

Senate Judiciary Committee
151st General Assembly
Wednesday June 16th, 2021
1:00pm-3:00pm
Virtual Meeting

Meeting Attendance

Committee Members Present:

Senator Kyle Evans Gay
Senator Sarah McBride
Senator Brian Pettyjohn
Senator Bryan Townsend

Committee Members Absent:

Senator Dave Lawson

Staff:

Taylor Hawk
Mary Grace Colonna
Meghan Mullennix
Deanna Killen
Matt Revel

Attendees are listed in Appendix A.

Agenda:

I. Introduction

Senator Gay opened the meeting by reviewing the committee's virtual meeting authorization and the logistics of public participation. Senator Gay conducted attendance. Four members were present. Senator Gay noted that Senator Townsend would be joining shortly. Senator Gay asked that witnesses and presenters be clear, concise, and mindful of time to allow time for public comment.

Senator Gay brought the minutes from the committee meeting on June 8th, 2021 up for review.

Senator Pettyjohn motioned to approve the minutes.

Senator McBride seconded.

The minutes were approved unanimously at 1:04pm.

II. Senate Bill 154 (Gay): AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO PROCEDURE IN THE FAMILY COURT IN THE STATE OF DELAWARE.

Synopsis: This Act repeals the outdated requirement for the Department of Services for Children, Youth & Their Families (DSCYF) to seek approval before "mixing" youth who have been adjudicated delinquent with youth who do not have a delinquency history in the same facility. The mixing statute was codified in 1987, and since then, DSCYF has developed rigorous safety protocols and uses evidence-based assessments to determine appropriate placements for children in the care of the department. The current practices of DSCYF have eliminated the need for mixing approval, which in some cases require DSCYF to seek a court order. In addition, the Family Court conducts regular review hearings for youth in DSCYF custody, allowing opportunities for the department, the child's attorney, the child (if age appropriate), and the judicial officer to monitor many factors relating to the child's placement, including safety. This Act retains the prohibition on dependent or neglected children being placed in a detention facility unless charged with or found to have committed a delinquent act.

Senator Gay introduced the legislation by title and invited Meredith Seitz from the Delaware Department of Services for Children, Youth, and Their Families to present.

Meredith Seitz stated that the bill would repeal the mixing statute, which was codified in 1987. Ms. Seitz stated that mixing referred to the placement of a child with a juvenile delinquency record in the same facility with dependent or neglected children with no delinquency record. Ms. Seitz stated that the mixing statute required the children's department to obtain formal authorization for these placements through the secretary of the department or Family Court. Ms. Seitz stated that the bill was necessary because a department review found that the statute was outdated and no longer served to promote child safety. Ms. Seitz stated that this showed that the child welfare system had evolved. Ms. Seitz stated that there were regular reviews in Family Court where children, advocates, and others involved in proceedings can present issues related to placements. Ms. Seitz stated that the department uses evidence based assessments to determine placements, ensuring safety. Ms. Seitz stated that the bill retained the language in the statute prohibiting dependent or neglected children from being placed in a detention facility unless they have been charged or found to have committed a delinquent act.

Senator Gay thanked Meredith Seitz and invited questions or comments from the committee. There were none. Senator Gay opened the floor to public comment.

Mary Grace Colonna reviewed public comment policies.

Robert Overmiller spoke in favor of the legislation, citing personal experience working at juvenile detention facilities.

There was no further public comment.

III. Senate Bill 149 (Lockman): AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE LAW-ENFORCEMENT OFFICERS' BILL OF RIGHTS.

Synopsis: Currently, Delaware is in the minority of states that bar public access to police misconduct records, and is the only state in the country with a specific confidentiality clause in its Law-Enforcement Officers' Bill of Rights ("LEOBOR"). Under Delaware's LEOBOR (Chapter 92 of Title 11 of the Delaware Code) police misconduct records are secret and not accessible to criminal defense counsel, the media, or the public. The only non-law enforcement entities that have access to police misconduct records are civil plaintiff attorneys who are suing the police for causing physical injury or damages. This means that other than the police department where the officer works, and plaintiff lawyers in some types of cases, no one knows if an active member of a police force has lied, used excessive force in the past, abused their authority, tampered with evidence, or engaged in sexual misconduct. This information is tremendously important. Law-enforcement officers are pillars of their community and often the sole or most significant witnesses in criminal trials, where defendants are sometimes facing the rest of their lives in prison. This Act would ensure that prosecutors and criminal defense counsel will have access to all law-enforcement misconduct records, created before, on, or after the effective date of this Act, making our criminal justice system fairer and improving trust within our community. And, public access, through Delaware's Freedom of Information Act (Chapter 100 of Title 29 of the Delaware Code) will increase transparency and allow for more meaningful oversight. This Act removes LEOBOR's confidentiality clause and adds affirmative language to LEOBOR that law-enforcement disciplinary records are public records. And, this Act makes clear that the only materials that are released relate to disciplinary issues, and do not include personal information. Additionally, this Act makes changes to LEOBOR to increase transparency and enable the creation and operation of effective community review boards at the state, county, and municipal level. Finally, this Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Senator Gay introduced the legislation by reading the title and inviting Senator Lockman to present.

Senator Lockman stated that there were several witnesses present to speak on the bill. Senator Lockman stated that everyone was looking forward to hearing from the public. Senator Lockman stated that the goal of the bill was to

strength community trust and partnership with law enforcement and to support high standards of conduct in policing. Senator Lockman stated that many police officers uphold those high standards and want to reinforce partnership with communities. Senator Lockman discussed the Justice For All agenda, announced by the Legislative Black Caucus in summer 2020 in the wake of national upheaval following the death of George Floyd, stating that early seeds of SB 149 were in that legislative agenda. Senator Lockman stated that both the national movement and experiences of Delaware constituents catalyzed the Justice For All agenda. Senator Lockman stated that the Law Enforcement Accountability Task Force had been established in these efforts to advance many of the Justice For All agenda's initiatives. Senator Lockman stated that she and Representative Johnson had followed their work with great interest and submitted early versions of SB 149. Senator Lockman stated that she believed that SB 149 reflected many of the recommendations universally adopted by the Transparency and Accountability Subcommittee, as well as some of what was approved in the Community Relations Subcommittee and general Task Force. Senator Lockman stated that many stakeholders and community members had engaged in substantive decisions on specifics of the bill. Senator Lockman acknowledged ongoing concerns and stated that conversations were ongoing. Senator Lockman stated that she had learned a lot about the Law Enforcement Officers' Bill of Rights as a document of due process and how it had unintentionally become a barrier to transparency and community trust building. Senator Lockman stated that Delaware was one of the few states that barred public access to misconduct records. Senator Lockman stated that SB 149 ensured access to misconduct records for criminal defense and prosecutors, removes barriers to public access to misconduct records, enables gathering and tracking of statistics, and clears the path for local governments to establish civilian oversight. Senator Lockman stated that there was a provision in the bill which noted the need to protect sensitive information for officers and witnesses by redacting records upon release. Senator Lockman noted that under current law, misconduct records were only available in civil cases and were not available to criminal defense attorneys. Senator Lockman stated that the bill responded to both external and internal concerns and cited a study showing that 80 percent of officers felt that poorly performing officers were not properly held accountable. Senator Lockman stated that the section of the bill addressing civilian review boards did not prescribe the operation of such boards. Senator Lockman stated that the bill allowed state, county, and municipal governments that operate law enforcement agencies to establish civilian review boards. Senator Lockman stated that the bill listed five activities the boards could participate in, none of which were mandated. Senator Lockman stated that eight other states had already passed similar laws making records partially or fully available to the public, some explicitly permitting civilian review boards. Senator Lockman stated that it was not an unprecedented practice.

Misty Seemans, Delaware Public Defender's Office, stated that SB 149 was an important step toward increasing law enforcement, transparency, and accountability in Delaware. Ms. Seemans stated that police misconduct records had been secret too long and Delaware was the last state in the country with a specific law on the books making police misconduct records secret. Ms. Seemans stated that communities needed to know who was policing their streets. Ms. Seemans stated that judges, juries, and criminal defendants needed to know whether the police office accusing another of crimes has engaged in dishonesty, excessive force, sexual misconduct, evidence tampering, or abuse of authority. Ms. Seemans stated that there could not be justice or progress without accountability.

Javonne Rich, ACLU of Delaware, stated that they supported SB 149 as it was important for police misconduct records to be public, not just to show if police departments are investigating accurately, but to give the public the comfort of knowing exactly what is going on. Ms. Rich discussed the need for civilian review boards, stating that there was a growing frustration over how police officers hold each other accountable for wrongdoing. Ms. Rich stated that investigations into police conduct by other officers did not include the public. Ms. Rich stated that community oversight boards had been put in place to hold people accountable for unjustified use of deadly force or day to day transgressions such as disrespect, patterns of abuse, or racist or biased policing. Ms. Rich stated that community review boards looked different across the nation and there were one hundred jurisdictions with community oversight boards. Ms. Rich discussed how some boards looked into allegations, some recommended discipline, some had the authority to independently discipline, some analyzed internal investigations, some allowed appeals of internal investigations, and some audited police investigations. Ms. Rich stated that the boards generally investigate the process by which police departments accept and investigate civilian complaints of misconduct. Ms. Rich stated that the current Law Enforcement Officers Bill of Rights prohibited effective and strong community oversight boards. Ms. Rich stated that the law prevented officers from being interrogated immediately after being involved in an incident and restricted investigation timing in other ways. Ms. Rich stated that the law limited disciplinary consequences for officers. Ms. Rich stated that the law required investigations to be internal. Ms. Rich stated that the law prevented information from past misconduct from being considered in investigations.

Senator Gay noted that Senator Townsend was present.

Lauren Vella, DOJ, stated that reforming the Law Enforcement Officers Bill of Rights would provide increased transparency for the public on police misconduct investigations. Ms. Vella stated that the attorney general supported providing a pathway for

meaningful civilian oversight boards to help bridge the gap between communities and law enforcement. Ms. Vella stated that transparency would allow the public to more clearly see discipline that takes place to address misconduct. Ms. Vella stated that this would help the state continue to strengthen and restore trust between officers who are essential stewards of public safety and communities expecting accountability for everyone.

Senator Lockman thanked the witnesses and stated that it was incredibly important to move the bill forward to create transparency and accountability everyone can believe in.

Senator Gay stated that Delaware was ready for reform and Delaware was doing the work. Senator Gay thanked the bill sponsors and stakeholders, referencing numerous and varied meetings to share perspectives.

Senator Pettyjohn stated that Senator Lockman brought up the Law Enforcement Accountability Task Force several times. Senator Pettyjohn stated that Senator Lockman had said the substance of the bill was voted on and approved by the Task Force.

Senator Lockman stated that she knew Senator Pettyjohn had sat on the Transparency and Accountability Subcommittee. Senator Lockman stated that she believed that there were no specific bill drafts voted on, as the recommendations were of a broader nature in terms of integrating some reforms that could be pursued.

Senator Pettyjohn asked if the civilian review board language had been approved by the full committee.

Senator Lockman stated that she did not believe that that recommendation had been approved.

Senator Pettyjohn asked if the amendment of the Law Enforcement Officer Bill of Rights was approved by the Task Force.

Senator Lockman stated that the Community Policing Subcommittee had.

Senator Pettyjohn stated that he was asking about the main Task Force.

Senator Lockman stated that the recommendation, elevated by the Community Policing Subcommittee, had been approved by the Full Task Force.

Senator Pettyjohn stated that he had a different record. Senator Pettyjohn stated that the Transparency and Accountability Subcommittee had brought up and voted down that recommendation.

Senator Lockman stated that there had been mixed results. Senator Lockman stated that there were some specific questions on language and the vagueness of those recommendations. Senator Lockman stated that the Community Policing Subcommittee had a pretty pointed recommendation that was ultimately adopted by the full body, which Senator Lockman took as a good sign. Senator Lockman acknowledged that there were some complexities in the conversation in the Transparency and Accountability Subcommittee and Senator Lockman was open to hearing more about that.

Senator Pettyjohn stated that the Transparency and Accountability Subcommittee's fourth recommendation, which addressed the precedent that collective bargaining agreements and FOI obligations appear to interfere with the transparency and disciplinary proceedings presently afforded by the Law Enforcement Officer's Bill of Rights, was voted down. Senator Lockman stated that there was no resounding support within the Task Force, which had a very broad membership.

Senator Lockman stated that she understood Senator Pettyjohn's point. Senator Lockman stated that the Justice for All agenda had given legislators something to work with, with the understanding that there were still some things to be worked out. Senator Lockman stated that she was happy to have conversations on this.

Senator Gay asked Senator Lockman if she anticipated any amendments.

Senator Lockman stated that she did anticipate some amendments, stating that they wished to bring forth the strongest and most well developed bill that they can. Senator Lockman stated that amendments would potentially narrow the scope of accessible records, which the Department of Justice supported, or would dig into the structure of community review boards for clarity and comfort.

Senator McBride thanked Senator Lockman for the presentation and the ongoing work on the matter. Senator McBride noted that she was a proud co-sponsor. Senator McBride stated that folks on both sides of the issue genuinely wanted to pursue the goal of facilitating and enhancing trust between community and law enforcement. Senator McBride stated that one side sometimes wanted all the effort to come from the community and was not willing to take steps necessary to ensure folks are meeting in the middle and building trust. Senator McBride stated that SB 149 was the right approach of building transparency, the foundation of trust. Senator McBride stated that the bill would help ensure the system is truly balanced between those tasked with protecting

public safety and those tasked with protecting the rights and potential innocence of the accused. Senator McBride thanked Senator Pettyjohn for serving on the Task Force. Senator McBride thanked all those on the Task Force and commended the coming together of people with different expertise and experiences. Senator McBride stated that ultimately the legislators were elected to make decisions, provide oversight, and create policy for governmental bodies, including law enforcement agencies. Senator McBride stated that it was not an argument against the bill that there was not consensus on the Task Force. Senator McBride stated that the 2020 elections had seen a historic call for racial justice and constituents were outraged at the system in place. Senator McBride stated that access to this information could prevent future violence and wrongful convictions. Senator McBride stated that the bill was an important step in repairing a breach in trust between law enforcement and the community that was worsened with every video of black Delawareans and black Americans losing their lives at the hands of police. Senator McBride stated that the policies the legislation amended undermined the trust.

Senator Gay asked if there were any further questions or comments from the committee. There were none. Senator Gay opened the floor to public comment.

Mary Grace Colonna, Senate Staff, reviewed public comment policies.

Robert Overmiller spoke against the legislation, stating that it would negatively impact safety and wellbeing of the public.

Tierra Fair, Delaware Racial Justice Collaborative, spoke in favor of SB 149, citing disproportionate impacts of police violence on Black and Latino communities and stating that the community broadly supported these policy changes.

William Nace, Westminster Church's Peace and Justice Workgroup, supported SB 149 and called for it to be passed before the end of session, stating that they needed changes in policing culture in order to build public trust in the judicial system.

Shyanne Miller, Campaign for Fair Policing, supported SB 149 and urged its passage before June 30th, stating that the bill would benefit both the community and the police.

James Leonard, Fraternal Order of Police, opposed SB 149 stating that it would violate due process protections for officers and stating that police officers worked hard every day to improve trust and support transparency and accountability.

Jack Guerin, Unitarian Universalist Delaware Advocacy Network, spoke in support of SB 149, stating that the Law Enforcement Bill of Rights was part of a system that had made it virtually impossible to hold police officers accountable for wrongdoing.

Marjorie Green, League of Women Voters of Delaware, supported SB 149 and stated that it would build relationships of trust.

Lynne Keilhorn, Community Policing and Engagement Subcommittee member, supported passing SB 149 without amendment, stating that it would serve multiple pillars of their recommendations to improve policing and address clear concerns of community members on trusting the police.

Patrick Ogden, Delaware Police Chiefs Council, opposed SB 149 and stated that it was not reasonable, as the names of police officers accused of misconduct would be published even if the incident was unsubstantiated. Chief Ogden stated that he appreciated the opportunity to collaborate with legislators and be involved in the process but noted that most of the recommendations made did not result in amendment. Chief Ogden looked forward to continuing collaboration and urged legislators not to rush the bill through before June 30th.

Cyndie Romer, Campaign for Smart Justice, supported SB 149 and stated that law enforcement does not adequately hold officers accountable through internal processes.

Nathaniel Erb, Innocence project, supported SB 149 and stated that police misconduct lead to wrongful convictions, citing the experiences of the Central Park Five.

Amy Yarnall, Moms Demand Action, supported SB 149 and stated that the bill would increase transparency, public trust, and community safety.

Stephanie Thompson supported SB 149, stating that the only way to rebuild damaged trust was transparency and accountability and stating that SB 149 would increase the safety of citizens and police.

Jakim Mohammed supported SB 149 and stated the bill was sorely needed.

Rebecca Cotto spoke in favor of SB 149 and read the names of individuals killed by police for her allotted two minutes.

Anne McWalter spoke in favor of SB 149, stating that the community required transparency from law enforcement and the bill would help develop a more trusting environment between officers and their communities.

Kristina Kelly supported SB 149 and expressed surprise that some law enforcement organizations at the meeting were opposing the bill, as transparency would prevent bad actors from damaging the reputation of their profession.

Keith Steck, Delaware Coalition for Open Government and Law Enforcement Accountability Task Force Member, supported SB 149 and stated that the bill would increase transparency, trust, and accountability.

Samuel Van Horne spoke in favor of SB 149 and stated that it was important for citizens to have information about officers entrusted to serve and protect Delawareans, citing an instance where a citizen in a wheelchair was shot by Wilmington police and disciplinary action was not made public.

Gerry Konzelman supported SB 149, stating that it provided tools to improve the police institutions and stating that critics of the bill seemed disingenuous because they had not introduced alternative ways to improve the police systems. Ms. Konzelman stated that she disapproved of disdain for police officers.

Rebecca Snyder, Maryland, Delaware, D.C. Press Association, stated that the news media of Delaware supported SB 149, discussing the killing of Anton Blake by a former Dover Police officer with 29 misconduct allegations and opportunities to uncover patterns of conduct.

Donna Whiteside, Common Cause, supported SB 149 and stated that transparency was essential for a fully functioning democracy.

Judy Schneider supported SB 149 and stated that in many cities, such as Wilmington, trust between police and community needed to be rebuilt, mentioning that many other professions had public conduct records.

Kailyn Richards, Delaware Center for Justice, supported SB 149 as a first step to meaningful police reform, stating that lack of access to police disciplinary records had been a barrier to accountability.

Sophie Phillips spoke in favor of SB 149 and stated that he uncle had retired from policing because he felt that officers were not held accountable and recommended an investigative podcast, On Our Watch, for those undecided on the bill.

Clara Licata, Legislative Advocacy Committee of the Southern Delaware Alliance for Racial Justice, supported SB 149 and stated that Delaware was the most restrictive state in the country on access to police conduct records, which the legislation would address. Ms. Licata stated that SB 149 would improve the relationship between the police and community and help address voter concerns.

LaToya Holley discussed the killing of her brother, Anton Black, by three police officers and a civilian. Ms. Holley discussed the experience of her family struggling to acquire information on the officers involved. Ms. Holley stated that one of the officers was a former Dover police officer with 29 use of force complaints, which was hidden information. Ms. Holley discussed the difficulty of holding those officers accountable and preventing them from working in law enforcement.

Shanell Newman spoke in favor of SB 149, citing personal experiences as a victim of police misconduct and stating that she hoped the bill would bring about a start toward positive relationships and healing.

Sara Alida, Delaware Working Families Party, spoke in favor of passing SB 149 with haste and without amendment, stating that voters across the state supported the bill to protect the public and law enforcement and further racial justice and good governance.

Dustyn Thompson, Delaware United, supported SB 149 and stated that too many lives had been lost without citizens having the ability to ask questions and get answers due to policies such as the Law Enforcement Officers Bill of Rights. Mr. Thompson stated that while critics would never be satisfied with the legislation, every day that the Law Enforcement Officers Bill of Rights was in effect was an attack on the communities of Delaware.

Mara Gorman, Moms Demand Action, supported SB 149 and stated that police shooting were part of the conversation when combatting gun violence. Ms. Gorman stated that the bill would make the criminal justice system more fair, improve trust in the community, and ensure racial justice in the state.

Yejoon Koh supported passing SB 149 without amendment and stated that the transparency and accountability was long overdue.

Jami Jackson opposed SB 149 and asked legislators to work in good faith with the law enforcement community to find solutions to complex topics. Ms. Jackson stated her husband, a state trooper, agreed that the evolution of the profession was needed but

under no circumstances should civilians should have disciplinary powers over officers. Ms. Jackson discussed concerns over unsubstantiated claims and harm to due process.

Aruku Davis spoke in favor of SB 149 and stated that change and transparency was needed and elected representatives needed to do something about it.

Coby Owens spoke in favor of SB 149 and stated that the legislation was not rushed because decades long calls for reform and police accountability had been ignored and that the broken relationship had been longstanding. Mr. Owens discussed a large and diverse protest in Wilmington in 2020 to make healing and reform the most urgent priority.

Carlton Mayers, Delaware NAACP, supported SB 149 as a way to improve the administration of justice in the state and establish quality control mechanisms for law enforcement. Mr. Mayers stated that there were a multitude of ways information and data could improve law enforcement practices, which is tax payer funded. Mr. Mayers stated that many cities already had civilian oversight boards. Mr. Mayers noted that the President from Delaware was in favor of quality control mechanisms on a national level.

Richard Smith, Delaware NAACP, supported SB 149 and stated that there was a problem with police violence and a lack of accountability, which prohibited positive relationships with the police.

Senator Lockman thanked all participants in the meeting for sharing their thoughts on the bill and stated that she was looking forward to continuing conversations.

Senator Gay echoed those remarks and conveyed appreciation for robust participation.

IV. Conclusion

Senator Gay stated that the agenda was concluded. Senator Gay stated that members would receive emails requesting their votes on legislation.

The meeting was adjourned at 2:54pm.

Appendix A: *Public Attendees*

Senator Marie Pinkney
Senator Bruce Ennis
Senator Elizabeth Lockman
Senator Laura Sturgeon
Misty Seemans, Delaware Public Defender's Office
Mat Marshall
Carolyn Petrak
Javonne Rich, ACLU of Delaware
Keri Rapa, Delaware General Assembly
R Dunning
Lauren Vella, DDOJ
Marissa Warren, Delaware State Police
Haneef Salaam, Delaware State Police
Jakim Mohammed, Unit One Community / DIN Media studios
Jon Offredo, ODS
Sara Poore, Delaware State Senate
Sara Alida
Claire Snyder-Hall, Common Cause Delaware
Nathaniel Erb, Innocence Project
Judy Schneider
Jeff Seemans
Mara Gorman, Moms Demand Action
Ryan Russo
Jacqueline Hugg
Jami Jackson
Melissa Bryson
Mark Wohnner, Newport Police Department
Addie Asay
Matt Bittle
Romain Alexander, OGOV
Tierra Fair, Delaware Racial Justice Collaborative
Amy Krumm
Karen Lantz, General Assembly
Jalyn Powell, OUTLOUD LLC
Kim Willson
Kathy Epler, ACLU DE
Sarah DeYoung, Moms Demand Action
Suzanne Linderman, Westminster Peace & Justice Work Group
Carlton Mayers, Mayers Strategic Solutions, LLC
Tom OBrien
Sergip Howard
Amy Yarnall, Moms Demand Action
Gerry Konzelmann
Sean Dwyer, Delaware Center for Justice
Paul Shavack, Delaware Department of Correction
Marjorie Green, League of Women Voters of DE
Kailyn Richards
Nicole Zayas Fortier, ACLU
Jeffrey Horvath, Delaware Police Chiefs' Council
Taylor Hawk
Coby Owens, NAACP
John Sebastian, Department of Correction
Cyndie Romer
Morgan Keller
DJ McAneny, WDEL
Spence Price, SAC
Mark Cutrona, Division of Research
Samuel and Van Horne
Paige Fernandez, ACLU
Rebecca Snyder, MDDC Press Association

Dylan Rosenthal
Carolyn Martin-Pettaway, State Senate
Thomas Johnson, Dover Police Department
Evelyn Nestlerode, AOC
Anne McWalter
Kevin O'Connell, ODS
Robert Overmiller
Kimberly Malin
William Nace, Westminster Church's Peace & Justice Work Group
Michael Harkins
Matthew Gray
Richard Smith, Naacp
Todd Mumford, Fraternal Order of Police
Linda Carmichael, Superior Court
Dustyn Thompson, Delaware United
Kimberly Chandler, Safety & Homeland Security
Sophie Phillips
Yejoon Koh
Shyanne Miller, Building People Power
James Leonard III, Delaware Fraternal Order of Police
Kristina Kelly
ToriAnn Parker
Monica Beard
Thomas Brackin, DSTA
Patrick Ogden, Delaware Police Chiefs Council
Michael Brickner, ACLU of Delaware
Keith Steck, Delaware Coalition for Open Government
Verity Watson
Roman Battaglia, Delaware Public Media
Donna Whiteside, Common Cause
Lynne Kielhorn, Delaware Poor People's Campaign
Everett Anderson
Kevin Perna, Delaware State Police
Kristine Iannelli, DE DOJ
Meredith Seitz, DSCYF
Stephanie Thompson
LaToya Holley
Ross Flockertzie, Delaware Office of the Public Defender
Daykia Hunter- Mcknight
Margaret McLaughlin, UUDAN
Jack Guerin, Unitarian Universalist Delaware Advocacy Network
Jesse Chadderdon, Delaware State Senate
Richard Morse
Laura Giles
Emily Evans, ACLU/Delaware United
Robert Coupe, DOJ
Randall Chase
Nicole Hartman, Department of Justice
Brett Hession
John Reynolds, ACLU-DE
Elaine Archangelo
Lisa Minutola
Sarah Fulton
Rebecca Cotto
Sally Stewart
Clara Licata, Southern Delaware Alliance for Racial Justice
Mary E Jones, Stratford Carriage Run CA
Jasmine Minhas, DE DOJ
Dawn Hopkins
Mike Outten
Aruku Davis, W-City Business Development Foundation
Candace Roseo

Amanda Spence
Ani Ray
Shyanne Miller, Campaign for Fair Policing
Esha Shah
Charito Calvachi-Mateyko, Latino Initiative On Restorative Justice
David Lamar Williams Jr. , NAACP
Rachel Gregoire
Jeffrey Lott, Delaware Pacem in Terris
Tracey Crook, Moms Demand Action
Kinchon Alston
Kathy Hughes
Craig Mitchell, City of Dover Police Department
Lori Yadin, LWV-DE
Anna Shields, Senate
Adam Salem
Shantell Newman

Appendix B: Written Testimony

Submitted by Julie Thompson on May 28th at 8:29 AM:

Dear Members of the Senate Judiciary Committee:

The Delaware State Human Relations Commission is writing to express our support for SB 149 and to urge respectfully that the Senate Judiciary Committee act favorably on it.

The Commission supports efforts to make legislative changes to LEOBOR and FOIA to allow criminal defense attorneys and the public to have access to police misconduct records. These records need to be made more transparent and accessible in Delaware, as they currently are in other states. The Commission believes that both law enforcement and the public are served best by increased accountability for instances of police misconduct. We also support the creation of community review boards that can hold hearings, subpoena witnesses and evidence, and make recommendations concerning law enforcement policy and trainings. We are pleased to be listed among the supporters of this effort, and we look forward to the passage of the legislative amendments to LEOBOR and FOIA contained in SB 149.

Thank you for your consideration of our request.

Sincerely,

Gail Tarlecki, Chair
State Human Relations Commission

Submitted by Alan Hitchner on June 13th at 2:37 PM:

Disciplinary actions upon Police Officers of all State, county, municipalities and private police forces should be promptly and regularly posted public so long as they have authority over any person living within or passing through the state of Delaware.

That this has not been so creates a risk of repeated and escalating, and even wonton, abuse against citizens, young and old. It imposes risk to minorities and the majority populations to be singled out and threatened as I have personally witnessed and experienced. It imposes precarious risk against non-citizens and to minors and the disabled because they can be even further victimized by their compromised abilities to cope.

Infraction of conduct, ethical standards, rules, procedures, statutes and laws must be included and required with fines, disciplinary actions and remediations and resolutions made public.

In my way of thinking this only makes sense and is appropriate, responsible and proper.

Thank You,

Alan Hitchner

Submitted by Charles Cowen on June 14th at 10:29 AM

I submit the following written statement to the Senate Judiciary Committee in support of SB 149:

I am the Rev. Charles Lane Cowen, and I serve as associate rector (priest) of Trinity Episcopal Parish in Wilmington, DE. In the neighborhoods surrounding both Trinity and Old Swedes, we have experienced a horrific amount of violence. When I speak to families mourning the senseless murders of their children, one thing comes up over and over: No one is talking.

I have deep respect for our police officers, and I know that to end the violence plaguing our neighborhoods it will take joint efforts between the police and the community. The hard truth right now in Wilmington, and I suspect throughout Delaware, is that the residents in the areas with the most violence do not trust the police.

I believe that to have open, honest, and loving conversations between the police and the community, there must be a level of transparency in police actions. Delaware's current Law-Enforcement Officer's Bill of Rights (LEOBOR) is one of the most extreme in the country. SB 149 is a step in the right direction toward ending secrecy, creating safe spaces for conversations, and ending the violence that has led me to bury members of our church killed by guns in Wilmington's poorest neighborhoods.

Respectfully submitted,

The Rev. Charles Lane Cowen
Associate Rector, Trinity Episcopal Parish

Submitted by Moira Donoghue on June 14th at 10:51 AM.

Police play a critical role in public safety and crime prevention. Because they exist to serve and protect the public, the police should be accountable to the public. LEOBOR should be amended to assure that this is the case. Secret investigations, proceedings, discipline and record-keeping do not serve the public. And fundamentally, they do not serve the police. Secrecy erodes the public trust central to effective policing.

Moira Donoghue
Wilmington

Submitted by Emily Evans on June 15th at 11:52 AM:

Dear Senators of the Judiciary Committee,

My name is Emily Evans, and I am resident of Townsend, Delaware. I am writing to ask you to please support and release SB 149 from committee. If passed into law, SB 149 would allow Delawareans to mend the broken trust between communities and the officers policing them. By enforcing transparency for police misconduct records and creating civilian review boards, citizens will be able to hold police accountable to their stated purpose: protecting the community. If we do not pass SB 149 and make changes to the Law Enforcement Officers' Bill of Rights, public trust in law enforcement will continue to wane. We can no longer pretend that Delawareans are unaware of the complete lack of accountability granted to officers in our state. In other words: The cat is out of the bag. Let's take action to make changes that will protect our people from abuses of power.

Thank you,

Emily B. Evans, LPCMH, NCC
(she/her)
The Center For Conscious Healing

Submitted by Lois Heesters on June 15th at 2:40 PM:

I support SB149 because I want to see more transparency and accountability within law enforcement. I want to see the Law Enforcement Officers Bill of Rights passed to allow for more transparency around policeman misconduct records and allow for the creation of independent community review boards that can investigate police misconduct.

Please help make my voice heard.

Thank you.

Lois Heesters

Submitted by Rebecca Snyder on June 16th at 12:40 PM:

To: Judiciary Committee
From: Rebecca Snyder, Executive Director, MDCC Press Association
Date: June 16, 2021
Re: SB 149 – SUPPORT

The Maryland-Delaware-District of Columbia Press Association represents news media in Delaware. Our members range from large metro dailies such as The News Journal and to local dailies such as the Delaware State News to local weeklies such as the Cape Gazette, Coastal Point and Laurel and Seaford Star. The Association supports SB 149 as a critical tool in increasing the transparency of policing and building trust in communities. We urge a favorable report.

SB 149 is a straightforward bill that would bring needed transparency into complaints of police misconduct. Currently, formal complaints of police conduct are not subject to disclosure under Delaware's FOIA laws. This makes the First State an outlier – the majority of states allow at least some police misconduct records to become public. This bill would mean that police misconduct records are no longer exempt from FOIA law and would put police in line with all other public employees in Delaware.

The records involved in police misconduct investigations are important to our members. Reporters in other states use these records to understand patterns in policing and disciplinary actions as well as reporting on specific cases.

Without access to these records, it is almost impossible for reporters to gather news and information important to the public. Investigations into employee misconduct shed light on the practices of public employees, particularly police, and can establish patterns of behavior. Nearly every year, there are notable investigations where the use of these types of records are critical, either by inclusion or absence.

One of the most visible recent examples is the killing of Anton Black in Greensboro, MD. Thomas Webster was a former Dover police officer that had 29 use-of-force complaints filed against him – complaints that only came to light after the death of Anton Black. Black's sister, LaToya Holley, wrote an opinion piece about how more transparent police records could have saved her brother's life. (<https://www.delawareonline.com/story/opinion/2021/01/30/honor-anton-black-stop-hiding-police-misconduct-records/4311490001/>) Without access to misconduct records journalists cannot fully inhabit their watchdog function and piece together the patterns. Would careful reporting on patterns of use-of-force complaints have stopped Officer Webster's abuse? Most likely, and at the very least, would have spurred debate and potential reform about use of force.

There is a compelling public interest in the investigation and discipline of police accused of misconduct. Delawareans have the right to know how they are being policed. Transparency builds the public trust and citizens should be able to know the results and process sparked by complaints of police misconduct. The Press Association urges a favorable report.

Submitted by Lori Yadin on June 16th at 1:04 PM

To: Senator Elizabeth Lockman, Bill Sponsor, Senators Pinkney and K. Johnson, Co-Sponsors

Testimony in Support of SB149

My name is Lori Yadin, I live in Sussex County, Delaware and I am submitting this testimony on behalf of the League of Women Voters Delaware to voice our full support of Senate Bill 149, An Act To Amend Title 11 Of The Delaware Code Relating To The Law-Enforcement Officers' Bill of Rights (LEOBOR)

In early June – mid July of 2020, Gallup ran its poll measuring attitudes toward the police and found that in their 27 years of collecting such data, that for the first time, the majority of American adults no longer trusted law enforcement. (New York Times, Confidence in Police is at a Record Low, Gallup Survey Finds, by Aimee Ortiz, August 12, 2020.)

The League of Women Voters sees the role of the Police as integral to our public safety and well-being. We support policing that fosters safety for both law enforcement officers and the communities' they serve. It is therefore imperative that individuals and communities believe that law enforcement has their best interest in mind – otherwise the goal of public safety and well-being cannot be achieved. The relationship between police officers and the public must be one that promotes an environment of respect and relational trust.

With the loss of public trust in those who are hired to serve public safety and well-being, it is imperative that Delaware Law, police officers and agencies take measures that build back the community confidence, beginning with steps that insist on transparency and accountability.

For these reasons, The League of Women Voters Delaware believes that addressing the current Law Enforcement Officers' Bill Of Rights and taking the vital and necessary steps to amend it so build back public trust is required and therefore we support SB149. We thank Senators Lockman, Pinkney and K. Johnson, and all co-sponsors of this bill for their leadership and attention to this most critical community issues.

Most Sincerely,

Lori Yadin
Lobbyist, League Of Women Voters Delaware

Submitted by Jami Jackson on June 16th at 3:05 PM:

Hi Meghan,
My name is Jami Jackson. I spoke during the public comment section of SB149 today, June 16. 15% of my comment cut in and out. That said, please see my entire comment below. I ask that you please include this in the public comment section of the discussion so my entire comment is read and documented. Thank you in advance.

"I beg you to please vote NO to SB 149. I plead with you to work in good faith WITH the law enforcement community to find resolutions to these complex topics written in SB 149. you are not an officer, you will never understand what they go through. But I encourage you to educate yourself, and work WITH the law enforcement community to find resolutions.

My husband is a state trooper. Trust me when I say no one hates a bad cop more than a good one. He takes his commitment to the community seriously and like myself, he agrees that evolution of his profession is needed. That said..

1. Under no circumstances should a civilian review board, with zero or minimal law enforcement background, training, education or knowledge, have disciplinary powers. This makes ZERO zero sense.

2. Discipline should be ruled by evidence, law and policy.

3. as mentioned, my husband is a state trooper, and I know the unfortunate false complaints against police officers. If an individual dislikes police, the color of the officers skin or maybe if they're just having a bad day, for example,...nothing stops an individual from putting in a complaint against a police officer.

As written, SB 149 allows the public to have access to all complaints even unfounded ones. Even if an internal affairs/ investigation occurs and the complaint is unsubstantiated, as the legislation reads, the complaint(s) would become public record regardless of the fact that the officer did not do anything wrong. this would allow false allegations to be made public for officers children, family, friends, and neighbors to see for years to come...this is absurd and bogus.

4. Police officers, as citizens, have the same rights as any other person under a criminal investigation. A suspect of a crime is entitled to due process. A police officer is ABSOLUTELY no different. They too deserve this right. Repealing basic due process rights from the entire profession does not solve the concerns of the police community.

Final Thoughts:

- I encourage you to EDUCATE yourself, and work TOGETHER to build bridges with law enforcement and the community in which my husband serves. I assure you, just as any profession (doctor, teacher, mechanic), the good cops far outweigh the bad.

Again, I urge you to PLEASE VOTE NO TO SB 149."

I also want to note that the person who spoke after me, a police officer stated that he "is black and has false complaints all the time". This further proves my comment above (#3).

Thank you for your sincere time and consideration

Respectfully,
Jami Jackson

Submitted by Janine Howell-Conkey on June 16th at 3:12 PM.

Dear Ms. Mullenix,

I am emailing you to express my strong support of SB 149, which would amend Delaware's Law Enforcement Officer's Bill of Rights. This is an important step in working towards increasing accountability and transparency, and crucial towards building a more trusting relationship between police officers and the Delaware community.

Janine Howell-Conkey LCSW
Board Member, Delaware Center for Justice

Submitted by Lisa Jubb on June 16th at 6:05 PM:

Good morning,

I am writing to you today to ask you to please vote NO to SB 149. The passing of SB 149 puts law enforcement officers and their families at great risk. There can be no worse outcome for the police officers in the great State of Delaware than for this to pass. Please instead work in good faith with the law enforcement community to find resolutions to the complex topics and issues at hand. The reality is no one dislikes a bad cop more than a good one. The good cops far outweigh the bad. Repealing basic due process rights from the entire profession does not solve the concerns being raised, namely working together to build bridges with the communities in which we serve. By removing the basic due process rights of all police officers people will stop applying to be a part of this honorable profession. Who will protect our great State of Delaware and keep our citizens safe?

Some specific concerns that I have with SB 149 are below:

- Allowing false allegations to be made public is simply unacceptable. Anyone can make a false allegation. Consider if you had an interaction with someone that they did not like and as retaliation they falsely accused you of something like sexual misconduct, harassment or abuse and then everyone in the State of Delaware was made aware of this accusation. Even if there was video evidence to prove their accusation was false, that would not matter. Would you be ok with this situation? I do not think so. Police officers are falsely accused all of the time by people who are just not happy that they were inconvenienced by a police officer stopping them for driving drunk or running a red light.

-The criminal justice system's purpose is to seek the truth. LEOBOR has no bearing on criminal investigations. Police officers, as citizens, have the same rights as any other person under a criminal investigation. For example, I could see a person walk into a bank, pull down a ski mask, pull out a weapon and demand money from a teller, take the bag of money and walk out. In my mind this person is clearly guilty of breaking the law. Regardless of my belief, this individual is still entitled to due process. A police officer is no different.

-As written, this legislation creates a civilian review board that has minimal, if any, law enforcement training or experience, but has disciplinary power. This does not make sense and should not occur.

Please support and work with our law enforcement agencies in the State of Delaware and vote NO to SB149

Respectfully,

Lisa Jubb

Submitted Joseph T Murray on June 16th at 7:07 PM:

Good morning,

I am writing to you today to ask you to please vote NO to SB 149. The passing of SB 149 puts law enforcement officers and their families at great risk. There can be no worse outcome for the police officers in the great State of Delaware than for this to pass. Please instead work in good faith with the law enforcement community to find resolutions to the complex topics and issues at hand. The reality is no one dislikes a bad cop more than a good one. The good cops far outweigh the bad. Repealing basic due process rights from the entire profession does not solve the concerns being raised, namely working together to build bridges with the communities in which we serve. By removing the basic due process rights of all police officers people will stop applying to be a part of this honorable profession. Who will protect our great State of Delaware and keep our citizens safe?

Some specific concerns that I have with SB 149 are below:

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-The criminal justice system's purpose is to seek the truth. LEOBOR has no bearing on criminal investigations. Police officers, as citizens, have the same rights as any other person under a criminal investigation. For example, I could see a person walk into a bank, pull down a ski mask, pull out a weapon and demand money from a teller, take the bag of money and walk out. In my mind this person is clearly guilty of breaking the law. Regardless of my belief, this individual is still entitled to due process. A police officer is no different.

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Please support and work with our law enforcement agencies in the State of Delaware and vote NO to SB149

Respectfully,
JOSEPH T MURRAY

Submitted by Linda Murray on June 16th at 8:11 PM:

Good morning,

I am writing to you today to ask you to please vote NO to SB 149. The passing of SB 149 puts law enforcement officers and their families at great risk. There can be no worse outcome for the police officers in the great State of Delaware than for this to pass. Please instead work in good faith with the law enforcement community to find resolutions to the complex topics and issues at hand. The reality is no one dislikes a bad cop more than a good one. The good cops far outweigh the bad. Repealing basic due process rights from the entire profession does not solve the concerns being raised, namely working together to build bridges with the communities in which we serve. By removing the basic due process rights of all police officers people will stop applying to be a part of this honorable profession. Who will protect our great State of Delaware and keep our citizens safe?

Some specific concerns that I have with SB 149 are below:

- Allowing false allegations to be made public is simply unacceptable. Anyone can make a false allegation. Consider if you had an interaction with someone that they did not like and as retaliation they falsely accused you of something like sexual misconduct, harassment or abuse and then everyone in the State of Delaware was made aware of this accusation. Even if there was video evidence to prove their accusation was false, that would not matter. Would you be ok with this situation? I do not think so. Police officers are falsely accused all of the time by people who are just not happy that they were inconvenienced by a police officer stopping them for driving drunk or running a red light.

-The criminal justice system's purpose is to seek the truth. LEOBOR has no bearing on criminal investigations. Police officers, as citizens, have the same rights as any other person under a criminal investigation. For example, I could see a person walk into a bank, pull down a ski mask, pull out a weapon and demand money from a teller, take the bag of money and walk out. In my mind this person is clearly guilty of breaking the law. Regardless of my belief, this individual is still entitled to due process. A police officer is no different.

-As written, this legislation creates a civilian review board that has minimal, if any, law enforcement training or experience, but has disciplinary power. This does not make sense and should not occur.

Please support and work with our law enforcement agencies in the State of Delaware and vote NO to SB149

Respectfully,
Linda Murray

Submitted by Keith Steck on June 16th at 11:55 PM:

On behalf of the Delaware Coalition for Open Government, I want to thank Chairperson Gay and this committee for the chance to endorse SB149. As a member of the Law Enforcement Accountability Task Force's Subcommittee on Transparency and Accountability, I learned much about LEOBOR, the lack of access to misconduct information, and the lack of civilian oversight.

DelCOG's primary mission is open government. SB149 will help shine the light on hidden information; more importantly it will help rebuild trust between law enforcement and various communities throughout Delaware. Right now, there is little if any public transparency regarding misconduct allegations, investigations, and outcomes. That information is essentially invisible to the public, public defenders, the press, researchers, and even some fellow law enforcement personnel. This situation undermines confidence across the board.

Right now, much of the public, the press, researchers and others in Delaware equate LEOBOR access restrictions with frustration, suspicion, and/or hiding information. While that was not the original intention, that is the PERCEPTION. Comments like "what are the police hiding" and "police are protecting their own" are common. This kind of suspicion is destructive and damages trust between law enforcement and others.

SB149, by providing greater access to misconduct information and allowing civilian oversight, will help increase trust AND accountability. Simply making information more available to the public, the press, law enforcement and other researchers, community review boards, and others will help all of us understand exactly the nature of complaints and the outcomes of complaints. Making this information available to defense attorneys and others interested in justice issues will help them in court cases and other related matters. It can also benefit law enforcement agencies, researchers and review boards, and others by giving them access to details such as the source and nature of misconduct complaints, the gender and race of those involved, and identify locations where misconduct happened or was alleged to have happened. Further, by establishing databases, it will help researchers and others understand other aspects of complaints and possibly identify additional types of information to collect.

It will also bring Delaware more in line with other states' practices, no longer making Delaware the Last State regarding access to misconduct information.

In short, SB149 will help lift the veil of frustration and suspicion and bring openness and light to what has been a dark place for many.

I will gladly be available to the committee for further discussion on this bill.

Thanks.

Keith Steck, Vice President
Delaware Coalition for Open Government
(DelCOG)

Submitted by William Murray on June 17th at 8:08 AM:

This letter is from my god daughter sounds perfect to me:

“Good morning,

I am writing to you today to ask you to please vote NO to SB 149. The passing of SB 149 puts law enforcement officers and their families at great risk. There can be no worse outcome for the police officers in the great State of Delaware than for this to pass. Please instead work in good faith with the law enforcement community to find resolutions to the complex topics and issues at hand. The reality is no one dislikes a bad cop more than a good one. The good cops far outweigh the bad. Repealing basic due process rights from the entire profession does not solve the concerns being raised, namely working together to build bridges with the communities in which we serve. By removing the basic due process rights of all police officers people will stop applying to be a part of this honorable profession. Who will protect our great State of Delaware and keep our citizens safe?

Some specific concerns that I have with SB 149 are below:

- Allowing false allegations to be made public is simply unacceptable. Anyone can make a false allegation. Consider if you had an interaction with someone that they did not like and as retaliation they falsely accused you of something like sexual misconduct, harassment or abuse and then everyone in the State of Delaware was made aware of this accusation. Even if there was video evidence to prove their accusation was false, that would not matter. Would you be ok with this situation? I do not think so. Police officers are falsely accused all of the time by people who are just not happy that they were inconvenienced by a police officer stopping them for driving drunk or running a red light.

-The criminal justice system's purpose is to seek the truth. LEOBOR has no bearing on criminal investigations. Police officers, as citizens, have the same rights as any other person under a criminal investigation. For example, I could see a person walk into a bank, pull down a ski mask, pull out a weapon and demand money from a teller, take the bag of money and walk out. In my mind this person is clearly guilty of breaking the law. Regardless of my belief, this individual is still entitled to due process. A police officer is no different.

-As written, this legislation creates a civilian review board that has minimal, if any, law enforcement training or experience, but has disciplinary power. This does not make sense and should not occur.

Please support and work with our law enforcement agencies in the State of Delaware and vote NO to SB149

Respectfully,

Lisa Jubb”

Submitted by Lauren Murray on June 17th at 8:43 AM:

Good morning,

I am writing to ask you to please vote NO to SB 149. The passing of SB 149 puts law enforcement officers and their families at great risk. There can be no worse outcome for the police officers in the great State of Delaware than for this to pass.

Please instead work in good faith with the law enforcement community to find resolutions to the complex topics and issues at hand. The reality is that the good cops far outweigh the bad. Repealing basic due process rights from the profession will not solve

the concerns being raised, namely working together to build bridges with the communities in which they serve. By removing the basic due process rights of all police officers, people will stop applying to be a part of this honorable profession. It could also cause a lot more early retirements and resignations. Who will protect our great State of Delaware and keep the law abiding & tax paying citizens safe?

Some specific concerns that I have with SB 149 are below:

- Allowing false allegations to be made public is simply unacceptable. Anyone can make a false allegation, and you should already be aware of the negative and life threatening effects a false allegation can have. Consider if you had an interaction with someone that they did not like and as retaliation they falsely accused you of something (i.e. sexual misconduct, harassment or abuse) and everyone in the State of Delaware was made aware of this accusation. Even if there was video evidence to prove their accusation was false, that would not matter. Would you be ok with this situation? I do not think so. Police officers are falsely accused all of the time by people who are just not happy that they were inconvenienced by a police officer stopping them for driving drunk, running a red light or breaking the law.

-The criminal justice system's purpose is to seek the truth. LEOBOR has no bearing on criminal investigations. Police officers, as citizens, have the same rights as any other person under a criminal investigation. For example, I could see a person walk into a bank, pull down a ski mask, pull out a weapon and demand money from a teller, take the bag of money and walk out. In my mind this person is clearly guilty of breaking the law. Regardless of my belief, this individual is still entitled to due process. A police officer is no different.

-As written, this legislation creates a civilian review board that has minimal, if any, law enforcement training or experience, but has disciplinary power. This does not make sense and should not occur.

Please support and work with our law enforcement agencies in the State of Delaware and vote NO to SB149

Respectfully,
Lauren Murray

Submitted by Chief Thomas A. Johnson Jr. on June 17th at 2:50 PM:

DEPARTMENT OF POLICE

June 16, 2021

Chairwoman Kyle Gay
411 Legislative Avenue
Dover, DE 19901

Honorable Members of the Senate Judiciary Committee,

In addition to being the Chief of Police in Delaware's second largest city, I address you today as a police executive who was not promoted up through the Delaware Law Enforcement community. I make that distinction to illustrate the fact that I offer testimony from the perspective of an outsider, or more simply stated, someone who has had to learn about the structure and culture of the Delaware Policing Community. Through that lens, I can report to you today that after 18 months of study and participation, the status of law enforcement leadership in Delaware can be described as healthy and effective. I have come to know that I work with like-minded professionals who are committed to 21st Century policing principles, and to speak directly to SB 149, the level of transparency and accountability associated with those principles.

As currently constructed, the laws and policies found in Delaware, related to law enforcement accountability, already provide much of the needed mechanisms and motivation to achieve the best possible results. It's one of the best systems that I have seen. While waiting for an opportunity to speak during the live session, I listened intently to the concerns of those who spoke in favor of the legislation. Those concerns are certainly valid and significant changes are clearly indicated. With that said, it appears that the large number of changes that are supported by both law enforcement, and the Bill's proponents, are being lost in the debate over the small number of provisions where there is disagreement.

The Bill calls for oversight boards with regulatory powers. It will become much harder for me to lead effectively if my disciplinary decisions are altered one way or another by an outside entity potentially influenced by things other than law and policy. The Bill calls for permanent publication of complaints with no supporting evidence, or worse, evidence to the contrary. It will become harder to protect the most vulnerable among us when talented officers suddenly become hesitant because those with criminal sophistication, or ulterior motives, take full advantage of a complaint system that forever casts the cloud of suspicion on an otherwise conscientious individual.

In April, Dover set a record low in applications for police employment. Educated individuals looking for a satisfying career in criminal justice are very good at research and evaluating their options. Despite language that tries to reassure that protected personal data would be redacted from publication, our country's current state of information technology almost assures that an officer's family remains unprotected. It will become harder to recruit the kind of people we need in policing because those smart and capable souls will see better options elsewhere.

Members, I understand the issues that brought us here. Reform is indicated. I have spent significant time since I arrived in Dover listening to the concerns from our community. As a follow up to those conversations, we have made significant changes. I am proud to say that in Dover, with the support of elected officials, we are purposefully revising the way we do business and involving the public is a big part of the change. I welcome the opportunity to have you visit the Dover Police Department to learn more about our progress with the community, review the updates to our policies and procedures, familiarize yourself with our internal investigation process, and updates to our training curriculum to reflect the shifts being made within our department.

I don't believe that Delaware Law Enforcement is attempting to deliver a categorical "no" to reasonable alterations to improve the profession. Please take the time to visit with individual Police Chiefs and the Chief's Association. Please take the time to familiarize yourselves with the standards and practices found in both State and National Police Accreditation Commissions. Please take the time to craft a bill that takes bold steps to address the areas of concern but does not lead to unintended consequences in the zone of public safety.

Very Respectfully,

Thomas A. Johnson, Jr.
Chief of Police