

Maryland General Assembly Public Safety and Policing Workgroup

AGENDA

Tuesday, November 24, 2015

1:00 p.m.

**Morgan State University
Murphy Fine Arts Building
Recital Hall
2201 Argonne Drive
Baltimore, MD 21251**

I. Call to Order

II. Presentations

Maryland Attorney General Police Profiling Guidelines

- Zenita Wickham Hurley
Chief Counsel for Civil Rights and Legislative Affairs
Office of the Attorney General

Psychological Evaluations

- Dr. Hamin Shabazz
Criminal Justice Department Chair
Stevenson University
- Stephen F. Curran, Ph.D., ABPP
Police and Public Safety Psychologist

III. Public Comment

IV. Adjournment



Ending Discriminatory Profiling

Presented by:

Zenita Wickham Hurley, Counsel for Civil Right and
Legislative Affairs

Tiffany Harvey, Deputy Counsel for Civil Rights and
Legislative Affairs

Purpose of the Guidance

- Provides statewide uniform guidance on when police may consider race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion in law enforcement activity
- Responsive to the call from the United States Department of Justice
- Aims to heal communities and restore trust
- Demonstrates Maryland's commitment to equality under the law



What does it do?

- Creates neutrality in law enforcement activities UNLESS specific characteristics are necessary in the investigation of a crime.
- Creates two distinct standards in policing:
 - Routine law enforcement activity
 - Investigative law enforcement activity



Routine Law Enforcement Activity

- Example 1: An officer conducting a traffic stop along a busy interstate believes that people of a certain ethnicity are more likely to be involved in the transportation of illegal narcotics. Based on that assumption, she focuses on drivers of that ethnicity, and when she witnesses a traffic violation, stops the vehicle.
- Improper.



Routine Law Enforcement Activity

- Example 2: Officers develop a “drug courier profile” that focuses on the amount and type of luggage a traveler is carrying, how the traveler paid for his or her ticket, and when the traveler arrives at the airport. The officers then question people at BWI airport based upon this profile.
- Permissible.



Routine Law Enforcement Activity

- Example 3- Local law enforcement officers selectively approach individuals for interviews and investigate their immigration status solely based upon how well they appear to speak English.
- Improper.



Investigative Law Enforcement Activity Specific Offense

- Example 1- A confidential informant with a history of providing truthful information tells police that an individual of a certain nationality will be delivering narcotics to a particular place at a particular time.
- Permissible.



Investigative Law Enforcement Activity Specific Offense

- Example 2- A woman flags down a police officer and reports that she was robbed by a tall man in his 20's of a particular race. Based on this report, for the next 24 hours, law enforcement officers detain and question every man of that race within a two-mile radius.
- Improper.



Investigative Law Enforcement Activity Specific Offense

- Example 3- Police receive calls in the early morning hours for two robberies near one another in a residential neighborhood. One victim described the perpetrators as being of a particular race. While investigating the other call, the police observe a vehicle drive very slowly down the residential street, then speed away. The vehicle occupants were of the race identified by the victim. The officers stop the vehicle to investigate.
- Permissible.



Investigative Law Enforcement Activity

Specific Criminal Organization

- Example 1- A woman flags down a police officer and tells him that a group of men of a particular race are members of a neighborhood gang. The officer detains and questions every male of that race in the area.
- Improper.



Investigative Law Enforcement Activity

Specific Criminal Scheme

- Example 1- Police receive information that in auto theft ring is being run in one urban community at a specific location by a group of people of a particular ethnicity. Police in a neighboring county decide to conduct vehicle stops on all people of that ethnicity.
- Improper.



Investigative Law Enforcement Activity

Specific Criminal Scheme

- Example 2- A reliable confidential informant tells police that a group of men belonging to a particular religious sect are stockpiling weapons at a residence adjacent to a specific place of worship. The police include that information in an application for a search warrant of that residence as a part of that investigation.
- Proper.



Next Steps

- 1. Survey sent to all local law enforcement agencies in Maryland.
- 2. Development of training curriculum.
- 3. Trainings offered at various locations across the state.



Thank you.

- zhurley@oag.state.md.us
- tharvey@oag.state.md.us



GUIDANCE MEMORANDUM



Ending Discriminatory Profiling in Maryland



AUGUST 2015

GUIDANCE MEMORANDUM

ATTORNEY GENERAL OF MARYLAND

**Ending Discriminatory
Profiling in Maryland**

August 2015

INTRODUCTION

Discriminatory profiling by police is inconsistent with Maryland's enduring commitment to equality under the law. That promise is enshrined in our state and federal constitutions, in our antidiscrimination laws, and in the regulations and internal directives of law enforcement agencies across the State. This Guidance Memorandum fortifies Maryland's commitment to equality by promoting uniform statewide standards on the proper use of race, ethnicity, national origin, gender, gender identity, sexual orientation, disability and religion in the vital work of police. This Guidance aims to ensure that our pledge of equal protection is ingrained, in principle and in practice, in the everyday conduct of police, and is embodied by the everyday experience of all people in Maryland.

BACKGROUND

Each day, a wide array of law enforcement officers from city, county, and municipal police to state troopers and federal agents perform the important work of public safety. They operate in dense cities and small towns, on winding roads and congested highways, from Western Maryland to the Eastern Shore. While individual agencies must have flexibility to address challenges specific to their jurisdictions, on a subject as consequential as police profiling, a clear statewide standard for all law enforcement personnel is essential.

Over the past several years, many law enforcement agencies, including the Maryland State Police, have explicitly disavowed racial profiling, recognizing that the practice was unlawful and that it undermined public safety by alienating the communities they seek to serve. In December 2014, appreciating that profiling can extend beyond race and ethnicity, the United States Department of Justice issued new guidance on when federal law enforcement may use certain characteristics of a person — race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion — as a basis to act. Because those guidelines only apply to federal agents, the Attorney General of the United States called upon local leaders to adopt similar policies with respect to law enforcement activities at the state level. This Guidance Memorandum of the Attorney General of Maryland is an answer to that call.

Today more than ever, uniform standards are needed to avoid a patchwork understanding of when profiling is appropriate. Consistency is critical so both law enforcement and the communities they serve have a clear, common understanding of the rules. And no matter whether it is a federal drug agent, a state trooper, or a city detective, these rules should be the same across our State.

Rules and policies predicated on the discredited claim that certain groups commit crimes at higher rates, and therefore warrant greater police scrutiny, have been widely rejected. Experience has taught us that improper profiling by police exacts a terrible cost, discouraging cooperation by law-abiding citizens, generating bogus leads that turn attention away from bona fide criminal conduct, and eroding community trust. This makes police work more difficult and more dangerous. The nation is rightly shaken each time we hear of a lethal encounter between a civilian and a police officer. These tragic events have recently come to define the relationship between communities and police. That should not be. In this respect, the Guidance Memorandum is also meant to help repair fraying relationships by aiming to restore mutual respect to everyday police encounters.

The entire law enforcement community should not be vilified because of those who engage in discriminatory profiling, a practice that all hope has become increasingly rare. For too long, however, certain distinguishing human traits have been carelessly asserted to be crudely linked to crime. Where police carry out their work based on those assumptions, a person with one of those traits carries a burden every day that a person without that trait does not. This is deeply unfair: it segregates people by class instead of respecting them as individuals, and it compromises the dignity and individuality of every person placed into those subordinated groups. Invidious profiling has proven to be a profoundly flawed, ineffective, and unjust method of policing. The time has come for these principles to be transformed into uniform practice.

Accordingly, this Guidance Memorandum adopts the precepts set forth in the Justice Department's federal guidelines and extends it to all state and local law enforcement activities.¹ Provided below are governing state standards, along with corresponding illustrations, for two main sets of circumstances: one for routine police activity where there is no investigation already underway, and another for situations where the police have information and are investigating a certain crime, a particular criminal organization, or a specific crime scheme.

The Attorney General's Guidance is meant to be straightforward and pragmatic, easy to understand, and simple to follow. In order to integrate these guidelines into everyday police practice,

¹ Guidance issued by the Attorney General of Maryland is meant to enhance the internal policies and everyday practices of state and local law enforcement agencies. Like the federal guidance issued in December 2014, it is not intended to, and does not, create any right, trust, or responsibility, substantive or procedural, enforceable at law or equity by a party against any person or against the State, its departments, agencies, entities, officers, employees, or agents, nor does it create any right of review in an administrative, judicial, or any other legal proceeding.

the Attorney General of Maryland will convene training sessions in the coming months and calls upon local law enforcement agencies to incorporate these statewide guidelines into their general orders and to ensure that violations are taken seriously. The Attorney General's Office of Civil Rights will also begin to issue an annual report sharing with the public what progress has been achieved. The report will propose strategies for strengthening and, where necessary, rebuilding relations between law enforcement and the communities they serve and protect.

GOVERNING STANDARDS

Two distinct standards — applicable to two different sets of circumstances: routine law enforcement operations and law enforcement activities related to ongoing investigations — govern whether certain defining personal characteristics may be considered by police in the course of law enforcement activities and investigations. The first standard should guide law enforcement with respect to routine police activity (e.g., traffic stops) where no specific investigation is underway, while the second standard covers activities pertaining to pending investigations.

I. Standard for Routine Law Enforcement Activity

When conducting routine police activity unconnected to an investigation of a specific crime, organization, or scheme, law enforcement may not consider race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion to any degree.

Every day, law enforcement officers in Maryland engage in important routine police work. They walk their beats and engage with the community, sometimes briefly detaining a person who has raised a reasonable, articulable suspicion. They stop speeding and reckless drivers and patrol for broken taillights and expired tags. Although this valuable work contributes to the body of police intelligence and sometimes leads to evidence of more serious crimes, these kinds of police activities generally are not connected to an investigation of a specific offense, gang or organization, or crime spree. Officers performing this work typically do not have information about the individuals they are pulling over or talking with apart from their observations. In these situations, a person's race, ethnicity, national origin, gender, gender identity, sexual orientation, disability and religion should play no part in a police officer's actions.²

² The Supreme Court has already forbidden law enforcement from relying solely upon race in the context of traffic stops. See *Whren v. United States*, 517 U.S. 806, 813 (1996) (“[T]he Constitution prohibits selective enforcement of the law based on considerations such as race.”). Similarly, Maryland statutes require law enforcement agencies to adopt a policy against race-based traffic stops that prohibits the use of race or ethnicity as the sole justification to initiate a traffic stop. Md. Ann. Code, Transp. Art. § 25-113. This Guidance expands

For one of these defining personal characteristics to bear on an officer's decision to make a traffic stop or to detain an individual for investigation is flatly improper and should not occur. The law enforcement officer should consider whether he or she would take the same action if the person were of a different race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion. This does not preclude police from engaging in active enforcement in areas where greater enforcement is warranted. Nor should it discourage law enforcement from detaining individuals engaged in suspicious conduct or stopping drivers violating the law. Indeed, smart policing of locations that have experienced high rates of violence, drug trafficking, and other crimes has been a potent strategy in safeguarding specific neighborhoods. But decisions by police about whom to talk with, which vehicles to stop, and what areas to police should be made without regard to a person's race, ethnicity, national origin, gender, gender identity, sexual orientation, disability and religion.

Example: An officer conducting traffic stops along a busy interstate believes that people of a certain ethnicity are more likely to be involved in the transportation of illegal narcotics. Based on that assumption, she focuses on drivers of that ethnicity, and when she witnesses a traffic violation, stops the vehicle. Even though the motorist is violating the traffic code, the officer's use of ethnicity in determining which motorists to stop is improper because a defining personal characteristic is one factor in the officer's actions.

Also, law enforcement may develop suspect profiles that do not incorporate race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion, so long as a proxy for one of these traits is not being used as a pretext.

Example: Officers develop a "drug courier profile" that focuses on the amount and type of luggage a traveler is carrying, how the traveler paid for his or her ticket, and when the traveler arrives at the airport. The officers then question people at BWI airport based upon this profile. This kind of routine police investigation is permissible because, while it targets certain individuals to the exclusion of others, it does not rely upon a defining personal trait, nor do the profiling characteristics operate as a proxy for an illegitimate consideration. *See Grant v. State*, 55 Md. App. 1, 7 (1983).

Example: Local law enforcement selectively approach individuals for consensual interviews and investigate their immigration status solely based upon how well they appear to speak English. Because English proficiency may operate as a proxy for race, ethnicity, or national origin, using this kind of superficial suspect profile is improper. *See Santos v. Frederick County Board of Commissioners*, 725 F.3d 451, 459 n.2 (4th Cir. 2013).

that prohibition to other classifications and to law enforcement activities beyond traffic stops. Also, it establishes that in routine police activity, these defining personal characteristics should not be considered by law enforcement *to any degree* when taking an enforcement action.

Thus, in routine police encounters where law enforcement are acting upon no additional information separate from their observations, the race, ethnicity, national origin, gender, gender identity, sexual orientation, disability and religion of the person in question should in no way influence the conduct of police. Maryland's commitment to equal protection under the law guarantees no less.

A different standard applies where a certain crime, a particular criminal organization, or a specific crime scheme is under investigation.

II. Standard for Investigative Law Enforcement Activity

When investigating a specific criminal offense, criminal organization, or crime scheme, law enforcement may only consider race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion if police are in possession of credible information that makes the defining personal characteristic directly relevant to the investigation of a specific offense, organization, or scheme.

In addition to routine patrols and monitoring motorists, police are responsible for solving past crimes, dismantling criminal syndicates, and thwarting criminal schemes. Performing that work effectively requires police to pursue leads and build investigations based on reliable intelligence. In that context, certain individual characteristics may be relevant and properly used by law enforcement. Where, for example, an eyewitness to a shooting provides a description of the perpetrator that includes a particular characteristic, police can certainly narrow the search for the suspect to individuals possessing that trait. Similarly, if a reliable informant advises police that a narcotics organization or the "crew" responsible for a string of bank robberies is comprised of individuals who share some characteristic, law enforcement are permitted to take account of that information in conducting their investigation. Ending discriminatory profiling does not require law enforcement to ignore or reject bona fide leads and credible intelligence. It does require police to rely only upon information that is trustworthy and is relevant to the investigation of a specific offense, organization, or crime scheme.

As a threshold matter, police should be confident that the information implicating a potentially discriminatory personal characteristic is trustworthy. Many legal standards that govern police action (e.g., reasonable articulable suspicion to justify an investigatory stop or probable cause for a search warrant) already incorporate this requirement. Thus, law enforcement officers are not entitled to limit the scope of their investigation to individuals of a certain race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion, when the information that would justify concentrating on a specific subgroup is unreliable and unspecific. To be sure, courts have held that information from an eyewitness or the victim of a crime, where that person is not anonymous, can be

reliable. *See Cross v. State*, 165 Md. App. 164, 187 (2005) (distinguishing an anonymous tipster from someone who makes a face-to-face report of a crime). Intelligence from a confidential informant, whose identity is known to police and who has proven reliable in the past, can also be credited. *See, e.g. Smith v. State*, 161 Md. App. 461, 477 (2005). Anonymous tips by comparison should be highly specific and should be used judiciously.

Example: A confidential informant with a history of providing truthful information tells police that an individual of a certain nationality will be delivering narcotics to a particular place at a particular time. Law enforcement officers can properly consider nationality when investigating the suspected narcotics delivery.

The information upon which the police wish to act — even where that information satisfies the threshold requirement of being trustworthy — should also relate directly to the investigation of a certain crime, a particular criminal organization, or a specific crime scheme.

1. Investigation of a specific criminal offense.

When a victim or witness provides a description of a suspect that includes the suspect's race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion, that information can be considered by law enforcement in the subsequent investigation, even if it is the only information available. However, an individual descriptor should never be the sole basis for law enforcement action. Broad targeting of specific groups of individuals may raise constitutional concerns, and always raises serious fairness concerns.

Moreover, while law enforcement may consider identifying characteristics even where that is the only information available, that information alone is not sufficient to justify a Fourth Amendment intrusion, such as an investigatory detention. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 886 (1975) (officers' belief that defendants were of Mexican descent insufficient to justify border stop). Law enforcement may rely on identifying characteristics when developing the reasonable suspicion necessary to detain a suspect, but those characteristics must exist in conjunction with other information. When considering whether there is sufficient information to justify a detention, in addition to personal identifiers, the following factors should be considered:

- (1) the particularity of the description of the offender or the vehicle in which he fled;
- (2) the size of the area in which the offender might be found, as indicated by such facts as the elapsed time since the crime occurred;
- (3) the number of persons about in that area;
- (4) the known or probable direction of the offender's flight;
- (5) observed activity by the particular person stopped; and
- (6) knowledge or suspicion that the person or

vehicle stopped has been involved in other criminality of the type presently under investigation.

4 Wayne R. LaFare, Search & Seizure §9.5(g) at 550-51 (4th ed. 2004) (cited with approval by *Stokes v. State*, 362 Md. 407, 420 (2001); *Cartnail v. State*, 359 Md. 272, 289 (2000); *Williams v. State*, 212 Md. App. 396, 406, *cert. denied*, 435 Md. 270 (2013); *Sykes v. State*, 166 Md. App. 206, 217 (2005)). While this list of factors is not exhaustive, the totality of the circumstances must work together to “eliminate a substantial portion of innocent travelers” from suspicion. *Cartnail*, 359 Md. at 291. The following examples are illustrative:

Example: A woman flags down a police officer and reports that she was robbed by a tall man in his 20s of a particular race. Based on this report, for the next 24 hours, law enforcement officers detain and question every man of that race within a two-mile radius. This would be improper because of the expansive breadth of the detentions and because race, to the exclusion of other identifying characteristics supplied by the victim, has become a principal basis of who to detain.

Example: Police receive calls in the early morning hours for two robberies near one another in a residential neighborhood. One victim described the perpetrators as being of a particular race. While investigating the other call, police observe a vehicle drive very slowly down the secluded residential street, then speed away. The officers could see that the occupants were of the race identified by the victim. When officers stopped the car to investigate, the men tried to flee. The use of race in this case was permissible because it was accompanied by other factors such as the isolated area, and the behavior of the vehicle and its occupants. *See generally Williams*, 212 Md. App. at 405-16.

2. Investigation of a specific criminal organization.

The same limitations with regard to the consideration of race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion apply to investigations of a criminal organization. Police should consider the criteria articulated in Section II.1., also assessing whether the information is relevant in time and location to a specific criminal organization. And the source of the information must be trustworthy. The following examples are illustrative:

Example: A woman flags down a police officer and tells him that a group of men of a particular race are members of a neighborhood gang. The officer detains and questions every male of that race in the area. Because the information was not related to specific criminal activity, and because nothing in the general information provided by the person establishes that she is credible, this use of race was improper.

Example: A special task force is convened after a rash of gang violence erupts in a small urban neighborhood. After speaking with a number of reliable confidential informants and former gang members, the task force learns that the gang involved only permits members of a particular ethnicity, and that those members have signature

tattoos and wear articles of clothing of a specific color. Officers are permitted to consider ethnicity, along with the other defining traits of the gang, as part of their investigation.

3. Investigation of a specific criminal scheme.

Similarly, when officers are investigating a criminal scheme, considering the race, ethnicity, national origin, gender, gender identity, sexual orientation, disability or religion of the suspects may be appropriate, but only where that information is relevant and reliable, and directly relates to the criminal activity. As with information about a criminal incident, the information must be temporally and geographically related to the scheme being investigated. The following examples are illustrative:

Example: Police receive information that an auto theft ring is being run in one urban community at a specific location by a group of people of a particular ethnicity. Police in a neighboring county decide to conduct vehicle stops on all people of that ethnicity. This would be improper because the information, even if reliable, is not geographically relevant.

Example: A reliable confidential informant tells police that a group of men belonging to a particular religious sect are stockpiling weapons at a residence adjacent to a specific place of worship. The police include that information in an application for a search warrant of that residence as part of that investigation. This use of religion is proper because it is based upon reliable and relevant information.

CONCLUSION

We demand a great deal of our law enforcement community. We expect officers to perform perpetually at their very best, even as they confront citizens often at their very worst. Those are exacting requirements. And yet, every day, law enforcement officers across the State of Maryland deliver exactly what we ask of them. Unfortunately, many today do not appreciate the brave and important work of police. Frustration and misgivings have weakened the unspoken trust that once existed between law enforcement and the communities they serve. Correcting this will not happen overnight, but the end of discriminatory profiling — a practice that has long molded the views of groups who have been singled out — is essential to restoring that trust. The Office of the Attorney General issues this guidance with the hope that it assists in restoring the faith of all citizens, in every neighborhood and of every background, who form the rich mosaic of Maryland.

* * * * *



Office of Civil Rights and Legislative Affairs

2015 Law Enforcement Agency Survey

1. Please choose the number of law enforcement offices, as defined in the Law Enforcement Officers Bill of Rights, Md. Ann. Code, Public Safety Article, §3101(e), in your agency.
Choices: fewer than 10; 10-50; 50-100; 100-500; more than 500
2. Does your agency currently have a policy or general order prohibiting profiling on the basis of race, religion, disability, sexual orientation, gender identity, gender, ethnicity, or national origin?
3. What, if any, of the following classifications are included in your policy or general order prohibiting discrimination? (Please select all that apply.)
Choices: race, religion, disability, sexual orientation, gender identity, gender, ethnicity, or national origin
4. Is your agency's anti-discriminatory profiling policy available to the public?
5. Does your agency plan to adopt the August 2015 Maryland Attorney General Guidance Memorandum "Ending Discriminatory Profiling in Maryland" into its current policies or general orders?
6. Does your agency have a person designated to handle citizen complaints alleging discriminatory profiling or other acts of discrimination?
7. Has your agency held training for officers in the area of discriminatory profiling?
8. Are you interested in receiving free training on the Maryland Attorney General's Guidance on Ending Discriminatory Profiling?
9. After reviewing the Maryland Attorney General Guidance on Ending Discriminatory Profiling, do you have any questions or concerns?

Please be advised that these questions were sent to various law enforcement agencies throughout the State of Maryland on November 13, 2015.



**Presentation to the Public Safety and Policing Workgroup
On
Psychological Re-Testing of Police & Supervision and Training**

By

Stevenson University

School of Humanities and Social Sciences

Department of Criminal Justice

Dr. Hamin Shabazz

Morgan State University

Baltimore, Maryland

November 24, 2015

Executive Summary

To the Senate Co-Chair, Senator Catherine Pugh, and the House Co-Chair Delegate Curt Anderson and to the staff and Committee members, thanks for inviting me and it is indeed an honor and pleasure to be here today with you to present you with my thoughts. My name is Dr. Hamin Shabazz and I am an Associate Professor and Department Chair for the Criminal Justice Program at Stevenson University. On behalf of Stevenson University, our President, Dr. Kevin Manning, EVP Dr. Paul Lack, and the Dean of the School of Humanities and Social Sciences, the school for which my department is housed in, Dr. Jim Salvucci, we stand ready, willing, and able to assist you with the important work that you have been commissioned to do. I speak to you today one, as a friend of law enforcement, a former law enforcement officer in one of the toughest cities in the nation during my tenure, Camden New Jersey, as an educator in the discipline of criminal justice with over 10 years of teaching and curriculum building experience at the university level, and lastly as a concerned citizen in the State of Maryland.

I applaud our Governor, Governor Larry Hogan for seeing a need for commissioning The Public Safety and Policing Work Group which was created in May 2015 by the Senate President and House Speaker. Your work group was tasked with the responsibility of looking at police training resources, and recruiting and hiring practices; and the need for a statewide oversight panel for certain kinds of investigations. Further, it is to consider the Law Enforcement Officers Bill of Rights - how it is applied in different jurisdictions; and the community engagement policies of police agencies in the State of Maryland. My talk with you today is divided into four parts; 1) Psychological re-testing of police officers, 2) Academy training curriculum, 3) Field Officer Training (FTO), and 4) My offered recommendations.

Introduction

Policing in this country has experienced three distinct eras. I mention these eras as a frame of reference to where we have been and where we must now go. Each era was a catalyst which forced law enforcement to change its way of policing in order to adopt to its changing environment. These eras are referred to as the political era, the professional era, and the community-policing era. The police had distinctly different goals, structure, and results during each of these eras. Each of the shifts from one era to another was brought on by a demand from citizens, the government, and at times a minority group.

The first major era of policing was known as the political era, it was called the political era because the police and the government were closely tied. The police needed both legitimacy and resources to operate. They needed the legitimacy so that they could properly enforce laws and have citizens listen to their demands. Local politicians met both of those needs. They funded the department, and publicly supported them. This relationship meant that along with upholding the law (which was mostly done with foot patrols at the time), the police department's role was also to serve the politicians. The relationship also meant that even though the police departments were a centralized structure, they were decentralized throughout different cities and even precincts. They would encourage the population to vote for a particular candidate, discourage them from voting for a particular candidate, and later on, even assisted in rigging elections. During this time period (the mid to late 1800's and the early 1900's) the police also provided more services to citizens than they currently do. They would run soup lines for the poor, and assist immigrants by helping them find jobs, or a temporary living situation.

The next era in policing was known as the reform era. The reform era was brought about by reformers who felt that the police departments close relationship with politicians was no longer a benefit. They based their opinion off of the amount of corruption within policing. They felt that the police could no longer gain legitimacy from politicians. One of the big reformers believed that the best way for police to gain legitimacy and to properly do their job they needed to be a professional force. He felt it was the police's job to maintain the moral vision that made America great. Toward the end of the political era the police had started to get the image of a unorganized inefficient organization.

The third and current era of policing is the community-policing era. The fear of crime started to increase during the 70's as did the public's view of the police. Citizens began to appreciate, and even demand more foot patrols. During this era the police sought legitimacy from public support, and from the law. Having legitimacy come from the public also made the police more efficient because citizens were more likely to report crime. Crime control and prevention is the main focus of police, however the services offered by police began to broaden at this time. Conflict resolution and order maintenance were two of the big ones. The police started to come to terms with the fact that they were not the only crime prevention organization. The community-policing era helped to improve police relations slightly.

The role of police in society has experienced changes throughout history. The changes influenced how the police operated and did their job in order to accommodate society's needs. These changes were sparked by many factors and were not always positive, but they played an integral part in changing the way police operate.

I mentioned these eras because it is my opinion that policing in our country today is experiencing a new era. This new era has yet to be named or defined. In each of the eras mentioned the police have had to re-evaluate and re-invent their known ways of servicing the general public. This is what law enforcement is faced with today in State of Maryland. The Freddy Gray case is the case that broke the camel's back so to speak. It is the case, because of the outcomes that set in motion the creation of this workgroup. However, there are many incidents that have occurred in Baltimore City and throughout the nation that has caused the public as well as the government to focus and re-examine how law enforcement conducts its business.

Psychological Testing and Re-Testing Of Police Officers

Increasingly, law enforcement agencies are faced with litigation based on officer behavior, performance, including abuse of authority and failure to perform (often referred to as dereliction of duty). The demands of law enforcement require police departments to ensure that their officers are emotionally and mentally stable or psychologically capable of performing their duties in a safe and effective manner. When an officer demonstrates that he or she may not be

capable of doing so, a number of actions may be initiated by the agency including medical, supervisory, training, or disciplinary intervention, as well as the provision of psychological services. Psychological services in policing have greatly increased in recent decades and now include pre-employment testing, counseling, research, and fitness for duty (Scrivner and Kurke 1995).

The International Association of Chiefs of Police (IACP) provides guidelines for the psychological evaluation, but research has found that law enforcement agencies use a variety of procedures with no consensus as to what should be used and why (Dantzker, 2011). Research has also found that very few applicants pass the psychological evaluations and that law enforcement agencies may be screening out candidates who would have been successful police officers (Chang-Bae, 2006; Dantzker, 2011).

Psychological testing is part of the selection and screening process of those applicants who aspire to become police officers in our nation's law enforcement agencies. The testing is generally administered prior to the recruit entering the police academy for training. Two tests are generally given at each exam. One test is given to rule out pathology and the other is given to rule in character personality traits. A list of characteristics of what the agency is looking for is generally supplied by the hiring agency to the examiner prior to the exam. The applicant also undergoes a clinical interview with the examiner. Each exam for each applicant cost approximately \$300.00 per visit. There are five psychological tests that are most commonly used by examiners. Once the exam of the applicant has been completed a full report is provided to the hiring agency. This report is generally four or five pages long. The tests are as follows;

1) Minnesota Multiphasic Personality Inventory-2 (MMPI-2)

The Minnesota Multiphasic Personality Inventory (MMPI) is the most widely and frequently used personality test in the mental health field. The test is used by trained professionals to assist in identifying personality structure and psychopathology. Some of the uses, both accepted and controversial, include: Identification of suitable candidates for high-risk public safety positions such as police officers.

The current MMPI-2 has 567 items, all true-or-false format, and usually takes between 1 and 2 hours to complete depending on reading level. There is an infrequently used abbreviated form of the test that consists of the MMPI-2's first 370 items. The shorter version has been mainly used in circumstances that have not allowed the full version to be completed (e.g., illness or time pressure), but the scores available on the shorter version are not as extensive as those available in the 567-item version.

2) Millon Clinical Multiaxial Inventory (MCMI-III)

This test instrument provides a measure of 24 personality disorders and clinical syndromes for adults undergoing psychological or psychiatric assessment or treatment. It is specifically designed to help assess both Axis I and Axis II disorders, this psychological test assists clinicians in psychiatric diagnosis.

The MCMI-III is composed of 175 true-false questions and usually takes the average person less than 30 minutes to complete. After the test is scored, it produces 29 scales — 24 personality and clinical scales, and 5 scales used to verify how the person approached and took the test. It is a standardized, self-report questionnaire assessing a wide range of information related to personality, emotionality, and test-taking attitude.

There are 90 new items and 85 that remained the same maintaining the 175 total items of was used in the older version, the MCMI-II. Most of the changes had to do with the severity of the symptoms to increase the ability to detect pathology. The test consists of 14 personality disorder scales and 10 clinical syndrome scales, each of which helps to determine whether the person may have a personality disorder, or a mental disorder such as depression or anxiety.

There are also five scales used to help detect careless, confused or random responses on the test. There are three “Modifying Indices” that modify the person’s Base Rate scores based upon the following areas: Disclosure (X), Desirability (Y), Debasement (Z), and two random response indicators — Validity (V) and Inconsistency (W).

The test is brief in comparison to other personality inventories and it has a strong theoretical basis. Some psychologists prefer to give it because the administration and scoring are

simple, and it has a multi-axial format. It is shorter than other personality tests, such as the MMPI-2 which has 567 true/false questions. It can be administered and scored on the computer in a psychologist's office.

For the primary clinical and personality scales, Base Rate scores are calculated from how a person responds to the questions on the test. Scores of 75-84 are taken to indicate a significant personality trait or mental health concern. Scores 85 and higher indicate a persistent, significant clinical concern or personality disorder.

3) Personality Assessment Inventory (PAI)

This instrument is a self-report 344-item personality test that assesses a respondent's personality and psychopathology. Each item is a statement about the respondent that the respondent rates with a 4-point scale (1-"Not true at all, False," 2-"Slightly true," 3-"Mainly true," and 4-"Very true"). It is used in various contexts, including personnel selection.

4) Inwald Personality Inventory (IPI)

The Inwald Personality Inventory (IPI), created by Robin Inwald, who has served as a psychological consultant to hundreds of law enforcement agencies and companies worldwide. is another inventory used in the law enforcement selection procedure. Many studies have shown the validity of the IPI for predicting law enforcement job performance. The IPI was developed specifically for the task of police officer selection. Many studies have found that the IPI is superior to the Minnesota Multiphasic Personality Inventory (MMPI), the most commonly used test, in predicting police officer performance (Detrick, Chibnall, & Rosso, 2001). The IPI was a better measure of less pathological behavioral patterns predictive of job performance, on criteria such as retention-termination, incidence of absence and lateness, and number of disciplinary actions administered by a supervisor.

Paul Detrick (2002) looked at 152 police officer applicants completing the IPI as part of the screening process at a Missouri police department. Performance, including conduct and discipline, job proficiency, neighborhood policing, professionalism, and job ability, was

evaluated by applicants' supervisors and was significantly predicted by IPI scales, including Family Conflicts, Guardedness, and Driving Violations.

Inwald and Brockwell (1991) found that the IPI was superior to the MMPI in predicting job performance as rated by a supervisor, but the greatest prediction accuracy was found in functions based on both tests used together.

5) NEO Personality Inventory (NEO PI-R)

The NEO PI-R consists of 240 questions intended to measure the Big Five personality traits: Extraversion, Agreeableness, Conscientiousness, Neuroticism, and Openness to Experience. Additionally, the test measures six subordinate dimensions (known as facets) of each of the main personality factors. It consists of 240 items and 3 validity items with the administration time of 35-45 minutes.

A wide variety of tests are used during the law enforcement selection process, and previous research indicates that they may not be being used for the reasons that they were developed (Dantzker, 2011). Previous research is mixed with regard to the validity of psychological tests in general, and the predictive validity of psychological tests specific to law enforcement. Previous research also does not make clear if the purpose of psychological tests is to select the best candidate based on predictors of job performance or to screen out psychologically unfit candidates (Dantzker, 2011).

Another concern about the use of psychological tests is that various studies define job performance in different ways, do not define job performance at all, or do not elaborate on what criteria is indicative of police officer success. There seems to be no clear consensus on what traits law enforcement agencies are seeking to measure.

Mark Dantzker (2011) argued that there is a lack of consistency in the screening process. There is no nationally recognized and generally followed set of recommendations as to what protocols should be used, and the type of measures used lacks consistency and standardization in doing pre-employment screening of law enforcement officers, which can lead to a candidate seeking a psychologist who will agree to his or her mental fitness for policing. A variety of

protocols are used with no consensus as to what should be used and why. The 1973 National Advisory Committee on Criminal Justice Standards recommended that the results of testing be used as a predictor of performance only when the validity and reliability of the predictor has been established by research (National Advisory Committee on Criminal Justice Standards and Goals, 1973), which has yet to be well established (Dantzker, 2011).

Dantzker (2011) acknowledged that there is support for the pre-employment screening process but an inconsistency in what tests should be used. There is a lack of evidence to support what protocols should be used. He suggested that there be a profile developed describing the attributes sought in an officer candidate and that studies are conducted to determine what protocols are best suited for screening candidates. Research suggest that a consistent or standard set of protocols would be appropriate and that individuals who conduct the evaluations should make sure that they are using the best tools (Dantzker, 2011).

Detrick (2012) disagreed with Dantzker claiming that the IACP (International Association of Chiefs of Police) has established guidelines that specify a protocol and recommendations for instruments and that the protocol for performing pre-employment psychological evaluations is well established. Detrick (2012) also claimed that there is no known benefit in promoting the use of only a few select instruments for a specific purpose.

Dantzker (2012) argued that while the IACP has created guidelines, there is no evidence that they are being followed since the IACP is not a governing body. A limited number of assessment tools would not be an unfavorable method since what is being sought is a standardized process for selecting the best possible candidates. Assessment tools should be used consistently to prevent a candidate from being screened out by one psychologist but screened in by another using a different assessment tool. These evaluations should use the same tools since the ultimate outcome of the psychological evaluations is allowing an individual to carry a gun with the power to use it when deemed necessary (Dantzker, 2012).

The International Association of Chiefs of Police (IACP) Police Psychological Services Section (PPSS) guidelines are not intended to establish a rigid standard of practice but describe commonly accepted processes that are used. The guidelines indicate that a psychological

evaluation can be used when screening all types of employees in a law enforcement agency, and the examining psychologist should be doctoral-level and licensed. The candidate should sign an agreement that describes the nature and objectives of the evaluation. The evaluation should include a minimum of two psychological tests that have been validated for public safety personnel screening. The report is typically considered valid for six months to a year. The psychologist should inform the agency of the strengths and limitations of the pre-employment evaluations. Some departments allow candidates to appeal a negative hiring recommendation by getting a second opinion, but the second opinion psychologist is usually paid for by the candidate and not the agency, which could lead to potential bias (Ben-Porath et al., 2011).

The PPSS guidelines for professional practice in pre-employment psychological evaluations of candidates for public safety positions indicate that psychological assessments should be used as one component of the selection process and should be conducted by a licensed or certified psychologist who is trained in law enforcement psychological assessment. Psychological data should be kept secure, and the candidate should sign an informed consent form. Tests should include objective, job-related, valid instruments. An individual interview should be conducted with time to cover background and test results verification. A written report with recommendations should be provided, and conclusions should be made based on consistencies across multiple sources. The goal of the assessment is not to diagnose candidates, and no cut-off scores should be used (IACP Psychological Services, 2005).

Academy Training and Curriculum

According to the presentation made to the Maryland General Assembly's Joint Workshop on Public Safety on June 8, 2015 by J. Michael Zeigler, Executive Director, and Albert L. Liebno, Deputy Director of the Department of Public Safety and Correctional Services and the Police and Correctional Training Commissions, there are 19 training academies in the State of Maryland that have been certified by the MPTC.

The MPTC is also responsible for setting the standards for and approving police entrance-level and in-service training. The MPTC developed 211 terminal objectives which serve as minimum curriculum guidelines for the 19 training academies in Maryland. Each police

academy then develops its training curriculum from the terminal objectives. There is a minimum of 750 hours or 5 weeks of required academy training. All academies are required to provide instruction on all commission-required subject areas and training objectives.

Law enforcement agencies in the State are also required to conduct annual in-service training. Each agency determines the annual training courses for its police officers. All proposed training courses are required to be approved by the police training commission. A minimum of 18 hours is required. In addition, first line supervisors must receive a minimum of 35 hours training and the individual is required to complete commission-required training within 1 year of being promoted to a position of first-supervisor or administrator.

Field Training Officer

A Field Training Officer (FTO) generally is an experienced or senior member of an organization who is responsible for the training and evaluation of a junior or probationary level member. Selections of these officers are generally based on seniority. In addition, FTO's usually receive specialized classroom training and certification to meet state requirements before performing field training duties for the department they work for.

A new graduate from a police academy is usually only allowed to work with an FTO for a predetermined amount of time, or until the field training staff determines that they are ready to work on their own. Field training for police officers typically lasts 12 to 18 weeks. It is also not unusual for a trainee to have multiple field training officers that they rotate around to. For instance, in some law enforcement agencies a trainee may spend several weeks on each shift or in each specialty area of a department, during which time they could have multiple FTOs.

Generally the duties of the FTO involve being a role model, clearly communicating the expectations of training, teaching the trainee the policies of the department, correctly applying concepts learned in the classroom to field training operations, and evaluating the trainee on his or her progress in the program.

Two approaches to police field training are currently practiced in the United States: the traditional San Jose Model and the Police Training Officer (PTO) Program (also known as the

Reno Model), developed by the U.S. Department of Justice Office of Community Oriented Policing Services (COPS).

The San Jose Model of Police field training before 1960 was largely unstructured. The program was specific: Trainees were evaluated daily for 14 weeks on a checklist of 31 discrete skills scored on Likert scales, according to how well their performances reflected the performance of an experienced police officer. The California State Legislature adopted the FTEP in 1973 in Penal Code Section 832.3 as the standard for field training programs. Thus was established the San Jose Model, which continues to be the preferred basis for many FTO programs; it is based on the premise of behavior modification—colloquially described by FTOs as the “I do/We do/You do” method—during which rigorous evaluation of technical skills are aimed at producing a professionally competent police officer.

The Reno model of police field training approach provides a foundation for lifelong learning that prepares new officers for the complexities of policing today and in the future. It is focused on developing each officer’s learning capacity, leadership abilities, and problem-solving skills. This is very different from traditional police training methods that overemphasize mechanical skills and rote memory capacities. While static skills are a necessity in police work and are important to any training program, they constitute only one set of skills needed in contemporary policing.

Recommendations for Consideration

1) Psychological Testing

Recommendation:

On October 21, 2015, Dr. Donald Alves, Medical Director of the Maryland State Police spoke to you about the psychological examinations utilized by the Maryland State Police. He mentioned three exams, two of which I have already discussed that are administered for his agency by various contractors. He also indicated during his presentation that the average cost of the pre-employment psychological examination is approximately \$300.00. He also stated that in his opinion officers should be retested in

intervals of 3 to 5 years and that the retest should be one that is different from the initial one given to the officer prior to their initial employment. I disagree with disagree with Dr. Alves and I am of a different opinion with regards to this subject matter for the reasons mentioned below.

Rationale:

In my opinion it would be a waste of resources for the State to subject its law enforcement officers to a periodic psychological test for no clearly identifiable reason. Firstly, the cost of a psychological exam as mentioned above is \$300.00. We have approximately 16,900 law enforcement officers in the State of Maryland. If the State were to require this, using the figure above, the average total cost would be \$5,070,000.00 every interval period. This cost would have to be absorbed by either the employing agency or the State. Second, there is no research that indicates whether or not a periodic psychological evaluation would be any more useful than the first one that is initially given. Third, 90% or the majority of our officers present no problems or concerns at all. Fourth, most agencies, as mentioned by Dr. Alves during his presentation, already has a system in place for administering a second psychological examination.

In cases where it is suspected that personal traits, disorders, or stress reactions are causing or contributing to problem behavior or substandard performance, and where the usual channels of review, coaching, counseling, and discipline have failed to effect a substantial change, a formal psychological fitness for duty (FFD) evaluation may be ordered to (1) determine if the officer is psychologically capable of remaining in their job as a police officer; (2) if not, then what measures, if any, are recommended to make them more effective and able to function up to the standards of the department; and (3) what kinds of reasonable accommodations, if any, must be in place to permit them to work in spite of residual disabilities. The psychological FFD evaluation thus combines elements of risk management, mental health intervention, labor law, and departmental discipline.

Psychological fitness for duty is both an examination and assessment of risk and disability made by a qualified mental health professional (usually a licensed psychologist) when

an incumbent officer demonstrates inability to perform his or her duties safely and effectively or when the officer's behavior presents a risk to himself or herself, to others, or to the agency, due to apparent psychological factors or impairment.

Fitness for duty evaluations (FFDEs), are often made after critical incidents (for example, officer-involved shootings, hostage situations, witnessing crimes against children, brutal homicides, or death of fellow officers) or when an officer demonstrates that his or her emotional state may negatively affect the effective or safe performance of the job. Indicators of such a state may include signs of alcohol or drug dependence, excessive absence, numerous complaints from community members, emotional or physical outbursts, abuse of authority, or identification through an early warning system.

The decision to refer an officer for a psychological FFDE is usually made by a supervisor, internal affairs investigator, training personnel, an employee assistance program, counselor, personnel administrators, or other officials or agency representatives who may be privy to behavioral information on that officer. I would also suggest that some type of anonymous system be set up for referrals of officers.

The purpose of the evaluation is not to provide a diagnosis but to determine whether the individual is currently capable of performing the essential functions of the job, and to "professionally notify" the department of mental illness, behavior, or personality issues that may affect performance of the officer's official role.. As such, the evaluator examines the job description for the law enforcement position to determine how the person's psychological limitations may affect various job components and specific tasks, while examining the various risks associated with the officer continuing in his or her capacity. This job description should be clearly defined and articulated.

Police officers have a dangerous job, one in which lives and property are at stake. Police officers face a number of stressors, including major events (natural disasters, savage victimizations, crimes against children, and so on) over which officers may have little control, as well as those in which an officer must take control (officer-involved shootings, riot control, and

so on). The negative outcomes from such events can have serious psychological consequences for even the most seasoned and experienced officers.

Part of the culture of policing is the image of police as strong, controlled, non-emotional, and tough. However, exposure to routine stressors or critical incidents can wear away at the coping mechanisms of many officers, leading them to feel isolated and unable to discuss their emotions with family or friends and creating a sense of embarrassment, failure, and even self-loathing. All of these issues may make an officer vulnerable to engaging in inappropriate, atypical, and/or threatening behavior or, in the worst case scenario, suicide.

Lastly, what will happen if an officer fails the second psychological examination? What will be the legal ramifications? For example, will the officer be required to go out on medical leave or will the officer just be terminated? Training patrol men and supervisors in what to look for will make the mechanism already in place more efficient.

2) Academy Training Curriculum:

Recommendation:

The Code of Maryland Regulations sets the Commission-Required Performance Objectives. For the Commission to approve an entrance-level training program for police officers, the entrance-level training program shall include activities to ensure that the applicant for police officer certification has met performance objectives that are: (a) Composed and sanctioned by the Commission; and (b) Based on a Statewide job task analysis and that address those tasks considered essential for law enforcement officers in Maryland, regardless of law enforcement agency or assignment. The Commission then furnishes a copy of the performance objectives upon request by a law enforcement agency, academy, or school. The training director of a law enforcement agency, an academy, or a school responsible for police officer entrance-level training shall: (a) Cover the Commission performance objectives during entrance-level training exactly as written by the Commission; and (b) Determine the sequence, content, and duration of training required to cover the Commission's performance objectives. I recommend that these objectives be updated and re-written to reflect the current and future needs of our law enforcement

officers in the State of Maryland. In addition, I recommend that the departmental policies and regulations become part of the training academy's curriculum that is to be taught to recruits.

Rationale:

A full job task analysis to determine these objectives was last done in 1981. A job task analysis determines what knowledge, skills, and abilities police officers need to know and have in order to perform their duties. This job task analysis is over 25 years old. However, there have been periodic revisions, the last one being done in 2014. These revisions only resulted in adding or revising one or two of the current objectives. These objectives are currently written on an introductory level. Most agencies only require a high school diploma or high school equivalency certificate for hire. The majority of these objectives are on the lowest level of learning according to Blooms Taxonomy. Effective learning objectives need to be observable and/or measureable, and using action verbs is a way to achieve this. Verbs such as "identify", "argue," or "construct" are more measureable than vague or passive verbs such as "understand" or "be aware of".

A course objective is what the student should be able to do upon completion of the course. A good objective will match the academic level of the course and will clearly state what is expected of the student. According to Benjamin Bloom, who developed the concept of higher order thinking levels in 1956, there are six levels of thinking. Those levels (lowest to highest) are Knowledge, Comprehension, Application, Analysis, Synthesis, and Evaluation. Each level of thinking should be considered when creating the learning objectives.

The MPTC's current police entry-level objectives should be revised and re-written to reflect higher levels of thinking utilizing action verbs such as explain, demonstrate, compare, analyze, evaluate, and synthesize to name a few. However, in reading the current objectives we find that the majority of objectives are written in the form of lower level thinking objectives. For example, identify, describe, define, etc. These objectives serve as minimums for courses that are created from them for the 19 police academy's in the State. This means that the courses that are created from them are courses that are lower level thinking courses. The courses that are designed and taught in the police academies should be courses that are at least at a collegiate

level. Raising the level of these objectives will make it easier to create courses that can be more easily transferable into college credit once the cadet graduates from the academy.

3) Field Officer Training

Recommendation:

A FTO generally is a senior member of a department who rides along with a police academy graduate during a probationary period and evaluates his or her performance within the community. This optional position gives a veteran officer the opportunity to share years of work expertise while making sure that the rookie officer is following departmental procedures, such as making the right decision during a critical situation to ensure public and officer safety. Selection criteria differ among the departments. However, most are based on the seniority of the officer. Officers serving in this capacity should be the best of the best. For example, these officers should have received the least number of complaints against them, little absenteeism, no missed court dates, no violations of departmental policies etc. The FTO should be one that reinforces what the rookie officer learned in their academy training.

The rookie officer learns their policing strategy from the FTO. In other words, in most cases this new officer will police the way they learned to police from the FTO. If the FTO is bad the new officer, in most instances, will be a police officer that is bad. Most police officers who have went through academy training will tell you that one of the first things that they are told by the FTO when they are assigned to him/her is “forget everything you learned in the academy now I am going to show you how to police”.

The field training officer should makes sure that a rookie applies academy studies to the job by allowing him to handle actual street situations, such as dealing with an occupied suspicious vehicle or responding to a domestic disturbance with a weapon the way they learned to do those things in the academy. Usually, the training officer stands aside and watches how various problems are solved, assisting only if a physical altercation breaks out. These observations lead to the training officer's decision regarding whether the rookie is ready to be released in a few months for independent duty.

The job of the FTO entails giving constant and honest evaluations of a rookie's performance on the streets, as well as making sure that the proper paperwork, such as incident reports and arrest forms, is completed. It's also important for the FTO to point out ways for the rookie to improve acquired skills while conforming to community expectations, such as obtaining the appropriate care for victims or taking the right steps in trying to locate a missing person. So, it is very important that the person/s selected to fulfill this role is the best one/s the department has to offer. In addition, the training officer should also make sure that the rookie adheres to all department policies and procedures, including the legal processes of transporting and booking a prisoner.

Rationale:

Field training is universally described as the most important stage in the process of becoming an independent police officer. During this period, field training officers (FTOs) present recruits with two challenges: to learn the practical aspects of law enforcement and community service and to assimilate into the professional culture of a particular agency. The stakes are high for the recruit and the department, both of which aspire to achieve the best results, and, yet, both FTOs and recruits bring genuine concerns that are often unknown or unacknowledged

Conclusion:

Police departments across the country are grappling with an unprecedented identity crisis in the face of growing calls to reform their policies and procedures, and to commit to never-before-seen levels of transparency. Practitioner-academic partnerships have been encouraged as a means of improving police organizations across the world. It is even encouraged by the MPTC. The problems that we read or hear about on the news and radio are problems that I believe stem from the lack of proper training, inadequate training and proper supervision. That is where I believe the solution exist to the problems of law enforcement agencies are facing. The training that we provide our officers today is old and outdated. Proper supervision and accountability is virtually non-existent. If policing is ever going to be truly proactive then the recommendations made above should be given some serious consideration.

Lastly, I recently met with the Baltimore City Police Commissioner, Kevin Davis. Some of the ideas mentioned above were discussed at length with him in during our meeting. He seemed overly enthusiastic about the ideas/recommendations that were made to him. Since it was the recent events that occurred in Baltimore City that sparked the creation of this policy work group, I would suggest that this committee is amenable to what I have presented today, use Baltimore City Police Department as pilot program to what may be replicated throughout the State. We have agreed to work together to take a look at the Baltimore City Police Academy Training curriculum to revise and update in the manner mentioned above. I believe that this is the proactive approach that should be taken by law enforcement in the State. I thank you for your time.

References

Aumiller, G. S., & Corey, D. (2007). Defining the field of police psychology: Core domains & proficiencies. *Journal of Police & Criminal Psychology, 22*(2), 65-76.

Blooms,

Dantzker, M. L. (2011). Psychological preemployment screening for police candidates: Seeking consistency if not standardization. *Professional Psychology: Research and Practice, 42*(3), 276-283.

Dantzker, M. L. (2012). Continuing the pursuit of a standardized psychological evaluation for preemployment police officer candidates: Response to Dr. Detrick's comments (2012). *Professional Psychology: Research and Practice, 43*(2), 162-163.

Dantzker, M. L., & McCoy, J. H. (2006). Psychological screening of police recruits: A Texas perspective. *Journal of Police and Criminal Psychology, 21*(1), 23-33.

Detrick, P. (2012). Police officer preemployment evaluations: Seeking consistency if not standardization? *Professional Psychology: Research and Practice, 43*(2), 162.

Detrick, P., & Chibnall, J. T. (2002). Prediction of police officer performance with the Inwald Personality Inventory. *Journal of Police and Criminal Psychology, 17*(2), 9-17.

Detrick, P., Chibnall, J. T., & Rosso, M. (2001). Minnesota Multiphasic Personality Inventory-2 in police officer selection: Normative data and relation to the Inwald Personality Inventory. *Professional Psychology: Research and Practice, 32*(5), 484-490.

Gallo, F. J., & Halgin, R. P. (2011). A guide for establishing a practice in police preemployment postoffer psychological evaluations. *Professional Psychology: Research & Practice, 42*(3), 269.

International Association of Chiefs of Police Psychological Services. (2005, September). Guidelines for police psychological service. *The Police Chief, 72*(9).

International Association of Chiefs of Police Psychological Services. (2009). Psychological fitness-for-duty evaluation guidelines. Retrieved from International Association of Chiefs of Police. http://www.theiacp.org/psych_services_section/pdfs/PsychFitnessforDutyEvaluation.pdf

Preemployment Psychological Evaluations

Recommendations Prepared by

Stephen F. Curran, Ph.D., ABPP

Board Certified, Police & Public Safety Psychology

for

Public Safety and Policing Workgroup

November 25, 2015

Morgan State University

Murphy Fine Arts Building

Recital Hall

2201 Argonne Drive

Baltimore, MD 21251

Summary

Hiring psychologically stable and suitable applicants for public safety and police positions is an accepted national standard¹. However, Maryland lags behind most states in setting standards for the preemployment psychological evaluation of applicants. The consequences of having lax standards are numerous. For example, media reports of over 250 state correctional personnel arrested since 2013 and compensation to citizens for problematic police conduct among other impacts. Citizens should be able to expect that all public safety employees i.e., police, correctional officers, and others holding positions of authority, have completed a psychological evaluation prior to hiring. In fact, consistent preemployment psychological evaluations of public safety applicants does not occur in the State of Maryland. The failure to require preemployment psychological evaluations is egregious at the state level as well as for many local agencies. Among the primary reasons is found in the Code of Maryland Regulations (COMAR) pertaining to Police (Title 12, Subtitle 04) and Corrections (Title 12, Subtitle 10). These regulations do not require a preemployment psychological evaluation but rather an ill-defined "mental health evaluation."

The following recommendations are essential towards identifying psychologically stable and psychologically suitable candidates for police and public safety related positions.

1

- 1967 - President's Commission on Law Enforcement and the Administration of Justice recommended the screening of all potential officers.
- 1973 - National Advisory Commission on Criminal Justice Standards and Goals recommended that every police agency follow a formal selection process.
- 1988 - International Association of Chiefs of Police (IACP), Police and Public Safety Section produced first set of guidelines for preemployment psychological evaluations.

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
Subtitle 10 CORRECTIONAL TRAINING COMMISSION

Current

(underlined areas for recommended change)

(2) Mental Health Examination

(a) An agency head shall:

(i) Require that an applicant is examined by a licensed, trained, and qualified mental health care professional; and

(ii) Receive a positive recommendation from the mental health care professional.

(b) To be eligible for certification in a mandated position, the mental health care professional's recommendation shall indicate that the applicant is:

(i) Emotionally and mentally fit; and

(ii) Able to perform duties of the mandated position for which the applicant is applying as determined by a correctional unit.

Definition: A **Preemployment Psychological Evaluation** is accepted by professionals in the field of Police and Public Safety as meaning (1) the applicant completes objective psychological testing to measure psychopathology and psychological suitability and (2) a licensed psychologist or psychiatrist with demonstrated proficiency in this field interviews the applicant.

Recommended

Change “Mental Health Examination” to “Preemployment Psychological Evaluation”.

Rationale: There is no agreement to what constitutes a "mental health examination". This can range from a simple five-minute interview to a review of a single psychological measure with no interview of the applicant.

Change “is examined” to “submits to a preemployment psychological evaluation”.

Rationale: “Examined” is ambiguous enough to include: (a) 10-15 minute in-person interviews with no psychological testing, (b) administering one psychological inventory without interviewing most candidates, (c) using psychological measures that lack scientific validity and reliability.

Change “qualified mental health care professional to “Licensed psychologist or psychologist meeting MCTC registration requirements.”

Rationale: Police & Public Safety Psychology is an American Psychological Association recognized specialty.

Mandate registration of interviewers (psychologists and psychiatrists) with MCTC requiring minimum training (e.g., 9 hours last three years) through attendance at recognized professional psychologist public safety trainings and prospectively require minimum CE (such as 6 hours each year).

Change “emotionally and mentally fit” and “as determined by” to add specific expectations.

Rationale: This is another low threshold!

Define that an applicant has been determined to be psychologically stable and *suitable to perform the essential job functions of the position*.

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 04 POLICE TRAINING COMMISSION

Current

(underlined areas for recommended change)

- Before an applicant may be selected for a position as a police officer, the applicant shall be examined by a licensed, trained, and qualified mental health care professional and receive a positive recommendation from the mental health care professional indicating that the applicant is:
 - (a) Emotionally and mentally fit; and
 - (b) Able to perform the duties of a police officer as these duties are determined by the law enforcement agency.

Recommended

Change “examined” to “preemployment psychological evaluation”.

Rationale: “Examined” has led to:

- a. 10-15minute in-person interviews with no psychological testing.
- b. There are agencies in Maryland administering one psychological test only and no interview of most candidates.
- c. There are agencies claiming to administer psychological measures and interview of candidates yet the measures administered lack scientific validity and reliability.

Define Evaluator Qualifications to conduct Public Safety Candidates

Rationale: Police & Public Safety Psychology is an American Psychological Association recognized specialty.

- a. Mandate registration of psychologists and psychiatrists with MPTC documenting minimum training (e.g., 9 hours last three years) through attendance at recognized professional psychologist public safety trainings, and
- b. Prospectively require minimum CE (such as 6 hours each year).

Change “emotionally and mentally fit”

Rationale: This is a low threshold!

- a. Define that an applicant has been determined to be psychologically stable and suitable to perform the essential job functions of the position.

Change “determined” by the law enforcement agency to consistent with the essential job functions of the position.

Stephen F. Curran, Ph.D., ABPP

Brief Bio

- Dr. Curran received his doctorate from the University of Maryland in 1977 and is licensed in Maryland and Virginia.
- He was among the first psychologists awarded the Diploma, after successfully passing an examination, recognizing board certification in Police and Public Safety Psychology by the American Board of Professional Psychology (ABPP). There are about 70 U.S. psychologists with this certification. Dr. Curran is the only board certified psychologist in this specialty in Maryland and the Northern Virginia area.
- Dr. Curran's expertise is in pre-employment evaluation of public safety applicants and stress management intervention and training.
- Dr. Curran coordinates regional and national psychological services programs for DEA, Amtrak Police, and CSX Transportation, among others. He has been the psychologist for Frederick County Sheriff's Office, Corrections and Fire/Rescue for 30 years.
- Dr. Curran is active in professional police organizations and a member, as well as past-chair, of the International Association of Chiefs of Police (IACP) Police Psychological Services Section.

Among recent publications/presentations are:

Curran, S.F. (2014, November). Assessment and evaluation: Collecting the requisite building blocks for treatment planning. In Clevenger et al. *Behind the Badge*. New York, NY: Houghton Mifflin Harcourt. (pp. 23-43).

Curran, S.F. (October 25, 2014). *Legal and Ethical Issues With Preemployment Psychological Evaluations*. Workshop Presentation at the IACP Police Psychological Services Section Annual Conference, Orlando, FL.

Curran, S.F., Allen, S.W., Clark, D.W., Craig, D. and Gardner, L.M. (September 2014). Managing Encounters with Returning Veterans. *The Police Chief*, 81, No. 9, pp. 52-55.

Curran, S.F. (2012, September 29). *Progress Report: Effects from Combat Stress Upon Reintegration for Citizen Soldiers and on Psychological Profiles of Police Recruits with Prior Military Experiences*. Presentation at the International Association of Chiefs of Police, Police Psychological Services Section, Annual Meeting, San Diego, CA.

Curran, S.F. (2011, August). Identifying MMPI-2-RF and IPI Predictors of Firefighter Selection and Fire Academy Training Outcomes. Symposium on Effects of Interventions in Police Psychology. 2011 APA Annual Convention, Washington, DC.

Preemployment Psychological Evaluations

Curran, Stephen F.

6

Gupton, H.M., Axelrod, E., Cornell L. Curran, S.F., Hood, C.J., Kelly, J., and Moss, J. (August, 2011). Support and Sustain: Psychological Intervention for Law Enforcement Personnel. The Police Chief, pp 92-97.

Contact:

Stephen F. Curran, Ph.D., ABPP

Board Certified, Police & Public Safety Psychology

29 W. Susquehanna Avenue, Suite 704

Towson, MD 21204

410-823-0555



**MARYLAND CHIEFS OF POLICE ASSOCIATION, INC.
MARYLAND SHERIFFS' ASSOCIATION, INC.**



6740 Alexander Bell Dr.
#350
Columbia, MD 21046
410-516-9873

36 S. Charles St.
Twelfth Floor
Baltimore, MD 21201
410-659-8329

November 10, 2015

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
Maryland General Assembly
State House, H-107
Annapolis, MD 21401-1991

The Honorable Michael E. Busch
Speaker
House of Delegates
State House, H-101
Annapolis, MD 21401-1991

Dear Sirs:

We are pleased to submit the following recommendations for proposed improvements to the Law Enforcement Officers' Bill of Rights (LEOBR), as a follow-up to our testimony before the Legislative Public Safety Workgroup.

Public confidence in law enforcement's ability and willingness to hold its officers accountable is a critical part of enhancing trust between agencies and communities. There is no place in our organizations for members who do not uphold the standards of the law or meet the highest internal expectations of integrity and proper conduct for officers.

We understand that recent national and local events have raised concerns about police accountability. In Maryland, we are fortunate to have an effective LEOBR that affords necessary due process rights for our dedicated law enforcement officers, but we recognize that improvements can be made to further enhance public trust in the accountability process.

Law enforcement agencies want and need to be made aware of citizen complaints, especially when they involve allegations of brutality. We certainly do not want there to be barriers or hurdles, perceived or otherwise, in making those reports to agencies. So first, we are recommending that the permitted time period for filing a brutality complaint be increased from 90 days to one year. We are also recommending that the requirement of notarizing written brutality complaints be eliminated. These suggestions are intended to demonstrate our openness to receiving all brutality complaints in a process that makes it easiest for a complainant to file.

Further, we are making a recommendation to reduce the time period from ten days to five days for an officer to obtain counsel prior to an internal interrogation. While this time period applies only to the

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch
November 10, 2015
Page 2

internal investigation and not to a criminal probe by prosecutors, it is important for the public to feel a sense of fairness and confidence in both the internal and external processes.

These suggested improvements—the one-year complaint filing period, the elimination of the notary process and the change to a “five-day rule” for officers obtaining counsel—are intended to confirm our profession’s commitment to accountability and transparency. We want the people we serve to have faith in us, both in practice and perception, and we are open to making changes to further that effort.

As a part of our review process, our Joint Legislative Committee solicited input from representatives of various groups, including the state FOP, the ACLU and the NAACP; leadership of the Maryland General Assembly; individual senators and delegates; and members of the Maryland General Assembly’s Public Safety Workgroup. We were additionally advised by the Maryland Chiefs of Police and Maryland Sheriffs Legal Advisors Committee.

The results of our work included the three suggested improvements mentioned above, as well as these additional six recommendations:

1. Composition of Hearing Board and Final Authority - Maintain the Police Chiefs’ and Sheriffs’ responsibility and accountability for law enforcement disciplinary actions by retaining uniform statewide procedures for the Chiefs’/Sheriffs’ creation of a disciplinary administrative hearing board, and their final authority to impose disciplinary sanctions. May require clarifications to *Md. Code, Public Safety Article, §3-107(c) (1), §3-107(c) (4) and §3-108(c)*.

2. Officers convicted of serious misdemeanors - Serious Maryland misdemeanor criminal charges carry punishments ranging from over one year to more than 20 years incarceration. (See the attached exhibit of serious misdemeanors). Police Chiefs and Sheriffs need additional authority to terminate an officer without a hearing if the officer is convicted (including probation before judgment) of a serious misdemeanor. Need to amend *Md. Code, Public Safety Article, §3-107(a)(2) and (3)*.

3. Investigative subpoena authority - Currently law enforcement agencies do not have authority to issue subpoenas for business or other records to facilitate an internal affairs administrative investigation. Many state, county, and municipal agencies, (State Commission on Human Rights, county and municipal civil rights commissions, in civil discrimination investigations; Attorney General in consumer affairs investigations; State Board of Physicians; Attorney Grievance Commission) have such investigative subpoena authority. In connection with a disciplinary investigation, the police chief, sheriff or designated assistant chief, should have the authority to issue subpoenas to compel the production of books, papers, records, documents, or physical property relevant or necessary in an internal affairs administrative investigation. Need to amend *Md. Code, Public Safety Article, §3-104*.

4. Reciprocal disclosure of evidence and witness names - Under current LEOBR provisions, in advance of an administrative disciplinary hearing board, a law enforcement agency is obligated to provide extensive disclosure of evidence and witness names to a charged officer. To increase fairness in the administrative process, a reciprocal disclosure obligation should require a charged officer to disclose in advance of a hearing the names of witnesses to be called and copies of all physical and documentary evidence to be introduced at the hearing. Need to amend/add to *Md. Code, Public Safety Article, §3-104(3)*.

5. Summary punishment sanctions - Although the LEOBR provides for simplified processing of minor disciplinary matters when the facts are not in dispute, the range of sanctions has not kept up with inflation. Sanctions for summary punishment cases should be increased to a \$1,000 fine and/or 5 days suspension

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch
November 10, 2015
Page 3

without pay in order to encourage resolution of disciplinary matters that do not involve the most serious sanctions. Need to amend/add to *Md. Code, Public Safety Article, §3-111(b) (2)*.

6. The authority to challenge an internal affairs investigation or other agency actions prior to the conclusion of an administrative disciplinary hearing board should be eliminated – Currently, extensive delays can arise in a disciplinary investigation when a charged officer files in the circuit court a Petition to Show Cause (and related appeals) under the LEOBR, prior to an administrative hearing. This extraordinary remedy is generally not available in any other administrative, civil or criminal litigation process. Challenges to the procedure should be litigated at the administrative hearing itself and resolved, if necessary by way of the currently authorized appeal to the circuit court of a final decision in a disciplinary case. LEOBR show cause proceedings should be eliminated. Repeal *Md. Code, Public Safety Article, §3-105*.

We hope these recommendations are of some assistance to you and your Public Safety Workgroup as you conclude your analysis. As stated, we believe they revise, update and improve LEOBR in ways that are responsive, relevant and substantive. You may rest assured that we are prepared to respond to any questions or concerns you may have.

Sincerely,



Chief Michael Pristoop
President
Maryland Chiefs of Police Association



Sheriff R. Jay Fisher
President
Maryland Sheriffs Association

Attachment – Misdemeanor Crimes

Cc:
Alex Hughes, Chief of Staff, Speaker Michael Busch
Victoria Gruber, Chief of Staff, Senate President Mike Miller

Examples of Maryland Misdemeanor Crimes with Imprisonment for 18 months to 20 years (or more) in the Md. Code, Criminal Law Article

	<u>Code Section</u>	<u>Max Jail Time</u>	<u>Title</u>
	3-701	1.5	Extortion under \$1,000
	3-809	2	Revenge porn.
	9-204	3	Bribery of person in athletic contest
	7-302	3	Unauthorized access to computers
	6-206	3	Breaking and entering motor vehicle
	6-205	3	Burglary - 4th degree
	4-102	3	Deadly weapons on school property
	4-101	3	Dangerous weapons
	3-807	3	Misuse of laser pointer - aiming at aircraft
	3-804	3	Misuse of telephone facilities and equipment
	3-708	3	Threat against State or local official
	3-609	3	Duty to report death of minor
	3-608	3	Duty to report missing child
	3-314	3	Sexual conduct - correctional employee and inmate
	3-211	3	Life threatening Injury by MV under influence of alcohol
	2-210	3	Manslaughter by vehicle - Cr. Negligence
	5-601	4	Possessing or administering CDS
	9-305	5	Intimidating or corrupting juror
	9-303	5	Retaliation for testimony
	9-302	5	Inducing false testimony or avoidance of subpoena
	8-606.1	5	Forging signature of judge, court officer, or court employee
	6-106	5	Burning with intent to defraud
	4-110	5	Restricted firearm ammunition
	4-106	5	Bulletproof body armor - wearing prohibited
	3-802	5	Stalking
	3-605	5	Abuse or neglect - vulnerable adult 2nd degree
	3-603	5	Sale of a minor
	3-602.1	5	Neglect of a minor
	3-204	5	Reckless Endangerment
	6-107	10	Threat of arson
	4-405	10	Use of machine gun for aggressive purpose
	3-1001	10	Threat of mass violence
	3-704	10	Extortion by false accusation
	3-322	10	Unnatural or perverted sexual practice

	3-215	10	Ingesting bodily fluid - without consent or by force
	3-205	10	Prison Employee - Contact with bodily Fluid
	3-203	10	Second Degree Assault
	4-204	20	Use of handgun in crime of violence
	1-202	Underlying Offense	Conspiracy - Limitation on Punishment
	1-201	Underlying Offense	Limitation on Punishment for attempt