



# BALTIMORE POLICE DEPARTMENT



STEPHANIE RAWLINGS-BLAKE  
Mayor

February 11, 2010

FREDERICK H. BEALEFELD, III  
Police Commissioner

TO: The Honorable President and Members  
of the Baltimore City Council  
Room 400 City Hall  
**Attn. Karen Randle**

FROM: James H. Green, <sup>116</sup>Deputy Chief Legal Counsel  
Baltimore Police Department

RE: City Council Bill No. 10-0237R-In Support of Proposed State Legislation-  
Restrictions Against the Use and Possession of Firearm

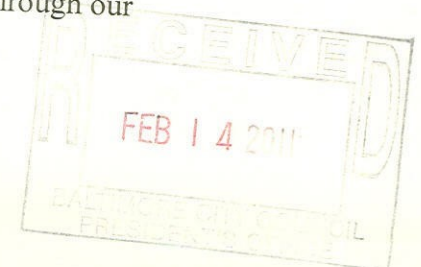
The Baltimore Police Department (BPD) has reviewed City Council Resolution 10-0237R-In Support of Proposed State Legislation-Restrictions Against the Use and Possession of Firearm and fully supports its adoption. The Resolution requests that the Baltimore City Senators and Baltimore City House Delegation support the introduction and work to secure passage of Mayor Stephanie Rawlings-Blake's 2011 gun legislation before the Maryland General Assembly.

Reducing firearm violence and targeting firearms offenders play significant roles in Baltimore's crime fighting efforts and the City's overall violence reduction strategies. The effect of the Mayor's gun legislation before the Maryland General Assembly will target by holding accountable the most violent persons contributing to violence in Baltimore and throughout the state.

Mayor Stephanie Rawlings-Blake has spoken about our recent success in violent crime reduction and her overall approach to crime in Baltimore. The BPD enforcement strategies have focused on targeting violent offenders and gun violence. Strong law enforcement partnerships have also been central to our success. Law enforcement cannot do this alone and we need strong legislation to help us achieve these results. A clear message must be sent to criminals that firearm violence and repeat offenses will not be tolerated. Persons should not possess loaded firearms on our streets. Those who do not heed this message must be kept behind bars for a long time.

Most of the homicides and non-fatal shootings that plague Baltimore are perpetrated by prohibited persons with illegal guns. Last year 87% of all homicide suspects arrested had prior records and approximately 44% had firearms offenses in their criminal histories. This is a trend that we had been tracking for a period of time through our Gunstat process.

c/o 242 W. 29th Street • Baltimore, Maryland 21211





## **Senate Bill 240/House Bill 241-Criminal Law-Restrictions Against Use and Possession of Firearms**

Senate Bill 240/House Bill 241 would broaden the current prohibition against the use of a handgun in the commission of a crime of violence or felony to include long guns and shotguns. Additionally, the bill expands the current prohibition against the possession of *regulated firearms* to include long guns and shotguns by those persons who have previously been convicted of a crime of violence and CDS felony crimes and strengthens the current penalty provision associated with this crime.

First, this legislation will level the penalties for all firearms when they are used in the commission of a crime of violence or felony. Currently, there is no provision in Maryland law that governs a crime of violence or felony that is committed with an assault weapon, shotgun or long gun. The offender can only be charged with the possession of a deadly weapon, which carries a greatly reduced sentencing range.

While the bill would have statewide applicability, it will have a significant impact in Baltimore City. In 2010, the Baltimore Police Department seized 647 long guns which accounted for over 27% of the total firearms recovered. Since 2008, the Department has seized over 2000 long guns and 98 assault weapons. Each year there are incidents, including the crimes of aggravated assault and robbery, which are perpetrated with long guns, shotguns, or assault weapons. The penalty for using a firearm in a crime should fit the crime and should not be dictated by the firearm choice.

Second, Maryland law (PS 5-133(c)) currently penalizes only the possession of a regulated firearm (handguns and assault weapons) when possessed by prohibited offenders and there is no similar provision in Maryland law if a prohibited person possesses a *shotgun or long gun*.

The penalty provisions in this section are also in need of significant change. Currently the sentence is a mandatory/minimum five (5) year sentence for a person convicted of this offense. The current law does not let the sentencing judge impose a penalty that takes into consideration an individual's prior criminal history. This bill's proposed penalty revision will provide for a maximum sentence of 15 years and will retain the five (5) year mandatory/minimum sentence as the minimum sentence. A mandatory minimum and maximum sentencing structure gives judges and prosecutors additional tools and discretion when dealing with these cases. The bill will also provide judges discretion for those offenders who have older convictions as the underlying basis for the charge. Additionally, a gradation of penalties should decrease the number of cases that necessitate a trial and thereby decrease the number of these cases that face a delayed trial in an already overburdened criminal justice system.

The Baltimore Police Department continues to work closely with the Baltimore City State's Attorney's Office and the Maryland's United States Attorney's Office (USAO) to impact firearms prosecutions through Maryland Exile. Through its coordination of Maryland Exile, the USAO continues to be instrumental statewide and especially in



Baltimore and Prince George's County. Recent statistics that indicate that the number of defendant's being prosecuted federally continues to grow in both the Northern and Southern Division. While this partnership is critical to combating gun crime and dealing with our most serious offenders, the federal system should not be a substitute for state prosecution and should only complement and bolster Maryland's prosecutions. Stronger firearm laws, such as that being proposed in SB 240/HB 241, will allow Maryland to better handle its offenders in the state system and reserve for federal prosecution only our most serious offenders.

### **Senate Bill 239/House Bill 252-Crimes-Possession of Loaded Handgun or Regulated Firearm-Enhanced Penalties**

Senate Bill 239/House Bill 252 proposes to create a mandatory minimum sentence of eighteen (18) months for persons convicted of possessing a loaded handgun and a maximum sentence of ten (10) years. Further, the proposed legislation also enhances the penalties for persons with certain disqualifying convictions that possess a loaded firearm. It also makes it a felony in the State of Maryland to possess a loaded gun and prevents a court from ordering probation before judgment. Although the sentence for possession of a handgun carries thirty (30) days to three (3) years, often these offenders can, and do, receive a suspended sentence and probation. Baltimore's GunStat and Gun Offender Registry data show that 82% of misdemeanor gun offenders received a suspended sentence and that the average period of incarceration imposed at District Court is four (4) months. This statistic must change.

One of the issues addressed through our GunStat process is the data on repeat gun offenders that shows that many of those charged with violence or firearms offenses have a history of arrests/convictions for crimes involving firearms. Many of these offenders when arrested for firearms offenses are in possession of loaded guns. Additionally, Baltimore's 2010 data shows that 67% of the handgun violation cases were submitted to our Firearms Section loaded with ammunition.

We know by looking at successes in other jurisdictions that this type of legislation can have immediate effects. In 2006, the State of New York reclassified the firearms offenses to prohibit the possession of loaded firearms and established a 3 1/2 year minimum sentence. Following this legislation's enactment, New York City posted a 17% reduction in homicides in 2007 and in 2008, an additional 10% reduction. Former New York Giants football star Plaxico Burress remains incarcerated today in New York after being convicted for weapons charges stemming from possessing an illegal loaded gun.

The BPD thanks the City Council for its continued support of the Mayor's public safety initiatives and welcomes the opportunity to share additional information with the Council on these issues.

cc: Angela Gibson, Mayor's Legislative Liaison