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BILL NO.: HB 118
TITLE: Public Safety - Police Accountability - Time Limit for Filing Administrative Charges
SPONSOR: Delegate Cardin
COMMITTEE: House Judiciary
POSITION: **SUPPORT with AMENDMENT**
DATE: February 27, 2024

Baltimore County SUPPORTs with amendment HB118 – Public Safety - Police Accountability - Time Limit for Filing Administrative Charges.

The Maryland Police Accountability Act of 2021 introduced necessary changes to the police disciplinary process. Among the most significant was the requirement that each Maryland county (and Baltimore City) create an Administrative Charging Committee (ACC) composed of trained members of the public. Each ACC is responsible for reviewing every incident involving a member of the public and a police officer from their jurisdiction and determining whether to administratively charge said officer. The ACC is also responsible for recommending disciplinary action for the police officer, which sets a baseline that the chief of the law enforcement agency may not go below. The Baltimore County ACC began reviewing cases in the summer of 2023, and has already issued over 30 opinions.

The ACC is required to issue an opinion within one year and a day after the filing of a complaint by a member of the public. A police officer may not be administratively charged and disciplined after the one year and a day statute of limitations has expired. While this timeframe is appropriate for the majority of complaints and provides a reasonable degree of certainty for the accused officer, the complainant, and the law enforcement agency, it is highly problematic for complaints that are tied to a criminal investigation of the police officer.

In cases where a police officer is simultaneously criminally charged and under investigation for an administrative complaint, there is a strong probability that the criminal case will not be completed before the one year and a day deadline has expired. This is because police officers have the right to be free from compulsory self-incrimination under the 5th Amendment of the United States Constitution as articulated by the United States Supreme Court in *Garrity v. New Jersey*, 385 U.S. 493 (1967).

This means that if an officer is under both a criminal and administrative investigation, the internal affairs division of the investigating law enforcement agency must wait to obtain a statement from the accused officer for the purposes of the administrative investigation until after the criminal matter has concluded. It is also unlikely that other relevant documents or evidence would be presented to the ACC

prior to the conclusion of the criminal matter. This increases the likelihood that the ACC would not administratively charge an officer under investigation, or charged with, a criminal offense. If that same officer is later acquitted in the criminal matter, State law would prevent any discipline of the accused officer, even if their actions violated departmental policy.

This concern is especially relevant with the recent criminal charges filed against three Baltimore County Police Department officers by the Baltimore City Office of the State's Attorney. The incident occurred in September 2023, so the Baltimore County ACC has just seven months to issue an opinion regarding any administrative charges and recommended discipline.

Under the Law Enforcement Officers Bill of Rights, the statute of limitations for officers simultaneously under administrative and criminal investigation was tolled until the criminal matter was completed. This policy ensured that the investigating body had access to the full slate of evidence in making their decision. Such a tolling provision should be added to the present statute. Senate Bill 608 includes this language, endorsed by the Maryland Chiefs of Police and Sheriffs' Association as well as the Office of State Prosecutor, which will help ensure that every ACC can review all relevant information in reaching their decisions.

Accordingly, Baltimore County requests a **FAVORABLE with amendment** report on HB188 from the House Environment and Transportation Committee. For more information, please contact Jenn Aiosa, Director of Government Affairs at jaiosa@baltimorecountymd.gov.

Requested Amendment language:

On Page 2, Line 6, add the following:

“(E) IF ALLEGED POLICE OFFICER MISCONDUCT IS RELATED TO ACTIVITY THAT REASONABLY APPEARS TO BE THE SUBJECT OF A CRIMINAL INVESTIGATION, AN ADMINISTRATIVE CHARGING COMMITTEE OR LAW ENFORCEMENT AGENCY SHALL FILE ANY ADMINISTRATIVE CHARGES WITHIN 1 YEAR AND 1 DAY FROM THE DATE OF:

- (1) THE INVESTIGATING LAW ENFORCEMENT AGENCY'S DETERMINATION THAT THE MATTER IS NOT RELATED TO CRIMINAL ACTIVITY;
- (2) THE FINAL DISPOSITION OF ALL RELATED CRIMINAL CHARGES; OR
- (3) THE ADMINISTRATIVE CHARGING COMMITTEE'S OR LAW ENFORCEMENT AGENCY'S RECEIPT OF NOTICE THAT THE APPROPRIATE PROSECUTORIAL AUTHORITY DECLINED TO FILE CRIMINAL CHARGES.