



May 18, 2021

To: Chairman Knodl and Members of the Assembly Committee on Government Accountability and Oversight

From: Wisconsin Chiefs of Police Association (WCPA)

Re: Support Assembly Bill 108, Law Enforcement Agency Policies on the use of Force

Chairman Knodl, thank you for your willingness to hold a hearing on this bill. We want to thank lead Assembly authors Representatives Spiros and Armstrong for introducing this important bill. We are also grateful for our Senate authors Senator Wanggaard and Senator Taylor. Additionally, we want to thank committee member Representative Brandtjen for their co-sponsorship.

We urge support of Assembly Bill 108 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, AB 108 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.

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



LENA C. TAYLOR

Wisconsin State Senator • 4th District

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Senator Lena Taylor's Written Testimony
Assembly Committee on Government Accountability And Oversight
Public Hearing AB 108/SB 120
May 18, 2021

Good afternoon, Chairman Knodl, Vice-Chair Brandtjen and members of the Assembly Committee on Government Accountability and Oversight. I want to thank you for today's public hearing on AB 108, regarding law enforcement agency policies on the use of force.

The work on this bill and other bills before you today define a huge part of my reason for running for office and my interest in public service. As I have looked for ways to address varying issues impacting my district, concerns regarding policing transparency and community relations have consistently emerged as a pivotal area requiring change.

In 2018, the U.S. Commission on Civil Rights released a report entitled "Police Use of Force: An Examination of Modern Policing Practices". An excerpt from the report read as follows:

"While police officers have the difficult and admirable job of providing crucial services to the communities they protect and serve, their job sometimes puts them in harm's way and may require the use of force.

Accordingly, police officers must operate with the highest standards of professionalism and accountability. Every community resident should be able to live, work, and travel confident in an expectation that interactions with police officers will be fair, consistent with constitutional norms, and guided by public safety free from bias or discrimination.

Unfortunately, too many communities are not confident in these expectations, and so these communities have called for reforms to foster better community-police relations and prevent unjustified and excessive police uses of force.

Accurate and comprehensive data regarding police uses of force is generally not available to police departments or the American public. No comprehensive national database exists that captures police uses of force.

The best available evidence reflects high rates of uses of force nationally, with increased likelihood of police use of force against people of color, people with disabilities, LGBT people, people with mental health concerns, people with low incomes, and those at the intersection of these communities."



LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

Members of the committee, AB 108 helps us to address some of the very issues identified by the U.S. Civil Rights Commission. The public should understand the circumstances under which use of force incidents should be reported and so should officers. Additionally, we need to insure that all officers understand the process on how to report an incident and not fear departmental retaliation for speaking up when use of force violations are suspected.

Repeated and highly publicized incidents of questionable, police use of force require that we get this right. Wisconsin is not immune from this discussion and we have had our own public outcry and interest in addressing use of force practices.

AB 108 should be non-controversial. We do need to ensure that the public and officers know what types of use of force incidents should be reported. We also need to make sure that everyone understands how these incidents should be reported. Finally, we need to protect the officers who step forward to ensure that use of force policies are being properly followed.

The George Floyd case, and so many others, are haunting examples of officers, who because of organizational culture, not fully understanding the policies, or fear reprisal, didn't act or report questionable behavior when they should have.

Aside from Derek Chauvin, the now convicted former Minnesota police officer in Mr. Floyd's death, three other officers are going on trial to answer for their role in the use of force involved in that case. Of the two rookie officers involved in Floyd's death, one had just been on the job for 4 days. We need to ensure that our officers know what they can and should do in, God forbid, a similar situation.

SB 108 helps us to protect both residents and officers. The combined support from the community, legislators and many in the law enforcement community for this bill tells us we are moving in the right direction. I hope you will join us in supporting this measure and thank you for your time.



Public Testimony of Rep. David Bowen
Assembly Bills 108 and 110
May 18, 2021

Chairman Knodl and Members of the Assembly Committee on Government
Accountability and Oversight,

Thank you for allowing me to testify in support for Assembly Bill 108 and Assembly bill
110.

After the high-profile instances of police brutality against George Floyd in Minneapolis, Jacob Blake in Kenosha, and Breanna Taylor in Louisville, the police are once again in the public eye due to excessive use-of-force. This is not the first time that police brutality has become subject to public scrutiny, and unfortunately, it will not be the last. We as legislators must act urgently to enact policies that reform our policing & public safety practices for accountability and to provide greater transparency. These policies are even more critical for communities of color in our State, who far too often lack access to accountability.

Together, these bills will clarify instances in which use-of-force must be reported, how to report a use-of-force, requirements that an officer who engages in or observes a reportable use-of-force report it, and whistleblower protections so those who report use-of-force violations do not suffer professional repercussions. Additionally, these use-of-force standards must be made publicly available to the public, and make it easily accessible to those who request it.

These bills are by no means the end, and more need to be allowed passage by this body that address the real root of this issue. Nonetheless, we must continue to have tough but bold conversations about reforming our policing practices to make sure that instances of police brutality no longer happen in our communities. To ensure black and brown citizens aren't continuously hurt and a system of public safety can evolve to address real world demands of what communities truly need to thrive. I would like to thank the co-authors for their dedication to bipartisan policing and criminal justice reforms where we can agree, and look forward to continued bipartisan conversations and legislation to address issues in our criminal justice system and policing practices. A better future in Wisconsin will be well within reach if we continue to embrace rather than oppose reform and system transformation.



May 18, 2021

Assembly Committee on Government Accountability and Oversight

Public Hearing: Assembly Bills 108, 109, 110

Representative Knodl and Members of the Committee:

Thank you for allowing me to testify today in support of three bills: Assembly Bill 108, which would require law enforcement agencies to specify when and how to report use of force, Assembly Bill 109, which would require the Department of Justice to collect and publish data on use-of-force incidents and Assembly Bill 110, which would require law enforcement agencies to post their use-of-force policies on a publicly available website. 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 AB 108, 109 and 110 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_Nov2020Fnl-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 AB 108, 109 and 110; however, we recommend amending AB 109 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.



WISCONSIN CATHOLIC CONFERENCE

TO: Representative Daniel Knodl
Members, Assembly Committee on Government Accountability and Oversight

FROM: Barbara Sella, Associate Director, Wisconsin Catholic Conference

DATE: May 18, 2021

RE: Support for Policing Reform (Assembly Bills 108, 109, 110, and 134)

The Wisconsin Catholic Conference (WCC) appreciates the opportunity to offer testimony on behalf of the Roman Catholic bishops of Wisconsin in support of Assembly Bills 108, 109, 110, and 134.

The WCC strongly supports reporting use of force incidents, protecting those who report them, and making use of force policies and data accessible to the public (Assembly Bills 108, 109, and 110). While we would prefer a total ban on choke holds (which, as noted below, is the position of the United States Conference of Catholic Bishops or USCCB), we believe that Assembly Bill 134 is an important step forward.

Catholic teaching holds that the purpose of law and police is to promote justice. But justice can only be attained when police and other members of the law exercise self-control, mercy, and true respect for all the persons they encounter—persons made in the image and likeness of God and possessing the same inalienable rights as themselves.¹

Last year, following the unjust killing of George Floyd, the U.S. bishops wrote to the Members of the U.S. Congress that people of color are “often treated more harshly than other citizens in their encounters with the criminal justice system” such that “the racism and discrimination that continue to haunt our nation are reflected in similar ways in the criminal justice system.”²

The letter went on to support several policing reforms, including “collection of data on use-of-force, training towards de-escalation, work to end racial profiling, doing away with chokeholds, using body cameras, greater accountability and means of redress regarding those who exercise public authority, and a commission to study the issue further and make additional recommendations.”³

¹ USCCB letter to Members of Congress on Police Reform (June 24, 2020) <https://www.usccb.org/resources/2020-06-24-Letter-to-Senate-on-Police-Reform.pdf> and <https://www.usccb.org/resources/letter-house-police-reform-june-24-2020>.

² Ibid.

³ Ibid.

Our WCC 2021 *Public Policy Positions* call for addressing the root causes of racial bias and promoting racial justice and reconciliation, while continuing to support those who preserve public safety. They stress that “Law enforcement personnel have a responsibility to be peacemakers and they deserve the public’s respect and support in carrying out duties that are often dangerous and unpleasant.” At the same time, they urge that policing be transparent and accountable.⁴

These four bills, while not perfect, will make policing in Wisconsin more just, transparent, and accountable. They will encourage further reforms and help restore community trust. They demonstrate what can be accomplished through careful deliberation, stakeholder involvement, and bipartisan cooperation. We thank the authors and sponsors for introducing them and we respectfully urge this committee to pass them.

Thank you.

⁴ WCC 2021 Public Policy Positions (January 2021) <https://www.wisconsinincatholic.org/wp-content/uploads/2021/01/2021-WCC-Public-Policy-Positions-FINAL.pdf>



JOHN SPIROS

State Representative • 86th Assembly District

Assembly Bills 108, 109, 110, 134

May 18, 2021

Testimony from Rep. Spiros

Thank you Chairman Knodl and members of the Assembly Committee on Government Accountability and Oversight for allowing me to submit testimony on Assembly Bills 108, 109, 110, and 134.

All four of these bills are part of the Public Safety PACT (Accountability, Community Involvement, and Transparency) legislation and are also suggestions from the Speaker's Task Force on Racial Disparities. Over this past year especially, police reform has been the topic of many conversations. I want to say right away that our officers have a very difficult job and many do an outstanding job in their fields. However, there are also some exceptions to this which has led to national media attention and a distrust of police in communities. These bills are meant to provide the public with more transparency and hold police accountable. Understanding between the police and the community is a key to bringing back trust and something all of these bills address.

Assembly Bill 108 requires law enforcement agencies to include in their use of force policies when use of force must be reported and how it should be reported. The bill also requires officers who observed a reportable use of force to report it and includes a whistleblower protection to protect the reporting employee.

Assembly Bill 109 requires DOJ to collect data and publish an annual report on use-of-force incidents. The specific data that must be collected includes: gender, ethnicity, age, time, date, location, whether the civilian was armed, reason for the initial contact with the individual, and other information to comply with the National Use-of-Force Data Collection. There will be a substitute amendment to this bill as a recommendation from the Speaker's Task Force on Racial Disparities. The substitute amendment provides a definition of "Use-of-force incident" thereby clarifying when reporting must be done.

Assembly Bill 110 requires law enforcement agencies to post their policies on use of force online. The bill also requires law enforcement to post a way to request a copy of the policy and if requested the agency must provide a copy at no charge within three business days.

Assembly Bill 134 prohibits the use of choke holds in agency use of force policies unless the officer is in a life-threatening situation or is using self-defense. Choke holds are not currently taught in Wisconsin, but this bill puts the specific requirement in statute. This bill will also have a substitute amendment from the Speaker's Task Force on Racial Disparities. The substitute amendment expands the definition of "choke hold" to include applying force to a carotid artery as to reduce blood flow to the head.

These bipartisan supported bills are a step in the right direction to provide more transparency in order to build back and continue the trust in our officers.

Thank you again for allowing me the opportunity to share testimony in support of these bills.



Van H. Wanggaard

Wisconsin State Senator

TESTIMONY ON ASSEMBLY BILLS 108, 109, 110, AND 135

Thank you Mr. Chairman and members for today's hearings on Assembly Bills 108, 109, 110 and 135. I appreciate you hearing these bills, and allowing me to testify on them all at once.

The relationship between certain communities and the police did not deteriorate overnight, and it will not be fixed overnight. That's why last summer, I unveiled the PACT package of bills. PACT is an acronym standing for Police Accountability, Community Involvement and Transparency. Through the three principles of accountability, community involvement and transparency, we can rebuild the relationship between the police and the people they serve.

The bills before your committee today focus on two of those principles – accountability and transparency.

Assembly Bill 108 is one of the bills dealing with accountability. It requires law enforcement officers who witness uses of force to report the use of force incident to their department. It also requires each department to have a policy on when and how to report the use of force. Importantly, this bill also provides whistleblower protections to officers who report a use of force incident. I am currently working with Representative Steineke on defining "use of force" for the purposes of this bill, and am pleased that this bill has the blessing of the Speaker's Task Force on Racial Disparities.

Transparency is the focal point of the next two bills, Assembly Bills 109 & 110. Currently, a lot of data is collected about use of force incidents both by the state and the federal government. Unfortunately, while this data is collected, it is not often shared, and tracking the data between agencies is difficult. AB 109 takes care of this problem by requiring the state Department of Justice to collect data and publish an annual report about use of force incidents. In the Senate companion bill, an amendment was adopted after discussions with the Task Force, and I hope that the identical amendment will be adopted in the Assembly. The effect of the amended bill is to expand both the type of incident for which data is collected and the type of data collected. This will allow everyone to see what how force is used.

Similarly, AB 110 provides public access to use of force policies. It requires a police department to post their use of force policy on their website or a municipality website if the police does not

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have one. The posted policy must be the most recent policy and no longer than 12 months old. The police department website must also contain a link to request the most recent copy, which must be fulfilled with 3 business day.

The final bill returns to accountability. Assembly Bill 134 prohibits the authorization of the use of chokeholds except in life-threatening situations. Under the substitute amendment, authored by Representatives Steineke and Stubbs, a chokehold is defined as both blocking the windpipe, cutting off air and cutting off blood flow to the head, through a carotid hold. The Senate has already adopted this amendment, which was recommended by the task force.

The bills addressing community involvement are in different committees, one of which held a hearing today.

Knowing the rules, and knowing that people who do not follow the rules will be held responsible, is the key to building trust in an organization. That is true no matter the situation or organization – and it's not unique to policing. That means transparency and accountability. I know police officers around the state seek that, and these four bills help to deliver that.



Wisconsin State Lodge *Fraternal Order of Police*



PO Box 206 West Bend, WI 53095

Ryan Windorff
President

Shane Wrucke
Secretary

May 18, 2021

Wisconsin Fraternal Order of Police Testimony in Support of AB108, AB109, AB110, and AB134
Assembly Committee on Government Accountability and Oversight

Thank you, Chairman Knodl and fellow committee members for the opportunity to provide testimony in support of Assembly Bills 108, 109, 110, and 134. My name is Ryan Windorff, and I am the President of the Wisconsin State Lodge of the Fraternal Order of Police. The Fraternal Order of Police is the world's largest organization of sworn law enforcement officers, with more than 356,000 members in more than 2,100 lodges. The Wisconsin State Lodge is made up of more than 2,300 members in 20 lodges throughout the state. We are committed to improving the working conditions of law enforcement officers and the safety of those we serve through education, legislation, information, community involvement, and employee representation.

The Fraternal Order of Police is working to bring effective, balanced, and fair improvements to policing in America. When citizens don't feel safe around police, we must rebuild community trust. These bills will increase transparency between law enforcement and the public and take needed steps to rebuild that trust.

Assembly Bills 108 and 110 expands current law that requires each law enforcement agency to have a use of force policy that is available for review by the public. The bills require these policies to be posted online, provide a means to request a copy of the policy, and mandates that the policy shall provide the instances in which a use of force must be reported, how to report a use of force, and requirement that officers who engage in or observe a reportable use of force must report it. Many departments are already doing the right things, with good policies and standards in place. These will ensure that departments stay up to date with the latest models and policies and allow the public easier access to these policies.

Assembly Bill 109 will require DOJ to collect data and publish an annual report on law enforcement use of force incidents and certain demographics of the individuals involved. The collection and analysis of data is critical to law enforcement because it guides the decision-making process with respect to deploying police assets, identifying potential problems, and improving public and officer safety. We are confident that the data will show what we as a profession already know, that law enforcement's use of force is extraordinarily rare, and that the times when force is used it is justified, legal, and reasonable under the circumstances. This data can be used to foster honest, fact-based discussions on police improvement and modernization.

Finally, Assembly Bill 134 provides that a law enforcement agency may not authorize in its use of force policy the use of choke holds by officers, except in life-threatening situations or in self-defense. The Fraternal Order of Police was a leader in the development of the National Consensus Policy on Use of Force. This document is a collaborative effort among 11 of the most significant law enforcement leadership and labor organizations in the United States. The policy reflects the best thinking of all consensus organizations and is intended to serve as a template for law enforcement agencies to compare and enhance their existing policies.



Wisconsin State Lodge *Fraternal Order of Police*



PO Box 206 West Bend, WI 53095

Ryan Windorff
President

Shane Wrucke
Secretary

The Consensus Policy recognizes that choke holds and vascular restraints are extremely dangerous maneuvers that can easily result in serious bodily injury or death. Given the inherently dangerous nature of these actions, the Consensus Policy allows their use only when deadly force is authorized. These techniques are not taught as part of Wisconsin's Defense and Arrest Tactics (DAAT) curriculum and this bill will ensure that agencies are following best practices and adhering to recognized DAAT standards.

Thank you again for the opportunity to testify in support of these four bills and I am happy to answer any questions you may have.



To: Members, Assembly Committee on Government Accountability and Oversight
From: Badger State Sheriffs' Association (BSSA)
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)
Date: May 18, 2021
RE: Testimony in Support of AB 108, 109, 110, 134

Chairman Knodl and committee members, thank you for the opportunity to testify today in support of Assembly Bills 108, 109, 110, and 134. 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.

Currently, Wisconsin requires all law enforcement agencies to have a use-of-force policy published and available for public scrutiny. AB 108 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, AB 110 ensures the public has easy access to the law enforcement agencies' use of form 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.

AB 109 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. AB 109 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 AB 134, 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. AB 134 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.