



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

HANNIBAL KEMERER
CHIEF OF STAFF

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILLS: House Bill 139 Public Safety - Police Accountability - Deadline for Completion of Investigation

House Bill 238 Public Safety - Police Accountability - Time Limit for Filing Administrative Charges

House Bill 537 Police Discipline - Order to Show Cause

House Bill 885 Public Safety - Police Accountability - Investigation Records Relating to Unfounded and Exonerated Complaints

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 25, 2025 (JUD)

The Maryland Office of the Public Defender respectfully requests that this Committee issue an unfavorable report on House Bills 139, 238, 537, 885. Individually, and even more so collectively, these bills chip away at the processes enacted in the Police Accountability Act of 2021 and exacerbate the barriers and shortfalls that have already arisen.

Maryland has a tragic history with police accountability. Baltimore City received significant notoriety for the Gun Trace Task Force scandal, and remains in a federal consent decree due in large part to the lack of transparency, accountability, and oversight that allowed for the crimes of the GTTF to proliferate. While the most extensive and highest profile, they were not the only Maryland police department facing misconduct and corruption issues.¹ On this backdrop, the Legislature

¹ A few examples of police misconduct from around the state include the following: in 2020, then Maryland State Trooper, Cpl. John Sollon, pleaded guilty to charges of perjury and misconduct in office stemming from fabricated DUI arrests, <https://www.wbaltv.com/article/state-trooper-pleads-guilty-fabricating-dui-arrests/33523848>; in Frederick County, former Brunswick Police Officer, James Piccirilli, was sentenced to 30 months in federal prison after he pleaded guilty to possession of an unregulated fully automatic firearm. Mr. Picarinni tried to sell an illegally altered firearm to an undercover agent; Anne Arundel County

passed the Police Accountability Act of 2021, which aimed to root out misconduct by increasing transparency and accountability. Part of the Act provides for the establishment of administrative charging committees as independent bodies that review (but do not investigate) a police department's misconduct investigation and then decide on appropriate discipline.

While the law is nearly four years old, Maryland has been slow to fully staff the administrative charging committees or properly train its members. *See* William J. Ford, Rollout has been uneven for accountability boards required by 2021 police reform effort, Md. Matters, May 1, 2023. As the Capital News Service revealed just last year, "roughly a quarter of Maryland jurisdictions did not get their police oversight systems up and running before the July 2022 deadlines set by state lawmakers. The new oversight bodies in Baltimore City, along with Dorchester, Cecil and Kent Counties, did not meet until 2023." Paul Kiefer, Legal gray areas hinder police watchdogs, Md. Matters, May 8, 2024. In the four years since "state lawmakers celebrated the passage of the Maryland Police Accountability Act, the rollout of the new police oversight systems has proven slow, inconsistent and rife with disagreements about how to implement the new oversight process - challenges that frustrate critics and administrators alike." *Id.*

In jurisdictions where ACCs did get off to a timely start, some charging committees have been hampered by local police departments who delay providing committees with enough information to determine whether misconduct has occurred. More specifically, when determining

settled a lawsuit for \$75,000 after a Black man alleged that two white officers arrested him and kneeled on his neck for no legitimate reason, https://digealedition.baltimoresun.com/tribune/article_popover.aspx?guid=99175e9a-8e20-41e8-9e0a-c9d41f9e1c71; and former Anne Arundel County Officer Jacob Miskill pleaded guilty to felony theft and misconduct in office for abusing his police powers to steal guns from a deceased person's home; <https://www.aacounty.org/sao/press-releases/former-anne-arundel-county-police-officer-pleads-guilty-felony-theft>. Of course, the Police Accountability Act of 2021, also known as Anton's Law, was named after Anton Black, who was murdered by police in Caroline County; <https://www.baltimoresun.com/2019/01/27/in-a-small-eastern-shore-town-questions-remain-after-the-death-of-anton-black/>. Prince Georges County paid \$20 million dollars for the senseless death of Michael Green at the hands of the Prince Georges County Police Department; <https://www.nbcwashington.com/news/local/settlement-reached-in-handcuffed-mans-fatal-shooting/2429522/>; and an investigation into the conduct of officers in the Salisbury Police Department and a prosecutor in the Wicomico State's Attorney's Office jeopardized more than 600 criminal cases when theft and missing evidence was discovered. <https://baytobaynews.com/stories/hidden-evidence-at-center-of-salisbury-police-probe>.

whether misconduct has occurred, administrative charging committees are not authorized to complete their own investigations. Rather, they rely on the local police department to conduct the investigation for them, and when the committee needs more information, they are at the mercy of the local police department to gather that information. This process has resulted in incomplete, ineffective and untimely investigations across the State, including in Baltimore City: “According to two members of the five-person ‘administrative charging committee,’ the group has been receiving documents, either new or updated, from the Baltimore Police Department just as the misconduct cases are set to expire, leaving little time for a thorough and thoughtful review. Of the roughly 1,000 cases the committee has reviewed, nearly half of them were received within 15 days of their expiration, according to city data.” Ben Conarck, Frustrations with civilian oversight of Baltimore police are boiling over, *Balt. Banner*, Dec. 2, 2024. When information from the police department is delayed, ineffective and incomplete investigations result, leading to findings that are not reliable.

The measures proposed in the various bills being considered today will exacerbate these concerns. The bills largely seek to create time limits, with neither incentives or accountability measures for those time limits to be met nor tolling provisions for when they are unfeasible. The administrative charging committees (ACCs) have yet to be successfully implemented across the State, and many of the existing ones are backlogged, not properly trained, and delayed. Rather than address these problems, the revisions sought by these bills will reduce the number of completed investigations and increase the number of administrative closures without sufficient review, or worse dismissal on procedural grounds when a review identified misconduct.

Specific concerns relevant to each of the bills includes:

House Bill 136: This bill seeks to require that the investigating unit complete its review and forward its files within 9 months after the complaint. We regularly see investigations languish, with no accountability for the lack of resolution. Moreover, there is no provision for an extension for a complex investigation that may require additional time, or tolling for other processes or unavoidable delays. A recent case highlights in the *Baltimore Banner* attests to the complexity and challenges:

One that was reviewed last week involved eight officers, two different events, a variety of allegations, and body-worn camera footage that was not yet available for viewing, civil rights attorney and committee member Jesmond Riggins said. The night before the committee was set to meet and discuss the case, Riggins said the Police Department changed the

investigative report, altering a “disposition” for one of the allegations against an officer who was previously listed as exonerated. That officer was now found to have committed an improper search, Riggins said.

As the committee attempted to parse out the different officers and allegations at its weekly meeting the next day, “none of us were able to go through all of the evidence ourselves to develop a solid opinion,” Riggins said. “It was just too much at one time.”

Ben Conarck, Frustrations with civilian oversight of Baltimore police are boiling over, Balt. Banner, Dec. 2, 2024.

The lack of completed investigations and findings that would result from this bill will be further exacerbated in the context of the package of bills being contemplated today. For example, if House Bill 537 was also to pass, an officer could request an order to show cause during the investigation period, diverting attention away from this process during the 9 month window. Ultimately, a misbehaving officer will benefit from an investigation that is not completed in time, and the investigating unit will face no repercussions for allowing the investigations to lapse. This will result in serious and meritorious misconduct complaints being closed without getting the attention needed.

House Bill 238: Similar to House Bill 136, this bill seeks to set arbitrary deadlines for the complaint and investigation process, specifically by establishing a statute of limitations of one year and one day after the agency became aware of the incident for investigation review and administrative charges filed by the law enforcement agency, and one year and one day after any criminal charges have been resolved. This will exacerbate the existing problem of cases being administratively closed without a determination of whether misconduct occurred, or dismissed even when misconduct was found to have taken place. *See, e.g., Balt. Police Dep’t v. Brooks*, 247 Md. App. 193 (Ct. Spec. App. 2020) (dismissing charges against officers in 15 separate cases because in each the charging documents were not signed until more than 1 year after the incidents came to light, even though the charges were orally approved within the deadline). The one year deadline is a particularly acute problem in cases that result in civil litigation against the department. Such litigation virtually always takes more than one year, and can often reveal significant misconduct by officers or supervisors that was not otherwise disclosed.

House Bill 537: This bill seeks to allow an officer to move for an order to show in circuit court at any time before a hearing is held if the officer alleges that a right afforded in § 3-106 of the Maryland Public Safety Code is denied. This bill is an effort to resurrect the Law Enforcement Officers Bill of Rights, which this body voted to repeal just a few short years ago. Charges against law enforcement officers are now brought by the administrative charging committee, (ACC) so an order to show cause regarding a law enforcement agency is meaningless when it is the ACC that is actually bringing forth recommended discipline. Moreover, this section of the public safety code does not confer any rights to the officer, rather, the law gives the complainant the right to attend the public hearing, but there are no express rights afforded to officers in this statute. This bill would create two parallel proceedings, which defies notions of judicial economy and fairness. And in fact, merely creates an avenue for complaints to be closed when the investigative and disciplinary time limit was not adhered to because the officer filed an order to show cause to delay the trial board from taking place.

Ironically, while the other bills seeking to address the police misconduct investigation process seek to limit the time for a complaint to be filed, an investigation to take place, and a decision to be made, this bill provides a mechanism for law enforcement officers to postpone or delay proceedings against them. Particularly in conjunction with the other bills being considered, it will thwart thorough and timely investigations, and encourage complaints to be administratively closed without sufficient review due to the ability of police officers to delay proceedings past the authorized time limits.

House Bill 885: This bill seeks to provide for expungement of officer personnel records after three years for a complaint that is unfounded or exonerated. Unfounded complaints are not findings of innocence. Often, they are the result of woefully inadequate internal investigation by the local police department, which provide the basis for the administrative charging committees' decisions.

For example, after a thorough investigation into the internal affairs division of the Baltimore Police Department (BPD), the United States Department of Justice (DOJ) concluded that Baltimore's internal affairs division is incapable of reviewing, investigating, and following up on misconduct: "For years, the Department's process of investigating and adjudicating complaints has been plagued by systemic failures, including: discouraging individuals from filing complaints; poor investigative techniques; unnecessary delays; minimal review and supervision; and a persistent failure to discipline officers for misconduct, even in cases of repeated or egregious violations." United

States Department of Justice, Investigation into the Baltimore Police Department, Aug. 2016, at 140-150, available at https://www.justice.gov/d9/bpd_findings_8-10-16.pdf. The DOJ further concluded that the BPD “fails to investigate complaints in a timely manner or with effective techniques; that it uses “ineffective methods to investigate misconduct allegations;” it “fails to adequately supervise investigations;” and it fails to “consistently sustain complaints.” See *id.* at 145-150 available at https://www.justice.gov/d9/bpd_findings_8-10-16.pdf. The same DOJ report resulted in the BPD entering into a federal consent decree, which is still ongoing and from which the Baltimore Police Department has not been released. In other words, there has not been a determination by the federal court that BPD’s internal affairs system has developed into a reliable and trustworthy system. And as demonstrated by a recent affidavit filed by a former Major with the Baltimore Police Departments, questions regarding the integrity of the internal affairs division continue to loom large even today. *See* Stephanie Lansey Affidavit, Attached as Exhibit 1. As a result, it is not yet time to allow for, yet alone require, “unfounded” complaints to be expunged from a law enforcement officer’s record before there is complete certainty about the effectiveness and quality of the underlying investigations.

Moreover, while a complaint may be deemed unfounded by an internal affairs division of a local police department, that does not make that information undiscoverable in a criminal proceeding, particularly where there is not always confidence in the manner in which the underlying investigation was conducted. Maryland law requires prosecutors to provide defense counsel with impeachment material, in any form, whether or not admissible, that tends to impeach a state’s witness, negates or mitigates a defendant’s guilt, or could “lead to the discovery of usable evidence at trial.” *Fields v. State*, 432 Md. 650, 670 (2013) (quoting *Zaal v. State*, 326 Md. 54, 88 (1992)); see also *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995); *Giglio v. U.S.*, 405 U.S. 150 (1972); *U.S. v. Agurs*, 427 U.S. 97 (1976); *Thomas v. State*, 372 Md. 342 (2002); *Goldsmith v. State*, 337 Md. 112 (1995); *Lyba v. State*, 321 Md. 564 (1991); Md. R. 4-263; 4-262; and 11-418. Under this bill, this body, composed of several officers of the Court, would be reaching too far to authorize the destruction of evidence that may qualify as impeachment or discoverable material.

* * *

Individually and collectively, these bills undermine the important efforts that this body made in response to police misconduct throughout Maryland. More is needed to ensure transparency and accountability by Maryland’s law enforcement, but these changes will bring us further backward.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on House Bills 139, 238, 537, and 885.

Submitted by:

Deborah Katz Levi, Esq.
Maryland Office of the Public Defender
Chief of Strategic Litigation, Baltimore City
Deborah.Levi@maryland.gov

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
NORTHERN DIVISION

JEFFREY LILLY, *et al.*,

Plaintiffs,

vs.

BALTIMORE POLICE DEPARTMENT, *et al.*,

Defendants

C.A. No.: 1:22-cv-02752-BAH

AFFIDAVIT OF STEPHANIE LANSEY

STATE OF MARYLAND

HOWARD COUNTY

I, Stephanie Lansey, being first duly sworn, depose and state as follows:

1. Personal Background

I am over the age of eighteen and am competent to testify to the matters stated herein.

I am a former police officer with the Baltimore City Police Department. From February 2018 until April of 2021, I was the Major of Internal Affairs – which was renamed to Public Integrity Bureau while I was the commanding officer.

At all times while I was the Major of PIB, the Baltimore Police Department was under a consent decree.

In my capacity as the Major of the Public Integrity Bureau I interacted with Deputy Commissioner Brian Nadeau and [then] Lieutenant Daniel Popp on a near daily basis.

2. My Interactions with Deputy Commissioner Brian Nadeau and Daniel Popp

Brian Nadeau made himself the final decision maker on all cases at PIB. Brian Nadeau was intricately involved in most investigations and routinely micro-managed Detectives, Sergeants, Lieutenants and Captains.

While I was the Major, Deputy Commissioner Brian Nadeau strategically cut me out of the decision making as he felt I was too hard on the cases/detectives and demanded too much outside of their current investigative skills.

When Brian Nadeau arrived at PIB, weekly meetings named IA Stat were an important tool for holding the detectives accountable to timelines. IA Stat was attended by all the gold badges (supervisors) in the building and the detectives for investigation review. Shortly after his arrival, Deputy Commissioner Nadeau cut this important process out because he felt the detectives disliked it and he wanted to make them happy. Deputy Commissioner Nadeau clearly explained that this was a necessary step because many of the detectives had little to no investigative skills and really did not know how to start or investigate a case.

Rather than hold the detectives accountable, or teach them how to properly investigate cases, Brian Nadeau forged personal relationships with the detectives where he would go out to their desks and work with them on cases he had taken an interest in.

Brian Nadeau silenced me during our time at PIB as he felt I would never help the agency succeed in the eyes of the Department of Justice. I did not believe the 90-day process of case completion mandated under the consent decree was feasible. At that time, we were completing investigations in 365 days and detectives were holding cases until 350 days and then attempting to rush an investigation. Without other changes, insisting on a 90-day time period would only shorten the timeframe detectives had to complete an accurate and efficient investigation.

Sadly, the sergeants and lieutenants in PIB were also not adequately reviewing cases. I voiced my concerns about their deficiencies to Deputy Commissioner Nadeau, and I instituted a process where all cases with a finding of 'not sustained' had additional supervisory review by Lieutenant Jason Yerg. This process consistently identified cases in which a clear violation of agency policies occurred, yet the result of the investigation was 'not sustained.' Deputy Commissioner Nadeau stopped this process.

On one occasion, Brian Nadeau directed Daniel Popp to illegally serve discipline on an officer. Lieutenant Yerg was reviewing cases and found a case that Lieutenant Popp had allowed to move beyond its expiration date. The case was brought to my attention, and my rule was that when any case expired (meaning the investigative deadline was missed) the entire chain of command involved in that case would be charged. I took the case into Deputy Commissioner Nadeau's office, and he called in Lieutenant Popp. They discussed that they would solve the matter without charges. Deputy Commissioner Nadeau instructed Lieutenant Popp to go out and meet the accused officer and convince the officer to accept discipline. In this effort, Lieutenant Popp worked beyond his shift at the direction of Deputy Commissioner Nadeau. Lieutenant Popp then brought me an overtime slip which I refused to sign because I did not give the unlawful order or direction to clean up this matter.

When Deputy Commissioner Nadeau had an issue with an officer, he became personally involved in the investigation of that officer. One such example is the case of Natalie Preston which I recused myself from due to the close working relationship I had with Preston in the past. Deputy Commissioner Nadeau was extremely involved throughout the investigation and controlled the direction of the case. Another example was the case of John Fernandez and Timika Dyson Nadeau had plans to get Fernandez promoted and retained at PIB so he instructed the

accused to be separated and Fernandez's case worked swiftly and closed while Dyson's case was farmed out to an outside agency to be investigated due to her PIB assignment and close working relationship which Fernandez also had. Dyson's case was not closed until 2024.

Brian Nadeau routinely utilized discrete scare tactics to influence investigations and manipulate the outcomes of investigative hearings. One such tactic was sitting through the administrative hearings and/or wanting updates brought to him by Detective Lisa Riha. Detective Riha worked in the Office of Administrative Hearings and had a one-on-one relationship with Nadeau even though she had a personal chain of command she was expected to follow.

When Deputy Commissioner Nadeau arrived in PIB he took extraordinary steps to install technology which would allow him to watch, in real time, the investigative hearings and the detective interviews which occurred in the building. If there was an investigation he was interested in, Deputy Commissioner Nadeau would watch the detectives' interviews live from his office and then send down notes or go directly to the interview room to assist with questions he would like asked. Captain John Fernandez and Lieutenant Daniel Popp would also sit and watch the interviews with him.

Brian Nadeau routinely had detectives in his office providing him a step-by-step accounting on what they were doing on investigations. Deputy Commissioner Nadeau would clearly communicate where he would like them to take the investigation next (who and who not to interview).

3. **Brian Nadeau and Daniel Popp's Relationship**

Brain Nadeau and Daniel Popp are extremely close. Daniel Popp invited Brian Nadeau to his Florida destination wedding. Daniel Popp did not move without running all things by Brian

Nadeau because he was too afraid to make decisions on his own, particularly when those decisions could upset Deputy Commissioner Nadeau. I witnessed this scenario play out throughout my time in PIB.

4. My Departure from the Public Integrity Bureau and the Baltimore Police

Department

I left PIB to take a Major position within a district because I am not a person who can live in the gray. PIB cases are black and white and should stay that way. All cases should be handled with an unbiased eye and taken seriously, as a decision could change a person's livelihood drastically. Cases should not be rushed, and all "rocks" should be overturned to prove guilt/innocence. I do not believe in playing favorites and would always recuse myself if any idea of impartial feelings could be introduced. I read the policy and follow the steps. I do not bend the policies for friends or for anyone that others may not want to see disciplined.

Towards the end of my time in PIB I was beginning to see way too much of the 'gray' activity at PIB and was very uncomfortable with the staff that was being brought there, and the hostile and retaliatory environment Brian Nadeau had created.

During a Command Staff Meeting, Brian Nadeau observed two African American males walking across the parking lot and said to me "look at those mopeds coming in here." I asked what he meant by the language used to which he could not reply. I was extremely disturbed by the terminology he used, especially since the use could not be explained. I went out and met with the two males who were business owners reporting police corruption. I spoke with the Police Commissioner and his Chief of Staff about my concerns. They asked me what I wanted to do. I advised I wanted out of PIB, and I was then granted a transfer to the Eastern District as the

Major. The Police Commissioner and his Chief of Staff advised Deputy Commissioner Nadeau that I had reported him, and Brian Nadeau became very upset about this and called me into his office. His communication to me was very unprofessional. At this point I knew the agency was quickly shifting to a place I no longer belonged, and I retired approximately 14 months later.

5. **My Testimony**

My testimony is relevant to this case because I have become aware of litigation calling into questions the actions of Deputy Commissioner Nadeau as well as current and former members of the Public Integrity Bureau. The allegations I have been made aware of are consistent with the personal and professional observations from my time as the Major of the Public Integrity Bureau.

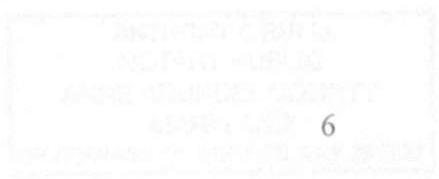
I am willing to testify truthfully to these facts in court. I make this statement freely and voluntarily. I have not been pressured, threatened, coerced, or otherwise induced to make these statements.

Notary Public Signature

Notary Public, State of Maryland

My Commission Expires

Notary Seal



6. Conclusion

I declare under penalty of perjury under the laws of the State of Maryland that the foregoing is true and correct to the best of my knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Stephanie Lansey
[Signature of Affiant]

Stephanie Lansey

February 15, 2025

NOTARY BLOCK (State of Maryland)

STATE OF MARYLAND

HOWARD COUNTY

On this 15th day of February, 2025, before me, the undersigned Notary Public, personally appeared Stephanie Lansey, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public Signature *Anthony C. Rulli*

[Printed Name of Notary Public] *Anthony C. Rulli*

Notary Public, State of Maryland

My Commission Expires: July 28, 2027

[Notarial Seal]

