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General Comments

I appreciate the opportunity to submit testimony in favor of SB 1 which would ban the use of face coverings by any law enforcement officers and agents operating in Maryland, even if they do not operate under the aegis of Maryland state, county, or local law enforcement. Law enforcement officers, when operating in here, are subject to our State laws on a whole variety of issues that do not run counter to the U.S. Constitution, nor federal agency laws and regulations. While I focus on SB1 in this testimony, I support the other immigration legislation before the Committee today.

Banning law enforcement face masks in all but certain situations – as specified in the bill – is important. There has been extensive national coverage since late spring of 2025 of de-identified, masked federal agents operating without accountability. Criminals would have to work hard to avoid seeing the coverage.

Masks create fear and uncertainty – as intended. Masks hide identity – as intended. When law enforcement at any level masks up, it creates fear and uncertainty in whole communities. Criminality thrives on fear and uncertainty of victims. Criminality thrives when law enforcement can be impersonated and also be completely de-identified with a face covering and fake credentials, or no credentials at all.

There is increasing concern among law enforcement agencies around the country about the growing threat of officer or agency impersonation.ⁱ Even the FBI is concerned; the media has widely reported on a leaked memo from the FBI to the federal Department of Homeland Security (DHS), asking DHS to change or limit immigration agent use of masks and to require agents to present valid agent identificationⁱⁱ *because agent impersonators are committing crimes.*ⁱⁱⁱ But the masking and impersonation is not limited to Immigration and Customs Enforcement or Border Control. State or local police are being impersonated as well, many now with the use of masks. A simple web search produced three media reports of crimes in Maryland perpetrated by law enforcement impersonators in the last two years. These are not victimless crimes. (See the list of media reports at the end of this testimony).

- Masked law enforcement makes communities unsafe when people are uncertain that an officer is legitimate.
- Masking harms legitimate law enforcement when community trust in police erodes as a result of impersonators or masked officials.

Except for circumstances delineated in the legislation, when a law enforcement officer covers their face to limit identification, it can create the perception that the officer is trying to limit personal accountability. This perception (or reality) can create real problems in the interaction between the officer and the community.

Masking facilitates criminality and we need not facilitate criminality and community fear. A ban on masking will not solve all impersonation, but it can stop the current trend of using masks. A ban will give individuals a quick first tool in spotting a fraud.

Technical Issues

I would also like to suggest a few important changes to the legislation that could make the bill stronger in the event of a legal challenge by the federal government or other states.

Item 1 Requiring out-of-state law enforcement agencies to have formal policies that comport with Maryland policy

3-207(P) (3): A LAW ENFORCEMENT AGENCY WITH LAW ENFORCEMENT

OFFICERS OPERATING IN THE STATE SHALL ADOPT A POLICY CONSISTENT WITH THE
MODEL POLICY DEVELOPED BY THE COMMISSION UNDER PARAGRAPH (2) OF THIS
SUBSECTION.

I suggest that the above provision be deleted from the bill or modified so that the law cannot be read to require out of state agencies to adopt policies created by the Maryland Commission. Can this policy adoption provision be limited to in-State agencies while the overall law on masking applies to any law enforcement agent operating in our State? If the intent is to require specific policy adoption, that might be challenged by the federal government as a violation of the Supremacy Clause. Obligating law enforcement agencies of other states to adopt Maryland policies may be able to be challenged by those states akin to how states can use the Commerce Clause to challenge each other's commercial/market policies. There may be less of a legal complication if the bill applied to all law enforcement *agents* operating in-State.

Item 2 Use of the terms “tactical mask” and “tactical operations”

- The bill includes “tactical mask” in the definition of the type of face mask that is broadly *not permitted*. [3-535 (A)(2)(II)].
 - A tactical mask is generally considered to include all uses otherwise listed in 3-535(A)(2)(III)(1-7) and (9), which *are permissible* face masks when used as specified in SB1.
- Item 3-535(A)(2)(III)(8) permits “protective gear worn during *tactical operations* for purposes of physical safety”.
- But a tactical mask is not allowed when “...generalized and undifferentiated fear and apprehension about law enforcement officer safety is not sufficient to justify the use of face coverings” [3-207(P)(2)(II)(3)].

The definition of tactical is both quite vague and quite broad (<https://www.merriam-webster.com/dictionary/tactical#dictionary-entry-1>). Could Maryland prevail in federal court with its definition of a tactical operation relative to a DHS definition of a tactical operation? If a Maryland definition limiting ‘tactical operation’ did not hold up in court, tactical masks would be permitted almost anywhere in almost any situation defined by the federal government.

Since tactical mask is any or all of the permitted coverings already separately listed in items (1)-(7) and (9), item (8) seems superfluous and could therefore be deleted. Deleting permission for a tactical mask

to be used in a tactical operation removes from the proposed law, a loophole (and a source of federal/state conflict). The only item that would be otherwise missing from permissive uses that is not captured by items (1)-(7) and (9) is a helmet when used for a purpose in addition to riding a motorcycle (Item 5 on the list). With these changes, all permissible uses of and permissible types of face coverings are clear and not subject to debate about the definition of tactical.

How SB 1 Differs from the California No Vigilantes Act (CA SB 627)

The 9th Circuit Federal District Court recently finished a hearing about the legality of the California anti-masking law, CA SB 627. MD SB1 is different from the California law in some important respects that can mitigate the success of a federal challenge.

- MD SB1 applies to *all* State and local law enforcement agencies in addition to out of state agents operating in our State. CA SB 627 does not apply to state-level law enforcement agencies or agents, which the federal government challenges as discriminatory. MD SB1 is not discriminatory to the federal government.
- The federal government charges that CA SB627 regulates the actions of federal departments and agencies by requiring that all federal law enforcement entities must adopt agency policies that comport with the California masking law. MD SB1 has a similar requirement ***but*** that provision could be removed from our legislation or otherwise modified to eliminate a federal challenge on that basis. Our law could be oriented to law enforcement agents rather than agencies to avoid confusion and legal challenge on this point.

Use-Of-Force Standards and Loper Bright v Raimondo US Supreme Court Decision

In general, federal law enforcement agencies, such as the FBI, have use-of-force rules, guidance, and training similar to state and local use-of-force rules, guidance, and training. DHS Immigration and Customs Enforcement and the Border Patrol agencies stand out for having much lower standards, guidance, and training. We are seeing in real time around the country that lower standards result in unnecessary injury and death, civil rights violations, chaos, and community upheaval.

There are myriad federal court decisions that have done extensive damage law enforcement accountability and thus to our civil rights over recent decades. DHS policy and practice make this erosion even more significant; citizens are unfairly treated by federal agents and have less and less recourse in the courts. Recourse for states and localities attempting to rein in federal law enforcement excesses is also hobbled.

To the best of my knowledge, what states and localities have not tried to use against increasingly lawless but heavily armed DHS agents and agencies is the US Supreme Court decision of Loper Bright Enterprises v Raimondo (2024). The decision threw out decades of jurisprudence where the courts

deferred to federal agency expertise to interpret and implement laws. The Loper Bright decision establishes a new schema in which the Courts will decide the appropriate interpretation of law when the implementing agency interpretation is challenged.

Loper Bright has generally concerned issues related to administrative rules affecting commerce. The question is whether it can be used to challenge DHS administrative rules and guidance for immigration enforcement.

Clearly there is a rather wide range of interpretation across federal law enforcement agencies on the use of force. Most federal agents are not allowed to regularly shoot people sitting in their cars, most agents are not allowed to arrest and murder immigrants with no criminal violations. DHS seems to misunderstand the legal difference between hardened criminals who are immigrants (the ‘worst of the worst’ as stated in their mission) and

- mothers of small children,
- small children,
- US citizens,
- migrants with legal standing to be in the US, and
- migrants with misdemeanor violations of specific immigration law.

Actual immigrants with criminal conviction are only 5% of those detained, deported, shot, or murdered by DHS agents. This level and scope of incompetence in following the agency’s *stated* mission and the venality of agency agent action is not found at anything near this level in other federal law enforcement agencies nor in state and local law enforcement. This is an interesting result given that all federal, state, and local law enforcement are subject to the US Constitution and the same federal laws.

It is reasonable to assess that there is ambiguity somewhere in the Constitution or federal law that leads to wildly different interpretations of what federal agents are allowed to do. This ambiguity, combined with an utter lack of generally recognized legal expertise in the DHS, and generally acknowledged insufficient agent training/oversight/accountability, produce these failed but dangerous DHS enforcement results.

Almost by definition, the disparity in results among federal law enforcement agencies means there is ambiguity in interpretation of civil rights laws which relate to use of force rules, habeas corpus law, immigration law, laws governing agent identification, not to mention operational standards that do or do not allow agents to operate as large bands of roving outlaws. DHS should be challenged.

It may be worthwhile to request that Maryland Attorney General’s Office conduct a detailed analysis of how Loper Bright might be of use to challenge the growing ambiguity of DHS interpretation of laws and the resulting degradation of federal law enforcement policy and practice in some of our federal agencies while not in other agencies. The apparent ambiguity in our laws and citizen rights is leading to deadly and other life-altering results for growing numbers of people residing in the U.S. I believe it is worthwhile to at least examine if the expertise and legal actions of the Department of Homeland Security can be challenged based on Loper Bright. This may be a stretch or not feasible at all, but I implore the General Assembly and our Executive Branch to make any and all efforts to find ways to constrain the rapid growth

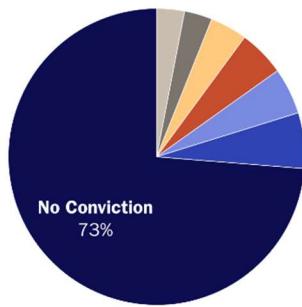
of federal executive branch power and lawlessness with goal to protect Maryland residents, civil society, and our democracy.

Thank you for your time, consideration, and your efforts on behalf of Maryland residents.

Only 5 percent of individuals booked into ICE detention had a violent criminal conviction

ICE book-ins into custody, FY 2026, Oct 1 - Nov 15, 2025

■ Property ■ Vice ■ Other ■ Violent ■ Immigration ■ Traffic ■ No Conviction



Source: Immigration and Customs Enforcement, "ICE Initial Book-Ins by Criminality and MSC: FY2025 YTD," November 15, 2025. See Appendix Table A for classifications.
Convictions include convictions at any time, not just during the period listed.

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Citations and Notes

<https://www.wired.com/story/fbi-warns-of-criminals-posing-as-ice-urges-agents-to-id-themselves/> (NY restaurant incident mentioned is unique to the other NY incidents below)

[https://democrats-](https://democrats-homeland.house.gov/imo/media/doc/251112_letter_to_noem_and_patel_re_fbi_memo_urging_ice_id.pdf)

[homeland.house.gov/imo/media/doc/251112_letter_to_noem_and_patel_re_fbi_memo_urging_ice_id.pdf](https://democrats-homeland.house.gov/imo/media/doc/251112_letter_to_noem_and_patel_re_fbi_memo_urging_ice_id.pdf)

MD Incidents:

- <https://www.wusa9.com/article/news/crime/fake-ice-agent-sexually-assaults-woman/65-4889aaf6-3b80-45e5-b073-53e36608a98a>
- <https://news.maryland.gov/msp/2025/04/22/maryland-state-police-charge-baltimore-man-with-impersonating-a-police-officer/>
- <https://wjla.com/news/local/prince-georges-county-impersonating-police-officer-jonathan-michael-davis-guns-badges-handcuffs-tactical-vests-found-laurel-bowie-road-beltsville-maryland-arrest-charges>

CA examples: <https://www.latimes.com/california/story/2025-11-06/fbi-alerts-police-agencies-about-masked-criminals-posing-as-ice-recommends-they-show-id>

VA incident: <https://www.vpm.org/news/2025-04-23/albemarle-courthouse-ice-raid-nicholas-reppucci-teodoro-dominguez-rodriguez>

NC Incident: <https://www.wral.com/news/local/raleigh-police-arrest-man-impersonating-officer-sexual-assault-jan-2025/> (mentioned in WIRED article)

NY Incidents:

- <https://abcnews.go.com/US/attempted-rapist-told-victim-ice-agent-police-sources/story?id=118741709>
- Another incident in a NYC restaurant is mentioned in the WIRED article with no link.

FL Incident: <https://www.nbclosangeles.com/news/national-international/florida-woman-poses-as-ice-agent-to-kidnap-ex-boyfriends-wife-police-say/3686003/> (mentioned in WIRED article)

TX Incident: <https://www.foxnews.com/us/2-men-claiming-police-shot-killed-homeowner-authorities-say>
(masked, fake police, trying to gain access to a home)

ⁱ *Badges of Deceit: Why Police Impersonation is a Growing National Security Risk: How extremists have exploited police identity to gain access, sow chaos, and erode trust in the state.* July 15, 2025, **Counter Extremism Project**

The 'deeply troubling' trend of law enforcement impersonation June 24, 2025. **MN Public Radio**

"Law enforcement agencies across the country are sounding the alarm after a series of troubling cases involving criminals impersonating police officers have surfaced." September 10, 2025, **Law Enforcement Today**

ICE Raids Are Breeding Dangerous Imitators and Social Division. December 28, 2025. **Harvard Political Review**

"*Getting in front of the police masking controversy.*" Karl Bickel August 6, 2025. **Maryland Matters. Former Frederick County Sheriff**

ⁱⁱ Federal law does not require nor incentivize the use of face coverings for immigration agents. Federal law requires agents to identify themselves as soon as possible.

ⁱⁱⁱ WIRED magazine. <https://www.wired.com/story/fbi-warns-of-criminals-posing-as-ice-urges-agents-to-id-themselves/>