



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary

February 9, 2021

The Honorable Luke Clippinger
101 House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: Support with Amendments - House Bill 670 - Police Reform and Accountability Act of 2021

Dear Chair and Committee Members,

The Maryland Natural Resources Police (NRP) acknowledges the need for, and supports the concept of, police reform and accountability. The NRP shares the goal of the Maryland General Assembly to provide professional law enforcement services, delivered with unbiased integrity, to all Maryland's citizens and visitors.

As drafted, House Bill 670 will make significant changes to law enforcement operations across all Maryland law enforcement agencies. This bill will impact the investigation of citizen complaints against law enforcement officers and how disciplinary actions against officers are applied by repealing the Law Enforcement Officer's Bill of Rights. The bill also impacts financial and day to day operations of police departments by requiring body-worn cameras, making changes to warrant service procedures and use of force, changing pre-screening requirements for hiring of new police officers, and mandating annual mental health and physical fitness requirements for incumbent officers.

The NRP supports HB 670 with amendments, and offers the following information for consideration in amending this bill.

Disciplinary Processes and Repeal of Law Enforcement Officers Bill of Rights (LEOBR)

The NRP understands that in certain jurisdictions, the processes for investigating and disciplining law enforcement officers, outlined in the existing LEOBR statutes, have been altered through collective bargaining. With the exception of compliance with a federal consent decree from 1994, the NRP has not deviated from the requirements of the LEOBR and conducts all administrative investigations involving law enforcement officers as required by statute. NRP believes that the statute should prevail over any other agreements, and should be the one and only process for investigating and adjudicating complaints against sworn personnel. Now is an outstanding opportunity to review existing statute for opportunities for improvement, however, to completely repeal the LEOBR without replacement would impair the ability for agency leadership to hold officers accountable for misconduct.

NRP supports the right of due process currently afforded law enforcement officers by the LEOBR when complaints do not involve criminal acts. These rights serve as protection against frivolous and



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unfounded accusations, which do happen. While the LEOBR offers the law enforcement officer certain protections, it also offers the agency many advantages in discovering the truth, among them requiring officers to submit written reports, compelling officers to submit to and answer questions during interrogation, and submit to drug, alcohol, and polygraph examinations as appropriate. The existing statute clearly provides an equilibrium of due process protection to the law enforcement officer and investigative advantages to the agency, and NRP recommends retaining this balance. In cases of non-traffic, criminal misconduct, NRP supports the language in HB 670 that would allow the Superintendent to discipline an officer without a hearing board if the officer is convicted or receives Probation Before Judgement.

NRP does not support the language in HB 670 with regard to Charging Committees. Due to the membership of the board, as written in HB 670, the agency and the lead attorney for DNR would need to create and participate in charging committees in 24 jurisdictions across the state. If charging committees are implemented, we would support the establishment of a single committee to serve the NRP. This would streamline investigative review and ensure consistency in treatment of NRP officers across the state.

Body-worn cameras

The NRP does not currently have a body-worn camera program. The potential to establish a program has been reviewed on several occasions and the decision not to do so has been largely based upon deficiency of funding and support personnel. NRP supports the use of body-worn cameras provided that funding and personnel allocations are increased to support a body-worn camera program. NRP believes that January 1, 2025 is a realistic date for implementation, provided funding and personnel are allocated in FY 2023.

Use of Force

NRP supports the requirement to establish a data-based early intervention system to help early identification of officers who are at risk for engaging in the use of excessive force. NRP has purchased new software in FY2021 to support this requirement.

NRP also supports the requirements for a police officer to intervene in situations where unnecessary or excessive force is being applied, to render aid to those upon whom force has been applied and the full reporting and supervisory/command review of all incidents. All of these elements are currently required by NRP Policy and Procedure.

NRP Policy and Procedure also prohibits the use of chokeholds and other techniques that restrict blood flow or breath, except in cases where lethal force is otherwise authorized, and the NRP supports this requirement in HB 670.

NRP supports the prohibition against shooting at or from a moving motor vehicle unless lethal force is otherwise authorized. This prohibition is consistent with current agency policy

While the NRP supports the full investigation of use of force incidents, as well as prosecutorial review of incidents where an officer may have knowingly or willfully applied excessive force upon another

person. NRP does not support the blanket criminal penalties associated with failure to comply with the legislation, 3-524 (c), as currently written in HB 670. For example, failure to fully document all use of force incidents or attend mandated training should not carry the same exposure to criminal penalty as does the willful or unreasonable application of force

The NRP supports adoption of a statewide use of force policy, developed by the Maryland Police Standards and Training Commission, including administrative sanctions which could result in termination and decertification instead of incarceration for administrative violations.

SWAT Team Reporting, Warrant Service and No-Knock Warrants

The NRP maintains a Tactical Response Team, which would fit the definition of SWAT. The NRP already tracks deployments and supports the reporting requirement for SWAT Teams.

The NRP does not support the language in HB 670 which creates a heightened standard for no knock warrants. The proposed clear and convincing standard is a very high standard to meet. NRP also does not support the language restricting time of service for search and seizure warrants. Both of these requirements will unnecessarily impact the safety of officers. NRP would support a requirement for prosecutorial review for no knock warrant applications.

Tuition Assistance for future police officers

The NRP supports this program, as it will provide a better educated workforce and a good group of potential applicants with an interest and a solid background upon which the agency can build during police training.

Implicit bias testing and training

The NRP has previously provided implicit bias training, which occurred over a two year period, for all sworn and civilian personnel. Due to procurement regulations, different vendors were contracted to provide this training. While the training was not without value, it was evident, based upon the product provided by these vendors, that there is little consistency in this discipline. The other information learned is that implicit biases constantly change and evolve based upon life experiences, making it difficult to truly assess an applicant's biases over the course of time, or to predict future bias. NRP does not support this requirement.

Mental health and physical fitness

The NRP provides mental health screenings and physical agility assessments as part of the hiring process for all prospective applicants to become a police officer, and advocates that this practice continue. While the agency supports maintenance of good physical fitness by way of an annual fitness bonus, it does not support an annual requirement as a condition of continued employment. NRP works in a variety of environmental conditions, including on boats, which takes a physical toll on officers, particularly joints. The legislation does not provide exceptions for a medical or other reason or the ability to retake the test should a person not pass. This proposal does not provide a grandfather provision for police officers who are already on the force.

While the NRP does encourage officers to engage in activities that promote good mental health, and encourages the use of mental health services, as needed, by its officers, the agency does not support mandating mental health assessments without cause. This would be very expensive and to require such an assessment without cause may violate HIPPA laws if the agency were to request the results from the screening psychologist.

The Maryland Natural Resources Police encourages the Committee to give HB 670 a favorable report with the above suggested amendments, and looks forward to the opportunity to work with the Committee to facilitate meaningful changes to policing.

Sincerely,

Col. Adrian Baker
Superintendent, Natural Resources Police