



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Sponsor Testimony in Support of HB304

Criminal Law - Failure to Obey a Reasonable and Lawful Order

Delegate Sheila Ruth

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This summer, many Marylanders were horrified to see videos showing Ocean City police officers using excessive force against teens who had been vaping on the boardwalk in an area where vaping was prohibited. In one instance, a young man was seen with his hands up and then trying to comply with the order to remove his backpack when he was shot with a TASER. Another video shows a young man restrained face down on the boardwalk while an officer repeatedly strikes him in the ribs with a knee.

Because I have been working on this issue, it stood out to me that several teens were charged with “failure to obey a reasonable and lawful order.” The “failure to obey” statute is vague, overly broad, and often abused by the police. Ways that “failure to obey” is misused include:

- Escalating a situation to provoke a response that will justify an arrest;
- Creating probable cause to search an individual when no other crime has been committed and the Fourth Amendment would otherwise prohibit a search;
- Arresting unhoused people who have committed no crime to remove them from a public area;
- Targeting Black, brown, and trans people who are viewed as “suspicious” because of an officer’s personal explicit or implicit biases.

The two incidents from Ocean City which occurred a week apart demonstrate kinds of situations where “failure to obey” is problematic. [In the case of Taizier Griffin](#), the 18-year-old who was shot with a taser while his hands were up, Griffin appeared to be actually trying to comply with the officer’s orders. A friend of Mr. Griffin testified at the trial that there were “so many commands going on at once.” This demonstrates how complying with police orders can be difficult for a variety of reasons. The many commands must have made for a confusing and hectic situation, and when Mr. Griffin apparently tried to comply with what he believed he was being ordered to do, the officer likely construed his movement as threatening despite it being an attempt to comply with the aforementioned order, prompting him to discharge his TASER at Mr. Griffin.. Mr. Griffin was charged with “failure to obey a lawful order” along with the other charges.

[The official statement from the Ocean City police](#) on the incident a week later also shows how “failure to obey” plays a role in escalating these kinds of conflicts. Several of the young men were charged with “failure to obey” among other charges, and in at least some of the cases, the “orders” from the police seemed to escalate the situation. I was particularly struck by the case of 19-year-old Khalil Dwayne Warren. According to the report:

...officers observed Khalil Dwayne Warren, 19, Harrisburg, PA, standing on private property next to two "no trespassing signs". Officers gave Warren a lawful order to leave the private property if he was not staying at the property. Warren became disorderly. Officers attempted to place Warren under arrest. Warren resisted arrested. Warren was charged with trespassing-posted property, resist/interfere with arrest.

This appears to have been a young man standing on the sidelines doing nothing but watching the situation. With everything that was happening, he may have not even noticed the "no trespassing" signs. I could easily see myself in the same situation, but as a middle-aged white woman, I doubt any police officer would have ever thought to question me for standing next to a "no trespassing" sign. Although the statement doesn't indicate that Mr. Warren was charged with "failure to obey," it clearly says that he was given a "lawful order." While it's difficult to know from this short statement what actually happened due to its lack of detail, this appears to be a case where the "lawful order" caused escalation of a situation where there was no risk to public safety, particularly when Mr. Warren and the police were probably already in a state of heightened adrenaline due to the ongoing situation.

All of the young men in these incidents were Black, and the police involved were predominantly white. This raises questions about the role that implicit bias plays in these kinds of situations. Statewide, over a three year period from 2017, 63% of people charged with "failure to obey" were Black, including 53% of people where "failure to obey" was the sole charge. It's hard not to see the role of implicit bias in these statistics.

People with disabilities may also be unable to comply with orders from a police officer, or even unable to understand it due to a developmental disability, causing an escalation that could lead to arrest or excessive force.

The 2021 version of this bill was structured as a full repeal of the law making it a misdemeanor to fail to obey the orders of a police officer. This session's HB304 takes a more nuanced approach, based on feedback from the committee and research during the interim. HB304 limits the "failure to obey" law to only apply in emergency situations, and requires police officers to clearly identify that they are giving a lawful order. It also removes incarceration as a penalty and creates tiered fines for 1st, 2nd, and 3rd offenses.

I ask for a favorable report for HB84.