

To: Dr. David Thacher, Governor

From: Francisco Brady, Analyst, Department of Analysis and Performance Management

Subject: Proposed Legislation on Police Use Of Force

Date: September 22, 2023

Summary: State Rep. Brady is proposing to establish a division to collect, analyze, and publish data on police use of force. The proposal is reviewed, with recommendations.

Introduction: In response to one of the deadliest years on record for police killings¹ in the United States, Michigan state representative Lorenzo Brady has proposed the creation of a database to track police use of force, managed by a new division of Law Enforcement Accountability within the Department of the Attorney General. The division would collect, verify, and publish a regular Use of Force and Rankings (UOFR) report, ranking departments by the number of incidents each year along with demographic data. The report would also include a section identifying officers with higher than average use-of-force incidents. This memo reviews the proposed legislation, evaluates strengths and weaknesses, and provides recommendations.

Context: The Federal Bureau of Investigation (FBI) collects data on police use of force since 2019, and department participation is voluntary. The best data has been maintained by journalists and academics. The Washington Post maintains a publicly accessible database on fatal police incidents, dating from 2015 after the killing of Michael Brown. Other projects include Mapping Police Violence, and Fatal Encounters. These projects collect source local reporting on the

¹ Levin, Sam, “‘It never stops’: killings by US police reach record high in 2022.” The Guardian, 6 Jan. 2023, <https://www.theguardian.com/us-news/2023/jan/06/us-police-killings-record-number-2022>.

departments involved, as well as basic demographics. These sources are invaluable for researchers and journalists, but are based on news reporting only, and are sometimes slow to update with complete information. Recently, renewed activism around police accountability due to the 2020 murder of George Floyd by Derek Chauvin, has prompted calls for legislation, including this proposal.

The Brennan Center for Justice reports that at least 30 states have passed legislation mandating changes to police use of force standards since 2020². In Michigan, many police departments voluntarily submit their data on use of force reports, although the names of officers involved are excluded.

Strengths: The legislation proposes establishing a statewide database of violent police incidents, creating a new division to monitor compliance, collect data and publish analysis and ranking of departments.

State Rep. Brady, who is sponsoring the legislation, has compared the proposal to rankings published in the medical fields of hospitals and doctors involved in patient deaths, arguing these led to improvements in doctor and hospital quality, highlighting trends in patient care that were not observable before, and could do the same for police departments. In the same way, the UOFR Report could help departments identify officers in need of additional training and support. Open access to the UOFR data would allow journalists and researchers access to a verified, government-sponsored source of information, and could increase public trust in police departments. The UOFR report has the potential to open a dialogue in communities where the

² Subramanian, Ram, Leily Arzy. “State Policing Reforms Since George Floyd’s Murder.” Brennan Center for Justice, 21 May 2021, <https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder>

local police departments are more poorly ranked. Having the data to hold informed conversations about reforming police tactics when interacting with the communities they serve can be an effective tool when advocating for changes in department policies. The legislation also includes provisions that tie compliance to state funding for local departments. The Michigan Association of Police Organizations has come out against the proposal.

Weaknesses: The current legislation includes a mandate to report and rank departments as well as disclose poorly ranked officers. While the aim of the publication would be to identify problematic trends in departments, the “name and shame” aspect of the UOFR could face vigorous push-back from police unions, and even lead to noncompliance. A possible amendment is discussed in the next section. Another aspect of the proposal that could draw criticism is the focus exclusively on physical police violence, ignoring other behaviors that compromise community trust. Recent research by University of Michigan researcher Dr. Lisa Fedina and coauthors associates other forms of police violence (sexual, psychological, or neglectful acts) with increased distress and attempted suicides in local communities³.

Recommendations: The most salient criticism revolves around the proposed “name and shame” step of including high incident police officers in the UOFR report. This could be addressed by modifying the proposal to exclude officer names and instead focus only on the poorly ranked departments. Coupling compliance with access to additional state funding could encourage departments to embrace the proposal.

³ Wadley, Jared, “Study identifies how police violence contributes to mental health woes.” University of Michigan News, 1 Oct. 2020, <https://news.umich.edu/study-identifies-how-police-violence-contributes-to-mental-health-woes/>

Conclusion: This legislation proposes establishing a new database on police violence, overseen by the Office of the Attorney General, and the publication of a Use Of Force Ranking report. The legislation could be strengthened by excluding officer names, adopting funding incentives for compliance, and enlarging its scope to include other forms of police violence.