IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND STATE CONFERENCE OF NAACP BRANCHES, *et al*.,	*	
Plaintiffs	*	
v. *		**Civil Action No. 06-1863 (CCB)**
BALTIMORE POLICE DEPARTMENT, *et al*.,	*	
	*	
Defendants.		

* * * * * * * * * * * * *

ANSWER TO PLAINTIFF'S CLASS ACTION COMPLAINT

Defendants, the Baltimore Police Department ("BPD") and the Mayor & City Council of Baltimore ("the City") (hereinafter "the defendants"), by their undersigned counsel, answer the class action complaint filed by plaintiffs and state as follows.

Negative and Affirmative Defenses

1. The complaint fails to state a claim upon which relief can be granted.

2. Plaintiffs failed to file adequate notices of claim within 180 days after injury, barring the present lawsuit.

3. Plaintiffs' claims are barred under principles of governmental immunity.

4. Plaintiffs' claims are barred by absolute and qualified immunity.

5. Defendants are immune from all claims in excess of $200,000.00 per occurrence or $500,000.00 in the aggregate.

6. Plaintiffs do not satisfy the requirements to maintain this action as a class action.

7. Some or all plaintiffs lack standing to assert some or all of the claims in the class action complaint.

8. Defendants have acted lawfully in all respects.

9. The arrests of the individual plaintiffs were made with probable cause.

10. Baltimore's loitering statute is constitutional on its face and as applied to these plaintiffs.

11. Baltimore police officers have the right and responsibility to enforce all criminal laws, including misdemeanor and quality of life crimes.

12. The Baltimore State's Attorneys Office's action or inaction with respect to misdemeanor and quality of life crimes does not render unlawful an arrest made with probable cause.

13. The United States Constitution and the Maryland Declaration of Rights do not preclude the Baltimore Police Department from using arrest numbers as a measure of a police officer's job performance.

Response to Averments of the Class Action Complaint

Pursuant to Federal Rule of Civil Procedure 8(b), defendants deny all factual averments contained in plaintiffs' class action complaint except that: as to paragraphs 25 and 26 defendants admit that the City and the BPD are governmental entities; that as to paragraphs 34 through 37 defendants admit that these individual defendants carry out or carried out their responsibilities subject to and limited by various state and local laws involving the duties, conduct and discipline of officers and other employees, and the screening, hiring, training, monitoring, and supervision of subordinates; and as to paragraphs 38 through 42 defendants admit that the individuals named were sworn members of the Baltimore Police Department during periods relevant to the allegations.

WHEREFORE, defendants have fully answered the allegations contained in the class action complaint and deny that plaintiffs are entitled to any of the relief demanded. Defendants respectfully request that this Court enter judgment in their favor and against plaintiff as to all counts.

Respectfully submitted,

_____/s/_____

Karen Stakem Hornig,
Chief Legal Counsel
(Bar No. 03444)
karen.hornig@baltimorepolice.org
Patrick D. Sheridan, Asst. Solicitor
(Bar. No. 27009)
patrick.sheridan@baltimorepolice.org
Baltimore City Police Department
Office of Legal Affairs
c/o 242 W. 29th St.
Baltimore, Maryland 21211
(410) 396-2496
(410) 396-2126 (fax)
Counsel for Defendants
Baltimore Police Department,
Police Commissioner Leonard Hamm and
all Present and Former Department
Officials and Employees

Joshua N. Auerbach, Chief Solicitor
(Bar No. 26108)
joshua.auerbach@baltimorecity.gov
(Bar No. 27985)
Michael F. Conti, Asst. Solicitor
michael.conti@baltimorecity.gov
Baltimore City Department of Law
101 City Hall
100 N. Holliday Street
Baltimore, Maryland 21202
(410) 396- 3297
(410) 659-4077 (fax)
Counsel for Defendants
Mayor and City Council of Baltimore
and Mayor Martin O'Malley

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of December, 2007 defendants' answer to the class action complaint was filed in accordance with the Electronic Filing Requirement and Procedures as established by the U.S. District Court for the District of Maryland.

/s/

KAREN STAKEM HORNIG (03444)
Chief Legal Counsel