



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

February 21, 2024

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Marc Elrich
County Executive

RE: Senate Bill 608, *Public Safety - Police Accountability - Time Limit for Filing Administrative Charges*
Support

I am writing to express my support for Senate Bill 608, *Public Safety - Police Accountability - Time Limit for Filing Administrative Charges*, with the amendments discussed below. The bill appropriately amends the Maryland Police Accountability Act of 2021 (MPAA) to address: (1) an inconsistency between the timeline for resolving complaints of police misconduct involving a member of the public versus police misconduct subject to internal administrative charges (e.g., violating work rules or providing false information in administrative reports such as mileage and maintenance of a patrol vehicle); and (2) the interrelationship of disciplinary matters and criminal investigations. However, the bill needs an amendment regarding item (1).

For misconduct involving members of the public, the MPAA requires a law enforcement agency (LEA) to investigate a complaint and forward a report to an Administrative Charging Committee (ACC) for review and issuance of charges. The ACC must complete its review and issue charges within one year and one day from the date that the complaint was filed. The MPAA requires an LEA to investigate internal administrative matters and issue charges when appropriate but does not impose a statute of limitations. This bill addresses that missing piece by requiring an LEA to make a final decision about internal administrative charges within one year and one day from the incident that led to the investigation. I support the creation of a statute of limitations for internal administrative charges but respectfully request that the bill be amended to begin that timeline on the date that the LEA becomes aware of the incident rather than the date the incident occurs. It is more appropriate for the running of a statute of limitations for internal administrative charges to begin on the date that the LEA becomes aware of the alleged police misconduct.

The bill also modifies the one year and one day rule when misconduct relates to a criminal investigation to allow that investigation to conclude before administrative charges are issued.

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Specifically, the bill provides that charges must be filed by an ACC or LEA within one year and a day from the date that: (1) the LEA determines that the matter is not related to criminal activity; (2) the final disposition of criminal charges; or (3) the ACC or LEA receives notice that the appropriate prosecutorial authority declined to file criminal charges. This is an appropriate modification to the one year and a day rule as it ensures that both the criminal investigation and disciplinary investigation have the greatest chance of leading to an appropriate resolution. Significantly, it reflects the need to avoid a legal problem created when officers suspected of misconduct are required to answer questions posed by an LEA's internal affairs investigator in the face of potential disciplinary action. Under the Supreme Court's decision in *Garrity v. New Jersey*, courts treat those compelled statements as inadmissible in a criminal prosecution and may require a prosecutor to surmount the burden of demonstrating that physical evidence, witness testimony, and strategic decision making are untainted by the statement.

As a technical matter, I note that Section 3-113(a) of the Public Safety Article (included in the bill without amendment on page 1, line 22) currently refers to "a complaint by a member of the public" and Section 3-113(b) of the Public Safety Article (included in the bill without amendment on page 2, line 3) currently refers to "a complaint by a citizen". It is universally understood that both statutory provisions are intended to mean "a complaint by a member of the public" and Section 3-113(b) should be amended to use that phrase.

For the reasons discussed above, I respectfully request that you give Senate Bill 608 a favorable report with the requested amendments.

cc: Members of the Judicial Proceedings Committee