us of our intent to potentially purchase the land for use as a construction staging area and parking lot for the trail. The design team has two alternatives for parking almost ready for my review. The environmental team did not have this information at the time of the field walk, so if it looks reasonable, I will be getting a preliminary review by DEEP and ACOE as well as internal management for the additional cost. If there are no showstoppers, you could then decide how you want to handle local coordination of this add-on to the design. I hope to be at that point, in September/ October.

- Phase 2 (Northwest Drive to route 72) - survey completed. We have done some field reviews along Carling technologies, the airport, Northwest Drive, Tommaso nature center, the public works and route 72. We have developed a couple of options for a tunnel, with survey and alignment under Route 72 that we will be submitting to our structure's group shortly. It's a critical path item at least to verify feasibility because it affects the rest of the alignment. As a second priority, we have been focusing on and alignment through public works that we will need to review with you soon, in addition to some design work along the landfill and through Tommaso nature center. Once these sections are agreed upon, the rest will fall in the place.
- Phase 3 (Route 72 to Norton Park)- survey is ongoing. We have not had time to spend on alignments or design activity. We have two design engineers dedicated to three sections of trail. Once we get through the public involvement process on phase 1, we will have more time to spend on phase 3.

Hope you are well.

Scott Bushee, P.E.
Project Manager
Highway Design
Connecticut Department of Transportation
2800 Berlin Turnpike
Newington, CT 06111



Lisa Metayer

Subject: FW: Secure Entranceway @ Plainville High School
Attachments: 202007011131.pdf

From: Robert E. Lee <relee@plainville-ct.gov>
Sent: Thursday, July 2, 2020 9:49 AM
To: Town Council
Cc: Lisa Metayer; Matthew Daskal; Steven LePage; Robert Buden
Subject: Secure Entranceway @ Plainville High School

Yesterday four bids were received for the Plainville High School Security Vestibule. (See attached)

The low bid was submitted by MA & M Inc. (DBA Aresco Construction) of Middletown, CT in the amount of \$72,000. There was also one Alternate as part of the bid and Aresco bid \$12,500 for that item.

The FY21 CIP Budget has a line item amount of \$70K for the project. I spoke to both Steve LePage and Steve Busel regarding the bids. Steve Busel indicated that his staff could do some of the work in the Alternate which could lower the amount by \$8.5K.

Because of the lead time involved in ordering some of the items in this project, school administration would like to engage Aresco ASAP so the project can be completed before school begins in late August..

The next Town Council meeting is July 20th.

My recommendation is to allow for the contract with Aresco to be signed (and then ratified at the 7/20 meeting) for \$72K. The hardware (estimated at \$4K) would be purchased separately by school staff. The total project cost would then be \$76K +/-.

Is there any objection in proceeding in this manner?

I have been informed that the Board of Education will return approximately \$600K +/- to the General Fund as a result of FY20 operations. In addition the Aiudi tax lien check was received yesterday in the amount of \$302,397.


Robert E. Lee

TOWN OF PLAINVILLE

BID #: 2020-13E	BUDGET AMOUNT:
TITLE: PLAINVILLE HIGH SCHOOL SECURITY VESTIBULE	DEPT.: Engineering
DATE: JUNE 30, 2020	LOCATION: Municipal Center
TIME: 2:00 p.m.	LOCATION: One Central Square Plainville, CT

BIDDERS NAME AND ADDRESS	5% BID BOND	DRUG CERT.	BASE BID	# HAVE		
LRM Construction 597 Wolcott Rd Bristol CT 06010			93,900	17,408.90		
J.A. Rosa Construction 17 Town Line Rd Wolcott CT 06716			186,204			
MA+M Inc DBA Aresco Const. 175 N. Main St Middletown CT 06457			72,000	12,500		
DIVERSITY CONSTRUCTION GROUP LLC 531 CONCORD CIRCLE CUSHING, CT 06410			156,000	15,000		

Received
RESM
 6/30/2020 2:07 pm.

WITNESS
 STEVE BUSEL 

Lisa Metayer

From: Dave Emery
Sent: Tuesday, July 14, 2020 12:12 PM
To: Robert E. Lee
Cc: Lisa Metayer
Subject: Buildings & Grounds Capital purchase
Attachments: Plainville grounds gm3300 only sourcewell.pdf

Attached is a quote for a Toro Groundsmaster 3300 4WD mower from Turf Products Corp. Funding for this was approved in the FY 2021 Capital Budget request in the amount of \$30,000. Please note that the pricing for the mower is from Sourcewell which is a national co operative pricing program for Municipalities, State governments and educational institutions. The discount from MSRP is 22%. For this reason, I'm asking that the bid process be waived and the purchase request be placed on the agenda for the next Town Council Meeting. Thank you.

David Emery
Superintendent of Buildings & Grounds
Town of Plainville
860-793-0221 ext. 221



turf products

157 Moody Road • PO Box 1200 • Enfield, CT 06082
Main Office: (800) 245-4355 • FAX: (860) 763-5550

QUOTE

Prepared For: Dave Emery
Plainville Buildings & Grounds
1 Central Square Plainville, Connecticut
United States

Ship To: Plainville grounds gm3300 only
Quote Number: sourcewell
Quoted Date: Q50657
Prepared By: **05/19/2020**
Brian Pope
bpope@turfproductscorp.com
860-395-6936

Sourcewell Member ID # 9935

Qty	Model #	Description	MSRP	% Disc	Award	Extended
1	31902	Groundsmaster 3300 4WD	\$27,557.00	22 %	\$21,549.57	\$21,549.57
1	31978	Recycler Kit	\$443.00	22 %	\$346.43	\$346.43
1	31972	72 Inch Side Discharge Deck	\$4,271.00	22 %	\$3,339.92	\$3,339.92
1	31982	Air Ride Suspension Seat	\$1,207.00	22 %	\$943.87	\$943.87
1	114-4096	Weight Kit (42 Lbs)	\$118.69	22 %	\$92.82	\$92.82

Toro Total:	\$26,272.61
Non - Toro Total:	\$0.00
Set Up:	\$0.00
Freight:	\$0.00
Trade Ins:	(\$0.00)
State Sales Tax:	\$0.00
Total Price:	\$26,272.61



July 21, 2020

To the Plainville Community:

Library staff & trustees are thrilled to announce **reopening the library building to the public.**

Starting Monday, July 27th, service hours are as follows:

- Mon-Thu, 10 am-7 pm
- Fri, 10 am-5 pm
- Closed Saturdays until after Labor Day
- Closed Sundays all year round

Frequently Asked Questions

1. How are visitors protected from contracting the COVID-19 virus in the library?

Our highest priority is to deliver excellent library service while taking every precaution to protect library users, library employees, and their loved ones from the spread of COVID-19. We have fulfilled requirements under the *CT Reopening Plan for Libraries* issued by Governor Lamont. That plan can be reviewed at the library, or by visiting:

https://portal.ct.gov/-/media/DECD/Covid_Business_Recovery-Phase-2/Libraries_C3_V1.pdf

Even with these comprehensive precautions and protocols in place, some library users may still be wary; others may think such extensive measures are unnecessary. Library patrons are asked to keep in mind that **visiting the library is at every individual's own discretion and risk**; if a person chooses to enter the library, they agree to follow protocol and accept the safety measures taken as sufficient.

2. Do I have to wear a mask and use hand sanitizer in the building?

Everyone who enters the library building will, *without exception*, be required to use hand sanitizer upon entry and wear a mask for the duration of their visit. If someone forgets to bring a mask with them, library staff will provide a disposable mask.

3. I have a medical condition that prevents me from wearing a mask. How can I get library service?

If someone has a medical condition or other reason that prohibits use of a mask and/or hand sanitizer, then library staff is happy to assist via phone or email.

4. I prefer not to go to the library, but I still want access to materials. How can I do that?

Next-day pickup of orders in the library foyer will continue to be available for people who choose to avoid public spaces. The library website offers free online access to downloadable library materials such as e-books, audiobooks, magazines, music, movies and TV shows. The website also offers free online access to Ancestry.com, Consumer Reports, Mango foreign language learning, JobNow, and more resources. Users may visit <https://www.plainvillect.com/library> and click on the “E-Books & More” button on the left side of the page. As always, reference staff is available via phone or email to answer questions; provide assistance for downloading materials or using virtual library databases on the library website; and offer reading or viewing recommendations based on an individual’s preferences.

5. Can I come in and read the newspaper, socialize, or relax with a book? Can I work on my laptop in the building?

Right now, the intention of in-house library service is for users to make short trips in and out to browse the collection; print, copy, fax or scan items; look up information; or ask reference questions. To discourage extended visits and to control the number of people in the building at one time, virtually all library seating and tables have been temporarily placed in storage, with just a handful of chairs available at computer workstations and for those who can only stand for short periods of time. Daily newspapers and current issues of magazines will not be available for browsing.

6. Will computers be available?

Free Wi-Fi Internet access is available 24/7 from the library parking lot. The network is PPL, and password is Plainville (with a capital P).

To accommodate social distancing requirements, public computer stations in the building have been temporarily reduced to half of what was previously available. All users are limited to one 30-minute session per day, even if no one else is waiting. No exceptions will be made for additional time. This mandate is to maximize the number of users that can access computers throughout the day, and to discourage extended visits in the building.

Computer users are required to clean and sanitize their workstation after use with the cleaning materials made available to them.

7. Can I get help on the computer?

One-on-one computer assistance or instruction is extremely difficult under social distancing guidelines. Computer users are asked to troubleshoot on their own as much as possible; if staff assistance is then deemed necessary, users will be asked to maintain a distance of at least six feet from the employee and computer station as they address the issue. If a visitor does not know how to navigate a computer or the Internet independently, one-on-one computer instruction cannot safely be provided at this time; however, reference staff is available to look up and print out information for library users.

8. Can I fax or make copies?

To prevent the spread of germs, the public does not have direct access to the copy/fax/scan/print machine; however, reference staff is happy to handle these needs. All computer printouts will be handed to users by a staff member. Curbside pickup of printouts is also available if materials are emailed to reference staff. Please call ahead for details.

9. Can I reserve a meeting room?

Meeting and study rooms remain closed and locked, and no reservations are available. Onsite meetings, programs, or indoor group gatherings of any size are discouraged until further notice.

10. Can my children play in the Youth Services area?

To prevent the spread of germs, all toys, play equipment and seating in the Youth Services area have been temporarily placed in storage.

11. When will programs and storytimes resume?

Onsite programs are suspended; however, library staff hopes to offer more virtual programming for adults, teens and kids soon.

12. I returned my items in the bookdrop yesterday, but they still appear as checked out on my account.

All returned materials are quarantined for 24 hours before they are checked in by staff. Items will not accrue fines for the time they are quarantined.

13. Why isn't the library open until 9 pm, like it was before?

With no evening programs or meetings taking place, and with social distancing restrictions limiting the frequency of routine library visits, there will be greatly reduced foot traffic after typical work hours. An earlier closing allows extra time for additional daily cleaning and sanitizing tasks to be completed.

14. I have a complaint about these changes and restrictions. With whom can I discuss?

Expressing concerns about the library on social media leads to misinformation that takes a great deal of time and energy to correct. Should anyone have concerns or complaints regarding library business, it is most effective to directly contact Library Director Trish Tomlinson. Ms. Tomlinson may be reached via email at

ttomlinson@libraryconnection.info, or by calling the library at (860) 793-1446.

Lisa Metayer

Subject: FW: Pool Passes

FYI. Please see below regarding pool passes

Robert

Get [Outlook for iOS](#)

From: Robert E. Lee <relee@plainville-ct.gov>
Sent: Thursday, July 16, 2020 8:41 AM
To: Courtney Hewett
Subject: Re: Pool Passes

Thanks. Robert

Get [Outlook for iOS](#)

From: Courtney Hewett <hewett@plainville-ct.gov>
Sent: Thursday, July 16, 2020 8:41:04 AM
To: Robert E. Lee <relee@plainville-ct.gov>
Subject: RE: Pool Passes

We have been filling up the slots probably 95% of the time, there is an issue with people not calling to cancel reservations. We have started to over enroll the time slots in anticipation for this and there hasn't been an issue with more than 50 patrons in the facility at a time.

Courtney

From: Robert E. Lee <relee@plainville-ct.gov>
Sent: Thursday, July 16, 2020 8:38 AM
To: Courtney Hewett <hewett@plainville-ct.gov>
Cc: Lisa Metayer <metayer@plainville-ct.gov>
Subject: Re: Pool Passes

Courtney

Thanks for the heads up. One question. Have we been filling up the slots?

Robert

Get [Outlook for iOS](#)

From: Courtney Hewett <hewett@plainville-ct.gov>
Sent: Thursday, July 16, 2020 8:35:50 AM
To: Robert E. Lee <relee@plainville-ct.gov>

Cc: Lisa Metayer <metayer@plainville-ct.gov>

Subject: Pool Passes

Hi Robert,

I just wanted to let you that we will be closing registration for pool passes, we have almost 500 sold and with current restrictions with capacity we would not be able to provide everyone with 3 time slots if everyone did ask to go each week. We want to make sure that we can provide time for everyone that has bought a pass.

Please let me know if you have any questions.

Have a wonderful day!

Courtney Hewett, CPRP
Recreation Director
Plainville Recreation
PlainvilleCT.RecDesk.com
860-747-6022



Shape your community. Participate in the 2020 Census. Visit 2020CENSUS.GOV to learn more.

