



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of HB 139 - Law Enforcement Officers - Use of Force

TO: Chairman Clippinger and Members of the House Judiciary Committee
FROM: Stephen C. Buckingham, Chair, Unitarian Universalist Legislative Ministry of Maryland.
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Unitarian Universalists affirm the inherent worth and dignity of every person, promote justice, equity and compassion in human relations, and seek a world community with peace, liberty, and justice for all. These principles are the lens through which we examine those institutions our State has developed to protect its people from harm and maintain safe communities. We must recognize that certain practices must change if our law enforcement is to live into its motto to “serve and protect.” While every law enforcement agency in our State speaks of its mission in these terms, many are not aware of historical factors that have influenced how policing is organized, directed, and managed.

One factor relevant to the use of force is our State’s history of slavery and oppression of Black people over generations. Many of our current institutions originated from early policies and methods used to continue this oppression. By 1723¹, Maryland law required every county to establish constables charged with enforcing race laws with the use of volunteer slave patrols. Even after the abolition of slavery, “these vigilante-style organizations evolved in modern Southern police departments primarily that acted as a means of controlling freed slaves who were now laborers working in an agricultural caste system, and enforcing ‘Jim Crow’ segregation laws, designed to deny freed slaves equal rights and access to the political system. . . In fact, policing in the early American colonies was often less about crime control than maintaining the racial social order, ensuring a stable labor force, and protecting the property interests of the white privileged class.”²

Aside from the racial aspects of early law enforcement, modern police departments also became tools for wealthy industrial elites to control the unruly poor and working classes. More than crime, police departments emerged as a response to "disorder." “The modern police force not only provided an organized, centralized body of men (and they were all male) legally authorized to use force to maintain order, it also provided the illusion that this order was being maintained under the rule of law, not at the whim of those with economic power... Defining social control as crime control was accomplished by raising the specter of the "dangerous classes." The suggestion was that public

¹ Blacks Before the Law in Colonial Maryland, November 14, 2000, Maryland State Archives, <https://msa.maryland.gov/msa/speccol/sc5300/sc5348/html/chap3.html>

² Dr. Gary Potter, Eastern Kentucky University, https://plsonline.eku.edu/insidelook/history-policing-united-states_part-1

drunkenness, crime, hooliganism, political protests and worker "riots" were the products of a biologically inferior, morally intemperate, unskilled and uneducated underclass. . . This underclass was easily identifiable because it consisted primarily of the poor, foreign immigrants and free blacks."³

"Centralized and bureaucratic police departments, focusing on the alleged crime-producing qualities of the "dangerous classes" began to emphasize preventative crime control. The presence of police, authorized to use force, could stop crime before it started by subjecting everyone to surveillance and observation. The concept of the police patrol as a preventative control mechanism routinized the insertion of police into the normal daily events of everyone's life, a previously unknown and highly feared concept in both England and the United States."⁴

It is no wonder that poor neighborhoods and communities of color often see the police as an official instrument for controlling their behavior--if not a foreign occupying force. To rectify this situation, law enforcement agencies must be deliberate about reorienting their efforts away from social control of a population of potentially dangerous "others." Restricting the use of force as applied to these communities is a necessary step in this process.

The other relevant factor from history relates to the militarism of law enforcement. The first individuals tasked with law enforcement were county sheriffs, to serve as the Conservator of the Peace, the Head Officer of the Court and the Keeper of the Jail, assisted by part-time deputy sheriffs. The early sheriffs did not wear uniforms until after World War II, and at times did not even carry a firearm.⁵ As maintaining order in more populous areas became more demanding, police departments began adopting a military structure as well as strategies for controlling communities. While this has had obvious benefits for maintaining internal discipline and deploying personnel to meet local needs, it has also borrowed military tactics that include heavily armed units for use in crowd control and the tendency to meet every unlawful encounter with overwhelming force when less dramatic and dangerous methods would be more appropriate. Lawbreakers are not enemy combatants and should not routinely be met with massive and potentially lethal force.

While history is not determinative, its influence in modern policing must be addressed by redirecting law enforcement from social control using military tactics towards one that treats all communities as composed of people to be served and protected. House Bill 139 is one step in this direction by defining clearly the circumstances in which force may be used in law enforcement activities and providing real sanctions for its misuse.

The measure before you today is necessary to put our State on a new path to becoming one community with equal treatment under the law for all.

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³ *Ibid.*, <https://plsonline.eku.edu/insidelook/history-policing-united-states-part-2>

⁴ Potter, *Op.Cit.*

⁵ Wicomico County Sheriff's Office, <http://www.wicomicosheriff.com/pages/au-history.htm>