

# **TESTIMONY FOR SB0260 Public Safety - Police Office**

Uploaded by: Plante, Cecilia

Position: FAV



**TESTIMONY FOR SB0260**  
**PUBLIC SAFETY – POLICE OFFICER’S PERFORMANCE REVIEW BOARD**

**Bill Sponsor:** Senator Ellis

**Committee:** Judicial Proceedings

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of HB0260 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state with well over 30,000 members.

Our Coalition members are concerned about the lack of real oversight on police officers. Having police offices manage their own officers, when their actions affect the entire community seems counter-intuitive. Because their actions are so significant, especially in incidents where use of force occurred, it is important for the public to have some kind of oversight that goes beyond the immediate.

If an officer has a pattern of use of force or has been warned about their conduct, even if they are terminated, there is no history of what has been done as they move from one police office to another within the state. This is how the system protects officers who should not be officers.

This bill is important as a way to document poor behavior and ensure that annually an officer must answer for any actions that have violated the oath to the citizens they are sworn to protect.

We support this bill and recommend a **FAVORABLE** report in committee.

**SB 260 FOP OPPOSE.pdf**

Uploaded by: Carpenter, Sherrice

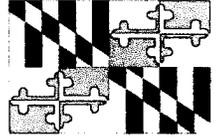
Position: UNF



CLYDE BOATWRIGHT  
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Maryland State Lodge  
**FRATERNAL ORDER OF POLICE**

8302 COVE ROAD, BALTIMORE, MD 21222



KENNY SCHUBERT  
SECRETARY  
EARL KRATZSCH  
TREASURER

1/19/21

**Senate Bill 260 – Public Safety – Police Officers’ Performance Review Board**

Dear Chairman Smith, Vice Chairman Waldstreicher, and esteemed Members of the Senate Judicial Proceedings Committee,

The Maryland State Fraternal Order of Police **OPPOSES** Senate Bill 260 - **Public Safety – Police Officers’ Performance Review Board**

This bill as written assumes that a State created panel of citizens will recreate a practice that is already in existence. This panel as described will be comprised of members who don’t have a relationship with Law Enforcement, and it is highly unlikely that members of this panel will even have an understanding of the complexities of a Law Enforcement Officers’ duties and responsibilities. It is unreasonable to believe that a standard of race neutral appropriate behaviors for Police interactions can be created without bias. There is no way to ensure that the discipline is fair, standard and equitable across the board. Most importantly, this bill places the burden of proof on the officer to prove his innocence, removes the final authority of discipline from the Chief and intentionally removes fairness, due process and the formal right to appeal from an officer’s purview. This bill unfairly takes an action against a police officer that would not even be considered against any other citizen and is an attack on the credibility of all officers.

The Maryland State Fraternal Order of Police for these reasons respectfully **OPPOSES** Senate Bill 260 - **Public Safety – Police Officers’ Performance Review Board**

If you have any questions, please don’t hesitate to contact me.

Sincerely,

Angelo L. Consoli Jr,  
2<sup>nd</sup> Vice President,  
Fraternal Order of Police, Maryland  
State Lodge

# **MCPA-MSA\_SB 260 Police Officers' Performance Review**

Uploaded by: Mansfield, Andrea

Position: UNF



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

**TO:** The Honorable William C. Smith, Jr. Chairman and  
Members of the Judicial Proceedings 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:** January 21, 2021

**RE:** **SB 260 Public Safety – Police Officers' Performance Review Board**

**POSITION:** **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 260**. This bill establishes a Police Officers' Performance Review Board in the Department of Public Safety and Correctional Services.

MCPA and MSA have several concerns with this legislation. First, the bill establishes a Board whose membership has no relationship with law enforcement and does not provide any requirements as to the training of these individuals or experience to ensure they have the knowledge and expertise to review the types of matters that will be before them.

Second, this independent board is established with no staffing requirement. Its not clear how a volunteer board will establish standards for appropriate race neutral behaviors for police interactions with citizens, conduct annual reviews of performance, and impose sanctions for racially discriminatory behavior without staff to do the necessary review to do so. Further the bill specifies the board can conduct annual reviews of performance, hold hearings, and administer oaths and hearing testimony. Staff would be needed to conduct such reviews and hearings, but more importantly, what are the qualifications of these individuals to grant them the authority to hold hearings, administer oaths, and hear testimony.

Third, this bill removes authority of the Chief and Sheriff over disciplinary matters and puts it in the hands of a Board whose members may have no experience or knowledge of law enforcement. In those jurisdictions where the law enforcement agency is managed by an elected sheriff, the electorate has granted the authority and accountability to the sheriff to handle complex investigations and impose discipline. Likewise, Chiefs of Police are appointed by their County Executive, Mayor, or other elected official and are held directly responsible for the manner in which officers are disciplined. The Chief and Sheriff must maintain disciplinary authority.

Lastly, the police officer bears the burden of proof in a hearing before the board.

For these reasons, MCPA and MSA **OPPOSE SB 260** and an **UNFAVORABLE** report.

**DPSCS\_LOI\_SB260.pdf**

Uploaded by: Kahl, Catherine

Position: INFO

## Department of Public Safety and Correctional Services



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ASSISTANT SECRETARY  
GARY McLHINNEY  
ASSISTANT SECRETARY  
CATHERINE KAHL  
ACTING DIRECTOR

**BILL: SENATE BILL 260**

**POSITION: LETTER OF INFORMATION**

**EXPLANATION:** This bill proposes to establish a Police Officers' Performance Review Board that will be an independent board within the Department of Public Safety and Correctional Services. The Board will be able to conduct annual reviews of police officer performance, hold hearings, and impose sanctions for racially discriminatory behavior by police officers.

**COMMENTS:**

- The Department of Public Safety and Correctional Services' (DPSCS) mission protects the public, its employees, and detainees and offenders under its supervision.
- DPSCS's Division of Correction (DOC) operates approximately 17 State correctional facilities which house offenders sentenced to incarceration for 18 months and longer.
- The Department is tasked with overseeing the Division of Parole and Probation (DPP), which supervises individuals within the community who are either awaiting trial, placed on supervised probation, have been paroled by the Maryland Parole Commission, or placed on Mandatory Supervision upon release under the authority of the Maryland Parole Commission. DPP also supervises Marylanders who have been court-ordered into the Drinking Driver Monitor Program.
- SB 260 mandates annual reviews of police officer performance and provides the ability to impose certain sanctions. DPSCS employs less than 1% of law enforcement officers; therefore, having the expertise to staff a police performance review board is limited and would result in the need to hire additional personnel.
- With more than 11,200 officers in the State and 160 police agencies, staff should consist of compliance personnel with expertise in police performance.
- SB 260 grants the Board the ability to conduct hearings and impose sanctions resulting in the need for the Department to hire additional staff, including attorney(s) and human resources personnel.

- DPSCS operates the State prisons. As such, DPSCS is not best suited to house a Board that is charged with reviewing police performance.

**CONCLUSION:** For these reasons, the Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates on Senate Bill 260.

**OPD Testimony SB 260 FINAL.pdf**

Uploaded by: Martinez, Roberto

Position: INFO



## **POSITION ON PROPOSED LEGISLATION**

**BILL:** SB 260, Public Safety – Police Officers’ Performance Review Board  
(Senator Ellis)

**POSITION:** No position

**DATE:** January 19, 2021

The Maryland Office of the Public Defender provides the below information and commentary on Senate Bill 260.

In light of the recent yet seemingly regular murder of black and brown men and women, the legislature must answer the question of “Who polices the Police?” The answer is simple: The People, but theory and practice are two separate puzzles to solve.

SB 260 is encouraging for many reasons, most notably the requirement to gather data, prohibits police chief involvement, and establish the need for annual performance reviews. Many professions include yearly performance assessments. In a field that can take a life with the pull of a trigger, there should be no controversy in establishing a mechanism to ensure only the highest performing officers remain on active duty.

In Montgomery County, there was a killing of an unarmed black man in Gaithersburg. While the investigation is still ongoing, members of the community report that some of the officers involved were not high performing. Unfortunately, this information is unlikely to be corroborated because there is no mechanism to learn about their performance history. There is no assessment into their propensity for violence, aggression, or bias.

Officer disciplinary and performance records are protected documents. This legislation can work in tandem with others to unlock them and make them discoverable. Moreover, it can exclude them from collective bargaining. This legislation can establish guidelines, standards, and incentives to encourage local governments to develop their own local performance review boards. This legislation’s data collection can guide the Police Training Commission in updating its training curriculum. Additionally, it can clarify to what extent it is willing to review tens of thousands of police officers. Finally, it can further insulate state and local boards from political or social pressure to ensure a genuinely independent body.

For these reasons, the Maryland Office of the Public Defender continues to prioritize legislation in furtherance of policing reforms for disclosure and accountability and is encouraged by this Committee’s steadfast progression in this area.

Respectfully submitted,

*/s/ Roberto Martinez*

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# **MSP position Paper for SB 260.pdf**

Uploaded by: Williams, Thomas

Position: INFO



**State of Maryland**  
**Department of State Police**  
Government Affairs Section  
Annapolis Office (410) 260-6100

**POSITION ON PROPOSED LEGISLATION**

**DATE:** January 21, 2021

**BILL NUMBER:** Senate Bill 260                      **Position:** Letter of Concern

**BILL TITLE:** Public Safety – Police Officers’ Review Board

**REVIEW AND ANALYSIS:**

This legislation seeks to establish the Police Officers’ Performance Review Board within the Department of Public Safety and Correctional Services. The Board shall conduct annual reviews of police officer performance, require police agencies to collect demographic data on all citizen encounters traceable to the officer, publish this data on an unspecified database, and impose sanctions for racially discriminatory behavior.

The Maryland State Police (MSP) currently keeps track of qualifying traffic stops relating to Race Based Traffic Stop Data for MSP and other law enforcement agencies. The data is published annually by the Governor’s Office of Crime Prevention, Youth, and Victim Services. MSP commanders are required to review the data quarterly to ensure no disparate treatment. The Department does support transparency when reporting citizen contacts.

There are a number of concerns that are created by the requirements of Senate Bill 260. The bill does not define “citizen encounters” nor does it identify the demographics to be recorded. Citizen encounters could include traffic stops, victim services, accident reporting, elementary school presentations, instruction to students, or crime prevention meetings, just to name a few examples. Every encounter would not be possible to record for the database. Most importantly, the bill does not establish who can have access to the database.

In developing the traffic stop data collection law, MSP worked with the Committees to ensure officers and citizens were not placed in a situation where the officer had to ask questions about a person’s race or ethnicity. Issues which could cause problems on the side of a highway. But, race, sex, (as printed on the driver’s license) location of the stop, reason for the stop, and the outcome, i.e citation/warning/etc. are all captured in the system.

**State of Maryland**  
**Department of State Police**  
Government Affairs Section  
Annapolis Office (410) 260-6100

**POSITION ON PROPOSED LEGISLATION**

Senate Bill 260 further provides that the Board shall review a police officer's performance annually and issue sanctions for racially discriminatory behavior. But there are no guidelines on how that determination is to be made nor is there a definition of what racial discriminatory behavior is. Further, the bill does not allow for due process and states "a police officer bears the burden of proof in a hearing before the board". This raises constitutional issues. It also conflicts with the current law regarding police misconduct.

There are over 16,000 police officers in this state and over 140 police agencies in this state.