

**TESTIMONY in Support of SB777 with Amendments  
Public Information Act - Records Relating to Police Misconduct - Fees**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Senate Judicial Proceedings Committee  
**FROM:** Matt Parsons on behalf of Baltimore Action Legal Team

My name is Matt Parsons; I am the Community Lawyer with Baltimore Action Legal Team (BALT). I submit this testimony in favor of Senate Bill 777 with the amendments. BALT is a legal collective that was founded in response to community calls for legal support during the protests following Freddie Gray's murder. Since 2015 we remain committed to educating community members about their rights and ensuring access to public records like police misconduct investigations.

In the last two years alone, BALT has had to file five lawsuits against the Baltimore Police Department (BPD) for violating the Maryland Public Information Act (PIA). BPD's relevant violations have included wrongful denial of fee waiver requests in the public interest, charging exorbitant and unreasonable fees as a paywall to disclosure, and undue delays in disclosing records. These do not constitute all the violations we have experienced, but rather the cases we have focused our resources to litigate in the public interest. Of the two cases that have reached judgment, BPD was found to have been in the wrong. According to the Circuit Court just several weeks ago, BPD "willingly and knowingly violated the PIA and did not act in good faith."

Although Anton's Law went into effect on October 1, 2021, we have not since received a single police misconduct record pursuant to this law. This is not because we haven't requested one: We in fact provided months of advance notice that we would be requesting records, and on October 1st we followed through with our request. Rather, this is because BPD flagrantly violates the PIA with little to no consequence.

BPD charges extraordinary fees which are considered unreasonable under the PIA. The fee waiver standard states that a custodian should waive fees if disclosure is in the public interest. Yet BPD argues there is no public interest in disclosing their internal accountability practices, so they do not have to abide by the fee waiver standard and waive fees for Anton's Law requests.

This practice burdens requesters with literally thousands of dollars in fees in order to seek any sort of police transparency. Moreover, BPD knows the average community member does not have thousands of dollars to afford such fees. If a community member does take on this challenge to pay, BPD almost uniformly violates the PIA's requirement to make timely disclosures of records. BPD has taken almost a year and a half to return records which have long been paid for.

There is currently no meaningful deterrent to prevent BPD from acting improperly like this. The PIA provides little in the way of teeth. Even if the community obtains a court judgment compelling BPD to disclose records, BPD may simply be ordered to disclose what it should have to begin with. Only now, the records have lost relevance or value with the passage of time. Given these near-insurmountable hurdles to access, transparency is literally the least the public could ask for.

SB 777 proposes a solution by clarifying the PIA's purpose and strength. We sign on with amendments to the bill that create more robust protections for the public's right to access police misconduct records. These amendments would respond to the types of violations that we and others in the community have experienced.

Proposed amendments include the following:

1. Strike the original modifying language of Maryland Code, General Provisions ("GP") § 4-206(C)(1)(II), which includes the proposed 500-page limit.
2. Modify the language of GP § 4-206(C)(2) to read, "Paragraph (1)(ii) of this subsection applies only to **public** records, other than a record of a technical infraction, relating to **any investigation** of misconduct by a police officer **conducted by a law enforcement agency or other local or State entity**, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision." (pertinent changes in bold)
3. Add to GP § 4-362(C)(3)(IV) with the following language to "enjoin a police department from receiving grant funding from the State of Maryland through the Governor's Office in the following state fiscal year."
4. Modify § 4-362(D)(3) to increase the statutory fine amount from \$1000 to \$5000 across the board.

BALT firmly believes these suggested amendments will ensure proper access to police misconduct records under Anton's Law and provide additional deterrents to prevent future imminent PIA violations on the part of BPD. We urge a favorable report on SB 777 with amendments.