



COMMONWEALTH OF VIRGINIA
GENERAL ASSEMBLY OF VIRGINIA
RICHMOND

December 1, 2023

Secretary Terrence C. Cole
Virginia Department of Public Safety
and Homeland Security
Patrick Henry Building
1111 East Broad Street
Richmond, VA 23219

Director Jackson S. Miller
Virginia Department of Criminal Justice Services
1100 Bank Street
Richmond, VA 23219

Re: Virginia Police Officer Code of Conduct

Secretary Cole & Director Miller:

On October 20, 2020, the Virginia General Assembly passed landmark police reform legislation in the wake of George Floyd's murder. It was signed into law by Governor Northam on October 28, 2020 and became effective on March 1, 2021 after the Special Session concluded on December 16, 2020.

The law reflected the end product of hundreds of hours of input, hearings and hard work from numerous stakeholders including the Virginia Chiefs of Police Association, the Virginia Sheriff's Association and the Virginia State Police Association who did not oppose the legislation after being afforded significant input and consideration in the legislative process. The bill also reflected the input of numerous public advocacy groups such as the Virginia Chapters of the American Civil Liberties Union and the National Association for the Advancement of Colored Persons.

The bill was seen as a major structural reform of the law enforcement hiring, firing, and monitoring process and a key measure to improve the quality of policing in Virginia. During our hearings, numerous law enforcement leaders complained about deficiencies in the existing officer decertification process including an inability to obtain information about officers with a history of poor judgment and an inability to decertify officers who had engaged in obvious misconduct who frequently remained on the street by obtaining new jobs at different law enforcement agencies. Similar to many professions, no one hates unethical law enforcement officers more than our excellent and ethical law enforcement officers.

All parties agreed that there should be additional standards taken into account during the law enforcement officer decertification process and that a Law Enforcement Officer Code of Conduct would give the public confidence in a baseline set of uniform minimum law enforcement officer conduct standards to hold officers accountable while providing officers due process about the rules against their

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professional conduct would be judged by the state licensing agency and not just their employer. While the General Assembly agreed that prohibiting certain forms of officer misconduct such as chokeholds, failure to intervene, and improper use of deadly force belonged in the Code of Virginia, all parties involved also recognized everything does not belong in the Code and that some matters were best left for regulations and additional stakeholder consideration. This is set forth in §§ 9.1-102(61), 15.2-1705, 15.2-1707 as codified pursuant to Chapter 37, of the 2020 Special Session Acts of Assembly.

The legislation required The Department of Criminal Justice Services (DCJR) to convene a stakeholder group to develop and officer Code of Conduct and promulgate the same as regulations within 280 days of the effective date of the law.

3. That the Department of Criminal Justice Services (the Department) shall promulgate regulations to implement the provisions of §§ 2.2-5515 and 15.2-1721.1 of the Code of Virginia, as created by this act, and of subdivisions 61 and 62 of § 9.1-102 and § 15.2-1707 of the Code of Virginia, as amended by this act, within 280 days of the effective date of this act. The Department shall report to the Chairman of the Senate Committee on the Judiciary and the Chairman of the House Committee for Courts of Justice by November 1, 2021, on the status of the regulations. In developing statewide professional standards of conduct pursuant to subdivision 61 of § 9.1-102 of the Code of Virginia, as amended by this act, which should be reviewed and approved by the Criminal Justice Services Board (the Board) before the Department promulgates them as regulations, the Department shall constitute a working group that includes individuals not serving on the Board that represent the following: crime victims, people directly impacted by the criminal justice system, people representative of communities disproportionately represented among persons incarcerated in Virginia jails and prisons, civil rights advocates, mental health advocates, defense counsel, and people employed in the criminal justice system, including police officials, sheriffs, attorneys for the Commonwealth, the judiciary, and correctional and rehabilitative agencies. A majority of the working group should be comprised of individuals who are not representative of people employed in the criminal justice system.

This Code of Conduct was due December 6, 2021 pursuant to state law.

The [Virginia Regulatory Town Hall](#) shows that the end product of the workgroup was officially proposed as emergency regulations on August 3, 2022 for codification at 6-VAC- 20-65, reviewed and approved by the Attorney General, and that your review is “In Progress” on “Day 466.”

Status	
Public Hearing	Will not be held at the proposed stage.
Emergency Authority	2.2-4011
Attorney General Review	Submitted to OAG: 6/17/2022 Review Completed: 8/2/2022 Result: Certified
DPB Review	Submitted on 8/2/2022 Review Completed: 8/22/2022
Secretary Review	Secretary of Public Safety and Homeland Security review in progress. Day 466
Governor's Review	Not yet submitted
Virginia Registrar	Not yet submitted
Comment Period	You may comment on this stage in a Town Hall comment forum as soon as it is published in <i>The Virginia Register of Regulations</i> . If you sign up for the Town Hall email notification service , you will be notified when the comment forum opens. The regulatory information regarding this stage is subject to change until 5 days before it is published in the Register.
Effective Date	Not yet determined
Expiration Date	Not yet determined

According to reporting by Virginia Public Media yesterday, these regulations are being held up by the Governor's Office and “are under review for ‘compliance with statute and application statewide’” although the Attorney General has already reviewed them.

Since becoming effective two years ago, this law has resulted in the decertification and removal of over 118 unethical officers from service as compared with 83 removed in the prior 22 years according to [The Master Decertification List](#). The vast majority of them were found to have been dishonest by their

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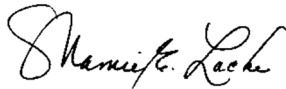
superiors either during internal investigations or in performing their public duties enforcing the law. The law is working **but for it to become truly effective it The Law Enforcement Officer Code of Conduct must be promulgated and it is now 725 days overdue.**

While we can appreciate that some of the initial delay was related to difficulties to meet in-person to the COVID-19 Pandemic, that emergency is over and there are no further excuses for failure to follow state law. Therefore, please provide us with an immediate written explanation regarding:


- (1) When the Youngkin Administration intends to comply with state law.
- (2) An explanation of the deficiency of Attorney General Jason Miyares' review of the proposed standards of conduct that your office has identified while considering these rules over the last 467 days; and
- (3) Identify all individuals who can provide information regarding this matter so they can be consulted at the next Session of the Virginia General Assembly.

We would appreciate a prompt response to our request so that the citizens can have full confidence in The Youngkin Administration's compliance with state law and our law enforcement professionals and citizens can have full confidence in the professionals who put their lives on the line keep us safe every day.


Very Truly Yours,



Senator Mamie E. Locke
2nd Senate District
Senate Democratic Caucus Chair



Senator Scott A. Surovell
36th Senate District
Senate Majority Leader



Delegate Don Scott
88th House District
Speaker Designate

cc: Mr. Cozy Bailey, President, Virginia NAACP
Ms. Mary Bauer, Executive Director, Virginia ACLU
Mr. Charles W. Carrico, Executive Director, Virginia State Police Association
Ms. Dana Schrad, Executive Director, Virginia Chiefs of Police Association
Mr. John Jones, Executive Director, Virginia Sheriff's Association
Attorney General Jason S. Miyares