



Policy Foundation of Maryland

Committee: Judiciary

Testimony on: SB0747-Public Information Act - Personnel Records - Police Officers

SPONSOR: Senator Folden

Organization: Policy Foundation of Maryland, MCJPA

Person Submitting: Sarahia Benn (Executive Dir.)

Position: Favorable

Hearing Date: March 1, 2023 1PM

Mr. Chair and Members of the Committee,

Thank you for allowing testimony today in support of SB0747. Policy Foundation of Maryland is a grassroots organization focused on State and County level legislation and policies that impacts Black, Brown, marginalized, low income communities and veterans affairs. Criminal Justice/Police Accountability legislation is of massive importance to these communities particularly due to how impacted these communities have been historically and currently.

The Maryland Coalition for Justice and Police Accountability respectfully urges an unfavorable report on SB0747, 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.” 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 opaque 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 incidents that would not be available to the public are improper searches, improper stop and frisks, neglect of duty, abusive language, harassment, negligent conduct, failure to activate a body-worn camera, and extortion.



Not only would this bill bar access to low level instances of misconduct or instances that were improperly classified, it would also bar access to records describing potentially egregious and common abuses. Among the abuses that would be shield from public access are destruction of property, unlawful arrests, planting evidence, and sexual misconduct. According to a 2010 CATO institute report, sexual misconduct is the second most common form of police misconduct.¹ This bill would not permit the disclosure of such investigatory records.

¹ <https://www.leg.state.nv.us/Session/77th2013/Exhibits/Assembly/JUD/AJUD338L.pdf>

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.² 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" and "neglect of duty." The Department of Justice recognized numerous purposeful attempts to disguise and excuse racialized enforcement by improperly classifying complaints.³ This bill would not only block public access to the complaints that were improperly downgraded, it would incentive the misclassification of these complaints.

Finally, in a State that is now 54% Black, Latin, and marginalized this bill is a major betrayal to the public's trust and demand for accountability. 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 Statewide and a policy that's anti-equity, anti-transparency the current edict of this General Assembly.

For these reasons, I urge an **UNFAVORABLE REPORT** on **SB0747**.

Respectfully submitted,

Sarahia Benn
(Policy Foundation of Maryland, MCJPA)

(Dedicated to Black History month)

“I am not unmindful that some of you have come here out of great trials and tribulations. Some of you have come fresh from narrow jail cells,” Dr. King told the crowd at the March on Washington. “Some of you have come from areas where your quest for freedom left you battered by the storms of persecution...”

— [Dr. Martin Luther King Jr.](#)