

MARYLAND'S LAW ENFORCEMENT BILL OF RIGHTS (LEOBR)

- Two landmark Supreme Court decisions: *Garrity v. New Jersey* (1967) and *Gardner v. Broderick* (1968), identified a need to create uniform level of due process for Law enforcement officers accused of wrongdoing
- This need for a uniform level of procedural protections and the gravity of the potential harm to officers was recognized by the Maryland General Assembly who, in 1974 enacted The Law Enforcement Officers' Bill of Rights (LEOBR)
- The LEOBR is intended to protect law enforcement officers from unreasonable investigation and persecution caused by the extraordinary circumstances often faced in the official performance of their duties
- The LEOBR also states that it does not limit the authority of the Chief to regulate the competent and efficient operation and management of a law enforcement agency by any means including transfer and reassignment
- The LEOBR protects law enforcement officers from being summarily dismissed from their jobs without explanation due to administrative or political expediency without due process
- Inherent in police work is the conflict between police and persons being arrested, who may make unwarranted complaints out of dislike for the police and/or to use as a bargaining chip for criminal charges against them. This unique situation underscores the need for fair and thorough investigations of such complaints.
- The LEOBR grants procedural rights to law enforcement officers during disciplinary investigations, interrogations and hearings that could lead to disciplinary action, demotion or dismissal
- The fact that law enforcement agencies must investigate numerous complaints against police officers underscores the importance of having provisions concerning internal affairs investigations in the LEOBR
- The LEOBR establishes an effective means for the receipt, review and investigation of public complaints against law enforcement officers that is fair and equitable to all
- While some provisions of the LEOBR may appear accommodating to law enforcement officers, they are offset by provisions that are accommodating to management such as the chief's authority to overrule the hearing board's recommendation regarding punishment (This may be bargained with the Chief at the local level and has been in 2 jurisdictions) and the chief's authority to select the chair of the hearing board
- The LEOBR does not protect the jobs of bad cops or officers who are unfit for duty.
- The LEOBR does not afford law enforcement officers any greater rights than those possessed by other citizens; it simply reaffirms the existence of those rights in the unique context of the law enforcement community

The findings of a trial board, or hearing board, have to be in writing and have to provide a concise statement on each issue in the case.

A finding of not guilty puts the entire thing to bed.

If the hearing board makes a finding of guilt, the hearing board shall:

- (i) reconvene the hearing;
- (ii) receive evidence; and
- (iii) consider the law enforcement officer's past job performance and other relevant information as factors before making recommendations to the chief.

A copy of the decision or order, findings of fact, conclusions, and written recommendations for action have to be delivered or mailed promptly to the law enforcement officer or representative and the chief.

After a disciplinary hearing and a finding of guilt on any of the charges presented, the hearing board may recommend, in writing, the penalty it considers appropriate under the circumstances, including demotion, dismissal, transfer, loss of pay, reassignment, or other similar action that is considered punitive.

The decision of the hearing board as to findings of fact and any penalty is final if:

- (i) the chief is an eyewitness to the incident under investigation; or
- (ii) the agency or County Government has agreed with the FOP that the decision will be final.

The recommendation of a penalty by the hearing board is not binding on the chief.

Within 30 days after receipt of the recommendations of the hearing board, the chief shall:

- (i) review the findings, conclusions, and recommendations of the hearing board; and
- (ii) issue a final order.

The final order and decision of the chief is binding.

The chief, by law, is supposed to consider the law enforcement officer's past job performance as a factor before imposing a penalty.

The chief may increase the recommended penalty of the hearing board if the chief personally:

- (i) reviews the entire record of the proceedings
- (ii) meets with the law enforcement officer and allows the law enforcement officer to be heard on the record;
- (iii) discloses and provides in writing to the law enforcement officer, at least 10 days before the meeting, any oral or written communication not included in the record of the hearing board on which the decision to consider increasing the penalty is wholly or partly based; and
- (iv) states on the record the substantial evidence relied on to support the increase of the recommended penalty.

<https://law.justia.com/codes/maryland/2010/public-safety/title-3/subtitle-1>