

The NAACP supports HB 1251 and urges a yes vote on this bill.

This bill is an attempt at bridging a gap in community trust of law enforcement and bringing fairness into the process of charging and investigating police misconduct. No one can deny that there has been centuries of unfair and biased denial of the rights of Black victims of police homicide. The issue is institutional and systemic change is needed to remove the racist stain created by the cooperation between prosecutors and police. This bill is a step in the right direction.

The NAACP recognizes that there are several factors that could contribute to the low prosecution and conviction rate for police involved deaths. Some of the deaths were justified and did not merit a conviction; juries often believe police officers' testimony regardless of contrary evidence, and finally, prosecutors and police have a close relationship that could deter prosecutors from aggressively pursuing a conviction.

I. Police commit homicides against Black people at a disproportionate rate.

The Death in Custody Reporting Act of 2015 was passed by the Maryland legislature in response to the unjustifiable police homicides that have spread across social media. According to the report, "When HB 954 was enacted, Maryland became only the third state to legislatively require law enforcement to submit data on all deaths involving a law enforcement officer from their agency."¹ In the years since, the public still has to rely on media reports and defense attorneys to learn of deaths involving law enforcement officers. The law mandates that police report any deaths in custody and have the victims race, age and manner of death be reported as well as the race and age of the law enforcement officer that was resulting directly from an act or omission by a law enforcement officer while on or off duty. The reporting between indicates that African American men were disproportionately killed in proportion to their population. The majority of homicides of Black victims occurred in Baltimore City and Prince Georges County. In every year, the overwhelming majority of police officers involved are white.

In 2013, there were 19 cases that were determined to be homicides, 63% of the victims were Black.² In 2014, there were 18 homicides, Blacks were 78% of the victims.³ In 2015, Blacks made up 82% of the 18 cases of police involved homicide victims with Baltimore County officers killing 6 individuals and Baltimore City killing 4 people.⁴ In 2016, the number of homicides was 16, with Blacks making up 68.8% of the victims.⁵ In 2017, law enforcement officers were involved in 13 fatal shootings, eight of the

¹ Third Report to the State of Maryland Under House Bill 954 Deaths Involving a Law Enforcement Officer, July 5, 2018. <http://goccp.maryland.gov/wp-content/uploads/deaths-involving-law-enforcement-2017.pdf>

² GOCCP Three Year Report 2013-2015, pg 15. <https://goccp.maryland.gov/wp-content/uploads/deaths-involving-law-enforcement-2013-2015.pdf>

³ Id at 26.

⁴ Id at 38.

⁵ Second report to the State of Maryland Under House Bill 954 Deaths Involving a Law Enforcement Officer, pg 12, GOCCP, June 1 2017. <https://goccp.maryland.gov/wp-content/uploads/deaths-involving-law-enforcement-2016.pdf>

victims were black, five were white.⁶ In 2018, 9 black men were killed by police compared to 3 white men and 2 hispanic men.⁷

- II. Independent Investigations are a systemic change that could increase public accountability for law enforcement that kill Black people.

Maryland is one of several states that has passed the Law Enforcement Bill of Rights that makes it difficult to investigate police misconduct. These laws promote a double standard that persist throughout the investigation and possible prosecution of cases involving police misconduct. Instead of prioritizing the search for justice, these laws focus on giving police officers the ability to craft a narrative of events that get them out of trouble. Recent cases of police misconduct show the effect of this double standard. The investigation into Freddie Gray's death was delayed because police were shielded from making a statement for ten days.⁸ When State's Attorney Marilyn Mosby was forced to drop charges against the officers accused of killing Freddie Gray she stated, "It has become clear that without being able to work with an independent investigatory agency from the very start, without having a say in the election of whether cases proceed in front of a judge or jury, without communal oversight of the police in this community, without substantive reforms to the current criminal justice system we could try this case 100 times and cases just like it and we would still end up with the same result."⁹

Prosecutors should recognize the community concerns raised by their ties to the local police department. The investigation of police shootings should be conducted not just by disinterested police departments but disinterested prosecutors. There are several recent examples of the community feeling that the close relationship between prosecutors and police resulted in leniency from local State's Attorneys in their charging of police involved deaths.¹⁰ In 2012, off duty Officer James Laboard choked 17 year old Christopher Brown to death after Brown and some friends threw rocks at Officer Laboard's house. Although a grand jury issued an indictment of the officer, community members reacted with disappointment to State's Attorney Scott Shellenberger's charging of the officer with only manslaughter and involuntary manslaughter charges. This after the officer was released from jail with no bail.

The issue came up again in Baltimore County in the killing of Korryn Gaines and the shooting of her 5 year old son.¹¹ In that case, initial statements made to the public regarding the circumstances of Korryn's shooting were later contradicted by in court testimony. These contradictions contributed to a significant civil award to the Gaines family.

When police homicides happen, state officials need to cooperate with the federal investigation and bring state criminal charges based on police misconduct. However, even when there is not a federal

⁶ Third GOCCP Report, Pg. 8. <http://goccp.maryland.gov/wp-content/uploads/deaths-involving-law-enforcement-2017.pdf>

⁷ Fourth Report to the State of Maryland – Deaths Involving a Law Enforcement Officer, June 30, 2019, pg 10.

<http://goccp.maryland.gov/wp-content/uploads/Deaths-Involving-a-Law-Enforcement-Officer-2018.pdf>

⁸ <https://www.vox.com/2016/8/10/12419874/baltimore-police-freddie-gray-justice-department>

⁹ Marilyn Mosby, Baltimore State's Attorney, Jul, 27, 2016.

https://twitter.com/justin_fenton/status/758322789958975488/photo/1

¹⁰ Off-duty Baltimore Co. police officer indicted for teen's death. Associated Press, June 27, 2012.

<https://thedailyrecord.com/2012/06/27/baltimore-county-officer-charged-with-manslaughter-in-teens-death/>

¹¹ Shellenberger Says Gaines Shooting "Justifiable," Family Outraged. Robert Lang, WBAL.com, September 21, 2016. <https://www.wbal.com/article/191036/2/shellenberger-says-gaines-shooting-justifiable-family-outraged>

investigation, police shootings should not be reviewed by the local agency in which the police officer works. Instead, state officials should investigate police shootings using a transparent process that remains accountable to the local community.

The NAACP urges a favorable vote.