

SB 625 - MML - FAV.pdf

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Position: FAV



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 12, 2025

Committee: Senate Judicial Proceedings

Bill: SB 625 - Public Safety - Police Accountability - Investigation Records Relating to Unfounded and Exonerated Complaints

Position: Favorable

Reason for Position:

The Maryland Municipal League (MML) supports Senate Bill 625, which requires the removal of all “investigation records” relating to a complaint of misconduct from a police officer’s personnel record three years after an administrative charging committee or trial board issues a finding that the complaint is unfounded or exonerated.

The removal of such records protects the privacy of police officers who have been cleared of wrongdoing. If complaints are found to be unfounded or the officer is exonerated, retaining such records could unfairly tarnish an officer’s reputation and career, and could lead to morale issues. Officers might feel discouraged or unfairly targeted by records of complaints, even if those complaints did not result in disciplinary action. Removal could help with recruitment and retention by offering more job security and reducing stress on officers.

This proposal could also help police departments manage records more efficiently and reduce administrative burdens. Police departments are often responsible for handling large amounts of paperwork; it is more efficient to focus on cases where the complaints are substantiated, rather than keeping records of those that were found to be unsubstantiated or exonerated.

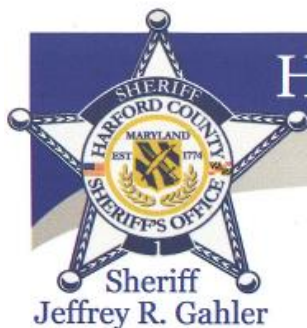
For these reasons, the League respectfully requests that the committee provide Senate Bill 625 with a favorable report. For more information, please contact Angelica Bailey Thupari, Director of Advocacy and Public Affairs, at angelicab@mdmunicipal.org or (443) 756-0071. Thank you for your consideration.

The Maryland Municipal League uses its collective voice to advocate, empower and protect the interests of our 160 local governments members and elevates local leadership, delivers impactful solutions for our communities, and builds an inclusive culture for the 2 million Marylanders we serve.

SB 625 Police Accountability unfounded complaints.

Uploaded by: Erik Robey

Position: FAV



HARTFORD COUNTY SHERIFF'S OFFICE

COURAGE HONOR INTEGRITY

Senate Bill 625 - Support

Public Safety-Police Accountability-Investigation Record Relating to Unfounded and Exonerated Complaints

Letter of SUPPORT to the Senate Judicial Proceedings Committee

February 12, 2025

Mr. Chairman and Members of the Senate Judicial Proceedings Committee, I am pleased to submit this letter of support concerning Senate Bill 625.

During the 2021 legislative session the Maryland General Assembly passed Senate Bill 178 as part of what was referred to as the Maryland Police Accountability Act. This legislation now allows for the public to have access to the personnel files of law enforcement officers relating to any "Police Misconduct" complaint that results in an investigation.

As I am sure members of this Committee are aware, the majority of these complaints are sent to the Administrative Charging Committee (ACC), where civilian members review the findings and decide on the merits of the complaint and if discipline is warranted.

The General Assembly has, for the last five years, made it a priority to pass legislation allowing individuals convicted of certain crimes to have their records expunged after a certain time frame. Most notably, the Maryland General Assembly passed, and Governor Moore signed, the Maryland Clean Slate Act in 2024. This gives nearly half a million Marylanders, once convicted of crimes, the ability to have their records expunged.

Senate Bill 625 would only allow that a police officer's records to be removed from their personnel file if the complaint is unfounded, if they are exonerated by the ACC or a Trial Board.

These frivolous complaints against police officers in Maryland should be removed from an officer's records and not held against them to paint a negative picture of the officer's job performance.

I am hopefully that this Committee will support our men and women in law enforcement and ensure they are vindicated and damaging complaints that are unfounded are removed from their records. I would urge a favorable report of SB 625.

Respectfully Offered,

Sheriff Jeffrey R. Gahler

written testimony for SB625.pdf

Uploaded by: Robert Nitz

Position: FAV



Perryville Police Department

448 Otsego Street, P.O. Box 511 Perryville, MD 21903

*Robert S. Nitz
Chief of Police*

TELEPHONE: 410.642.3725 FAX: 410.642.3724

*Michelle Linkey
Mayor*

February 10, 2025

RE: Written testimony in support of SB 625

To the Committee on Judicial Proceedings,

Please accept this written testimony in support of SB 625; Police Accountability - Investigation Records Relating to Unfounded and Exonerated Complaints. I apologize for not appearing in person to testify; I am currently attending the prestigious FBI National Academy, a training program designed to provide the most professional law enforcement executive services to my agency and residents within my jurisdiction.

I emphatically support this bill not only for the officers under my charge, but for all law enforcement throughout the State of Maryland. Our public safety professionals routinely face adversity when performing their sworn duties in protecting all citizens. Allowing them a mechanism to expunge false and frivolous complaints from their files is only fair and just. Even defendants in criminal proceedings are afforded the right to have their record expunged. All too often, complaints are lodged against officers, just for doing their job. These false complaints are nothing more than a means of retaliation for in many instances, the complainants' bad behavior. I can speak to at least 4 complaints received over the past 12 months that were in fact false and without merit. These complaints were investigated thoroughly and sent to the Administrative Charging Committee for the county, who in turn determined them UNFOUNDED, exonerating the officers. Without the mechanism of expungement, these complaints remain in their file for life and open for inspection.

In no way am I advocating for the dismissal of any sustained complaint, because in the end, not one good police officer wants a bad one around. There merely needs to be a means for vacating the files of our good, dedicated and hard-working officers of these frivolous complaints.

I urge you and the legislative body to take a positive position on this matter and vote favorably, moving this bill forward in the session. Thank you for your time and attention in reviewing this important and necessary piece of legislation.

Professionally,

A handwritten signature in blue ink, appearing to read 'R. Nitz', with a long horizontal flourish extending to the right.

Robert S. Nitz, Chief of Police

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Uploaded by: Travis Breeding

Position: FAV



Senate Bill 625

Support for House Bill 885—Public Safety—Police Accountability—Investigation Records Related to Unfounded and Exonerated Complaints

Position: **FAV**

Date: **February 12, 2025**

To: **Judiciary**

On behalf of the Caroline County Commissioners, we wish to express our **strong support** for **Senate Bill 625—Public Safety—Police Accountability—Investigation Records Related to Unfounded and Exonerated** which ensures that police officers are not unfairly burdened by false or unproven accusations throughout their careers. In small, close-knit communities like Caroline County, law enforcement officers face significant challenges in earning and maintaining public trust, and a baseless complaint should not be allowed to cast a shadow over an officer's reputation indefinitely.

We fully support accountability and transparency in policing, but we also recognize that officers often find themselves in difficult situations where complaints can arise—even when they have acted lawfully and in line with department policy. When an officer is found to be exonerated or a complaint is deemed unfounded, it is only fair that those records be removed from their personnel file after a reasonable period. Without this protection, officers in communities like ours could find their careers permanently impacted by allegations that had no merit.

It is already challenging to recruit and retain dedicated law enforcement officers in rural areas like Caroline County. The prospect of a false or unsubstantiated complaint lingering in an officer's record only makes the profession less attractive, discouraging good officers from staying in the field. By passing HB 885, Maryland will take a balanced approach—one that ensures misconduct is properly recorded but also recognizes that officers should not be haunted by accusations that were disproven.

We appreciate your leadership on this issue and urge you to support HB 885 to help ensure fairness for those who serve and protect our communities.

Sincerely,

J. Travis Breeding, President

SB 625 02-12-2025_SLEOLA_FAV.pdf

Uploaded by: Veronica Bruns

Position: FAV



**State Law Enforcement
Officers Labor Alliance**
542 Ritchie Highway
Severna Park, Maryland 21146



February 12, 2025

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

**Re: SB 625 – Public Safety – Police Accountability – Investigation Records Relating to
Unfounded and Exonerated Complaints – SUPPORT**

Dear Chair Smith:

The State Law Enforcement Labor Alliance (SLEOLA) is the exclusive representative for 1,757 active state law enforcement officers, including the following agencies:

- Maryland State Police
- Maryland Natural Resources Police
- Field Enforcement Bureau
- Maryland State Fire Marshall
- Maryland Capitol Police
- Department of Health Police
- Maryland Vehicle Administration Police
- Department of Public Safety and Correctional Services Intelligence and Investigative Division
- Warrant Apprehension Unit of the Division of Parole and Probation in the Department of Public Safety and Correctional Services

SLEOLA is writing in support of SB 625, which would require the removal of investigation records related to complaints of misconduct from a law enforcement officer's personnel file three years after an Administrative Charging Committee (ACC) or Trail Board has issued a finding that the complaint is unfounded or the officer is exonerated.

SLEOLA believes that it is imperative to maintain a procedure that holds both accountability and fairness in how law enforcement officers who serve and protect our communities are treated. Law enforcement officers, throughout their careers, should be held to the highest standards but should not be unjustly hindered by complaints that have been thoroughly investigated and deemed to have no merit.

SB 625 will ensure that law enforcement officers who have been exonerated or cleared of misconduct allegations maintain a protection on their reputation and professional future. It would

ensure that the record of an allegation, where the officer is found to not be at fault, will not continue to impact their career indefinitely. The proposed three-year time frame provides a reasonable balance between ensuring a thorough investigation and allowing for the restoration of an officer's good standing after a complaint is deemed unfounded or the officer is exonerated.

SB 625 will also help to restore public trust in police accountability and the disciplinary process. It will ensure that an officer's record reflects only relevant and substantiated complaints. This would allow for the public to have more confidence that officers are being held accountable for legitimate and substantiated complaints and findings. While doing this it upholds that officers are still afforded their right to fair treatment and due process; fostering morale and assisting with recruitment and retention of law enforcement officers, which is so needed.

For these reasons, the State Law Enforcement Labor Alliance would like to thank the sponsor of this bill and ask the Committee for a favorable report for this important legislation.

Sincerely,

Brian Gill
President

cc: Members, Senate Judicial Proceedings Committee

MCPA_MSA SB 625 Police Accountability - Investigati

Uploaded by: Samira Jackson

Position: FWA



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr., Chair and
Members of the Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Samira Jackson, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 12, 2025

RE: **SB 625 Public Safety - Police Accountability - Investigation Records Relating to
Unfounded and Exonerated Complaints**

POSITION: **SUPPORT WITH AMENDMENTS**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **SUPPORT SB 625 WITH AMENDMENTS.** This bill requires that complaints regarding misconduct by a police officer be removed from the police officer's personnel record after a finding that the complaint was unfounded or exonerated.

SB 625 is a crucial step toward ensuring fairness and accountability in police oversight while protecting the reputations of officers who have been falsely accused. Under this bill, investigation records related to complaints that are determined to be "unfounded" or where an officer is "exonerated" will be removed from their personnel records after three years. This is a reasonable balance between maintaining transparency in police accountability and preventing officers from being unfairly stigmatized by baseless allegations. Law enforcement officers serve their communities under immense scrutiny, and it is only fair that records of complaints proven to lack merit do not follow them indefinitely, potentially impacting career advancement and public trust.

Furthermore, this bill does not erase accountability; it simply ensures that officers are not burdened with records of misconduct accusations that have been thoroughly investigated and dismissed. The three-year retention period still allows for necessary oversight while preventing long-term harm to an officer's professional integrity. By enacting this legislation, Maryland upholds both due process for law enforcement personnel and the broader goal of maintaining public confidence in police accountability systems. SB 625 is a thoughtful reform that strengthens fairness within the law enforcement community while preserving the integrity of police oversight.

However, MCPA and MSA would like to add clarity to the verbiage within this bill to ensure the statute is clear when speaking to the disposition of an Administrative Charging Committee ("ACC") ruling. The

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technical terms that determine misconduct under Section 3-104(e)(2) of the Police Accountability and Discipline Article is that the ACC will review the investigative file and determine if the officer will be (Section 3-104) **administratively charged or not administratively charged** (emphasis added). This is the only determination required by law. Section 3-104(f) states the ACC may decide that the allegations are unfounded, that the police officer is exonerated, or that there were supervisory failings that led to the misconduct. However, the ACC's **are not required** (emphasis added) to make these extra determinations and some counties are choosing not to as a matter of practice. In some counties, if the ACC can't agree on whether the allegations are unfounded or exonerated, they leave that portion blank. As written, an officer in a county that did not make these determinations or if the determination was a supervisory failing, would not have their record expunged as this bill seeks to do. We believe changing the language for expunging the record to hinge on whether or not an officer is “administratively charged” is cleaner language and more consistent with the purpose of the bill. For these reasons, MCPA and MSA **SUPPORT SB 625 WITH AMENDMENTS** and urge a **FAVORABLE** committee report.

SB625_UNFAV_ACLUMD.pdf

Uploaded by: Dara Johnson

Position: UNF



Testimony for the Senate Judicial Proceedings Committee

February 12, 2025

SB 625 – Public Safety - Police Accountability - Investigation Records Relating to Unfounded and Exonerated Complaints

DARA JOHNSON
INTERIM POLICY
COUNSEL

UNFAVORABLE

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OFFICERS AND
DIRECTORS
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PRESIDENT

DANA VICKERS
SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland strongly opposes SB 625, which would remove “unfounded” or “exonerated” police misconduct investigation records from an officer’s personnel file after three years following a finding by an Administrative Charging Committee or trial board. The result of this would be the broad limitation of public insight into some of the government’s most important and impactful functions, undermining the broad remedial purpose of the Maryland Public Information Act (MPIA) and drawing a veil of secrecy around both the disputed official conduct and the investigation process itself. Such an automatic denial of public transparency would seriously impair pathways for police accountability, standing directly in the face of progress made by this legislature toward building public trust in law enforcement.

As repeatedly emphasized by Maryland courts, public access to government records under the MPIA should be liberally construed in favor of maximal transparency and ease of access. See *Sheriff Ricky Cox v. Am. C.L. Union of Maryland*, 263 Md. App. 110, 126 (2024) (noting “. . . at its core, the MPIA is a disclosure statute that is meant to ensure that the government is accountable to its citizens, and the disclosure the Act requires is a public service that the Act directs government agencies to provide.” (citing *Glenn v. Md. Dep’t of Health & Mental Hygiene*, 446 Md. 378, 384-85 (2016); *Committee for Transit, Inc. v. Town of Chevy Chase*, 229 Md. App. 540, 145 (2016))).

Such open transparency is a proven cornerstone of democracy, and law enforcement investigations are certainly not exempt from the need for scrutiny. As police officers are public servants tasked with some of the most crucial public duties, their conduct constitutes a public service that must remain within public purview, especially when disputed. This legislature has made steps to increase such transparency with the

repeal of the Law Enforcement Officers' Bill of Rights and the passage of Anton's Law in 2021. Both of these major legislative advances strengthen public means for accountability by providing greater access to police personnel records, but would be significantly curtailed by the broad foreclosure of "unfounded" or "expunged" investigation records under SB 625.

While some may argue that records of dismissed or un-sustained misconduct allegations pose no continuing relevance to accountability measures, this contention is simply unsupported by the long history of severe harm by police officers in Maryland that has often gone unchecked by internal disciplinary processes. In 2018, the Maryland General Assembly created the Commission to Restore Trust in Policing, which studied the circumstances that allowed members of the Baltimore City Police Department's (BPD's) former Gun Trace Task Force (GTTF) to carry out gross misconduct without consequence. In its final 2020 report, the Commission shared that only a handful of numerous prior citizen complaints were sustained against the eight GTTF members who were later criminally convicted (and even less disciplinary measures were actually imposed).¹

This lack of internal oversight aligns with the findings of the Department of Justice's prior investigation of BPD, as summarized in its 2016 report:

In part because of the above failures in investigating complaints against officers, BPD allows policy violations to go unaddressed, even when they occur in large number or involve serious misconduct. For example, the most common allegations of policy violation that fall under command investigations level is that officers fail to appear in court.

¹ As noted by the Commission, by March 1, 2017, BPD had logged more than 100 Internal Affairs complaints and more than 60 use of force incidents between 1997 and 2016 that named one or more of the convicted GTTF members, and most included at least one serious citizen complaint like excessive use of force, theft, false arrest, improper search, discourtesy, and harassment. However, by the time of the indictment, only a few of these complaints were sustained: "about 43% were described in BPD's electronic Internal Affairs database, IAPro, as 'administratively closed' or simply 'closed.' Another 37% were characterized 'not sustained.' In another 4%, the officer was 'exonerated' or the complaint was determined to be 'unfounded.'" Maryland Department of Legislative Services. (2020, December 2). *Commission to Restore Trust in Policing Final Report* (pp. 85-86).

<https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnRstrTrustPol/Commission-to-Restore-Trust-in-Policing-Final-Report.pdf>.

The Department's internal affairs database indicates that 6,571 allegations were made that officers failed to appear in court between January 1, 2010, and March 28, 2016. For 1,698 of these allegations, the Department did not record any disposition at all, although a "completed date" has been entered for all but a handful of these incidents, indicating that the investigation has concluded. Additionally, the Department "administratively closed" 1,142 of the cases. Thus, nearly half of these policy violations—43 percent—resulted in no action being taken against the officer for failing to appear in court. Without the arresting or witnessing officer's testimony, many of these cases lack adequate evidence to proceed, and are dismissed.²

Such unchecked misconduct has included direct harm against the most vulnerable communities, who can be left without any redress.³

Although legislative reforms such as Anton's Law have helped provide access to some of the information needed to raise misconduct independent of any flawed internal processes, persistent systemic issues continue to highlight the need for public insight into the overall investigative process itself, as well as the disputed conduct. For example, while SB 625 would establish an Administrative Charging Committee (ACC) finding as one starting point for the three-year waiting period before an "unfounded" or "exonerated" investigation record would be removed, the limited time available for ACC review can yield findings that are not supported by full and proper consideration.⁴

² U.S. Department of Justice, Civil Rights Division. (2016, August 10). *Investigation of the Baltimore Police Department* (pp. 149- 151).
<https://www.justice.gov/archives/opa/file/883366/dl?inline>.

³ In one of several egregious examples, the DOJ uncovered a complainant, who alleged that two BPD officers fondled her when conducting a search and called her a "junkie, whore b*tch." The woman's complaint went uninvestigated for so long that by the time the investigator contacted the first witness, the complainant had died. As a result, that complaint was found not sustained. (*Investigation of the Baltimore Police Department*, 2016, p. 143).

⁴ For example, in Baltimore, "Of the roughly 1,000 cases the [Baltimore administrative charging] committee has reviewed, nearly half of them were received within 15 days of their expiration, according to city data." (Conarck, B. (2024, December 2). *Frustrations With Civilian Oversight of Baltimore Police are Boiling Over*. The Baltimore Banner.
<https://www.thebaltimorebanner.com/community/criminal-justice/police-accountability-board-independence-O5ZFCTAPK5EA5DYHS3NNB2DHOM/>)

Given the three-year waiting period imposed by SB 625, some may assert that this is sufficient time to pursue any available remedies to address any unchecked misconduct evidenced within an “exonerated” or “unfounded” misconduct investigation record. However, these public records remain significant sources of information well after this three-year mark, as they can reveal patterns of conduct relevant to law enforcement hiring decisions, witness credibility determinations, and factual research into any longstanding pattern or practice of misconduct within a law enforcement agency. Especially considering the high level of public responsibility entrusted to police officers, the barriers imposed by SB 625 would significantly impede needed mechanisms for transparency, ultimately rolling back progress made toward fostering a more accountable policing system in Maryland.

For the foregoing reasons, we oppose SB 625.

This has led to many cases being either administratively closed without any determination of whether misconduct occurred, or even dismissed even when misconduct was found to have occurred. See, e.g., *Balt. Police Dep’t v. Brooks*, 247 Md. App. 193 (Ct. Spec. App. 2020) (dismissing charges against officers in 15 cases because charging documents were not signed until more than one year after the incidents came to light, even though the charges were approved within the deadline).

SB625.pdf

Uploaded by: Deborah Levi

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 625 - Public Safety – Police Accountability – Investigation Records
Unfounded and Exonerated Complaints

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 12, 2025 (JPR)

The Maryland Office of the Public Defender respectfully requests that this Committee issue an unfavorable report on Senate Bill 625, which requires that all investigation records relating to a complaint of misconduct by a police officer be removed from the police officer's personnel record 3 years after an administrative charging committee or a trial board issues a finding that the complaint is unfounded or exonerated.

Senate Bill 625 will obstruct any progress in policing reform in Maryland because (1) administrative charging committees (ACCs) have yet to be successfully implemented across the State; (2) many of the committees are backlogged, not properly trained, and delayed, resulting in inadequate conclusions; and (3) amending the law to allow for expungements would authorize the destruction of potential impeachment material, which is required by law to be preserved and disclosed in criminal cases.

While the Police Accountability Act of 2021, which provides for the establishment of administrative charging committees, is nearly four years old, Maryland has been slow to fully staff the committees or properly train its members. *See* William J. Ford, Rollout has been uneven for accountability boards required by 2021 police reform effort, Md. Matters, May 1, 2023. As the Capital News Service revealed just last year, “roughly a quarter of Maryland jurisdictions did not get their police oversight systems up and running before the July 2022 deadlines set by state lawmakers. The new oversight bodies in Baltimore City, along with Dorchester, Cecil and Kent Counties, did not meet until 2023.” Paul Kiefer, Legal gray areas hinder police watchdogs, Md. Matters, May 8,

2024. In the four years since “state lawmakers celebrated the passage of the Maryland Police Accountability Act, the rollout of the new police oversight systems has proven slow, inconsistent and rife with disagreements about how to implement the new oversight process - challenges that frustrate critics and administrators alike.” *Id.*

And in jurisdictions where ACCs did get off to a timely start, some charging committees have been hampered by local police departments who delay providing committees with enough information to determine whether misconduct has occurred. More specifically, when determining whether misconduct has occurred, administrative charging committees are not authorized to complete their own investigations. Rather, they rely on the local police department to conduct the investigation for them, and when the committee needs more information, they are at the mercy of the local police department to gather that information. This process has resulted in incomplete, ineffective and untimely investigations in Baltimore City: “According to two members of the five-person ‘administrative charging committee,’ the group has been receiving documents, either new or updated, from the Baltimore Police Department just as the misconduct cases are set to expire, leaving little time for a thorough and thoughtful review. Of the roughly 1,000 cases the committee has reviewed, nearly half of them were received within 15 days of their expiration, according to city data.” Ben Conarck, Frustrations with civilian oversight of Baltimore police are boiling over, *Balt. Banner*, Dec. 2, 2024.

When information from the police department is delayed, ineffective and incomplete investigations result, leading to findings that are not reliable:

The cases are often complex. One that was reviewed last week involved eight officers, two different events, a variety of allegations, and body-worn camera footage that was not yet available for viewing, civil rights attorney and committee member Jesmond Riggins said. The night before the committee was set to meet and discuss the case, Riggins said the Police Department changed the investigative report, altering a “disposition” for one of the allegations against an officer who was previously listed as exonerated. That officer was now found to have committed an improper search, Riggins said.

As the committee attempted to parse out the different officers and allegations at its weekly meeting the next day, ‘none of us were able to go through all of the evidence ourselves to develop a solid opinion,’ Riggins said. ‘It was just too much at one time.’

Ben Conarck, Frustrations with civilian oversight of Baltimore police are boiling over, Balt. Banner, Dec. 2, 2024.

In addition to the challenges that result from charging committees having to gather additional information from local police departments, administrative charging committees have to base their decisions on the local police department's internal investigation, which can be woefully inadequate. For example, after a thorough investigation into the internal affairs division of the Baltimore Police Department (BPD), the United States Department of Justice (DOJ) concluded that Baltimore's internal affairs division is incapable of reviewing, investigating, and following up on misconduct: "For years, the Department's process of investigating and adjudicating complaints has been plagued by systemic failures, including: discouraging individuals from filing complaints; poor investigative techniques; unnecessary delays; minimal review and supervision; and a persistent failure to discipline officers for misconduct, even in cases of repeated or egregious violations." United States Department of Justice, Investigation into the Baltimore Police Department, Aug. 2016, at 140-150, available at https://www.justice.gov/d9/bpd_findings_8-10-16.pdf. The DOJ further concluded that the BPD "fails to investigate complaints in a timely manner or with effective techniques; that it uses "ineffective methods to investigate misconduct allegations;" it "fails to adequately supervise investigations;" and it fails to "consistently sustain complaints." See *id.* at 145-150 available at https://www.justice.gov/d9/bpd_findings_8-10-16.pdf.

The same DOJ report resulted in the BPD entering into a federal consent decree, which is *still ongoing* and from which the Baltimore Police Department has not been released. In other words, there has not been a determination by the federal court that BPD's internal affairs system has developed into a reliable and trustworthy system. As a result, it is not yet time to allow for, yet alone require, "unfounded" complaints to be expunged from a law enforcement officer's record before there is complete certainty about the effectiveness and quality of the underlying investigations.

Further, and arguably more importantly, Maryland law requires prosecutors to provide defense counsel with impeachment material, *in any form*, whether or not admissible, that tends to impeach a state's witness, negates or mitigates a defendant's guilt, or could "lead to the discovery of usable evidence at trial." *Fields v. State*, 432 Md. 650, 670 (2013) (quoting *Zaal v. State*, 326 Md. 54, 88 (1992)); see also *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995); *Giglio v. U.S.*, 405 U.S. 150 (1972); *U.S. v. Agurs*, 427 U.S. 97 (1976); *Thomas v. State*, 372 Md. 342 (2002); *Goldsmith v.*

State, 337 Md. 112 (1995); *Lyba v. State*, 321 Md. 564 (1991); Md. R. 4-263; 4-262; and 11-418; While a complaint may be deemed unfounded by an internal affairs division of a local police department, that does not make that information undiscoverable in a criminal proceeding, particularly where there is not always confidence in the manner in which the underlying investigation was conducted. Put simply, this body, composed of several officers of the Court, would be reaching too far to authorize the destruction of evidence that may qualify as impeachment or discoverable material.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an UNFAVORABLE report on Senate Bill 625.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

**Authored by: Deborah Katz Levi, Esq.
Chief of Strategic Litigation,
Baltimore City
Deborah.Levi@maryland.gov**

SSJC Testimony in Opposition to SB 625 - Deletion

Uploaded by: Robert Landau

Position: UNF



TESTIMONY IN OPPOSITION TO SB 625
Senate Judicial Proceedings Committee, February 12, 2025

Submitted by:

Robert Landau

Silver Spring Justice Coalition

Gaithersburg, MD 20878

RLandau806@gmail.com

My name is Robert Landau, a resident of Gaithersburg, in District 17. I am testifying on behalf of the Silver Spring Justice Coalition in opposition to SB 625.

Introduction of SSJC

The Silver Spring Justice Coalition (SSJC) is a coalition of community members, faith groups, and civil and human rights organizations from throughout Montgomery County committed to eliminating harm caused by law enforcement officers, establishing transparency and accountability for officer conduct, and redirecting public funds toward community needs. We have been one of the moving forces in the creation of the PAB, ACC, and trial boards in Montgomery County, and we have filed numerous MPIA requests for officer personnel records..

Our Opposition to SB 625

In furtherance of our work on police accountability in Montgomery County and across the state, we oppose SB 625 because police accountability is more than just incidents that result in disciplinary action. Taxpayers and persons who live in Maryland deserve to know when complaints have been brought against law

◆ silverspringjustice.wordpress.com ◆ Facebook: ssjusticecoalition ◆ Twitter: @SilverCoalition ◆

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enforcement officers. Eliminating all evidence of a 3-year old exonerated or unfounded complaint will make it impossible to track allegations against individual officers and officers in particular law enforcement agencies.

We fundamentally disagree with the premise of the bill, which is that ACC decisions are infallible. While ACC decisions are determinative in any particular complaint, those of us who closely monitor ACC decisions are not yet convinced that ACC exonerations or unfounded decisions are always a complete and accurate analysis of the facts. In fact, in our review of five of the largest county's PAB annual reports, only one PAB report itemizes the allegations and ACC decision for each complaint. Without that level of PAB reporting, communities across the state have no way of knowing whether this experiment with civilian empowerment and police accountability is working. We cannot accept on blind faith that an ACC finding of exoneration or unfounded means that the officer's conduct was beyond reproach.

Another reason to reject this bill is that a complaint must remain accessible to internal investigators when they are investigating a new complaint (whether initiated internally by the agency or externally by a civilian). For example, if an officer is the subject of a second, third, or subsequent complaint about their misuse of force, it may be relevant to the investigators and to the ACC to have access to even an exonerated or unfounded prior complaint to provide a fuller context to the officer's conduct. The idea that conduct that is three years old is magically irrelevant is simply wishful thinking by those who seek to limit police accountability.

A concerning pattern of an officer's conduct should and must consider all complaints in order to determine whether an officer's conduct warrants discipline or training or personal assistance. An exonerated or unfounded complaint that is more than 3 years old may still be valuable in helping an officer with a problem such as substance abuse that could impact their personal and professional conduct.

Let's consider what exactly an exonerated or unfounded complaint does and does not mean. An officer's conduct may be exonerated as a matter of a technicality – for example, an agency policy is vague or imprecise about an officer's conduct, or perhaps the agency policy neglects to address a certain conduct, which may be corrected in subsequent policy. Note also that the ACC is not expected to make recommendations for agency policy changes – that is typically the responsibility of the PAB, which may, or may not, have enough information about an exonerated complaint to make a recommendation for a policy clarification or change. To that end, if exonerated and unfounded complaints are purged, the PAB and the public (through MPIA requests) will not be able to look, longitudinally, for incidents or patterns of conduct that warrant remediation.

Lastly, this bill thwarts the good work the General Assembly did when you enacted Anton's Law in 2021, as part of a package of police accountability reforms. Anton's Law expressly gives the public access to officer personnel records, subject to certain limitations. SB 625 effectively truncates the public's access to officer records that are more than three years old. The Committee should not roll back the progress and public protections previously enacted.

We urge an unfavorable report on SB 625.