

Ditz_FAV_SB829

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Position: FAV

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March 4, 2020

TESTIMONY IN SUPPORT OF SB829

TO: Chair, William C. Smith, Vice Chair, Jeff Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Toby Ditz

I wrote the following testimony before I saw the fiscal note. Now that I have, I still strongly support SB 829. But let me first respond to the note. Supporters of police reform in Baltimore want people in our city to be able to speak about what happened when we settle civil suits concerning police misconduct cases. This is as true of the Johns Hopkins University Police Department as of the Baltimore PD or any other police entity operating in Baltimore. Whatever you call it technically, the JHU Police Department, and others like it, is a law enforcement agency authorized by state legislation that has powers of arrest and to use lethal force. The legislature should work out the legally appropriate language to encompass such entities.

I have been following police reform in Baltimore City and monitoring closely the creation of the Johns Hopkins University Police Department.

In all honesty, I opposed the enabling legislation that created the JHU police department, and one major reason I and others did is especially relevant to today's hearing. Accountability, and its twin, transparency, are cornerstones of police reform. Yet, the existence of several police departments within the City of Baltimore does make it harder to implement needed reforms uniformly; overlapping jurisdictions and competing lines of authority also make it harder for Baltimoreans to exert effective oversight over the police in their city.

A significant case in point—and the reason we are here today—concerns the recent Baltimore City Council legislation that prohibits the use of nondisclosure agreements (NDAs) in the settlement of police misconduct cases. Advocates of community driven policing in Baltimore supported this legislation as essential to police accountability and to rebuilding trust between Baltimoreans and the police.

As I understand it, however—and I hasten to add I am *not* a lawyer—this City Council ordinance does not cover all police departments that have jurisdiction in Baltimore City. It certainly does not cover a private University Department, like JHU's—and it may not extend to any of the departments associated with schools of higher education in the City. It covers only "city officials," "city employees," Baltimore City police officers, and city "agencies," including a few specifically enumerated entities. ([Council Bill 19-0409](#)).

So where does that leave us? This major reform covers only some law enforcement agencies in Baltimore City, and it protects city residents only some of the time—depending on which police officers they encounter!

Absent action by the state legislature, we would have to rely on the Police Commissioner and, in the case of Johns Hopkins, for example, on University officials to incorporate into their Memorandum of Understanding a policy that mimics the City Council legislation. But, of course, we have no certainty—and some reason to doubt—that they will do so. People who work and study on campus or live within JHU's patrol boundaries will, then,

not necessarily have the same freedom to talk about their settlements as Baltimoreans located across town.

We need this legislation to help ensure that all Baltimoreans have similar rights and powers vis-à-vis the police in their City.

I urge you to report favorably on SB829.

CoryMcCray_FAV_SB829

Uploaded by: Senator McCray, Senator McCray

Position: FAV

CORY V. MCCRAY
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Budget and Taxation Committee
Capital Budget Subcommittee
Health and Human Services Subcommittee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Vote Yes on Senate Bill SB 829

Bill Title: Baltimore City - Civil Claim Against Private Police - Prohibition Against Nondisclosure Provision in Settlement Agreement

Hearing Date: March 4, 2020 at 12:00 p.m.

Chair: Senator William C. Smith, Jr

Vice Chair: Senator Jeff Waldstreicher

I write to you today in **support** of Senate Bill 829. This bill will prohibit usage and enforcement of confidentiality and nondisclosure provision in settlement agreements involving Officers of an Institution of Higher Education.

A claim or a suit filed involving misconduct by a law enforcement officer who is employed by an Institution of Higher Education shall not be required by the court to execute a confidentiality agreement or anything similar to a nondisclosure agreement.

In an effort to allow parties involved in a police misconduct dispute to share their story, we hope that you will move for a **favorable** report of Senate Bill 829.

Respectfully,

Cory V. McCray
State Senator

CORY V. MCCRAY
Legislative District 45
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Budget and Taxation Committee

Capital Budget Subcommittee
Health and Human Services Subcommittee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Cynthia Gross_FAV_SB829

Uploaded by: Senator McCray, Senator McCray

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March 4, 2020

Testimony in Support of SB829

To: Chair, William C. Smith, Vice Chair, Jeff Waldstreicher, and members of the Judicial Proceedings Committee

From: Cynthia D Gross

Good afternoon, my name is Cynthia Gross and I am a lifelong resident of Baltimore City. My family and I have lived in the same homes, on the same block for over 40 years and I my residence is currently within the 46th legislative district.

In 2019, the Baltimore City Council unanimously passed the Transparency and Oversight in Claims and Litigation ordinance. This ordinance, from my understanding, prohibits the inclusion, use and/or approval of nondisclosure agreements, by City employees, officials and agencies, including the Board of Estimates, in the settlement of police misconduct/alleged misconduct cases. This ordinance was/is seen by many City residents, including myself, as a step forward in creating a more transparent and accountable City government. The City ordinance, no longer restrains the victim's freedom of speech, and facilitates the healing process. Thanks to the Transparency and Oversight in Claims and Litigation ordinance, victims in police misconduct cases will be able to seek professional help, discuss their pain/trauma and join support groups, without fear of financial retribution and compounded trauma.

It is my assessment, that Senate Bill 829 (SB 829), seeks to maintain a level of accountability, transparency and healing that Baltimore City residents lobbied, fought for and received with the Transparency and Oversight in Claims ordinance enacted by the Baltimore City Council. By extending the prohibition against the use of nondisclosure agreements, in civil claims, to police employed by institutions of higher learning, operating within Baltimore City boundaries, SB 829 builds on the actions of the Baltimore City Council to move the City forward. The citizens and residents of Baltimore City should not have to forgo basic liberties, if they are involved in civil case, involving police misconduct, committed by officers employed by institutions of higher learning. I urge this committee and this legislative body to vote in favor of SB 829. Thanks

PresidentBrandon Scott_fav_sb829

Uploaded by: Senator McCray, Senator McCray

Position: FAV



Brandon M. Scott
President
Baltimore City Council

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SB 829

March 4, 2020

TO: The Honorable Members of the Senate Judicial Proceedings Committee

FROM: The Honorable Brandon M. Scott, President of the Baltimore City Council

RE: SENATE BILL 829 – Baltimore City – Civil Claim Against Private Police
– Prohibition Against Nondisclosure Provision in Settlement Agreement

POSITION: SUPPORT

I write to you in support of Senate Bill 829. This important bill will prohibit the use of nondisclosure agreements in misconduct settlements against a law enforcement officer of a private law enforcement agency in Baltimore City.

Since I was first elected to public office in 2011, I have been an outspoken and steadfast advocate for police transparency and accountability. My work has focused on improving transparency of the Baltimore Police Department and ensuring that residents have the tools they need to hold the department accountable. As Council President, last year, I co-sponsored and ensured the passage of Baltimore City law **19-0409 Transparency and Oversight in Claims and Litigation**. This law prohibits the use of nondisclosure agreements, also known as gag-orders, in settlement agreements relating to police misconduct in the Baltimore Police Department. In addition the U.S. Court of Appeals for the 4th Circuit found the use of nondisclosure agreements in Baltimore's legal settlement agreements for police misconduct cases to be an unconstitutional violation of free speech. There is clear precedent in Baltimore City prohibiting nondisclosure provisions from legal settlement agreements. This bill would ensure that misconduct agreements with private law enforcement agencies would follow the same laws as Baltimore City and the BPD.

I sponsored and passed the "Transparency and Oversight in Claims Litigation" in Baltimore City to protect the free speech of our residents who find themselves in situations of police misconduct. No one who has experienced police brutality should be forced to stay silent. This is why I advocated to prohibit nondisclosure agreements in Baltimore City legal agreements and this is why I support SB 829. This bill will ensure transparency and accountability of private law enforcement in Baltimore City. It is also necessary to allow residents to utilize their constitutional rights of free speech should they experience police brutality or misconduct.

As this bill will provide needed transparency for private law enforcement in Baltimore City, I urge you to move for a favorable report on Senate Bill 829.