

Joint Committee

BALTIMORE FIRE FIGHTERS ASSOCIATION
Local No. 734
Chartered October 20, 1942



BALTIMORE FIRE OFFICERS ASSOCIATION
Local No. 964
Chartered February 20, 1948

May 17, 2022

The Honorable Mark Conway
Chairman, Public Safety & Government Operations Committee (SGO)
Baltimore City Council
100 Holliday Street, Room 550
Baltimore, Maryland 21202
Mark.Conway@baltimorecity.gov
SENT VIA EMAIL

RE: City Council Bill #22-0199, Firefighter Safety Act

Chairman Conway,

On behalf of over twenty-five hundred Baltimore Fire Officers & Fire Fighters, both active and retired, the purpose of this correspondence is to **express support for Chief of Fire Department Niles R. Ford, the Baltimore City Fire Department, and the City Law Department in opposition of City Council Bill #22-0199, the Firefighter Safety Act.**

To provide context as to the consideration you should give this position, we provide a little background on who we are. As a professional firefighter, we have countless years of experience across two locals of the International Association of Fire Fighters (IAFF). We have served in all represented ranks, from firefighter and paramedic, lieutenant to captain, up to battalion chief. We have served as the boots on the ground up to incident commander on countless fires, multiple alarms, hazardous materials incidents, special rescue operations, and other emergencies. Additionally, in our capacity as union presidents, we are active and involved in our local, state, and international union functions. The IAFF boasts a membership in excess of 325,000 across the United States and Canada. In discussing the specifics of the Firefighter Safety Act with many of our peers, not one has expressed support for this legislation.

The genesis for the Firefighter Safety Act seems to spring from the triple firefighter fatality we experienced on January 24, 2022. At the scene of a dwelling fire at 203-7 S. Stricker St., we tragically lost the lives of Lieutenant Paul Butrim, Lieutenant Kelsey Sadler, and Firefighter Kenneth Lacayo. This incident shocked the conscience of not only the Baltimore City Fire Department, but the public consciousness as well. We shared in our grief collectively and mourn the loss of our friends, while we grapple together with the best way to move forward.

A review from the National Institute of Occupational Safety & Health (NIOSH) Firefighter Fatality Investigation & Prevention Program is well underway, as is an internal Baltimore City Fire Department Committee. A report from the Maryland Occupational Safety & Health (MOSH) has already been completed. We have had the opportunity to sit in on interviews and fact finding on some of these proceedings and have developed our own learned opinions as to some of the issues that this incident has brought to the forefront, as well as the solutions to those issues. Some policy and procedure changes have already been implemented within the

Department, and it is likely many more are forthcoming. The Firefighter Safety Act falls short in many ways as to identification of these issues as well as their solutions.

§7-3 Rules of Engagement

As to specifics, the ‘Rules of Engagement’ are perhaps most troublesome.¹ First, there is an arbitrary limitation to fifteen (15) miles per hour over the speed limit for units responding to the scene of an emergency. The relative expediency of responding units to the scene of S. Stricker St. has not been an issue, positive or negative, in the investigations listed above. Further, the Maryland Legislature has comprehensively solved this question in state legislation that permits the driver of an emergency vehicle to “[e]xceed any maximum speed limit, but only so long as the driver does not endanger life or property.”² It further requires that emergency vehicle drivers are not relieved from a duty of care and must operate vehicles with “due regard”³ for the safety of all persons.⁴ The Legislature reasonably concluded that responses are fact specific and do not require arbitrary restrictions. In addition, all our emergency drivers are highly trained in continuing education on vehicle operation, certification, and regulation by the City of Baltimore Department of Safety & Risk Management. Enacting a restriction like this would place unduly burdensome constraints and liabilities on our emergency vehicle operators. A real-life example would be the difficult situation placed on everyone, when confronted with transportation of a gravely injured child in need of surgical interventions at Maryland Shock Trauma, to explain to a parent why we are traveling below the flow of traffic on Interstate 83 or 95 to a lifesaving facility when conditions allow a safe exceeding of that speed in a situation where seconds mean the difference between life and death.

Second, there is the prohibition on interior offensive attacks in “abandoned, derelict, vacant, or unoccupied” structures unless the presence of an occupant has been confirmed, entry is safe, and fire involvement is “incipient and consume less than 25% of the structure.”⁵ The definition of vacant or abandoned is very important here and in the context of this City should be “not legally occupied.” The reason for this definition is that the members of Baltimore City Fire Department rescue citizens from so-called “vacant” and “abandoned” structures every year. **We do not draw distinctions on the importance of a person’s life over whether they legally occupy the structure we find them in.** To do so would be to draw an unforgiveable difference over the value of a human life based on their individual economic conditions.

The reference to “incipient” and “25%” are problematic due in no small part to their inherent contradiction. A fire at the incipient stage is defined as a fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II standpipe or small hose systems without the need for protective clothing or breathing apparatus.⁶ A fire at this stage can be combated by a civilian discharging an extinguisher over a kitchen fire. Compare this with interior structural firefighting, which is defined as the physical activity of fire

¹ CCB #22-0219 § 7-3.

² Md. Transp. Code § 21-106(2)(b)(3).

³ See “Letter from Chief Ford to City Council” p. 1, available at the following URL: <https://baltimore.legistar.com/View.ashx?M=F&ID=10882763&GUID=B60FF98E-4C1D-4431-B68C-36B9D6BCBAEE>. Chief Ford adopts this position, as well as notes the address of vehicle operation through BCFD policy and procedures.

⁴ Md. Transp. Code § 21-106(4)(d).

⁵ CCB #22-0219 § 7-3 (2) & (3).

⁶ 29 CFR 1910.155(c)(26).

suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage.⁷ By comparison of these very definitions, the “25%” classification is not referring to a fire in the incipient stage. However, it does implement an impossible standard. Any home not presently hosting an active fire could be described as no involvement, while a home with all interior furnishings, structural members, and everything else consumed in fire could be described as “fully involved” or “100% involved,” but a limitation to 25% is impossible to discern. Where is the line that delineates a structure that is 24% involved vs. 26%?

In support of this restriction, excerpts from NIOSH, the International Association of Fire Chiefs (IAFC), and the National Fire Protection Association (NFPA) are presented as evidence supportive of this language.⁸ **Closer inspection will reveal that none of the above organizations, to which I would also include the IAFF, promote or support the language in this bill.** Instead, all those organizations advocate for the very thing the officers and firefighters of the BCFD do – weigh risks and the totality of the circumstances in determining the course of action in a highly dangerous emergency environment. The Fire Department itself has gone further in the training and direction of our members in enacting policies that address this very issue as outlined by Chief Ford in his letter.⁹

Third, we join in support of the conclusions of the Law Department that this legislation is unduly restrictive to the Chief of Fire Department’s supervisory and directive authority over operations of the Department.¹⁰

The Rules of Engagement section of the Firefighter Safety Act is fraught with contradictions and does not serve the industry standards of the fire service at large, particularly not the Baltimore City Fire Department. The Rules of Engagement are best left to the experts, the Baltimore City Fire Department and its members, for development, implementation, and revision.

§7-4 Audio and Video Recording Device

One of the most confusing aspects of the Firefighter Safety Act is the provision on audio and video recording devices at the scene of fires. The public hearing on this bill brought further clarification to this mandate, the requirement of a facepiece which has a thermal imaging camera (TIC) display. **Simply put, this section seeks to solve a problem that does not exist.** We oppose this requirement for the following reasons.

The video broadcast at the SGO hearing on the Firefighter Safety Act shared a news report where firefighters were using this equipment during a controlled burn at a training facility. It specifically showed a Scott Sight PRO Full Kit. The bill requires the outfitting of the entire field suppression force with this equipment.

While TIC technology has been a very useful addition to the firefighting arsenal over the last two decades, it has not come up as an identified deficiency within the Department or our response to the Stricker St. tragedy. This is because the Department has been outfitted with TICs

⁷ 29 CFR 1910.155(c)(28).

⁸ Hearing Packet – 22-0199 – Firefighter Safety Act, pp. 2-4, available at the following URL: <https://baltimore.legistar.com/View.ashx?M=F&ID=10884809&GUID=DOE906CF-6692-4097-8759-F8064E1A9E4A>.

⁹ See “Letter from Chief Ford to City Council” pp. 1-2.

¹⁰ See “Letter from City Law Dept. to City Council,” pp. 1-2, available at the following URL: <https://baltimore.legistar.com/View.ashx?M=F&ID=10879374&GUID=76F57EBC-EFFF-4ED3-90B2-F7BA8EB67130>.

for many years. Every first line suppression unit is equipped with a Drager UCF 7000 TIC. This equipment is useful in identifying trapped victims, fire location, and progression. Our TICs are capable of audio and visual recording. They were also in full use on Stricker St., both during the fireground suppression operation and the firefighter rescue operation.

The Scott facepieces advocated for are an example of an emerging technology that is in its initial stages. I am not aware of any major metropolitan department that has adopted or required the use of this equipment. The Baltimore City Fire Department has not tested, researched, or developed this equipment, which is a best practice prior to deciding on equipment purchases. Further, it is proprietary technology specific to Scott. Baltimore City Fire Department uses Drager self-contained breathing apparatus (SCBA), a major equipment purchase made after thorough testing and surveying throughout the department. While Drager is developing similar add on technology, it is in the testing phases. Therefore, to equip our entire department with this technology, the price tag would not only include roughly \$3000 per facepiece per member, but replacement of over 500 SCBA to work with the facepiece.¹¹ In addition to this being a sole source purchase in excess of millions of dollars for no discernible reason, a new NFPA standard on SCBA is due within the next two years.

It would be an incredibly expensive folly to require this purchase in advance of testing or vetting of replacement SCBA. The Finance Department could provide better specifics after receiving this new information at the SGO Committee Hearing, but I am quite confident they will show their initial report was woefully underestimated. To replace every SCBA in addition to every facepiece, the total cost would be well more than \$5 million. By contrast, we still have engine companies, who respond to the scene of fires as the Rapid Intervention Team (RIT),¹² without any RIT equipment.

The Baltimore City Fire Department does have equipment needs, like any fire department. There is not, however, an outcry from the public, internally from firefighters and fire officers, or from external or internal investigators that we are in immediate need of TIC technology in our facepieces. It is certainly an area worthy of further exploration through the research and development arm of our Logistics section, but its requirement by law is premature to say the least.

§7-6 Disciplinary Actions

If the Rules of Engagement are of primary concern, the Disciplinary Actions section is a close second. The Disciplinary Actions section prohibits discipline against an employee who “questions an action at an emergency, if the member reasonably believes the action could put Department personnel or members of the public at risk of injury.”¹³ The bill goes on to require disciplinary actions to be taken against “any member who is found to have intentionally violated safety directives at an incident; or intentionally given a directive that violates a safety-related policy or procedure, even if it does not result in the injury of Department personnel.”¹⁴ We oppose these requirements for the reasons given below.

¹¹ SCBA were purchased for roughly \$2500 per unit. The Department currently has over 500 SCBA. Each firefighter is issued their own facepiece, which must be fit tested to their face, for a total of over 1500 facepieces.

¹² The Rapid Intervention Team, or RIT, is the unit or units tasked with firefighter rescue on a fireground. RIT equipment is carried on truck companies for the simple fact that there are less truck companies and therefore it was a lesser cost to equip them. In practice, an engine tasked with RIT will respond to a fire scene, then retrieve RIT equipment from a truck company.

¹³ CCB #22-0219 § 7-4(a).

¹⁴ *Id.* at (b)(1) & (2).

The first part of this section protects an employee from discipline for questioning orders on the scene of an emergency, if they “reasonably believe” it could give rise to “risk of injury.” While this ties into many parts of this bill, it cannot be emphasized enough in this context: **firefighting is an inherently dangerous activity.** That means that, under this provision, a firefighter can refuse a routine order due to its dangerous nature without any repercussion. **This would be akin to a soldier refusing an order to storm a battlefield because they reasonably believe the battlefield to be dangerous.** It purposely prevents the Department from performing their mission of fire suppression and other hazard mitigation. A paramilitary organization cannot function with a provision like that in place.

On the other hand, the second part of this section mandates discipline for intentionally violating safety directives at an incident or intentionally giving a directive that violates a “safety-related” policy or procedure. This language is problematic mostly due to its overbreadth, where nearly any policy can arguably be “safety-related.” It also makes no distinction between someone who violates a policy that creates a grave risk of harm, as compared to someone who violates a policy that is more procedural in nature and creates very little risk. This distinction is important on a fireground, which is a chaotic and rapidly developing situation that requires split second decision making.

The disciplinary actions provision is best addressed by the Chief of Fire Department and the controlling Memorandum of Understanding between the union locals and the Mayor & City Council. This section, as written, violates those sovereign agreements, creates a lack of disciplinary accountability for disobeying direct orders on the fireground, and creates harsh discipline for employees that make minor violations.

Conclusion

IAFF Local 964 Baltimore Fire Officers & IAFF Local 734 Baltimore Fire Fighters do not support passage of the Firefighter Safety Act for the reasons given above. We reiterate our support for Chief of Fire Department Niles Ford, Ph.D. in his opposition to the bill as written.

While the primary mission of the Baltimore City Fire Department remains “to put the wet stuff on the red stuff,” our mission has expanded and ever evolved over the past 163 years of our existence. We have hosted firefighters from all over the nation and the world who have come to learn from our strategies and tactics. The loss of life we sustained at Stricker St. this year was tragic and the family members we lost can never be replaced. We will honor their memory by continuing the mission they performed so well - the protection of this City and its residents from fire and other related emergencies. We all know the stakes and will perform bravely so that others may live. While we can never make an incident scene completely safe from injury or death, we will continue to pursue the latest technology and refine our methods to make it as safe as we can. Having said that, the fireground is inherently unsafe. We cannot support legislation that seems poised to unreasonably restrict us from the performance of our duties.

Yours very sincerely and respectfully,

Joshua L. Fannon, President
IAFF Local 964 Baltimore Fire Officers

Richard Langford, President
IAFF Local 734 Baltimore Fire Fighters

IAFF Joint Letter to Chairman Mark Conway, SGO
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CC: The Honorable Nick J. Mosby, City Council President
The Honorable Sharon Green Middleton, Council Vice President, 6th District
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The Honorable Danielle McCray, 2nd District
The Honorable Ryan Dorsey, 3rd District
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The Honorable Robert Stokes, Sr., 12th District
The Honorable Antonio Glover, 13th District
The Honorable Odette Ramos, 14th District
Niles R. Ford, Ph.D., Chief of Fire Department, Baltimore City Fire Department
Mr. Samuel Johnson, Legislative & Management Analyst, SGO