



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith Jr., Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief Hank Stawinski, Prince George's County Police Department, President,
Maryland Chiefs of Police Association
Sheriff Jeff Gahler, Harford County Sheriff's Office, President, Maryland
Sheriffs' Association
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 3, 2020

RE: **SB 1029 Public Information Act – Personnel and Investigatory Records –
Complaints Against Law Enforcement Officers**

POSITION: **SUPPORT AS INTRODUCED**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **SUPPORT SB 1029 AS INTRODUCED**. This bill seeks to enhance law enforcement transparency and accountability by providing access to personnel and investigative records relating to complaints involving the discharge of a firearm, use of force resulting in serious bodily injury, and sustained investigatory findings of complaints involving an officer's integrity.

The General Assembly has been grappling with this issue for the past several years. During this past interim, the House Judiciary Committee formed a workgroup to tackle the matter head on. MCPA and MSA were active participants in that discussion and believe SB 1029 will give law enforcement the tool it needs to appropriately respond to incidents and complaints while being more transparent in meeting the interests of the community.

Under current law, all public employees' personnel files and investigative records are not open for public view under the Maryland Public Information Act. SB 1029 is making an exception to this rule for law enforcement in very specific circumstances. This bill will allow the release of an investigative file in situations involving the following complaints:

1. the alleged misconduct involves the discharge of a firearm at a person by a law enforcement officer;
2. the alleged misconduct involves the use of force by a law enforcement officer resulting in death or serious bodily injury; or
3. a sustained investigatory finding was made by a law enforcement agency that a law enforcement officer
 - a. committed a sexual assault involving member of the public;

- b. engaged in dishonesty, committed perjury, made false statements, filed false reports, or destroyed, falsified, or concealed evidence directly relating to the reporting, investigation, or prosecution of a crime; or
- c. engaged in prohibited discrimination directly relating to the reporting, investigation, or prosecution of a crime.

It is important to emphasize that in both complaints involving the discharge of a firearm and use of force resulting in death or serious bodily injury, information pertaining to both sustained and non-or not sustained complaints will be released. Other complaints relating to an officer's integrity as specified above will only be released if they are sustained. This is extremely important as Chiefs and Sheriffs strive to protect the reputation and honor of the men and women who protect our communities every day.

The process outlined in SB 1029 provides for the release of information at the completion of an internal investigation. This is the point in time in which it is determined that an allegation did not occur (unfounded), it did occur but there was no wrongdoing (exonerated), evidence does not indicate there was any wrongdoing (non or not-sustained), or the evidence indicates that an allegation did occur (sustained). Releasing information with any other finding except sustained could damage an officer's career and reputation. Further the secondary dissemination could put the officer and his or her family at risk. It would be very easy for information to be distorted and inaccurate conclusions drawn with ramifications lasting for years.

MCPA and MSA believe SB 1029 represents a reasonable and common-sense approach for providing access to information regarding law enforcement complaints improving transparency and accountability. For these reasons, MCPA and MSA SUPPORT SB 1029 and urge a FAVORABLE Committee report on the bill as introduced.