



MARYLAND COALITION FOR JUSTICE & POLICE ACCOUNTABILITY

Testimony for the Senate Judicial Proceedings Committee

March 1, 2023

SB 747 - Public Information Act - Personnel Records - Police Officers

UNFAVORABLE

The Maryland Coalition for Justice and Police Accountability respectfully urges an unfavorable report on SB 747, which seeks to undo much of the progress towards police accountability and transparency that community members, advocates, and legislators made during the 2021 session. During the 2021 session, the General Assembly successfully passed “Anton’s Law.” Anton’s Law was a key part of the Speaker’s package of police reform measures in 2021, which was extensively debated and discussed over multiple hearings and work sessions. The package was the product of years of effort and was hailed by legislators as “historic.”¹ Under Anton’s Law, internal investigations and disciplinary records would no longer be considered personnel records and would, therefore, no longer be subject to mandatory nondisclosure under the MPIA. The passage of Anton’s Law shed light on these previously secret processes, facilitating greater community oversight of the law enforcement agencies that serve them.

This bill, however, would reclassify most of these records, making them personnel records once again. Aside from records relating to allegations of racial bias or excessive force, all other records would once again be shielded from public access. These extremely narrow exceptions fail to provide adequate transparency, blocking access to every other type of misconduct. Of the many types of serious incidents or investigations that would *not* be available to the public, and would again be required to be kept secret, are improper arrests, improper searches of people (including improper strip searches or cavity searches), improper stop and frisks, improper searches of property or vehicles (including where officers plant evidence), improper seizures of property or destroying property (like deleting videos of police from a cell phone), interfering with the First Amendment right to record police activity, refusing to obtain medical treatment, sexual harassment and misconduct, improper high-speed pursuits, improperly inquiring into immigration status,

¹ Gaskill, H., & Kurtz, J. (2021, April 8). General Assembly Passes Police Reform Package On to the Governor. Maryland Matters. Retrieved February 28, 2023, from <https://www.marylandmatters.org/2021/04/08/general-assembly-passes-police-reform-package-on-to-the-governor/>



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leaking information to criminals, perjury, extortion, etc.² The list could go on and on.

It is clearly in the public's interest to have access to these types of records. We know that internal mechanisms to hold officers accountable for all types of misconduct are inadequate.³ According to the Graham report released in 2021, the Prince George's County Police Department routinely failed to adequately respond to internal and external complaints of racial harassment, discrimination, and misuse of force. Additionally, a 2016 Department of Justice (DOJ) investigation into the Baltimore Police Department (BPD) revealed that handling of complaints, oversight, and internal investigations were inadequate and ineffective and contributed to a culture of racism, misuse of force, unlawful enforcement, and an overall lack of oversight and accountability. Adequate discipline was persistently rare and applied inconsistently. BPD repeatedly failed to take action against those known to engage in repeated misconduct.

Additionally, as noted in the 2016 DOJ investigation, complaints of misconduct are often downgraded to lower-level offenses. In one instance, one man's complaint of racial discrimination and the use of a racial slur by an officer was inexplicably downgraded to "inappropriate comments, profanity, or gestures to a departmental member." The Department of Justice recognized numerous purposeful attempts to disguise and excuse racialized enforcement by improperly classifying complaints.⁴ This bill would not only block public access to the complaints that were improperly downgraded, it would incentive the misclassification of these complaints.

² According to a 2010 CATO institute report, sexual misconduct is the second most common form of police misconduct.

Cato Institute. (2010). THE CATO INSTITUTE'S NATIONAL POLICE MISCONDUCT REPORTING PROJEC. www.leg.state.nv.us. Retrieved from

<https://www.leg.state.nv.us/Session/77th2013/Exhibits/Assembly/JUD/AJUD338L.pdf>

³ Bromwich, M. R., Weinstein, J. M., Peck, R. B., Dubyak, K. M., Fletcher, W. G., Purce, J. M., & Shephard, T. D. (2022, January). Anatomy of the Gun Trace Task Force Scandal: It's Origins, Causes, and Consequences.

Steptoe & Johnson LLP. Retrieved February 28, 2023, from <https://www.step toe.com/en/news-publications/steptoe-releases-investigative-report-on-the-gun-trace-task-force-scandal.html>; Washington Lawyer's Committee for Civil Rights and Urban Affairs. (2020, August 28). EXPERT REPORT OF MICHAEL E.

GRAHAM In Hispanic National Law Enforcement Association NCR et al. v. Prince George's County et al., District of Maryland No. 18-cv-3821. WashLaw. Retrieved February 28, 2023, from <https://www.washlaw.org/wp-content/uploads/2021/02/HNLEA-v-PGC-Aug-28-Graham-Report-Unsealed.pdf>; U.S. Department of Justice Civil Rights Division. (2016, August 10). INVESTIGATION OF THE BALTIMORE CITY POLICE DEPARTMENT. U.S. Department of Justice. Retrieved from <https://www.justice.gov/crt/file/883296/download>

⁴ Ibid.



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The PIA is meant to provide a means by which citizens can hold government agencies accountable. Barring these records from public view is contrary to public interest, the intent of the PIA, and the intent of the legislature in 2021. The records in question under this bill provide critical insight into how police agencies respond to allegations of misconduct. Barring these records from public view represents a purposeful attempt to roll back strides towards community oversight and an utter disregard for community sentiment.

For the foregoing reasons, the Maryland Coalition for Justice and Police Accountability urges an unfavorable report on SB 747.

Respectfully,

Maryland Coalition for Justice & Police Accountability (members listed below)

ACLU of Maryland

ACLU of Maryland, Montgomery County Chapter

Amnesty International

Arts Education in Maryland Schools (AEMS) Alliance

Baltimore Action Legal Team

Baltimore Bern Unit

Baltimore City Civilian Review Board

Baltimore for Border Justice

Be More Unified

Council on American-Islamic Relations (CAIR) - Maryland

CASA

Caucus of African-Americans Leaders

Citizens Policing Project

Coalition for Justice for Anton Black

Coalition of Concerned Mothers

Coalition of People Opposed Violence and Extremism

Common Cause Maryland

Community Actively Seeking Transparency (C.A.S.T.)

Community Justice

Democratic Socialists of America – Baltimore City

Democratic Socialists of America – Greater Baltimore

Democratic Socialists of America – Prince George's County

Disability Rights Maryland



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Do the Most Good
Drug Policy Alliance
Equality Matters
For Kathy's Sake
FreeState Justice
Greenbelt People Power
Hispanic National Law Enforcement Association
Homeless Persons Representation Project
Innocence Project
InterFaith Action for Human Rights
Jews United For Justice
Justice Policy Institute
The JustUs Initiative
Kevin L. Cooper Foundation
Law Enforcement Action Partnership
Leaders of a Beautiful Struggle
League of Women Voters Maryland
LGBTQ Dignity Project
Life After Release
Making Changes LLC
Mama Sisterhood of Prince George's County
March for Our Lives Maryland
Maryland Alliance for Justice Reform
Maryland Center on Economic Policy
Maryland Consumer Rights Coalition
Maryland Defenders Union
Maryland Justice Project
Maryland Poor People's Campaign
Maryland Prisoners' Rights Coalition
Maryland Restorative Justice Initiative
Montgomery County Civil Rights Coalition
Montgomery County Democratic Socialists of America
Mothers on the Move
NAACP Legal Defense and Educational Fund
National Coalition for Drug Legalization
Nigerian American Lawyers Association - Washington DC Chapter
Organizing Black
Our Maryland
Our Prince George's



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Our Revolution Maryland
Power Inside
Prevent Gun Violence Ministry, River
Road Unitarian Universalist Congregation
Policy Foundation of Maryland
Prince George's People's Coalition
Prisons to Professionals
Progressive Maryland
Public Justice Center
Racial Justice NOW!
Rebuild, Overcome, and Rise (ROAR) Center at University of Maryland-Baltimore
Reproductive Justice Inside
Sanctuary DMV
SEIU 1199
Showing up for Racial Justice, Annapolis and Anne Arundel County
Showing Up for Racial Justice, Baltimore
Showing Up for Racial Justice, Montgomery County
Sierra Club Maryland Chapter
Silver Spring Justice Coalition
Takoma Park Mobilization
The Women of Color For Equal Justice Law Center
West Wednesdays
Wicomico County NAACP Branch 7028
Young People for Progress