

■ **NO CONSENT IN CUSTODY (Sen. Katie Muth, Sen. Maria Collett, Sen. Tim Kearney, Sen. Steve Santarsiero, & Sen. Lindsey M. Williams)**

In Pennsylvania, a police officer who sexually assaults a person in custody can use sexual consent by the individual as a defense in court. While state law bars consensual sex between corrections officers and prison inmates and between mental health workers and patients, no such protection exists for a person arrested or questioned by officers in the field. All taxpayers have a right to expect that law enforcement officers are carrying out justice efficiently and with integrity.

We have to close this dangerous legal loophole in Pennsylvania's sexual assault law to better protect all women, men and children within our commonwealth.

Our legislation would expand Pennsylvania's definition of institutional sexual assault to include law enforcement officers and any person in the officer's custody. By doing so, it would eliminate sexual consent as a defense, making any sexual contact between an officer and a person in custody a third-degree felony.

■ **PROFESSIONAL OVERSIGHT AND POLICY DEVELOPMENT BOARD (Sen. Jay Costa)**

Many professions in Pennsylvania are overseen by professional licensure boards that are given authority to license, suspend, fine, revoke, and penalize licensed individuals, create policies and guidelines for profession, including professional development, and to further protect the occupation that they oversee from imposters. We need to develop a similar board to make sure that the police are overseen on a day-to-day basis by a neutral third party, give the public a place to turn to file complaints, and ensure that police have basic policies to follow and are required to seek ongoing training to retain the policing certification.

Many Pennsylvania municipalities and police department don't have satisfactory policies to guide police actions, including on use of deadly force and community interaction. Our legislation will require the board to provide municipalities and police departments with a requirement and guidance on the development of best practice policy development on the use of deadly force and community relations.

■ **REQUIRING CIVILIAN POLICE REVIEW BOARDS (Sen. Wayne Fontana)**

It has been widely argued that citizen participation in governmental policy making produces many benefits including better trust in governmental operations. This legislation will require that every county in the Commonwealth create a civilian police review board to provide oversight of local police departments. Just like the role a jury plays in a trial, an independent review board will allow the people to decide when unjustifiable actions have been made by the police rather than an internal investigation. This process will ensure greater transparency by granting an outsider and unbiased group of individuals to determine if any criminal proceedings need to take place.

■ **ENHANCING CIVIL ASSET FORFEITURE PROTECTIONS (Sen. Anthony H. Williams)**

Forfeiture of assets currently occurs as a civil proceeding allowing assets to be seized from property owners regardless of whether they have been convicted of a crime for which forfeiture is a prescribed legal remedy. Not only are innocent property owners entangled in this archaic legal process, there is also a perverse incentive for prosecutors and police departments to continue using civil forfeiture as an alternative to the criminal justice system. Under current law, proceeds of sold property are required to be transferred to the county operating fund but then immediately released back to the District Attorney's office. While this money may be spent on community drug prevention and antiviolence programs, it is most often used for police and prosecutor salaries and equipment. This legislation would address the largest issues still surrounding civil forfeiture by requiring a connected criminal conviction of a property owner prior to forfeiture and returning the proceeds of forfeiture to the general fund of counties, or the state in cases where the Pennsylvania Attorney General prosecuted the case.

■ **FALSE REPORTS OF "CRIMINAL ACTIVITY" BASED ON RACE OR ETHNICITY (Sen. Vincent Hughes)**

For the past week, people and communities across the Commonwealth have marched in protest of the killing of unarmed black and brown people throughout the nation. Unfortunately, more often than not, police are brought into these situations by someone reporting "criminal activity."

Being black is not a crime. Being brown is not a crime.

Under this legislation, an individual who reports that "criminal activity" based solely on the race or ethnicity of an individual will be considered to be filing a false report under Title 18. An individual who files a false criminal report based solely on the race or ethnicity of an individual would be graded as first-degree misdemeanor.



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Our Legislation

■ TRAINING AND ACCOUNTABILITY (Sen. Jay Costa – SB 458)

Municipal Police Officer Education and Training Commission Improvements:

- Require new training elements for use of deadly force, community-oriented policing, de-escalation methods, interacting with diverse communities, and bias prevention. All of these are required to some degree now, but more needs to be done. Our bill includes requiring each of these elements to be included in continuing education course work.
- Creation of a database to require municipalities to report and track criminal, disciplinary, and investigation information for every municipal police officer for use by future hiring police departments.
- Improved psychological examination of officers seeking MPOETC certification.
- Development of minimal guidelines for municipalities to adopt for forming and running police departments.

■ 8 CAN'T WAIT (Sen. Vincent Hughes)

This proposal would create a more explicit and just standard for the use of force by police by following eight recommended policies. Included in this standard would be:

- Requiring the exhaustion of all reasonable alternatives before using force;
- Requiring the use of force be reported, including when force has been threatened but not used;
- Banning chokeholds and strangleholds;
- Establishing a use of force continuum that limits the type of force and weapons that can be used for specific types of resistance;
- Requiring the use of de-escalation measures prior to the use of force;
- Establishing a duty to intervene and stop excessive force by another officer, as well as immediately reporting incidents to a supervisor;
- Banning shooting at a moving vehicle; and,
- Requiring a warning be given prior to the use of fatal force.

■ SPECIAL PROSECUTOR (Sen. Art Haywood – SB 611)

Our criminal justice system is meant to be impartial and for prosecutors to discharge their duties free of personal or professional conflicts. We have legislation that would take review and prosecution of deadly force incident at the hand of police officers out of the jurisdiction of the local district attorney and put it in the hands of a special prosecutor.

Our bill would require the Attorney General to appoint a special prosecutor whenever there is a deadly force incident and a police officer is involved. The special prosecutor would serve as an impartial prosecutor and remove the perceived conflict a district attorney might have prosecuting a local police officer.

This legislation is not meant to punish an officer for discharging his or her duties. It is simply meant to provide neutral review of a case when an individual dies at the hands of a police officer and to restore the shaken public trust in our judicial system. It is to be expected that prosecutors and police share a close relationship and have to work together cohesively. This relationship is typically productive and is important for fighting crime. However, in the eyes of many in the public, when an officer is involved in a potential crime this relationship may cloud the investigator.

■ STRENGTHENING AND FUNDING MUNICIPAL CIVILIAN POLICE OVERSIGHT (Sen. Anthony H. Williams)

Law enforcement exists to protect and serve the communities they police, and the community should have a larger voice in how that service is delivered.

Our legislation would strengthen police advisory commissions by granting them oversight of department policies, procedures and orders, as well as the authority to review all use-of-force or police misconduct incidents. State funding at a level of at least one percent of a local department's budget would be provided to municipalities that enact strong civilian oversight measures to include the ability to terminate or otherwise discipline any officer for cause.

■ BANNING CHOKEHOLDS AND POSITIONAL ASPHYXIA (Sen. Sharif Street)

The deaths of George Floyd and Eric Garner, who both died at the hands of police using questionable methods of restraint, has made it clear that we need to ban chokeholds of any type. While chokeholds have been banned by many departments, this has not stopped their use. Additionally, many law enforcement and health personnel are taught to avoid restraining people in a way that can lead to positional asphyxia.

The Chief of Police Association accredits law enforcement agencies in Pennsylvania. In 2001, the Association introduced the Pennsylvania Law Enforcement Accreditation process for police departments to create standard policing practices amongst accredited agencies. These types of restraints are forbidden for accredited departments. However, according to the Pennsylvania Commission on Crime and Delinquency, only 118 of the more than 1,000 law enforcement agencies in the Commonwealth are accredited.

Our legislation would outlaw the use of the standard chokehold and define positional asphyxia as any action that inhibits breath or the flow of blood to the brain due to physical position.

■ IMPROVED POLICE PAY (Sen. Jim Brewster – SB 482)

Fund a program that will improve opportunities and pay for part time officers. Officers are often under unimaginable stress, in part because they are stretched too thin on jobs that are very stressful themselves. We need to dedicate more resources to improve on the job conditions and decrease the chances that officers need to work multiple jobs.

■ IMPROVE THE STANDARDS FOR WHEN USE OF DEADLY FORCE CAN BE USED (Sen. Art Haywood)

The legislation would address the use of necessary force and provide for the following:

- The use of force is authorized to be used when a peace officer reasonably believes the circumstances perceived by the officer at the time of the event.
- Peace officers may only use deadly force when necessary to defend human life. In determining when deadly force is necessary; officers shall evaluate each situation and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer;
- The decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.

■ DEMILITARIZE LAW ENFORCEMENT (Sen. Sharif Street & Sen. Katie Muth)

Law enforcement departments have been given access to military grade equipment over the last three decades. This equipment has helped create a wedge between our communities and our law enforcement personnel. This has had deadly impacts on minorities and impeded the exercise of Constitutional rights across the country.

We must prohibit access to much of this equipment and provide for better community input on equipment that we still permit by requiring local governing bodies to vote to approve purchasing and making these purchases open to the public.

■ REGIONAL POLICING INCENTIVE PROGRAM AND STUDY (Sen. Jim Brewster – SB 472)

Related to the issue of low pay and police stress is the scale on which many police departments operate. Many communities are forced to operate with part time officers, who themselves must work multiple jobs to make ends meet. One measure that can be taken to overcome this is to provide incentives for departments to merge or consolidate on a regional or countywide basis. The state should provide an grant incentive program to help with planning, facility decisions, equipment requirements, and operating costs associated with regionalization. This will provide a broader scale for hiring police at better wages, increase department access to minority communities for recruitment, and improve professionalization of officers.

In addition to the grant program, we will be introducing a resolution asking the Legislative Budget and Finance Committee to study cost savings from, funding sources for, and barriers to regionalization of law enforcement departments.

■ USE OF FORCE AND DEADLY FORCE POLICIES FOR LOCAL GOVERNMENTS (Sen. Jay Costa – SB 459)

Shockingly, many municipal governments and local law enforcement agencies do not have policies in place directing when and how police officers can use force. SB 459 will require local governments to adopt these policies and to ensure that their officers and the public have a seat at the table in their development.