

# **HB 1044 (Use of Force Reports).pdf**

Uploaded by: Carrie Williams

Position: FAV

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**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6422

February 25, 2022

To: The Honorable Luke Clippinger  
Chair, Judiciary Committee

From: Carrie J. Williams  
Office of the Attorney General

Re: Attorney General's Support for HB 1044

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The Office of the Attorney General urges the Judiciary Committee to issue a favorable report for HB 1044.

HB 1044 requires law enforcement officers who use force in the line of duty to complete an incident report containing detailed information about the use of force. The bill also requires all law enforcement agencies to post on their public website the aggregate data regarding use of force by law enforcement officers and whether the use of force was consistent with agency policies and applicable laws.

Requiring documentation on the use of force and the public reporting of use of force data promotes transparency in law enforcement. Transparency improves accountability and builds trust in law enforcement. For these reasons, the Attorney General urges the Committee to issue a favorable report on HB 1044.

cc: Committee Members

**TPPC.PFT.testimony SB752.HB1044 testimony[1].pdf**

Uploaded by: Mary Jacksteit

Position: FAV

**Takoma Park Presbyterian Church  
310 Tulip Avenue  
Takoma Park, Md 20912**

February 25, 2022

**Senate Judicial Proceedings Committee  
TESTIMONY IN SUPPORT**

*SB752/HB1044 Public Safety - Use of Force Incident Reports*

***Presbyterians for Police Transformation  
Takoma Park Presbyterian Church (TPPC)  
Takoma Park, Md 20912***

**Presbyterians for Police Transformation is pleased to support the Public Safety - Use of Force Incident Reports Act.** This bill expands requirements for reporting use of force incidents by both police/law enforcement officers, and for making data on such incidents available to the public.

TPPC has a Racial Mindfulness Ministry and one year ago we formed Presbyterians for Police Transformation to study and advocate for changes in policing that will reduce violent engagement between police and members of the public, particularly racial minorities. These are our neighbors, friends and congregants.

We believe that greater documentation and transparency regarding use of force incidents is a vital strategy for reducing incidents of violence that kill and injure members of the public, particularly minorities and people with mental illness. In requiring that officers involved in such incidents file same-day reports with detailed information including demographic data, and in mandating regular, public reporting of aggregate data from these reports, SB752 and HB1044 provide a critical path to uncovering bias, increasing accountability and establishing the level of transparency that can help restore trust in our public safety system. A central mission of our church is to promote equality and social justice and for this reason we are urging adoption of this measure

**Presbyterians for Police Transformation urge passage of SB752/HB1044.**

**DeINWilliams\_HB1044\_Testimony.pdf**

Uploaded by: Nicole Williams

Position: FAV

NICOLE A. WILLIAMS, ESQ.  
Legislative District 22  
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Judiciary Committee



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THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

February 21, 2022

The Honorable Delegate Luke Clippinger  
Chairman of the House Judiciary Committee  
6 Bladen Street, Room 101  
Annapolis, Maryland 21401

**House Bill 1044**

Good afternoon, Chair Clippinger, Vice-Chair Moon, and members of the House Judiciary Committee. I am Delegate Nicole Williams of District 22, and I will be testifying today in favor of **House Bill 1044**, also known as **Public Safety - Use of Force Incident Reports**. This bill aims to enhance police data collection and accountability about use of force by law enforcement officers and police officers. By passing this legislation, we can keep the public informed and hold the officers accountable who abuse their power.

By altering a reporting requirement that applies to law enforcement or police officers who are involved in the use of force incidents in the line of duty, we are able to ensure liability and culpability from those who have been trusted to protect our communities. Enforcing this requirement by July 1st, 2023, will allow time for the local enforcement agencies to establish the necessary infrastructure to publish the accumulated data pertaining to the use of force by police officers as required by this bill on its public website.

As you know, police reform has been a long-debated topic in our country, in Maryland and on this committee. Recent incidents of unjustified use of force show that enacting this bill will help protect our community by creating transparency in the use of force data. Although we do have the Uniform Crime Report (UCR) to generate statistics of actions taken by law enforcement, we are well aware of the fact that the UCR is unreliable, as we see large gaps in their data. This is due to the fact that agencies participate voluntarily and there is no requirement for them to submit data; therefore, it is inaccurate and unreliable.

The public is demanding transparency about uses of force incidents by law enforcement and that officers are held accountable for their actions or reprimanded if need be. By enacting this bill, we are making an effort to bridge the gap between the deteriorating relationship between our communities and law enforcement. This bill also enhances the amazing work that this committee did last session in passing sweeping police reforms. This measure is necessary in order to protect our communities and help them regain trust in the system.

For these reasons, I urge the committee to give a favorable report on House Bill 1044.

Sincerely,

*Nicole A. Williams, Esq.*

Delegate Nicole A. Williams, Esq.

# **LDF Written Testimony HB1044\_House Judiciary Comit**

Uploaded by: Allen Liu

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February 25, 2022

**Via Electronic Delivery**

Luke H. Clippinger, Chair  
David Moon, Vice Chair  
House Judiciary Committee  
Maryland House of Delegates  
House office Building  
6 Bladen St. Room 101  
Annapolis, MD 21401

Re: House Bill 1044 – Public Safety Use of Force Incident Reports – **Favorable with Amendment**

Dear Chairperson, Clippinger and Vice Chair Moon:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF),<sup>1</sup> we appreciate the opportunity to submit written testimony regarding House Bill (HB) 1044. The measure would repeal and replace Section 3-514 of the Maryland Public Safety Article. It delineates the information that officers’ “use of force” incident reports must include as well as annual and quarterly reporting and publishing requirements for law enforcement agencies. LDF strongly supports HB 1044, because the data the bill requires is necessary for the public to evaluate whether officers are complying with the state’s use of force standard. This is particularly important to Black Marylanders who are disproportionately stopped and arrested, and likely to be subjected to force in encounters with law enforcement officers.<sup>2</sup> Additionally, the data would help law enforcement

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<sup>1</sup> 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. LDF’s work to address police violence and misconduct dates back to its inception. *See, Shepherd v. Florida*, 341 U.S. 50 (1951) (reversing the convictions of Black men accused of raping a white woman in 1949; the men were brutally beaten by sheriff’s deputies in an attempt to force confessions). Today, LDF’s Justice in Public Safety Project uses litigation, policy advocacy, research, community organizing, and strategic communications to transform public safety systems, advance police accountability, and prevent and remedy the impact of racial bias in public safety.

<sup>2</sup> *See e.g.* U.S. Dep’t of Justice C.R. Div., *Investigation of the Baltimore City Police Department* 48-52, 61 (2016) (“We found that African Americans accounted for roughly 88 percent of the subjects of non-deadly force used by BPD officers in a random sample of over 800 cases we reviewed.”); Justice Policy Institute, *Rethinking Approaches*

agencies to identify and evaluate the way officers use force, with the goal of furthering both officers' and the public's safety through reducing the use of force.

**I. H.B. 1044 Would Improve Current Law Enforcement Use of Force Data Collection and Reporting and Promote Public Safety**

HB 1044 would amend Public Safety Article 3-514, developed by the bipartisan Public Safety & Policing Work Group formed in response to the tragic 2015 killing of Freddie Gray by Baltimore Police officers.<sup>3</sup> The statute required law enforcement agencies to report use of force incidents that occur while officers are on duty but did not delineate the information required within an incident report or that incident information be publicly available.<sup>4</sup> In 2021, that statute was amended to require that law enforcement agencies report "use of force" complaints made against officers annually to the Maryland Police Training and Standards Commission ("MPTSC"). The MPTSC is then required to post the aggregated data for all reporting agencies on its public website and to submit a report to the General Assembly. Under the current statute, agencies that do not submit timely annual use of force complaint reports may not receive grant funds from the Governor's Office of Crime Prevention, Youth and Victims Services.

HB 1044 would improve upon Section 3-514 of the Maryland Public Safety Article by requiring that "use of force" incident reporting include the following demographic information of the subject of force and the law enforcement officer: race, ethnicity, gender, age and disability. Additionally, the incident report would include: the type of force used, the law enforcement officer's justification for force, what charges an individual is under arrest for, if any, and if the law enforcement officer or subject of force requested medical care. The bill aims to add annual reporting on "use of force" incidents, and on a quarterly basis, report whether a law enforcement agency determined that the "use of force" incidents were justified based on a department's policies and state law. Incident and justification reporting must be made available on an agency's public website.

We suggest amending the requirement that an incident report include whether an officer or person "requested" medical care to also require documentation of whether an officer or person "received" medical care. This would account for any instances where law enforcement officers or persons subjected to force may not be able to request medical care needed, but they receive it without requesting it.

**Commented [LCB1]:** We want to have them report both, correct??

**Commented [PC2R1]:** In practice, people aren't going to request care from an officer after they've been beaten by the officer. If the officers don't transfer them of their own volition, the care happens upon admission to a jail, when the jail won't admit the person if they have a physical injury, until they've been treated. I think it's fine to ask for both to be documented, as long as it's an "or" (requested or received).

*to Over Incarceration of Black Young Adults in Maryland* 3 (2019) ("As recently as July 2018, more than 70 percent of Maryland's prison population was black, compared to 31 percent of the state population.").

<sup>3</sup> *Maryland General Assembly – Public Safety & Policing Work Group*, MARYLAND GENERAL ASSEMBLY (January 12, 2018), <https://msa.maryland.gov/msa/mdmanual/07leg/html/com/defunct/spublicsafety.html>.

<sup>4</sup> *Public Safety and Policing Workgroup – Recommendations*, ch. 519 (2016) (codified in scattered sections of MD. CODE ANN.). .

### **A. Use of Force Data Transparency Can Help Refine Practices and Pinpoint Policy Reforms in the Interest of Public Safety**

The proposed amendments to Section 3-514 of the Maryland Public Safety Article would help provide a clearer image of how law enforcement officers use force throughout the state. The data collected under HB 1044 would help determine the efficacy of Maryland's 2021 law enforcement use of force standard<sup>5</sup> by evaluating whether officers and agencies are implementing the law as intended and will shed light on whether further policy or regulation is needed to prevent excessive or illegal force.

The transparency created by HB 1044 would fill an important gap in public knowledge about law enforcement officers' uses of force in Maryland. Despite federal efforts to collect use of force data via the FBI's National Use of Force Data Collection Program<sup>6</sup> and the 2014 reauthorization of Death in Custody Reporting Act,<sup>7</sup> the public lacks knowledge, because no data is available, about the circumstances in which force is used by law enforcement officers in Maryland. This information is particularly important to Maryland's Black communities given the disproportionate numbers of Black people in Maryland who are subjected to force during police interactions and who become system-involved.<sup>8</sup> For example, a DOJ investigation of Baltimore found that Black people "in Baltimore were charged with one offense for every 1.4 residents, while individuals of other races were charged with only one offense per 5.1 residents."<sup>9</sup> Creating transparency into the circumstances under which officers use force against Black Marylanders, and all Marylanders, is critical to promoting public safety. HB 1044 will help to close the gap in public reporting about officers' use of force.

Furthermore, data produced pursuant to HB 1044 would also help law enforcement agencies understand patterns and trends related to officers' use force, which each agency would then be able to evaluate.

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<sup>5</sup> MD. CODE ANN., Pub. Safety § 3-524.

<sup>6</sup> *Use-of-force*, FBI, <https://www.fbi.gov/services/cjis/ucr/use-of-force> (last visited February 24, 2022).

<sup>7</sup> Death in Custody Reporting Act of 2013, 34 U.S.C. § 60105.

<sup>8</sup> *See supra* note 2.

<sup>9</sup> U.S. Dep't of Justice C.R. Div., *Investigation of the Baltimore City Police Department* 55 (2016)

**B. Through HB 1044, Maryland Can Lead on Law Enforcement Use of Force Reporting**

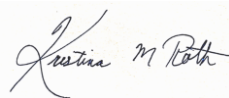
Several states only mandate reporting of use of force incidents that result in death, serious bodily injury, or the discharge of a firearm.<sup>10</sup> While these categories may fit within the FBI National Use of Force Data Collection Program, they leave out many other occasions where officers may use force in an excessive manner, and which warrant close examination and review. Currently, Arizona,<sup>11</sup> California,<sup>12</sup> Colorado,<sup>13</sup> Oregon<sup>14</sup> and Washington<sup>15</sup> require regular or annual public reporting for law enforcement use of force incidents similar to components of HB 1044.

The broader collection of data required by HB 1044 would make Maryland a leader in the collection and publication of the data regarding officers' use and will assist the State and the general public in efforts to understand the impact of reforms seeking to reduce the use of force.

Maryland should pass HB 1044 to add additional incident reporting details and require publication of the data to current reporting requirements for law enforcement use of force. We urge the House Judiciary Committee to favorably report this bill, with our recommended amendment.

Thank you for considering our testimony. If you have any questions, please do not hesitate to contact us via email at [kroth@naacpldf.org](mailto:kroth@naacpldf.org).

Sincerely yours,



Kristina Roth  
Senior Policy Associate

Puneet Cheema  
Manager, Justice in Public Safety  
Project

Lisa Cylar Barrett  
Director of Policy

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<sup>10</sup> See *supra* notes 10-13. Arizona, Colorado, California report data on the use of force that results in death, serious bodily injury, and the discharge of a firearm or a shooting. Oregon's use of force data collection is limited to the use of deadly physical force only.

<sup>11</sup> ARIZ. REV. STAT. ANN. § 38-1117.

<sup>12</sup> Cal. Code § 12525.2.

<sup>13</sup> Colo. Rev. Stat. § 24-31-903.

<sup>14</sup> OR. REV. STAT. § 181A.790.

<sup>15</sup> WASH. REV. CODE §§ 10.118.030, 10.118.040.

# **MCPA-MSA\_HB 1044 Use of Force Incident Reports\_Opp**

Uploaded by: Andrea Mansfield

Position: UNF



# Maryland Chiefs of Police Association Maryland Sheriffs' Association



## MEMORANDUM

TO: The Honorable Luke Clippinger, Chair and  
Members of the Judicial Proceedings Committee

FROM: Chief of Staff 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: March 1, 2022

RE: **HB 1044 – Public Safety - Use of Force Incident Reports**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE HB 1044**. This bill expands the data collected for a use of force incident.

Current law already requires officers involved in a use of force incident to complete an incident report before the end of a shift. Basic information necessary for a report can be completed without jeopardizing an officer's Fifth Amendment or due process rights. However, HB 1044's requirement that an officer must report significant details including the officer's *justification* for use of force create significant would potentially violate the constitutional rights of officers.

Under Public Safety §3-527, the Attorney General's Office is required to undertake a *criminal* investigation of any incident involving a potential "police-involved death." Police officers, as with every other person, have a Fifth Amendment right guaranteed to them by the United States Constitution against being compelled to provide a statement as part of a criminal investigation. HB 1044 violates that right.

An agency may compel a statement from a police officer during an *administrative* investigation, but such a compelled statement is explicitly given immunity by statute. Public Safety §3-107(d)(3) (effective July 1, 2022). HB 1044 provides no such protection.

HB 1044 also requires an officer to report on protected class membership – both of individuals "subject to the use of force" and officers. Requiring an officer to self-identify his or her race or ethnicity is troubling. Even more concerning is the bill's requirement that an officer demand disability information of a citizen and share his or her own disability status, completely regardless of whether disability is in any way relevant to the incident.

Should this bill be considered favorably, these two matters need to be addressed. For this reason, MCPA and MSA **OPPOSE HB 1044** and urge an **UNFAVORABLE** Committee report.

532 Baltimore Boulevard, Suite 308  
Westminster, Maryland 21157  
667-314-3216 / 667-314-3236

**MTA Unfavorable HB 1044 3-1-22.pdf**

Uploaded by: Jenna Massoni

Position: UNF



# M a r y l a n d Troopers Association



INCORPORATED 1979

March 1, 2022

The Honorable Luke Clippinger, Chair and Members of the Judiciary Committee

RE: HB 1044 Public Safety – Use of Force Incident Reports

**POSITION: OPPOSE, IN PART**

The MTA opposes in part HB 1044 Use of Force Incident Reports.

The Maryland State Police already requires Use of Force Reports to be prepared in every situation where force is used. A uniform process for such reports would be agreeable. However, requiring the officer to include the race, ethnicity, gender, age, and disability of the officer and suspect is not appropriate or always feasible. That information may not be available and should not be included in a way that could bring punitive action simply because of the individual's race, ethnicity, gender, age or disability.

We request an unfavorable report of HB 1044.

Brian Blubaugh  
President  
Maryland Troopers Association

**Member of National Troopers Coalition**

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