



Final Report of the Workgroup
to Address Police Reform and
Accountability in Maryland

Annapolis, Maryland
December 2020

Workgroup to Address Police Reform And Accountability in Maryland

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

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The Maryland House of Delegates
ANNAPOLIS, MARYLAND 21401-1991

December 1, 2020

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401-1991

Dear Speaker Jones:

Transmitted herewith is the report of the Workgroup to Address Police Reform and Accountability in Maryland.

The workgroup has worked tirelessly this interim to carry out the charge that you have given us. During the course of our eight public meetings, we heard testimony from approximately 27 expert witnesses, including nonpartisan staff, academics, representatives of law enforcement, elected State's Attorneys, and public defenders. In addition, our August 6, 2020 meeting was exclusively devoted to public testimony. Approximately 90 citizens provided live testimony during that meeting, and numerous others submitted written or videotaped testimony. The members of the workgroup also studied written materials and conducted independent research and discussions about the issues facing the workgroup. I can assure you that each and every member of the workgroup took the member's duty very seriously and was highly engaged in the process.

As a result, the workgroup has arrived at a strong list of 12 multi-part recommendations, which are set forth on pages 9 through 13 of this report. I am proud of this work product and believe that these recommendations are sound, necessary, and in line with measures that are being adopted or considered in other jurisdictions across the country. A bill that incorporates each of these recommendations is being prepared for your sponsorship, if you are so inclined, and will be ready for introduction on the first day of the legislative session.

It has been a privilege and pleasure to serve as chair of the workgroup, and I thank you for giving me this opportunity to guide the work of this important body. I look forward to working on our proposed legislation during the upcoming legislative session and continuing to participate in Maryland's efforts to bring about much needed reform to policing.

Very truly yours,

Vanessa E. Atterbeary
Vanessa E. Atterbeary

VEA/msr

**Workgroup to Address Police Reform
And Accountability in Maryland
2020 Interim
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Workgroup to Address Police Reform And Accountability in Maryland Report

Introduction

In response to escalating concerns about police misconduct, transparency, and accountability, on May 30, 2020, Speaker of the House Adrienne A. Jones and House Judiciary Chairman Luke Clippinger announced the formation of the interim Workgroup to Address Police Reform and Accountability in Maryland. Speaker Jones stated “Policing in America is broken. While we have taken a number of positive steps in Maryland, we can’t be satisfied until every citizen has confidence in their police department.” House Judiciary Vice Chair Vanessa E. Atterbeary was appointed to chair the workgroup.

The workgroup was specifically charged with:

- reviewing policies and procedures related to the investigations of police misconduct, including the Maryland’s Law Enforcement Officers’ Bill of Rights (LEOBR) statute;
- determining the viability of uniform statewide use-of-force policies and arrest procedures;
- reviewing the use of body cameras and disclosure of body camera footage; and
- identifying national best practices of independent prosecution of law-enforcement-related crimes.

Meetings

The workgroup met and worked diligently over five months during the 2020 interim. Eight public meetings were held at which approximately 27 expert witnesses and dozens of citizens provided testimony. In addition, the members reviewed a significant amount of research and written information. Every workgroup member actively participated in a thoughtful and robust discourse throughout each meeting, resulting in comprehensive recommendations.

All meeting recordings and materials can be found on the [Maryland General Assembly website](#).

June 23, 2020 Meeting

At its first meeting, the Department of Legislative Services (DLS) briefed workgroup members on significant Maryland policing reforms from 2016 to 2020, including Chapter 519 of 2016 that, among other things, established the independent Maryland Police Training and Standards Commission (MPTSC) and made changes to LEOBR.

The workgroup was then briefed by leadership and staff of MPTSC on its duties and operations. Additionally, MPTSC provided an overview of law enforcement best practices, including those practices related to use-of-force procedures and the citizen complaint process.

July 16, 2020 Meeting

For its second meeting, the workgroup invited four experts to speak on police reform from a national perspective. The majority of the meeting was spent discussing national trends in policing – from a briefing on state-by-state police reform legislation to statistical data regarding officer-involved fatalities. The experts also briefed the members on a prosecutor’s role in officer-involved fatalities and the recommendations of President Barack H. Obama’s Task Force on 21st Century Policing.

August 6, 2020 Meeting

The workgroup’s August 6 meeting was devoted to taking testimony from the public on police reform. Over the course of four hours, the workgroup heard from approximately 90 citizens through live testimony. Many other citizens who were unable to testify uploaded prerecorded testimony. Additionally, the workgroup invited testimony from a panel of public-interest advocates from around the State who shared their views on police reform and accountability.

August 27, 2020 Meeting

At its fourth meeting, the workgroup heard from individuals representing Maryland law enforcement. Workgroup members engaged with representatives on a range of issues, from recent law enforcement-related national events to the intricacies of LEOBR. The representatives provided members with a range of viewpoints from the unions that represent police to the chiefs of certain police departments.

September 17, 2020 Meeting

At its last meeting before beginning to discuss its recommendations, the workgroup heard from State’s Attorneys from around Maryland on the prosecution of police misconduct. Additionally, the Office of the Public Defender was invited to provide their insight on how police misconduct affects their clients.

October 2020 Meetings

The workgroup met on October 1, 8, and 15, 2020, to discuss potential recommendations for the 2021 legislative session. On October 8 and 15, 2020, final recommendations were voted and agreed upon.

Recommendations

The workgroup issued the following 12 recommendations to bring about reform and increased accountability for police departments in Maryland. These recommendations, which will be incorporated into a bill to be introduced on the first day of the 2021 session, are set forth below.

Recommendation 1

Require all police departments to utilize body cameras by January 1, 2025.

Recommendation 2

Establish a statewide use-of-force statute that contains the following elements:

- a. Require a duty to intervene for those police officers who see another officer using force beyond what is objectively reasonable under the circumstances.
- b. Require each department's policy to state that officers may use the force that is objectively reasonable and appears to be necessary under the circumstances in response to the threat or resistance by a subject.
- c. Require departments to include de-escalation in written policy. When time, circumstances, and safety permit, officers should take steps to gain compliance and deescalate conflict without using physical force. Examples include the use of advisements, warnings, and persuasion and attempts to slow down or stabilize the situation so that more time, options, and resources are available. Officers should consider whether a subject's lack of compliance is a deliberate attempt to resist or is caused by an inability to comply.
- d. Require officers to render basic first aid to subjects injured as a result of police action and promptly request medical assistance.
- e. Require supervisors to respond to the scene of any incident during which an officer used physical force and where actual injury occurs. Supervisors should gather and review all known video recordings of an incident involving the use-of-force.
- f. Require documentation of incidents involving the use of force.

- g. Require written policies of supervisory review of use-of-force reports, including review by commanders.
- h. Require officers to undergo and have access to training options that are less likely to cause death or serious injury and techniques to reduce the need to use force. Include the use of scenario-based training.
- i. Require that every officer sign an affirmative written sanctity-of-life pledge to “respect every human life” and “act with compassion toward others.”
- j. Require all officers to sign a training completion document stating they understand Maryland’s use-of-force statute and must comply with the same.
- k. Require that an officer may only use deadly force to stop an imminent threat of death or serious bodily injury to the officer or another person. Serious injury is permanent impairment or disfigurement. Deadly force is any force that is likely to cause death or serious injury.
- l. Require all officers to undergo Less Lethal Force Training. Officers will be trained and equipped with less lethal weapons that may assist the officers in controlling resistant or assaultive behavior. “Less lethal weapons” are those weapons that are expected to create less risk of causing serious injury or death.
- m. Prohibit shooting at moving vehicles unless the vehicle is being used as a deadly weapon toward the officer or another person and deadly force is the only reasonable means available to stop that threat.
- n. Prohibit the use of chokeholds.
- o. Prohibit no-knock warrants unless the officer can demonstrate, in the application for a search warrant, that the life or safety of the executing officer or another person may be endangered. The judicial officer must find that exigent circumstances exist with respect to the latter. The applicant must demonstrate that a no-knock warrant is a last resort effort.
- p. Prohibit acquisition of surplus armored or weaponized vehicles.
- q. A police officer who violates the use-of-force statute is guilty of a misdemeanor, punishable by up to 10 years imprisonment if the violation is knowing and willful and 5 years if the violation is reckless.
- r. MPTSC is the agency responsible for holding police departments accountable for violations of the use-of-force statute.

- MPTSC shall revoke the certification of an officer (1) found to be in violation of the use-of-force statute; (2) convicted of a felony; or (3) convicted of perjury or another misdemeanor that goes to truthfulness and veracity.
- An officer cannot be hired if the officer was previously fired or resigned while being investigated for serious misconduct or use of excessive force.
- MPTSC shall create a statewide database to track officer decertifications due to the improper use of force.
- The Governor's Office of Crime Prevention, Youth, and Victim Services money will be withheld from a police department that violates the use-of-force statute.
- The membership of MPTSC shall be altered so that there are 10 civilians with voting rights, 4 legislators, and 10 representatives of the law enforcement community for a total of 24 members. Adequate training shall be given to the civilians as determined by MPTSC.

Recommendation 3

Require an independent investigation of officer-involved shootings and other actions that result in the death of an individual or cause serious bodily injury.

Recommendation 4

Prohibit collective bargaining of disciplinary actions (effective after any currently effective collective bargaining agreement expires).

Recommendation 5

- a. Require mental health screenings and assessments by a licensed mental health professional before a police officer is hired.
- b. Require periodic mental health assessment by a psychologist or psychiatrist.
- c. Establish that prior marijuana use is not a disqualifier to being hired as a police officer.

Recommendation 6

Make the Baltimore City Police Department an agency and instrumentality of Baltimore City instead of the State.

Recommendation 7

Require a study to determine whether certain types of calls for service should be diverted to a person or entity other than the police.

Recommendation 8

Require a periodic physical agility assessment as determined by MPTSC.

Recommendation 9

Establish free tuition at a University System of Maryland institution if majoring in criminology or criminal justice but must stay a sworn police officer for five years or repay the money.

Recommendation 10

Require MPTSC to create an implicit bias test and training, require all police departments to utilize the test in the hiring process, and require current officers to complete implicit bias testing and training.

Recommendation 11

Repeal LEOBR.

Recommendation 12

Rules of Accountability for police departments:

- a. Must include civilian oversight on any trial board – at least one-third of trial board should be composed of civilians with voting power.
- b. Must have an open and transparent process.
- c. Must have a charging committee that includes civilians, like a grand jury, with a training component.
- d. Officers convicted of a misdemeanor or who received a probation before judgment do not receive a trial board hearing. The chief decides punishment in this instance.
- e. Must have an early warning system. An early warning system is a data-based police management tool designed to identify officers whose behavior is problematic, who received a specific number of police complaints, or who violated the use-of-force statute a

specific number of times. The system provides a form of intervention to correct that behavior. MPTSC must develop guidelines for such a system. All officers flagged by the early warning system must undergo retraining.

- f. Each county must have a citizen complaint oversight board.

Conclusion

The workgroup extends its appreciation and gratitude to the Maryland citizens who participated in the workgroup's August 6, 2020 meeting – your input and involvement is invaluable to the process to reform policing and increase police accountability in the State. The workgroup would also like to thank staff of DLS and the following individuals who briefed or provided testimony to the workgroup:

- Albert L. Liebno, Jr., Acting Executive Director, MPTSC;
- Troy D. Berry, Charles County Sheriff, Vice Chair, and MPTSC and Incoming Sheriff's Association President;
- Amber Widgery, Program Principal, Criminal Justice Program, National Conference of State Legislatures;
- Laurie O. Robinson, Clarence J. Robinson Professor of Criminology, Law and Society, George Mason University;
- Samuel Sinyangwe, Policy Analyst and Data Scientist, Human Rights Data Analysis Group;
- Lucy Lang, Director, Institute for Innovation in Prosecution, John Jay College of Criminal Justice;
- David C. Morris, Chief, Riverdale Park Police Department;
- Melissa R. Hyatt, Chief, Baltimore County Police Department;
- Michael S. Harrison, Baltimore City Police Commissioner;
- Karen Kruger, Legal Counsel, Chiefs Association;
- Frank D. Boston, III, Attorney;

- Vince Canales, President, Maryland State Fraternal Order of Police;
- Michael E. Davey, Attorney;
- Woodrow W. Jones III, Colonel, Superintendent of State Police;
- Sonia Y. W. Pruitt, retired Captain, Montgomery County Police Department, and past chairperson, National Black Police Association;
- Byron B. Warnken, Attorney;
- Rebecca L. Smith, Attorney;
- Brian Gill, President, State Law Enforcement Officers Labor Alliance;
- Rich H. Gibson, Jr., State's Attorney for Howard County;
- Aisha N. Braveboy, State's Attorney for Prince George's County;
- John J. McCarthy, State's Attorney for Montgomery County;
- Marilyn J. Mosby, State's Attorney for Baltimore City;
- Zain Shirazi, Assistant Public Defender, Charles County;
- Chasity Simpson, District Public Defender, Lower Eastern Shore; and
- Deborah K. Levi, Director of Special Litigation, Baltimore City, Office of the Public Defender.

The members of the workgroup look forward to working on the legislation that incorporates its recommendations and seeing that legislation through to passage and enactment.