

RECOMMENDATIONS TO MOVE VIRGINIA LAW ENFORCEMENT

FORWARD



CONTENTS

VACP PRESS RELEASE	1
1. FUNDING FOR LAW ENFORCEMENT ACCREDITATION	3
2. IMPROVED DECERTIFICATION PROCESS	4
3. STRENGTHEN HIRING STANDARDS FOR LAW ENFORCEMENT OFFICERS	5
4. FUNDING FOR BETTER LAW ENFORCEMENT RESPONSE TO PEOPLE WITH MENTAL ILLNESS	6
5. DATA COLLECTION & REPORTING	7
6. POLICE UNIONS	8
7. SUPPORT FOR RECRUITING/COMPENSATING QUALITY LAW ENFORCEMENT OFFICERS	9



VIRGINIA ASSOCIATION of CHIEFS of POLICE

& Foundation

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Virginia Association of Chiefs of Police: **Recommendations to Move Virginia Law Enforcement Forward**

1ST VICE PRESIDENT
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Virginia's police chiefs have been leaders in professional and progressive police reform programs since the release of the 21st Century Policing Report in May 2015. However, efforts to raise hiring standards, improve training and equipment and expand services into high-need community sectors have been complicated by declining budgets and the decreasing number of qualified individuals entering the police profession.

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The tragic death of George Floyd at the hands of a Minneapolis police officer is unforgiveable and has been condemned by Virginia's law enforcement leaders. Many groups are recommending police reforms, some of which have merit and are worthy of consideration. As an organization of law enforcement executives, the VACP offers our recommendations that we believe will bring positive reforms and improve public safety services for the communities we serve. While some recommendations may be appropriate for statewide application, others need to be left to local option.

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The VACP is committed to supporting the professional development of our police officers. We have developed an online training module on implicit bias that we will make available very soon to every law enforcement officer in Virginia free of charge. We look forward to the opportunity to work with government leaders, civic organizations, faith leaders and communities to heal the wounds and work together for a safer Virginia.



1. FUNDING FOR LAW ENFORCEMENT ACCREDITATION

Virginia's state law enforcement accreditation program was established in the mid-1990's following a study by the Virginia State Crime Commission. The goal of the program is to give accreditation only to those agencies that prove their adherence to a set of recognized standards of professional policing. The [Virginia Law Enforcement Professional Standards Commission](#) is comprised of chiefs and sheriffs appointed to grant accreditation to those agencies that, through regular inspection and review, prove to meet those professional standards that are hallmarks of an efficient, transparent and publicly responsible agency. Some Virginia agencies chose to participate in the national accreditation program known as [CALEA](#). The standards are similar, but the Virginia program, which is staffed by the Department of Criminal Justice Services, is more cost effective for smaller agencies.

- Professional standards for law enforcement agencies have been in place for many years through both CALEA and VLEPSC.
- The standards are established by commissions made up of subject matter experts. For CALEA, the Commissioners include police chiefs, sheriffs, communications/training directors, local elected officials, local gov't managers, judges, and members of academia. For VLEPSC, the commission is comprised of Virginia chiefs and sheriffs.
- The standards cover all aspects of law enforcement, including the critical areas of use of force, training, selection, bias-based policing, and mental illness response, among many others.
- Compliance is verified by outside assessors and is reviewed by the Commission. For CALEA, assessors are from other states. The Commissioners are drawn from throughout the U.S. VLEPSC assessors are experienced professionals from accredited Virginia law enforcement agencies.
- About 130 of the approximately 365 eligible agencies in Virginia have achieved accreditation from one or both accrediting bodies.
- Assisting agencies to achieve accreditation will be costly. Staffing is needed to develop policies, manage the process, and monitor compliance. Additionally, some agencies will have costs related to meeting accreditation standards (ex. training costs, evidence room security, etc.)



CONTACTS

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RECOMMENDATIONS

1. All Virginia law enforcement agencies should strive to achieve accredited status.
2. Funding to do so must be made available through dedicated state or local funding, or through the availability of criminal justice grants.

2. IMPROVED DECERTIFICATION PROCESS

Virginia's [decertification](#) (Code Section 15.2-1707) statute covers all felony and certain misdemeanor convictions, the failure to maintain training requirements, and the failure of a drug test. When a law enforcement executive determines that an officer should be decertified, he must give notice to the Department of Criminal Justice Services. Once decertified, an individual cannot serve as a Virginia law enforcement officer.

However, the statute doesn't address what are called Brady violations, which are proofs of lying that go to the integrity of an officer's testimony. Because lying is not a criteria for decertification, an officer who quits or is fired can be hired by another agency. The VACP worked with the Virginia Association of Commonwealth Attorneys to develop a [guide on making Brady determinations](#) for the use of all chiefs, sheriffs and prosecutors.

We also recognize that there are other policy violations that we could consider for decertification, but that would require us to look at some key departmental policies and possibly develop some standard policies around those topics that could be grounds for decertification. (Not all policies, because some are unique to the resources and responsibilities of the agency.) Many of those standards already are found in agency accreditation standards. To add certain policy violations to the decertification statutes would involve some research and consensus to make sure that this approach does not run afoul of our state or national agency accreditation standards.

- Currently, law enforcement officers can only be decertified if they are convicted of a felony or misdemeanor involving moral turpitude. (Although failing to meet training and drug testing requirements are grounds for decertification, this is rarely the cause.)
- This allows officers who are terminated by one agency to be hired by others (this happens frequently), even when there are Brady/Giglio problems (integrity).
- Due process must be included for officers losing their certifications to ensure that a chief or sheriff cannot show bias or unprofessionalism towards an officer/deputy.

OFFICER INTEGRITY ISSUES

and

Brady v. Maryland



Virginia Association of
Commonwealth's Attorneys

www.vaca-online.com



www.vachiefs.org

This Guide focuses on the
issue of officer integrity and
recommended practices
to comply with *Brady*
requirements.

Revised 2017

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Chief A.J. Panebianco,
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RECOMMENDATIONS

1. A Brady standard addressing integrity must be added to the decertification statute.
2. Additional study must be done to consider broadening the statute to include critical policy violations to ensure uniformity across all agencies for those specific policies.
3. Chiefs and sheriffs must be held accountable to report officers to DCJS who should be decertified.
4. Officers who are decertified must have a fair avenue of appeal to reinstate their certification if warranted.

3. STRENGTHEN HIRING STANDARDS FOR LAW ENFORCEMENT OFFICERS



Certification and decertification of law enforcement officers is closely tied to officer hiring standards. Best practices call for more than just criminal records checks on applicants. Psychological examinations, pre-employment basic proficiency tests, background investigations into character, social media reviews, mental and physical health examinations and credit history reports are critical components in determining the suitability of a law enforcement officer candidate. Additionally, in some communities, local elected officials have the power to directly hire police officers – sometimes over the objections of the police chief who has knowledge of the person’s unsuitability to be a police officer. We believe this to be an unethical practice that undermines the authority of the chief and politicizes the hiring of police officers.

- Law enforcement agencies must be required to allow background investigators from other hiring agencies to review personnel files during the selection and hiring process.
- Accreditation standards include requirements addressing employment and background checks, so accredited agencies are most likely to have thorough, professional hiring practices.
- Improved hiring standards and more thorough background investigations are not usually a major expense for law enforcement agencies.

CONTACTS

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Chief Tommy Bennett,
Suffolk Police

Dana Schrad,
VACP Executive Director

RECOMMENDATIONS

1. Require thorough records checks and background investigations of all candidates for hire as police officers, deputies and troopers.
2. Empower the police chief to make all officer hires, based on thorough background investigations, and prohibit the political interference by local elected officials in the hiring process.

4. FUNDING FOR BETTER LAW ENFORCEMENT RESPONSE TO PEOPLE WITH MENTAL ILLNESS

Law enforcement increasingly interacts with persons with mental illness, whether responding to a critical incident or transporting individuals on civil commitment for mental health treatment across the state to an available facility. At least 25% of deadly force encounters nationwide involve people suffering from mental illness or in crisis. Addressing the need for mental health reforms and access to services has the highest likelihood of reducing police use of force.

- Crisis Intervention Training is the “gold standard” for police training in this area. While some agencies have been able to do this on a large scale (either in basic academy of new recruits or during in-service training of experienced officers), many have not been able to offer CIT because of the lack of training availability or funding.
- CIT training includes training elements focused on communications and de-escalation, which promote overall healthy policing skills.
- Another promising strategy in this area is the “co-response” model, which combines a law enforcement officer with a mental health professional to respond to calls involving people in crisis. The goal is to reduce the number of people taken into custody by arrest or emergency custody order.
- The costs for “co-response” involve staffing for officers and clinicians as well as for a follow up mechanism to keep patients engaged in mental health services.
- Co-response models speak to the appropriate role for law enforcement. We are not mental health professionals.
- The implementation of Virginia’s new “red flag” law will be complicated, and may put law enforcement officers in dangerous conflict with mentally ill or stressed individuals.

CONTACTS

**Chief Howard Hall,
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**Chief Craig Branch,
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**Chief Deb Cheesebro,
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RECOMMENDATIONS

1. Provide adequate funding for all sworn law enforcement officers to receive basic and advanced Crisis Intervention Training.
2. Support the creation of co-response programs utilizing mental health professionals, depending on the resources of the community.
3. Crisis Intervention Training is critical for campus law enforcement and security officers who interact with college students in crisis. Suicide and mental health issues are under-recognized problems on college campuses.

5. DATA COLLECTION & REPORTING

[HB1250, the Virginia Community Policing Act](#), was passed by the 2020 General Assembly and is scheduled to take effect on July 1. The bill requires that each time a local law-enforcement officer or State Police trooper stops a driver of a motor vehicle, the officer collects the following data based on the officer's observation or information provided to the officer by the driver: (i) the race, ethnicity, age, and gender of the person stopped; (ii) the reason for the stop; (iii) the location of the stop; (iv) whether a warning, written citation, or summons was issued or whether any persons were arrested; (v) if a warning, written citation, or summons was issued or an arrest was made, the warning provided, violation charged, or crime charged; and (vi) whether the vehicle or any person was searched. The VACP requested that the law's enactment be delayed until January 1, 2021, in order to properly equip agencies to train their officers and collect the data in a uniform way to accommodate the data analysis process.

- Virginia law enforcement agencies are not equipped to collect this data starting July 1.
- Upgrades to records management systems are costly and take time.
- Given the revenue loss associated with the pandemic, localities do not have the necessary resources to fully comply with the mandated data collection.
- No usable data is likely to be collected in 2020, or even in 2021.
- Recent civil unrest has created a greater rift between the general public and police. This law requires officers to either ask individuals about personal descriptive information, even if they do not issue a citation, or make their own observations and judgments about the person's demographic makeup. Asking individuals about their age, gender, race and ethnicity may be perceived as an invasion of privacy or police harassment. Not asking and making their own observations may perpetuate the public's perception that police officers are biased.
- Virginia law enforcement agencies either use paper summons that they have to purchase from the Supreme Court or electronic summons purchased from a variety of vendors. This lack of uniformity makes it difficult, time consuming and costly to create new reporting requirements for local agencies without sufficient time to incorporate the changes into their CAD and RMS programs.

CONTACTS

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RECOMMENDATIONS

1. The Commonwealth should invest in a statewide, uniform electronic summons system to promote uniformity in data collection, and quickly accommodate new data collection mandates.
2. In order for the implementation of HB 1250 to be successful, its enactment should have been delayed to January 1, 2021.
3. The VACP will develop talking points and handouts for law enforcement officers to provide to individuals to explain why they are collecting personal descriptive information in an effort to reduce conflict between officers and the public.

6. POLICE UNIONS

Legislation passed in 2020 gives localities the option to allow unions of public employees. The VACP is not opposed to unions in general; however, in many instances police unions have become excessively powerful and have undermined the professional leadership of police agencies and protected bad cops from disciplinary action or termination.

- Currently, police chiefs in Virginia have the ability to hold officers accountable. The Code of Virginia provides certain rights to law enforcement personnel and all jurisdictions provide grievance procedures to protect the reasonable employment rights of officers. (Sheriff's deputies are not protected by grievance processes as they are at-will employees.)
- In many places, including those that have experienced policing problems, unions have been allowed to interfere with management rights. Unions can be over-involved in disciplinary matters, undermining the authority of the police chief to manage discipline in his agency.
- If this amount of union power is allowed in Virginia, our ability to hold officers accountable will be diminished.

CONTACTS

**Chief Howard Hall,
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**Chief Maggie Deboard,
Herndon Police**

RECOMMENDATIONS

1. Ideally, unions of police officers should not be allowed in Virginia.
2. If police unions are approved in Virginia communities, their authority and influence should be strictly limited to negotiations of salary and benefits. They should not be allowed to interfere in police disciplinary matters or decisions concerning training or agency policy.
3. Allowing unions on a locality by locality basis will lead to disparity in police salaries, benefits and in union influence and powers.

7. SUPPORT FOR RECRUITING/COMPENSATING QUALITY LAW ENFORCEMENT OFFICERS

There was a time when qualified young men and women would enter the law enforcement profession in spite of the dangers of the job, the poor salaries and benefits, and the long hours including weekends and holidays. Most could report that their job satisfaction depended heavily on the respect and support of the public. As public support for law enforcement has waned in some areas, fewer qualified individuals apply for law enforcement jobs, and many stay in law enforcement for five years or less. And, despite efforts to hire diverse police forces, it remains difficult to attract women and minorities into the law enforcement profession.

- Quality recruits are difficult to find. The pandemic combined with recent events will exacerbate this problem. This will be especially true for females and minorities.
- Many starting salaries in Virginia are well below \$40k and do not include provisions for increased pay for experience/performance. Some people collecting unemployment are making more than our officers. Deputies in some areas of the state reportedly have relied on food stamps and second jobs to make ends meet.
- We need to recognize that officers suffer from psychological stress and mental illness associated with the traumas experienced in law enforcement encounters.
- Quality service requires quality personnel. The question is: who would want this job?

CONTACTS

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RECOMMENDATIONS

1. Support state aid to localities with police departments with adequate 599 funding to stand up a quality police force that is appropriately equipped.
2. Ensure that Line of Duty Act funding is adequate to properly compensate officers who are partially or fully disabled on the job, and ensure adequate benefits for the spouses and families of law enforcement officers who are killed in the line of duty.
3. Provide for the health and workers compensation benefits for officers who are injured and/or disabled on the job due to the high personal risks associated with the job.
4. Wellness, physical fitness and crisis intervention programs are critically needed in law enforcement agencies to ensure that officers who need help get help before they make costly mistakes on the job.

**VIRGINIA ASSOCIATION OF
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