



Maryland | Delaware | DC Press Association

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To: Judiciary Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: March 4, 2020

Re: **HB 1221 – OPPOSE UNLESS AMENDED**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of news media organizations, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Annapolis Capital and the Maryland Gazette to publications such as The Daily Record, the Baltimore Times, and online-only publications such as MarylandReporter.com and Baltimore Brew.

The Press Association opposed HB 1221 unless it is amended to expand the range of misconduct covered under the legislation. There is a compelling public interest in the investigation and discipline of police accused of misconduct. Marylanders have the right to know how they are being policed. Transparency builds the public trust and citizens should be able to know the results and process sparked by complaints of police misconduct.

Currently, the investigatory process of complaints of police misconduct is opaque. Persons of interest cannot find out how the department investigates the complaint, and the only accessible information is the outcome and the discipline. This is because Maryland's Public Information Act (PIA) prohibits disclosure of disciplinary files.

HB 1221 allows disclosure over only the following disciplinary files:

1. All allegations, regardless of the outcome for:
 - a. Discharge of a firearm at a person by an officer; and
 - b. Use of force resulting in death or serious bodily injury;
2. Only sustained allegations of:
 - a. Sexual assault against a member of the public;
 - b. Dishonesty, perjury, false statements, false reports, destroyed, falsified or concealed evidence directly related to the reporting, investigation, or prosecution of a crime; and
 - c. Prohibited discrimination directly related to the reporting, investigation, or prosecution of a crime.

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We believe the committee should expand the range of misconduct that our communities have transparency over. Most importantly, our communities deserve transparency regardless of the outcome and especially when complaints are unsustainable because police departments often conduct slow, weak, or biased investigations (or no investigation at all!) and thereby find abusive officers innocent of wrongdoing. Specifically, we propose that HB 1221 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

We also propose a requirement that police departments report annually regarding the number of complaints received and how they are resolved.

This issue is important to our members because increasingly, in our member reporters’ experience, records are being classified as personnel records, making it more and more difficult to gather news and information important to the public. Investigations into employee misconduct shed light on the practices of public employees, particularly police, and can establish patterns of behavior. There have been several notable investigations where the use of personnel records were critical, either by inclusion or absence. In Baltimore City, for instance, the Baltimore Sun reported in December 2018 a pattern of wrongful expungement of internal affairs records for police officers accused of misconduct (December 2018, <https://www.baltimoresun.com/news/maryland/crime/bs-md-ci-internal-affairs-files-expunged-20181015-story.html>). This bill would make those records available under the PIA and make it more difficult to sweep internal investigations and complaints aside.

Opening up police misconduct records can also shed light on department-wide practices. In a 2015 Washington Post investigation, reporters looked at the misuse of Tasers by law enforcement officers, a topic of great public importance (November 2015, <http://www.washingtonpost.com/sf/investigative/2015/11/26/improper-techniques-increased-risks/>). Records of investigations into alleged employee job misconduct were used extensively in that reporting.

The Press Association urges the committee to adopt these amendments.