

April 9, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 71 – *Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force*; Senate Bill 178 – *Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct*; and House Bill 670 – *Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures*.

I was hopeful that the hard work done over the past year by the House Workgroup to Address Police Reform and Accountability and the Judicial Proceedings Committee would yield bipartisan legislation to achieve necessary reforms in our police departments to protect civil rights and increase public trust in law enforcement. I would like to acknowledge the efforts of the General Assembly in working with members of the work group, law enforcement, the state's attorneys, and advocates to develop a number of independent bills that could have resulted in impactful improvements in policing. Unfortunately, the original intent of these bills appears to have been overtaken by political agendas that do not serve the public safety interests of the citizens of Maryland. These bills would undermine the goal that I believe we share of building transparent, accountable, and effective law enforcement institutions and instead further erode police morale, community relationships, and public confidence. They will result in great damage to police recruitment and retention, posing significant risks to public safety throughout our state. Under these circumstances, I have no choice but to uphold my primary responsibility to keep Marylanders safe, especially those that live in vulnerable communities most impacted by violent crime, and veto these bills.

SB 71 – Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force

I have continually supported the use of body cameras by our frontline law enforcement officers, and our administration has provided funding to facilitate purchasing these cameras. Several districts have already moved forward in expanding this initiative, and I want to make it abundantly clear that I have no problems with the body camera provisions in this bill. Unfortunately, as amended, this bill also creates a wholly new and uncharted use of force standard. Current law, based on the Supreme Court decision in *Graham v. O'Connor*, establishes an objective standard that police officers' use of force must be "objectively reasonable in light of the facts and circumstances confronting them." This bill jettison's this long established objective test for a vague and undefined test of judging whether the force was "proportional." Such a standard would expose every officer's actions to the sort of speculation that the U.S. Supreme Court rejected in fashioning the current standard of excessive force in the *Graham* case. I cannot support a hindsight review of an officer's actions when the officer must react in a split-second to a deadly situation that could pose a threat to their own life and the lives of citizen bystanders. This new standard will leave the courts with no guidance, causing confusion for officers and courts alike. Excessive use of force is already prohibited under Maryland criminal law (e.g., assault, reckless endangerment, murder) and a new prohibition aimed solely at police officers is unnecessary and harmful. As a whole, this bill as amended is misguided and threatens the lives and safety of our citizens and first responders.

SB 178 – Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct

When 19-year old Anton Black was tragically killed in 2019, I was among the first to call for full transparency and answers for his family from law enforcement and the medical examiner's office. I support updating procedures for executing search warrants and the disclosure of investigatory and personnel records. Unfortunately, the processes outlined in this bill places the lives of the officers as well as the occupants of the dwelling at unnecessary risk. Limitations such as the requirement to serve no-knock warrants between the hours of 8:00 a.m. and 7:00 p.m., voiding the warrant after ten days, and requiring a 20 second delay before entering a residence while serving a regular warrant needlessly endangers police officers, occupants, and bystanders. The provisions of this bill that impact the release of Investigatory and Personnel Records are equally disturbing. Officers who are exonerated will still be subject to having their records exposed. As amended, these provisions place the officers' safety at risk, erode officers' relationships with the residents of our most vulnerable communities, and deter witness participation in the prosecution of violent crimes.

HB 670 – Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures

The proponents of this bill's stated intent is a complete repeal of the Law Enforcement Officers' Bill of Rights and a replacement with another process. Unfortunately, this was done in a haphazard fashion with little collaboration from all interested stakeholders. The result is a bill that does very little to increase accountability that law enforcement officers deserve and the public should expect. Instead of a uniform, statewide process of police discipline, this bill would create a patchwork of hundreds of locally devised processes. The disciplinary authority of chiefs and sheriffs has been substantially undermined, thereby lessening their ability to discipline and remove problem officers. The basic due process protections to which police are entitled, have been removed. This leaves police disciplinary hearings subject to arbitrary and capricious disciplinary procedures. The convoluted investigatory and disciplinary processes created in this bill will force unnecessary delays and confusion. The lack of consistency in establishing the membership of the entities created by this bill will inevitably lead to disparities in enforcement of police discipline between districts. Our police and our citizens deserve far better. The extreme flaws in this bill leave me no alternative but to veto this bill.

For these reasons, I have vetoed Senate Bill 71 – *Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force*; Senate Bill 178 – *Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct (Anton's Law)*; and House Bill 670 – *Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor