

Wilmington, Delaware
June 3, 2021

#0066

Sponsor:

**Council
Member
Darby**

WHEREAS, for more than 50 years American police officers have been afforded a special layer of employee protections when faced with investigations for official misconduct. This special layer of protection is commonly referred to as the Law Enforcement Officers' Bill of Rights (LEOBOR); and

Co-Sponsors:

**Council
President
Congo**

WHEREAS, these protections currently exist within fourteen states, including the State of Delaware. Each state has different statutes. The protections granted to police officers are more specific than those provided to other public employees in federal, state, or local civil service laws; and

**Council
Member
Johnson**

WHEREAS, the Law Enforcement Bill of Rights is intended to protect American law enforcement personnel from investigation and prosecution arising from conduct during official performance of their duties, and provides them with additional privileges based on due process than those normally provided to other citizens or professional fields; and

WHEREAS, the Delaware General Assembly passed legislation entitled Title 11: Crimes and Criminal Procedure, Victims of Crimes, Chapter 92. Law Enforcement Officers' Bill of Rights, in 1974 incorporating the Law into the Delaware State Code; and

WHEREAS, due to a number of provisions in the Delaware Law Enforcement Officers' Bill of Rights for Police Departments in municipalities and towns throughout the State including the City of Wilmington, the lack of transparency and accountability for police officers and departments have become preeminent issues for many in the communities these police officers are charged to serve and protect; and

WHEREAS, the Delaware LEOBOR includes provisions that prevents public access to Officer and Police Department reports on deadly use of force incidents including when guns are fired and prevents access by legal counsel of defendants to receive internal affairs investigation records of law enforcement officers accused of wrongdoing. It also ensures that all records compiled as a result of an investigation or contractual disciplinary grievance procedure remain confidential and "shall not be released to the public," and that complaints made by other citizens on police actions are confidential and are not to be released to the public.

Police Departments cannot publicly acknowledge that an officer is under investigation or that charges are dropped nor publicly acknowledge that the investigation ever took place or reveal the nature of the complaint; and

WHEREAS, in Delaware based on a report conducted by WHYY from 2005 to 2020, Delaware police have shot 56 people, killing 30 of them. Nearly half of those shot, 48%, were Black in a state whose population is 22% Black, demonstrating a clear overrepresentation of Blacks in victims of police shootings; and

WHEREAS, no officers in Delaware have been charged with a crime — even in instances where their use of deadly force has been questioned by state prosecutors, members of the public, and lawyers for the people shot. There are compelling reasons to be concerned that the Law Enforcement Officers’ Bill of Rights may be providing protections that are not warranted in a democratic society that is based on the rule of law.

NOW, THEREFORE, BE IT RESOLVED BY THE WILMINGTON CITY COUNCIL that this Council strongly recommends that the Delaware General Assembly support Senate Bill 149, repeal the Delaware Law Enforcement Officers’ Bill of Rights and amend Title 11 of the Delaware Code to establish greater transparency and accountability for Police Officers and Police Departments with all citizens in Wilmington and in Delaware without respect to race, ethnicity, religion, gender, socio-economic status, geographic location, and/or prior criminal records.

Passed by City Council,

Attest: _____
City Clerk

SYNOPSIS: The Wilmington City Council strongly encourages the Delaware General Assembly to support Senate Bill 149, taking the necessary steps towards increasing transparency, accountability and trust, and allow public access to police officer records which is in line with other professional fields.