

Favorable MOPD SB 777 1 (2).pdf

Uploaded by: Deborah Levi

Position: FAV



PAUL DEWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

POSITION ON PROPOSED LEGISLATION

BILL: SB 777 Public Information Act - Records Relating to Police Misconduct - Fees
FROM: Maryland Office of the Public Defender
POSITION: Favorable
DATE: March 15, 2022

The Maryland Office of the Public Defender strongly supports SB 777 and requests that this Committee issue a favorable report on the bill.

Senate Bill 777 prohibits an official custodian from charging a fee for the search and preparation of the first 500 pages of a certain record relating to an administrative or criminal investigation of misconduct by a police officer.

MOPD urges the Committee to issue a favorable report on SB 777 and consider the additional PDFs submitted with this testimony as examples of the astronomical fees being quoted in response to MPIA requests.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

FEE REQUEST - Howard County PD - IAD Files.doc.pdf

Uploaded by: Deborah Levi

Position: FAV



CALVIN BALL
County Executive

GREGORY J. DER
Chief of Police
to VI "Chief of Police"

HOWARD COUNTY DEPARTMENT OF POLICE
3410 COURTHOUSE DRIVE, ELLICOTT CITY, MD 21043

February 10, 2022

Deborah Levi
Director of Special Litigation
Maryland Office of the Public Defender

Dear Ms. Deborah Levi,

In response to your request received January 20, 2022 under the under the Maryland Public Information Act §4-101 et. Seq. of the General Provisions Article of the Annotated Code of Maryland (PIA), dated January 30, 2022 for records "*relating Copies of any and all internal affairs complaints, including internal, citizen, or other agency complaints of the following officers:*

1. Daniel Branigan (5505)
2. Luke Buchanan (5457)
3. Jason Carberry (5599)
4. Jared Dean (5616)
5. Younes Elmaataoui (6009)
6. John Falbo (5772)
7. Grayson Kershner (5906)
8. Brian Lesneiwicz (5845)
9. Jacob Lorentson (5930)
10. Michael Pickett (5466)
11. Bradford Skove (5570)

- Complete investigative files for each complaint, including but not limited to reports of recorded statements, video surveillance or body camera footage, investigative files, witness interviews, and photographs.

- The investigative findings of each complaint.

- Any correspondence from the Civilian Review Board, Police Advisory Commission or other civilian police oversight board.

- The final disposition of each case, if any."

Please be advised a search of the Howard County Department of Police Internal Affair (IA) records management system identified twelve responsive IA files (AD-2008-060, AD 2010-019, AD 2011-024, AD 2013-016, AD 2013-033, AD 2014-006, AD 2017-016, AD 2018-034, AD 2018-037, AD 2019-002, AD 2019-020, AD 2020-023). These files will be released with some redaction, of personal identifying information (PII) pursuant to GP §4-351, and records in compliance with GP § 4-311. Under GP § 4-206,

The custodian may charge reasonable fees for the search and preparation of records for inspection and copying. The first two hours of search and preparation time will be free of charge. We have estimated the fee for the responsive records in accordance with the Maryland Public Information Act §4-101 et. Seq. of the General Provisions Article of the Annotated Code of Maryland (PIA), and the Howard County Government established fee schedule to be:

(410) 313-2250
FAX (410) 313-2277
WWW.HCPD.ORG
HCPD@CO.HO.MD.US

Nationally Accredited Since 1990

Twelve (12) AD Summary Reports @ \$10.00 each (\$120.00), Four (4) incident reports @ \$10.00 each (\$40.00), Five (5) 911 recording review / redaction @ \$70.00 each (\$350.00), Three (3) videos \$70.00 (\$210.00), Seventy-eight (78) audio interviews approximately 43 hours of review /redaction @ \$49.01 per hour (\$2,107.43), one (1) set of 8 pictures on CD @ \$10.00 (\$10.00), Ten (10) AVL recording @ \$10.00 each (\$100.00).

Please submit a check or money order payable to Howard County Director of Finance in the amount of \$2,937.43. Upon receipt the Department will proceed in reproducing the requested records. Per our phone conversation on February 7, 2022 regarding the estimated fee for all of the identified responsive records, and the fee for the twelve IA Summary Reports, please be advised the estimated fee for the twelve (12) responsive IA AD Summary Reports is \$120.00.

Please be advised that you have the right to judicial review of the denial of a part of a public record pursuant to Section §4-362 of the General Provisions Article by filing a petition in the Circuit Court for Howard County or in the Circuit Court in Maryland in which you reside or maintain a principal place of business.

If you have any questions or concerns, please do not hesitate to contact me 410-313-2280.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne Upchurch", with a long horizontal flourish extending to the right.

Ms. Jeanne Upchurch
Custodian of Records
Howard County Police Department

FEE REQUEST 1 - Montgomery County PD - IAD Files.p

Uploaded by: Deborah Levi

Position: FAV



DEPARTMENT OF POLICE

Marc Elrich
County Executive

Marcus G. Jones
Chief of Police

December 10, 2021

Ms. Levi,

I am providing a status update and fee notification to your request R007731-102621, in which you have asked for internal affairs records of MCPD officers, specifically:

“Copies of any an all internal affairs complaints, including internal citizen, or other agency complaints of the following 49 officers:

- o Dominic Acosta (3251);*
- o Joseph Alvarez (2243);*
- o Todd Archer (2437);*
- o Melvin Avelar (2187);*
- o Anand Badgujar (3027);*
- o Kevin Baxter (2467);*
- o George Boyce (0041);*
- o Catherine Brewer (2012);*
- o Daniel Campbell (2536);*
- o John Christ (1329);*
- o Jason Cokinos (2346);*
- o Thomas Conlon (9371);*
- o Frank Corn (3171);*
- o Roderick Cox (9134);*
- o Kevin Cristmon (3076);*
- o Michael Damskey (2791);*
- o David Delacruz (1268);*
- o Christopher Diez-Canseco (2974);*
- o Alexander Dos Santos (2419);*
- o Melissa Dzenkowski (2560);*
- o Cody Fields (2789);*
- o Wendy Giovacchini (1542);*
- o Michael Graves (2578);*
- o Morgan Herceg (3061);*
- o Devon Hitson (2878);*
- o Dionne Holiday (9317);*
- o Robert Kamensky (0943);*
- o Jarrett King (2643);*
- o Jesse Knuth (2199);*
- o My Q. Le (2622);*
- o Nathan Lenhart (2801);*
- o Chris Malouf (2024);*
- o Michael Mancuso (2587);*
- o Patrick McCarthy (2850);*
- o John McClellan (3000);*
- o Sean McKinney (3055);*
- o Douglas Miller (2054);*
- o Dina Montysko (2361);*
- o Kevin Moris (2646);*
- o Yves-Didier N'kodia (2688);*
- o Michael Peitzmeier (2651);*
- o Michael Schwager (2611);*
- o Sarit Scott (1273);*
- o William Seidel (1039);*
- o Timothy Serlo (2908);*
- o Gabriel Stone (2215);*
- o Joshua Swecker (2679);*
- o Charles Valente (3075);*
- and*
- o Victoria Yuen (2339)*

- Complete investigative files for each complaint, including but not limited to reports of recorded statements, video surveillance or body camera footage, investigative files, witness interviews, and photographs.*
- The investigative findings of each complaint.*

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www.montgomerycountymd.gov - www.mymcpnews.com

montgomerycountymd.gov/311



301-251-4850 TTY

- *Any correspondence from the Police Advisory Commission.*
- *The final disposition of each case, if any.”*

We have searched department databases and have found potentially releasable information related to the requested officers. As to the costs, I have divided the fee schedules of our redaction activities in two parts:

1. ***Document Redaction Estimate*** for our MPIA clerical staff to review and redact the documents associated with each officer’s case(s). This is based upon the **\$30 hourly wage** of the staff performing the redactions.
2. ***Media Redaction Estimate*** for our MPIA technical staff to review and redact the media files associated with each officer’s case(s). This is based upon the **\$50 hourly wage** of the staff performing the video/audio redactions.

Acosta	The document redaction estimate is \$90.00. There are no media files.
Alvarez	No records exist.
Archer	The document redaction estimate is \$330.00. The media redaction estimate for \$15,300.00.
Avelar	The document redaction estimate is \$210.00. The media redaction estimate for \$850.00.
Badgujar	The document redaction estimate is \$3,030.00. The media redaction estimate for \$18,450.00.
Baxter	No records exist.
Boyce	No records exist.
Brewer	No records exist.
Campbell	The document redaction estimate is \$360.00. There are no media files.
Christ	The document redaction estimate is \$120.00. There are no media files.
Christmon	The document redaction estimate is \$960.00. The media redaction estimate for \$5,512.00.
Cokinos	The document redaction estimate is \$240.00. There are no media files.
Conlon	The document redaction estimate is \$1,140.00. The media redaction estimate for \$5,800.00.

Corn	The document redaction estimate is \$90.00. There are no media files.
Cox	The document redaction estimate is \$1,590.00. The media redaction estimate for \$13,950.00.
Damskey	The document redaction estimate is \$1,680.00. The media redaction estimate for \$6,530.00.
Delacruz	The document redaction estimate is \$420.00. The media redaction estimate for \$4,650.00.
Diez-Canseco	No records exist.
Dos Santos	The document redaction estimate is \$0.00. There are no media files.
Dzenkowski	No records exist.
Fields	The document redaction estimate is \$210. There are no media files.
Giovacchini	The document redaction estimate is \$6,000.00. The media redaction estimate for \$99,500.00.
Graves	No records exist
Herceg	The document redaction estimate is \$90.00. There are no media files.
Hitson	The document redaction estimate is \$969.00. The media redaction estimate for \$18,950.00.
Holliday	The document redaction estimate is \$450.00. The media redaction estimate for \$4,047.00.
Kamensky	The document redaction estimate is \$60.00. There are no media files.
King	The document redaction estimate is \$600.00. The media redaction estimate for \$4,800.00.
Knuth	No records exist.
Le	The document redaction estimate is \$600.00. The media redaction estimate for \$5,600.00.
Lenhart	The document redaction estimate is \$60.00. There are no media files.
Malouf	No records exist.
Mancuso	No records exist.
McCarthy	No records exist.
McClellan	The document redaction estimate is \$90.00. There are no media files.

McKinney	No records exist.
Miller	The document redaction estimate is \$30.00. There are no media files.
Montysko	The document redaction estimate is \$630.00. There are no media files.
Moris	The document redaction estimate is \$3,420.00. The media redaction estimate for \$18,210.00.
N’Kodia	The document redaction estimate is \$240.00. The media redaction estimate for \$2,350.00.
Peitzmeier	No records exist.
Schwager	The document redaction estimate is \$1,830.00. I need more time to search for media files.
Scott	The document redaction estimate is \$60.00. The media redaction estimate for \$150.00.
Seidel	No records exist.
Serlo	The document redaction estimate is \$900.00. The media redaction estimate for \$9,750.00.
Stone	The document redaction estimate is \$2,100.00. The media redaction estimate for \$32,450.00.
Swecker	The document redaction estimate is \$1,140.00. The media redaction estimate for \$16,300.00.
Valente	The document redaction estimate is \$210.00. The media redaction estimate for \$5,400.00.
Yuen	The document redaction estimate is \$870.00. The media redaction estimate for \$5,850.00.

The MPIO allows for reasonable fees to be collected with allowances for the first **two hours provided free** of charge for the request. Our fee estimate has been organized for you by officer and case, and allows you to select any or all processing you want for the release of these records. If you would like us to proceed with your request, the total cost of the reproduction payment must be remitted in advance. You can make checks payable to Montgomery County Government, Maryland.

Reference your request for correspondence from the Police Advisory Commission, please provide specific information on correspondence with whom in Montgomery County Police Department.

Thank you for your patience.

Sincerely,

Mary K. Davison

Custodian of Records, Montgomery County Police

FEE REQUEST 2 - Montgomery County PD - IAD Files.p

Uploaded by: Deborah Levi

Position: FAV



DEPARTMENT OF POLICE

Marc Elrich
County Executive

Marcus G. Jones
Chief of Police

February 23, 2022

Ms. Deborah Levi,

I am providing a status update and fee notification to your request R008488-112221, in which you have asked for internal affairs records of MCPD officers, specifically:

- Copies of any and all internal affairs complaints, including internal, citizen, or other agency complaints of the following officers:

- 1. Jose Barahona***
- 2. Jon Boynton***
- 3. Christopher Dunkes***
- 4. Ijeoma Enendu***
- 5. Manuel Gomez***
- 6. Christopher Johnson***
- 7. Joseph Johnson***
- 8. Ken Marshall***
- 9. Brian Montes***
- 10. Ruphin Mguellie***
- 11. Danielle Olsen***
- 12. Boris Pallominy***
- 13. Michael Phillips***
- 14. Patrick Robinson***
- 15. Matthew Weidner***
- 16. Marcella West***

- Complete investigative files for each complaint, including but not limited to reports of recorded statements, video surveillance or body camera footage, investigative files, witness interviews, and photographs.

- The investigative findings of each complaint.

- Any correspondence from the Civilian Review Board, Police Advisory Commission or other civilian police oversight board.

- The final disposition of each case, if any.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges

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montgomerycountymd.gov/311



301-251-4850 TTY

in advance of fulfilling my request. Alternatively, please consider waiving any fees, pursuant to § 4-206(e)(2)(ii) of the General Provisions Article, as this request is on behalf of individuals served by the Maryland Office of the Public Defender, a state government agency, which solely serves indigent citizens of Maryland. As a result, my request for the above-listed public records is in the public interest. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.”

We have searched department databases and have found potentially releasable information related to the requested officers. As to the costs, I have divided the fee schedules of our redaction activities in two parts:

1. **Document Redaction Estimate** for our MPIA clerical staff to review and redact the documents associated with each officer’s case(s). This is based upon the **\$30 hourly wage** of the staff performing the redactions.
2. **Media Redaction Estimate** for our MPIA technical staff to review and redact the media files associated with each officer’s case(s). This is based upon the **\$50 hourly wage** of the staff performing the video/audio redactions.

The document redaction estimate is \$10,320.00. The media redaction estimate is \$76,550.00.

Records do not exist for Officers Joseph Johnson, Brian Montes, Danielle Olsen, Patrick Robinson, and Matthew Weidner.

The MPIA allows for reasonable fees to be collected with allowances for the first **two hours provided free** of charge for the request. If you would like us to proceed with your request, the total cost of the reproduction payment must be remitted in advance. You can make checks payable to Montgomery County Government, Maryland.

Reference your request for correspondence from the Police Advisory Commission, please provide specific information on correspondence with whom in Montgomery County Police Department.

Thank you for your patience.

Sincerely,

Mary K. Davison
Custodian of Records
Montgomery County Police

MPIA Response - IAD Records - Calvert County Sheri

Uploaded by: Deborah Levi

Position: FAV



Amelia McDonell-Parry -OPD- <amelia.mcdonell-parry@maryland.gov>

MPIA Request

Parrott, William B. <Brent.Parrott@calvertcountymd.gov>

Mon, Dec 6, 2021 at 1:34 PM

To: "amelia.mcdonell-parry@maryland.gov" <amelia.mcdonell-parry@maryland.gov>

To Whom It May Concern,

This email is in response to your request for Calvert County Sheriff's Office Internal Affairs records under the Maryland Public Information Act ("PIA"). General Provisions Article ("GP") 4-101 et seq.

The Calvert County Sheriff's Office has approximately 900 cases where responsive records may exist. We have determined that the locating, reviewing, and production of any responsive records to include reports, recorded interviews, in-car video footage, body camera footage, and any other related material will take approximately 3600hrs / 450 plus business days of Bureau personnel time.

The Sheriff recognizes that this will be an arduous and time consuming task for staff to complete and will significantly impact the day to day operations of the Agency. As such, your request for a waiver of fees is denied. Given the agency staff resources that will be needed to satisfy this request, the Sheriff's Office must charge a fee of \$224,172.00 to satisfy the request.

The Sheriff's Office will not begin the search and review of these records until receipt of this fee.

Captain

W. Brent Parrott

Commander

Northwestern SPSC #374

Calvert County Sheriff's Office

410-535-1600 Ext. 2584

[Quoted text hidden]

CONFIDENTIALITY NOTICE: This message and any accompanying files contain information belonging to the sender which may be confidential and legally privileged. This information is for the sole use of the intended recipient(s). If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this message and any accompanying files is strictly prohibited. If you have received this message in error, please contact the sender immediately and delete the message. Thank you.

MPIA Response - IAD Records - Prince Georges Count

Uploaded by: Deborah Levi

Position: FAV

MPIA Request for IAD Records

 muckrock.com/foi/prince-georges-county-328/mpia-request-for-iad-records-121509

From: Prince George's County Sheriff Department

12/01/2021

Subject: MPIA Requests for disclosure of IAD Files

Dear Muck Rock News and other requestors,

This responds to your 22 November request for:

“Complete investigative files for each complaint, including but not limited to reports of recorded statements, video surveillance or body camera footage, investigative files, witness interviews, and photographs.

- The investigative findings of each complaint.
- Any correspondence from the Civilian Review Board, Police Advisory Commission or other civilian police oversight board.
- The final disposition of each case, if any.”

Your request was related to two former PGSO employees Lamar McIntyre (431) and George Rodgers (339).

Pursuant to the MPIA at Gen. Pro. Art., Sec. 4-201 (b) the PGSO is notifying Muck Rock News that it may inspect the IAD records of these separated employees by following the following procedures:

Please contact the Commander of the Internal Affairs / Policy Compliance Unit, Capt. Lisa Smith #298, at (301) 780-7360 and LDSmith1@co.pg.md.us <mailto:LDSmith1@co.pg.md.us> and she will arrange for you and a designated number of inspectors to visit our IAD offices in New Carrollton, MD that can be accessed via the New Carrollton Metro Station. Please be advised that Capt. Smith will provide the standards for conducting your records inspection. At the conclusion of your inspection you will not be permitted to leave our offices with documents. Instead, the IAD Unit will conduct a review of the records that were identified for disclosure to determine that no Technical Infractions, Civilian data, and any other personnel information that remains confidential is not disclosed. You will be notified of the costs in man hours and reproduction costs that are associated with your request.

Please be prepared to respond to our offices with a certified check in the amount of monies identified by our offices prior to those records being released to your organization.

If you have any questions related to this process please direct them to Capt. Smith.

We hope this was helpful.

Mark K. Spencer, Esquire

PGSO Inspector General

This E-mail and any of its attachments may contain Prince George's County Government or Prince George's County 7th Judicial Circuit Court proprietary information or Protected Health Information, which is privileged and confidential. This E-mail is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient of this E-mail, you are hereby notified that any dissemination, distribution, copying, or action taken in relation to the contents of and attachments to this E-mail is strictly prohibited by federal law and may expose you to civil and/or criminal penalties. If you have received this E-mail in error, please notify the sender immediately and permanently delete the original and any copy of this E-mail and any printout.

MPIA Response - Maryland State Police #21-4151 - I

Uploaded by: Deborah Levi

Position: FAV

MPIA Request for IAD Records

muckrock.com/foi/maryland-154/mpia-request-for-iad-records-121865

From: Maryland State Police

12/27/2021



Subject: Re: PIA Log #21-4151

[Email](#)

*RE: PIA# 21-4151 *

- Copies of any and all internal affairs complaints, including internal, citizen, or other agency complaints of the following officers: 1. Alphin Norman 2. Brian Tucker- Complete investigative files for each complaint, including but not limited to reports of recorded statements, video surveillance or body camera footage, investigative files, witness interviews, and photographs- The investigative findings of each complaint- Any correspondence from the Civilian Review Board, Police Advisory Commission or other civilian police oversight board- The final disposition of each case, if any

Dear Requester:

This letter is in response to your recent request under the Maryland Public Information Act for records in the possession of the Maryland State Police.

A search of Maryland State Police records indicates that there are a total of 11 investigations that meet your parameters and will take staff a total of 8.5 hours to search, collect and have forwarded to this office. At \$25.93/hr, the *initial cost to secure the documents is \$220.00*. It won't be until the records are collected that I can make any reasonable estimate as to the cost of review and redaction. That being said, the charge for redaction services is \$42.00/hr and we charge 4 minutes per page. In following, if the 11 investigations consisted of a total of 1,100 pages (100 pages per investigation), then the estimated redaction charge would total \$2,982.00 (1,100 pages to review and redact x 4 minutes /page = 4,400 minutes. 4,400 minutes / 60 minutes/hours = 73 hours. 71 hours (first two hours are gratis) x \$42.00/hr = \$2,982.00 (in addition to the \$229.00 initial fee)).

Due to the significant amount of staff time needed to complete this request, the Maryland State Police will not waive fees. We will initiate further processing of your request upon receipt of a refundable check made payable to the Maryland State Police for \$220.00.

Pursuant to GP § 4-362, you are entitled to seek judicial review of this decision. You also have the option to file a complaint with the Public Information Act Compliance Board concerning the amount of the fee charged, *see *GP § 4-1A-01 *et seq. *, and may also refer any concerns about this decision to the Public Access Ombudsman pursuant to GP § 4-1B-01 *et seq.*

Sincerely,

[image: Changing Maryland for the Better]

Mark Urbanik

Director, Analysis & Transparency

Maryland Department of State Police

Headquarters / Planning & Research

1201 Reisterstown Rd

Pikesville, MD 21208

mark.urbanik1@maryland.gov

(410) 653-4253(O)

MPIA Response - Maryland State Police log #21-3790

Uploaded by: Deborah Levi

Position: FAV



OPD-Special Litigation -OPD- <opd-special.litigation@maryland.gov>

Re: PIA log #21-3790

Mark Urbanik -State Police- <mark.urbanik1@maryland.gov>
 To: OPD-Special Litigation -OPD- <opd-special.litigation@maryland.gov>

Wed, Dec 15, 2021 at 9:21 AM

RE: PIA# 21-3790

Copies of any and all internal affairs complaints, including internal, citizen, or other agency complaints of the following officers:

**CHRISTOPHER SHROUT
 THOMAS WEST
 WILLIAM TALBERG**

Complete investigative files for each complaint, including but not limited to reports of recorded statements, video surveillance or body camera footage, investigative files, witness interviews, and photographs

The investigative findings of each complaint

Any correspondence from the Civilian Review Board

The final disposition of each case, if any

Dear Requester:

This letter is in response to your recent request under the Maryland Public Information Act for records in the possession of the Maryland State Police.

A search of records of the Internal Affairs Division of the Maryland State Police Internal revealed six cases that fall within the parameters of your request. Five of the six cases are past the local retention period established by the Division so they must be retrieved from the Hall of Records. Together, the six cases total over 630 pages and will take an estimated 42 hours to redact. The total billable hours and estimated processing cost is as follows:

40 hrs. of redaction time (42 hrs. - 2 hrs. gratis) x \$42/hr. (hourly staff pay).	= \$1,680.00
5.5 hrs. IAD processing time x \$25.93/hr. (hourly staff pay)	= \$ <u>142.00</u>
Estimated Cost	\$ 1,822.00

Due to the significant amount of staff time needed to complete this request, the Maryland State Police will not waive fees. We will initiate further processing of your request upon receipt of a check made payable to the Maryland State Police for \$1,822.00.

Pursuant to GP § 4-362, you are entitled to seek judicial review of this decision. You also have the option to file a complaint with the Public Information Act Compliance Board concerning the amount of the fee charged, *see* GP § 4-1A-01 *et seq.*, and may also refer any concerns about this decision to the Public Access Ombudsman pursuant to GP § 4-1B-01 *et seq.*

Sincerely,

Mark Urbanik
 Director, Analysis & Transparency
 Maryland Department of State Police
 Headquarters / Planning & Research
 1201 Reisterstown Rd
 Pikesville, MD 21208
mark.urbanik1@maryland.gov



(410) 653-4253(O)
[Website](#) | [Facebook](#) | [Twitter](#)

[Quoted text hidden]

PG Sheriff pay and view_ Appointment to view IAD F

Uploaded by: Deborah Levi

Position: FAV



Deborah Levi -OPD- <deborah.levi@maryland.gov>

Fwd: Appointment to view IAD Files for Lamar McIntyre and George Rogers

1 message

Deborah Levi -OPD- <deborah.levi@maryland.gov>
To: Deborah Levi -OPD- <deborah.levi@maryland.gov>

Tue, Mar 15, 2022 at 9:42 AM

You have been tentatively scheduled to review the requested files for former deputies George Rogers and Lamar McIntyre on Monday, February 7, 2022, from 0900-1100 hours. Please see the attached protocols and invoice. Before reviewing the files, you must first bring full payment by Cashier's Check or Money Order payable to The Prince George's County Government to our Headquarters building. Our Headquarters is located at **5303 Chrysler way, Upper Marlboro, Md. 20772; Operational Hours 8:30 a.m. – 4:30 p.m.**

Once you have made the payment, someone will sign the invoice and provide you with a receipt of payment, which both must be brought with you on the day of your scheduled appointment. Please note, our Internal Affairs Office is located in a different building from where you are required to make payment. On the day of review, you will report to **8181 Professional Place Ste. 201, Hyattsville, Md. 20784.**

Please confirm that you intend to move forward with this appointment.

- **To ensure the safety of everyone, masks must be worn at all times.**

Regards,

Capt. Lisa D. Smith #298

Commander, Policy Compliance/Internal Affairs

Prince George's County Office of the Sheriff

301-780-7360 (Office)

240-508-5690 (Cell)

Ldsmith1@co.pg.md.us

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--

Deborah Katz Levi
Director of Special Litigation - Baltimore City
Maryland Office of the Public Defender
201 St. Paul Place
Baltimore, MD 21202
(phone) 410.333.4900 ext. 258
(fax) 410.333.0322
google voice: (443) 272-1068 *preferred method for phone calls during COVID

Takoma Park PD - Fee Request - IAD Files.pdf

Uploaded by: Deborah Levi

Position: FAV

KARPINSKI, CORNBROOKS & KARP, P.A.

ATTORNEYS AT LAW

120 East Baltimore Street, Suite 1850
Baltimore, Maryland 21202-1617

KEVIN KARPINSKI *
E. I. CORNBROOKS, IV

DANIEL M. SCAPARDINE
JASON C. PARKINS
ASHLEY C. FISHER

* Admitted in MD and DC

Telephone 410-727-5000

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RETIRED

January 7, 2022

Via Electronic Mail Only

Deborah Levi
Director of Special Litigation
Maryland Office of the Public Defender

Dear Ms. Levi:

I am the City Attorney for the City of Takoma Park (the "City"). This correspondence is in response to the request you made to the City on December 3, 2021, pursuant to the Maryland Public Information Act ("PIA"), Maryland Code, § 4-101 *et seq.*, of the General Provisions Article ("GP"). In your request, you sought the following records:

Copies of any and all internal affairs complaints, including internal, citizen, or other agency complaints for Officer Jerome Erwin (8304).

Complete investigative files for each complaint, including but not limited to reports of recorded statements, video surveillance or body camera footage, investigative files, witness interviews, and photographs.

The investigative findings of each complaint.

Any correspondence from the Civilian Review Board, Police Advisory Commission or other civilian police oversight board.

The final disposition of each case, if any.

The City contacted you on December 14, 2021 and informed you that the Takoma Park Police Department (the "Department") was in the process of generating a cost estimate in response to your request.

In reference to your request, an explanation of the manner in which the Department houses and manages internal affairs records is necessary. In 2014, the Department implemented software known as IAPro, which the Department uses as a repository for internal affairs files and associated documents. For any internal affairs investigations occurring prior to 2014, the Department only maintains paper copies of those records. Officer Erwin worked for the Department for twenty-five years. As such, the internal affairs records you requested may be maintained in IAPro and/or, paper copies. This complicates the analysis in reference to any fee potentially associated with your request.

Under the PIA, the first two hours of search and preparation time are free. *See* GP § 4-206(c). First, in reference to the internal affairs investigations contained in the Department's IAPro database, the Department estimates that retrieving and transmitting those records will take approximately five hours. The hourly rate of the Department employee responsible for retrieving and transmitting those records is \$59.49. Therefore, the total cost associated with retrieving and transmitting those records is approximately \$297.45. Subtracting the two free hours of search time from this amount results in a cost of \$118.98.

With respect to the Department's internal investigations involving Officer Erwin that occurred prior to the Department's implementation of IAPro, the Department estimates that it will take approximately fifteen hours to search, retrieve, and transmit those records. At an hourly rate of \$59.49, the estimated cost of searching, retrieving, and transmitting those records is approximately \$892.35. The Department estimates that making copies of any responsive records and recordings resulting from its search may take approximately twenty hours. At an hourly rate of \$59.49, the Department estimates that the cost associated with making copies of those records could be \$1,189.80, depending on the number of responsive records. In total, the Department estimates that it will cost \$2,082.15 to retrieve, make copies of, and transmit the responsive records that predate the Department's implementation of IAPro.

The estimated costs above do not include the time and fees associated with legal review of the records. Legal review of the footage will consist of a two-stage process: (i) determining whether any exceptions to the PIA preclude disclosure; and (ii) if the footage may be disclosed, identifying and implementing any required redactions. Because you requested internal affairs records, legal review will include determinations as to whether any of the records constitute records of technical infractions, exempt from disclosure under GP § 4-311(c), as well as redacting information as required under GP § 4-351(d). Every document must be reviewed. It is estimated that legal review of the Department's IAPro records will take approximately eighteen hours and twenty-four minutes. The City Attorney's hourly rate is \$175.00 per hour. Thus, I estimate that legal review of the responsive records housed in the Department's IAPro system will cost approximately \$3,220.

Therefore, the total cost associated with retrieving and transmitting the Department's IAPro records, including legal review, will be approximately \$3,338.98. Whereas, the cost associated with the Department retrieving, making copies, and transmitting the responsive records predating the Department's implementation of IAPro is approximately \$2,082.15. In total, the approximate cost is \$5,421.13. This amount does not include the cost associated with legal review of the any responsive records generated prior to the Department's implementation of IAPro, because the number of responsive records is unclear at this point. Should you decide to proceed, the City will provide you with an approximate fee for legal view of the responsive records predating the Department's implementation of IAPro, once the number of responsive records is identified.

Additionally, if you decide to proceed with your request, the City is permitted to request the prepayment of fees associated with a PIA request. *See Glass v. Anne Arundel Cty.*, 453 Md. 201, 212–13, 160 A.3d 658, 664–65 (2017).

January 7, 2022

Page 3

You may also narrow your request. If you do so, another determination will be made as to whether any fee will need to be charged. Please do not hesitate to contact me if you have any questions or concerns regarding this correspondence.

You may refer any concerns about this correspondence to the Public Access Ombudsman pursuant to GP § 4-1B-01 *et seq.*, or if you believe the fee identified is unreasonable, you may contact the MPIA Compliance Board. *See GP, § 4-1a-01 et seq.*

Best regards,

Karpinski, Cornbrooks & Karp, P.A.

/s/

By: E. I. Cornbrooks, IV

Cc: Chief of Police
City Clerk

Testimony_JPC_SB0777_LR2912.pdf

Uploaded by: Jill Carter

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB777
- Public Information Act - Records Relating to Police Misconduct -
Fees -
Before the Senate Judicial Proceedings Committee
On March 15, 2022**

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee:

Senate Bill 777 seeks to protect the integrity of the Maryland Public Information Act (PIA) and Anton's Law ([SB178](#))(2021) by preventing law enforcement agencies from erecting high paywalls that limit the public's ability to obtain and inspect police misconduct records.

Senate Bill 777, as amended, reinforces existing law¹ by prohibiting law enforcement agencies from charging a fee for the search and preparation of a record found to be within the public's interest. The bill also requires the Governor's Office of Crime Control and Prevention to withhold certain funding from a non-compliant agency in the fiscal year following its violation.

Last year, after years of debate and a summer of nationwide protest against the taking of Black Lives by law enforcement, the General Assembly passed historic police reform legislation that included Anton's Law - a bill designed to provide transparency to police discipline and bring the state in line with the majority of the country. Among other things, the law granted public access to police misconduct records for the first time in the state's history. Read in tandem with the PIA, any person who has the right to inspect a

¹ https://www.marylandattorneygeneral.gov/OpenGov%20Documents/PIA_manual_printable.pdf

misconduct record could expect to be charged a “reasonable fee” to obtain the record.

Unfortunately, according to [public reporting](#) and complaints to my office, some law enforcement agencies have been charging members of the public, including members of the press, unreasonably high fees to obtain misconduct records. For example, the Montgomery County Police Department initially charged the Silver Spring Justice Coalition \$95,000 for copies of disciplinary records. The Baltimore Police Department charged Open Justice Baltimore fees in excess of \$100,000, sparking a lawsuit. Agencies in different counties have charged Baltimore City public defenders fees varying from \$10 to a half-million dollars.

This is troublesome and obstructive. I think all would agree that police departments should welcome transparency and not shy away from it. They should be proud of the work they do to protect and serve their communities, which includes not hesitating to demonstrate that they are not, and will not, tolerate misconduct. Ensuring the timely and cost-free release of misconduct records to individuals who have the right to inspect them is an important part of building community trust.

When implemented as intended, Anton’s Law will be the standard of police transparency for the rest of the country. By passing Senate Bill 777, we will further our efforts in 2021 to move Maryland one step closer to creating a culture of full transparency and accountability in law enforcement.

As such, I ask for a favorable report on Senate Bill 777.

Sincerely,



Jill P. Carter, Esq.

SB 777_FAV_ACLUMD.pdf

Uploaded by: Yanet Amanuel

Position: FAV



Testimony for the Senate Judicial Proceedings Committee

March 15, 2022

YANET AMANUEL
PUBLIC POLICY ADVOCATE

SB 777 - Public Information Act - Records Relating to Police Misconduct - Fees

FAVORABLE

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EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland urges a favorable report on SB 777, which as amended seeks to make MPIA requested documents that serve public interest free of charge and create a mechanism for enforcement of Anton's Law to ensure compliance.

Last year, the passage of SB 178, Anton's Law, represented a major step towards greater transparency and accountability in Maryland. Among other provisions, Anton's Law made police disciplinary records available to the public through MPIA requests. As a result, members of the public were given greater insight into the quality of police misconduct investigations, victims' families were able to gain a clearer picture of the officers involved in the death of their loved ones, and the public was afforded more oversight over a broken system of policing.

However, various financial and bureaucratic barriers have challenged the successful implementation of this law, with some departments outright denying requests or demanding members of the public pay fees totaling several thousand dollars.¹ Requests for the disciplinary records of just five Anne Arundel officers with criminal and internal complaints resulted in an estimated cost of \$8,400. This is on the lower end of fees. When the Baltimore Action Legal Team (BALT) requested closed use-of-force files, on behalf of Open Justice Baltimore, from the Baltimore Police Department, they were initially hit with a fee of almost \$1.5 million dollars. After challenging these outrageous fees, the amount was

¹ Fenton, J., & Price, L. (2021, December 30). Anton's law promised to make Maryland police disciplinary records public, but in reality, transparency has been slow or nonexistent. Baltimore Sun. Retrieved from <https://www.baltimoresun.com/news/crime/bs-md-cr-antons-law-compliance-20211230-fhkt5dcznbd5phdnbm2plwvrse-story.html>

reduced, yet still totaled almost \$250,000.² These fees are especially ridiculous when considering that the requestor, like many other organizations interested in obtaining these records, is a non-profit with limited funds. Public access must be afforded to everyone, regardless of their ability to pay.

This financial burden means that public access is only afforded to those who can pay. In addition to outrageous fees, according to a Baltimore Sun article, individuals have come across a myriad of excuses for why their requests cannot be fulfilled in a timely manner or at all. Many of these excuses amount to a purposeful refusal to fulfill the duties outlined in Anton's Law. These burdens are contrary to the spirit of the law that this legislature passed last session.

The reforms passed last session were aimed at increasing transparency and accountability, essential components of public trust and confidence in law enforcement. The inability to obtain disciplinary records in an affordable and timely manner further erodes this confidence.

This law cannot function as intended without some sort of method to ensure compliance. Under the amended SB 777, if a judge has ruled that an agency has not complied with Anton's Law, that agency will be subject to losing funding from the Governor's Office of Crime Control & Prevention for the following fiscal year.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 777 as amended.

² Open Justice Baltimore v. Baltimore City Police Department, et al. (Maryland Court of Special Appeals February 7, 2022).

BALTestimony_SB777_2022.pdf

Uploaded by: Matt Parsons

Position: FWA

**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.

MDDC Support SB777.pdf

Uploaded by: Rebecca Snyder

Position: FWA



Maryland | Delaware | DC Press Association

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www.mddcpres.com

To: Senate Judicial Proceedings Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: March 15, 2022

Re: **SB 777 – SUPPORT with AMENDMENTS**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of newspaper publications, from large metro dailies such as the Washington Post and the Baltimore Sun, to hometown newspapers such as The Frederick News Post and Hagerstown Herald-Mail to publications such as The Daily Record, Baltimore Jewish Times, and online-only publications such as Baltimore Fishbowl, MarylandReporter.com and Baltimore Brew.

This bill seeks to solve some of the problems we are facing as Anton’s Law has been implemented. Disclosure of records under the Public Information Act is critical to news media organizations as they provide primary source materials for objective reporting. Anton’s Law made internal police discipline and complaint records available to the public, erasing an exemption that had placed them off limits under the Maryland Public Information Act. Until Anton’s Law was enacted, members of the public could not find out if police officers in Maryland had been disciplined for misconduct or were the subject of numerous complaints reviewed by internal police investigators.

MDDC’s Sunshine Week project focused on the implementation of Anton’s Law. This package, reported by award-winning journalist Miranda Spivack, is being carried in many of our member publications this week. The main article in the package is attached to this testimony. Through our broad, statewide reporting, we find that implementation has been rocky and uneven as police departments struggle with providing these documents. This is not a new or unique problem. Journalists tell me often about how requests for all types of documents that should be available under the PIA are ignored or denied. The PIA law needs teeth.

The amendments proposed by the sponsor provides consequences for departments that do not comply with the law.

We urge a favorable report.



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About this story: Maryland recently joined a handful of states seeking to make law enforcement agencies more transparent. With the passage of Anton's Law in 2021, many details about internal police discipline could be released to the public. But so far, journalists, advocates and others seeking to find out more about how police agencies handle complaints about misconduct are learning that getting the records is proving to be, at best, a mixed experience. Law enforcement agencies say they are trying to comply with the law, but for many, it is a matter of sifting through reams of documents, many on paper, an expensive and time-consuming process. For [Sunshine Week](#), the annual national exploration of transparency in government, running from March 13 to 19, the Maryland-Delaware-D.C. Press Association is assessing how well Anton's Law has been working in Maryland since it took effect on Oct. 1, 2021.

Implementing Anton's Law

By Miranda S. Spivack

A community group in Montgomery County was asked to pay \$95,000 for copies of police discipline and complaint records, which, under a 2021 change in Maryland law, are no longer automatically private.

Local public defenders in Baltimore seeking those records have been told to pay as little as \$10 to the Harford County Sheriff's Office but as much as \$224,000 to the Calvert County Sheriff's Office and nearly \$500,000 to the Montgomery County Police Department.

Reporters in Washington and Baltimore and student journalists at the University of Maryland say they have received some internal police discipline records they've requested, but also have encountered long delays and huge fees.

Anton's Law, formally known as the [Maryland Police Accountability Act of 2021](#), went into effect on Oct. 1, 2021. The measure makes internal police discipline and complaint records available to the public, erasing an exemption that had placed them off limits under the [Maryland Public Information Act](#). Until Anton's Law was enacted, members of the public could not find out if police officers in Maryland had been disciplined for misconduct or were the subject of numerous complaints reviewed by internal police investigators.

But five months since taking effect, Anton's Law has not yet lived up to its promise.

Anton's Law is named for Anton Black, a 19-year-old Black man from Greensboro in Caroline County, Md., who [died in 2018 in police custody](#), after he was wrestled to the ground by three white officers and a white civilian [bearing a Confederate emblem](#). While Black was struggling to breathe, his mother was standing nearby, witnessing the encounter and shouting his name.

Black's death, several other deaths in police custody in Maryland, and the death of George Floyd in Minneapolis in 2020 in police custody helped spur Maryland lawmakers last year to take steps to open up information about police conduct, discipline, complaints and work history.

While some Maryland law enforcement agencies are now providing, upon request, documents that Anton's Law says are now public records, many departments are struggling to comply with the law. Advocates for police transparency, defense lawyers and journalists say their requests for documents and data have been met with a wide range of responses — and many have not even been acknowledged.

"We would certainly argue that the legislature has determined that these records are in the public interest," said Deborah Jeon, the legal director of the Maryland branch of the American Civil Liberties Union, which often relies on obtaining law enforcement and other government records without incurring high fees. And the legislature's intent with Anton's Law, she said, was minimal fees and expansive public disclosure by Maryland law enforcement agencies.

Anton's Law works in tandem with the [Maryland Public Information Act](#), which requires state and local governments to provide broad access to their records.

The MPIA, as it is commonly called, also gives requesters the right to ask for data and documents for free, or minimal cost, if they can show that public disclosure serves the public interest.

But the state's largest police departments say they need more funds and more staffing to comply with new requirements under Anton's Law. The upshot is that some law enforcement agencies in Maryland say they are being compelled to produce reams of documents, videos and audios without new employees or money to pay for the thousands of hours of work they say it takes.

In Montgomery County, Assistant Police Chief Darren Francke said the police department has about 1,500 internal investigative files that could be eligible for disclosure under Anton's Law. Each contains between 200 and 5,000 pieces of paper, he said, and many also have video and audio. All must be reviewed to ensure that private information and other data that the MPIA says can be withheld are not inadvertently disclosed.

Little, if any of the paper, is digitized, though the Montgomery department is beginning to scan documents and create digital files, which eventually will make it easier to review and release the material. The department has asked County Executive Marc Elrich, a Democrat, to include more money for Anton's Law in his budget proposal, which will be released on March 15 but must then win approval from the County Council. Elrich's budget proposal includes about \$427,000 for additional staffing — some civilians and some sworn officers — to improve compliance with Anton's Law, according to Scott Peterson, a spokesman for Elrich.

"We are working very hard. We have many people assigned to work on this," Francke said. "It is not our intent not to answer requests."

The Baltimore Police Department and the Prince George's County Police Department are reporting similar issues.

In Baltimore, police spokeswoman Lindsey Eldridge wrote in an email that the department is "staffing up ... to better fulfill all MPIA requests." But because of the high volume of requests, she wrote, the department plans to contract with an outside firm that will provide contract lawyers to help review the material. "This will come at a cost, either to the department or the requestor, which is determined on a case-by-case basis as provided by state law. BPD intends to fulfill these requests and does not intend to redact officer names. While we're experiencing some logistical challenges getting this operation off the ground, that should not be misinterpreted as resistance or lack of transparency."

In Prince George's, where advocates and journalists say the process has been particularly slow, Gina Ford, a spokeswoman for County Executive Angela Alsobrooks, a Democrat, wrote in an email that the "county is working diligently to meet these mandates."

But she predicted "a greater strain on county resources." The email said the county plans to continue to charge fees for record requests if they require more than two hours to fulfill, as the Public Information Act allows.

Elena Russo, a spokeswoman for Maryland State Police, wrote in an email that the agency had received 26 requests for personnel records under Anton's Law since the law took effect.

Police provided information in 17 cases (other requests were pending or withdrawn, or there were no matching records). Of the 17, police did not charge for records in 14 cases and had minimal charges in two. In the remaining case, there was an \$1,822 charge for an extensive request, Russo wrote.

The push for greater transparency

When the General Assembly approved Anton's Law in 2021 — sponsored by state Sen. Jill P. Carter (D-Baltimore) and Del. Gabriel Acevero (D-Montgomery) — Maryland joined [several other states](#), including California, Colorado, Massachusetts and New York, in opening up internal police discipline and complaint records. Most have pushed ahead with the disclosure laws despite considerable resistance from police unions, and in some cases, police chiefs.

However, some chiefs who manage law enforcement agencies around the country have said they would [welcome more transparency](#), because they, too, are often prevented from getting access to officers' internal personnel records, a limit frequently written in to state and local government contracts negotiated with police unions.

In Maryland, Anton's Law took effect after legislators overrode Republican Gov. Larry Hogan's veto of the bill and several other bills requiring more public accountability from law enforcement.

But the General Assembly may not have fully accounted for how police agencies would react to Anton's Law. The legislators did not include additional funding or apply pressure to local governments to fund the law, which may partly explain the resistance to disclosure and the high fees to locate, review and provide the documents. ([An MDDC review in 2019](#) found that Maryland police agencies traditionally charge much higher fees for records than other government entities do.)

On March 15, [a bill Carter proposed](#) to place limits on fees that law enforcement charges for police misconduct records will be the subject of a legislative hearing.

Carter wrote in an email that it's hard to measure the impact of Anton's Law based on several months.

"What we do know, however, is that some jurisdictions have forestalled specific components from being enacted. For example, some police departments charge astronomical fees to obtain public information, and some have outright refused its release," she wrote. She expects her bill limiting fees to help.

"I unquestionably believe that, when in its full implementation, Anton's Law will be the defining standard of police accountability for the rest of the country," Carter wrote.

Law aims for more transparency in policing

The goal of Anton's Law is to make it easier for the public to gain access to information about officers disciplined or in some other way penalized in internal probes or who had numerous complaints lodged against them, and whether they had similar issues in previous employment.

The effect of the law was to revise how the Maryland Public Information Act handled internal police discipline and complaint records. The records had been exempted from disclosure under the public information law and treated as non-public personnel records, an exemption that continues to apply to other state and local government employees.

Anton's Law reclassified police internal records so that they are no longer considered exempt personnel records.

A recent ruling by a three-judge panel of the Maryland Court of Special Appeals, the middle statewide appellate court, has given supporters hope that law enforcement agencies will do more to comply. The ruling, which still could be reviewed by the state's highest court, said that the [Baltimore Police Department must hand over](#) a set of discipline records at no cost, and found that the police department "arbitrarily and capriciously denied" a request from [Baltimore Action Legal Team](#), a nonprofit advocacy group, to waive fees of \$1,421,082.50 for the records "to which (BALT) was entitled."

Matthew Zernhelt, head of litigation for BALT, said he was encouraged by his organization's victory in the Feb. 7 ruling, and would prefer the issue to play out in the courts, rather than enact Carter's proposed limits on fees — depending on whether the appellate court ruling stands.

Separately, the Maryland branch of the American Civil Liberties Union [recently sued](#) the Calvert County Sheriff's Office and the sheriff for refusing to provide documents and videos unless the ACLU paid \$12,000 for records. The ACLU said the records might provide information about the police use of strip searches and body cavity searches, which the ACLU said has targeted Black people.

Giving police officers a chance to block disclosure

Another issue that could slow down or stymie requests in Montgomery County is a recent agreement with the police union to give the officers whose records are sought by the public 10 days to review them and potentially take steps to formally oppose release. Francke, the assistant chief, said that so far, no officers have used the review time to block release of documents.

That review system is far from unique. State and local governments often have similar agreements to give advance notice to private companies with government contracts. Cable companies and Amazon, for instance, [regularly seek advance notice](#) that a member of the public is seeking information about them.

Those arrangements often are written into their agreements with state and local governments, giving them time to mount a legal effort to block release.

Compiling a statewide database

At the University of Maryland's Philip Merrill College of Journalism, students working with journalism professions are compiling a statewide database of records disclosed under Anton's Law.

Sean Mussenden, the data editor for the journalism school's Howard Center for Investigative Journalism, said student reporters made about 120 records requests to Maryland police agencies. The results are trickling in, slowly. Part of the challenge is that police across the state do not have a uniform system for tracking cases, Mussenden said.

In some cases, smaller departments use paper records; others track with software programs. And the infractions that are logged vary widely — one officer may get written up for failing to wear his uniform properly; another for excessive force.

All may appear on the same spreadsheet, which the University of Maryland reporters are sifting through to figure out which are the most significant cases. Then they want to return to the police departments for more details for those cases. That, too, is contributing to a slowed response, and in some cases, requests for big fees.

"The sticking point has been the case files themselves," Mussenden said. He said he understood that reviewing those before releasing them publicly could take police departments more time and effort, and could come with a cost.

But the price tags have ranged greatly. Some police department want to show the records to a lawyer whose hourly cost is usually in the hundreds of dollars. Others will run them by a clerk, who is well versed in the law, but whose hourly cost is substantially less.

"We have seen huge variations in fees," Mussenden said, from about \$250 per hour for a lawyer to about \$30 per hour for a clerk to review the documents.

Documents released for smaller requests

Justin Fenton, a reporter with The Baltimore Banner, formerly with The Baltimore Sun, has [been seeking a wide range of records](#) from the city's police department for several years. Since Anton's Law took effect, he has received records of internal investigations involving three officers, he said. But it has been slow and frustrating, he said, part of a pattern of delays from the Baltimore Police Department and other city agencies he has experienced for years.

"Some agencies feel they do not have to comply at all. They are reading the law differently. But the whole point of this was to create transparency," he said.

Late last year, The Capital Gazette asked Anne Arundel County police for records under Anton's Law and was rebuffed by department attorney Christine Ryder, who said disclosure could have a "chilling effect" on police and would be contrary to the public interest. Shortly after Fenton contacted the department, it reversed course and agreed to provide records.

Steve Thompson, a reporter for The Washington Post, wrote in an email that he has yet to receive records from Baltimore, Prince George's County or Montgomery County police departments, but that Maryland State Police produced documents. He [filed about 150 requests](#) across the state.

"I would estimate more than two-thirds of the agencies have responded in some way, and most of these have produced internal affairs records or data. The great majority of those who have provided records or data have done so for free," Thompson wrote.

"Only a few have charged what I would consider to be unreasonable fees. In most cases, I'm able to work with a department to narrow requests so that the labor in fulfilling them is not too burdensome, and that helps keep the fees down."

He has filed two complaints about fees to the [Maryland Public Information Act Compliance Board](#).

In Montgomery County, Joanna Silver, a defense lawyer active with the community-based Silver Spring Justice Coalition, said her group sought records in a handful of cases. While the coalition did not receive complete records within the 30-day deadline by which government entities must at least acknowledge a request, Silver said that the Montgomery County Sheriff's Office and the Gaithersburg Police Department eventually provided the records without charging any fees.

Her organization also negotiated with the Montgomery County Police Department to narrow a request, eliminating the original \$95,000 fee the department originally said it needed to charge once the group agreed to forego video footage, she said.

Angela Valdez, a staff investigator for the federal public defender's office, which covers all of Maryland, also reported mixed responses to the agency's requests. The St. Mary's County Sheriff's Office complied relatively quickly and without a fee for information about one deputy, she said.

"Compared to everybody else, it was outstanding," she said.

In Prince George's County, the police department responded quickly to Valdez — in about 90 minutes — but only to say that the file Valdez's office needed could not be released under the law because it was part of an investigative file exempt from disclosure. (Once an investigation is completed, files can be released, but some departments spend months or years on an internal investigation, a move that some seeking records believe can be a delay tactic.)

Lisa Kershner, [the Maryland public access ombudsman](#), who often mediates complaints about public records disputes, declined to describe what her office is seeing and hearing about how Anton's Law is working. She said doing so could affect the perception that she is a neutral arbiter when she mediates complaints about record access. Kershner's office produces annual reports near the end of each calendar year that could offer some clues.

While police agencies and the public grapple over Anton's Law, Black's family is moving ahead with a federal wrongful death lawsuit that could provide more pressure for police accountability. With support from the Maryland branch of the American Civil Liberties Union, Black's family [sued](#) officers; the state medical examiner, [who had ruled the death accidental](#); the three towns where the officers served (Centreville, Greensboro and Ridgely) and the two police chiefs involved in the case.

[The case](#) alleges a wide range of violations. The family's lawsuit recently survived a [motion by defendants to dismiss the case](#), and is slated to proceed.

Miranda S. Spivack is a former reporter and editor for The Washington Post. She has written extensively about open government issues for [Reveal from The Center for Investigative Reporting](#) and the [McClatchy](#) newspapers. Follow her on Twitter @mirandareporter and <https://www.mirandaspivack.com>.

SB 777 in FAVOR WITH AMENDMENTS - RML-SSJC.pdf

Uploaded by: Robert Landau

Position: FWA

Testimony in FAVOR of SB 777, With Sponsor Amendments
Robert Landau, on Behalf of Silver Spring Justice Coalition
806 Gatestone St., Gaithersburg, MD 20878
301.938.9850; RLandau806@gmail.com

My name is Robert Landau. I am testifying on behalf of the Silver Spring Justice Coalition in favor of SB 777, with an amendment requiring all fees to be waived if in the public interest. SSJC is a coalition of community members, faith groups, and civil and human rights organizations from throughout Montgomery County. We envision a state and county where community and individual needs for safety are met while harm by police is eliminated.

Because of Anton's Law, we filed MPIA requests with three law enforcement agencies for the files of officers who killed or harmed members of our community in the past several years; we wanted to understand their history and the consequences they faced for the harms they caused. Because we are a volunteer organization with no budget, for each request we filled a fee waiver.

While the Gaithersburg City Police and the Montgomery County Sheriff's Department waived the fees without telling us what they would have been, the Montgomery County Police Department sent us a bill for over \$85,000 for the records of only five officers!

We were ultimately able to negotiate a resolution in which we agreed to receive a smaller number of records in exchange for waiving the fees, but this process has taken 5 months. This delay was exacerbated by a deeply problematic 10-day notice and waiting period that MCPD negotiated with our local police union - they now have to give an officer 10 days notice before releasing any records!

From these disclosures we learned, among other things, that two of the Gaithersburg City plainclothes police officers who killed Kwamena Ocran last year had been disciplined for a different abusive behavior incident, also while in plainclothes, just 18 months earlier. We learned that the officers who killed Robert White, Finan Berhe, and Kevin Costlow, three men who were killed by police when they were having mental health crises, and whose deaths could have been avoided by proper de-escalation, received no discipline at all. Finally, we learned that the two officers who verbally abused a 5-year old child, to the horror of all of us who watched it on body cam video, received extremely short suspensions and no reported corrective training.

It is in the public interest for the community to have this information, we cannot have it if all fees are not waived. We urge a favorable report, with amendment.

MCPA-MSA_SB 777 MPIA Requests-500 Pages_Oppose.pdf

Uploaded by: Andrea Mansfield

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

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

FROM: Chief of Staff David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 15, 2022

RE: **SB 777 – Public Information Act – Recording Relating to Police Misconduct - Fees**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 777**. This bill prohibits an official custodian from charging a search and preparation fee under the Maryland Public Information Act for the first 500 pages of a record request if the record for inspection relates to an administrative or criminal investigation of misconduct by a police officer.

Legislation that passed last session, Ch. 62, Acts of 2021, established that, except for technical infractions, a record relating to an administrative or criminal investigation of misconduct by a law enforcement officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, is not a protected personnel record for purposes of the Maryland Public Information Act (MPIA). Instead, these records are treated as investigatory records subject to discretionary denial of inspection. Since the legislation's effective date of October 1, 2021, law enforcement agencies have received numerous MPIA requests related to law enforcement officer complaints and disciplinary actions. Law Enforcement Agencies have seen a significant increase in MPIA requests since October 1, 2021, which tend to be incredibly complex and a time-consuming resource.

Although the MPIA requests that law enforcement agencies receive are assigned as a priority, due to statutory time considerations, removing the ability to receive financial reimbursement beyond the first two hours, puts an unfair financial burden on public safety. Many of these MPIA requests involve multiple days of meticulous work involving redactions to confidential and private witness and victim information.

Law enforcement agencies are doing their best to comply with the many requests that have been made since the new law took effect and they should be able to recoup reasonable expenses associated with them. While the MPIA serves a public interest, it should not place an unreasonable financial burden on Maryland's Law Enforcement Agencies.

For these reasons, MCPA and MSA **OPPOSE SB 777** and urge an **UNFAVORABLE** Committee report.

SB 777_UNF_MML.pdf

Uploaded by: Bill Jorch

Position: UNF



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

March 15, 2022

Committee: Senate Judicial Proceedings

Bill: SB 777 - Public Information Act - Records Relating to Police Misconduct - Fees

Position: Oppose

Reason for Position:

The Maryland Municipal League opposes Senate Bill 777. For certain records relating to an investigation into police misconduct, this bill alters the criteria by which a records custodian may not charge a fee, to include the first 500 pages after the initial first two hours of search and preparation in response to a public information act (PIA) request.

MML's opposition to SB 777 is the fiscal impact. Exempting the cost of search and preparation of first 500 pages of these investigatory records, after the first two hours which are already cost-free, presents an unfunded mandate. As with many police records, there is confidential or protected information that must be redacted or withheld prior to PIA disclosure. This review can be time consuming and costly, especially if legal services are required. The loss of these fees, which are limited to cost-recovery, makes it even more expensive for municipal governments to comply with the PIA.

Municipal records custodians respond to PIA requests seeking documents pertaining to a variety of government functions including public safety. Just last year, the scope of police records subject to the PIA was expanded to include certain aspects of investigations into police officer misconduct; MML did not take a position on this aspect of the police reform legislation. Records custodians often work with the PIA requestor to either narrow the scope of the request or even waive the fees beyond the first two hours, in order to reduce costs to the requestor.

For these reasons, the Maryland Municipal League opposes SB 777 and respectfully requests an unfavorable committee report.

FOR MORE INFORMATION CONTACT:

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Bill Jorch

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Executive Director

Director, Government Relations

Director, Research and Policy Analysis

Manager, Government Relations

SB0777-JPR_MACo_OPP.pdf

Uploaded by: Dominic Butchko

Position: UNF



Senate Bill 777

Public Information Act - Records Relating to Police Misconduct - Fees

MACo Position: **OPPOSE**

To: Judicial Proceedings Committee

Date: March 15, 2022

From: D'Paul Nibber and Dominic J. Butchko

The Maryland Association of Counties (MACo) **OPPOSES** SB 777. This bill prohibits counties from charging a fee for the search and preparation of the first 500 pages of certain records concerning administrative or criminal investigations of misconduct by a police officer.

Under the Maryland Public Information Act, counties may not charge for the first two hours needed to search and prepare public records. For many public records, this is an adequate amount of time for counties to fulfill a request. Unfortunately, document preparation is often a more involved process, requiring input from multiple sources. For example, just one page of document review and preparation for a sensitive personnel matter could, by itself, take two hours of time for a county-employed attorney or other official.

Under SB 777, countless county employee work hours dedicated to public record search and preparation will go unreimbursed. Moreover, requestors will have less cost incentive to narrowly tailor their requests—resulting in both broader and more frequent requests. Many county-employed attorneys and other officials will need to be diverted from their regular roles to accommodate an influx of expansive requests.

Tethering uncompensated public record search and preparation to page count, irrespective of the hours needed to fulfill a public record request, will result in an untenable situation creating significant uncompensated costs, government inefficiency, and a dramatic increase in requests. For these reasons, MACo **OPPOSES** SB 777 and requests an **UNFAVORABLE** report.

SB 777 BPD Oppose.pdf

Uploaded by: Michelle Wirzberger

Position: UNF



Brandon M. Scott
Mayor

BALTIMORE POLICE DEPARTMENT



Michael S. Harrison
Police Commissioner

TO: The Honorable Members of the Senate Judicial Proceedings Committee

FROM: Michelle Wirzberger, Esq., Director of Government Affairs, Baltimore Police Department

RE: Senate Bill 777 Public Information Act – Records Relating to Police Misconduct - Fees

DATE: March 15, 2022

POSITION: OPPOSE

Chair Smith, Vice-Chair Waldstreicher, and members of the Committee, please be advised that the Baltimore Police Department **opposes** Senate Bill 777.

Senate Bill 777 prohibits an official custodian of record for a law enforcement agency from charging a fee for the search and preparation of up to 500 pages of a record relating to an administrative or criminal investigation of misconduct by a police officer.

Last year, the Maryland General Assembly made police reform a top priority. In addition to establishing state-wide standard procedures for evaluation of external misconduct claims, the General Assembly passed SB 178 which makes a wide variety of personnel records available for public inspection. The thought behind this bill was that individuals had a right to know specific information regarding complaints filed against an officer as well as the subsequent investigation and discipline process. SB 178 did not, however, render all disciplinary files and all information contained in them disclosable to the public, thus a custodian must review all records responsive to every request to ensure that it does not turn over information that the law forbids disclosing. This law made the ability to recoup costs even more important in fostering transparency because if the government must do most of the work for free, it will have to do it in-house with lawyers it employs and not with outside contract workers. The time to do the work will therefore increase, making transparency take far too long.

The Baltimore Police Department is committed to ensuring transparency throughout the disciplinary process in accordance with both SB 178 and HB 670. However, we are very concerned with the fiscal impact SB 777 will have, especially on agencies like BPD that process a large number of MPIA requests. To put it into perspective, in 2021, the Department received a total of 2,592 MPIA requests and so far in 2022, we have received 536.

Under current law, a custodian is entitled to recover its actual costs in complying with an MPIA request after the first two hours of work. Current law also permits a custodian to waive these fees on a case-by-case basis if the requestor is indigent or if a multi-factor analysis determines that the fee waiver would be in the public interest. The effect of SB 777 would be to require each custodian to absorb virtually all costs of producing records, regardless of how expansive or voluminous the MPIA request may be. As explained above, without

reimbursement for these voluminous requests, governments will have to weave the work into their current employee's workload, prolonging the time to receive the requested documents.

In the Department's experience, most requests for police disciplinary records tend to implicate large volumes of responsive documents. One common type of request seeks all disciplinary records involving multiple named officers, each one of whom could have multiple disciplinary files, and each file could range from 50 to 200 pages. Since SB 178 went into effect, we have received 48 MPIA requests seeking misconduct files of 176 officers. As an example, one current request seeks records involving 7 officers, and the summaries of these cases alone spans more than 2,200 pages. Disregarding the time expended on this request by BPD and Law Department personnel, we expect to pay a vendor roughly \$4,000 for contract attorneys to spend roughly 100 hours reviewing and redacting the summaries. Without the cost to pay for the vendor, BPD's existing staff would be overloaded and unable to process the request quickly. This one request would monopolize staff time, delaying attention on any other requests. To produce full case files, instead of just summaries, would be much more voluminous, and therefore much costlier and time consuming to produce.

To further complicate matters, the law requires us to calculate costs based upon each record sought, not per request. Using the example above, although the total estimated pages needed to fulfill the request is 2,220, it involves 223 different records of approximately 10 pages each. So, if SB 777 passes, we would not be permitted to recoup the cost of fulfilling this request because no one record exceeds 500 pages

Another example of the type of complicated and labor-intensive requests we frequently receive is a request for **all** records of Public Integrity Bureau investigations (including all external complaint and Serious Incident Response Team (SIRT) files) during a set time period, for example between 07/01/2020 to 06/30/2021. This request for all the PIB files in one year implicates thousands of files, and our best estimate of the cost to fulfill this request is \$603,870.

While the BPD supports transparency, we believe that a balanced approach must be taken to ensure that agencies are not unnecessarily hampered from recouping the costs of fulfilling complicated and/or large requests. This is not merely a matter of money, but of efficient, timely transparency. When the requestor does not share the fiscal burden for the request, then all requestors suffer as the custodian simply cannot fulfill requests timely. The individual citizen that wants one record of interest will be waiting in a long line that reduces access to records and does not facilitate transparency.

Therefore, the Baltimore Police Department respectfully requests an **unfavorable** report on Senate Bill 777.