



Illinois Association of CHIEFS OF POLICE

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FACT VS. FICTION: Concerns about HB 3653

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Summary of major concerns about HB 3653:

- The Illinois Chiefs support law enforcement modernization that enhances the safety of citizens and communities. We support reform, but too much of the language in this bill is flawed.
- This bill would **endanger communities** and **individual citizens** and **embolden criminals**.

IMPORTANT NOTE: Bill proponents say we are “blatantly wrong” in saying that, so please read on. Refer to page numbers in the bill for more details.

- Citizens would no longer be protected by some routine police activity to stabilize tense situations such as removing an unwanted person from a residence or business. Page 326.
- We all promote and train de-escalation, but this bill unreasonably restricts the use of less-lethal options such as Tasers, rubber bullets, and OC spray (commonly called pepper spray). Page 288.
- Some sections of the bill target individual police officers in punitive ways:
 - It creates a new felony offense against officers for failure to follow body-worn camera laws and policies. Page 307.
 - It allows the attorney general to impose a penalty of up to \$25,000 against individual officers for “pattern and practice” violation of rights. Page 46.
 - It prohibits officers from reviewing their own body-camera video before writing a report. This is “gotcha” language. (NFL referees are allowed to review video from

multiple angles to get a call right. So why not police officers, who make split-second decisions in violent situations while protecting and rescuing citizens in danger?)
Page 82.

- The Illinois Chiefs have been leaders for decades in advocating for ongoing training and professionalism in law enforcement. Suggestions that law enforcement is resistant to change and improvement are utterly false.

In support of police reforms

Our association has been a leader in promoting advancements in law enforcement to increase officer accountability and professionalism. It is false to say that law enforcement always opposes change and reform and always pushes back. Just a few examples:

- In the 1950s, we recognized the need for more law enforcement training and worked with the University of Illinois to establish the Police Training Institute on the U of I campus. PTI is still thriving.
- In the 1990s, we established the [Voluntary Police Chief Certification Program](#), designed to provide benchmarks of professionalism for chiefs.
- In the early 2000s, we pushed the Illinois General Assembly to establish “licensing” for police officers, but we could never get a hearing.
- In 2008, we established the voluntary [Illinois Law Enforcement Accreditation Program](#) (ILEAP), which requires police agencies to meet up to 180 standards.
- In 2015, we participated fully in the new Commission on Police Professionalism, chaired by then-Senator Kwame Raoul and then-Representative Elgie Sims.
- In 2017, we provided our own national expert to suggest a very progressive use of force policy for Illinois agencies.
- In 2018, we adopted [Ten Shared Principles](#) in collaboration with the NAACP Illinois State Conference. These include treating everyone with dignity and respect, community policing, procedural justice (voice, fairness, transparency, and impartiality), de-escalation by all, and more.
- From 2018 to 2021, [more than 260 local police agencies](#) have “adopted” these principles as their own, often in high-profile local ceremonies. So has the National Organization of Black Law Enforcement Executives at the national level.
- In 2020, our Law Enforcement Coalition developed a 15-point [Plan for Safe Communities and Police Modernization](#).

Why Illinois citizens should be concerned about HB 3653

There is language in the bill that will endanger our communities and make citizens in towns and cities of every size feel less safe. For example, if this bill is signed:

- If you call the police because an unwanted person is peeking in your windows or standing in your yard or place of business and you don’t want them there for a legitimate reason, you can call the police, but the police will not be able to physically remove that person. All they can do is issue a citation (like a traffic ticket). Then, if the unwanted person still doesn’t leave and is not being threatening, the police will have no authority to arrest them or get them to “move along.” This applies to all Class B and Class C misdemeanors. Page 326.

- The amount of “force” an officer can use will be limited in ways that will cause danger to innocent people and victims of crimes. This will cause citizens to wonder why the police have stopped pursuing obviously violent people. Pages 286-87 and 326.
 - Consider this scenario: The police respond to an armed offender that just committed a crime with a gun running towards a schoolyard with children. Under current law, they would be authorized to use deadly force to stop him. Under the new definition of “imminent” however, they cannot stop the subject and would have to wait for him to actually get to the schoolyard and threaten the children and potentially shoot one before they could use deadly force to stop the subject. See page 286.

Major concerns of the Illinois Chiefs (in addition to citizen concerns above)

- Use of force language also restricts force while making an arrest if an officer reasonably believes the person cannot be apprehended at a later date. Almost anyone can be arrested at a later date. See pages 283-284.
- We are pleased that chokeholds were banned by Illinois law in 2015, but this bill further restricts the definition of chokehold, too narrowly, by prohibiting “direct pressure to the throat.” Page 287.
- Body camera language that (a) makes it a Class 3 felony for an officer not to comply with laws and policies requiring the use of body-worn cameras, page 307, and (b) that does not allow an officer to review their own body cam video before writing a report. Page 82.
- The idea of removing qualified immunity, one of our biggest concerns, is still on the table with the creation of a task force to study this topic and present a report to the governor by May 1. Page 12.
- Language about use of force seems to prohibit aiming a Taser at a person’s back, which is the recommended target. This prohibition reduces the apparent desire for officers to use “less-lethal” methods and tools. Page 287.
- The bill prohibits of the acquisition of certain military surplus equipment, which some people mistakenly believe to be primarily armored tanks. Such surplus equipment can also include weapons that local agencies cannot otherwise afford. It is ironic that the week this bill was passed, the state of Illinois collaborated with local law enforcement with a major military presence to protect the State Capitol in Springfield. Page 53.
- The “three phone-call requirement” is still in the bill. It requires three phone calls for detainees within three hours of being in custody. There are occasions where this is not possible, and this could make it more difficult for law enforcement to solve crimes. Page 411.
- New authority given to the Illinois attorney general allows a penalty to be imposed against an individual officer of up to \$25,000 and up to \$50,000 for a second offense. This would be for an alleged “pattern and practice” of violating a person’s constitutional rights. Instead of this, the Westchester-based Intergovernmental Risk Management Agency (IRMA) says that “pattern and practice” cases focus on systemic police misconduct, and therefore, “true

reform” would have such cases directed at agencies, not individuals. Page 46.

- Language allows for anonymous complaints against officers, without a sworn affidavit. The “sworn affidavit” requirement was put into law because before that, departments and officers were victims of numerous frivolous and unfounded complaints. We prefer the “confidential complaint” language in the final section of the bill. That way, a person could file a complaint confidentially, but at some point, if the review process continued because it was a legitimate complaint, the person filing the complaint would be revealed. Pages 95 and 702.

Unintended consequences and misleading statements

One of my biggest concerns about the bill is unintended consequences. I am especially concerned that too many will say this is the Black Caucus vs. law enforcement, or even worse, black Illinoisans vs. law enforcement.

It is clear to me that black legislators and the black community want criminal justice reform, and it is just as clear to me that the police support changes to modernize policing, make communities safer, and get rid of bad cops.

The Black Caucus and the Illinois Chiefs want the same thing: justice for all and safe communities. In fact, they all want *safer* communities and *all individuals to feel safe*.

The trouble is, legislators put law enforcement on the defensive by introducing this bill at this time in this way, and some of the legislators who voted for it are now on the same script and very much on the defensive themselves. Rather than everyone being on the defensive, it would be far better for us to continue to engage in productive, honest conversations. It is noteworthy that today [February 2], a “Fact vs. Fiction” webinar promoted in northern Illinois includes no invitations to people with my perspective on this bill.

Behind the scenes and in public, I will be the first to listen more and speak less. The bill’s sponsors know this.

Now I want to address some of what I’m hearing from those who are critical of law enforcement’s response to this bill:

- *“The bill was not rushed through and it does not have ideas that have not been vetted. It was the result of 30 hours of testimony in nine hearings last fall, plus some language that has been around for years as the result of decades of concern about police practices.”*

Ed’s response: At the nine hearings last fall, each one ended with no agreement about what should be done with the concepts that were discussed. They were subject matter hearings, not debates about bill language. That means there was no movement toward agreement, just a presentation of ideas followed by questions from legislators. Such hearings are valuable, but they are not enough. For example, in the hearing on qualified immunity, different people testified about the pros and cons of diminishing qualified immunity, but it was never clear what might or might not be in the bill.

The final language of the 764-page bill first emerged about 4 a.m. on Wednesday, January 13. The Senate passed it by 5 a.m., and the House passed it by 11:30 a.m. the same day, with a half-hour to spare before the lame duck session ended. Law enforcement had not seen the

final language until it appeared in the middle of the night. The only part of the bill on which we had “agreed language” was the final section on police certification, and that language had been successfully negotiated by Attorney General Kwame Raoul, not the bill’s sponsors. That language was unexpectedly added to this omnibus bill in the middle of the night.

- *“The bill is a compromise, like a lot of legislation is, and so it must be an acceptable outcome though not agreeable to all.”*

Ed’s response: Some legislators who were on the fence say they voted for the bill because some of the most egregious language, like eliminating qualified immunity and eliminating financial penalties to municipalities, were taken out of the final bill. But these same legislators are silent about the serious problems we have found in the bill.

The fact is, there was no compromise on numerous sections of the bill. Compromise is a part of the legislative process, indeed. But it is also part of the process to make sure that enough time is given for real debate on controversial language.

For example, we gave the sponsors language to fix the state’s body-camera law. We had presented these same ideas at the hearing last year. Not only did the final bill ignore our language, but it added different language, described above, that makes the body-camera law much worse, not better. We also asked them not to make body cameras mandatory, and if they do, make sure to provide the adequate funding for the cameras, storage, and manpower to implement the equipment properly. The mandate is in the bill, but not the funding, which will be problematic for most Illinois municipalities, counties, and other units of government such as universities, park districts and conservation districts.

- *“The time is now for reform. Vote for this bill.”*

The bill’s major proponents used this language on the final day of the lame-duck session. The truth is, the time is always right for reform. That is why the Illinois Chiefs have been leaders in reform since at least 1956. It is why we endorsed the six pillars of the 2015 President Obama [Commission on 21st Century Policing](#), and, in 2018, our own Ten Shared Principles.

The suggestion in Springfield earlier this month was that if you want criminal justice reforms, you vote FOR this bill. YEA means you want reforms; NAY means you are stonewalling and opposing any change. So said the proponents.

A third way was and is possible: Continue discussions that began in the fall. That will lead to a much better Illinois. We don’t have to start over. There is a lot to build on. We know the Black Caucus wants reforms, and we know they understand many of our concerns. Let’s keep talking. We believe in reform, but not in the language contained this bill.

- *“This bill should be signed because it’s a ‘good start.’”*

People who say this is a “good start” forget too much history. They forget that Illinois is already a leader in police reforms and has required since 2015 some very progressive

training – on cultural competency, procedural justice, and much more. We totally embraced community policing in the 1990s, and we have ever since.

The truth is, we are on a long journey together, and we each have our own place and time in history to make a difference. The discussion about the bill is not a “start,” but a part of a journey that we all share.

To say “just sign this bill because it’s a good start” totally dismisses our specific, legitimate concerns about language that could be improved.

- *“Law enforcement always opposes change and still opposes police reforms.”*

I have already addressed this and proved it is wrong – historically wrong – but it isn’t stopping people from saying it.

- *“We included every suggestion of the Law Enforcement Coalition’s 15-point plan for police modernization,” translated in a Sun-Times article as “We included every suggestion made by law enforcement, so they should not be complaining.”*

That is not accurate. In collaboration with our Law Enforcement Coalition, we did indeed promote a [15-point plan for Safe Communities and Police Modernization](#), but we never got to the legislative table for a deliberative discussion of these ideas. For example, we all agreed that the time is right for a standardized statewide use of force policy. But there wasn’t enough time in December and January to arrive at that language, and it’s not in the bill.

Also, we made a lot of suggestions at the subject matter hearings last fall on the *concepts* under discussion, but those concepts and the ones in the bill go way beyond the topics in our 15-point plan. So it’s inaccurate to say that every law enforcement suggestion can be found in the bill.

- *“Why do the police sound like they are against body cameras?”*

We support the use of body cameras, but there is a good reason that fewer than 10% of agencies have adopted their use since the law passed in 2015. There are required processes in the law that make body cameras too expensive to launch, and difficult, from an operational and manpower standpoint, to implement. The legislators know our concerns and seem willing to fix them, but that did not happen in this bill.

Closing observation: This is not us versus them

When I went on the popular black talk radio station WVON in Chicago two days after HB 3653 passed in the Illinois General Assembly, host Matt McGill began the conversation by saying the black community believes these police reforms are necessary and law enforcement does not, and so he wants my perspective. As soon as I could, I said I want to reframe that. I explained why we were totally supportive of the bill’s language that will help departments get rid of bad cops. I also explained that the Illinois Chiefs have adopted Ten Shared Principles with the NAACP Illinois State

Conference. These principles include much of the black community wants from law enforcement. I lamented that the conversations so far this year have degenerated into “us versus them,” and I offered some perspectives to modify that narrative. Samantha Joseph joined Matt McGill in hosting this interview. [You can listen to it here.](#)

“You are way more reasonable than I thought you were going to be,” McGill said toward the end of the interview.

I consider that progress.