



The Hon. Megan L. Clark
Co-Chair
Prince Edward Commonwealth's Attorney

Andrea Moseley, Esq.
Co-Chair
Kropf Moseley Schmitt, Washington, DC

October 21, 2025
Susan Clarke Schar
Clerk of the Virginia Senate
P.O. Box 396
Richmond, VA 23218

The Honorable Susan Clarke Schar,

VTLA received the attached letter from the Virginia Senate asking the Virginia Criminal Justice Conference (VCJC) to review the subject matter of SB1274 and give a report back to the Virginia Senate by Nov. 1, 2025. We were instructed to get input from stakeholders with the following results:

- Virginia Chiefs of Police had no response.
- Virginia NAACP had no response.
- Virginia State Police Association: Subcommittee Co-Chair Bethany Harrison held a meeting with representatives with their position being "No Position" on the bill.
- Virginia Sheriff's Association sent us the attached letter with a "Support" position.

Our subcommittee met and these are the findings:

- The bill presumes there is a uniform process and procedure for witness impeachment information (hereinafter referred to as Brady material) on law enforcement officers (LEOs) when there is not. There can be what is technically Brady material in a case where an officer made a mistake and that must be turned over. On the other end of the culpability spectrum is Brady material where the LEO is a nefarious actor. The latter is what the bill appears to want to address. The type of Brady material and the jurisdiction handling this material will determine the process and procedure of disclosure.
- If the goal is to have notice to the officer that there is Brady material, we will need a uniform procedure when we do not have a uniform process for prosecutors to disclose this material. Imposition of a uniform process is viewed as problematic for prosecutors given the issues cited in the first bullet point above.

- The impetus for this legislation dealt with two specific jurisdictions who had specific circumstances they wanted addressed through legislation. The issues those LEOs were having with prosecutors in their jurisdiction can be handled through enforcement of the Virginia Rules of Professional Conduct for attorneys.
- It is important to recognize that impeachment and bias information (Brady and Giglio) are disclosure obligations by the prosecutor to the defendant as part of the defendant's right to Due Process under the US Constitution per the United States Supreme Court.
- Professional standards of conduct and procedures for decertification have been adopted in Virginia regarding decertification of LEOs that may address some of the issues touched upon by this legislation.

After a full committee discussion, the VCJC takes no position on the bill.

Sincerely,

Bethany Harrison,
Commonwealth's Attorney
for the City of Lynchburg
Subcommittee Co-Chair

Maria Jankowski
VA Indigent Defense Commission
Subcommittee Co-Chair

CC: The Honorable Scott A. Surovell, Chair, Senate Committee for Courts of Justice
The Honorable Russet W. Perry, Patron of SB1274
Amigo Wade, Director, Division of Legislative Services
Ms. Valerie O'Brien, Executive Director, VTLA

Attachments

COMMONWEALTH OF VIRGINIA

SUSAN CLARKE SCHAAR
CLERK OF THE SENATE
POST OFFICE BOX 396
RICHMOND, VIRGINIA 23218



SENATE

March 7, 2025

Ms. Valerie O'Brien
Executive Director, Virginia Trial Lawyers Association
919 East Main Street, Suite 620
Richmond, Virginia 23219

Dear Ms. O'Brien:

This is to inform you that, pursuant to Rule 20 (o) of the Rules of the Senate of Virginia, the Senate Committee for Courts of Justice has referred the subject matter contained in Senate Bill 1274 to the Virginia Criminal Justice Conference for study. It is requested that the appropriate committee chair and bill patron receive written reports, with copies to this office, by November 1, 2025.

With kind regards, I am

Sincerely yours,

A handwritten signature in cursive script, reading "Susan Clarke Schaar".

Susan Clarke Schaar

SCS:dhl

cc: The Honorable Scott A. Surovell, Chair, Senate Committee for Courts of Justice
The Honorable Russet W. Perry, Patron of SB 1274
Amigo Wade, Director, Division of Legislative Services



VIRGINIA SHERIFFS' ASSOCIATION

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901 East Byrd Street, Suite 1301, Richmond, VA 23219

May 19, 2025

The Honorable Bethany Harrison, Commonwealth's Attorney for the City of Lynchburg
Maria Jankowski, Executive Director, Indigent Defense Commission
Committee Co-Chairs, Criminal Justice Conference
Virginia Trial Lawyers' Association

Dear Madame Co-Chairs,

The VSA strongly supported SB1274 as an effort to bring due process to law enforcement officers who currently have no formal means to challenge the veracity of claims against them. Although the vast majority of disclosures made pursuant to *Giglio* and its progeny are not contested and are taken in stride by law enforcement officers, there is a minority of claims that are contested by law enforcement and have a life and career-changing impact. These disclosures tend to be in the form of far-reaching letters from Commonwealth's Attorneys sent to the law enforcement officer, the sheriff, and the courts. When these letters include allegations that the law enforcement officer maintains are **false** and include a ban or promise that such LEO will be ineligible to testify in any future prosecution, the real need for due process arises.

The process in SB1274 required notice to the affected law enforcement officer, an opportunity for the law enforcement officer to present supporting evidence to the Commonwealth's Attorney, and a final arbiter in the Circuit Court judge. Currently, the Circuit Courts routinely rule on discovery compliance issues, including *in camera* review of evidence to determine if disclosure is required. The new due process structure in SB1274 aligned with those existing duties.

In the same way that due process protections do not shelter guilty criminal defendants or eliminate the possibility of holding them accountable, the due process protections sought in SB1274 should not be seen as an endeavor to protect "bad cops" or conceal conduct that should be disclosed. Rather, SB1274 was structured to provide a due process for a law enforcement officer who has evidence that the allegations against him are false and whose reputation and livelihood may be destroyed by false claims published in a so-called Brady Letter.

Several states, including Arizona and Texas, have passed similar legislation to provide due process for law enforcement officers whose careers and reputations are jeopardized by methods used by some prosecutors to fulfill disclosure duties.

The VSA asks the Criminal Justice Conference to examine the issue to provide a meaningful due process for law enforcement in this arena.

Sincerely,

Elizabeth A. Hobbs, Chief Legal and Policy Officer

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