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The Honorable Luke Clippinger
Chairman, House Judiciary Committee
House Office Building, Room 101
Annapolis, Maryland 21401

Re: HB 430 – Police Immunity and Accountability
(Support in Concept)

Dear Chairman Clippinger,

I write in strong support of holding police officers accountable when they violate an individual's constitutional rights. I also believe that those who are harmed by such unconstitutional conduct should have recourse to vindicate those rights and be compensated for their harms. Indeed, while serving in Congress, I voted for the George Floyd Justice in Policing Act to support the elimination of federal qualified immunity.

To this end, I support the goal, embodied in House Bill 430, of allowing Marylanders to bring suits for damages when their constitutional rights have been violated. I also support eliminating qualified immunity in state courts as either a shield against accountability or a bar to compensation.¹ Government employees should not be immune from liability for their actions that violate constitutional rights and harm Marylanders.

At the same time, I believe that it should be government employers who are held liable for payment of damages rather than individual employees. Exerting greater leverage over those who control the conduct of individual employees will be more effective in achieving systemic change. Employers forced to pay damages for the unconstitutional actions of their employees will have incentive to adopt best practices in hiring, training, disciplining, terminating, and administering policies and protocols. They will also be motivated to ensure that individual employees found to violate these standards face termination or other consequences.²

¹ Maryland may not eliminate qualified immunity as a defense to actions in federal courts, since the immunity is a federal doctrine created by the Supreme Court in *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).

² While the potential increase cost to State Government should be a minor consideration regarding the merits of House Bill 430, I must note that the Bill would result in a greater number of actions filed against government officials in state court, and these cases would involve more protracted litigation. As such, the Office of the Attorney General would require additional resources to handle this increase in litigation.

The State's current legal framework attempts to strike a balance between holding police officers and other government actors accountable, while also standing behind the thousands of officers and other government employees who lawfully and diligently perform essential functions and provide critical services upon which we all depend. Yet the relentless repetition of tragedies in which disproportionately Black and Brown individuals are harmed by police officers acting under color of state law demands change and greater accountability. We should allow those whose constitutional rights are violated to hold the responsible government actors accountable in state court without the protective shield of qualified immunity, and they should receive compensation for the harms they have suffered.

Sincerely,



Anthony G. Brown

cc: Judiciary Committee Members