



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr. Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: January 21, 2021

RE: **SB 42 Public Safety – Police Officers – Screening for Violent Behavior,
Aggressive Behavior, and Bias**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 42**. This legislation would subject police officer candidates and incumbent officers to a psychological screening for “Violent Behavior, Aggressive Behavior, and Bias.”

MCPA and MSA admire the sponsor’s intent and as the leaders of their agencies, also want to assure the best-suited officers are hired and their mental health maintained. However, SB 42 is untenable for several reasons and MCPA and MSA offer alternative solutions at the end of this statement to promote an officer’s fitness for duty and well-being.

First, according to police psychologists, there is no scientifically validated test instrument available to measure such human conditions. It would be unethical and disingenuous for a practitioner to posit that he or she could administer such a screening in the absence of research validation in the field.

Second, a screening of this type done on routine basis but without cause likely violates the Americans With Disabilities Act (ADA) which prohibits medical and mental examinations being used to disqualify applicants or remove employees except under prescribed circumstances.

Third, if there were such a screening mechanism available, it would likely be over-inclusive and inadvertently eliminate high quality applicants before being trained to manage their built-in biases, which all people have, and to understand and apply the law relating to uses of force.

Fourth, removing incumbent officers who may “fail” any such screening will risk losing competent officers without giving them the due process of law to which they are entitled, and may not consider the unique circumstances of any given serious encounter.

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To try to identify candidates who are unfit for the job, including those with discriminatory tendencies, all law enforcement agencies in Maryland are required by the regulations promulgated by the Maryland Police Training and Standards Commission to conduct extensive background checks and psychological tests to assess individual prejudices and fitness for duty. All officer candidates must be evaluated by a physician and a psychologist and must be found free of physical, emotional, or mental conditions that would negatively affect their ability to properly exercise law enforcement powers.

In addition, Maryland law requires each law enforcement agency to provide early intervention counseling for officers against whom 3 or more complaints have been filed in a 12-month period. Public Safety Art., sec. 3-516. The law also requires entry-level and in-service training in the subject areas of “anti-discrimination and use of force de-escalation,” MD Code Ann., Public Safety Art., sec. 3-207(a) (17) and contemplates the psychological evaluation of law enforcement officers who have been actively involved in serious incidents. Public Safety Art., sec. 3-207 (a) (21).

Several pieces of legislation will be introduced this session intended to address the same matters as SB 42. One of which, SB 74 to require all law enforcement agencies to develop and implement an employee assistance program for all police officers that the agency employs and provide confidential mental health services, has already been heard by this committee. MCPA and MSA also supports the expansion of early intervention systems across all law enforcement agencies to identify officers who may need additional assistance. These approaches are better suited to ensuring an officer’s health and well-being and do not raise the same challenges as the process outlined in SB 42.

For these reasons, MCPA and MSA OPPOSE SB 42 and urge an UNFAVORABLE report. MCPA and MSA looks forward to working with the Committee as it considers other proposals.