



Van H. Wanggaard

Wisconsin State Senator

TESTIMONY ON PACT BILLS

Thank you committee members for coming to Milwaukee today for today's hearing on police reform. I am pleased to be joined by my co-author of these bills, and lead author of one of them, Senator Taylor.

Although police reform has received a lot of attention over the last year, Senator Taylor and I have been working together to improve the relationship between the community and its police force for the last several years.

The breakdown in trust between certain community members and the police did not occur overnight, and are not the result of a single incident. They occurred over time, sometimes the result of interactions between police and individuals, sometimes the result of non-interaction. Some perceptions are based on reality, and some perceptions are based on myths. Some are mistruths hyped by people with an agenda, and sometimes they are the result of bad actors. People watch a video that shows a portion of an incident online or in the media, or hear a rumor and think they know exactly what happened, why it happened, and how it should have happened. Even if they don't have any background information at all.

It's important to remember – and to say out loud – that the overwhelming number of police officers in Wisconsin and the nation do an outstanding job. That doesn't mean there isn't room for improvement. Senator Taylor and I may not always agree on everything, frankly, we frequently don't agree, but we both recognize that policing can be improved and agree on many steps to do just that.

The key to rebuilding the trust, rebuilding the relationship is to make sure there is a greater understanding of the expectations of those who serve to protect us and enforce our laws. This is accomplished by increasing the accountability and transparency of the police, and also increasing community involvement with the police.

Accountability, Community Involvement and Transparency. That's the key. They are also the pillars of a legislative package of 8-10 bills introduced by myself, Senator Taylor, Senator Darling and others known as the Public Safety PACT. We held the first hearing on three of the PACT bills last week in Madison. Those bills dealt with the review of use of force incidents, funding of police, and background checks.

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Today we have several bills that increase accountability and transparency with police departments. I will discuss them briefly.

- Senate Bill 120, which requires every law enforcement agency to have a policy as to when and how a use of force incident is reported, and requires officers who observe uses of force incidents to report it. For officers who report use of force incidents, they will receive whistleblower protection.
- Senate Bill 121, which prohibits the authorization of chokeholds in a use of force policy. It's important to note that chokeholds are not currently authorized in Wisconsin, and have not been taught in Wisconsin for at least 50 years.
- Senate Bill 122, which requires use of force policies to be published online.
- Senate Bill 123, requiring the Wisconsin Department of Justice to publish an annual report on law enforcement use of force incidents.

These bills are not controversial, they are either identical to or substantially similar to both Governor Evers' and the legislative black caucus's proposal. To the degree that they are different from what Governor Evers proposed, I have discussed those changes with him, and I believe he understands and accepts them.

These bills are a good start, and they make the police more transparent, and help with accountability of police. But that does not begin to repair the relationship, it does not help to bridge the divide.

To do that, we need more citizen and community involvement with the police, and I will spend a couple of minutes on two bills designed to improve those areas.

Police cannot be an occupying force in an area. That creates and adds to an adversarial relationship between the police and the community members. Good policing means that the police and public safety is woven into the fabric of a community. To help build the relationship, Senate Bill 124 creates a grant program for Community-Oriented Policing, or COP, Houses. This is a subject that Senator Taylor and I have been working on for many years.

We've seen the success of COP Houses around the country. COP house programs focus on buying vacant homes in high crime areas and rehabbing the house to become a local point of contact with law enforcement base where officers perform daily duties, while building relationships as a member of the neighborhood.

And the fact is, community policing works. As seen in Racine, non-emergency calls to police decrease and property maintenance increases. Crime rates plummet, including by up to 70% in some neighborhoods. In one neighborhood, aggravated assaulted dropped by 94% in just four years.

Over time, the COP house becomes a part of the community where people feel safe, build relationships with people in the house and each other. The COP House becomes a public space for community issues, and brings the police to a central place in neighborhood discussions. Citizens can get the knowledge and resources to take their neighborhood back, leading to the long-term stabilization of neighborhoods.

COP Houses help build the relationships between communities and policing. But the community also needs to feel ownership over the police. In some cities, there have been calls for more “civilian oversight” of the police. What people don’t realize is that we already have community oversight over the police. We were the first to do so. Milwaukee and Wisconsin led the nation in community oversight. We led the way. We were THE national model.

Unfortunately, rather than staying the national model, Milwaukee’s community oversight organization, the Fire and Police Commission has become a model of dysfunction, embarrassment and infighting. I could literally go on for hours about what has occurred in the Fire and Police Commission, but let me give just a FEW highlights.

- The Commission is currently paying two police chiefs because they improperly fired Chief Morales and have been without a permanent chief since last August.
- The previous chair of the FPC is accused of asking for a quid pro quo in exchange for giving Chief Morales a contract.
- There have been multiple complaints for bullying, hostility and racism within the commission.
- Multiple people have cited that decisions are being made because of “ego”, “personal agendas”, and political infighting.
- Another person stated that “dysfunction has been baked into the FPC governance structure for far too long.”

With Milwaukee taxpayers paying millions of dollars in settlements for police it is important that the FPC be vigilant about who the Commission hires as officers. Commissions conduct background checks for a reason.

Unfortunately, a former staff member publicly reported that Commissioners “for the most part have overturned background failures,” including people facing serious charges and in litigation. According to this staff person “Commissioners have been overturning backgrounds that have some very big red flags....candidates [that] should NEVER have had their background failures overturned and never should have been hired. They are not making decisions based on who is the most qualified and what is best for the City.”

With this knowledge, is it any wonder why the city of Milwaukee leads the nation in police settlements?

It has gotten so bad, that even Mayor Tom Barrett is FINALLY, after years of turning a blind eye to the corruption, is calling for reform. Although it’s been three months, we haven’t seen any ideas from the Mayor, it’s important to know that the Milwaukee Fire and Police Commission is a product of state law.

Senate Bill 117 is that reform, and it is years in the making.

SB 117 provides more accountability, more perspectives, and more independence for Police and Fire Commissions in Milwaukee and Madison.

According to the Milwaukee Journal Sentinel, when an alderman asked if the previous chair of the FPC had broken any commission rules about conflicts of interest or standards of conduct. The response from the city attorney was “no, because the Commission doesn’t have any.”

To correct that grievous error, Senate Bill 117 specifies that the commissioners of police and fire commissions must follow the state code of ethics and conflict of interest laws for local public officials.

To increase the community input into the police, we require public hearings on commissioners and police chiefs. Those are community meetings – not necessarily legislative meetings. This will allow the public’s voice to be heard. When asked, we also require chairs, vice-chairs or executive directors to participate in meetings of the Common Council.

Fire and police commissions were created to separate policing from politics. Policing should be consistent under the chief of police, not based on the whims of an election. Unfortunately, the lines have become blurred between politics and commissions. Commissions are intended to be independent and autonomous.

In Milwaukee, the Executive Director of the Fire and Police Commission is a member of the Mayor's cabinet. He or she can be appointed and fired solely by the mayor. This makes the FPC, the staff and the director arms of the mayor's office. That is directly against the purpose of the FPC.

SB 117 fixes this by creating a truly independent executive director. The director would be selected from a list of three names given by the Commission. Once appointed, the director would answer to the Commission itself – not the mayor. This creates a truly independent citizen-led board.

Finally, it is important that police and fire commissions actually know what they are overseeing. Again, according to the Milwaukee Journal Sentinel, a former commissioner, who resigned in disgust at the end of 2020, stated that the FPC was– and I quote – “the most dysfunctional group of individuals I've ever worked with, and the pitiful thing about it is none of them has any knowledge of how a police department even operates.”

This may not be the root of the problems on the FPC, but it is a major problem. You can't oversee what you don't understand. SB 117 requires that commissioners undergo training on the mission and role of the commission, disciplinary hearings, conduct polices, and use of force guidelines.

To also add to the knowledge as to how a police or fire department operates, we require the presence of former police officers and fire fighters on the Commission. These members, would be selected by the mayor from a list from the police and fire associations. As a former police officer and police and fire commissioner myself, I, and my former PFC colleagues can tell you that this perspective is invaluable to effective oversight. It also helps to “demystify” police tactics for commissioners and the public.

We need to improve the relationship between the community and police. Accountability alone won't do it. Transparency helps, but it isn't the only answer. The community involvement alone can't do it either. But by increasing Accountability, Community Involvement and Transparency – the “A, C, T” in PACT. We can make meaningful progress to bridge the gap.

Senate Committee on Judiciary and Public Safety Public Hearing
Senator Lena Taylor
Written Testimony on Senate Bill 120
March 18, 2021

Chairman Wanggaard, Vice-Chair Wimberger and members of the Senate Committee on Judiciary and Public Safety, thank you for the opportunity to have a public hearing on SB 120, relating to law enforcement agency policies on the use of force.

Last year, I came across a report entitled "The Evolution of Modern Use-of-Force Policies and the Need for Professionalism in Policing" written by Arthur Rizer & Emily Mooney. The first paragraph of the report read as follows:

"The American people delegate to the police the authority to enforce criminal laws and promote public safety. As part of that delegation, we give officers the power to use force and even violence—that is, force applied to the body—to accomplish those goals. This practice is familiar to us, but it is in deep tension with our system of limited government that prizes personal autonomy and liberty.

That tension can only be maintained by careful application of rules and procedures that restrain the use of force, and by instilling humility and care in the police themselves. Unfortunately, existing guardrails against excessive police use of force are far too weak."

Lastly, the report said "Almost all large police departments (and most smaller ones) have use-of-force policies that define a continuum of force that can be applied to suspects in varying circumstances." While the report went to discuss the pros and cons of training, other efforts and diversity in hiring, the authors deemed that most attempts to get a handle on accepted practices and standards around police use of force continued to come up short.

The article did talk about the culture of police departments, the militarization of police equipment and even the way the public was viewed by officers. This is an age-old conversation that we have tried to address.

Right now, we currently require law enforcement agencies to have policies regulating the use of force by police. These policies are required to be available to the public. However, often the policies seem vague. Frequently, lay people are left with more questions than answers about how and when varying types of force is deployed.

While George Floyd's case in Minnesota was not the first time, I questioned use of force policies, it was a clarion moment when I questioned the role of other officers in addressing issues and questions of how to handle use of force concerns within their own departments,

Since Mr. Floyd's death, we have learned that two of the officers had only been on the job for a few days. In response to questions about why they didn't stop former police officer Derek Chauvin the day he kneeled on Mr, Floyd's neck for nearly 9 minutes, it seems as if these rookie officers were unsure if they even could speak up.

SB 120 is an attempt to further clarify those questions for members of law enforcement. This bill requires use of force policies to provide the instances in which a use of force must be reported, how to report it, and a requirement that officers who engage in or observe a reportable use of force must report it.

Now, this bill would not have saved George Floyd. It doesn't deal with real-time inappropriate use of force and an officer's responsibility to stop it. But what it does do, is help support officers, who want to do the right thing. This bill protects law enforcement officers for reporting a violation of an agency's policy or standard regarding the use of force from discipline. It is another tool to encourage a culture or environment of transparency in policing. We want to enable members of law enforcement to help make their departments or agencies better. SB 120 assists them to do just that. I hope that this bill will receive your full support. Thank you.



Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Kimberly Montgomery
Director of Intergovernmental Relations

City of Milwaukee Testimony on SB117, SB120, SB121, SB122, SB123 and SB124, Various
Public Safety-Related Bills
Senate Committee on Judiciary and Public Safety

March 18, 2021

Thank you, Chairman Wanggaard and fellow members of the Senate Committee on Judiciary and Public Safety, for the opportunity to provide testimony on Senate Bills 117, 120, 121, 122, 123, and 124 on behalf of the City of Milwaukee.

I would like to first address the four bills that the City of Milwaukee is in support of, SB-120, SB-121, SB-122, SB-123 and SB-124.

Senate Bill 120 requires law enforcement agencies use-of-force policies provide instances of when uses of force must be reported, how to report these incidents, and require that officers who witness a use-of-force abuse must come forward to report the abuse. The bill further provides whistleblower protections for officers that come forward to report use-of-force abuses by their fellow officers. This legislation represents an important step forward to ensuring that state law addresses not only use-of-force issues, but encourages officers to speak out when they witness abusive practices from their fellow officers. The City of Milwaukee is in full support of this legislation.

Senate Bill 121 prohibiting the use of chokeholds by law enforcement officers in use-of-force policies is another important step in limiting use-of-force abuses by law enforcement. The City of Milwaukee is proud that under Standard Operating Procedure 460, the Milwaukee Police Department's use-of-force policy already prohibits the use of chokeholds, except in life-threatening situations. The City of Milwaukee is supportive of this policy being enacted on a statewide level as well.

Senate Bill 122 guarantees public access to every law enforcement agency's use-of-force policy. The City of Milwaukee has long had a publically available use-of-force policy on our Fire and Police Commission website. Making use-of-force policies publically available helps encourage trusting relationships between local police departments and the citizens they protect. The City of Milwaukee supports this legislation.

Senate Bill 123 requires annual reporting of use-of-force incidents from local law enforcement departments to the Department of Justice. The City of Milwaukee and the Fire and Police Commission currently have a long-standing practice of compiling a record of all use-of-force incidents within the City and annually publishing that information for public review. The City would be glad to provide this information to the Wisconsin DOJ and is eager to learn more about use-of-force incidents on a state-wide level that this information gathering by the Wisconsin DOJ would provide.

Senate Bill 124 would establish a \$600,000 grant program for the creation of a community-oriented policing (COP) house. The City of Milwaukee would be supportive of this legislation to expand Community-Oriented Policing practices of local law enforcement agencies.

Now, I would like to address Senate Bill 117 which proposes significant changes to the Board of the Police and Fire Commission in the City of Milwaukee. While there are several aspects of this legislation that may be beneficial, on the whole, this is a bill which would dramatically remove local control, restrict public oversight over protective services, undermine the public trust, and give outsized influence and control over the Fire and Police Commission to protective services unions.

The City of Milwaukee Fire and Police Commission plays an important role in the oversight and policy agenda of the Milwaukee Fire and Police Department. The Commission runs recruitment and testing standards for positions in each department, independently investigates and monitors citizen complaints, and disciplines employees for misconduct. The purpose of the Fire and Police Commission is to have citizen-led oversight of our protective services departments. This bill is a direct affront to that purpose.

This bill would require that there be at least one former police officer and former firefighter, hand-picked by their respective unions, appointed to the board. This bill would require each protective-services union to provide a list of five names, from which the mayor must appoint one for each union. This is a major removal of local control over the Fire and Police Commission.

This bill provides no mechanism if the list of five names submitted by the unions does not contain an acceptable nominee. In certain circumstances, this bill would allow the protective-services union to appoint members directly to the board without a nomination by the mayor or consent of the Common Council. The mayor and Common Council have not been opposed to having former fire and police on the Commission, and previously, the mayor has committed to doing so, negating the need to include this in legislation. While there is currently a retired firefighter member of the Commission, limiting their options to a union-picked nominee, as the bill requires, is not a process that we can support.

Additionally, this legislation would require that the hand-picked commissioners representing the protective services unions would be required to participate in every single disciplinary hearing for their respective service branch. This would be a substantial and burdensome time commitment for those respective commissioners. Disciplinary hearings can sometimes last several full days and there can be 20 or more disciplinary trials in a single year. Requiring a single commissioner to attend every disciplinary hearing could lead to over two months of disciplinary hearing work alone for that commissioner.

In addition, this bill does not provide an alternative should the union-appointed commissioner have a conflict of interest, for example, if the officer being disciplined were a family member or other relation. Instead, this bill would require that commissioner to oversee the discipline trial with a clear conflict of interest. Disciplinary hearings are one of the most important roles of the Fire and Police Commission, and one of the reasons it is essential to have a citizen-led Board of Commissioners. This bill would instead place union-picked commissioners in charge of every disciplinary hearing of one of their own union members. This would completely undermine public trust of the disciplinary process as well as damage community relations with the protective services.

While this bill does require a minimal amount of public hearings any time a search for a new protective-services chief is initiated, it provides the protective-services union a "closed session" to meet with the Board to discuss a potential hire. This closed session would provide the protected-services unions, whose membership primarily lives outside of the City of Milwaukee, a confidential and outsized voice in the hiring of any new chief. This provision would prioritize the influence of union members who primarily live outside of the City over the opinions of actual community members. It would undermine the hiring of any new chief, and go against Wisconsin's long-standing history of open government. The City supports the parts of this legislation calling for additional public hearings throughout the process of hiring a new protective-services chief, and there is no reason that the protective-services unions cannot participate in those same public hearings as the rest of the community.

Finally, this legislation further serves to undermine the disciplinary authority of the Fire and Police Commission through judicial review. This bill would direct a circuit court to essentially dismiss and reverse disciplinary decisions of the Fire and Police Commission for a broad array of issues, whether they are material or not to the misconduct of the disciplined officer. It further authorizes the court to take additional testimony, depositions, interrogatories and additional discovery. The essence of these changes is that it would completely delegitimize and undermine the authority of a citizen-led Fire and Police Commission. Additionally, this legislation would cause a surge of additional legal fees for the City of Milwaukee due to the litigation costs the City would incur from all of these judicial disciplinary appeals.

The City of Milwaukee certainly has had a recent history of turmoil on the Police and Fire Commission, but we are very encouraged by the recent leadership and direction of Executive Director Todd, and the continued work the Commission has accomplished on use-of-force policy updates and other policy issues. The mayor and Common Council recently appointed and confirmed a new commissioner and will be nominating additional commissioners in the near future. Against all this progress, this legislation would weaken local control over the board, place outsized power into the hands of the protective-services union over Police and Fire Commission operations and discipline, cost the City significant additional litigation fees, and denigrate public trust in the Fire and Police Commission as a citizen-led oversight board. For all of these reasons, the City of Milwaukee is OPPOSED to Senate Bill 117. Thank you for your time and consideration. Executive Director Todd and I would be happy to answer any questions Committee Members may have.



To: Members, Senate Committee on Judiciary and Public Safety
From: Badger State Sheriffs' Association (BSSA)
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)
Date: March 18, 2021
RE: Testimony in Support of SB 120, 121, 122, 123

Chairman Wanggaard and committee members, thank you for the opportunity to testify today in support of Senate Bills 120, 121, 122 and 123. My name is Sheriff Dale Schmidt, 1st Vice President and Legislative Chair of Badger State Sheriffs' Association. As way of background, BSSA is a statewide organization representing all of Wisconsin's 72 Sheriffs. WS&DSA is a statewide organization representing over 1,000 members, including Sheriffs, Deputies, and jail officers. BSSA and WS&DSA have a joint legislative committee and work closely on public safety issues of concern to our members.

Over the years, there have been major improvements in Wisconsin specific to the development of law governing officer conduct, the use-of-force, and officer involved deaths in the state. However, there is always room for improvement and the bills before you today are positive steps we can take as a state to enhance transparency and consistency across law enforcement agencies in this state.

Before I comment on the bills before you, I want to thank the Chairman for his ongoing work in this area and recognize his leadership in both the legislature and among the law enforcement community.

Currently, Wisconsin requires all law enforcement agencies to have a use-of-force policy published and available for public scrutiny. SB 120 expands upon this policy and requires all law enforcement agencies to have a standard policy for reporting all use of force incidents and provides whistleblower protections for officers who report use of force incidents. This legislation will ensure the public clearly understand the information provided by law enforcement agencies.

Similarly, SB 122 ensures the public has easy access to the law enforcement agencies' use of force policy and requires agencies to have a link on their website to request their use of force policy; the policy must be provided to the requestor for free within three days. Law enforcement agencies continuously review and update their use of force policies, so this bill will make sure there is an available channel for the public to access this information.

SB 123 codifies reporting practices and requires the Department of Justice to publish an annual report on use of force incidents. In 2020, Wisconsin DOJ started collecting information on use-of-force instances and arrest-related deaths within law enforcement agencies' jurisdictions. In addition, law enforcement agencies also submit information to the FBI Data collection uniform crime reporting system. SB 123 synthesizes these various reporting mechanisms into a state report with required data elements on use of force incidents.

The last bill I would like to comment on today is SB 121, prohibiting the use of chokeholds in law enforcement use of force policies, except in life-threatening or self-defense situations. Currently, Wisconsin does not teach, as part of use of force any type of chokehold as a compliance alternative. SB 121 mirrors this current practice and ensures that statutorily, Wisconsin continues to utilize best practices and follow the Defense and Arrest Tactics system training.

Thank you again for this opportunity to testify in support of these four bills and I am happy to take any questions.



March 18, 2021

To: Chairman Wanggaard and Members of the Senate Committee on Judiciary and Public Safety

From: Patrick Mitchell, President, Wisconsin Chiefs of Police Association (WCPA)

Re: Support Senate Bill 120, Law Enforcement Agency Policies on the use of Force

Chairman Wanggaard, thank you for your willingness to hold a hearing on this bill. I want to thank the Senate authors, yourself and Senator Taylor, for introducing this important bill. I am also grateful for our lead Assembly authors Representatives Spiros and Armstrong. Additionally, I want to thank committee members Senators Darling, Jacque, and Roys for their co-sponsorship.

I urge support of Senate Bill 120 and appreciate the bipartisan approach to this legislation.

WCPA is in favor of providing clarity to all departments in the state on what they must specifically report regarding use of force incidents. This clarity will assist Police Chiefs, law enforcement officers, and our communities by mandating each department provide the instances in which a use of force must be reported and how to report a use of force.

Additionally, SB 120 will also codify in statute that Departments may not retaliate against officers who report possible violations of use of force policies. Officers in the overwhelming majority of departments in the state already feel safe in reporting possible violations, but this bill will ensure that they know they will be protected.

I appreciate being able to testify before the committee today. I look forward to taking any questions you may have.



March 18, 2021

Senate Committee on Judiciary and Public Safety

Public Hearing: Senate Bills 120, 122, 123

Senator Wanggaard and Members of the Committee:

Thank you for allowing me to testify today in support of three bills: Senate Bill 120, which would require law enforcement agencies to specify when and how to report use of force, Senate Bill 122, which would require law enforcement agencies to post their use-of-force policies on a publicly available website and Senate Bill 123, which would require the Department of Justice to collect and publish data on use-of-force incidents. We believe these bills would increase transparency and accountability among police departments across the state and improve trust among the citizens they serve.

Last year we attempted to determine just how often force is used by police officers across the state and how police departments discipline their officers when inappropriate use-of-force incidents occur. Our complete findings are available in a special report¹ we published in November, but I will share with you today a few takeaways from this research that SB 120, 122 and 123 would at least partially address.

Data on use-of-force incidents is difficult to find due to a lack of both standards and legal requirements for reporting. Without this information, it is nearly impossible to compare similar-sized police departments or those that handle similar levels of crime to determine which are outliers deserving closer scrutiny.

To get a sense of how often force is used, we looked at data from the state's three largest cities – Milwaukee, Madison and Green Bay. In Milwaukee and Madison, we found that one of every 29 or 30 arrests includes some type of force. It was more difficult to compare use-of-force incidents in Green Bay because of the way that police department tracks and reports data.

We also found that a majority of the use-of-force incidents involve physical contact between police officers and citizens or the use of tasers and pepper spray. The most common type of force reported was the use of bodily force, which accounted for 71.5% of use-of-force incidents in Madison, 72.7% of the incidents in Green Bay and 72.5% of those in Milwaukee – all strikingly similar rates.

It's important to note that the vast majority of citizen encounters with police do not result in an arrest. For example, in Madison in 2019 there were 8,330 arrests out of 145,205 calls for service.

Unfortunately, there is little information available on smaller law enforcement agencies' use of force and no comprehensive statewide database. The bills you're considering today would take a step toward the uniform compilation and reporting of statewide data.

¹ Just the Facts (November 2020) https://www.badgerinstitute.org/BI-Files/Corrections-reform/BadgerReport_Triology_Nov2020FnI-web.pdf

Although police use of force is rare, the compilation of uniform, publicly available, statewide data would go a long way toward determining trends, establishing effective practices, identifying problem areas and building trust among citizens and their police departments.

In addition to gathering and reporting better data, we recommend statutory requirements for creating greater transparency regarding police disciplinary actions; the extension of Act 10 to restore responsibility to department leaders and politicians, and expedite removal of officers who have acted inappropriately; ending arbitration for disciplinary cases; extending probationary periods; and requiring police officers' employee files to be shared when they apply for positions within a new department.

The Badger Institute supports SB 120, 122 and 123; however, we recommend amending SB 123 to require departments to report all use-of-force incidents, not just those where there was a shooting, a firearm discharge or other serious bodily harm.