



**HOUSE JUDICIARY COMMITTEE
HB 1221: PUBLIC INFORMATION ACT – PERSONNEL AND INVESTIGATORY RECORDS –
COMPLAINTS AGAINST LAW ENFORCEMENT OFFICERS**

MARCH 3, 2020

POSITION: OPPOSE UNLESS AMENDED

Showing Up for Racial Justice is a national network of groups working to undermine white supremacy and working toward racial justice. The Montgomery County chapter of Showing Up for Racial Justice represents the voices of over 1,500 people working locally for justice and equity.

We **Oppose HB 1221 Unless Amended** to include both sustained and *unsustained* complaints. Public access to complaints against law enforcement officers is essential to building trust with communities and enabling accountability in policing. As currently written, this bill would solely allow public access to "sustained" complaints, which is only about 2% of all police complaints.

In Silver Spring, two unarmed Black men have been killed by police officers in the past 9 years: Emmanuel Okutuga in 2011 and Robert White in 2018. In both instances, the Montgomery County Police Department cleared itself of any wrongdoing and declared the shootings to be lawful and justified. The public has never seen the investigations nor do we know if witnesses were interviewed, camera footage was reviewed, forensic evidence was collected and reviewed, et cetera. The grieving mother, sisters, brothers, nieces, and nephews deserve answers about what happened when their loved ones were killed. When we have processed grief with family members of these men, both families expressed fear that the police officers who killed their beloved ones would kill again. They have no assurance that thorough and unbiased investigations were carried out. They deserve better, and so do all of us who live in communities where both of these police officers still actively patrol.

HB 1221 should be amended to allow disclosure of:

1. All use of force investigations, regardless of whether it causes death or serious bodily injury;
2. All discrimination or bias misconduct, not only “prohibited discrimination” as the bill currently states;
3. Misconduct committed during criminal investigations, like those documented in the Baltimore City Gun Trace Task Force;
4. Criminal activity by officers; and
5. Investigations into misconduct regardless of the outcome.

The problem with only allowing public access to sustained complaints is that police departments almost never sustain complaints against officers. The view of community organizations working for police transparency and accountability is that we need transparency over both sustained and unsustained complaints, because communities deserve to know which misconduct is not being adequately investigated and is therefore not sustained.

The data most readily available to inform this issue comes from the U.S. Department of Justice Investigation of the Baltimore City Police Department. Relevant statistics showing that Baltimore Police Department failed to adequately sustain complaints are below. The full DOJ report is [here](#); see the section on page 146 "*D. BPD Fails to Sustain Complaints and Apply Discipline Consistently.*" Also, see Appendix with examples of complaints of egregious conduct that BPD did not sustain.

- Of the 1,382 allegations of excessive force that BPD tracked from 2010 through 2015, only 31 allegations, or 2.2 percent were sustained. These allegations arose out of fourteen separate incidents.
- BPD completed investigations into 1,359 allegations of discourtesy from 2010 through 2015, and sustained just 2.6 percent of those allegations, arising out of just fifteen incidents.

This bill as written is woefully inadequate to provide transparency over complaints against law enforcement officers. When any person files a complaint against an officer, they should be able to access that record to ensure their complaint was taken seriously and a satisfactory investigation was conducted. Additionally, the public should be able to access complaint records to ensure our police departments are adequately investigating and disciplining officers who engage in misconduct or criminal behavior on the job.

Thank you for your careful consideration of those who would be most harmed if complaints against police officers for abuse, misconduct, or discrimination are inaccessible.

For these reasons, Showing Up for Racial Justice – Montgomery County opposes HB 1221 unless amended.

For more information, contact:

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Appendix

Examples of Complaints that were held Unsustained by the Baltimore City Police Department, from the [U.S. Department of Justice Investigation of the Baltimore Police Department](#) (2016):

1. Use of force, unlawful activity

Two plainclothes officers punched a man in the face, placed him in a chokehold, and spit in his face during an arrest. The BPD investigator made no effort to follow up with the civilian witness until eight months later. At that time, the investigator went to the car wash where the witness's wife had been working at the time and was told she no longer worked there. “[W]ithout testimony from independent witnesses,” along with the officers’ denial, “there exist[ed] insufficient evidence to prove or disprove the allegations.” **UNSUSTAINED.**

2. Verbal abuse, racial bias, gender bias

An officer called a woman a “black b***h.” BPD never interviewed the officer, and failed to adequately investigate. Instead, the officer was only asked to complete a written questionnaire which omitted the racial component, only asking if he called the woman a b***h. BPD found the allegation not sustained based on the officer’s written denial. **UNSUSTAINED.**

3. Unlawful arrest, assault

A man was hospitalized after two officers slammed a man to the ground, unlawfully arrested him. The complaint wasn’t investigated for thirteen months, until it was rediscovered by an auditor. It then lingered for another four months before being assigned to a detective. BPD found the complaint not sustained for “lack of cooperation” when witnesses failed to show up 17 months after the complaint was filed. The two officers were never interviewed. **UNSUSTAINED.**

4. Sexual assault, gender bias, search

Two officers fondled a woman when conducting a search and called her a “junkie, whore bitch.” The investigator waited four months and then only sent the woman a letter seeking information. Two months later, the investigator went to the woman’s address, but she had been evicted months before. The detective didn’t try to get security camera footage until ten months after the incident, after any footage had been deleted. Investigators also waited ten months to reach out to a witness. In the meantime, the complainant had passed away. **UNSUSTAINED.**

5. Non-criminal intimidation, search

An officer searched a man several days in a row, including “undoing his pants” and searching his “hindquarters” on a public street. When the officer didn’t find any contraband, he told the man to leave and warned him that the officer would search him again every time he returned. An investigator recognized the officer based on the man’s description, and the time and location of the incident. The complaint was not sustained without any explanation. **UNSUSTAINED.**

6. Racial bias, search

A middle-aged black man was publicly strip-searched by a sergeant. When the man protested and said he would contact a lawyer, the sergeant told him “Get your n****r ass out of here.” The complaint was not sustained without BPD interviewing any of the parties involved. **UNSUSTAINED.**