



State of Maryland
Department of State Police
Government Affairs Section
Annapolis Office (410) 260-6100

POSITION ON PROPOSED LEGISLATION

DATE: January 21, 2021

BILL NUMBER: Senate Bill 166 **Position: Support with Amendments**

BILL TITLE: Criminal Procedure – Police Officers – Duty to Report Misconduct (Maryland Police Accountability Act)

REVIEW AND ANALYSIS:

This legislation seeks to require that a police officer who witnesses an act of misconduct by another police officer report the act to a supervisor or the chief of police. This legislation also establishes a criminal penalty for failure to report the witnessed act.

The Maryland State Police supports every officer's duty to intervene as well as their duty to report misconduct to the appropriate supervisor or Chief. While law enforcement agencies and the officers they employ should be held to a higher standard of conduct, this legislation narrowly focusses on five areas of police misconduct. As written, this legislation would not require a law enforcement officer to report a colleague who participated in a conspiracy to commit any of the enumerated acts. Nor would this legislation require a law enforcement officer to report any act not enumerated in the bill. For example, there would be no requirement to report extortion, conspiracy to commit one of the enumerated acts, harboring a fugitive, unlawful gun sales or any drug related crime.

The penalty for failure to report one of the enumerated offenses is up to five years imprisonment and/or a \$10,000 fine. In some of the enumerated crimes, the penalty is more severe than if the officer committed the crime himself. Failing to report a theft, for example, could send the otherwise innocent officer to prison for up to five years and the officer who committed the theft could be subject to as little as 90 days imprisonment and or a \$500 fine. Not to mention, the officer would be issued a criminal citation and released. This theft offense would have no impact on his employment status and the other officer, who failed to report, would be terminated.

As opposed to creating a criminal penalty for failure to report any sort of misconduct by a police officer, the Department believes that Administrative Sanctions would be a better remedy. There is already a disciplinary matrix employed by law enforcement agencies in Maryland. Depending on the severity of the misconduct, there should be a sliding scale of punishment. This scale could be from written reprimand and additional training for failing to report minor acts of misconduct, to decertification or termination for failing to report major misconduct.

Instead of subjecting an officer to a criminal charge and potential jail, a mandatory uniform statewide policy incorporating the use of force, duty to intervene, reporting of misconduct, and other key elements, developed by the Training and Standards Commission, should be required in law. This

State of Maryland
Department of State Police
Government Affairs Section
Annapolis Office (410) 260-6100

POSITION ON PROPOSED LEGISLATION

would give the Superintendent broad authority and discretion in dealing with officers who violate the policy. The Department believes this is truly the goal of both law enforcement and the citizens of Maryland, to ensure police officers are held accountable and remove those who are violating the oath to protect and serve.

For these reasons, the Department of State Police urges the Committee to give Senate Bill 166 a favorable report as amended.