



March 10, 2020

## Hand Delivery

Luke H. Clippinger, Chair  
Vanessa E. Atterbeary, Vice Chair  
House Judiciary Committee  
Maryland House of Delegates  
House Office Building  
6 Bladen St., Room 101  
Annapolis, Maryland 21401

### **RE: House Bill 1640 – Morgan State University – Police Force Powers – Authorization – OPPOSE**

Dear Chairperson Clippinger and Vice Chairperson Atterbeary:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF), we welcome the opportunity to submit to written testimony in opposition to House Bill 1640 (HB 1640), which would expand the Morgan State University (MSU) Police Department's law enforcement authority to include patrolling Baltimore City neighborhoods at the request of the Baltimore City Mayor or Police Commissioner. We have serious concerns with providing city officials the authority to deputize MSU police officers without limitation.

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. It has been a separate organization from the NAACP since 1957. Throughout its 80-year history, LDF has consistently worked to promote unbiased and accountable policing policies and practices at the national, state, and local levels. For the past five years, we have partnered with local advocates, activists, and attorneys to reform unlawful policing practices in Baltimore City by joining the community call for a federal investigation of the police department,<sup>1</sup> advocating for fair provisions in the police union contract,<sup>2</sup> and calling for more transparency regarding police misconduct complaints.<sup>3</sup> We have also urged city officials to reconsider its memorandum of understanding

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<sup>1</sup> See Letter from Rev. Dr. S. Todd Yeary, Maryland State Conference of NAACP, and Sherrilyn Ifill, President and Director Counsel, NAACP LDF, to President Barack Obama, May 6, 2015, <https://www.naacpldf.org/wp-content/uploads/Clergy-Letter-to-President-Obama-regarding-death-of-Freddie-Gray-1.pdf>.

<sup>2</sup> See Letter from Campaign for Justice, Safety and Jobs to Stephanie Rawlings-Blake, Mayor of Baltimore City, and Kevin Davis, Police Commissioner, Baltimore City, July 20, 2016, <https://www.naacpldf.org/wp-content/uploads/Campaign-for-Justice-Safety-and-Jobs-Ltr.-re-Baltimore-Fraternal-Order-of-Police.pdf>.

<sup>3</sup> See Letter from Monique Dixon, Deputy Director of Policy, NAACP LDF, to Shane Pendergrass, Chair, Maryland House of Delegates Health and Government Operations Committee, regarding support for House Bill 413, Feb. 12, 2019,

(MOU) with the Baltimore School Police Force, which allows school police to patrol city streets with little to no oversight.<sup>4</sup>

Last year, LDF opposed a bill that would permit Johns Hopkins University (JHU) to establish its own campus police force based on a MOU with the Baltimore Police Department (BPD).<sup>5</sup> We warned, in part, that the broad delegation of law enforcement power to JHU without any limitation would create an unacceptably high risk of BPD or the Mayor using JHU's campus police as an auxiliary police force. Ultimately, the bill became law and included standards JHU's campus police must adopt to ensure that officers engage in nondiscriminatory and community-oriented policing practices.<sup>6</sup> Although not explicitly stated in the law, these practices should be consistent with those required by the federal consent decree between the U.S. Department of Justice (DOJ) and BPD to address discriminatory and otherwise unlawful policing practices by BPD.<sup>7</sup>

Similar to the law creating the JHU campus police, HB 1640 would allow MSU officers to patrol city neighborhoods as auxiliary police for BPD. However, unlike the JHU campus police law, HB 1640 does not contain requirements that its officers create and implement specific policies, training, and data collection and reporting to ensure lawful policing. This omission is particularly troublesome given the fact that a MSU officer was involved in the off-campus death of unarmed resident Tyrone West in 2013.<sup>8</sup>

#### **I. HB 1640 would expand the jurisdiction of MSU police officers without adequate accountability measures**

Public safety is a critical shared goal of everyone who lives, works, and attends school in Baltimore City; everyone wants safe neighborhoods; and safe neighborhoods are ones

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<https://www.naacpldf.org/wp-content/uploads/NAACP-LDF-Written-Testimony-in-Support-of-HB-413-Public-Information-Act-FINAL-1.pdf>.

<sup>4</sup> See Letter from Monique Dixon, Deputy Director of Policy, NAACP LDF, to Vanita Gupta, Principal Deputy Assistant Attorney General, U.S. Dep't of Justice, Sept. 8, 2015, <https://www.naacpldf.org/wp-content/uploads/NAACP-LDF-Letter-to-DOJ-requesting-expansion-of-fed-investigation-to-school-police.pdf>; see also U.S. Dep't of Justice Civil Rights Div., *Investigation of the Baltimore City Police Department* (Aug. 10, 2016), available at <https://www.justice.gov/opa/file/883366/download> (finding that Baltimore Police Department fails to appropriately coordinate its efforts with agencies it has granted authority to exercise concurrent jurisdiction) [hereinafter "*DOJ Report*" or "*Report*"]; Letter from Monique Dixon, Deputy Director of Policy, NAACP LDF, to Kenneth Thompson, Monitor of the Baltimore Police Department, Nov. 15, 2019, <https://www.naacpldf.org/wp-content/uploads/NAACP-LDF-Comment-letter-on-BPD-Baltimore-School-Police-MOU-Assessment-Report-FINAL.pdf> (describing the failure of BPD to adequately assess its memorandum of understanding with the Baltimore School Police).

<sup>5</sup> See Letter from Sherrilyn Ifill, President and Director Counsel, NAACP LDF, to Maryland Senators Bobby A. Zirkin and William C. Smith, Jr. and Delegates Luke Clippinger and Vanessa E. Atterbeary, March 1, 2019, <https://www.naacpldf.org/wp-content/uploads/NAACP-LDF-written-testimony-in-opposition-to-SB793-HB1094-1.pdf> (opposing Senate Bill 793 and House Bill 1094 – Community Safety and Strengthening Act).

<sup>6</sup> See MD. CODE ANN., EDUC., §24-1201, *et seq* (2019).

<sup>7</sup> Consent Decree, *United States v. Police Department of Baltimore City*, No. 1:17-cv-00099-JKB, Doc. 2-2, (D. MD Jan. 12, 2017), <https://www.justice.gov/crt/case-document/file/925036/download>. [hereinafter "*Consent Decree*"].

<sup>8</sup> See Michael Dresser and Justin Fenton, *State reaches settlement in Tyrone West death lawsuit*, BALT. SUN, Jul. 25, 2017, <https://www.baltimoresun.com/maryland/bs-md-tyrone-west-settlement-20170725-story.html>.

that are both free of violent crime *and* unlawful policing practices. Time and again in Baltimore City, we have seen approaches to public safety that have resulted in low-income communities of color feeling less safe and less trustful of the law enforcement officers charged with promoting public safety. These include the use of potentially discriminatory aerial surveillance and profiling practices against Black residents;<sup>9</sup> and unlawful stops, searches, and arrests, and the use of excessive force described at length in DOJ's report on its investigation of BPD entitled, *Investigation of the Baltimore City Police Department* ("DOJ Report" or "Report").<sup>10</sup> Indeed, even as the DOJ negotiated the terms of consent decree to address the legal violations found in its report, BPD officers who served on the city's "elite" Gun Trace Task Force (GTTF) were engaging in unlawful and predatory activities against the communities they were sworn to keep safe. Ultimately, several officers were convicted of numerous offenses and prosecutors threw out hundreds of cases in which arrests were made by or based on the testimony of officers convicted of misconduct in the GTTF investigation.<sup>11</sup>

Although BPD is under a federal consent decree to address unlawful policing practices and is recovering from a corruption scandal among its rank and file, HB 1640 would allow BPD to evade the requirements of the federal agreement through a deputized force of Morgan State University officers. For example, BPD could use its authority under the HB 1640 to address the agency's officer shortage<sup>12</sup> by asking MSU officers to patrol city streets as needed. MSU officers have not been subject to the training or other protocols that govern the conduct of BPD officers. This underscores the urgent need for language in the bill detailing the type of training, data collection, and reporting required of these auxiliary police to ensure they are held to the same standards and oversight as BPD officers.

## **II. Concerns about needless use of deadly force by MSU officers and lack of oversight of these officers by BPD are legitimate**

Concerns about campus police exercising their powers inappropriately on the streets of Baltimore are not just hypothetical. In 2013, Baltimore police officers, including a MSU officer, reportedly beat a Black man, Tyrone West, with batons until he went into medical distress, was taken to a hospital, and died.<sup>13</sup> Permitting MSU officers, who have not been covered by the requirements of the federal DOJ consent decree, to operate as an auxiliary police force for BPD could dangerously expose Baltimore residents, workers, and students to police violence or acts of misconduct, leading to more civil settlements paid for by tax payers.<sup>14</sup>

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<sup>9</sup> Brentin Mock, *Baltimore Police Say Aerial Surveillance Is Not a 'Secret Spy Program'*, BALT. CITY LAB, (Aug. 24, 2016), <https://www.citylab.com/equity/2016/08/baltimore-police-say-aerial-surveillance-project-is-not-a-secret-spy-program/497327/>.

<sup>10</sup> See DOJ Report, *supra* note 4.

<sup>11</sup> See Josh Girsky, Taylor Romine and Jean Casarez, Baltimore prosecutor seeks to throw out nearly 800 criminal convictions, CNN (Oct. 4, 2019), <https://www.cnn.com/2019/10/04/us/baltimore-police-corruption-cases/index.html>.

<sup>12</sup> Baltimore Police Department, *Staffing Plan*, 5-8, Draft Feb. 26, 2020, <https://www.powerdms.com/public/BALTIMOREMD/documents/652754>.

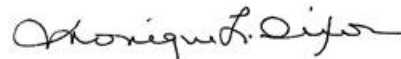
<sup>13</sup> See Mark Reutter, *City to pay \$600,000 to settle Tyrone West lawsuit*, BALT. BREW (July 26, 2017), <https://baltimorebrew.com/2017/07/26/city-to-pay-600000-to-settle-tyrone-west-death-lawsuit/>.

<sup>14</sup> Mark Reutter, *The price of Baltimore police misconduct - \$24.5 million and rising*, BALT. BREW (Sept. 18, 2019) <https://www.baltimorebrew.com/2019/09/18/the-price-of-baltimore-police-misconduct-24-5-million-and-rising/>; Luke Broadwater, *\$1M settlement planned for family of Tyrone West*, BALT. SUN (July 26, 2017) <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-west-settlement-20170726-story.html>;

Additionally, in its 2016 investigative report of BPD, DOJ criticized BPD for its inappropriate coordination with other law enforcement agencies, and specifically for signing an MOU with the Baltimore School Police Force that permitted school police to patrol city streets, using them “as an auxiliary force to BPD.”<sup>15</sup> DOJ further noted that school police officers were being asked to exercise their powers particularly “in districts that were understaffed,”<sup>16</sup> yet BPD failed to adequately oversee arrests made by and complaints filed against school police. This history, along with the City’s reported police shortage,<sup>17</sup> justifies concerns about HB 1640’s potential of allowing more officers acting on behalf of BPD to patrol city streets without limitation.

We respectfully request that House Judiciary Committee members consider the concerns set forth in our testimony and issue an unfavorable vote for HB 1640. We strongly believe that these concerns must be addressed and resolved before this bill moves forward.

Sincerely,



Monique Dixon  
Deputy Director of Policy and Director of  
State Advocacy

Allen Liu  
Law and Policy Fellow

cc: House Judiciary Committee members

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Catherine Rentz, *Baltimore man wins civil suit against police in brutality case*, BALT. SUN (March 29, 2016) <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-abdul-salaam-20160329-story.html>.

<sup>15</sup> See *DOJ Report*, *supra* note 4, at 154 (DOJ detailed BPD’s poor coordination with other agencies in a chapter of the report entitled, “BPD Does Not Coordinate with Other Agencies Appropriately.” *Id.*).

<sup>16</sup> *Id.*

<sup>17</sup> Kevin Rector, *Amid patrol shortage, Baltimore police union tells officers to flag exhaustion with supervisors*, BALT. SUN, Jun 27, 2019, <https://www.baltimoresun.com/news/crime/bs-md-ci-officer-exhaustion-20190626-story.html>.