



# BALTIMORE POLICE DEPARTMENT



**Brandon M. Scott**  
Mayor

**Michael S. Harrison**  
Police Commissioner

TO: The Honorable Members of the House Judiciary Committee

FROM: Michelle Wirzberger, Esq., Director of Government Affairs, Baltimore Police Dept.

RE: Senate Bill 627 Law Enforcement Officers' Bill of Rights - Repeal and Procedures for Discipline

DATE: March 25, 2021

## **POSITION: SUPPORT WITH AMENDMENTS**

Chair Clippinger, Vice-Chair Atterbeary, and members of the Committee, please be advised that the Baltimore Police Department (BPD) **supports with amendments** Senate Bill 627.

Senate Bill 627 repeals the current version of the Law Enforcement Officers' Bill of Rights and replaces it with a universal system for discipline that ensures consistency amongst agencies across the state of Maryland.

The Baltimore Police Department strongly supports a system of discipline that is fair, provides for due process but also empowers the head of the law enforcement agency with the ability to take the swift disciplinary action that his/her constituents expect and deserve when an officer fails to act in accordance with policy, training and/or law. We believe that this bill, with the amendments discussed below, allows a Chief to take responsible action and ensures that agencies are not required to continue to break the public trust by continuing to pay and/or employ law enforcement officers who have demonstrated an extreme lack of respect for the sanctity of life and/or a flagrant failure to comply with law.

By in large, this bill has a number of important components that the Department strongly supports such as the following elements:

- It mandates that a collective bargaining agreement may not be inconsistent with the provisions of the bill. This ensures that discipline is consistent amongst all agencies which will ensure that agencies can hold officers accountable for any misdeeds;
- The bill indicates that both law enforcement officers and civilians would be empowered to conduct misconduct investigations. This would allow the BPD to hire civilians, with proper training, to help address the Department's misconduct backlog;

- The bill specifies that a hearing board will be comprised of 2 civilians and 1 sworn member of higher rank than the one who is the subject of the disciplinary action. By establishing that the majority of the hearing board is made up of civilians, this ensures that the public has a direct impact on how discipline is enacted in their community and bears responsibility for holding officers accountable who violate community expectations of fairness and decency.

There are similarly a number of elements within the bill that we believe can be improved upon so as to establish a disciplinary process that is fair, free of bureaucratic red tape and that empowers the Chief to take the appropriate and swift disciplinary action that the public expects when an officer violates law, policy or training. To that end, we support the following amendments:

## **1. TERMINATION UPON CONVICTION**

### *a. Current Language in the Bill:*

Section 3-105 which starts on page 9, line 1, allows a Chief or his/her designee to take disciplinary action against an officer who has been convicted of or received probation before judgment without conducting an investigation or a hearing if the criminal offense was:

- Committed in the execution of the officer's duties; or
- Bears on the officer's credibility, integrity, or honesty and
- The misconduct for which the officer is subject to discipline relates to the criminal offense for which the officer was convicted or received probation before judgement.

### *b. Proposed Language:*

We believe that this section would be better served if it were amended to provide the Chief with discretion to terminate in instances when the officer has been convicted of or received a PBJ for:

- a felony
- a misdemeanor committed in the performance of duties as an officer
- a misdemeanor related to domestic violence; or
- a misdemeanor involving dishonesty, fraud, theft, or misrepresentation.

## **2. EMERGENCY DISCIPLINE**

### *a. Current Language in the Bill:*

Page 18, section 3-109 provides that a Chief may suspend an officer without pay and suspend his/her police powers if he/she is charged with a crime. It also allows a Chief to suspend an officer with pay on an emergency basis if the suspension appears to be in the best interest of the public and the law enforcement agency.

### *b. Proposed Language:*

While we wholeheartedly support the provisions already in the bill, it does not provide the Chief the discretion to immediately fire of officer in extraordinary circumstances. For instance, under the current language, in the case of Derek Chauvin, the officer who killed George Floyd by kneeling on his neck for a sustained amount of time, the Chief would have to wait until he was charged with the killing to even suspend without pay. The killing of George Floyd was so blatant and heinous that the only appropriate course of action was to immediately fire Gauvin. We ask that you appropriately empower MD Chiefs by adding the following language:

- i. On page 18, line 15, after the word may, add “**TERMINATE OR**” to allow the Chief or his/her designee to immediately terminate or suspend an officer without pay once he has been charged with the above listed crimes; and
- ii. On page 18, line 22, add a new section (D) that says: **A CHIEF MAY IMMEDIATELY TERMINATE AN OFFICER PRIOR TO CHARGING IF THE OFFICER HAS COMMITTED A CRIMINAL OFFENSE THAT IS SO EGREGIOUS AND APPARENT AS TO SHOCK THE CONSCIENCE, THERE IS VIDEO EVIDENCE OF THAT CRIME AND TO TERMINATE WOULD BE IN THE BEST INTEREST OF THE PUBLIC AND THE LAW ENFORCEMENT AGENCY.**

### **3. OFFICER’S REQUEST TO MEET WITH THE CHIEF/DESIGNEE PRIOR TO HEARING BOARD**

a. *Current Language in the Bill:*

The bill provides that upon receiving notice of each offense for which the officer is subject to discipline, the possible disciplinary action that may be imposed and the proposed disciplinary action for each offense, an officer may request a meeting with the Chief of the Chief’s designee. The Chief or the Designee must participate in the meeting to consider the officer’s objections to the investigative findings, additional evidence and mitigating circumstances.

b. *Proposed Language:*

- i. The entirety of Section 3-106 should be deleted as the meeting with the Chief or the Chief’s designee proposed in this section is completely unnecessary as all of the items to be discussed with the Chief/Designee, would be presented in a hearing board.

Moreover, for those agencies with a high volume of misconduct cases, this requirement would demand substantial time and resources. For instances, in Baltimore, we anticipate that should this new obligation go into effect, the agency would be required to hold approximately 450 meetings with officers subject to discipline. There is no value added to the process by slowing down discipline with this requirement.

- ii. To ensure that the process moves smoothly, we propose adding the following language to establish a time period in which the officer must be required to indicate whether or not he/she accepts the proposed discipline or would like to have a hearing board:

At the beginning of Section 3-107, add this as the new section (A):

**(A) WITHIN 10 BUSINESS DAYS AFTER RECEIVING THE DECISION TO IMPOSE DISCIPLINARY ACTION, THE OFFICER SHALL ELECT, IN WRITING, WHETHER TO ACCEPT THE PUNISHMENT IMPOSED OR REQUEST A HEARING BOARD.**

**4. MARYLAND POLICE TRAINING & STANDARDS COMMISSION (MPTSC)**

a. *Current Language in the Bill:*

The bill incorrectly indicates that MPTSC will administer various trainings when, in practice, MPTSC reviews proposed training modules prepared by the local law enforcement agency and approves it for form and function. Then, the local law enforcement agency actually administers the training and indicates which officers received the training and when.

b. *Proposed Language:*

So, we request that you replace the word ADMINISTERED with APPROVED in the following locations: on page 9, line 32 and page 14, line 1.

**5. COMPENSATION OF CIVILIAN MEMBERS OF THE HEARING BOARD**

a. *Current Language in the Bill:*

The bill expressly prohibits the compensation of civilians who serve on hearing boards but are entitled to reimbursement for expenses.

b. *Proposed Language:*

The BPD has developed and implemented a thorough training program that prepares residents to serve on trial boards. To be eligible to serve, they must complete 40 hours of classroom training by BPD and outside legal experts and 20 hours of a ride-along program. To ensure that eligible residents are not deterred from participating due to the extensive time commitment, we provide the following stipends: \$500 upon completion of the required training. For participation on trial boards, residents receive: \$100 for 0-4 hours, another \$100 for 4:01-8 hours, and then \$50 an hour after 8 hours with a maximum of \$300/day. Therefore. We request the following amendment:

We request that you change page 14, lines 9-10 to read:

**MAY RECEIVE A STIPEND FOR COMPLETING TRAINING REQUIRED IN SECTION 1 OF THIS SECTION AND FOR SERVING AS MEMBERS OF THE HEARING BOARD.**

**6. WITNESS FEES**

a. *Current Language in the Bill:*

The bill requires law enforcement agencies to pay witness fees, mileage, and the actual expenses necessarily incurred for securing the attendance of witnesses which would be entirely too costly for most agencies. Moreover, the officer who is the subject of the disciplinary action, should be required to bear the cost of his/her own defense.

b. *Proposed Language:*

We request that page 16, lines 13-17 be deleted.

## 7. APPEALS

To create the right of appeal to emergency discipline discussed provided for in section 3-109 and to establish a timeframe in which the appeal must be file, we request you add the following language:

- a. On page 21, line 24 by deleting OR right after §3-106 and add “**OR § 3-109**” immediately after § 3-107.
- B. On page 21, line 25 Add: **SUCH APPEAL MUST BE FILED WITHIN 10 BUSINESS DAYS AFTER RECEIVING THE DECISION THAT IS BEING APPEALED.**

The Baltimore Police Department firmly believes that the amendments proposed within the body of this letter will make the disciplinary system proposed by Senate Bill 627, fair, transparent and effective in rooting out those officers who engage in heinous incidents and thereby allowing all law enforcement agencies to strengthen their relationships with the residents they serve.

Therefore, the Baltimore Police Department respectfully requests a **favorable with amendments** report on Senate Bill 627. Thank you for allowing us to comment on this important piece of legislation. If you should have any questions, feel free to reach me at [michelle.wirzberger@baltimorepolice.org](mailto:michelle.wirzberger@baltimorepolice.org) or via telephone at 443-915-3155.