Circuit Court for Prince George's County
Case No. C-16-CV-24-001234

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 739

September Term, 2024

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PRINCE GEORGE'S COUNTY POLICE DEPARTMENT

v.

TRAVIS FOWBLE

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Graeff,
Beachley,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Wright, J.

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Filed: August 1, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

At all times relevant to this appeal, appellee, Travis W. Fowble, was employed as a corporal by appellant, the Prince George's County Police Department ("the Department"). In September 2022, Fowble was suspended without pay after being charged with felony theft. Although the State entered a *nolle prosequi* on that charge in January 2024, the Department declined to return Fowble to paid status. In March 2024, Fowble filed a show cause petition in the Circuit Court for Prince George's County. In the petition, Fowble argued that, because the felony charge against him had been dismissed, the Department lacked the authority, under the former Law Enforcement Officers' Bill of Rights ("LEOBR"), to continue his unpaid suspension.[1] Following a hearing, the court ordered the Department to restore Fowble to paid status.

In this appeal, the Department presents a single question for our review, which we have rephrased as follows:

[1] The LEOBR was previously codified as Maryland Code (2003, 2018 Repl. Vol.), §§ 3-101 through 3-113 of the Public Safety Article ("PS"). Effective July 1, 2022, "[t]he Maryland General Assembly repealed and replaced the LEOBR with the 'Maryland Police Accountability Act'" ("MPAA"). *In the Matter of Cintron*, 265 Md. App. 481, 490 n.5 (2025). However, the repeal operated only prospectively. *See* 2021 Md. Laws, ch. 59, § 8 ("Title 3, Subtitle 1 of the Public Safety Article, as enacted by Section 3 of this Act, shall be construed to apply only prospectively[.]"). Accordingly, the parties agree that the LEOBR applies to this case because the alleged conduct underlying Fowble's felony charge occurred prior to July 1, 2022. *See id.* (The MPAA "may not be applied or interpreted to have any effect on or application to . . . a disciplinary matter against a law enforcement officer based on alleged misconduct occurring before July 1, 2022."); *In the Matter of Cintron*, 265 Md. App. at 490 n.5 (applying the LEOBR rather than the MPAA where "both parties agree the LEOBR controls . . . because Cintron's alleged misconduct that led to his termination from [the Baltimore City Police Department] occurred prior to the LEOBR's repeal"). Unless otherwise indicated, all subsequent citations to the Public Safety Article refer to the statute as it existed when that alleged misconduct occurred.

> Did the circuit court err as a matter of law by directing the Department to restore Fowble to paid status following the dismissal of the felony charge that triggered his emergency suspension without pay?

We answer that question in the negative and will therefore affirm the judgment of the circuit court.

## BACKGROUND[2]

In August 2018, the Department received a complaint alleging that Fowble had engaged in wage theft. In a letter dated February 25, 2022, the Department advised Fowble that he was being suspended with pay pending the outcome of an investigation into the theft allegation. The following month, the Department notified Fowble that he had been "removed from [a]dministrative [l]eave and placed on [a]dministrative [d]uty."

On September 22, 2022, a Prince George's County grand jury indicted Fowble for (i) felony theft between $1,500 and $25,000 and (ii) misdemeanor misconduct in office. According to the indictment, the charges against Fowble arose from a "continuing course of conduct" in which he had allegedly engaged between January 2 and December 18, 2018. On the same day the indictment was filed, the Department issued a letter advising Fowble

[2] Although our recitation of the underlying facts and procedural history is principally derived from the record before us, we have also relied, in part, on the undisputed facts set forth in the Department's brief. *See Bey v. State*, 228 Md. App. 521, 526 n.1 (2016) ("Because the State accepts generally the Statement of Facts provided in Bey's brief, our recitation of the facts is based on that brief and the transcripts from Bey's September 2014 trial."), *aff'd*, *State v. Bey*, 452 Md. 255 (2017); *Bourne v. Ctr. on Child., Inc*., 154 Md. App. 42, 46 n.2 (2003) ("Our statement of background facts is derived from appellee's brief, supplemented with information taken from the motion papers filed in circuit court."), *cert. denied*, 380 Md. 618 (2004).

that he was being suspended without pay "pending the outcome of an investigation" into the felony theft charge. The letter explained:

> This action is being taken in accordance with the General Order Manual, Volume I, Chapter 23. Leave & Duty Status, Section V, Subsection 21, "Mandatory Suspension[,]" which specifies that an officer shall be suspended when: "He or she is charged via statement of charges, criminal charging document, indictment, or criminal information from any competent Judicial authority with: Any crime classified as a felony within this State[.]" Any sworn member suspended shall be suspended without pay[] and will be entitled to a prompt hearing.

(Emphasis omitted.)

On or about January 9, 2024, an Assistant State's Attorney ("ASA") sent a letter to Fowble's attorney proposing a plea agreement. The ASA offered to *nol pros* the charges against Fowble in exchange for him paying restitution to Prince George's County in the amount of $8,055.82. Fowble evidently agreed and paid restitution in full. Accordingly, on January 18, 2024, the State *nol prossed* the charges against him. Fowble, through counsel, subsequently requested that the Department reinstate him with backpay and benefits. The Department, however, refused Fowble's request and continued its administrative investigation into the allegations against him.

On March 11, 2024, Fowble filed a Petition for Show Cause Order pursuant to PS § 3-105.[3] Although he did not challenge his continued suspension, Fowble asserted that,

[3] PS § 3-105 "was designed to enforce [an] accused officer's rights under the LEOBR," *Cave v. Elliott*, 190 Md. App. 65, 87 (2010) (cleaned up), and provided, in pertinent part: "A law enforcement officer who is denied a right granted by this subtitle may apply to the circuit court of the county where the law enforcement officer is regularly (continued . . . )

because he was no longer charged with a felony, the Department lacked "the statutory authority to continue [him] on unpaid status." In support of that position, Fowble argued: "[PS] § 3-1[12](c) is clear and unambiguous: an officer may only be suspended without pay *if* they are [sic] charged with a felony. As of January 18, 2024, Fowble stands charged with *no* criminal offenses, let alone any felonies." (Emphasis retained.) Accordingly, Fowble requested that the court direct the Department "to [s]how [c]ause as to why [he] should not be reinstated to paid status[.]"[4]

The Department filed an answer to Fowble's show cause petition on May 1, 2024. In that answer, the Department argued, *inter alia*, that the plain language of PS § 3-112(c) neither explicitly provided that an officer could only be suspended without pay based on an existing felony charge, nor expressly "state[d] that an officer must be reinstated to a paid status once a felony charge has been dismissed or resolved." The Department acknowledged that "a police chief's power [i]s limited by an officer's rights *expressly* provided by the LEOBR[.]" (Emphasis retained.) It maintained, however, that the statute "did not . . . create a right for an officer to be reinstated to a paid suspension status because felony charges were no longer pending."

employed for an order that directs the law enforcement agency to show cause why the right should not be granted." PS § 3-105(a).

[4] During its ongoing disciplinary investigation, the Department attempted to schedule an interview with Fowble in March 2024. Fowble, however, refused to participate. Given his "unpaid status," Fowble, through counsel, maintained that the Department lacked the authority "to issue him any orders."

In an order entered on April 1, 2024, the circuit court directed the Department to show cause "why this [c]ourt should not grant the relief sought" and set a hearing. The show cause hearing was held on June 5th. After oral argument, the court announced its ruling from the bench:

> I am going to grant [Fowble's] request for relief reluctantly. My interpretation of the statute at play and a logical interpretation of that statute means that the emergency suspension ceased [to be] effective [with] the nol pros of the felony, period.
>
> And [c]ounsel, I'm going to request that you submit a proposed order to my chambers. I will sign off on that order indicating that the [D]epartment is to cease the emergency suspension status effective the date of the nol pros of the felony count. And my order is that [Fowble] is entitled to back pay from that date until today.

The court memorialized its oral ruling in a written order entered on June 7, 2024, directing the Department to "immediately restore [Fowble] to paid status" and "remunerate [him] for back pay and benefits accruing from the date of January 18, 2024." The Department timely appealed from that order. Shortly thereafter, it filed a consent motion to stay enforcement of the judgment pending appeal, which the court granted on July 10th.

## STANDARD OF REVIEW

Where, as here, an action has been tried without a jury, "we review the judgment of the trial court 'on both the law and evidence.'" *Baltimore Police Dep't v. Brooks*, 247 Md. App. 193, 205 (2020) (quoting *Banks v. Pusey*, 393 Md. 688, 697 (2006)). We will not disturb the court's factual findings unless they are clearly erroneous. *See id.* ("We defer to the circuit court's findings of fact, except where 'the judgment of the trial court on the evidence [is] clearly erroneous.'" (quoting Md. Rule 8-131(c))). We owe no deference,

however, to a trial court's resolution of purely legal questions. *Prince George's Cnty. Police Dep't v. Zarragoitia*, 139 Md. App. 168, 180 (2001) ("With respect to questions of law, . . . we do not defer to the decision of the trial court[.]"). Because the ruling in this case rested on the court's interpretation of PS § 3-112(c), we review its decision *de novo*. *See Manger v. Fraternal Ord. of Police, Montgomery Cnty. Lodge 35, Inc.*, 227 Md. App. 141, 147 (2016) ("The heart of this case involves an interpretation of the LEOBR. We review a circuit court's interpretation of statutory provisions *de novo*.").

**DISCUSSION**

The Department contends that the circuit court erred in interpreting PS § 3-112(c) to require that it return Fowble to paid status. According to the Department, PS § 3-112's plain language neither limits its authority to suspend an officer without pay to instances where the officer is charged with a felony, nor requires that it restore an officer to paid status once a felony charge has been resolved. Absent any such limitation or requirement, the Department maintains that the decision of whether and when to lift an emergency suspension without pay falls within the "police chief's authority to regulate and manage their workforce."

Fowble responds that the Department's reading of PS § 3-112 disregards "the plain language and clear thrust of the statute[.]" Under his interpretation of PS § 3-112, an unpaid emergency suspension may continue only for so long as the felony charge that triggered it remains pending. Accordingly, he claims that "if the felony is dismissed, the officer is no

longer *charged*," and the unpaid emergency suspension must therefore be lifted. (Emphasis retained.)

**Statutory Construction**

Because the resolution of this appeal turns on our interpretation of PS § 3-112, we begin by reviewing the relevant canons of statutory construction. "[T]he cardinal rule of statutory interpretation [is] to ascertain and effectuate the General Assembly's purpose and intent when it enacted the statute." *Caruso Builder Belle Oak, LLC v. Sullivan*, 489 Md. 346, 365 (2025) (quotation marks and citations omitted). To discern legislative intent, "we look first to the normal, plain meaning of the language of the statute[.]" *Duffy v. CBS Corp.*, 458 Md. 206, 229 (2018) (quotation marks and citations omitted). The Supreme Court of Maryland recently reiterated the following principles pertaining to plain-language statutory interpretation:

> We neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute with forced or subtle interpretations that limit or extend its application. Rather, we construe the statute as a whole so that no word, clause, sentence, or phrase is rendered surplusage, superfluous, meaningless, or nugatory. We do not read statutory language in a vacuum, nor do we confine strictly our interpretation of a statute's plain language to the isolated section alone. Rather, the plain language must be viewed within the context of the statutory scheme to which it belongs, considering the purpose, aim, or policy of the Legislature in enacting the statute.

*SM Landover, LLC v. Sanders*, 489 Md. 614, 637 (2025) (cleaned up) (quoting *Pabst Brewing Co. v. Frederick P. Winner, Ltd.*, 478 Md. 61, 75 (2022)).

"'When the plain meaning of the [statutory] language is clear and unambiguous, and consistent with both the broad purposes of the legislation[] and the specific purpose of the

provision being interpreted, our inquiry is at an end.'" *Zarragoitia*, 139 Md. App. at 181 (quoting *Lewis v. State*, 348 Md. 648, 653 (1998)). "In all cases, though, we must give the statute a reasonable interpretation, not one that is absurd, illogical, or incompatible with common sense." *Robinson v. Baltimore Police Dep't*, 424 Md. 41, 51 (2011) (quotation marks and citation omitted). If the language of a statute is ambiguous, however, our analysis continues. Statutory language is ambiguous when it is "subject to more than one reasonable interpretation, or where the language is unambiguous when read in isolation, but ambiguous when considered in the context of a larger statutory scheme[.]" *Syed v. Lee*, 488 Md. 537, 594-95 (2024) (quotation marks and citation omitted). In resolving statutory ambiguities, courts may consider "the history of the legislation[,]" as well as "the structure of the statute, how it relates to other laws, its general purpose, and the relative rationality and legal effect of various competing constructions." *Lockshin v. Semsker*, 412 Md. 257, 276 (2010).

Consistent with these principles of statutory construction, we begin by looking to the plain language of the provision at issue. Prior to the repeal of the LEOBR, PS § 3-112(c) provided:

> (c) *Imposition — Without pay*. — (1) *If a law enforcement officer is charged with a felony, the chief may impose an emergency suspension of police powers without pay.*

> (2) A law enforcement officer who is suspended under paragraph (1) of this subsection is entitled to a prompt hearing.[5]

(Emphasis added.)

**Felony Charges: A Condition Precedent**

Relying in part on our decision in *Stuples v. Baltimore City Police Department*, 119 Md. App. 221, *cert. denied*, 349 Md. 495 (1998), the Department first contends that nothing in the plain language of PS § 3-112 indicates that a pending felony charge is the exclusive basis for suspending an officer without pay. According to the Department, if the General Assembly had intended to condition the imposition of unpaid suspensions exclusively on the existence of a felony charge, it would have done so expressly. The Department further argues that a contrary interpretation would prevent the police chief from placing errant officers on unpaid suspensions to penalize non-felonious misconduct, thereby unduly restricting the chief's discretion to impose discipline.

For his part, Fowble concedes that "an agency head has complete discretion to suspend an officer without pay as a matter of discipline[.]" He distinguishes, however, "between [unpaid] suspensions based on 'disciplinary proceedings' [and those] undertaken on an emergency basis." While he acknowledges that the police chief possesses broad

[5] In addition to being entitled to a "prompt hearing" on the issue of emergency suspension under PS § 3-112(c), a suspended officer has the right to a separate disciplinary hearing on the underlying allegations pursuant to PS § 3-107. *See Mayor & Comm'rs of Westernport v. Duckworth*, 49 Md. App. 236, 242 (1981) ("Quite apart from a suspended police officer's right to a 'prompt hearing' on the issue of emergency suspension . . . , every law-enforcement officer covered by the [LEOBR] is entitled to a hearing before dismissal for disciplinary reasons.").

discretion to impose the former, Fowble maintains that the latter "survives only as long as the [underlying felony] charge remains."

We note at the outset that the Department's reliance on *Stuples* is misplaced. In that case, the Baltimore City Police Department brought disciplinary charges against Officer Bobby Stuples for sexual harassment. An administrative hearing board found Stuples guilty and recommended his termination. The Police Commissioner adopted the hearing board's recommendation and terminated Stuples's employment. Thereafter, Stuples petitioned the circuit court for judicial review. The court found no fault with either the hearing board's findings or the sanction ultimately imposed. It determined, however, that Stuples had been improperly charged. Accordingly, the court vacated the hearing board's decision and remanded the case with instructions that the charging document be amended. Stuples subsequently filed a motion requesting that the court "revise [its] order 'to indicate that [he] be returned to the payroll as of'" the date of the court's oral ruling. *Stuples*, 119 Md. App. at 229. The court denied Stuples's motion and declined to "order reinstatement or retroactive back pay," reasoning that the issue was not properly before it. *Id*. at 231.

In challenging the circuit court's denial of his revisory motion on appeal, Stuples relied on Art. 27, § 734A—the predecessor to PS § 3-112. We dismissed Stuples's appeal as premature, holding that the denial of his revisory motion did not constitute a final judgment because it "did not in any way foreclose [Stuples's] further pursuit of his entitlement to back wages." *Id.* at 247. In dicta, however, we briefly addressed Stuples's argument that Art. 27, § 734A provided the exclusive basis for withholding officer pay.

> The appellant, implicitly at least, would seem to suggest that his pay status was controlled not by administrative regulations at all but by the statutory provisions of the [LEOBR]. That is not the case. The appellant relies exclusively on § 734A, wherein the phrase "without pay" is mentioned in one particular instance. *That section*, however, *has nothing to do with routine disciplinary proceedings taken against offending officers. As its subtitle clearly states, it deals only with "Summary Punishment or Emergency Suspension."*
>
> *Its provision that the Chief of Police may impose the "emergency suspension of police officers without pay" if they have "been charged with commission of a felony" by no means implies that pay may not be withheld in any other circumstances.* An officer whose employment has been terminated, for instance, will presumably no longer be entitled to his salary, but that is nowhere explicitly stated in the LEOBR. It is at best implicit.

*Id.* at 236-37 (emphasis added; citation omitted).

The Department relies on the second paragraph to support the proposition that an officer's pay status is not governed exclusively by PS § 3-112. It disregards, however, the distinction the preceding paragraph draws between unpaid emergency suspensions, on the one hand, and routine disciplinary proceedings, on the other. *See also Duckworth*, 49 Md. App. at 242 (distinguishing between officers' "right to a 'prompt hearing' on the issue of emergency suspension under § 734A(2)" and their entitlement "to a hearing before dismissal for disciplinary reasons"). Although the LEOBR does not prevent the police chief from withholding officer pay as a disciplinary sanction following a proper investigation and hearing, no such sanction was imposed in this case. Rather, Fowble was suspended without pay while the disciplinary investigation was ongoing and before an administrative hearing had been held. The unpaid suspension therefore depended exclusively on the

existence of a pending felony charge—and not on a guilty finding by the hearing board.[6] Thus, just as § 734A had no bearing on the disciplinary sanction against Stuples, the Department's discretion to impose such sanctions is irrelevant to Fowble's unpaid suspension under PS § 3-112.

To the extent the Department contends that PS § 3-112(c) does not condition the imposition of an unpaid emergency suspension on a pending felony charge, we are unpersuaded. The language of that subsection identifies an existing felony charge against an officer as the factual predicate that must be satisfied before the police chief may exercise discretion to impose such a suspension. Specifically, the clause, "[i]f a law enforcement officer is charged with a felony," establishes a condition precedent for the emergency suspension of an officer without pay. *See Baltimore City Det. Ctr. v. Foy*, 461 Md. 627, 641 (2018) ("[T]he legislature's use of the word 'if' restricts the Commissioner's ability to issue a penalty increase until certain conditions have occurred."). Accordingly, the police

[6] The Department cannot reasonably dispute that Fowble was suspended without pay based on the pending felony charge against him. As set forth above, the letter advising him of that suspension expressly stated:

> This action is being taken in accordance with the General Order Manual, Volume I, Chapter 23. Leave & Duty Status, Section V, Subsection 21, "Mandatory Suspension[,]" which specifies that an officer shall be suspended when: "He or she is charged . . . with: Any crime classified as a felony within this State[.]" Any sworn member suspended shall be suspended without pay[] and will be entitled to a prompt hearing.

The subsection of the General Order Manual referenced in this letter presently permits the police chief to "suspend an officer without pay and suspend the officer's police powers on an emergency basis[.]" *General Order Manual*, vol. 1, ch. 23, § V, subsec. 21.

chief may not impose such a suspension unless and until that condition occurs.[7] *Fraternal Ord. of Police, Montgomery Cnty. Lodge No. 35 v. Mehrling*, 343 Md. 155, 177 (1996) ("Where a statute establishes a condition precedent for action authorized to be taken by an agency, the agency action may not validly be taken until that condition has been met."). Finally, because an unpaid suspension imposed pursuant to PS § 3-112 does not amount to a disciplinary sanction for purposes of the LEOBR, our interpretation in no way restricts the Department's discretion to withhold pay from officers who are found guilty of misconduct.

**Felony Charges: A Continuing Condition**

The Department also asserts that, "while a felony charge is a trigger that authorizes a chief . . . to initiate an unpaid suspension, [PS § 3-112(c)] does not impose any mandatory automatic trigger to restore an officer . . . to paid status if [the officer is] no longer charged with a felony." According to the Department, although the General Assembly "could have written when an emergency suspension should end or what triggers an automatic reinstatement to paid status, . . . it chose not to do so."

In responding to the Department's argument, Fowble contends that, once the felony charge that gave rise to an unpaid emergency suspension has been dismissed, "the officer is no longer *charged*," and the statutory prerequisite for maintaining such a suspension

[7] As is evident from the use of the word "may," when this condition precedent is satisfied, the decision of whether to suspend an officer without pay is within the discretion of the police chief. *See Anne Arundel Cnty. Ethics Comm'n v. Dvorak*, 189 Md. App. 46, 83 (2009) ("[T]he word 'may,' when used in a statute, usually implies some degree of discretion." (cleaned up) (quoting *United States v. Rodgers*, 461 U.S. 677, 706 (1983))).

ceases to exist. (Emphasis retained.) Thus, according to Fowble's interpretation, the existence of a felony charge is not merely a condition precedent for imposing a PS § 3-112(c) suspension, but also a necessary condition for its continuation. He therefore seems to assert that the suspension terminates by operation of law when the underlying charge is dismissed.

We have established that a pending felony charge constitutes a condition precedent to an unpaid suspension imposed pursuant to PS § 3-112(c). However, it is not clear from the plain language of that subsection whether such a charge also operates as a continuing condition necessary to maintain the suspension once imposed. Because PS § 3-112(c) is susceptible to either party's interpretation when read in isolation, we will first consider it in the context of the immediately preceding subsection, which authorizes the imposition of a *paid* emergency suspension. That provision provided:

> (b) *Imposition — With pay.* — (1) The chief may impose emergency suspension with pay if it appears that the action is in the best interest of the public and the law enforcement agency.
>
> (2) If the law enforcement officer is suspended with pay, the chief may suspend the police powers of the law enforcement officer and reassign the law enforcement officer to restricted duties pending:
>
> (i) a determination by a court with respect to a criminal violation; or
>
> (ii) a final determination by a hearing board with respect to a law enforcement agency violation.
>
> (3) A law enforcement officer who is suspended under this subsection is entitled to a prompt hearing.

PS § 3-112(b). As with subsection (c), the permissive verb "may" in PS § 3-112(b) confers discretion on the police chief to impose an emergency suspension, while the conjunction "if" establishes that the exercise of that discretion is contingent upon the satisfaction of a condition precedent—namely, the chief's determination that the suspension would be in the best interest of the public and the Department. In contrast to subsection (c), however, once imposed, the suspension of an officer's police powers remains in effect "pending" a judgment as to the alleged violation. The preposition "pending" means "[w]hile awaiting; until the occurrence or appearance of; until." *Pending*, Oxford English Dictionary (2025), https://www.oed.com/dictionary/pending_prep?tab=meaning_and_use#31051671. *See also Westminster Mgmt., LLC v. Smith*, 486 Md. 616, 644 (2024) ("When statutory terms are undefined, we often look to dictionary definitions as a starting point, to identify the ordinary and popular meaning of the terms[.]" (quotation marks and citation omitted)). Thus, a paid suspension imposed pursuant to PS § 3-112(b) may remain in effect only until the underlying allegations are resolved. *Cf. State v. Harris*, 730 A.2d 1249, 1251 (Me. 1999) ("Section 1312(2) of Title 29 states unambiguously that a license suspension 'remains in effect pending the outcome of [a] hearing.' . . . Given the plain meaning of the word 'pending' within its statutory context, a license suspension remains in effect *until* the outcome of a hearing[.]" (emphasis retained; internal citation omitted)).

At first blush, the inclusion of conditions subsequent in subsection (b) could be construed, by negative implication, to indicate that the General Assembly deliberately

omitted any comparable terminating event from PS § 3-112(c).[8] However, the application of that canon of construction is not conclusive in this context. The General Assembly could well have intended that resolution of the underlying charges would extinguish an emergency suspension imposed under either subsection. Unlike subsection (c), the condition precedent for a paid suspension under PS § 3-112(b) is not a pending criminal or administrative charge but rather the police chief's determination that the suspension was "in the best interest of the public and the law enforcement agency." PS § 3-112(b)(1). It was therefore necessary for the General Assembly to specify when such a discretionary suspension would end. In contrast, the condition precedent for an unpaid suspension under PS § 3-112(c) is the felony charge itself. Accordingly, if the General Assembly contemplated that the continued existence of the charge would be an essential condition for sustaining the unpaid suspension, it would have been redundant to expressly state that resolution of the charge terminates the suspension.

Because PS § 3-112(c) is susceptible to different interpretations, when read either in isolation or in context, we turn now to the purpose of the statutory scheme to which it belongs. "Where a statutory provision is ambiguous and the general purpose for which the statute was enacted militates in favor of one among the several possible interpretations, the statute must be given that interpretation which accords with its general purpose." *Mehrling*,

[8] Under the "negative implication" canon, "when [the legislature] included particular language in one section of a statute, but omitted it in another section of the same act, it *could* be presumed that [the legislature] acted intentionally and purposely in the disparate inclusion or exclusion." *Miller v. Miller*, 142 Md. App. 239, 251 (emphasis added), *aff'd sub nom.*, *Goldberg v. Miller*, 371 Md. 591 (2002).

343 Md. at 182. Moreover, as a remedial statute, the LEOBR "should be *liberally* construed to effectuate [its] purpose[.]" *Hyatt v. Hyatt*, 53 Md. App. 55, 59 (1982) (emphasis added). *See also Mohan v. Norris*, 386 Md. 63, 84 (2005) ("Mohan fairly observes that the LEOBR is a remedial statute and, as such, should be liberally construed to effectuate the statute's remedial purpose." (cleaned up)); *Moats v. City of Hagerstown*, 324 Md. 519, 529 (1991) (characterizing the LEOBR as "a comprehensive administrative remedial scheme").

"The broad purpose of the LEOBR is to provide law enforcement officers with heightened procedural rights and protections when they are under internal investigation." *Manger v. Fraternal Ord. of Police, Montgomery Cnty. Lodge 35, Inc.*, 239 Md. App. 282, 294 (2018). *See also Montgomery Cnty., Md. v. Fraternal Ord. of Police, Montgomery Cnty. Lodge 35, Inc.*, 427 Md. 561, 573 (2012) ("The [LEOBR] was enacted . . . with the primary purpose of guaranteeing certain procedural safeguards to law enforcement officers during any investigation . . . that could lead to disciplinary action, demotion, or dismissal." (cleaned up)). Accordingly, when a provision of the LEOBR is susceptible to multiple reasonable interpretations, it should generally be construed to afford officers procedural safeguards during disciplinary investigations, thereby limiting the police chief's otherwise broad discretionary authority.

Under the Department's interpretation, an officer who has been suspended pursuant to PS § 3-112(c) would never be *entitled* to return to paid status. Rather, the unpaid suspension could only be lifted at the discretion of the police chief. Once properly imposed, therefore, an unpaid emergency suspension could persist indefinitely—even if the

underlying felony charge were ultimately dismissed or resolved in the officer's favor.[9] Such an outcome is not only clearly inconsistent with the LEOBR's remedial purpose but could produce anomalous and inequitable results. We explain.

Nothing in PS § 3-112(c) *requires* the police chief to suspend an officer without pay once felony charges have been filed against the officer.[10] Rather, even when felony charges are pending, the chief retains discretion to impose a *paid* suspension under subsection (b), provided that doing so appears to be "in the best interest of the public and the [Department]." PS § 3-112(b)(1). If an officer is charged with a felony and the chief chooses to impose a paid suspension, the officer's police powers would be reinstated automatically upon the resolution of the underlying charges. Under the Department's interpretation, however, if the chief elects instead to suspend such an officer without pay under PS § 3-112(c), a subsequent acquittal would not trigger the officer's return to paid status—much less the restoration of police powers. Thus, the same felony charge could result in a paid suspension that ends automatically upon the resolution of those charges or

[9] If convicted of the underlying felony charge, however, the officer would have lost the right to an administrative hearing under former PS § 3-107 and would therefore have become subject to immediate discharge. *See* PS § 3-107(a)(2) ("A law enforcement officer who has been convicted of a felony is not entitled to a hearing under this section."); *see also Jones v. Baltimore City Police Dep't*, 326 Md. 480, 487 (1992) ("The effect of [PS § 3-107(a)(2)] is a legislatively mandated form of the issue preclusion arm of res judicata—issues finally litigated adversely to the officer in the criminal litigation are to be taken as established in the subsequent administrative proceeding.").

[10] As noted above, the use of the permissive verb "may" in PS § 3-112(c) indicates that the decision to impose an unpaid suspension based on pending felony charges rests within the discretion of the police chief.

an unpaid suspension that continues indefinitely. We find it unlikely that the General Assembly intended such disparate outcomes to depend solely on the chief's discretion, without regard to the disposition of the underlying charges. Indeed, a review of the statute's history reveals a deliberate effort by the General Assembly to limit the chief's discretion over emergency suspensions.

As originally enacted in 1974, the LEOBR did not include a provision expressly authorizing the police chief to impose an emergency suspension. *See* 1974 Md. Laws, ch. 722 (H.B. 354). Effective July 1, 1975, however, the General Assembly amended the LEOBR to include what became the statutory predecessor to PS § 3-112. Then codified as Article 27, § 735, the provision stated, in relevant part:

> (2) Emergency suspension may be imposed by the chief when it appears that the action is in the best interest of the public and the law-enforcement agency. Any person so suspended shall be entitled to a prompt hearing.

1975 Md. Laws, ch. 809 (H.B. 354). As is evident from its plain language, § 735 afforded the police chief broad discretion to impose an emergency suspension.

Although later recodified as § 734A, the provision's language remained unchanged for over a decade following its enactment. In 1987, however, the General Assembly substantively amended the section to distinguish between emergency suspensions with and without pay. As amended, § 734A provided, in pertinent part:

> (2)(i) Emergency suspension with pay may be imposed by the chief when it appears that the action is in the best interest of the public and the law-enforcement agency.

(ii) *If the officer is suspended with pay, the chief may suspend the police powers of the officer and reassign the officer to restricted duties pending a determination by a court of competent jurisdiction with respect to any criminal violation or final determination by an administrative hearing board as to any departmental violation.*

(iii) Any person so suspended shall be entitled to a prompt hearing.

(3)(i) *Emergency suspension of police powers without pay may be imposed by the chief if a law enforcement officer has been charged with the commission of a felony.*[11]

(ii) Any person so suspended shall be entitled to a prompt hearing.

1987 Md. Laws, chs. 777 & 778 (S.B. 475 & H.B. 706) (emphasis added).

The 1987 amendment to § 734A was adopted in response to reports of financial hardships incurred by officers who were suspended without pay only to be later "acquitted of all charges." Senate Judicial Proceedings Committee, Summary of Committee Report, S.B. 475 at 1 (1987). To mitigate such undue hardships, the amendment distinguished between paid and unpaid suspensions and established an objective threshold requirement—the filing of a felony charge—that had to be met before the police chief could impose the latter. As previously discussed, moreover, the General Assembly further restricted the chief's formerly unfettered discretion over emergency suspensions by indicating that a paid suspension could persist only until the underlying criminal or administrative charges were resolved. Considering the remedial purpose of the amendment, it is difficult to reconcile

[11] Effective October 1, 2003, the General Assembly recodified § 734A without substantive change as PS § 3-112. In so doing, it replaced the present perfect tense "has been charged" with the present tense "is charged." As discussed above, this revised language clearly indicates that a felony charge must be pending when an unpaid suspension is imposed.

the General Assembly's decision to limit the duration of *paid* suspensions with an interpretation that would permit suspensions *without pay* to continue in perpetuity.

Although § 734A was recodified without substantive change as PS § 3-112 in 2003, the provision was not otherwise amended before the LEOBR was repealed and replaced with the Maryland Police Accountability Act of 2021 ("MPAA"). *See* 2021 Md. Laws, ch. 59 (S.B. 71). The MPAA's emergency suspension provision is currently codified as PS § 3-107 and provides, in pertinent part:

> (a)(1) Pending an investigatory, administrative charging committee, and trial board process, the chief may impose an emergency suspension with or without pay if the chief determines that such a suspension is in the best interest of the public.
>
> (2) An emergency suspension without pay under this subsection may not exceed 30 days.

The temporal limitations on unpaid emergency suspensions expressly imposed by this recent legislation lends further support to our interpretation of former PS § 3-112(c). *See Chesek v. Jones*, 406 Md. 446, 462 (2008) ("Although a subsequent legislative amendment of a statute is not controlling as to the meaning of the prior law, . . . subsequent legislation can be considered helpful to determine legislative intent."); *Reier v. State Dep't of Assessments & Tax'n*, 397 Md. 2, 35 (2007) ("'[S]ubsequent legislation can be consulted to determine legislative intent.'" (quoting *Nesbit v. Gov't Emps. Ins. Co.*, 382 Md. 65, 78 (2004))).

As currently codified, PS § 3-107(a) sets forth dual restrictions on the duration of unpaid emergency suspensions, indicating a continued legislative commitment to

alleviating the financial hardships of suspended officers. First, it prohibits such suspensions from exceeding thirty days, suggesting that the General Assembly intended—both in the current statute and by implication in its predecessor—that unpaid suspensions would be temporary rather than indefinite. Second, it explicitly provides that an emergency suspension—with or without pay—may be imposed "pending" an investigation of alleged officer misconduct and the adjudication of any ensuing administrative charges.

Consistent with our interpretation of the word "pending" as establishing a condition subsequent in former PS § 3-112(b), we read the term here as establishing a similar limitation. Specifically, it indicates that an emergency suspension may remain in effect only until the close of the underlying investigation and resolution of any related charges. In this respect, the clarity of PS § 3-107(a), which explicitly applies the term "pending" to both paid and unpaid suspensions, differs from the language of PS § 3-112(b), which did not expressly define the duration of an unpaid suspension imposed based on a pending felony charge. Nevertheless, the inclusion of this language in PS § 3-107(a) supports a reasonable inference that the General Assembly did not intend for unpaid suspensions to continue indefinitely under the prior enactment. Rather, the General Assembly seems to have framed the successor statute to clarify its expectation that any suspension—whether with or without pay—would remain in effect only while the underlying disciplinary proceedings were unresolved. Although this subsequent enactment does not conclusively establish the meaning of former PS § 3-112(c), it provides persuasive evidence that the

General Assembly disfavored indefinite unpaid suspensions and contemplated temporal limitations in enacting the earlier provision.[12]

[12] The legislative history of the Correctional Officers' Bill of Rights ("COBR") also lends some persuasive support to our interpretation of former PS § 3-112(c). The COBR became effective on October 1, 2010, and was codified at § 10-901 *et seq*. of the Correctional Services Article ("CS"). 2010 Md. Laws, ch. 194 (S.B. 887). The COBR was "modeled . . . after the [LEOBR]" and shared a similar legislative purpose—namely, "to establish exclusive procedures for the investigation and discipline of a correctional officer for alleged misconduct." *Foy*, 461 Md. at 632 (cleaned up). Accordingly, each statute may inform our interpretation of the other. *See id.* at 633 ("Courts . . . look to the LEOBR as an informative source for interpreting the COBR's provisions.").

The COBR contains an emergency suspension provision, which is codified at CS § 10-913. When the COBR was initially enacted in 2010, the language of CS § 10-913 was nearly identical to that of former PS § 3-112, providing, in pertinent part:

> (c)(1) If a correctional officer is charged with a felony, the appointing authority may impose an emergency suspension of correctional powers without pay.
>
> (2) A correctional officer who is suspended under paragraph (1) of this subsection is entitled to a prompt hearing, held no more than 90 days after the suspension.

2010 Md. Laws, ch. 194 § 1. In 2012, the General Assembly amended CS § 10-913 to specify that, with certain exceptions, a correctional officer suspended without pay pursuant to subsection (c)(1) "and who is not convicted of the felony for which the suspension was imposed shall have: (i) the suspension rescinded; and (ii) any lost time, compensation, status, and benefits restored." 2012 Md. Laws, chs. 616 & 617 (S.B. 899 & H.B. 930). The House Committee on Appropriations' Floor Report explains the events that precipitated this amendment. *See Johnson v. State*, 258 Md. App. 71, 92 n.20 (2023) ("Floor reports are an excellent source of legislative history . . . , and this Court frequently relies on them."); *Daughtry v. Nadel*, 248 Md. App. 594, 621 n.19 (2020) ("In analyzing a statute, Floor Reports often serve as key legislative history documents." (quotation marks and citations omitted)). According to the Floor Report, the amendment was proposed in response to the 2011 suspension without pay of sixteen correctional officers under CS § 10-913(c). Floor Report, H.B. 930 at 2.

(continued . . . )

## CONCLUSION

Although the plain language of former PS § 3-112(c) does not unambiguously specify when an unpaid emergency suspension must end, the LEOBR's remedial purpose, the provision's statutory history, and the subsequent enactment of temporal limitations in PS § 3-107(a) support the conclusion that a pending felony charge was not only a condition precedent to imposing such a suspension but also a necessary condition for maintaining it. Despite "the inartfulness and lack of precision with which the [LEOBR], in many respects, is drawn[,]" we hold that, under PS § 3-112(c), the unpaid suspension of Fowble's police powers could not continue after the State *nol prossed* the underlying felony charges against him.[13] *Duckworth*, 49 Md. App. at 242. Accordingly, we affirm the judgment of the circuit court.

Thus, the General Assembly adopted the 2012 amendment only two years after enacting the COBR and did so in response to evidence that the provision had been applied to impose protracted unpaid suspensions. The amendment expressly required that an unpaid suspension be rescinded when the underlying felony charge did not culminate in a conviction. This requirement is consistent with an interpretation of CS § 10-913(c)(1) under which the existence of pending felony charges operates as a necessary condition for the continuation of such a suspension. Accordingly, the 2012 amendment may reasonably be read as making explicit what was implicit in subsection (c)(1). When considered in conjunction with the parallel provisions of PS § 3-112, this amendment supports the view that an unpaid emergency suspension was intended under both statutes to terminate upon the resolution of the underlying felony charge.

[13] In light of this holding, we need not address the Department's arguments with respect to the relevant provisions of the Prince George's County Code ("PGCC"). As the Department itself acknowledges, with an exception not here relevant, the LEOBR "supersedes any other law of . . . a county . . . that conflicts with [it]." PS § 3-102(a). Accordingly, insofar as the PGCC conflicts with former PS § 3-112, our interpretation of the latter statute controls.

(continued . . . )

Although it is not necessary for us to consider the Department's arguments pertaining to the PGCC, we will briefly address its reliance on our decision in *Hart v. Prince George's County Police Department*, No. 826, Sept. Term, 2022 (filed May 31, 2023). The Department cites *Hart* as an example of a prior occasion on which we have "reviewed the intersection between the LEOBR and [the pertinent] provision of the [PGCC] relating to the pay status of an officer charged with felonies under the LEOBR." As *Hart* was an unreported opinion filed before July 1, 2023, it cannot be cited as persuasive authority under Maryland Rule 1-104(a)(2)(B). In a footnote to its brief, however, the Department nevertheless urges us to consider *Hart* as "precedent under the theory of nonmutual collateral estoppel" pursuant to Rule 1-104(a)(2)(A), claiming that the issue presented in that case was "identical [to] and bears heavily on" the one *sub judice*. At oral argument, however, the Department appeared to abandon that position, stating that it was referencing "the case for the purpose of explaining why the Department proceeded in the way that it did."

In any event, the Department cannot assert nonmutual collateral estoppel against Fowble. The Supreme Court of Maryland has set forth the following four-part test to determine whether nonmutual collateral estoppel applies:

> 1. Was the issue decided in the prior adjudication identical with the one presented in the action in question?
>
> 2. Was there a final judgment on the merits?
>
> 3. *Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication?*
>
> 4. Was the party against whom the plea is asserted given a fair opportunity to be heard on the issue?

*Standard Fire Ins., Co. v. Berrett*, 395 Md. 439, 458 (2006) (emphasis added; quotation marks omitted) (quoting *Colandrea v. Wilde Lake Cmty. Ass'n*, *Inc.*, 361 Md. 371, 391 (2000)). "The gravamen of this test is that the party to be bound must have had a full and fair opportunity to litigate the issues in question." *Id.* (cleaned up). Although the Department was the defendant/appellee in the *Hart* case, Fowble was neither a party nor in privity with one. Accordingly, the Department cannot invoke collateral estoppel against him, and the corresponding exception provided in Rule 1-104(a)(2)(A) does not apply.

(continued . . . )

**JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.**

In the alternative, the Department asks that we consider *Hart* as persuasive authority, "in light of its relevance to the case sub judice and the fact that it was issued only one month prior to the July 1, 2023[,] deadline articulated in Rule 1-104(a)(2)(B)." We reject that argument as well. "[T]he Maryland Rules are 'precise rubrics' which are to be strictly followed." *Gen. Motors Corp. v. Seay*, 388 Md. 341, 344 (2005). Thus, even if the *Hart* opinion had been filed on June 30, 2023, and was dispositive of the issue presented, we would deny the Department's request. We therefore disregard any and all references to *Hart.*