

Issue: VA Police Accountability

Keep Virginia Safe

Democrats Deliver for Virginia

No one should be above the law, including Virginia law enforcement.

In 2015, The Washington Post started tracking the number of people killed by police in the United States. According to their findings, the police kill about 1000 people each year. The number of deaths by police reported by the FBI in 2022 was one-third less than the Washington Post count. This is because police departments are not required to report these deaths to the federal government. Furthermore, the Washington Post numbers reveal that Blacks are killed at twice the rate as Whites. This report also breaks out the numbers by state and Virginia tracks the national trend. From January 2015 until December 2022, 145 people were killed by the Virginia law enforcement officers. About 36.5% of all those killed were Black even though Blacks comprise only about 20% of the population of Virginia.^{1, 2}

Being stopped by the police for pretextual reasons occurs all too often in Virginia, especially for Blacks. With little or no evidence of a traffic violation, Blacks are subjected to humiliating and sometimes harmful searches that others do not suffer. This can seriously reduce trust in law enforcement.

As an example, Etta and James Carter were stopped for “driving wobbly” while returning home from a Florida vacation to celebrate their 40th wedding anniversary. This stop resulted in a detailed search that lasted for three hours and left the elderly couple on the side of the road with all their belongings outside the car. No drugs or contraband were found.³

In another incident in December 2020, U.S. Army Second Lieutenant Caron Nazario was pulled over by two Windsor, Virginia police officers who incorrectly claimed that Lt. Nazario was driving without a license plate. They pointed a gun at him, pepper sprayed him and knocked him to the ground. Video footage of the traffic stop failed to corroborate the officers’ story or justify the treatment of Lt. Nazario. The town released a statement that police department policy was not followed. The town also terminated one of the officers and instituted department-wide training requirements.⁴

With national attention on egregious police misconduct in the case of George Floyd, Virginia Democrats in 2020 passed legislation that both increased the oversight of and defined a statewide code of conduct for the police. Some of those bills include:

- **The Community Policing Act (HB 1250).** This law prohibits racial profiling and for each traffic stop requires police officers to document: (1) race, ethnicity, age, and gender of person stopped, (2) reason for the stop, (3) location of the stop, (4) what warning, citation or arrest was issued and (5) whether the person was searched. This information is collected, and a report is provided to prosecutors along with any complaints of excessive force.^{5, 6}
- **Ban police from executing no-knock search warrants (HB 5099).** This bill is known as Breonna’s Law. It prevents police from executing a warrant without first knocking and identifying themselves.^{7, 8}

- **Limit when police can use chokeholds (HB 5069).** Chokeholds can only be used if another person is in immediate danger. A related bill (HB 5029) requires other officers to intervene if excessive force is being used.^{9, 10, 11}
- **Downgrade a handful of minor traffic violations to secondary offenses (HB 5058).** The purpose of this legislation is to prevent police from pulling drivers over for minor offenses to determine if more serious offenses have been committed. The intent is to limit racial profiling.^{12, 13}
- **Empower civilian review boards with subpoena and disciplinary authority (HB 5055).** Before this legislation was passed the civilian review boards were advisory only and had no ability to issue binding disciplinary action. Sheriffs are exempt from this law since they are elected and effectively have a review process through the ballot.^{14, 15}
- **Create Virginia's first statewide code of conduct for police officers (HB 5051).** There is great variation in the code of conduct for the different law enforcement departments around the state. This legislation provides a common code across the state. It also prevents the current practice whereby a police officer under investigation may resign and take a job in another police department.^{16, 17}

The Community Policing Act Produces Results

In July 2021, The Virginia Pilot analyzed the first nine months of data documenting each traffic stop. After reviewing over 657,000 traffic stops, it was determined that Black drivers were the only ethnic group stopped at a higher rate than their percentage of the population. Black drivers make up 20% of the population, but account for about 31% of the traffic stops. Black drivers represent an even larger percentage of traffic stops resulting in a search of the vehicle—68% were Black drivers.¹⁸

Although the report concludes that these numbers do not necessarily indicate a bias in policing, it calls for further action by policing agencies. The chief patron of the Community Policing Act, Del. Luke Torian, (D-HD51-Prince William), calls upon the agencies to take further action to analyze the data and improve their practices as needed.¹⁹

Reversal of Policing Legislation

In 2021, the Republicans regained control of the House of Delegates in Virginia. Even though there was no chance of passing legislation to roll back the 2020 policing legislation in the Democratic-controlled Senate, the Republicans still introduced legislation to do just that.²⁰

- HB 79 Would have removed the provisions that stopped police from pulling people over for minor traffic offenses—including tinted windows, loud exhaust systems and inoperative brake lights.²¹
- HB 1401 Would have repealed the Community Policing Act outright. The act currently prohibits law enforcement officers from engaging in bias-based profiling in the performance of their official duties.²²
- HB 1501 The third bill filed would have required civilian oversight bodies for law enforcement to include at least one retired law enforcement officer to serve as a voting member.²³

Conclusion

If the Republicans are willing to draft legislation with virtually no chance of passing, just imagine what additional measures they might take if they were to control both the House and the Senate after the 2023 elections.

Don't let the Republicans reverse the progress made in keeping our police agencies accountable. By electing Democrats to both the Senate and House of Delegates in Virginia, the work can continue to maintain oversight of Virginia law enforcement and to protect our citizens from harassment and violence.

References

¹ <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>. To get the data on Virginia, go to "Explore the Data," select Virginia and press the Download Data button.

² <https://www.pilotonline.com/news/vp-nw-community-policing-data-release-july-2021-20210716-x3swvpntzrf2rnxiuneonqlc64-story.html>

³ <https://www.acluva.org/en/press-releases/fear-truth-drives-dodge-racial-profiling-study>

⁴ <https://www.cnn.com/2021/04/11/us/windsor-virginia-police-stop-army-lieutenant-lawsuit/index.html>

⁵ <https://www.virginiamercury.com/2020/11/11/every-criminal-justice-reform-that-passed-in-virginia-after-george-floyds-death/>

⁶ <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB1250>

⁷ <https://www.virginiamercury.com/2020/11/11/every-criminal-justice-reform-that-passed-in-virginia-after-george-floyds-death/>

⁸ <https://lis.virginia.gov/cgi-bin/legp604.exe?202+sum+HB5099>

⁹ <https://www.virginiamercury.com/2020/11/11/every-criminal-justice-reform-that-passed-in-virginia-after-george-floyds-death/>

¹⁰ <https://lis.virginia.gov/cgi-bin/legp604.exe?202+sum+HB5069>

¹¹ <https://lis.virginia.gov/cgi-bin/legp604.exe?202+sum+HB5029>

¹² <https://www.virginiamercury.com/2020/11/11/every-criminal-justice-reform-that-passed-in-virginia-after-george-floyds-death/>

¹³ <https://lis.virginia.gov/cgi-bin/legp604.exe?202+sum+HB5058>

¹⁴ <https://www.virginiamercury.com/2020/11/11/every-criminal-justice-reform-that-passed-in-virginia-after-george-floyds-death/>

¹⁵ <https://lis.virginia.gov/cgi-bin/legp604.exe?202+sum+HB5055>

¹⁶ <https://www.virginiamercury.com/2020/11/11/every-criminal-justice-reform-that-passed-in-virginia-after-george-floyds-death/>

¹⁷ <https://lis.virginia.gov/cgi-bin/legp604.exe?202+sum+HB5051>

¹⁸ <https://www.pilotonline.com/news/vp-nw-community-policing-data-release-july-2021-20210716-x3swvpntzrf2rnxiuneonqlc64-story.html>

¹⁹ <https://www.pilotonline.com/news/vp-nw-community-policing-data-release-july-2021-20210716-x3swvpntzrf2rnxiuneonqlc64-story.html>

²⁰ <https://www.wtvr.com/news/local-news/repeal-virginias-police-reform-jan-31-2023>. Note that this article incorrectly states that the bill that removes the provisions that stopped police from pulling people over for minor traffic offenses is HB1330. That bill was HB79.

²¹ <https://legiscan.com/VA/bill/HB79/2022>

²² <https://legiscan.com/VA/bill/HB1401/2023>

²³ <https://legiscan.com/VA/bill/HB1501/2023#:~:text=Finally%2C%20the%20bill%20requires%20each%20law-enforcement%20civilian%20oversight,body%20as%20an%20advisory%2C%20nonvoting%20ex%20officio%20member.>