



# Policy 1729

Subject	
<b>ANTI-RETALIATION</b>	
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*By Order of the Police Commissioner*

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## POLICY

It is the policy of Baltimore Police Department (BPD) to foster an environment of 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, including: 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.

## 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.

**Complaint** — Any report (including but not limited to: the public portal, in-person statement, BlueTeam,

ect...) 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 a **Complaint 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 a 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. BPD considers **Retaliation** a serious form of misconduct that shall be handled in a manner consistent with the Statewide Police Disciplinary Matrix.
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 BPD and its mission.
3. Failure of a commander or supervisor to report a **Complaint of Retaliation**, as described below, shall be reported to the Commander of the Public Integrity Division for further investigation and may subject the commander or supervisor to disciplinary action, up to and including termination.
4. Making false reports of **Misconduct** or **Retaliation** will not be tolerated; including reports that a supervisor has committed retaliatory acts against a member when the supervisor took legitimate supervisory actions, or a PID detective who has investigated a **Complaint of Misconduct**.
5. 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*.

6. 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.
7. 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 Process*.

## REQUIRED ACTION

### **Duty to Report**

8. All BPD members have an **Affirmative Duty** to report violations of law and acts of **Misconduct** or failures to perform actions, defined in BPD policy, procedures, and rules. Failure to report shall result in corrective or disciplinary action, up to and including termination.
9. Members shall report any **Misconduct** to a supervisor in their chain of command or to the Public Integrity Division (PID). Supervisors shall report all **Misconduct**. (See Policy 302, *Rules and Regulations*) Members can circumvent chain of command if the **Misconduct** involves members of their command.
10. 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, Deputy Police Commissioner, or Chief of PID. 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**

11. **Retaliation** of any kind against any member of the public or BPD member is strictly prohibited, and will result in discipline consistent with the Statewide Police Disciplinary Matrix. In some circumstances, **Retaliation** may also violate federal, state, or local laws.
  - 11.1. Members shall not commit acts of **Retaliation** against any person because that person indicates they would like to make a **Complaint**, reports **Misconduct**, attempts to make or makes a **Complaint**, or cooperates with an investigation. See Policy 306, *Complaint Intake Process*.
12. Act(s) of **Retaliation** against BPD 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 no less than serious disciplinary action consistent with the Statewide Police Disciplinary Matrix, up to and including termination.
13. 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 PID. 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*.

14. If the member's immediate supervisor is the accused employee, the member shall report **Complaints** to a supervisor higher in the chain of command, to PID, to Human Resources, or to the Equal Opportunity and Diversity Section.
15. Any member who encounters internal **Retaliation** is encouraged to inform the offending party that their actions are unwelcome and/or offensive.

### Supervisors

16. Supervisors who receive written or verbal **Complaints** of violations of law or of BPD policy, procedure, or rule – to include **Retaliation** – shall enter the **Complaint(s)** into BlueTeam. Supervisors shall immediately notify PID of serious **Complaints** that require attention as soon as practical.
17. Supervisors who observe or are aware of **Retaliation** that has occurred shall report such actions by documenting such **Misconduct** in BlueTeam.
18. Commanders and supervisors shall ensure that employees are not subject to **Retaliation** for presenting **Complaints** of inappropriate behavior.
19. Supervisors are not authorized to advise employees about their legal remedies as provided by Federal and/or State agencies.
20. For the purpose of mitigating further potential conflict, if a supervisor is the subject of a **Complaint** or **Retaliation** by a subordinate, PID and Command may consider temporary reassignment of either involved party, pending investigation. If deemed necessary, temporary reassignment determined by the member's **Command** or PID, will be 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 **Complaint**, and the appropriate options for a temporary detail. Reassignment will be decided on a case-by-case basis.
  - 20.1. **Command** may consult with PID for further guidance on the appropriateness of separating members.
  - 20.2. When **Executive Command**<sup>1</sup> or PID has determined separation is necessary, an uninvolved supervisor shall inform the complainant that they have the right of first refusal to be detailed to a similarly situated assignment, if available.
  - 20.3. If the complainant declines the detail, then the supervisor implicated in the complaint may be temporarily detailed.
  - 20.4. 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** in overseeing that subordinate's work.
21. With the approval of the Police Commissioner's office, Commanders shall take appropriate actions, which may include temporarily detailing a member to a different sector or assignment, in order to prevent further **Complaints** of **Misconduct** in a manner that is not punitive.

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<sup>1</sup> Executive Command includes the rank of Lieutenant Colonel or Deputy Chief and above.

**ASSOCIATED POLICIES**

Policy 302, *Rules and Regulations*  
Policy 306, *Complaint Intake and Classification Process*  
Policy 601, *Member Confidentiality Obligations and Media Releases*  
Policy 804, *First Amendment Protected Activity*  
Policy 1016, *Public Observation/Recording of Officers*  
Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs and Searches*  
Policy 1115, *Use of Force*  
Policy 1701, *Equal Employment Opportunity and Diversity*

**RESCISSION**

Rescind Policy 1729, *Anti-Retaliation*, dated 25 May 2021.

**COMMUNICATION OF POLICY**

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