



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Luke Clippinger, Chairman, and
Members of the Judiciary 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: February 12, 2021

RE: **HB 500 Police Procedures – Requiring a Person to Lie Prone**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE HB 500**. House Bill 500 proposes to limit a law enforcement officer's authority to place a suspect in a prone position (on the ground) only if the action is "objectively reasonable, necessary and proportional," and only after consideration of "any knowledge or lack of knowledge about the person's mental or physical conditions." Except for the "objectively reasonable" element, these restrictions are untenable and risk the safety of both officers and suspects.

These considerations significant hamper the officer's ability to defend oneself or others and to safely control a potentially violent suspect. Having to stop and consider these elements, which exceed constitutional standards, may cause officers to hesitate under critical conditions. Hesitation allows a dangerous suspect to act against the officer. In fact, a recent study of prone suspects by the Force Science Institute revealed that even when prone on the ground, suspects can move and assault an officer in an average of .52 seconds – less than a second. Those not in a prone position can complete an assault and escape in even less time.

Moreover, the standards of "necessary and proportional" are subjective standards that are impossible for an officer to measure with foresight, establishing an impossible threshold to meet under circumstances that are tense, uncertain, and rapidly evolving. Similarly, an officer will almost never be able to evaluate a person's mental or physical conditions in responding to a dangerous situation.

Current training standards already address this issue. Officers are trained to place an uncooperative subject in a prone position to gain control. They are instructed to place the subject in a "recovery position" as soon as it is safe to do so – that is, when the person appears to be compliant, if the person appears to be in medical distress or when there are enough officers on-scene to protect everyone's safety and prevent escape.

If this bill becomes law, it will force officers to resort other control techniques in which they may not be trained or practiced, increasing risks to both officers and the suspects with whom they are trying to control using minimal force. This may very well lead to more injuries suffered by both suspects and officers.

Finally, this proposed statute would be subject to abuse as it would empower criminal defendants to make misconduct complaints against the arresting officers to damage the credibility of that officer or set the groundwork for a baseless civil suit. In some cases, the defendants may even go to a District Court Commissioner's Office and seek criminal charges in any situation where an officer applied the prone position, regardless of whether the events fell within the elements of the statute. The Court Commissioner would not be able to evaluate as to whether the action was within statute and may approve unwarranted criminal charges against the officer.

For these reasons, the Maryland Chiefs of Police Association and the Maryland Sheriffs' Association OPPOSE HB 500 and urge an UNFAVORABLE report.