

March 2, 2020

Written testimony submitted to Maryland House Judiciary Committee and Maryland Senate Judicial Proceedings Committee re: Maryland Public Information Act: Complaints Against Law Enforcement Officers; HB1221 and SB1029 cross-referenced.

Written & submitted by Tim Ernst, resident of Silver Spring, Maryland.

I am strongly in favor of strengthening Maryland Public Information Act (MPIA). I believe that **ALL police disciplinary records and complaints made against police officers should be made open and accessible to the public.** Currently, police disciplinary records and complaints against police officers are secret. These records are not made public because Maryland law protects police officers' alleged bad behavior from transparency, public scrutiny and accountability to Maryland residents.

This lack of transparency results in a lack of public trust in our police departments, our state & local legislators and our state & local executive branch of government.

Transparency = Accountability = Trust

Police officers are sworn to protect and serve the residents of communities they serve. I'm sure that most police officers behave appropriately most of the time. So do most doctors, lawyers and other professionals. If someone files a complaint against a doctor, lawyer or other professional, they could be disciplined, fined or have their licenses revoked. However, most complaints made against police officers in Maryland are never made public. It's up to police departments themselves to decide if a complaint is worth investigating. That's not a fair or independent oversight process.

Transparency – **shedding sunlight on bad behavior** – results in accountability. Transparency weeds out bad actors and restores public confidence in police departments. Sunlight (transparency) also has the critically important effect of deterring bad behavior in the first place. If I understand that my bad behavior will be made public and I will suffer consequences, I am less likely to engage in that type of behavior.

Why is there no transparency or accountability for police officers' behavior?

Anton Black, age 19, died in police custody in Greensboro, MD on September 15, 2018 after being handcuffed face-down and arrested by Greensboro police officer Thomas Webster IV. Officer Webster had a history of "use of force" incidents against residents in Delaware.

On August 24, 2013, "while working as a Dover, Delaware police officer," according to Delawareonline.com, "Webster was arrested for kicking an unarmed man, Lateef Dickerson, in the head, breaking his jaw. Dickerson, a 33-year old black man, was getting into a face-down

position at gunpoint, on the orders of Webster, who is white, while another officer looked on. The incident was recorded on a Dover Police dashboard camera.”

“Dover announced an agreement with Webster in 2016, who was acquitted of assault charges a few years prior, paying him \$230,000 over six years to quit. As part of the agreement, Webster was banned from ever seeking employment in the city again.”

Greensboro Town Manager Jeanette DeLude said in February 2018, when Webster was hired, that he was the “best qualified applicant.” “Because he (Webster) was found innocent of everything, there is no history,” she said.

Officer Webster’s record was called into question again in February 2019 when the State of Maryland learned of **29 use of force reports** that it was unaware of when Greensboro, MD hired Webster.

Why did the State of Maryland and the city of Greensboro, MD not know that Thomas Webster IV had a long history of use of force reports against him?

Why did the City of Dover have to pay \$230,000 to make Officer Webster go away?

Where is justice for Anton Black’s family and the community?

DO MEMBERS OF HOUSE JUDICIARY COMMITTEE AND SENATE JUDICIAL PROCEEDINGS AGREE THAT BY MAKING ALL COMPLAINTS AGAINST POLICE OFFICER ACCESSIBLE TO THE PUBLIC (SUNLIGHT) THAT WE CAN PREVENT FUTURE DEATHS AND INJURY TO MARYLAND RESIDENTS AT THE HANDS OF POLICE OFFICERS WHO BEHAVE BADLY OR BREAK THE LAW?

Transparency = Accountability = Trust

“Officers accused of misconduct get new jobs; Left Mount Rainier with Clean Files; Two were later hired by Seat Pleasant, MD police department” -- Washington Post, December 1, 2019

“A police department records clerk said two officers routinely showed her explicit pictures and asked graphic questions, including whether she would have sex for money. A third officer pressured her to perform sex acts, the woman reported, and made her fear for her job if she refused. Officials in Mount Rainier hired a lawyer to investigate. The lawyer found the clerk’s account credible, but all three officers left the department with clean records. Soon, two were working in Seat Pleasant, a nearby town of 4,800. The police chief there said he was unaware of the allegations when he hired the officers.”

“Experts say the woman’s story offers a window into the challenges of proving officer misconduct, especially within small police departments, and the ease with which accused officers can move from one department to another.”

"If I don't pay a parking ticket, there are consequences," said Maria. "But now he is carrying a gun... How could you possibly leave him where he could do it again?"

"Unlike other employment situations where the most minimal scar on someone's record will forever prevent them from getting a job, the police seem to have this way of protecting their own, unless the conduct is really egregious," said Terry Gilbert, a Cleveland-based civil rights and defense lawyer. In Maryland, police accused of misconduct can be formally disciplined only if an internal affairs investigation is conducted by another sworn officer.

"Seat Pleasant Police Chief Devan Martin said no one mentioned the allegations against either officer during reference checks. Nor did their personnel files indicate any issues."

"Firing police officers in some states, especially those with strong unions, is so time-consuming and expensive that departments are glad to let them resign, said Howard Friedman, an attorney in Boston who represents alleged victims of police misconduct."

"After the 2015 death of Freddie Gray in Baltimore police custody, then-Mayor Stephanie Rawlings-Blake pushed to overhaul Maryland Law Enforcement Officers' Bill of Rights. She wanted to create a felony "misconduct in office" charge and allow officers to be disciplined without the right to appeal. The bill, strongly opposed by the Maryland Fraternal Order of Police and groups representing police chiefs and sheriffs, did not advance."

Transparency = Accountability = Public Trust

There will be no public trust in police officers until Maryland stops treating police officers as a protected class of citizens under the law.

Law enforcement officers are public employees who carry guns and wield enormous power in our community. Maryland legislators should hold police officers to the same standard – not a lower standard – as all residents under Maryland law. Currently, police officers who allegedly commit a crime are not investigated and prosecuted the same way as any resident of Maryland who allegedly commits a crime.

I would strongly support SB1029 and HB1121 if AMENDED to include ALL police disciplinary records and complaints made against police officers in Maryland.

I would also strongly support amending the Maryland Law Enforcement Officers' Bill of Rights to make police officers subject to the same laws and due process as all residents of Maryland.

Sincerely,
Tim Ernst
Silver Spring, Maryland