



RECOMMENDATIONS TO THE LEGISLATURE TO IMPROVE THE RELATIONSHIP BETWEEN OUR LAW ENFORCEMENT OFFICERS AND THE PEOPLE OF MISSISSIPPI

Should someone who was allegedly trying to use a counterfeit bill be subject to the death penalty? Obviously, the answer is no, but as we know that is the story of George Floyd. Because of excessive police force, another man has lost his life and his future.¹

That was the powerful opening of a recent op-ed penned by Brett Kittredge of the Mississippi Center for Public Policy. Brett proceeded to set out steps to reform policing in light of the tragedy we all saw and the protests that have followed. Brett offered several good, tangible ideas. I would like to elaborate on some of these and offer perhaps a bit more specific actions our state should take today.

Brett suggested establishing a council that could strip certification for misconduct. We have such an entity but have no way of knowing if they have ever stripped an officer of certification or even temporarily suspended a certificate. That seems to be left to the local agency and we the people never know if anything is being done to ensure the standards are being followed.

In 1981, our Legislature had the courage and foresight to establish the Board of Law Enforcement Standards and Training. The intent of the Act was clearly stated:

The Legislature finds that the administration of criminal justice is of statewide concern, and that the activities of law enforcement officers are important to the health, safety and welfare of the people of this state and are of such nature as to require selection, education and training of a professional nature upon entrance and during the careers of law enforcement officers. It is the intent of the Legislature to provide for the coordination of training programs for law enforcement officers and to set standards therefor.²

What continues to undermine the goals of our Legislature is a lack of transparency and accountability in policing. We should not wait for another death to address the actions of perhaps an individual officer through the criminal justice system or a law suit. We should start now by improving our state level system of accountability and by making it transparent with four modifications to existing law:

- ✓ Add civilian members to the board
- ✓ Enhance curriculum and provide access to the list of officers disciplined
- ✓ Require body and dash cams and recording of interrogations
- ✓ Mandate officer reporting of misconduct

¹ <https://www.clarionledger.com/story/opinion/columnists/2020/06/03/reform-law-enforcement-end-qualified-immunity-brett-kittredge-opinion/3128809001/>

² *Miss. Code* Section 45-6-1

The first step begins with adding civilians to the standards board including the State Public Defender and at least three others not connected to law enforcement. One member should represent our diverse faith traditions and two members should represent people who have been victims of police misconduct.

There must be a requirement that law enforcement agencies and individual officers report wrong doing by other officers. Lawyers have a similar requirement in the Rules of Professional Responsibility and so should police officers. The need is clear based on the numbers Brett shared. An overwhelming majority of officers have seen misconduct by fellow officers but most do not report. A clear requirement to do so would begin changing the culture.

Beyond accountability there must be transparency. We should develop a police accountability database and make that searchable by criminal defense lawyers, judges and the public. Such a database is necessary for all stakeholders in the system. Transparency about police misconduct is vital to promote improved decision-making throughout the process. Awareness of prior misconduct can inform every decision point from the initial charging decision, to conditions of release, judicial determinations about the lawfulness of a stop, a search, an identification procedure, or an alleged confession. This information can also affect the ultimate question of guilt or innocence and the appropriate sentence.

This database would act to protect not just the criminal legal system and all who are in it but the public at large. When an officer is sent into a neighborhood the people there have a right to know of any past misconduct by that officer. This would protect the public in the same way the sex offender registry does.

Brett and many others have called for increased use of body and dash cameras and policies for their use. In addition to these new technologies there is no reason every police interrogation cannot be recorded. This requirement would reduce or expose false confessions which have been documented by the work of the Innocence Network.

These four suggestions – including civilians on the law enforcement standards board; requiring officers to report misconduct by other officers; publicizing the registry of officers found to have committed misconduct; and requiring the video recording of interrogations – may not solve all of the problems we face with policing in Mississippi but they represent a good first step.

The rules of the legislature should be suspended to allow for the introduction of legislation (see attached recommendation) to begin to address these pressing problems today.

AN ACT TO IMPROVE ACCOUNTABILITY OF LAW ENFORCEMENT OFFICERS AND TRANSPARENCY IN THEIR INTERACTIONS WITH THE PEOPLE OF MISSISSIPPI

§ 45-6-5. Board on Law Enforcement Officer Standards and Training created; appointment, terms of office, removal from office and compensation of members; officers; meetings; reports; advisors.

(1) There is hereby created the Board on Law Enforcement Officer Standards and Training, which shall consist of ~~thirteen (13)~~ seventeen (17) members.

(2)

(a) The Governor shall appoint ~~six (6)~~ nine (9) members of the board from the following specified categories:

(i) Two (2) members, each of whom is a chief of police of a municipality in this state, with one (1) of the appointees being appointed from a municipality having a population of less than five thousand (5,000) according to the latest federal decennial census.

(ii) One (1) member who is a sheriff in this state.

(iii) One (1) member who is a district attorney in this state.

(iv) One (1) member who is a representative of higher education and who has a degree in one (1) of the following areas of study: corrections, criminal justice or public administration.

(v) One (1) member who is a nonsupervisory rank-and-file law enforcement officer.

(vi) One (1) member shall be a member of the clergy representing faith-based communities.

(vii) Two (2) members from different geographic areas of the state who have been victims of law enforcement misconduct or are associated with an organization advocating for such victims.

(b) The initial appointments to the board shall be made by the Governor no later than twenty (20) days after April 7, 1981, as follows: the chief of police and the representative of higher education each shall be appointed for a term of two (2) years; and the sheriff and the district attorney each shall be appointed for a term of three (3) years. Upon the expiration of the terms of the initial appointees to the board, each subsequent appointment shall be made for a term of three (3) years, beginning on the date of the expiration of the previous term. A vacancy in any appointed position on the board prior to the expiration of a term shall be filled by appointment of the Governor only for the balance of the unexpired term. Appointments shall be made within sixty (60) days of the occurrence of the vacancy.

(c) Any member appointed under this subsection who fails to attend three (3) consecutive meetings of the board shall be subject to removal by the Governor. The president of the board shall notify the Governor in writing when a member has failed to attend three (3) consecutive regular meetings.

(3) The remaining ~~seven (7)~~ eight (8) members of the board shall be the following:

(a) The Attorney General, or his designee.

(b) The Director of the Mississippi Highway Safety Patrol, or his designee.

(c) The President of the Mississippi Municipal Association, or his designee who is a member of the association.

(d) The President of the Mississippi Association of Supervisors, or his designee who is a member of the association.

- (e) The President of the Mississippi Constable Association, or his designee who is a member of the association.
- (f) The President of the Mississippi Campus Law Enforcement Officers Association, or his designee who is a member of the association.
- (g) The President of the Mississippi Sheriffs' Association, or his designee who is a member of the association.
- (h) The State Public Defender, or his/her designee.

The Attorney General, the Director of the Mississippi Highway Safety Patrol, the State Public Defender and the respective presidents of the foregoing associations, or their designees, shall serve only for their respective terms of office.

- (4) Members of the board shall serve without compensation, but shall be entitled to receive reimbursement for any actual and reasonable expenses incurred as a necessary incident to such service, including mileage, as provided in Section 25-3-41.
- (5) There shall be a chairman and a vice chairman of the board, elected by and from the membership of the board. The board shall adopt rules and regulations governing times and places for meetings and governing the manner of conducting its business, but the board shall meet at least every three (3) months.
- (6) The Governor shall call an organizational meeting of the board not later than thirty (30) days after April 7, 1981.
- (7) If a person appointed to the board no longer occupies the status qualifying that person's appointment, that position on the board shall be immediately vacated and filled ex officio or by appointment of the Governor as otherwise provided in this section.
- (8) The board shall report annually to the Governor and the Legislature on its activities, and may make such other reports as it deems desirable.
- (9) The training officers of all police academies in the state whose curricula are approved by the board shall be advisors to the board. They shall be entitled to all privileges of the board members, including travel expenses and subsistence, but shall not be eligible to vote at board meetings.

§ 45-6-7. Powers of board.

In addition to the powers conferred upon the board elsewhere in this chapter, the board shall have power to:

- (a) Promulgate rules and regulations for the administration of this chapter, including the authority to require the submission of reports and information by law enforcement agencies of the state and its political subdivisions.
- (b) Establish minimum educational and training standards for admission to employment or appointment as a law enforcement officer or a part-time law enforcement officer: (i) in a permanent position; and (ii) in a probationary status. The minimum educational and training standards for any law enforcement officer assigned to field or investigative duties shall include at least two (2) hours of training related to handling complaints of human trafficking and commercial sexual exploitation of children as defined in Section 43-21-105, communicating with such victims, and requiring the officer to contact the Department of Child Protection Services when human trafficking or commercial sexual exploitation is suspected. The minimum educational and training standards for any law enforcement officer assigned to field or investigative duties shall include at least two (2) hours of training related to conflict resolution, implicit bias and appropriate use of force.

(c) Certify persons as being qualified under the provisions of this chapter to be law enforcement officers or part-time law enforcement officers. The board shall maintain a list of all persons certified under this chapter which shall be available on the official website of the Department of Public Safety in a searchable format.

(d) Revoke certification for cause and in the manner provided in this chapter. The board is authorized to subpoena documents regarding revocations. The board shall maintain a current list of all persons certified under this chapter who have been placed on probation, suspended, subjected to revocation of certification, or any combination of these. This list shall be available on the official website of the Department of Public Safety in a searchable format.

(e) Establish minimum curriculum requirements for basic and advanced courses and programs for schools operated by or for the state or any political subdivision thereof for the specific purpose of training police and other law enforcement officers, both full- and part-time, which shall include a minimum of two (2) hours of training in a course or courses related to the identification of and support for victims of human trafficking and commercial sexual exploitation and a minimum of two (2) hours of training on conflict resolution, implicit bias and appropriate use of force.

(f) Consult and cooperate with counties, municipalities, state agencies, other governmental agencies, and with universities, colleges, community and junior colleges and other institutions concerning the development of training schools, programs or courses of instruction for personnel defined in this chapter.

(g) Make recommendations concerning any matter within its purview pursuant to this chapter.

(h) Make such inspection and evaluation as may be necessary to determine if governmental units are complying with the provisions of this chapter.

(i) Approve law enforcement officer training schools for operation by or for the state or any political subdivision thereof for the specific purpose of training personnel defined in this chapter.

(j) Upon the request of agencies employing personnel defined in this chapter, conduct surveys or aid municipalities and counties to conduct surveys through qualified public or private agencies and assist in the implementation of any recommendations resulting from such surveys.

(k) Upon request of agencies within the purview of this chapter, conduct general and specific management surveys and studies of the operations of the requesting agencies at no cost to those agencies. The role of the board under this subsection shall be that of management consultant.

(l) Adopt and amend regulations consistent with law, for its internal management and control of board programs.

(m) Enter into contracts or do such things as may be necessary and incidental to the administration of this chapter.

(n) Establish jointly with the State Board of Education the minimum level of basic law enforcement training required of persons employed by school districts as school security guards, or school resource officers or in other positions that have the powers of a peace officer.

(o) Establish standards for and mandate the use of video recording devices including the use of body cameras, dashboard cameras and the recording of all law enforcement initiated interrogations of suspects.

§ 45-6-11. Law enforcement officer qualifications; recertification after leaving law enforcement; certification; reprimand, suspension or revocation of certification.

(1) Law enforcement officers already serving under permanent appointment on July 1, 1981, and personnel of the Division of Community Services under Section 47-7-9, Mississippi Code of 1972, serving on July 1, 1994, shall not be

required to meet any requirement of subsections (3) and (4) of this section as a condition of continued employment; nor shall failure of any such law enforcement officer to fulfill such requirements make that person ineligible for any promotional examination for which that person is otherwise eligible. Provided, however, if any law enforcement officer certified under the provisions of this chapter leaves his employment as such and does not become employed as a law enforcement officer within two (2) years from the date of termination of his prior employment, he shall be required to comply with board policy as to rehiring standards in order to be employed as a law enforcement officer; except, that, if any law enforcement officer certified under this chapter leaves his employment as such to serve as a sheriff, he may be employed as a law enforcement officer after he has completed his service as a sheriff without being required to comply with board policy as to rehiring standards. Part-time law enforcement officers serving on or before July 1, 1998, shall have until July 1, 2001, to obtain certification as a part-time officer.

(2)

(a) Any person who has twenty (20) years of law enforcement experience and who is eligible to be certified under this section shall be eligible for recertification after leaving law enforcement on the same basis as someone who has taken the basic training course. Application to the board to qualify under this paragraph shall be made no later than June 30, 1993.

(b) Any person who has twenty-five (25) years of law enforcement experience, whether as a part-time, full-time, reserve or auxiliary officer, and who has received certification as a part-time officer, may be certified as a law enforcement officer as defined in Section 45-6-3(c) without having to meet further requirements. Application to the board to qualify under this paragraph shall be made no later than June 30, 2009.

(3)

(a) No person shall be appointed or employed as a law enforcement officer or a part-time law enforcement officer unless that person has been certified as being qualified under the provisions of subsection (4) of this section.

(b) No person shall be appointed or employed as a law enforcement trainee in a full-time capacity by any law enforcement unit for a period to exceed one (1) year. No person shall be appointed or employed as a law enforcement trainee in a part-time, reserve or auxiliary capacity by any law enforcement unit for a period to exceed two (2) years. The prohibition against the appointment or employment of a law enforcement trainee in a full-time capacity for a period not to exceed one (1) year or a part-time, reserve or auxiliary capacity for a period not to exceed two (2) years may not be nullified by terminating the appointment or employment of such a person before the expiration of the time period and then rehiring the person for another period. Any person, who, due to illness or other events beyond his control, could not attend the required school or training as scheduled, may serve with full pay and benefits in such a capacity until he can attend the required school or training.

(c) No person shall serve as a law enforcement officer in any full-time, part-time, reserve or auxiliary capacity during a period when that person's certification has been suspended, cancelled or recalled pursuant to the provisions of this chapter.

(4) In addition to the requirements of subsections (3), (7) and (8) of this section, the board, by rules and regulations consistent with other provisions of law, shall fix other qualifications for the employment of law enforcement officers, including minimum age, education, physical and mental standards, citizenship, good moral character, experience and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of law enforcement officers, and the board shall prescribe the means for presenting evidence of fulfillment of these requirements. Additionally, the board shall fix qualifications for the appointment or employment of part-time law enforcement officers to essentially the same standards and requirements as law enforcement officers. The board shall

develop and implement a part-time law enforcement officer training program that meets the same performance objectives and has essentially the same or similar content as the programs approved by the board for full-time law enforcement officers and the board shall provide that such training shall be available locally and held at times convenient to the persons required to receive such training.

(5) Any elected sheriff, constable, deputy or chief of police may apply for certification. Such certification shall be granted at the request of the elected official after providing evidence of satisfaction of the requirements of subsections (3) and (4) of this section. Certification granted to such elected officials shall be granted under the same standards and conditions as established by law enforcement officers and shall be subject to recall as in subsection (7) of this section.

(6) The board shall issue a certificate evidencing satisfaction of the requirements of subsections (3) and (4) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the board for approved law enforcement officer education and training programs in this state, and has satisfactorily passed any and all diagnostic testing and evaluation as required by the board to ensure competency.

(7) Professional certificates remain the property of the board, and the board reserves the right to either reprimand the holder of a certificate, suspend a certificate upon conditions imposed by the board, or cancel and recall any certificate when:

(a) The certificate was issued by administrative error;

(b) The certificate was obtained through misrepresentation or fraud;

(c) The holder has been convicted of any crime involving moral turpitude;

(d) The holder has been convicted of a felony;

(e) The holder has committed an act of malfeasance or has been dismissed from his employing law enforcement agency;
or

(f) Other due cause as determined by the board.

(8) The board shall receive complaints from law enforcement agencies, individual officers and the general public. When the board believes there is a reasonable basis for either the reprimand, suspension, cancellation of, or recalling the certification of a law enforcement officer or a part-time law enforcement officer, notice and opportunity for a hearing shall be provided in accordance with law prior to such reprimand, suspension or revocation.

(9) Any full- or part-time law enforcement officer aggrieved by the findings and order of the board may file an appeal with the chancery court of the county in which such person is employed from the final order of the board. Such appeals must be filed within thirty (30) days of the final order of the board.

(10) Any full- or part-time law enforcement officer whose certification has been cancelled pursuant to this chapter may reapply for certification, but not sooner than two (2) years after the date on which the order of the board cancelling such certification becomes final.

(11) Law enforcement officers including but not limited to supervisors, police chiefs and sheriffs having knowledge that another officer has committed a violation of standards promulgated pursuant to this chapter or any crime shall report the offense to the board. The failure to report misconduct shall constitute due cause for action against the non-reporting persons certificate.