



COMMONWEALTH of VIRGINIA

Office of the Governor

Commission to Examine Racial Inequity in the Law

AGENDA

Wednesday, July 22, 2020

1pm – 4pm

Via WebEx

1. Call to Order
2. Public Comment
3. Administrative Items
 - a. Adopt July 1, 2020 meeting minutes
 - b. Attendance & Roll Call
4. Review of recommendations from July 1, 2020 meeting
5. Discussion of remaining policy proposals in the Memorandum regarding Policing Recommendations for Commission's Consideration
6. Adjournment

Presentation to the Governor's Commission to Examine Racial Inequity in the Law

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DISCLAIMER

The ideas and recommendations expressed in this presentation are not those of the University of Virginia, or the University of Virginia School of Law. They are those of the authors of this presentation alone.

INTRODUCTION

This presentation summarizes the policy proposals included in the memo provided to Commission members on June 30, 2020 which was based on the detailed policy memo shared with the Commission on June 15, 2020 and the Commission meeting and deliberations on June 17, 2020.

This presentation also reflects the discussion and votes from the Commission meeting on July 1, 2020 and, while keeping the recommendations discussed at that meeting, modifies some recommendation language.



- A. Proposals discussed at last meeting
- B. Remaining proposals
 - 1. Accountability
 - 2. Reduce the risks of policing
 - 3. Other topics & non-legislative change

Approved Proposals

- **A1 (merged with A4):** Require local law enforcement data reporting on uses of force, pedestrian stops, all civilian complaints (amending the Community Policing Act), (pg. 3) and enact an enforcement mechanism for local agency data reporting requirements. (pg. 4)
- **A3:** Establish a public, free database of downloadable data elements. (pg. 3)

Modified and Approved Proposals

- **A5:** The Commission will recommend the Governor include in his legislative recommendations some means by which the public has more transparency regarding officer misconduct records that cover engagement with citizens. (pg. 4)
- Alternative Language: *Create more public transparency regarding law enforcement officer misconduct involving improper use-of-force, and criminal investigations of law enforcement officer conduct.*
- **B1:** Mandate and empower civilian review boards to investigate and address complaints of misconduct, including the use of professional staff, subpoena power, ~~the power to investigate complaints,~~ and *authority* to make recommendations on discipline. (pg. 5)

Rejected Proposals

- **A2:** Amend officer-involved shooting report requirement to include brief narrative and demographic information about victim. (pg. 3)

REMAINING PROPOSALS

Accountability

- **B2:** Create civil liability for *bias-based profiling, as defined by Va. Code § [52-30.1](#)*. ~~(either disparate impact or intentional), expand profiling protections.~~ (pg. 5-6)
- **B3:** Provide additional decertification criteria for *law enforcement* officers based on *repeated or serious* misconduct or dishonesty. (pg. 6)
- **B4:** Require the Attorney General's office to investigate and prosecute serious criminal allegations against law enforcement officers. (pg. 6)
- **B5:** Strengthen civil liability, and limit sovereign immunity protections, for law enforcement officers engaged in misconduct *and their employers*. (pg. 7)

BIAS-BASED PROFILING

Sec. 52-30.1: “For purposes of this chapter, unless the context requires a different meaning, “bias-based profiling” means actions of a law-enforcement officer that are based solely on the real or perceived race, ethnicity, age, gender, or any combination thereof, or other noncriminal characteristics of an individual, except when such characteristics are used in combination with other identifying factors in seeking to apprehend a suspect who matches a specific description.”

Reduce the Risks of Policing

- **C1:** Mandate the adoption of certain requirements for local *and state* use of force policies. (pg. 8)
- **Potential Language:** *State adopt model use of force policies that require law enforcement agencies to do the following: ban chokeholds, mandate warnings before shootings, withdraw force once threat subsides, create duties to intervene to prevent excessive force and provide medical aid, and prohibit use of force to execute non-violent felony or misdemeanor arrests.*
- **C2:** Add additional community members to the DCJS Training Committee. (pg. 8)
- **C3:** Ban no-knock warrants (“Breonna’s Law”). (pg. 8)
- **C4:** Reduce *the number of* arrestable offenses. (pg. 9)
- **C5:** Request a JLARC study of *police law enforcement* militarization. (pg. 9)

Other Topics & Non-Legislative Change

- **D1:** Study and reallocate *state and local law enforcement* funds. (pg. 10)
- **D2:** Incentivize ‘Early Warning System’ pilot programs (pg. 10)
- **D3:** Adjust *police law enforcement* training requirements (pg. 10)
- **D4:** Encourage diversity in law enforcement (pg. 10)

DISCUSSION