



State of Maryland
Department of State Police
Government Affairs Section
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POSITION ON PROPOSED LEGISLATION

DATE: March 3, 2020

BILL NUMBER: House Bill 1090 **POSITION:** Letter of Information

BILL TITLE: Law Enforcement – Complaints and Investigations and Use of Force (Anton’s Law)

REVIEW AND ANALYSIS:

This legislation seeks to define the circumstances under which a police officer may use force. This legislation also requires a trier of facts to consider the actions a police officer took leading up to the use of force and if the officer escalated the situation. In addition, this legislation seeks to redefine L.E.O.B.R. to remove a police officer from conducting the investigation and interrogation of a police officer accused of using excessive to and allowing any person to conduct the investigation. This legislation would also redefine personnel file to exclude administrative charges, hearings and files. This legislation also mandates the finding of manslaughter for an officer who uses deadly force with an honest but unreasonable belief it was necessary.

Under current law, Police use of force is subject to the reasonableness requirement of the Fourth Amendment. In *Graham v. Connor*, the Supreme Court held that determining the "reasonableness" of a seizure "requires a careful balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake.

In an ideal world there would be no need for use of force and citizens would comply with all requests made by law enforcement. But we know this is not the case. For varied reasons citizens do not comply with the police. By the very nature of committing a crime, they are likely not to comply. Citizens involved in criminal activity have a self-preservation response to flight or fight. In many occasions this response is explosive and immediate. A police officer is not always in a position to wait for backup or taking cover. The urgency of the situation requires an immediate response to stop the risk of the criminal or protect innocent lives.

To hold a police officer to the standard of perfection in an after the fact review is unreasonable. The trier of facts making this decision was not in the split second decision making. It has been established that the review will take on all of the facts known to the officer at the time of the encounter. I may be found that the weapon being displayed is not operable or even real, but the officer did not and could not have known that at the time of the split decision. To hold that officer to a standard of manslaughter is not justice.