



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 626 Maryland Police Accountability Act of 2021 – Law Enforcement Officers – Use of Force, Reporting, and Whistleblower Protections

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 626.

Senate Bill 626 prohibits a law enforcement officer from intentionally using excessive force; requires an officer to intervene to prevent another officer's use of excessive force; prohibits an officer from intentionally refusing to promptly or make reasonable efforts to obtain medical treatment for a person injured by an officer's use of excessive force; requires a law enforcement officer to make an immediate report to a superior regarding certain actions of another law enforcement officer and establishes protections for those officers who intervene to stop and/or who report excessive force.

There are many elements of this bill that the Baltimore Police Department wholeheartedly support such as the reporting obligations and the extensive training requirements which we believe will help to improve the law enforcement profession while also strengthening our relationship with the communities we serve.

In fact, like so many other reforms being contemplated both nationally and by the General Assembly this year, the Department has already adopted and implemented an extensive suite of Use of Force policies that are being used by other jurisdictions to model their reform efforts. Among other important elements, our policies include clear descriptions of the various levels of force, a duty to report force and a mechanism by which Body Worn Camera footage is to be reviewed by supervisors and the Use of Force Assessment Unit to ensure captured activity is in compliance with policy and training. We also have a duty to intervene and a duty to de-escalate.

You can find some of the most relevant BPD policies at the following links:

- <https://www.baltimorepolice.org/1115-use-force>
- <https://www.baltimorepolice.org/319-draft-duty-intervene>
- <https://www.baltimorepolice.org/1107-de-escalation>
- <https://www.baltimorepolice.org/725-use-force-review-and-assessment>
- <https://www.baltimorepolice.org/414-less-lethal-munitions-and-chemical-agents>
- <https://www.baltimorepolice.org/1118-oleoresin-capsicum-spray>

While we are supportive of much of the bill, there are a few items that we believe should be amended:

Duty to Intervene

The BPD is working to change the culture within the Department through the adoption and implementation of a program called Ethical Policing Is Courageous (EPIC). EPIC is a peer intervention program that trains officers across all ranks to intervene in potentially problematic situations to prevent misconduct and mistakes—potentially saving careers and lives in the process. Through continual training and organizational support, EPIC empowers officers to step in before a wrongful action occurs.

EPIC builds upon social science research and peer intervention programs in other fields to provide officers with skills to intervene in situations to preserve officer and community wellness. Originally developed by the New Orleans Police Department in collaboration with social science experts and civil rights leaders, EPIC educates officers, through scenario-based training, about the barriers to intervention and how to overcome those barriers. All sworn members within the Department are undergoing the EPIC training that can be found at: <https://www.baltimorepolice.org/ethical-policing-courageous-epic-training-lesson-plan>. You can learn more about the program at <https://epic.baltimorepolice.org/epic>.

Establishing criminal and civil penalties for a failure to intervene as opposed to taking a comprehensive approach toward changing the culture within police departments will not get at the root problem but will have a chilling effect on our ability to recruit new officers. So, we request that the bill be amended to remove lines 6-8 on page 9 of the bill.

Duty to Report

The Baltimore Police Department supports imposing a duty to report and has already incorporated such a requirement in Departmental policy and provided training to all members on the new standard. We will take disciplinary action against any member who violates this requirement. However, we believe that establishing criminal penalties for an officer who fails to report various types of activities conducted by other officers is going too far. So, we request that the bill be amended to remove lines 26-28 on page 10 of the bill.

De-escalation

The Baltimore Police Department agrees that de-escalation policies and training are key to reducing the instances in which force is necessary for an officer to gain control of a situation. However, it is important to note that de-escalation is a skill that improves over time and with experience. It requires an officer to quickly and accurately assess a situation and try to predict how a suspect will react to their de-escalation efforts. They may misjudge a circumstance and mistake an honest mistake. That said, we object to the provisions on page 12, lines 20-23 that allow the MPTSC to decertify an officer if he/she fails to de-escalate as an alternative to using force and ask that those lines be stricken from the bill.

Given how quickly circumstances can evolve during enforcement actions, it is difficult to accurately and fairly assess whether an officer utilized de-escalation techniques accurately. The bill already requires agencies to assess use of force situations. During that process, it is appropriate and reasonable for the agency to prescribe additional training and/or discipline when necessary.

Therefore, the Baltimore Police Department respectfully requests a **favorable with amendments** report on Senate Bill 626. 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 or via telephone at 443-915-3155.