



House Bill 1016

Public Safety and Policing Workgroup - Recommendations

MACo Position: **SUPPORT**
WITH AMENDMENTS

Date: February 23, 2016

To: Judiciary Committee

From: Natasha Mehu

The Maryland Association of Counties **SUPPORTS** HB 1016 **WITH AMENDMENTS**. MACo appreciates the efforts of the Public Safety and Policing Workgroup to study and produce recommendations intended to improve the State's framework for law enforcement.

Maryland citizens should have the utmost confidence in the law enforcement serving their communities. Reforms that enhance accountability and uphold the integrity of the law enforcement community should be pursued. Counties seek to ensure that among these broad reforms, the disciplinary process remains effective; statewide standards are flexible and feasible; and that whistleblower protections are not overbroad.

Law Enforcement Officers Bill of Rights (LEOBR)

MACo supports provisions of the bill that would extend the deadline for filing brutality complaints from 90 days to 366 days, and would eliminate the requirement that brutality complaints be notarized. However, MACo cautions against altering hearing boards in a way that may inadvertently impede the imposition of discipline.

The bill requires a special three-member disciplinary hearing board for brutality complaints. The board must consist of one member chosen by the chief, one by the officer, and one mutually agreed upon. This arrangement can stall the hearing process. A hearing would not be able to move forward if the officer and the chief are in a deadlock over the "mutually agreed upon" hearing board member.

It is also unnecessary to require that the hearing board officers be selected from another law enforcement agency. While this may make sense for a small agency, a larger police force would have a broad enough pool of officers to choose from. Agencies should be authorized, but not required, to find officers from outside their force.

Law enforcement is also concerned about citizens serving on disciplinary hearing boards. The citizens would nominally receive state training on the LEOBR. This technical training is helpful, but the citizen would still lack the practical and professional experience that would help shape their understanding and response to the cases presented before them. MACo hopes a hearing board structure can be effective and fair without compromising its ability to understand and assess complex law enforcement scenarios that routinely arise in discipline cases.

Maryland Police Training and Standards Commission (MPTSC)

The bill also repeals the Maryland Police Trainings Commission (MPTC) and establishes the Maryland Police Training and Standards Commission (MPTSC) as an independent executive unit. The MPTSC has many of the same duties of the MPTC but would have broader authority to mandate trainings, set standards, and provide operational oversight. Counties seek flexibility in implementing these goals and policies.

Given the wide breadth of law enforcement agencies within the state, a one-size-fits-all approach is not feasible. For instance, the bill mandates that all local law enforcement agencies adopt a community policing program. There is no flexibility for this requirement. It would be difficult if not impossible for a small agency of a few officers to implement a program a larger agency has the resources and staff to implement.

MACo would also request that the Association's representation on the Commission be changed from "the Executive Director of the Maryland Association of Counties" to "the Executive Director of the Maryland Association of Counties or his or her designee."

Whistleblower Protections

Whistleblower protections should not grant overbroad immunity and inadvertently encourage abuse by employees. The bill provides for extensive whistleblower protections; however, significant protections already exist under current law. For instance, Md. Code, Public Safety Article, § 3-103 includes language that prohibits retaliatory action and reinforces an officer's right to sue an agency. Specifically, in the LEOBR, sections 733 and 744 respectively, provide protection against retaliation for exercising rights and the ability to request an agency show cause for a denial of a right under the title. The additional protections sought in the bill are not necessary.

In approaching the broad reforms proposed by the bill, MACo urges the committee to ensure that the disciplinary process remains effective; that new standards and training requirements are feasible; and that whistleblower protections do not open the door for abuse. For these reasons, MACo urges a **FAVORABLE WITH AMENDMENTS** report on HB 1016, and encourages the Committee to work toward a positive resolution.