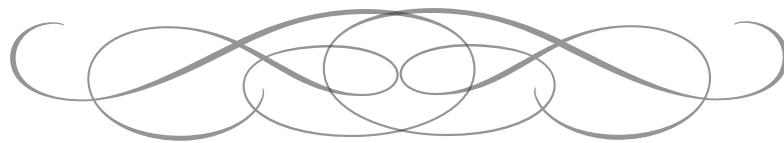


Public Safety and Policing Workgroup



REPORT AND RECOMMENDATIONS



Annapolis, Maryland
January 2016

Contributing Staff

Writers

Alexandra Hughes
Victoria Gruber
Claire Rossmark

Other Staff Who Contributed to This Report

Shirleen M. Pilgrim
Michelle J. Purcell
Cathy C. Zablony
Nichol A. Conley

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Baltimore Area: 410-946-5400 • Washington Area: 301-970-5400

Other Areas: 1-800-492-7122, Extension 5400

TTY: 410-946-5401 • 301-970-5401

TTY users may also use the Maryland Relay Service
to contact the General Assembly.

Email: libr@mlis.state.md.us

Home Page: <http://mgaleg.maryland.gov>

The Department of Legislative Services does not discriminate on the basis of age, ancestry, color, creed, marital status, national origin, race, religion, gender, gender identity, sexual orientation, or disability in the admission or access to its programs, services, or activities. The Department's Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Requests for assistance should be directed to the Information Officer at the telephone numbers shown above.

Public Safety and Policing Workgroup

Membership Roster

Senator Catherine Pugh, Co-Chair
Delegate Curt Anderson, Co-Chair

Senators

Senator Joan Carter-Conway
Senator Guy Guzzone
Senator Michael J. Hough
Senator J.B. Jennings
Senator Nathaniel J. McFadden
Senator Wayne Norman
Senator Victor R. Ramirez
Senator Jamie Raskin
Senator Robert A. Zirkin

Delegates

Delegate Vanessa E. Atterbeary
Delegate Luke Clippinger
Delegate William Folden
Delegate Antonio L. Hayes
Delegate Michael A. Jackson
Delegate Nathaniel T. Oaks
Delegate Joseline A. Pena-Melnyk
Delegate Brett Wilson
Delegate C.T. Wilson

Report and Recommendations

In May 2015, the Senate President and House Speaker created the joint legislative Public Safety and Policing Workgroup for the purpose of examining police training resources, recruiting and hiring practices, and community engagement policies; considering a statewide oversight panel for certain kinds of investigations; and reviewing the Law Enforcement Officers' Bill of Rights and its application and practice by law enforcement agencies across the State.

The workgroup scheduled a total of eight public meetings during the 2015 interim during which it heard from over 85 witnesses from advocacy groups, community organizations, members of law enforcement, and the public to inform its decision making on recommendations for the 2016 legislative session.

On June 8, 2015, the workgroup held an organizational meeting. Presentations included a law enforcement overview by the Department of Legislative Services and an overview of police training and certification by officials from the Maryland Police Training Commission.

On June 23, 2015, the workgroup held a meeting focusing on recruiting and training practices for law enforcement. Presentations were made by several of the State's police agencies.

On July 23, 2015, the workgroup held a Town Hall meeting to hear from citizens and advocates regarding law enforcement issues across the State.

On August 24, 2015, the workgroup held a meeting on the topic of the Law Enforcement Officers' Bill of Rights (LEOBR). Presentations included an overview of LEOBR, and the perspectives of the Fraternal Order of Police, American Civil Liberties Union, CASA de Maryland, National Association for the Advancement of Colored People, and the Maryland Chiefs' and Sheriffs' Association about LEOBR.

On September 22, 2015, the workgroup held its fifth meeting. A presentation was made by representatives of the Governor's Office of Crime Control and Prevention explaining law enforcement data collection efforts involving traffic stops, SWAT team deployments, electronic control device use, and deaths involving a law enforcement officer.

On October 21, 2015, the workgroup held a meeting focusing on best practices in law enforcement and community policing. The Maryland State Police Medical Director gave a presentation on psychological evaluations, and a representative of Community Mediation Maryland spoke on the topic of community policing and mediation.

On November 24, 2015, the workgroup held a meeting at Morgan State University on the topic of policing practices. A representative from the Office of the Attorney General discussed

recently issued police profiling guidelines and a professor and a psychologist spoke about psychological evaluations for police officers.

The workgroup held its final meeting to discuss its recommendations and decisions on January 11, 2016.

In addition, members of the workgroup participated in site visits to the Public Safety and Educational Training Center in Sykesville and the Frederick City Police Department Charles V. Main Training Facility, and attended Maryland State Police trial board proceedings.

Presentation documents from the meetings of the workgroup are included in the Appendix. Other materials relating to the workgroup and its meetings may be accessed through the following link: <http://mgaleg.maryland.gov/Pubs/Committee/2015-PSP-Workgroup-Master-Schedule.pdf>

Background

Over the last several years, the General Assembly has considered numerous pieces of legislation regarding policing practices, law enforcement personnel training, serious police-involved incidents, and discipline. Deadly force incidents by police officers in several locations across the country (including Ferguson, Missouri; Staten Island, New York; Cleveland, Ohio; and North Charleston, South Carolina), have resulted in heightened scrutiny of police practices nationwide.

In 2014, an investigative report by *The Baltimore Sun* found that since 2011, Baltimore had paid out approximately \$5.7 million in judgments or settlements in more than 100 lawsuits brought by citizens alleging excessive use of force and other police misconduct. The city's budget office also raised concerns over the city's spending of \$10.4 million from 2008 through 2011 to defend the Baltimore Police Department against misconduct lawsuits.

On April 12, 2015, one day before the close of the 2015 legislative session, Freddie Carlos Gray, Jr., a 25-year-old African American man, was arrested by the Baltimore Police Department for possessing what the police alleged was an illegal switchblade. While being transported in a police van, Mr. Gray fell into a coma and was taken to the hospital. Mr. Gray died as a result of injuries to his spinal cord on April 19, 2015.

Eyewitnesses contended that the police officers involved used unnecessary force against Mr. Gray while arresting him. Police Commissioner Anthony W. Batts reported that, contrary to department policy, the officers did not secure Mr. Gray inside the van while transporting him to the police station. The autopsy found that Mr. Gray had sustained the injuries while in transport. Mr. Gray's death resulted in a series of protests and widespread civil unrest. Subsequently, six police officers who were involved in Mr. Gray's arrest and transport were charged with various crimes in connection with the incident, including second-degree depraved-heart murder,

manslaughter, reckless endangerment, assault, and misconduct in office. Prosecution of those cases is ongoing.

Several bills were introduced in 2015 addressing policing practices and civilian oversight. Among these were bills to address the use of body-worn cameras by law enforcement officers. The Department of State Police reported that, as of mid-January 2015, there were at least 19 law enforcement agencies in the State using body-worn cameras or testing their use on a limited basis in pilot programs. **Chapters 128 and 129** (Senate Bill 482/House Bill 533) required the Police Training Commission (PTC), by January 1, 2016, to develop and publish online a policy for the issuance and use of a body-worn camera by a law enforcement officer that addresses specified issues and procedures. The bills also created the Commission Regarding the Implementation and Use of Body Cameras by Law Enforcement Officers to study and make recommendations to PTC and the General Assembly, by October 1, 2015, regarding the best practices for the use of body cameras by a law enforcement officer. That commission was appointed and submitted its report to the General Assembly this fall.

In addition, because concerns had been raised in past years as to whether the use of body-worn cameras violated Maryland's two party consent requirements under the State's wiretap and electronic surveillance provisions, **Chapters 128 and 129** also make it lawful for a law enforcement officer in the course of the officer's regular duty to intercept an oral communication with a "body-worn digital recording device" or an "electronic control device" capable of recording video and oral communications under specified circumstances. The bills make the interception of an oral communication by a law enforcement officer lawful if (1) the officer is in uniform or prominently displaying the officer's badge or other insignia; (2) the officer is making reasonable efforts to conform to standards for the use of either type of device capable of recording video and oral communications; (3) the officer is a party to the oral communication; (4) the officer notifies, as soon as practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and (5) the oral interception is being made as part of a videotape or digital recording.

The federal Death in Custody Reporting Act of 2013 requires each state that receives funds through the Edward Byrne Memorial State and Local Law Enforcement Assistance programs, the Local Law Enforcement Block Grants Program, or the Edward Byrne Memorial Justice Assistance Grant Program to report information regarding individuals who die in the custody of law enforcement. While the State's annual Uniform Crime Report (*Crime in Maryland*) contains data on the number of law enforcement officers killed or assaulted in the line of duty, it does not contain information on individuals who die in the custody of law enforcement.

Chapter 134 (House Bill 954) requires each local law enforcement agency, by March 1, 2016, and by March 1 of each subsequent year, to provide the Governor's Office of Crime Control and Prevention (GOCCP) with information for the previous calendar year about each "officer-involved death" and "death in the line of duty" that involved a law enforcement officer employed by the agency. The information in the reports provided to GOCCP must include:

- the age, gender, ethnicity, and race of a deceased individual;
- the age, gender, ethnicity, and race of the officer involved;
- a brief description of the circumstances surrounding the death;
- the date, time, and location of the death; and
- the law enforcement agency of the officer who (1) died, if the incident involved an officer who died in the line of duty or (2) detained, arrested, or was in the process of arresting the deceased, if the incident involved an officer-involved death.

GOCCP must adopt procedures for the collection and analysis of the information required to be included in the reports, analyze and disseminate the information reported by each agency, and submit an annual report on the incidence of officer-involved deaths and deaths in the line of duty in Maryland to the General Assembly by June 30 of each year.

Additionally, by October 15, 2016, GOCCP must report on the number of officer-involved deaths and deaths in the line of duty that occurred during the previous three calendar years. This report must include the same information required to be provided by local law enforcement agencies. Each local law enforcement agency must provide GOCCP with the three-year report information by August 15, 2016. An “officer-involved death” means the death of an individual resulting directly from an act or omission of a law enforcement officer while the officer is on duty or while the officer is off duty, but performing activities that are within the scope of the officer’s official duties. The term “death in the line of duty” means the death of a law enforcement officer occurring while the officer is acting in the officer’s official capacity while on duty or while the officer is off duty, but performing activities that are within the scope of the officer’s official duties.

There were also a number of measures passed with respect to policing practices and the Baltimore City Police Department. **Chapter 133** (House Bill 771) applies to police practices in Baltimore City only. The Act requires the Police Commissioner of Baltimore City, by January 1 of each year, to report information concerning the Baltimore Police Department to the Mayor and City Council of Baltimore and the members of the Baltimore City Delegation to the General Assembly, including information regarding the demographics of police officers within the department, recruiting events, use of force, civilian complaints, officer suspensions, and community involvement. The report must be made available to the public on the department’s website.

Chapter 126 (Senate Bill 321) requires the Baltimore City Police Department and the Baltimore County Police Department to each establish a behavioral health unit, to the extent practicable, by October 1, 2016. The purpose of the units will be to divert appropriate individuals into treatment instead of the criminal justice system and prevent and reduce unnecessary use of force and loss of life. Each unit must consist of at least six officers who are specially trained to understand the needs of these individuals and in cultural sensitivity and cultural competency. Training for officers in behavioral health units must be developed in consultation with the Behavioral Health Administration in the Department of Health and Mental Hygiene (DHMH).

The Baltimore City Police Department must complete a study and make recommendations regarding implementation of the unit and the Act also requires the police departments of Baltimore City and Baltimore County to report to the General Assembly on or before October 1, 2018, on the number of emergency calls that their behavioral health units responded to from 2016 to 2018, and the disposition of those calls.

Chapter 127 (Senate Bill 413) reinstated the provisions of Chapter 173 of 2011 that abrogated in 2014 by restoring the data collection and reporting program related to race-based traffic stops for a five-year period. The Act requires PTC, in consultation with the Maryland Statistical Analysis Center (MSAC), to develop a model policy against race-based traffic stops that a law enforcement agency can use to develop its own policy. In addition, the commission is required to develop a model format for the efficient recording of traffic stop data on an electronic device, or by any other means, for use by a law enforcement agency and guidelines that each law enforcement agency may use in data evaluation.

Law enforcement officers must record specified information in connection with each traffic stop, including the driver's race and ethnicity, to evaluate the manner in which the vehicle laws are being enforced. Each law enforcement agency is required to compile the data collected by its officers and submit an annual report to MSAC by March 1 of each year reflecting the prior calendar year. The Act's provisions do not apply to a law enforcement agency that is subject to an agreement with the U.S. Department of Justice (DOJ) requiring similar data collection; however, such agencies are required to provide copies of the report made to DOJ in lieu of the bill's reporting requirements.

MSAC is charged with analyzing the data based on a methodology developed in consultation with PTC. By September 1 of each year, MSAC must issue a report to the Governor and the General Assembly as well as to each law enforcement agency. Reports of noncompliance by law enforcement agencies are required to be made by the training commission and MSAC to the Governor and the Legislative Policy Committee. The Act took effect June 1, 2015, and terminates May 31, 2020.

In addition to these measures and the work of the workgroup and the Body Camera Commission, a major public safety and criminal justice reform effort has been underway through the Justice Reinvestment Coordinating Council established in the 2015 session. Addressing the costs, purposes, and results of State sentencing and correctional practices has become a national concern.

In January 2010, the Council of State Governments (CSG) Justice Center, in partnership with the Pew Center on the States, the federal Bureau of Justice Assistance, and the Public Welfare Foundation, hosted a national summit on justice reinvestment. Since that time, several additional entities; including the states of Michigan, New Hampshire, New York, North Carolina, Ohio, Vermont, and Wisconsin; have partnered with CSG to develop justice reinvestment initiatives seeking to devise strategies and policy options to "avert prison population growth by reducing property crime, holding offenders accountable with supervision, reinvesting

to strengthen supervision policies and practices to reduce recidivism, and supporting victims of property crime.”

Chapter 42 (Senate Bill 602), an emergency measure, established the Justice Reinvestment Coordinating Council (JRCC) in GOCCP. The group met throughout the interim with technical assistance from CSG Justice Center and the Public Safety Performance Project of the Pew Center on the States. Interim work of the JRCC included convening an advisory stakeholder group including organizations with expertise in certain criminal justice issues and conducting roundtable discussions to seek public input. Using a data-driven approach, the work of the JRCC culminated in the development of a report issued in December 2015 with recommendations for a statewide framework of sentencing and corrections policies to further reduce the State’s incarcerated population, reduce spending on corrections, and reinvest in strategies to increase public safety and reduce recidivism.

A number of other measures regarding public safety, criminal justice, and policing practices were considered during the 2015 session. At the request of a number of members of the General Assembly, the House Speaker and Senate President indicated that this workgroup would be appointed to review and make recommendations on these issues as well in a manner that engaged advocates, community groups, and members of the public. The Speaker and the President requested that the workgroup conclude its work and make recommendations for the 2016 session.

Serious Police-involved Incidents and Use-of-force Standards

The workgroup was informed that most law enforcement agencies have policies that guide their use of force. These policies describe an escalating series of actions an officer may take to resolve a situation. This continuum generally has many levels, and officers are instructed to respond with a level of force appropriate to the situation at hand, acknowledging that the officer may move from one part of the continuum to another in a matter of seconds.

There is no federal or national model use-of-force continuum, but the National Institute of Justice provides the following example of a use-of-force continuum:

- **Officer Presence – No force is used. Considered the best way to resolve a situation.**
 - The mere presence of a law enforcement officer works to deter crime or diffuse a situation.
 - Officers’ attitudes are professional and nonthreatening.
- **Verbalization – Force is not physical.**
 - Officers issue calm, nonthreatening commands, such as “Let me see your identification and registration.”
 - Officers may increase their volume and shorten commands in an attempt to gain compliance. Short commands might include “Stop” or “Don’t move.”

- **Empty-hand Control – Officers use bodily force to gain control of a situation.**
 - *Soft technique:* Officers use grabs, holds, and joint locks to restrain an individual.
 - *Hard technique:* Officers use punches and kicks to restrain an individual.
- **Less-lethal Methods – Officers use less-lethal technologies to gain control of a situation.**
 - *Blunt impact:* Officers may use a baton or projectile to immobilize a combative person.
 - *Chemical:* Officers may use chemical sprays or projectiles embedded with chemicals to restrain an individual (e.g., pepper spray).
 - *Conducted Energy Devices (CEDs):* Officers may use CEDs to immobilize an individual. CEDs discharge a high-voltage, low-amperage jolt of electricity at a distance.
- **Lethal Force – Officers use lethal weapons to gain control of a situation. Should only be used if a suspect poses a serious threat to the officer or another individual.**
 - Officers use deadly weapons such as firearms to stop an individual's actions.

Law Enforcement Officers' Bill of Rights

LEOBR (Title 3, Subtitle 1 of the Public Safety Article) is a State law enacted in 1974 to guarantee to law enforcement officers procedural safeguards in connection with an investigation that could lead to disciplinary action. The investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal must be conducted in accordance with LEOBR. LEOBR covers two major components of the disciplinary process: (1) the conduct of an internal investigation of a complaint that may lead to a recommendation of disciplinary action against a police officer and (2) procedures that must be followed once an investigation results in a recommendation that an officer be disciplined. Maryland's LEOBR offers a set of protections to officers during internal investigations, such as limitations on the time, place, and duration of an interrogation. The statutes also protect the officer's right to obtain certain information and to have an attorney present.

When a complaint against a police officer is sustained by an internal investigation, unless the officer has been convicted of a felony, LEOBR entitles the officer to an administrative hearing before a board of sworn officers selected by the chief (for minor offenses, the board may be a single officer). Police agencies and officers may enter into collective bargaining agreements that allow an alternate method of forming the hearing board. LEOBR also contains requirements for the conduct of the hearing. A decision by a hearing board regarding an officer's culpability is binding.

For cases in which the finding is guilt, the hearing board makes a punishment recommendation, which the chief may accept or reject, unless the agency and officers have a collective bargaining agreement that makes the hearing board's punishment recommendation

binding on the chief. If the chief decides to impose a more severe punishment than the one recommended by the hearing board, the chief must document the reasons for that decision. Law enforcement leaders may not suspend an officer without pay unless that officer is charged with a felony.

Critics contend that LEOBR prevents transparency and that it precludes meaningful community oversight of the law enforcement disciplinary process, which erodes community trust. Critics of LEOBR most frequently mention two specific provisions of the law as being most in need of consideration and revision. The first provision requires that a complaint alleging excessive force be filed within 90 days of the incident in order for disciplinary action to be undertaken by a law enforcement agency. Critics point out that a victim who is in the hospital, in jail, or otherwise unaware of or unable to pursue his or her rights within the 90-day timeframe would be prevented from filing an excessive force complaint. However, in *Baltimore City Police v. Andrew*, 318 Md. 3 (1989), the Court of Appeals held that the 90-day provision provides a timeframe in which a law enforcement agency must investigate a complaint, but “does not prevent the [law enforcement] agency from deciding, in its discretion, to investigate the circumstance and to take further action if that seems warranted,” after the 90-day period has expired. The General Assembly has not passed legislation invalidating the *Andrew* decision.

LEOBR also requires that a complaint alleging excessive force be sworn to by the complainant before a notary public. The provision has been widely criticized as being unduly burdensome.

The second provision that is most criticized requires the interrogation of an officer under investigation to be suspended for up to 10 days if the officer requests counsel. Critics contend that, given that law enforcement officers often have nearly immediate access to union counsel, this delay only impedes an investigation and delays the ability of a law enforcement agency to communicate effectively with the public. Some critics have also indicated that the delay may allow officers an opportunity to collude with colleagues or access case files that will help them craft a false story for use during an interrogation. Law enforcement agencies have contended that the provision has not had the effect of impeding an investigation or hampering community relations. Further, LEOBR only provides procedural protections in administrative disciplinary proceedings related to employment. In a criminal interrogation setting, an officer could invoke his or her rights under the Fifth Amendment and would not have to speak to an investigator or provide an account.

A number of citizens have suggested to the workgroup that administrative hearing board proceedings should be open to the public. LEOBR does not specifically address this issue. The Department of State Police and the Prince George’s County Police Department report that they allow members of the public to attend administrative hearing board proceedings on a space available basis. Law enforcement agencies may be reluctant to admit members of the public to these proceedings due to concerns relating to space and security, privacy of personnel records, and intimidation by attendees.

Maryland Police Training Commission, Training and Standards

The Police Training Commission is a statutorily created entity within the Department of Public Safety and Correctional Services that has authority over police training schools and police officer certification. The commission consists of the following 16 members:

- the President of the Maryland Chiefs of Police Association;
- the President of the Maryland Sheriffs Association;
- the President of the Maryland Law Enforcement Officers, Inc.;
- the Attorney General;
- the Secretary of State Police;
- the Police Commissioner of Baltimore City;
- the Chancellor of the University System of Maryland;
- the agent in charge of the Baltimore office of the FBI;
- the President of the Eastern Shore Police Association;
- a representative of the Maryland State Lodge of Fraternal Order of Police;
- the Secretary of Public Safety and Correctional Services;
- the Chairman of the Maryland Municipal League Police Executive Association;
- three police officials of the State, appointed by the Secretary of Public Safety and Correctional Services, with the approval of the Governor and the advice and consent of the Senate, representing different geographic areas of the State; and
- the President of the Police Chiefs' Association of Prince George's County.

The Secretary of State Police is the Chairman of the commission. The commission employs an executive director and other employees who perform general administrative and training management functions.

Subject to the authority of the Secretary of Public Safety and Correctional Services, the commission has the following specific powers and duties, as set forth in § 3-207 of the Public Safety Article:

- “(1) to establish standards for the approval and continuation of approval of schools that conduct police entrance-level and in-service training courses required by the Commission, including State, regional, county, and municipal training schools;
- (2) to approve and issue certificates of approval to police training schools;
- (3) to inspect police training schools;
- (4) to revoke, for cause, the approval or certificate of approval issued to a police training school;

- (5) to establish the following for police training schools:
 - (i) curriculum;
 - (ii) minimum courses of study;
 - (iii) attendance requirements;
 - (iv) eligibility requirements;
 - (v) equipment and facilities;
 - (vi) standards of operation; and
 - (vii) minimum qualifications for instructors;
- (6) to require, for entrance-level police training and at least every 3 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of:
 - (i) the criminal laws concerning rape and sexual offenses, including the sexual abuse and exploitation of children and related evidentiary procedures;
 - (ii) the contact with and treatment of victims of crimes and delinquent acts;
 - (iii) the notices, services, support, and rights available to victims and victims' representatives under State law; and
 - (iv) the notification of victims of identity fraud and related crimes of their rights under federal law;
- (7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;
- (8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;
- (9) to conduct and operate police training schools authorized by the Commission to offer police training programs;
- (10) to make a continuous study of entrance-level and in-service training methods and procedures;
- (11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;
- (12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;
- (13) to consult and cooperate with other agencies and units of the State concerned with police training;

(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008;

(15) to require, for entrance-level police training and annually for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, for police officers who are issued an electronic control device by a law enforcement agency, special training in the proper use of electronic control devices, as defined in § 4-109 of the Criminal Law Article, consistent with established law enforcement standards and federal and State constitutional provisions;

(16) to require, for entrance-level police training and, as determined by the Commission, for in-service level training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, consistent with established law enforcement standards and federal and State constitutional provisions:

- (i) training in lifesaving techniques, including Cardiopulmonary Resuscitation (CPR);
- (ii) training in the proper level and use of force;
- (iii) training regarding sensitivity to cultural and gender diversity; and
- (iv) training regarding individuals with physical, intellectual, developmental, and psychiatric disabilities;

(17) to develop, with the cooperation of the Office of the Attorney General, the Governor's Office of Crime Control and Prevention, and the Federal Trade Commission, a uniform identity fraud reporting form that:

- (i) makes transmitted data available on or before October 1, 2011, for use by each law enforcement agency of State and local government; and
- (ii) may authorize the data to be transmitted to the Consumer Sentinel program in the Federal Trade Commission; and

(18) to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under Title 3, Subtitle 2 of the Public Safety Article.”

It is the commission's responsibility to certify as a police officer each individual who satisfactorily meets the established standards and submits to a criminal history records check. The commission is also required to adopt regulations that establish and enforce standards for prior substance abuse by individuals applying for certification as a police officer.

The commission has established the following minimum police selection standards, which are set forth in the Code of Maryland Regulations (COMAR):

- at least 21 years old;
- U.S. citizen;
- high school graduate or General Education Development (GED) certificate;
- eligibility under federal and Maryland law to possess and use a handgun;
- undergo a physical examination by a licensed physician and receive a positive recommendation that the individual is “emotionally and mentally fit” and able to perform the duties of a police officer (as determined by the employing law enforcement agency);
- pass a drug screening test;
- pass an oral interview to assess applicant’s ability to communicate;
- compliance with prior drug use prohibitions; and
- pass background and criminal history investigation, including fingerprint check, driver’s license record check, military records, school records, credit history, personal reference interviews, polygraph examination, and criminal history records check with local, State, and national agencies.

Police officer certification is initiated by the law enforcement agency that proposes to hire an individual to be a police officer. A law enforcement agency may establish more restrictive selection standards than those required by the commission. There are approximately 16,900 certified police officers in Maryland.

For entrance-level training, a candidate must receive a minimum of 750 hours of instruction on all commission-required subject areas and training objectives at a commission-approved academy.

For annual in-service training, each law enforcement agency determines the annual training courses for its police officers. Proposed training courses are required to be approved by the Police Training Commission, and must include a minimum of 18 hours of instruction. Certain subject areas are required by State statute and regulation. Firearms training is included in the entrance-level and annual required training.

The workgroup heard testimony from a number of individuals who recommended increased training and more flexible training hours as a way to improve law enforcement practices.

Community Policing

On December 18, 2014, President Barack Obama signed an executive order establishing the Task Force on 21st Century Policing. Among the issues studied by the task force was the concept of increasing and improving community policing strategies. These strategies focus on the idea of creating collaborative partnerships between law enforcement and the communities they protect to avoid resentment and distrust. An interim report of the task force was published in March 2015 with a final report in May that stated:

“Yet mutual trust and cooperation, two key elements of community policing, are vital to protecting residents of these communities from the crime that plagues them. By combining a focus on intervention and prevention through problem solving with building collaborative partnerships with schools, social services, and other stakeholders, community policing not only improves public safety but also enhances social connectivity and economic strength, which increases community resilience to crime. And, as noted by one speaker, it improves job satisfaction for line officers.”

In Maryland in 1997, the U.S. Department of Justice provided funds through its Office of Community-Oriented Policing Services to establish a national training network of regional community policing institutes. Part of that network, the Mid-Atlantic Regional Community Policing Institute, was established in Maryland and grew to be a partnership of 17 agencies. These included: the Annapolis Police Department; Anne Arundel County Police Department; Baltimore City Police Department; Baltimore County Police Department; Citizens Planning and Housing Association; Harford County Sheriff’s Department; Howard County Police Department; The Johns Hopkins University; Maryland Community Crime Prevention Institute; Maryland Crime Prevention Association; Maryland Police Training Commission; Maryland State Police; Maryland Sheriff’s Association; Washington, DC Metropolitan Police Department; Montgomery County Police Department; Prince George’s County Police Department; and the U.S. Attorney’s Office for the District of Maryland.

The institute’s educational, training and technical assistance programs focused on three areas: integrity and ethics; quality education; and interjurisdictional cooperation and collaboration for law enforcement agencies. There were workshops, seminars, and academic courses offered by the institute in each of these areas. The institute has not been in operation for over two years after the federal funding was no longer available.

A number of jurisdictions in the State have programs or policies in place consistent with those outlined by the President’s task force; however, no statewide policy or program exists in this regard.

Alternative Dispute Resolution, Early Intervention

The workgroup heard testimony from entities that provide mediation services and have done so on a limited basis in certain jurisdictions. Voluntary mediation between police and residents can be used in place of the traditional Internal Affairs investigation for complaints such as harsh language, unprofessional behavior, or disrespect.

Mediation gives both the resident and the officer a direct voice in a conversation where each can explain their experience of the situation. When appropriate, they can develop agreements for their future interactions and strengthen their relationship so that it can carry through stressful times and events. This process supports direct accountability, dialogue and understanding, and improved relationships between residents and police. The process is currently available in some Maryland jurisdictions and infrastructure exists in others that could be used to develop such a program on a more statewide basis.

The workgroup also heard testimony regarding several tools used in Frederick City including psychological screenings after traumatic events, and “Early Intervention Screenings.” Under these screenings, when an officer receives three citizen or use-of-force complaints within 12 months, their commanding officer sits down with the officer for a nonpunitive conversation to discern any personal or professional issues which may be causing the increase in complaints.

Mental Health

COMAR provides that 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 emotionally and mentally fit and able to perform the duties of a police officer as these duties are determined by the law enforcement agency.

The workgroup heard testimony that there is no statewide requirement that an officer undergo a psychological evaluation after a traumatic situation, although some individual law enforcement agencies in the State require this. There is also no ongoing stress counseling or evaluation required in the State despite evidence of significant stress and post-traumatic stress in the law enforcement profession.

Workgroup Recommendations

The workgroup appreciates the participation of the many individuals in this process who offered significant and sincere recommendations for consideration. The workgroup believes that the State can improve the uniformity, standards, and best practices used by law enforcement agencies across the State.

The workgroup also believes that in addition to best practices and standards, reforms should be made regarding the response to serious police-involved incidents and subsequent disciplinary procedures under LEOBR.

Additionally, public processes and confidence are improved with increased access to information in a transparent and open manner. The workgroup also supports measures that improve public participation and engagement and inform the public regarding law enforcement policies and standards.

The workgroup recognizes that a career in law enforcement is difficult and values the service of law enforcement personnel who, with few exceptions, carry out their duties with honor. Finally, the workgroup believes incentives should be provided to support community policing efforts and to assist law enforcement officers in participating and engaging as members of the communities in which they work.

The workgroup thanks all who participated in this process and offers the following recommendations:

Recommendation No. 1: LEOBR complaint filing deadline triggering the requirement that disciplinary action be undertaken by a law enforcement agency shall be extended from 90 days to a year and a day.

Recommendation No. 2: The requirement for notarization of a complaint alleging excessive force shall be eliminated, and replaced with a requirement that a complaint be signed by the complainant under the penalty of perjury.

Recommendation No. 3: The public complaint process in each jurisdiction shall be uniform throughout the State, streamlined, and publicized on department websites. A complainant shall be required to divulge their identity in a manner that is sufficient for a department to contact them and verify the legitimacy of the complaint. When there is a final disposition of a complaint, the complainant shall be informed of the outcome.

Recommendation No. 4: The time period for retaining an attorney for the internal investigation and disciplinary process under LEOBR shall be reduced from 10 days to 5 days.

Recommendation No. 5: As is the case in some jurisdictions, all law enforcement agencies in the State shall open their administrative LEOBR hearing board proceedings to the public. The General Assembly shall strike the statutory prohibition against citizen participation to allow a jurisdiction to permit a citizen who has received training in LEOBR to sit as a member of the administrative hearing board.

Recommendation No. 6: The law shall be changed to ensure that whistleblower protections are given to protect from retaliation officers who participate in investigations or who raise issues for investigation.

Recommendation No. 7: Each law enforcement agency shall require a use-of-force/incident report to be completed by the end of the shift unless the officer is disabled.

Recommendation No. 8: Official department policies and collective bargaining agreements are public documents but are not easily available to the public. All department policies and collective bargaining agreements shall be available online.

Recommendation No. 9: The Department of Public Safety and Correctional Services is primarily responsible for the administration of State prisons and correctional services with few law enforcement trained personnel or sworn law enforcement officers in the department. Law enforcement training and standards are significantly different from that of the State correctional system. An independent Maryland Police Training and Standards Commission (MPTSC) shall be established to focus solely on best practices, standards, and training in law enforcement and to create uniformity in policing practices across the State.

Recommendation No. 10: The independent MPTSC shall include: representatives of State and local government; representatives of State and local law enforcement administrators; representatives of State and local law enforcement personnel; a representative of the Fraternal Order of Police; a representative of local State's Attorneys; legislative members; members with expertise in community policing, policing standards, and mental health; and citizen members without relationships to law enforcement.

Recommendation No. 11: The commission shall require each law enforcement agency to establish a confidential and nonpunitive early intervention policy for dealing with officers who receive three or more citizen complaints within a 12-month period. (Such a policy may not prevent the investigation of or imposition of discipline for a particular complaint.)

Recommendation No. 12: MPTSC shall develop and require in-service anti-discrimination and use of force de-escalation training every other year for all law enforcement officers.

Recommendation No. 13: MPTSC shall evaluate and modernize recruitment standards and practices to increase diversity in law enforcement departments and shall develop media strategies for recruiting women, African American, Latino, and other minority candidates.

Recommendation No. 14: MPTSC shall develop a State certification that is transferrable between departments.

Recommendation No. 15: MPTSC shall develop and require annual reporting to the commission by each department on the number of serious officer-involved incidents, the number of officers disciplined, and the type of discipline that was administered.

Recommendation No. 16: The workgroup recommends that MPTSC review the National Institute of Justice example use-of-force continuum and develop by regulation a set of best practices and standards for use of force.

Recommendation No. 17: MPTSC shall develop standards for mandated psychological evaluation after traumatic incidents and for law enforcement officers returning from combat deployment as well as periodic psychological evaluations for all officers as determined appropriate by the commission. MPTSC shall also amend the Code of Maryland Regulations to require that an applicant for police officer undergo a pre-employment psychological evaluation by a psychologist.

Recommendation No. 18: MPTSC, in consultation with DHMH, shall establish a confidential hotline that is available for law enforcement personnel to contact to speak to a trained peer law enforcement officer or a mental health professional who can assist with initial counseling advice and confidential referral to appropriate programs as needed.

Recommendation No. 19: MPTSC shall develop a Police Complaint Mediation Program in which certain nonviolent complaints made against police officers are referred out of the standard complaint process and to voluntary mediation to be conducted by an independent mediation service.

Recommendation No. 20: MPTSC shall develop best practices for establishment and implementation of a Community Policing Program in each jurisdiction. Annually, each department shall file their community policing program with MPTSC and the commission shall review each program and offer comments to the jurisdiction. All community policing programs shall be posted online.

Recommendation No. 21: State grants and funding shall be increased to provide matching funds for local jurisdictions to increase community law enforcement programs such as the Police Athletic Leagues, the Explorers Program, and similar recreational activities. MPTSC and GOCCP shall also provide technical assistance to departments in applying for any federal, State, or foundation grants available for these purposes.

Recommendation No. 22: Incentives shall be provided by the State and local jurisdictions to encourage law enforcement officers to live in the communities in which they police, particularly in high-crime, high-poverty areas. These incentives shall include measures like take home patrol cars, property tax credits, renter's tax credits, and State and local income tax deductions for officers who live in the jurisdiction in which they work.

Recommendation No. 23: LEOBR shall be amended to require that for use-of-force incidents, the trial board shall be composed of one member selected by the chief or sheriff, one member selected by the Fraternal Order of Police or the affected employee, and one member who is mutually agreed upon. The members must be selected from a pool of police officers who are not from the affected officer's jurisdiction. One member must be of equal rank to the affected employee. A collective bargaining agreement may specify a different method of choosing a trial board.

Appendix 1. Law Enforcement Overview

Law Enforcement Overview

**Presentation to the
Public Safety and Policing Workgroup**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

June 8, 2015

Contents

- Law Enforcement and their jurisdiction in Maryland
- Law Enforcement Funding – State and Local
- Sworn Officers – State and Local
- Crime Rates
- 2015 legislation

Law Enforcement in Maryland

<p style="text-align: center;"><u>Federal</u></p>	<p style="text-align: center;"><u>State</u></p>	<p style="text-align: center;"><u>Local</u></p>
<ul style="list-style-type: none"> • Federal law enforcement agencies located in Maryland. <p>Examples</p> <ul style="list-style-type: none"> • Federal Bureau of Investigation (FBI) • National Security Agency (NSA) • United States Park Police (USPP) 	<ul style="list-style-type: none"> • State law enforcement agencies and State agencies' police forces. <p>Examples</p> <ul style="list-style-type: none"> • Department of State Police (DSP) • Natural Resources Police (NRP) • Maryland Transportation Authority (MdTA) 	<ul style="list-style-type: none"> • Counties, sheriffs, and municipalities. <p>Examples</p> <ul style="list-style-type: none"> • Anne Arundel County Police Department • Anne Arundel County Sheriff • Annapolis City Police Department

Law Enforcement Funding: State Agencies

Fiscal 2014

• Department of State Police (DSP)	\$319.3 million
• Maryland Transportation Authority Police (MdTA)	\$82.2 million
• Universities	\$42.8 million
• Natural Resources Police (NRP)	\$37.7 million
• Maryland Transit Administration Police (MTA)	\$28.0 million
• Maryland Capitol Police (DGS)	\$11.8 million

Total = \$521.8 million

* Universities include: Bowie State University, Coppin State University, Frostburg State University, Morgan State University, Salisbury University, Towson University, University of Baltimore, and University of Maryland (Baltimore, Baltimore County, College Park, and Eastern Shore).
 * Other smaller, specialized State-agency police forces are not included in this chart.
 * DGS: Department of General Services

Source: *Governors' Budget Books, Fiscal 2016*

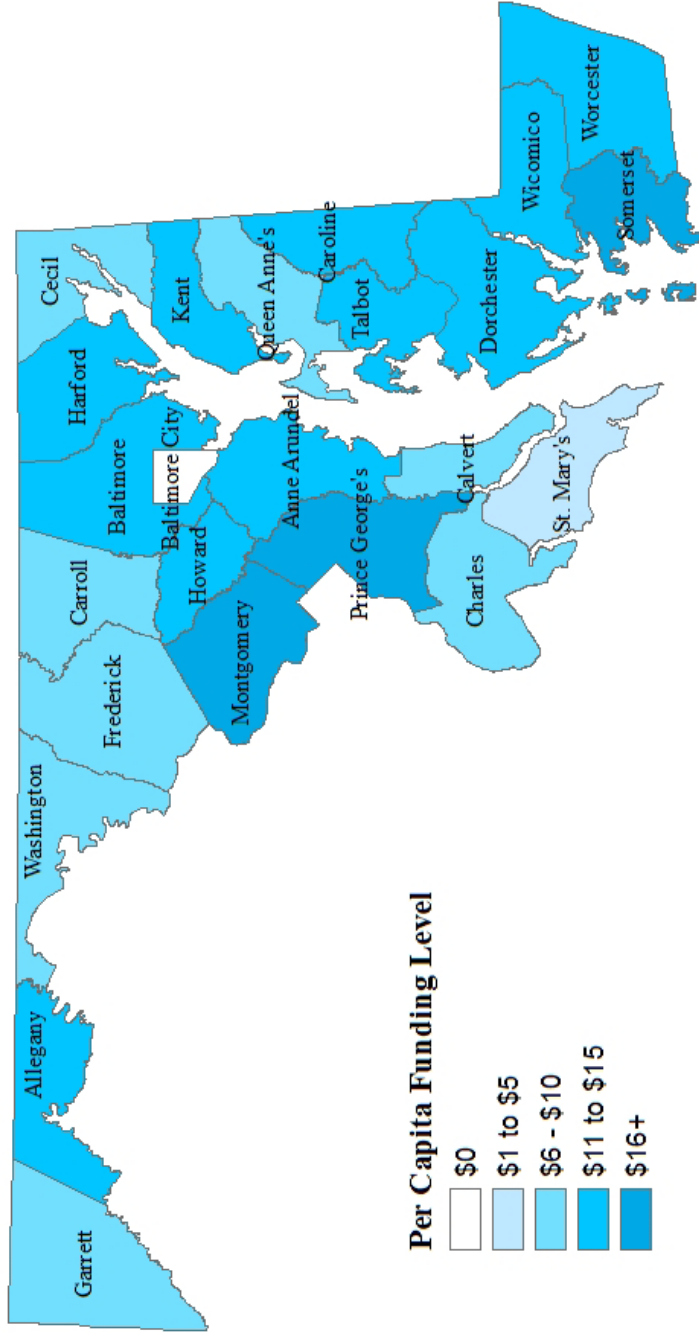
Law Enforcement Funding: Local

- Fiscal 2013 County Expenditures: \$1.5 billion (10.0% of all spending)
- Fiscal 2013 Municipal Expenditures: \$222.3 million (17.2% of all spending)
- State Aid to Local Jurisdictions
 - Statutory Formula Grant – State Aid for Police Protection (SAPP)
 - Targeted Crime Grants
- Federal Aid to Local Jurisdictions
 - Byrne Justice Assistance Grants
 - Juvenile Justice Grants
 - Violence Against Women Formula Grants

State Aid for Police Protection (SAPP)

- Established 1967, administered by GOCCP since 2008.
- Counties and municipalities must meet minimum police protection expenditure and sworn officer requirements.
- Funds essentially distributed on a per capita basis.
- Baltimore City excluded since fiscal 2002 in return for State's assumption of Baltimore City Detention Center.
- Fiscal 2014 SAPP Funding: \$67.3 million
 - Counties: \$54.5 million
 - Municipalities: \$12.8 million

SAPP Per Capita Funding, Fiscal 2014



Sworn Officers: State Agencies

As of October 31, 2013

<u>Agency</u>	<u>Officers</u>
DSP	1,526
MdTAP	462
Universities	333
NRP	236
MTA	154
DGS	64
Other	44
Total State	2,819

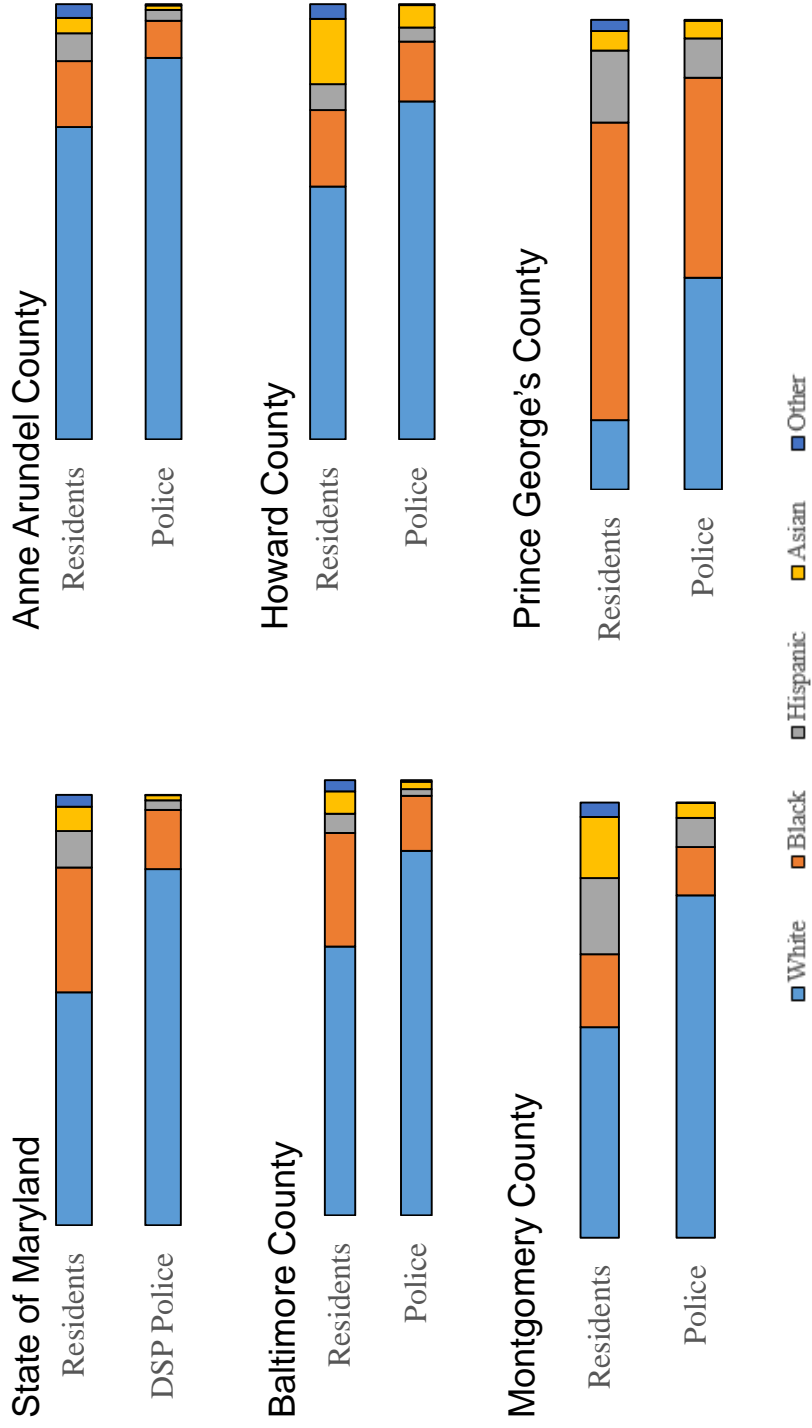
Sworn Officers: Local Law Enforcement Agencies

As of October 31, 2013

Allegany	95	Charles	311	Prince George's	2,422
Anne Arundel	857	Dorchester	91	Queen Anne's	71
Baltimore City	2,990	Frederick	324	St. Mary's	133
Baltimore	1,905	Garrett	32	Somerset	44
Calvert	121	Harford	391	Talbot	87
Caroline	55	Howard	507	Washington	200
Carroll	189	Kent	36	Wicomico	206
Cecil	148	Montgomery	1,599	Worcester	195

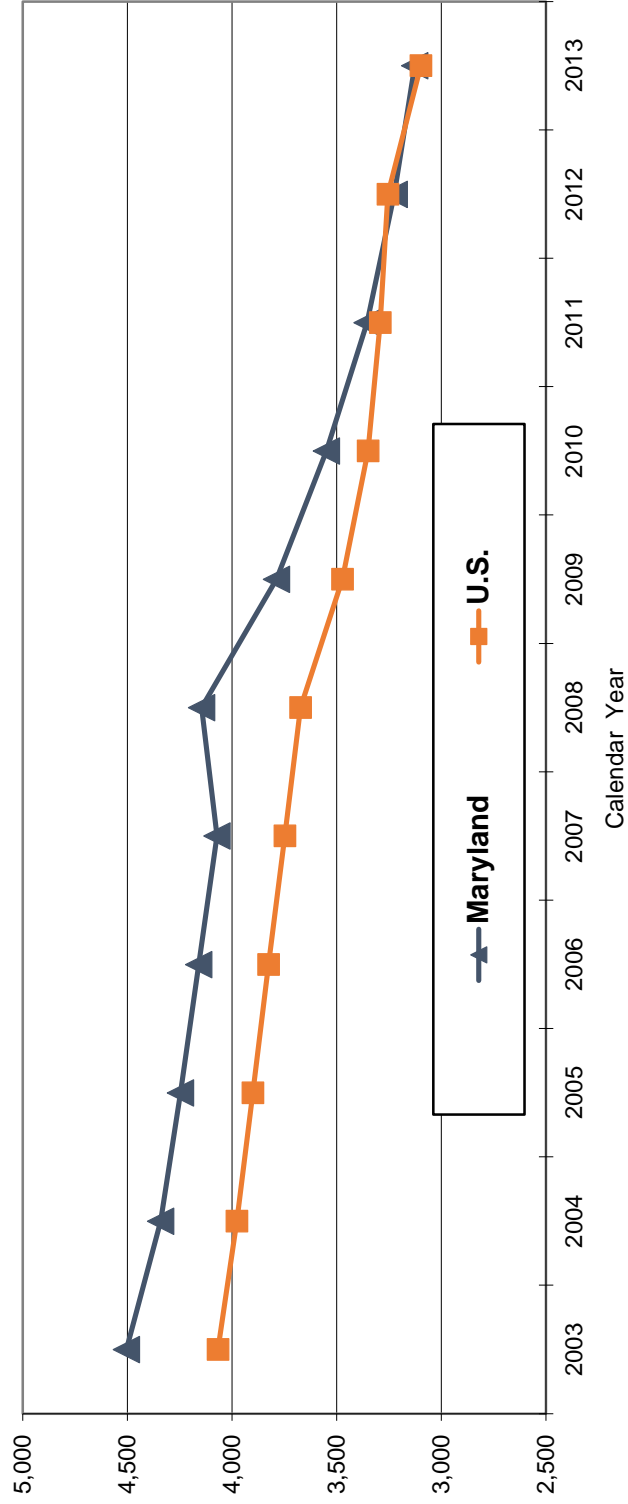
Source: *Crime in Maryland, 2013 Uniform Crime Report*, Maryland State Police

Sworn Officers: Diversity



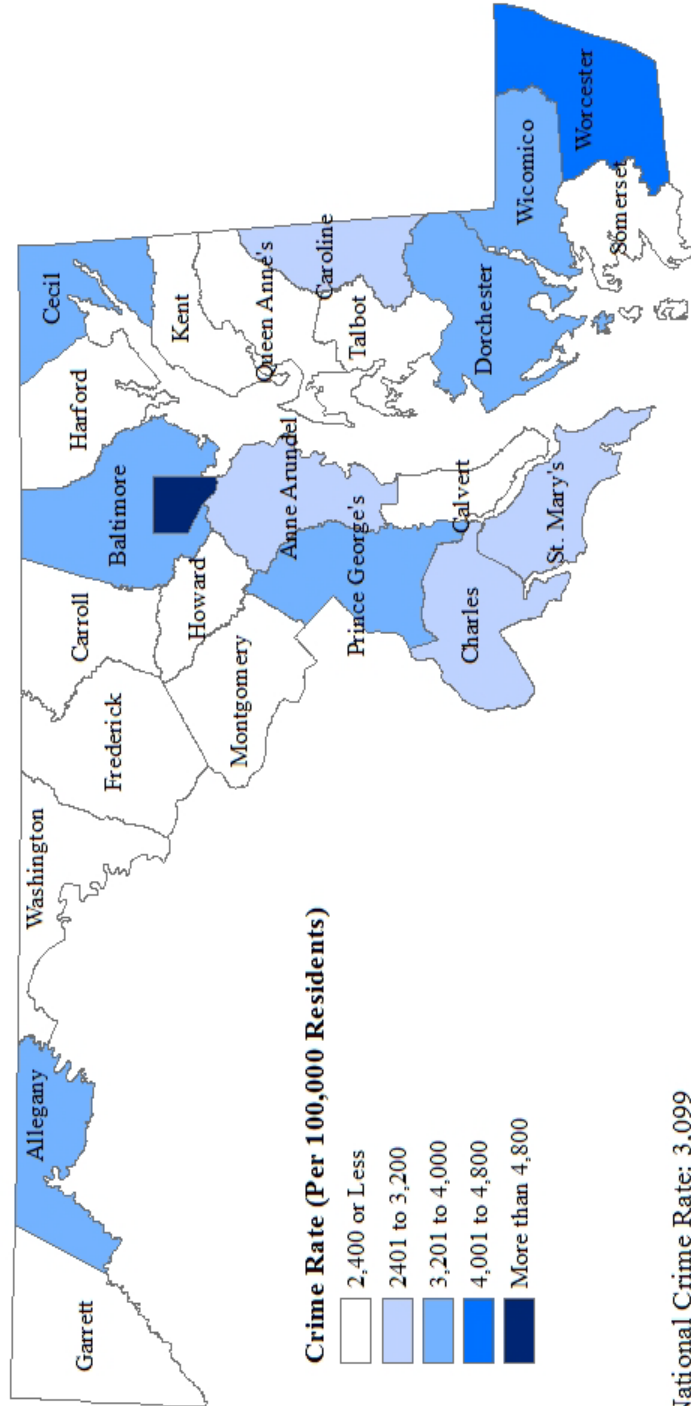
Crime in Maryland

Crime Rate: Offenses per 100,000 of Population
Calendar 2003-2013



Crime Rate by County

Calendar 2013



National Crime Rate: 3,099
 State Crime Rate: 3,128

2015 Passed Legislation Relating to Public Safety and Policing

- Chapter 42 (SB 602) **Justice Reinvestment Coordinating Council.**
- Chapter 126 (SB 321) **Baltimore City and Baltimore County – Police Behavioral Health Units – Pilot Program.**
- Chapter 127 (SB 413) **Vehicle Laws – Race-Based Traffic Stops – Policy and Reporting Requirements.**
- Chapters 128 and 129 (SB 482/HB 533) **Public Safety – Law Enforcement Officers – Body-Worn Digital Recording Device and Electronic Control Device.**
- Chapter 130 (SB 882) **Baltimore City Civilian Review Board.**
- Chapter 133 (HB 771) **Baltimore Police Department – Reporting on Community Policing.**
- Chapter 134 (HB 954) **Public Safety – Deaths Involving a Law Enforcement Officer – Reports.**

Conclusion

Appendix 2. Maryland Police and Correctional Training Commissions

PRESENTATION TO THE

**MARYLAND GENERAL ASSEMBLY'S
JOINT WORKGROUP ON PUBLIC SAFETY**



BY

**DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES'
POLICE AND CORRECTIONAL TRAINING COMMISSIONS**

PRESENTERS:

J. MICHAEL ZEIGLER, EXECUTIVE DIRECTOR

ALBERT L. LIEBNO, DEPUTY DIRECTOR

OUTLINE OF PRESENTATION

- A. BACKGROUND, OVERVIEW AND AUTHORITY OF:
 - 1. POLICE TRAINING COMMISSION;
 - 2. STATE AGENCY – POLICE AND CORRECTIONAL TRAINING COMMISSIONS
- B. SELECTION STANDARDS: POLICE TRAINING COMMISSION
- C. POLICE OFFICER CERTIFICATION PROCESS
- D. TRAINING REQUIRED BY THE POLICE TRAINING COMMISSION
- E. POLICE AND CORRECTIONAL TRAINING RESOURCES IN MARYLAND

POLICE TRAINING COMMISSION BACKGROUND, OVERVIEW AND AUTHORITY

1966:

- Created as an independent entity in the Executive Department by Chapter 286;
- Consisted of 10 members;
- Authority over-

“A member of a police force or other organization of state, county or municipal government who is responsible for prevention and detection of crime and then enforcement of the laws of the state....”

POLICE TRAINING COMMISSION BACKGROUND, OVERVIEW AND AUTHORITY

- Duties (which continue to be current duties of the Police Training Commission) included:
 - **Training schools:**
 - Setting standards for and approving police entrance-level and in-service training schools;
 - Setting the curriculum, attendance requirements, eligibility to attend, equipment and facilities for police training schools;
 - Setting minimum qualifications and certifying police training school instructors;

POLICE TRAINING COMMISSION BACKGROUND, OVERVIEW AND AUTHORITY

- **Police officer certification** – Certify “police officers” who have satisfactorily completed training [Public Safety Article, § 3-201 (e)];

41

(IMPORTANT TO NOTE THAT ALL INDIVIDUALS WHO HAVE ARREST AND LAW ENFORCEMENT AUTHORITY ARE NOT SUBJECT TO THE AUTHORITY OF THE POLICE TRAINING COMMISSION –

- E.G. POLICE CHIEFS, SHERIFFS and their primary deputy chief or deputy sheriff [PUBLIC SAFETY ARTICLE, § 3-201 (e) (3)].
- SPECIAL POLICE OFFICERS [PUBLIC SAFETY ARTICLE, TITLE 3, SUBTITLE 3];
- VOLUNTEER FIREMEN IN CERTAIN COUNTIES [PUBLIC SAFETY ARTICLE, § § 7-302 & 7-303], ETC.).

5

POLICE TRAINING COMMISSION BACKGROUND, OVERVIEW AND AUTHORITY

■ Study and Consultation:

- Make a continuous study of police training methods and procedures;
- Consult and cooperate with federal, state, or municipal law enforcement agencies or educational institutions;
- Consult and cooperate with universities, colleges and institutions in the state for development of specialized courses of study for police officers in police science and police administration.

- **Regulations** – establish rules and regulations to carry out its duties

TRAINING DUTIES ADDED SINCE 1966 (PUBLIC SAFETY ARTICLE § 3-207 and COMAR 12.04.01.12)

TO REQUIRE TRAINING RELATED TO:

- Rape, sexual offenses, sexual abuse and exploitation of children and related evidentiary procedures;
- Contact with and treatment of victims of crimes and delinquent acts;
- Notices, services, support and rights available to victims;

TRAINING DUTIES ADDED SINCE 1966

**(PUBLIC SAFETY ARTICLE § 3-207 and
COMAR 12.04.01.12)**

TO REQUIRE TRAINING RELATED TO:

- Notification of victims of identity fraud and related crimes of their rights under federal law;
- Life saving techniques, including CPR;
- Proper level and use of force;
- Sensitivity to cultural and gender diversity;
- Individuals with physical, intellectual, developmental and psychiatric disabilities.

POLICE TRAINING COMMISSION BACKGROUND, OVERVIEW AND AUTHORITY

1970 (CHAPTER 401):

- Department of Public Safety and Correctional Services create (Chapter 401);
- *Police Training Commission designated as an agency of the Department of Public Safety and Correctional Services;
- A representative of Department added to Commission membership.

*POLICE TRAINING COMMISSION CONTINUES TO BE AN AGENCY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES (PUBLIC SAFETY ARTICLE, § 3-302, ANNOTATED CODE OF MARYLAND)

FUNDING SOURCE FOR TRAINING CENTER

1988:

- House Bill 640 (Chapter 446) (in response to a directive at page 11 in the 1987 Joint Chairmen's Report on House Bill 400-the General Construction Loan of 1987) was enacted to establish a method of financing the construction of a centralized, state-of-the-art Public Safety Training Center.
- Law Enforcement and Correctional Training Fund was established.
- Training Fund's UNIQUE source of revenue was a \$5.00 special cost assessed by both the District Court and circuit courts in criminal and traffic cases.

FUNDING SOURCE FOR TRAINING CENTER

1996 and succeeding years:

- Additional funds were created for purposes other than law enforcement, financed on the basis of revenue from court cases.

2005:

- House Bill 147, (Chapter 444): Repealed the Law Enforcement and Correctional Training Fund and the source of revenue (District and circuit court fees) for financing the Fund.

POLICE AND CORRECTIONAL TRAINING COMMISSIONS

- Joint administrative staff entity of the:
 - Police Training Commission; AND
 - Correctional Training Commission.
- Staff Positions:
 - 2005 = 140
 - 2015 = 116

POLICE AND CORRECTIONAL TRAINING COMMISSIONS

- The Police and Correctional Training Commissions staff entity is a part of the Department of Public Safety and Correctional Services (Public Safety Article, § 3-206, Correctional Services Article, § 8-206, and state operating budget code Q00G00).
- Located at and administers the Public Safety Education and Training Center (PSETC), a State facility in Sykesville, Maryland.

POLICE AND CORRECTIONAL TRAINING COMMISSIONS

- **PSETC provides the following for Police, Correctional, Parole and Probation, and Juvenile Services Personnel Training:**
 - Academic Classrooms;
 - Physical Training Center;
 - Firearms Training Facility (Established In 2000);
 - Driver Training Facility (Established In 1998);
 - On-site Residential Dormitory Housing;
 - Contractor Operated Dining Facility

POLICE AND CORRECTIONAL TRAINING COMMISSIONS

- **PSETC houses:**
 - **Staff administrative offices for:**
 - DPSCS Police and Correctional Training Commissions;**
 - **Police Training (Entrance-Level Academy, Supervisors, Instructors);**
 - **Correctional Training (Entrance-Level Academy, Parole and Probation Personnel);**
 - **Certification/Training Records of Police, Correctional and Juvenile Services Personnel**
 - **Leadership Development Institute;**
 - **Crime Prevention Institute**
 - **DARE (Drug Awareness and Resistance Education)**
 - **State Police Training Academy;**
 - **Department of Natural Resources Training Academy;**
 - **Department of Juvenile Services Training Academy.**

***MINIMUM POLICE SELECTION STANDARDS** **(COMAR 12.04.01.04)**

*A police agency may establish more restrictive selections standards than those required by the Police Training Commission (COMAR 12.04.01.04J). At the request of a police agency head, the Commission may waive any selection standard (COMAR 12.04.01.04K).

- Age (at least 21 years of age);
- Citizenship (U.S. Citizenship);
- Education (High School Graduation or General Education Development [GED] certificate);
- Eligibility under federal and Maryland law to possess and use a handgun;

***MINIMUM POLICE SELECTION STANDARDS**

(COMAR 12.04.01.04)

(Continued)

- Physical Examination by a licensed physician, and receive a positive recommendation that the individual is physically able to perform duties of a police officer (as determined by the employing law enforcement agency), and participate in entrance-level training;
- Mental examination by a qualified mental health professional, and receive a positive recommendation that the individual is “emotionally and mentally fit” and able to perform the duties of a police officer (as determined by the employing law enforcement agency); and
- Pass drug screening test (COMAR 12.04.01.15).

***MINIMUM POLICE SELECTION STANDARDS**

(COMAR 12.04.01.04)

- Pass Oral Interview to assess applicant’s ability to communicate;
- Compliance with Prior Drug Use Prohibitions (COMAR 12.04.01.16); and
- Pass Background and Criminal History Investigation, including:
 - Fingerprint Check;
 - Driver’s License Record Check;
 - Military Records;
 - School Records;
 - Credit History;
 - Personal References Interviews;
 - Polygraph Examination and
 - Criminal History Records Check with local, State and national agencies (FBI National Crime Information Center).

POLICE OFFICER CERTIFICATION PROCESS

There are approximately 16, 900 certified police officers in Maryland.

Police officer certification is initiated by the law enforcement agency that proposes to hire an individual to be a police officer. The agency initiates the certification process by filing an “application for certification” (AFC) with the Police Training Commission.

POLICE OFFICER CERTIFICATION PROCESS

“Provisional Certification” as a Police Officer

- An individual receives “provisional certification” as a police officer if the individual meets the Police Training Commission’s and the hiring agency’s selection standards;
- Provisional certification length – 365 days;
- 365-day period permits individual to perform law enforcement duties while awaiting the opportunity to complete police officer training.

POLICE OFFICER CERTIFICATION PROCESS

Police Officer “Certification”:

- Individual required to meet:
 - All selection standards;
 - Successfully complete required training; and
 - Successfully complete field training program.
- Automatically renewed annually if:
 - Individual has met required annual training;
 - Individual continues to meet selection standards.

POLICE OFFICER CERTIFICATION PROCESS

Police Officer Certification:

- Expires if the individual is:
 - No longer employed by the agency that requested police officer certification for the individual; OR
 - Decertified by the Police Training Commission

“Recertification” of a former Police Officer

- An individual formerly certified as a police officer may be “Recertified” if the individual meets required training. An individual who has not been certified as a police officer within five years must complete entrance-level training. (COMAR 12.04.01.07)

POLICE OFFICER CERTIFICATION PROCESS

Certification Unit of the Police and Correctional Training Commissions

- Receives and reviews (on behalf of the Police Training Commission) applications for:
 - Police officer certification;
 - Instructor certification;
 - Approval of training courses; and
 - Police training academies.
- Audits selection and training records of police training academies and law enforcement agencies;

POLICE OFFICER CERTIFICATION PROCESS

Certification Unit of the Police and Correctional Training Commissions

- Maintains records related to the employment, training and certification of each individual police officer.
- Records are maintained in an electronic format by a “skills manager” system, which is approximately 20 (twenty) years old, has limited capability, and has been slated to no longer be supported by its parent company, Crown Pointe.

TRAINING BY THE POLICE TRAINING COMMISSION

Required Entrance-Level Training (COMAR 12.04.01.09)

- Minimum of 750 hours (approximately 5 months);
- Completed at Commission-approved academy (COMAR 12.04.01.10);
- Required to provide instruction on all commission-required subject areas (COMAR 12.04.01.09C), and training objectives (COMAR 12.04.01.09D(3)(a)).

TRAINING BY THE POLICE TRAINING COMMISSION

Required Annual In-service Training (COMAR 12.04.01.02)

- Each law enforcement agency determines the annual training courses for its police officers;
- Proposed training courses are required to be approved by the Police Training Commission;
- Minimum of 18 hours;
- Certain subject areas are required by State statute (Public Safety Article § 3-207(6),(15) and (16)) and regulation (COMAR 12.04.01.12A(6) AND (7)).

TRAINING BY THE POLICE TRAINING COMMISSION

Required Firearms Training (COMAR 12.04.02)

- Training is required to be provided by Commission-certified Firearms Instructors.
- Entrance-Level Firearms Training:
 - Required for individuals authorized to use or carry a firearm (handgun and long gun – shotgun, automatic firearm, sniper long gun);
 - Requires successful completion of classroom instruction, training and qualification course of fire for the firearm authorized to be used or carried;
 - Minimum 1,000 rounds fired.

TRAINING BY THE POLICE TRAINING COMMISSION

Required Firearms Training (Continued)

- Annual firearms classroom instruction, training and qualification:
 - Requires a minimum of 2 hours of classroom instruction, which shall include legal aspects in the use of firearms (rules for use of deadly force; alternatives to use of deadly force; judgmental and decision training in use of deadly force; criminal, civil and administrative liability for misuse of deadly force)
 - Minimum of 90 rounds fired.

TRAINING BY THE POLICE TRAINING COMMISSION

Required Firearms Training (Continued)

- Requires successful completion of a qualification day-fire and reduced light course of fire;
- All firearms training courses are approved (on behalf of the Police Training Commission) by the Certification Staff, supported by the firearms training staff of the Police and Correctional Training Commissions.

TRAINING BY THE POLICE TRAINING COMMISSION

Required Electronic Control Device Training (COMAR 12.04.05)

- Training is required to be provided by commission-certified electronic control device instructors;
- Initial and annual training required of individuals authorized to use or carry an electronic control device;
- Classroom instruction is required on topics such as “judgment and decision making,” “legal considerations,” “after-care measures,” “potential collateral occurrences,” etc.

TRAINING BY THE POLICE TRAINING COMMISSION

Required Instructor Training And Certification (COMAR 12.04.06)

Instructor applicants are required to:

- Be an employee or retained as an instructor by a law enforcement agency or academy;
- Meet the Police Training Commission's selection standards for instructors.

TRAINING BY THE POLICE TRAINING COMMISSION

Required First-line Supervisor and Administrator Training (Public Safety Article § 3-215 and COMAR 12.04.01.13)

- Individual to complete commission-required training within 1 year of being promoted to position of first-line supervisor or administrator;
- Training is a minimum of 35 hours.

TRAINING BY THE POLICE TRAINING COMMISSION

Voluntary Training (For Police Executives) Provided by the Leadership Development Institute

- In conjunction with college, universities, federal agencies and private organizations, presents executive seminars for and other training for public safety leaders throughout Maryland.

POLICE TRAINING RESOURCES IN MARYLAND

**Public Safety Education and Training Center
(State-operated Facility in Sykesville, Maryland)**

Training Academies (19)

- **Agency Academies**
 - Anne Arundel County Police Academy – Davidsonville, MD
 - Baltimore City Police Academy – Baltimore, MD
 - Baltimore County Police Training Academy – Dundalk, MD
 - Frederick City Police Academy – Frederick, MD

POLICE TRAINING RESOURCES IN MARYLAND

- Agency Academies (continued)
 - Harford County Sheriff Academy – Bel Air, MD
 - Howard County Police Academy – Marriottsville, MD
 - Maryland Natural Resources Police Academy – Sykesville, MD
 - Maryland State Police Academy – Sykesville, MD
 - Maryland Transportation Authority Academy – Dundalk, MD
 - Maryland Police & Correctional Training Commission Academy – Sykesville, MD
 - Montgomery County Police Academy – Rockville, MD
 - Prince George’s County Police Academy – Lanham, MD
 - Southern Maryland Criminal Justice Academy – Welcome, MD
 - Washington Metropolitan Transit Academy – Washington, DC

POLICE TRAINING RESOURCES IN MARYLAND

- **College Academies**
 - **Anne Arundel Community College Justice Institute – Arnold, MD**
 - **Hagerstown Community College Police Academy – Hagerstown, MD**
 - **Prince George’s County Community College; Prince George’s Municipal Police Academy – Largo, MD**
 - **University of Maryland Police Academy – College Park, MD**
 - **Wor-Wic Community College; Eastern Shore Criminal Justice Academy – Salisbury, MD**

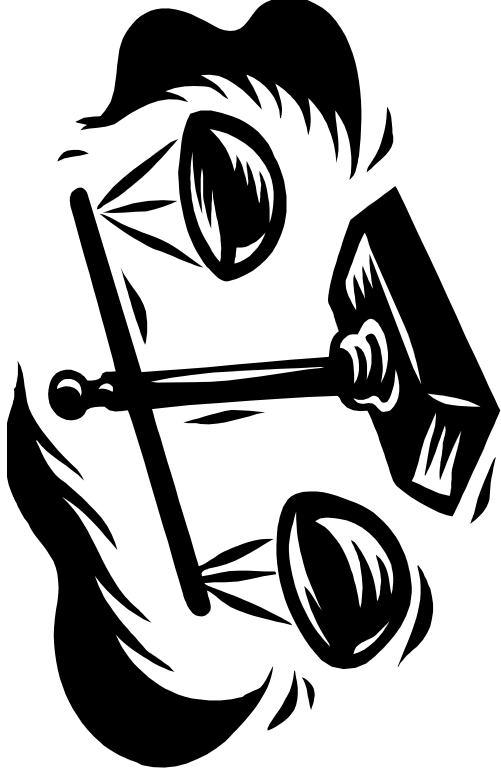
POLICE TRAINING RESOURCES IN MARYLAND

FIREARM RANGES (A 2010 Report revealed that 80.7% of Maryland police officers receive firearms training @ the following ranges)

- Anne Arundel County Police Department (1 outdoor covered range)
- Maryland National Guard Ranges at Gunpowder (Baltimore City Police Department & other agencies)
- Baltimore City Police Department (Indoor Range at North East Police District in Baltimore City)
- Baltimore County Police Department (one outdoor and one indoor range)
- Liberty Firearm Facility (Maryland State Police and other law enforcement agencies)
- Montgomery County Police Department (1 outdoor range and 1 indoor range)
- Maryland National Capital Park and Planning Commission Range in Prince George's County (Prince George's County Police and approximately 32 other Maryland law enforcement agencies)
- Maryland Police and Correctional Training Commissions at the Public Safety Education & Training Center (Sykesville, MD)

Appendix 3. Introduction to the LEOBR

Introduction to the LEOBR



Presented by
Karen J. Kruger
General Counsel Maryland Chiefs of Police
Association, Maryland Sheriffs' Association
Funk & Bolton, P.A.



United States Supreme Court

- ▶ “The government has a compelling interest in ensuring that front-line interdiction personnel are physically fit, and have unimpeachable integrity and judgment.”

National Treasury Union Employees v. Von Raab, 486 U.S. 656, 671 (1989).

Constitutional Right to Due Process

- ▶ *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985)
- ▶ Public employees have a property interest in their government jobs
- ▶ Entitled to due process before government employer can deprive of that interest
- ▶ Pre-termination notice and a right to be heard

Maryland Statute

- ▶ The Law Enforcement Officers' Bill of Rights (LEOBR) is based on constitutional concepts and is designed to protect the due process rights of law enforcement officers.
- ▶ A statutory expression of procedures designed to insure fairness to law enforcement employees.

The LEOBR Provides:

- ▶ *Procedural Rights*: How discipline is imposed on law enforcement officers.
- ▶ *Not Substantive Rights*: Meaning the reasons why discipline may be imposed.
- ▶ *Goal*: To insure fairness, *not* to diminish management prerogatives, restrict police activity or dilute police accountability.

Historical Context

- ▶ 1960's era of civil unrest
- ▶ Police unprepared – response sometimes excessive
- ▶ Complaints of police brutality increased – some legitimate and some without merit
- ▶ Negative perception of police

Reaction to Police Actions

- ▶ Supreme Court expanded due process rights for citizens, especially under 4th amendment
- ▶ Police activity closely scrutinized
- ▶ Employment conditions worsened for police employees

Resurgence of Police Unions

- ▶ Number of police unions expands and strikes by police occur in large cities
- ▶ Unions won improvements in salaries and benefits as well as protections in disciplinary process
- ▶ Management forced to bargain over terms & conditions of work

Two Questions Were Asked

- ▶ Shouldn't allegations of police misconduct be investigated before discipline is taken?
- ▶ Shouldn't an officer have a right to dispute the factual findings or to explain his or her actions?

The Maryland General Assembly Responds

- ▶ 1974--First State to enact Bill of Rights for police officers
- ▶ Covers two components of the disciplinary process: (1) the conduct of an internal investigation and (2) procedures to be followed before an officer may be disciplined as a result of an investigation.

Threshold Parameters

- ▶ Contemplates the agency receiving a specific complaint
- ▶ Requiring an investigation into the complaint
- ▶ And a due process scheme (notice & hearing) before any punitive action may be imposed

Amendments

- ▶ Statute has been amended approximately 44 times
- ▶ Some based on appellate case rulings
- ▶ Some in response to requests from FOP – fewer based on management requests
- ▶ And some changes were inadvertently made by code revisers

Nature of Administrative Law

- ▶ LEOBR is an administrative law process – form of civil law but has similarities to criminal procedure
- ▶ Relating to the internal operation and functions of a government agency
- ▶ Concerning the administration or implementation of particular legislation

“Quasi-judicial”

- ▶ Judicial-like in procedure but less formal
- ▶ The agency is interpreting and applying its own rules and regulations to its employee
- ▶ The agency is considered to be the expert in this interpretation and its decisions are “presumptively correct”

LEOBR Applies to Misconduct

- ▶ LEOBR rights do not attach in situations involving:
 - ▶ Good faith mistakes, lack of training, incorrect but reasonable interpretation of law or regulation
 - ▶ Inability to perform the essential functions of the job
 - ▶ Poor performance

LEOBR – Statutory Structure

- ▶ 3–101 Definitions
- ▶ 3–102 Effect of Subtitle
- ▶ 3–103 Rights Generally
- ▶ 3–104 Rights During Investigation/Interrogation
- ▶ 3–105 Show Cause Application
- ▶ 3–106 Limitations on Charges

Structure

- ▶ 3-107 Hearing by Hearing Board
- ▶ 3-108 Disposition
- ▶ 3-109 Judicial Review
- ▶ 3-110 Expungement
- ▶ 3-111 Summary Punishment
- ▶ 3-112 Emergency Suspension
- ▶ 3-113 False Statement

Section 3-101 Definitions

- ▶ Definitions
- ▶ “Law enforcement officer” identifies who is entitled to the rights
- ▶ Authorized to make arrests and member of a listed law enforcement agency
- ▶ Exceptions include chiefs, specially appointed officers and probationary officers (except in excessive force cases)

Section 3-102 General

- ▶ Conflicting laws are superseded and local law is preempted
- ▶ Authority of the chief not limited – he/she may “regulate the efficient operation and management of a law enforcement agency by any reasonable means...”

Section 3-103

- ▶ **Miscellaneous issues:**
 - Protects right to engage in political activity
 - Permits agency to reasonably regulate secondary employment of officers
 - Prohibits agency from requiring officer to disclose financial information
 - Prohibits discrimination against an officer who has asserted his or her LEOBR or constitutional rights

Section 3-103

- Agency may not adopt any regulations that prohibit an officer's right to bring suit related to the officer's duties
- Officer may waive in writing LEOBR rights

Section 3-104 Investigations

- ▶ “The investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal shall be conducted in accordance with this section.”

Interrogating or Investigating Officer

- ▶ Shall be (1) a sworn law enforcement officer or (2) if requested by the Governor, the Attorney General or the Attorney General's designee

Complaint Alleging Brutality

- ▶ May not be investigated unless the complaint is sworn to and filed within 90 days of the alleged brutality
- ▶ **But see *Baltimore City Police v. Andrew*, 318 Md. 3 (1989) and *Maryland State Police v. Resh*, 65 Md. App. 167 (1985)** Agency not barred from investigating act of brutality even when sworn complaint not filed; purpose of section is to deter frivolous complaints not restrict agency action.

Disclosures to Officer Under Investigation

- ▶ *Before an interrogation*, officer shall be informed (1) in writing of the nature of the investigation; (2) of the name, rank and command of the officer in charge of the investigation, the interrogating officer and each person present during an interrogation.

Time and Place

- ▶ Interrogation must be conducted at a reasonable hour, preferably when the officer is on duty, *unless* “the seriousness of the investigation is of a degree that an immediate interrogation is required.”
- ▶ At the police unit where the incident allegedly occurred or at another reasonable and appropriate place.

Right to Counsel

- ▶ On request, officer under interrogation has a right to be represented by counsel or other responsible representative who shall be present and available for consultation at all times during the interrogation.
- ▶ The interrogation shall be suspended for no more than 10 days until representation is obtained.

Conduct of Interrogation

- ▶ All questions asked by and through one interrogating officer during any one session.
- ▶ Each session shall be for a reasonable time period and allow for personal necessities and rest periods as reasonably necessary.
- ▶ Officer under interrogation may not be threatened with transfer, dismissal or disciplinary action.

During the Interrogation

- ▶ Counsel may: (1) request a recess at any time to consult with the officer; (2) object to any question posed; and (3) state on the record outside the presence of the officer the reason for the objection.

Record of the Interrogation

- ▶ A complete record of the entire interrogation, including all recess periods, must be kept
- ▶ Record may be “written, taped or transcribed”
- ▶ When investigation completed, and on request by the officer, agency must give him a copy of the record of the interrogation at least 10 days before a hearing

Other Investigative Process

- ▶ Tests and Examinations: Agency may order officer to submit to tests, examinations and interrogations that relate to the subject matter of the investigation
- ▶ If officer refuses, agency may take disciplinary action

When Agency Compels Officer

- ▶ If agency orders officer to submit to tests, results of tests, examinations or interrogations are not discoverable or admissible in a criminal proceeding against the law enforcement officer

Polygraph Examinations

- ▶ Agency may order officer to submit to a polygraph examination, but results are not admissible in a hearing unless both parties agree to the admission of the results.
- ▶ Right to have counsel present at polygraph or to review questions beforehand.
- ▶ Officer entitled to copy of report.

Information Provided Upon Completion of Investigation

- ▶ At least 10 days before a hearing, the agency must provide to the officer: (1) the name of each witness; (2) each charge and specification against the officer; (3) a copy of the investigatory file and any exculpatory information provided that the officer and his lawyer: (1) execute a confidentiality agreement and (2) pay reasonable charge for reproducing the material.

Exclusions from Disclosure

- ▶ Identity of confidential sources
- ▶ Non-exculpatory information
- ▶ Recommendations as to charges, disposition, or punishment

11

Adverse Material

- ▶ May not be placed in the officer's personnel file unless he has an opportunity to review, sign, receive a copy of and comment in writing on the adverse material
- ▶ Adverse material may be maintained in the internal investigation or intelligence division files

Section 3-105 Show Cause Order

- ▶ Law enforcement officer who is denied a right granted under this subtitle may apply to the circuit court for an order that directs the agency to show cause why the right should not be granted.

Section 3-106 Charge Limitation

- ▶ Administrative charges must be “filed” within one year after the act that gave rise to the charges “comes to the attention of the appropriate agency official.”
- ▶ The 1 year limitation does not apply to charges that relate to criminal activity or excessive force

Section 3-106.1 Agency List

- ▶ Allows agency to keep a list of officers who have committed or are alleged to have committed bad acts that reflect on credibility
- ▶ Prohibits agency from disciplining officer solely because his or her name is on the list
- ▶ Requires agency to notify officer that his or her name is on the list

Section 3-107 Hearing

- ▶ If investigation results in a recommendation of punitive action, the officer is entitled to a hearing on the issues before a hearing board before the agency takes the action
- ▶ But an officer who has been convicted of a felony is not entitled to a hearing.

Section 3-107 Procedures

- ▶ Agency must give notice of the right to a hearing board and the time and place of the hearing and the issues involved
- ▶ Members of the board are appointed by the chief - one member is the same rank as the accused officer
- ▶ Collective Bargaining Agreement can allow for “alternative method of forming a hearing board”

Examples of Alternative Methods

- ▶ Allowing officer to “strike” appointed members
- ▶ Agreeing to a third party civilian arbitrator as a member of the board
- ▶ Allowing union representative to select the peer officer
- ▶ Requiring all board members to be from other agencies

Section 3-107 Procedures

- ▶ Hearing Board chair or chief authorized to issue subpoenas to require witnesses to attend hearing and bring documents, etc.
- ▶ Each party must be given “ample opportunity to present evidence and argument about the issues involved.”
- ▶ Board authorized to administer oaths
- ▶ Each party may be represented by counsel

Section 3-107 Evidence

- ▶ That information commonly accepted by reasonable and prudent individuals in the conduct of their affairs is admissible
- ▶ Board members may take notice of known facts and may utilize their experienced, technical competence and specialized knowledge to evaluate the evidence

General Principles

- ▶ The burden of proof is on the agency
- ▶ The standard of proof is a preponderance of the evidence
- ▶ The standards of evidence are administrative law, not criminal law
- ▶ No presumptions of truth are made regarding the facts in dispute, including no presumption of innocence

General Principles

- ▶ No presumptions are made about witness credibility; fact-based evaluation of the witnesses and evidence is required
- ▶ Board should apply professional expertise and common sense to the facts presented
- ▶ Conclusions must be logically deduced from the evidence

Section 3-108 Disposition

- ▶ Hearing board decision must be in writing and include findings of fact
- ▶ A finding of not guilty terminates the action
- ▶ If finding of guilt is made, board must accept additional evidence and then make recommendation of penalty to the chief

Review By Chief

- ▶ Within 30 days, the chief must review the hearing board and issue a final order
- ▶ The penalty recommendation is not binding on the chief
- ▶ To increase the recommended penalty, the chief must go through additional procedures, including a meeting with the officer
- ▶ Chief not authorized to change factual findings or verdicts

Section 3-109 Appeal

- ▶ Officer has a right to appeal to circuit court
- ▶ Appeal is “on the record” and administrative law principles apply
- ▶ Agency decisions ”presumed to be correct” – court authorized to consider errors of law
- ▶ Either party may appeal to the Court of Appeals

Section 3-110 Expungement

- ▶ Officer may request to have records expunged after 3 years if exonerated by the investigation or found not guilty by a hearing board
- ▶ Evidence of a formal complaint against an officer is not admissible in an administrative or judicial proceeding if the officer was exonerated or found not guilty

Section 3-111 Summary Punishment

- ▶ Summary punishment may be imposed:
 - For minor violations
 - The facts are not disputed by the officer
 - The officer waives right to a hearing
 - The officer accepts the punishment
 - Punishment does not exceed a 3 day suspension without pay or \$150 fine

Section 3-112 Suspensions

- ▶ Allows the chief to impose an “emergency suspension” when in the best interest of the public and the law enforcement agency
- ▶ Suspension must be with pay
- ▶ Chief may also suspend the “police powers” of the officer and assign him/her to administrative duties instead
- ▶ Suspension may continue until matter is resolved

Section 3-112

- ▶ If an officer is charged with a felony, the chief may impose an “emergency suspension of police powers” without pay
- ▶ In either case, (paid or unpaid) the officer is entitled to a “prompt hearing”

Section 3-113 False Statement

- ▶ A person may not knowingly make a false statement, report, or complaint during an LEOBR investigation or proceeding.
- ▶ A person who violates this section is subject to the penalties of the Criminal Law Article.

Questions & Discussion

Constitutional Right to Remain Silent

- ▶ 5th amendment to the U.S. Constitution provides to all citizens the right against self-incrimination, also referred to as the right to remain silent
- ▶ The right applies in criminal investigations and prosecutions
- ▶ Government employees do not give up this right by virtue of their employment (*Garrity* case)

LEOBR Related Provision

- ▶ If the government employer / law enforcement agency compels an employee to answer incriminating questions, those statements cannot be used against the employee in a criminal prosecution (“use” immunity)
- ▶ Compulsion may even result in immunity from prosecution altogether (“transactional” immunity)
- ▶ *Garrity* and section 3-104 (I)

Constitutional Right to Counsel

- ▶ 5th amendment right to counsel when a person is in custody and being subjected to questioning related to a criminal investigation
- ▶ If person requests counsel, interrogation must cease until counsel is obtained
- ▶ 6th amendment – when “formal criminal proceedings” have commenced against the person

LEOBR Related Provision

- ▶ On request, officer under investigation has a right to have counsel present at an interrogation
- ▶ An interrogation may be suspended for up to 10 days to get a lawyer, if needed
- ▶ Law enforcement officer may be represented by counsel at a hearing before a hearing board

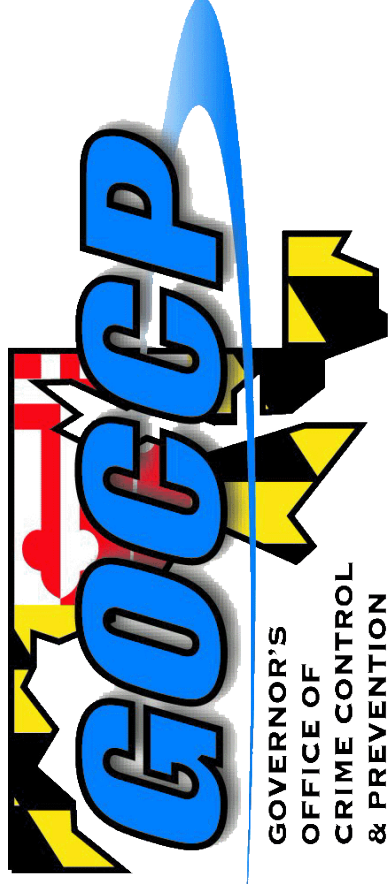
Appendix 4. GOCCP

Public Safety & Policing Workgroup Presentation

An overview of Race Based Traffic Stop, SWAT
Deployment, ECD Discharge, and Deaths Involving a
Law Enforcement Officer data collection in
Maryland

Governor's Office of Crime Control & Prevention

September 22, 2015



Mandated Data Collection (Traffic Stop Data)

- ❖ In 2001, the Maryland General Assembly passed Chs. 342 and 343 which required data collection on every law eligible traffic stop in Maryland.
- ❖ In 2011, the Maryland General Assembly passed SB 14 which reinstated this data collection process.
- ❖ In August 2011, GOCCP provided funding to MSP to create a modification of the E-TIX (Electronic Traffic Information Exchange) interface, which includes a reporting entry database that allows for all law enforcement agencies to submit traffic stop records electronically through MSP, who submits all law enforcement data to MSAC by March 1st each year.
- ❖ Chapter 127 of 2015 reinstated this data collection process for an additional five years.
- ❖ Traffic stops excluded from data collection include traffic stops that result from checkpoints or roadblocks, stops of multiple vehicles after an accident or emergency, the use of radar, laser, vascar technology, and license plate readers.
- ❖ MSAC submits a report to the Governor, the General Assembly, and each law enforcement agency on the data findings by September 1st each year.

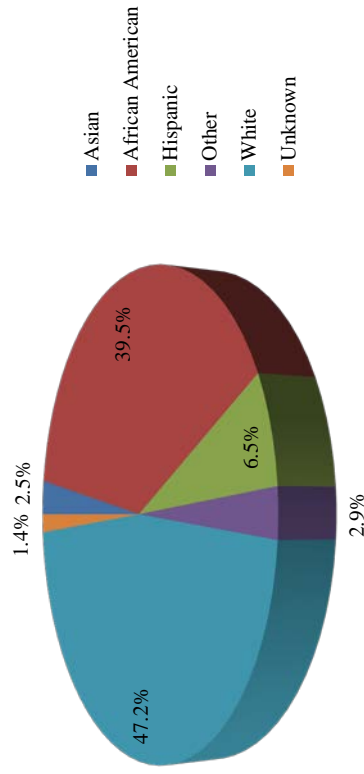
What Data is collected? (Traffic Stop Data)

- ❖ Demographic information on the driver;
- ❖ Agency that made the stop;
- ❖ Date (Month) of the stop;
- ❖ Time of day the stop occurred;
- ❖ Length of stop;
- ❖ Vehicle registration information;
- ❖ County of residence;
- ❖ Reason for the stop;
- ❖ Reason for the search, if one was conducted;
- ❖ Type of search;
- ❖ Outcome of the search;
- ❖ Overall outcome of the traffic stop.

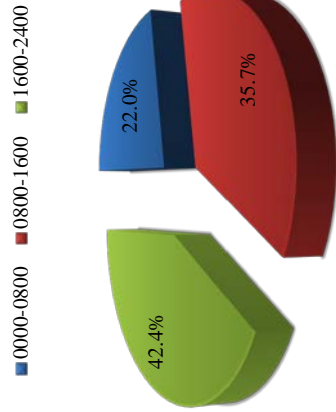
2013 Traffic Stop Data Findings

- ❖ 63% male
- ❖ Big 5 counties accounted for 2/3 of the traffic stops in the state
- ❖ Nearly 80% of the drivers were Maryland Residents
- ❖ Most common stop reasons:
 equipment violations
 registration
 traffic signs, signals, and markings
 speeding

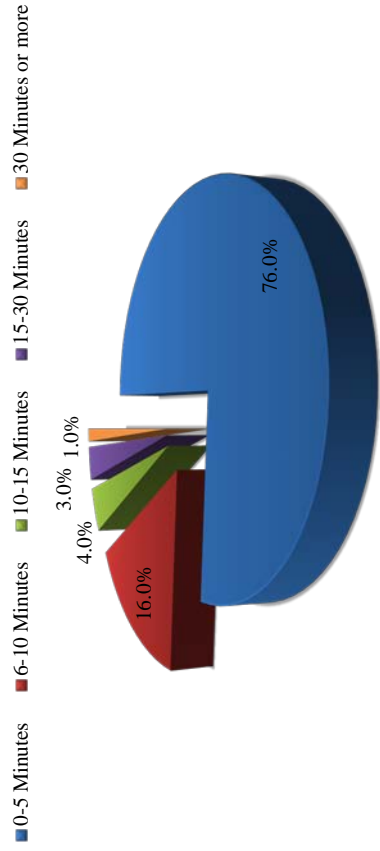
Race/Ethnicity of Driver in Traffic Stops



Time of Traffic Stop (24 hrs)



Length of Traffic Stop



2013 Traffic Stop Data Findings

- ❖ 3.9% of males and 1.8% of females were searched

	Males	Females
	2.3%	0.9%
Asian	4.6%	1.7%
African American	5.1%	1.6%
Hispanic	2.2%	1.2%
Other	3.3%	1.9%
Caucasian		

- ❖ Most common search reasons were incident to arrest, probable cause, and the driver giving consent

- ❖ When a search was conducted 4.1% of males and 4.2% of females had an item(s) confiscated by law enforcement (contraband, property, or both)

	Males	Females
	2.8%	1.6%
Asian	4.5%	3.5%
African American	1.8%	1.6%
Hispanic	2.3%	5.5%
Other	5.6%	4.8%
Caucasian		

- ❖ The traffic stop outcomes are shown below by race:

Warning	Citation	Repair Order	Arrest
54.2%	33.3%	11.0%	1.4%
Asian	Asian	Asian	Asian
50.9%	36.4%	10.5%	2.3%
African American	African American	African American	African American
39.3%	45.8%	11.7%	3.3%
Hispanic	Hispanic	Hispanic	Hispanic
52.6%	36.5%	10.0%	1.0%
Other	Other	Other	Other
54.2%	33.7%	10.2%	1.9%
Caucasian	Caucasian	Caucasian	Caucasian

Report

2013 Race Based Traffic Stop Data Analysis
<http://goccp.maryland.gov/msac/documents/TSDReport2014.pdf>

Mandated Data Collection (SWAT)

- ❖ In 2009, the Maryland General Assembly passed Senate Bill 447/ House Bill 1267. This law requires law enforcement agencies that *maintained* a SWAT Team as a part of its regular deployment and operation, to report specific activation and deployment information to MSAC.
- ❖ A SWAT Team is defined as a special unit composed of two or more law enforcement officers within a law enforcement agency trained to deal with unusually dangerous or violent situations and having special equipment and weapons, such as rifles more powerful than those carried by regular police officers.
- ❖ MSAC and the Police and Correctional Training Commissions (PCTC) worked with law enforcement and legal representatives to develop a standardized, efficient, user-friendly format to record and report data required under this law.
- ❖ Law enforcement agencies submitted an excel spreadsheet to MSAC by January 15th and July 15th of each year.
- ❖ MSAC submitted a report on the findings to the Governor, the General Assembly, and each law enforcement agency September 1st each year.
- ❖ This law sunsetted on June 30, 2014.

What Data was collected? (SWAT)

- ❖ The number of times the SWAT Team was activated and deployed;
- ❖ The location where the SWAT Team was deployed (e.g., zip code);
- ❖ The legal authority for each activation and deployment (i.e., Arrest Warrant, Search Warrant, Barricade, Exigent Circumstances, or Other);
- ❖ The reason for each activation and deployment (i.e., Part I Crime, Part II Crime, Emergency Petition, Suicidal, or Other);
- ❖ Whether forcible entry was used;
- ❖ Whether property or contraband was seized;
- ❖ Whether a weapon was discharged by a SWAT Team member;
- ❖ The number of arrests made;
- ❖ Whether any person or domestic animal was injured or killed by a SWAT Team member;
- ❖ Whether there were any injuries of a SWAT Officer.

FY 2009 – 2014 SWAT Data

Findings

- ❖ Roughly 1,600 SWAT deployments occurred each year from 35-40 police agencies.
- ❖ SWAT deployments in Maryland were activated and initiated, almost exclusively (90-93%) in conjunction with the execution of a search warrant signed by a judge.
- ❖ These search warrants almost unanimously (95-98%) were initiated as a response to a Part I Felony Crime or a Part II Crime drug investigation.
- ❖ 2/3 of SWAT deployments involved forcible entry.
- ❖ 80-87% involved the seizure of illegal property or contraband.
- ❖ At least one arrest was made in 2/3 of all deployments.
- ❖ A discharged weapon or injury of a person by a SWAT team officer occurred in less than 2% of all deployments.
- ❖ An injury or death of a domestic animal and the death of a person by a SWAT Team member during a deployment also occurred in less than 2% of total deployments.

FY 2009 – 2014 SWAT Data Findings

SWAT Deployment Data	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Total SWAT Deployments	1,618	1,641	1,651	1,650	1,689
Agencies that Reported at least 1 Deployment	39	36	37	38	35
Legal Authority was a Search Warrant	91.8%	90.3%	89.5%	90.5%	93.1%
Reason for Deployment was a Part I or Part II Crime	95.1%	96.9%	96.0%	96.4%	98.2%
Forcible Entry was Used	69.1%	68.1%	65.8%	68.2%	70.6%
Property or Contraband was Seized	81.5%	83.3%	85.0%	84.9%	87.1%
At least 1 Arrest was Made	63.4%	62.8%	66.0%	65.2%	60.3%
A firearm was discharged	11	10	22	21	35
An Animal was Injured	3	2	1	2	2
An Animal was Killed	3	2	2	2	5
A person was Injured	16	13	20	23	23
A person was Killed	1	1	0	2	5
A SWAT Officer was Injured	Not Reported	Not Reported	10	9	11

Report

Fiscal Year 2014 SWAT Team Deployment Data Analysis
<http://goccp.maryland.gov/msac/documents/SWATReportFY2014.pdf>

Mandated Data Collection (ECD)

- ❖ In 2011, the Maryland General Assembly passed Senate Bill 652/House Bill 507. This law requires law enforcement agencies that issue Electronic Control Devices (ECDs), also known as tasers, to report certain information regarding the use of those devices to MSAC.
- ❖ An Electronic Control Device is defined as a portable device designed as a weapon capable of injuring, immobilizing, or inflicting pain on an individual by the discharge of an electrical current.
- ❖ MSAC and the Police and Correctional Training Commissions (PCTC) worked with law enforcement and legal representatives to develop a standardized, efficient, user-friendly format to record and report data required under this law.
- ❖ Law enforcement agencies submit an excel spreadsheet to MSAC by March 31st of each year.
- ❖ MSAC submits a report to the Governor, the General Assembly, and each law enforcement agency on the findings by September 1st each year.

What Data is collected? (ECD)

- ❖ The number of times an ECD was discharged by the agency in the past year;
- ❖ The time, date, and location (zip code) of the discharge;
- ❖ The type of incident (e.g. non-criminal, criminal, or traffic stop) in which the person against whom the ECD was discharged was involved prior to the discharge;
- ❖ The reason for each discharge (e.g. non-threatening non-compliance, threat of force, and use of force);
- ❖ The type of mode used (e.g. probe, drive stun, or both);
- ❖ The point of impact of each discharge (e.g., arm, back torso, buttocks, front torso, groin/hip, head, leg, neck, side, clothing, or miss);

What Data is collected? (ECD)

- ❖ The number of ECD cycles, the duration of each cycle, and the duration between cycles of the discharge;
- ❖ The race, gender, and age, of each person against whom the ECD was discharged;
- ❖ The type of weapon (e.g., firearm, edged, blunt force, or other), if any, possessed by the person against whom the ECD was discharged, and the threat of any weapon;
- ❖ Any injury or death resulting from the discharge other than punctures or lacerations caused by the ECD contact or the removal of ECD probes;
- ❖ The type of medical care, if any, provided to the person against whom the ECD was discharged, other than the treatment for punctures or lacerations caused by the ECD contact or the removal of ECD probes.

2012 – 2014 ECD Data Findings

- ❖ 92 law enforcement agencies in Maryland use Tasers.
- ❖ ECD discharges are most likely to occur in densely populated areas during the evening hours (4:00pm – 12:00 am shift).
- ❖ The majority of discharges occur during law enforcement’s initial response to a criminal incident and when a person failed to comply with law enforcement officer orders.
- ❖ Probe mode was most commonly used during an ECD discharge in which a person’s center mass (i.e., front and back torso) was the most frequent a point of impact. There were very few ECD discharges that made contact with more sensitive areas of the body (i.e., head, neck, and groin).
- ❖ On average, an ECD discharge incident only involved one five second cycle; however, if more than one cycle did occur, the person was given approximately 5-7 seconds (on average) to recover before another electrical current made contact.
- ❖ Persons who were tased possessed a weapon about 20% of the time and showed a threat of a weapon about 10% of the time.
- ❖ 2 deaths resulted from an ECD discharge since 2012.
- ❖ Injuries resulting from a taser discharge occurred in roughly 25% of the incidents.
- ❖ Approximately 60% of the individuals who were tased received additional medical care, mainly hospital care.

2012 – 2014 ECD Data Findings

ECD Discharge Data	2012	2013	2014
Total ECD Discharges	1,068	928	977
Agencies that Reported at least one ECD discharge	65	56	57
4:00 pm - 12:00 am shift	48.1%	44.4%	45.1%
ECD Discharges on African Americans	62.0%	60.8%	68.9%
ECD Discharges on Caucasians	33.3%	32.5%	26.0%
ECD Discharges on Males	93.5%	93.4%	93.1%
ECD Discharges on Persons ages 18-44	81.6%	80.5%	79.9%
Response to a Criminal Incident	71.6%	77.7%	78.8%
Subject was Nonthreatening and Noncompliant	56.7%	54.9%	64.7%
Subject used Force or Threatened to use Force	43.3%	45.1%	35.3%
Probe Mode	74.7%	73.5%	79.1%
Center Mass Point of Impact	71.9%	68.8%	66.4%
Median Number of cycles	1	1	1
Median Duration of Cycle	5 seconds	5 seconds	5 seconds
Median Duration between Multiple ECD cycles	7 seconds	6 seconds	4 seconds
Weapon Possessed by the Subject	21.7%	21.2%	16.1%
Threat of Weapon	5.7%	20.1%	9.4%
Injuries resulting from an ECD discharge	24.3%	19.8%	33.6%
Some type of medical care received	54.9%	57.7%	65.4%
Deaths resulting from an ECD Discharge	0	1	1

Report

2014 Electronic Control Device (ECD) Discharges Analysis
http://www.goccp.maryland.gov/msac/documents/ECD_Data_Report_2015.pdf

Deaths Involving a Law Enforcement Officer

May 12, 2015

Governor Hogan signed House Bill 954, “Deaths Involving a Law Enforcement Officer.”

For the first time in Maryland, a legal mechanism is now in place for capturing and reporting to the public each time a citizen dies during a police encounter, or a law enforcement officer dies in the line of duty.

Deaths Involving a Law Enforcement Officer

2010 – 2013

The Maryland Statistical Analysis Center (MSAC) at GOCCCP was the State Reporting Coordinator and data repository for the federal Arrest Related Deaths (ARD) program.

2014

The program ended (although MSAC continued to collect the data) due to legislative sunset, but recently passed federal legislation under the Deaths in Custody Reporting Act will have GOCCCP assuming the State Reporting Coordinator role once again for the federal program.

What is an “Officer-involved death?”

Defined by HB 954

The death of an individual resulting directly from an act or omission of a law enforcement officer, while the officer is on duty or while the officer is off duty, but performing activities that are within the scope of the officer’s official duties.

What is an “Officer-involved death?”

Includes individuals who die as the result of:

- Homicide (by L.E.)
- Accidental injury resulting in death
- Natural causes
- Suicide
- Medical Condition / illness
- Overdose / Intoxication

The Office of the Chief Medical Examiner (OCME) determines the cause of death.

What Data is collected? (Deaths Involving a Law Enforcement Officer)

- ❖ Age, gender, ethnicity, and race of the deceased;
- ❖ Age, gender, ethnicity, and race of the officer involved;
- ❖ A brief description on the circumstances surrounding the death;
- ❖ Date, time, and location of the death;
- ❖ The law enforcement agency of the officer who:
 1. Died; OR
 2. Detained, arrested, or was in the process of arresting the deceased.

Data from 2010 - 2014

Cause of Death ->	Homicide by Law Enforcement*	Accidental Injury to Self	Suicide	Medical Condition or Illness	Overdose or Intoxication	Natural Causes	Pending	Unknown or Undetermined	Total
2010	8	1	7	3	2				21
2011	18	4	8		2				32
2012	26	5	7		3				41
2013	19	6	2	1		1	2		31
2014	17	3	2				3	2	27
Total	88	19	26	4	7	1	5	2	152

* OCME does not make a determination on justification

Legislative Reporting

3 year history Legislative Report

Data period covered: January 1, 2012 – June 30, 2015
Data submission due to MSAC: Law Enforcement submission required by 8/15/16
Legislative Report Due: October 15, 2016
Data Source: Reported by law enforcement to MSAC
Sunset: N/A
Notes: This is a 1 time report due 10/15/16

Annual Legislative Reports

Data period covered: January 1 – December 31 (first report covers July 1 – December 31, 2015)
Data submission due to MSAC: Law Enforcement submission required by March 1
Legislative Report Due: June 30
Data Source: Reported by law enforcement to MSAC
Sunset: None
Notes: First report due 6/30/16. Law Enforcement started collecting data on 7/1/15.

Contact Information

Don Hogan
Director of Legislation
donald.hogan@maryland.gov
410-821-2855

Greg Coster
MSAC Director
gregory.coster@maryland.gov
410-821-2859

Jeffrey Zuback
Research Chief
jeffrey.zuback@maryland.gov
410-821-2843

Questions?

Appendix 5. Maryland Office of the Attorney General



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

