

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2455

BY: ROSS

AS INTRODUCED

AN ACT RELATING TO CRIMINAL PROCEDURE; PROVIDING  
SANCTIONS FOR PEACE OFFICERS USING EXCESSIVE FORCE;  
DEFINING TERM; REQUIRING THE ADOPTION OF CERTAIN  
POLICIES AND GUIDELINES; REQUIRING PEACE OFFICERS  
TO REPORT INCIDENTS OF EXCESSIVE FORCE; SPECIFYING  
SUCH REPORT; PROVIDING PENALTIES FOR FAILURE TO  
REPORT OR MAKING MATERIALLY FALSE STATEMENTS;  
PROHIBITING CERTAIN USES OF SUCH REPORT; PROVIDING  
FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND  
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 34.1 of Title 22, unless there  
is created a duplication in numbering, reads as follows:

A. Any peace officer, as defined in Section 648 of Title 21 of  
the Oklahoma Statutes, who uses excessive force in pursuance of such  
officer's law enforcement duties shall be subject to the criminal  
laws and penalties of this state, including but not limited to  
aggravated assault, assault and battery, maiming, murder, or

manslaughter, for the use of such excessive force to the same degree as any other citizen who commits such offense.

B. As used in this act, "excessive force" means physical force which exceeds the degree of physical force permitted by law or the policies and guidelines of the law enforcement entity. The use of excessive force shall be presumed when a peace officer continues to apply physical force in excess of the force permitted by law or said policies and guidelines to a person who has been rendered incapable of resisting arrest.

C. Each law enforcement entity which employs any peace officer shall adopt policies or guidelines concerning the use of force by peace officers which shall be complied with by peace officers in carrying out the duties of such officers within the jurisdiction of the law enforcement entity.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.2 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Any peace officer who, in pursuance of such officer's law enforcement duties, witnesses another peace officer, in pursuance of such other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, use physical force which exceeds the degree of physical force permitted by law or by the policies and guidelines of the law enforcement entity shall report such use of excessive force to such officer's immediate supervisor.

B. At a minimum, the report required by this section shall include:

1. The date, time, and place of the occurrence;
2. The identity, if known, and description of the participants;
3. A description of the events and the force used; and

4. Whether such excessive force appeared to be racially or ethnically motivated.

C. A copy of an arrest report or other similar report required as a part of a peace officer's duties can be substituted for the report required by this section, as long as it includes the information specified in subsection B of this section. The report shall be made in writing within ten (10) days of the occurrence of the use of such force.

D. Any peace officer who fails to report such use of excessive force in the manner prescribed in this section, upon conviction, shall be guilty of a misdemeanor.

E. Any peace officer who knowingly makes a materially false statement which the officer does not believe to be true in any report made pursuant to this section, upon conviction, shall be guilty of a felony.

F. No report filed pursuant to this section shall be used as evidence against a peace officer in a criminal proceeding without a valid court order unless there is other credible evidence which corroborates such report.

SECTION 3. This act shall become effective July 1, 1992.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-7882

MCD