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MAYOR

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HB 853

March 7, 2023

TO: Members of the House Judiciary Committee
FROM: Nina Themelis, Interim Director of Mayor's Office of Government Relations
RE: House Bill 853 - Baltimore City – Control Over Powers of Police Commissioner
POSITION: **SUPPORT WITH AMENDMENT**

Chair Clippinger, Vice Chair Moon, and members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports with amendment** House Bill (HB) 853.

HB 853 repeals a prohibition on certain Baltimore City ordinances or acts of certain municipal officials from conflicting, impeding, obstructing, hindering, or interfering with the powers of the Baltimore City Police Commissioner; and generally relating to the Baltimore City Police Commissioner. It specifically deletes the last provision of Article II, Section 27 of the Charter of Baltimore City.

There is a long history of the jurisdiction and control of the Baltimore Police Department (“BPD” or “The Department”). The BPD initially was established as an instrumentality of the City of Baltimore. However, by the 1850s, the “Know-Nothing Party” took political control of Baltimore City, opposing the pro-slavery Democratic party, and stacking the Department with loyal followers. Following bloody elections in 1856 which saw police officers involved in the violence, the State of Maryland then seized control of the Baltimore Police Department in 1860 in an effort to stem further violence and corruption. For more than 160 years, the State has maintained control over BPD.

There were several efforts over the ensuing decades to restore control of its police department back to the City of Baltimore, much like every other jurisdiction in the State. While those efforts were unsuccessful, in 1976, the General Assembly returned the Mayor's power to appoint the Police Commissioner while simultaneously keeping the Department as an instrumentality of the State. While the Office of the Mayor exercised a large amount of discretion and control over the BPD after this change, efforts to legislate, and at times even conduct proper oversight, by the City Council were stymied by the BPD's status as an instrumentality of the State.

Subsequently, in the 2021 General Assembly Session, Mayor Brandon Scott pushed legislation that was sponsored by Senator Cory McCray and Delegate Melissa Wells that returned control of the BPD back locally to the City of Baltimore. The legislation made local control contingent upon passage of amendment to the City Charter that was ratified by the voters as well as established the Local Control Advisory Board (LCAB). The LCAB ultimately recommended language for the Charter Amendment that became “Question H” on the

November 8, 2022 ballot. The ballot measure passed overwhelmingly with 82.76% of the voters voting in favor of the amendment.

While the BPD is now officially an instrumentality of the City, addressing the language of Article II, Section 27 of the City Charter represents the final step and culmination of the work that has been going on for more than a century. Notwithstanding, there had a been a desire to delay the repeal of this provision until 2024, in order to give the LCAB and ultimately the City Council time to create the structure of the and organization of the BPD in local code.

Since that time there have been a couple updates that have affected that position. First, it is the opinion of the City Law Department, that the provisions of the Public Local Law that currently governs the BPD, will remain in place until repealed (in whole or in part) by the Baltimore City Council. Second, at a recent meeting of the LCAB it been decided by acclimation that there need not be any substantive change structurally to how the BPD is currently organized. Given these two updates, we believe that we can move forward immediately with local control. However, after internal discussions, we believe that Article II, Section 27 should be preserved but qualified in order to provide for the appropriate balance between the legislative oversight of the Council and the executive management of the Department.

In the wake of the Gun Trace Task Force Scandal, BPD and the City commissioned an outside review by the firm Steptoe & Johnson and led by former Department of Justice Inspector General Michael R. Bromwich. The report issued in January 2022 was the product of a two-year investigation into the origins and causes of GTTF, and was accompanied by recommendations that would help prevent such a scandal from occurring again. One of the recommendations in particular is critically germane to the debate around SB758 and the language contained in Article II, Section 27. Recommendation No. 25 of that report, the last recommendation in fact, reads:

“BPD Commissioners should be provided with the latitude to run the Police Department with minimal operational interference from elected officials. Under no circumstances should elected officials become involved in investigative and personnel matters.”

There are two other relevant excerpts that should be highlighted to expound upon that recommendation in more detail:

“Mayors and other top city officials have a legitimate and compelling interest in dealing with the full range of public safety issues and, along with BPD leadership, in formulating the broad strategy for addressing crime and criminal justice issues. In addition, the mayor, with the advice and consent of the City Council, makes choices about public safety and crimefighting strategies through the selection of BPD commissioners.”

“But city officials should not involve themselves in internal BPD management issues, personnel matters, or officer discipline. BPD commissioners and their top deputies should be given the authority and independence to manage the Department as they see fit. Such authority and independence are critical to the stature and reputation of any law enforcement agency and central to ensuring BPD members and the Baltimore communities they serve that law enforcement functions are being handled professionally and without political interference.”

We believe that adhering to this recommendation and concept is not only crucially important to avoiding further scandal, but also simple best practice in actually running the Department. Therefore, we propose keeping the aforementioned provision, striking the brackets contained on lines 2 and 5 of page 2 of the bill, and adding the following qualifying language below.

“To have and exercise within the limits of Baltimore City all the power commonly known as the Police Power to the same extent as the State has or could exercise that power within the limits of Baltimore City; provided, however, that no ordinance of the City or act of any municipal officer, other than an act of the Mayor pursuant to Article IV of this Charter, shall conflict, impede, obstruct, hinder or interfere with the powers of the Police Commissioner OVER ANY DEPLOYMENT OR INVESTIGATIVE STRATEGIES, AS WELL AS ANY PERSONNEL, STAFFING OR DAILY MANAGEMENT DECISIONS.”

This proposed provision strikes the right balance between oversight and management. It allows the City Council to make broad public safety policy, ensures proper supervision of the Department while also giving our residents a local avenue of redress to their concerns. Simultaneously, it allows the leadership of the Department to use its professional expertise to manage the day to day operations of the BPD.

Therefore, we respectfully request a House Bill 853 be voted **favorably with amendment.**