



# Policy 1729

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*By Order of the Police Commissioner*

## **POLICY**

The Baltimore Police Department (BPD) is committed to fostering a Department with integrity that adheres to the highest ethical standards. One important manner in which BPD promotes ethics and integrity is by mandating that all BPD members have an Affirmative Duty to report violations of law or BPD policy committed by other BPD members of any rank. Similarly, BPD mandates members to intervene to prevent or stop Misconduct. As an essential counterpart to this Affirmative Duty to report Misconduct and to intervene to prevent or stop Misconduct, BPD strictly prohibits Retaliation against or interference with a BPD member or any member of the public for any reason, to include those who report or seek to report violations of law or BPD policy, or who intervene, or seek to intervene to prevent or stop Misconduct. BPD is committed to protecting its members and the public to ensure that they are not subjected to, nor subject others to, acts of Retaliation.

Policy 1701, *Equal Employment Opportunity and Diversity Policy*, prohibits Retaliation for making a Complaint of harassment or discrimination, participating in the investigation of such a Complaint, or otherwise opposing harassment or discrimination at work. This policy does not alter any provisions of Policy 1701; it prohibits retaliation for additional protected activity not covered by Policy 1701.

## **CORE PRINCIPLES**

**Internal Procedural Justice.** BPD is an equal opportunity employer and is committed to creating and maintaining a healthy work environment that provides all employees the opportunity to perform their duties to their fullest potential. In such a working environment, members are given voice, are shown respect, and are not intimidated from reporting Misconduct. The working environment must be free of all forms of Retaliation.

**Community Trust and Departmental Legitimacy.** BPD's ability to ensure the highest ethical standards through its mandate that members have an Affirmative Duty to report and its focus on eradicating and preventing all forms of Retaliation are central to building legitimacy among members of the Department, as well as with the wider Baltimore community. BPD prioritizes the utmost integrity of its members to ensure that those who identify Misconduct are valued and protected from Retaliation, in order to enhance the Department's reputation as ethical and fair.

**Honest Reporting.** All reports made pursuant to this policy – those made under the member's Affirmative Duty to report wrongdoing as well as reports alleging Retaliation – must be made with honesty and integrity and not be made with malicious intent. Making false reports of Misconduct or Retaliation, including reports that a supervisor has committed retaliatory acts against a member for taking legitimate supervisory actions, or a PIB detective who has investigated an Allegation of Misconduct, will not be tolerated.

## DEFINITIONS

**Affirmative Duty** — The personal responsibility and obligation of a BPD member to proactively report wrongdoing rather than to provide such information only when requested.

**Allegation** — Any assertion of wrongdoing against a member of BPD, whether by a member of the public or a member of the BPD.

**Complaint** — Any Allegation of Misconduct committed by any BPD employee that is reported by any person, whether a member of the public (external) or a BPD employee (internal).

**Exercise of Rights** — The assertion by any person, whether a member of the public or a BPD employee, of any right or course of action protected by law or BPD policy. Examples include, but are not limited to, opposing Misconduct, reporting a Complaint, making an Allegation of Misconduct, duty to intervene in Misconduct, or participating in an investigation or enforcement action directed at Misconduct.

**Misconduct** — Action, inaction, and/or failure to act by any member of the BPD, civilian or sworn, that violates BPD policy, or the law, including but not limited to criminal acts, applicable civil laws, administrative rules, or regulations.

**Retaliation** — The action of treating a person differently, or engaging in acts of revenge or intimidation against the person, because the person has engaged in an Exercise of Rights, or has fulfilled their duty to report or duty to intervene. Examples of acts that may be retaliatory include, but are not limited to:

- Making threats or engaging in verbal or physical abuse,
- Authoring unsupported negative evaluations,
- Maliciously or fraudulently filing a Complaint or claim of discrimination,
- Giving punitive, demeaning or unnecessary work assignments,
- Blocking advancement (e.g., promotion or transfer requests),
- Conducting a stop, search or arrest without basis as described in Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs and Searches*,
- Stalking an individual or their place of residence,
- Intimidation, and/or
- Any other conduct deterring Exercises of Rights.

## GENERAL

1. Retaliation is a serious offense that will not be tolerated. Any employee who retaliates against another employee or member of the public for any reason shall be subject to disciplinary action, up to and including termination of employment.
2. This policy applies to all BPD members. All members shall follow the intent of these guidelines in a manner consistent with policy, professional law enforcement standards, and the best interest of the Department and its mission. See Policy 302, *Rules and Regulations*.
3. Failure of a commander or supervisor to take corrective action on a Complaint of Retaliation, as described below, shall be reported to the Commander of the Public Integrity Bureau for further investigation and may subject the commander or supervisor to disciplinary action, up to and including termination.

**REQUIRED ACTION****Duty to Report**

4. All BPD members have an Affirmative Duty to report violations of law and acts of Misconduct or failures to perform actions, defined in Departmental policy, procedures, and rules. Failure to report shall result in corrective or disciplinary action, up to and including termination.
5. Members must report any Misconduct to a supervisor in their chain of command or to the Public Integrity Bureau (PIB). Supervisors shall report all Misconduct (See Policy 302, *Rules and Regulations*).
6. In uncommon situations involving highly egregious or sensitive offenses, or illegality that may have administrative or criminal consequences, a Complaint may be made directly to the Police Commissioner or Deputy Police Commissioner of the Public Integrity Bureau, instead of to a direct supervisor or other PIB personnel. Examples include, but are not limited to, broad-based corruption, conspiracy among employees, or offenses involving or including high-ranking officers or members of government.

**Prohibition on Retaliation****Internal**

7. Acts of Retaliation against members for any reason, including against those who fulfill their duty to report by making Complaints or disclosures of Misconduct against another member, are strictly forbidden. Such acts will form the basis for charges of Misconduct, resulting in serious disciplinary action up to and including termination.
8. Any BPD member who believes that they have been subjected to Retaliation, or who has observed Retaliation, shall promptly report such conduct to a supervisor in their chain of command or to PIB. For those that believe, that they have been subjected to discrimination based on their membership of a protected class, follow the guidelines in Policy 1701, *Equal Employment Opportunity and Diversity*.

**NOTE:** If the member's immediate supervisor is the accused employee, the member shall report Allegations to a supervisor higher in the chain of command, to the Public Integrity Bureau, to Human Resources, or to the Equal Opportunity and Diversity Section.

9. Any member who encounters Retaliation is encouraged to inform the offending party that their actions are unwelcome and/or offensive.

**External**

10. Retaliation of any kind against any member of the public is strictly prohibited, and will result in discipline, which may include termination, based on the seriousness of the conduct. In some circumstances, Retaliation may also violate federal, state, or local laws.
  - 10.1. All forms of Retaliation against any person because that person indicates they would like to make a Complaint, reports Misconduct, attempts to make or makes a Misconduct Complaint, or cooperates with an investigation, are strictly prohibited. See Policy 306, *Complaint Intake and Classification Process*.

- 10.2. Members shall not Retaliate against any person for Exercising their Rights, including their First Amendment rights to assemble, protest, criticize the police, observe police activity, and/or record police activity. See Policy 804, *First Amendment Protected Activity* and Policy 1016, *Public Observation/Recording of Officers*.
- 10.3. Members shall not use force against persons engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting a member, or to punish persons for any other reason (see Policy 1115, *Use of Force*).

### Exercise of Rights

11. Nothing in this policy limits an employee's Exercise of Rights, to include the right to make public disclosures that are deemed to be of public concern and that might be protected speech under law. Employees enjoy limited First Amendment rights and are encouraged to consult Policy 601, *Member Confidentiality Obligations and Media Releases*.
12. This policy in no way limits the Exercise of Rights of employees to file Complaints or grievances with outside governmental authorities or to initiate legal action. Individuals taking such actions are afforded the same protections against Retaliation as other employees.
13. BPD members, just as any member of the public, may make a Complaint anonymously through any of the methods described in Policy 306, *Complaint Intake and Classification Process*.

### Supervisors

14. Supervisors who receive written or verbal Allegations of violations of law or of BPD policy, procedure, or rule – to include Allegations of Retaliation – shall enter the Allegation(s) into BlueTeam. Each BlueTeam entry is automatically forwarded to PIB and is processed by PIB as a Complaint (see Policy 306, *Complaint Intake and Classification Process*). Supervisors shall immediately notify PIB for serious Allegations that require immediate attention.
15. Supervisors who observe or are aware of Retaliation that has occurred are likewise obligated to report such actions by documenting such Misconduct in BlueTeam.
16. With the approval of the Deputy Commissioner over their command (as a designee of the Police Commissioner), supervisors shall take appropriate actions, which may include detailing a member to a different sector or assignment, in order to prevent further Allegations of Misconduct in a manner that is not punitive.
17. Commanders and supervisors shall ensure that employees are not subject to Retaliation for presenting Allegations of inappropriate behavior.
18. Supervisors are not authorized to advise employees about their legal remedies as provided by Federal and/or State agencies.
19. If a supervisor is the subject of a Complaint or Allegation of Retaliation by a subordinate, reassignment of either the supervisor or the complainant will be considered, based on a number of factors. These include, but are not limited to, the following: the nature of the Complaint, the severity of the alleged conduct, the pervasiveness of the allegation, and the appropriate options for transfer. To the extent that no reassignment is made, the supervisor shall continue to evaluate,

direct, and take any appropriate supervisory actions based on the subordinate's job performance as required by their position and shall not consider the fact of the Complaint or Allegation in overseeing that subordinate's work.

**ASSOCIATED POLICIES**

Policy 302, *Rules and Regulations*  
Policy 304, *Suspension Procedures*  
Policy 306, *Complaint Intake and Classification Process*  
Policy 310, *Disciplinary/Failure to Appear and Traffic Matrix*  
Policy 319, *Duty to Intervene*  
Policy 601, *Member Confidentiality Obligations and Media Releases*  
Policy 804, *First Amendment Protected Activity*  
Policy 1016, *Public Observation/Recording of Officers*  
Policy 1115, *Use of Force*  
Policy 1701, *Equal Employment Opportunity and Diversity*

**RESCISSION**

Remove and destroy/recycle Policy 1729, *Whistleblower Protection* dated 26 August 2017.

**COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.