



March 12, 2018

Senator Bobby A. Zirkin, Chair  
Senator Delores G. Kelley, Vice Chair  
Judicial Proceedings Committee  
General Assembly of Maryland  
2 East Miller Senate Building  
11 Bladen Street  
Annapolis, Maryland 21401

**RE: Testimony in Support with Amendments - Senate Bill 1179 - Baltimore City -Law Enforcement Officers' Bill of Rights - Hearing Board**

Dear Chairman Zirkin and Vice Chairwoman Kelley:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. ("LDF"), we appreciate the opportunity to submit written testimony in support of Senate Bill 1179, which would bring much-needed and long-overdue reform to the Law Enforcement Officers' Bill of Rights ("LEOBOR"). SB 1179 would authorize civilians to be voting members of disciplinary hearing boards in Baltimore City, and give the Baltimore police chief full discretion to accept, reject, or modify a hearing board's findings and conclusions. While we applaud these reforms, which have the potential of increasing impartiality and transparency of the police disciplinary process in Baltimore City, we urge you to extend the proposed provisions to law enforcement agencies statewide.

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. Throughout its history, LDF has consistently worked to promote unbiased and responsible policing policies and practices at the national, state, and local levels. As a member of the Campaign for Justice, Safety, and Jobs, a diverse coalition of national, state and local organizations formed in the wake of the Baltimore police in-custody death of Freddie Gray, LDF supported the call for the Baltimore Police Department (BPD) to negotiate provisions in any renewed police union contract that would require civilians to serve on disciplinary hearing boards.<sup>1</sup> Passage of SB 1179 would send a clear message that state legislators understand the need for community participation in the investigation of police officers accused of misconduct.

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<sup>1</sup> See Letter from Campaign for Justice, Safety and Jobs to Baltimore Mayor Stephanie Rawlings-Blake and Baltimore Police Commissioner Kevin Davis, July 20, 2016, <http://www.naacpldf.org/document/campaign-justice-safety-and-jobs-ltr-re-baltimore-fraternal-order-police>. Currently, under LEOBOR, civilians may serve on hearing boards if permitted by local law or police union contracts.

Senators Conway and McFadden have introduced SB 1179 at time when the misconduct of law enforcement officers has been under intense public scrutiny. Although the police-involved death of Freddie Gray is nationally recognized as one of many unarmed Black Americans killed by police in high-profile violent encounters, unconstitutional policing in Baltimore has a long history. Indeed, Mr. Gray's in-custody death in 2015 was the fifth in three years and included the death of Anthony Anderson and Tyrone West, which prompted then Baltimore Police Commissioner Anthony Batts to commission independent investigations. Also, this year's federal racketeering convictions of members of the BPD's Gun Trace Task Force (GTTF) uncovered the most egregious incidents of police corruption Baltimore City has ever witnessed. Disturbingly, the brazen acts of misconduct by GTTF occurred at a time when the Civil Rights Division of the U.S. Department of Justice (DOJ) was investigating the BPD to determine whether its officers engaged in a pattern or practice of unlawful policing following the death of Freddie Gray. As part of this investigation, DOJ noted that the LEOBOR and BPD police union contract (through the use of peremptory challenges) allow an accused officer to assemble a board of law enforcement officers who are sympathetic to his/her interest.<sup>2</sup> Recognizing the need for increased impartiality in the hearing board process, the court-enforceable consent decree between DOJ and Baltimore City officials requires the BPD to include two civilian voting members to serve on disciplinary hearing boards if permitted by law.<sup>3</sup> The passage of SB 1179 would promote the BPD's compliance with the consent decree.

Instances of police misconduct, however, are not limited to Baltimore City. Over the years, news reports have uncovered complaints against police in Anne Arundel,<sup>4</sup> Baltimore,<sup>5</sup> Wicomico,<sup>6</sup> Prince George's,<sup>7</sup> and Montgomery<sup>8</sup> Counties to name a few. Elected officials cannot build public trust in police

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<sup>2</sup> See U.S. Dep't of Justice, *Investigation of the Baltimore City Police Department*, Aug. 10, 2016, <https://www.justice.gov/opa/file/883366/download>.

<sup>3</sup> Consent Decree ¶ 380, *U.S. v. Police Department of Baltimore City*, 17-cv-00099-JKB, (D. Md. Jan. 17, 2017).

<sup>4</sup> Ben Weathers, *Anne Arundel Police: One-third of 2014 Complaints Against Officers Were Valid*, CAPITAL GAZETTE, June 26, 2015, <http://www.capitalgazette.com/news/ph-ac-cn-police-records-0626-20150625-story.html>.

<sup>5</sup> Pamela Wood and Alison Knezevich, *Jury Awards More Than \$37M to Family of Korryn Gaines in Civil Case Against Baltimore County*, BALTIMORE SUN, Feb. 16, 2018, <http://www.baltimoresun.com/news/maryland/baltimore-county/bs-md-co-korryn-gaines-civil-deliberate-20180216-story.html>.

<sup>6</sup> Rose Velazquez, *ACLU Suit Seeks Transparency in Salisbury Police Excessive Force Settlement*, DELMARVANOW, July 12, 2017, <http://www.delmarvanow.com/story/news/local/maryland/2017/07/12/aclu-lawsuit-police-salisbury/455862001/>.

<sup>7</sup> Lynh Bui, *Police Must Pay \$500,000 for Taser Md. Man in the Back, Wrongful Arrest*, WASH. POST, Aug. 28, 2017, [https://www.washingtonpost.com/local/public-safety/police-must-pay-500000-for-taser-md-man-in-the-back-wrongful-arrest/2017/08/25/94c7afd4-8830-11e7-a50f-e0d4e6ec070a\\_story.html?utm\\_term=.1818ae96ee60](https://www.washingtonpost.com/local/public-safety/police-must-pay-500000-for-taser-md-man-in-the-back-wrongful-arrest/2017/08/25/94c7afd4-8830-11e7-a50f-e0d4e6ec070a_story.html?utm_term=.1818ae96ee60).

<sup>8</sup> Andrew Metcalf, *Lawsuit Claims County Police Officers Used Excessive Force Against 16-Year-Old Filming Brother's Arrest with Cellphone*, BETHESDA MAG., Dec. 19, 2016, <http://www.bethesdamagazine.com/Bethesda-Beat/Web-2016/Lawsuit-Claims-County-Police-Officers-Used-Excessive-Force-Against-16-Year-Old-Filming-Brothers-Arrest-with-Cellphone/>.



disciplinary procedures where officers accused of misconduct are not primarily accountable to the public or even to the police chief, but rather to fellow rank-and-file police officers assigned to hearing boards. Time after time, in Maryland and throughout the nation, communities have felt the pain and injustice of seeing police officers evade consequences after engaging in acts of misconduct, including killing unarmed Black men, women, and children. Locking out public voices and civilian oversight from the disciplinary hearing process only deepens the divide between communities and law enforcement. SB 1179 would take a crucial step towards fairness, transparency, and improved community-police relations if it is applied statewide.

Finally, under the LEOBOR, if a hearing board finds that an officer is not guilty, then the decision is final. A police chief may review a hearing board's guilty finding only. This is nonsensical and needlessly ties the hands of police executives who are expected to appropriately supervise and discipline officers. SB 1179 amends LEOBOR by vesting only the Baltimore police chief with the authority to modify all hearing boards' findings and conclusions. Doing so, will potentially result in consistent and more appropriate outcomes as well as help foster a culture of accountability by placing responsibility at the top - making the police chief, not a hearing board, answerable to the public. Officers would continue to have the ability to appeal the police chief's final decision in state court thereby protecting their due process rights.<sup>9</sup> We support this provision and recommend that you extend it to all law enforcement agencies in Maryland.

SB 1179 requires changes to the LEOBOR that are sorely needed in all law enforcement agencies throughout the state of Maryland. We urge you to pass this bill with amendments as indicated above.

Respectfully submitted,

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Law & Policy Fellow

cc: Judicial Proceedings Committee Members

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<sup>9</sup> See, Law Enforcement Officers' Bill of Rights, MD. CODE ANN., PUB. SAFETY §3-109 (2016).