

Matthew D. Fogal
District Attorney
Laura J. Kerstetter
First Assistant District Attorney
Ian M. Brink
Chief Deputy District Attorney
Jonathan C. Faust
Chief Deputy District Attorney
Nathan L. Boob
Chief Deputy District Attorney



William F. McGinnis
Senior Assistant District Attorney
Steven M. Sess
Senior Assistant District Attorney
Berk V. Demiral
Assistant District Attorney
Matthew S. Militello
Assistant District Attorney
David A. Frantz
Assistant District Attorney

Franklin County District Attorney
157 Lincoln Way East
Chambersburg, Pennsylvania 17201
Phone: (717) 261-3827 Fax: (717) 261-3832
Telecommunication Device for the Deaf: (717) 264-8474

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PRESS RELEASE: DEEDS NOT WORDS

“We the People of the United States, IN ORDER TO FORM A MORE PERFECT UNION, ESTABLISH JUSTICE, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

-Preamble, United States Constitution, Signed in Philadelphia, PA on September 17, 1787

“Ever tried. Ever failed. No matter. Try Again. Fail again. Fail better.”

-Samuel Beckett, Irish novelist and playwright

“But it ain't how hard you hit; it's about how hard you can get hit, and keep moving forward. How much you can take, and keep moving forward.”

-Rocky Balboa, Fictional American Boxer from Philadelphia, PA

Change is part of the human experience and is not intrinsically bad; introspection should never be resisted or devalued. That is patently ignorant, for it is not a defeat or surrender for “the way it was,” but an opportunity for the future. Let there be no misunderstanding: the Franklin County District Attorney’s Office has consistently strived to always do the next best thing to serve this community. Analogously, consider the entire concept of “after action reports” in the military and law enforcement, which are premised on thoughtfully and maturely evaluating practices or efforts which need to be sustained or improved as necessary. In the Franklin County District Attorney’s Office, this critical thinking is baked-in to our operational culture and we consciously strive to avoid kneejerk defensiveness or unnecessarily feeling threatened when critiqued from without.

For example, just since 2015, the Franklin County District Attorney's Office has already implemented and publicly announced numerous initiatives which are now being discussed as suggested changes nationwide, such as:

1. Implicit Bias Training: conducted in 2017 and mandatory for all Franklin County District Attorney's Office staff
2. Co-Responder Initiative: a mental health professional accompanies law enforcement officers to incidents/calls involving individuals with mental health issues, and cases are 'diverted' into mental health treatment rather than the criminal justice process
3. Get Back Up: a Recovery Liaison (himself in long-term recovery from addiction) accompanies law enforcement officers responding to incidents or conducting investigations for individuals with substance use disorders and helps 'divert' them into substance abuse treatment rather than the criminal justice process
4. Crisis Intervention Team "De-Escalation" Training: provides week-long intensive training to law enforcement officers, involving responses to incidents/calls for individuals with mental health issues, working with a global "team" of mental health professionals
5. Eyewitness Identification Protocol: in accordance with scientific best practices and to foster public confidence, requires a sequential versus simultaneous photo array/'lineup'
6. Recorded Interview Protocol: in accordance with scientific best practices and to foster public confidence, requires interviews of suspects and witnesses to be audio/video-recorded rather than simply summarized in a report by the law enforcement officer
7. Body-Worn Camera Protocol: while not yet implemented due to financial constraints and the substantial costs of the necessary storage capacity (see more below), the procedures have been in place to incorporate body-worn cameras for all law enforcement personnel
8. Over the Rainbow Children's Advocacy Center: in accordance with scientific best practices and to foster public confidence, requires interviews of child victims of abuse to be audio/video-recorded by a non-biased and neutral Forensic Interviewer rather than simply summarized in a report by the law enforcement officer
9. Good Wolf Treatment Court: an intensive court supervision process focusing on treatment rather than incarceration, for individuals with substance use disorders
10. Prescription Drug Take Back: citizens may discard unused prescription medications in boxes located at 5 different law enforcement agencies throughout Franklin County, so the pills are not inadvertently accessible to individuals with substance use disorder

11. Giglio Protocol: implements a local process for disclosure of police prior misconduct to defense counsel in cases where they may be called as witnesses, and ongoing maintenance of a list of such officers, as required by the *Giglio* case (implemented February 2020)

All of the above initiatives were substantial changes brought upon after thoughtful analysis and professional introspection. All were Franklin County District Attorney initiatives and/or partnerships which were championed in collaboration with our local law enforcement agencies and all of our community partners and supporters, with a “One Team, One Fight” spirit. We have always worked very closely with our law enforcement agencies, and have always enjoyed a somewhat unique relationship of trust and genuine affection. Indeed, in May of 2020, District Attorney Fogal penned a written release to the community in support of our law enforcement officers, asking citizens to express their thanks to them (https://franklincountypa.gov/index.php?section=district-attorney_pr&prid=554). Unfortunately, that particular release was seen by few and perhaps remembered by even less.

Then George Floyd was murdered. In Minneapolis, MN, over one thousand miles away from Franklin County, PA. The nation’s and the entire world’s attention was captured by those 8 minutes and 46 seconds caught on video, and then to the subsequent responses to his murder that was committed by a law enforcement officer. There were bountiful calls for police reform, and there have been many legislative and administrative measures taken nationally (or at least attempted), statewide and locally, and many necessary conversations have taken place across the nation.

In early June 2020, District Attorney Fogal met individually with each Chief of Police in the county, as well as the Commander of the Pennsylvania State Police (“PSP”), Chambersburg Station (he also addressed the station personnel *en masse* at a “roll call”). Soon afterward, he assembled a special meeting with the Chiefs and the local PSP Commander, where all attendees candidly discussed all of the issues related to race and police reform being discussed nationally, and what more could be done locally. The principal request for the District Attorney at that time was to secure the body-worn cameras we have desired for many years. He then attended a Juneteenth Love Demonstration on June 20, 2020, and has continued to meaningfully engage concerned community members.

Attorney General Josh Shapiro asked for and received the District Attorney Fogal’s support of his proposal to develop a Police Misconduct Database in the Commonwealth of Pennsylvania, so that police departments would be aware if future applicants had previously committed misconduct (<https://www.attorneygeneral.gov/taking-action/statements/ag-shapiro-statement-on-house-passage-of-police-complaint-database/>). The law enforcement coalition supporting this effort included other District Attorneys from York, Dauphin, Lancaster and Centre counties, as well as Philadelphia Police Commissioner Danielle Outlaw, Pittsburgh Police Chief Scott Schubert, United States Senator Bob Casey, Fraternal Order of Police Lodge 5 President John McNesby, President of the Pennsylvania State Lodge Fraternal Order of Police Les Neri, the Pennsylvania State Troopers Association, the Pennsylvania District Attorneys Association and the Pennsylvania Chiefs of Police Association.

On September 18, 2020, all personnel in the Franklin County District Attorney’s Office participated in mandatory Implicit Bias Training via virtual platform by Major (Ret.) Ben Brooks. The training was also attended by the Director of Human Resources and a Judge from our Common Pleas Court.

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The Franklin County District Attorney granted numerous media interviews throughout the Summer and Fall, and on September 23, 2020, he participated as a panelist for the Pennsylvania Bar Association's Diversity Team Panel Discussion, "The Conversation Continues: Racism and Reform" (<https://www.pabar.org/pdf/2020/DiversityTeamConversation9-23-20.pdf>).

On October 15, 2020, after exhaustive work collecting and compiling necessary information in concert with the Franklin County Commissioners and Franklin County's Grants Management Department, we submitted an application for the Body-Worn Camera Policy and Implementation Program federal grant. We are hopeful that our application is approved, which would then finally allow us to finance body-worn cameras and storage capacity for participating municipal police departments in Franklin County, along with the detectives who work directly for the District Attorney's Office.

Racial Reconciliation of the Franklin County Coalition for Progress hosted a Roundtable, "The Truth, The Whole Truth, and Nothing But The Truth" (<https://www.racialreconciliationfc.org/the-truth-discussions>) on October 6 and 8, 2020, and local law enforcement officers as well as District Attorney Fogal and the Commander of the Pennsylvania State Police, Chambersburg Station participated.

District Attorney Fogal, the Commander of the Pennsylvania State Police, Chambersburg Station, and members of the Chambersburg Police Department all participated in the first annual Faith and Blue Weekend (<https://faithandblue.org/>), hosted by the Brownsville Church of God in Fayetteville (<https://brownsvillecog.com/who-we-are/>). Pastor Vic Johnson and his congregation warmly welcomed local law enforcement to a special Sunday Service on October 11, 2020, during which a special prayer was given, asking God for wisdom, discernment and love as we all unite and forge stronger relationships amongst the community and law enforcement.

While the countywide *Giglio* Protocol was drafted and made effective in February of 2020, the Franklin County District Attorney's Office formally adopted an additional "best practice" for our prosecutors on November 9, 2020. The "Reporting of Observations of Police Misconduct Policy" affirmatively requires prosecutors in the District Attorney's Office to promptly report any police misconduct they may observe from reports, video footage, etc. Review and adjudication of any alleged misconduct will then be conducted as directed within the aforementioned *Giglio* Protocol.

Many of the proposed reforms since June 2020 have focused on police and law enforcement procedures and public encounters with citizens. It is perhaps not readily apparent to the general public, but the Franklin County District Attorney's Office employs 5 sworn and active law enforcement officers, including the Chief County Detective, a Special Crimes Detective and 3 detectives who have historically focused upon illegal drug trafficking enforcement. All are armed with firearms and enforce the law, and this arm of the District Attorney's Office is officially recognized in the Commonwealth of Pennsylvania as a law enforcement agency or "department." Under Pennsylvania law, the District Attorney is then the "Commissioner" or "Chief" of this entity comprised of special detectives, who are appointed to serve under his statutory, line authority. Over time, policies and procedures have been authored, but candidly, it was done more with a view towards a bare qualification for official recognition as a department. Now, in this important moment, District Attorney Fogal has deliberately and thoughtfully focused upon an exhaustive review and revision of the basic policies and procedures of his office's 'police department.' That final product is attached for review and inspection by the community, and it is expected that the

policies and spirit will serve as a template for local municipal law enforcement agencies to adopt. Highlights of the revisions are as follows:

1. The designation for this law enforcement arm of the District Attorney will be the Franklin County Bureau of Detectives (“FCBD”).
2. The Mission Statement was significantly revised in order to fully explain the expectations concerning the culture of the bureau, buttressed by the ‘Guardian Oath’ members will take in order to reaffirm their commitment to selflessly serve the citizens of this community.
3. Regarding hiring qualifications, the FCBD is in a more unique position than standard police agencies, as we are specific and do not have a general patrol unit whose uniformed members act as “first responders.” All law enforcement officers in Pennsylvania are subject to the current certification requirements of Pennsylvania’s Municipal Police Officers’ Education and Training Commission, and annual continuing education requirements. Prospective incoming members specific to the FCBD must meet those basic requirements, as well as the following requirements beyond that: successful applicants must be at least 25 years of age, possess a Bachelor’s Degree from an accredited postsecondary educational institution, have at least 5 years of experience as a law enforcement officer, and successfully pass numerous screenings and tests (psychological fitness, medical and physical fitness, drug testing, polygraph examination/interview, and a thorough background investigation, including queries for prior acts of misconduct when previously employed as a law enforcement officer).
4. The section regarding Use of Force is perhaps the most significant revision, given how very basic the prior iteration was. Obviously, Use of Force requirements have been the focus of police reform debates, and the District Attorney took great care to research best practices from all angles. Interestingly, many of the current suggestions for reform include policies that have previously been adopted by the Chambersburg Police Department and perhaps other local police agencies, and are therefore not at all resisted or generally viewed antagonistically. The updated provisions within the FCBD’s revised policies address topics which include, but are not limited to, the following:
 - *Ban on choke-holds or any neck-holds whatsoever
 - *Duty to intervene requirements
 - *Reiteration that “No-Knock” warrants are not permitted in PA
 - *No discharge of firearms at a moving vehicle
 - *De-escalation and a genuine “last resort” policy related to deadly force
 - *Issuance of less-lethal weapons (“Tasers,” OC spray)
 - *Use of force investigations to be conducted by multiple outside, neutral agencies
5. Military-style uniforms are not permitted, nor are military-styled tactical vehicles. As explained within the Mission Statement and Guardian Oath, law enforcement officers in the United States of

America are not an occupying force, nor are they “warriors.” There should be absolutely no confusion from within or without regarding that.

6. Implicit/Unconscious Bias Training and De-Escalation Training will be regularly integrated into the training calendar. Implicit Bias has already occurred, in September 2020, and additional training is scheduled for December 2020 (Implicit Bias, and Duty to Intervene).

7. As applicable and necessary as each situation dictates, members of the FCBD will participate with the county’s Crisis Intervention Team, Get Back Up initiative, and they will utilize our Mental Health Co-Responders.

8. Wellness and emotional safety for FCBD personnel will be particularly emphasized, given the unique stressors, dangers and exposures related to the job. The Franklin County District Attorney’s Office is happy to partner with Greencastle Family Practice in order to provide targeted counseling and therapy to personnel, to ensure their health, and also to benefit the citizens with which they interact. This component of within the profession has too often been overlooked. Additional training is scheduled for December 2020, covering the topic of “Emotional Survival.”

9. The Franklin County Bureau of Detectives will be prospectively seek full accreditation by the Pennsylvania Chiefs of Police Association, and will continue to implement best practices and further add/revise procedures as may be necessary.

District Attorney Fogal has informally met with a select group of community members on a regular basis over the past several months, to engage in the topic of race. Procedures have been developed in order to more formally establish the District Attorney’s Advisory Board on Equity and Race, and a detailed announcement regarding this endeavor will be released at a later date.

Law enforcement has been and continues to be comprised of some of the very best of our society. More and more, however, we hear the term “bad apples,” and there are at least two responses to these “bad apples” within the ranks. First, each distinct law enforcement entity or organization must genuinely establish the appropriate culture and norms, and set the correct tone for what is absolutely not tolerable. It goes beyond basic departmental rules and regulations, and demands an absolute unity of purpose. Battle lines, if drawn, must be erased. Law enforcement is in a guardian role rather than a warrior role, and leadership must guide that understanding. Second, as expressed during one of the roundtables in October, each and every law enforcement officer must genuinely be angry about the “bad apples,” and have no inhibition whatsoever to call them out, whether that behavior is exhibited in terms of integrity or character or derelict professional conduct. There can be no looking the other way or offering psychological safe harbor. Any “bad apple” must hastily be addressed and that officer must genuinely be held accountable by other officers and the chain of command, and then also by prosecutors and the courts if it gets that far.

Law enforcement will continue to adapt and embrace change. This profession, and the bigger concept of criminal justice, is comprised of humans and will therefore be imperfect. But. “Ever tried. Ever failed. No matter. Try Again. Fail again. Fail better.”

Onward. One Team, One Fight.