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Judicial Proceedings Committee

Joint Committees

Children, Youth, and Families

Cybersecurity, Information  
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THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony for SB 588  
Law Enforcement Officers – Credibility of Witnesses  
And Misconduct Database  
(Maryland Police Accountability Act of 2021)  
Before the Judicial Proceedings Committee  
On February 17, 2021**

Good afternoon Mr. Chairman, members of the Judicial Proceedings Committee,

The public has the right to know about officers who are accused of improper misconduct. Moreover, citizens with legitimate complaints against an officer need a proper system to report their complaint with the confidence that it will be documented and taken seriously.

Senate Bill 588 orders the creation of a database compiling information directly from a state's attorney regarding officers with credibility concerns as well as formal complaints filed against officers. These records will be available to the public by request through the Maryland Public Information Act. Details about a complaint filed against an officer will be admissible in judicial or administrative proceedings that involve the officer.

The bill calls for the State's Attorney to keep a list of officers who have been found or alleged to have committed acts diminishing their credibility, integrity, honesty or other characteristics that would constitute exculpatory or impeachment evidence in a criminal case. The State's Attorney will also be obligated to provide the name of each officer on their list to the Maryland Police Training and Standards Commission to be included in the database. This compilation of information will ultimately help prosecutors avoid wasting precious resources by building cases upon the testimony of an officer with credibility issues which will not withstand cross examinations; this concept is not new. In fact, former Baltimore City State's Attorney Patricia Jessamy used to maintain a list of officers who "engaged in conduct that is so egregious that it undermines the due administration of justice."<sup>1</sup> The standard for who is included on the list in SB- 588 is much narrower than even that standard. It has been reported that Baltimore's current State's Attorney has over 300 officers on her current list.<sup>2</sup> Further, these lists have been described

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<sup>1</sup> Harris, Melissa, *Jessamy pushes on lying by police* The Baltimore Sun (July 11, 2008). See <https://www.baltimoresun.com/news/bs-xpm-2008-07-11-0807100285-story.html>

<sup>2</sup>Anderson, Jessica. *Mosby flags 305 Baltimore police officers for possible credibility issues; department downplays claim.* The Baltimore Sun. (December 3, 2019 at 6:27 PM). <https://www.baltimoresun.com/news/crime/bs-md-cr-gtff-commission-meeting-20191203-uuumag74hnhxhgn2oeadz53ki-story.html>; Fenton, Justin. *Baltimore's State's Attorney says she has a list of 300 officers with credibility issues. Public defenders are demanding to see it.*

as a best practice by Fair and Just Prosecution.<sup>3</sup> In Wayne County, police officials expressed concerns that its district attorney's do not call lists might not tell the full story, which they believe could "unfairly taint honest cops."<sup>4</sup> This is why it should be emphasized that the database created under this bill will include allegations as well as the findings and conclusions from all complaints filed against an officer.

In addition to the obligation for our prosecutors to maintain a Brady list, SB 588 also obligates chiefs of law enforcement agencies to submit complaints against their officers to the Maryland Police Training and Standards Commission (the "Commission"). The Commission is then obligated to establish, maintain and create regulations for a misconduct database for complaints alleging misconduct which occurred during a law enforcement officer's duties. The submission would include:

1. The officer's name and badge number;
2. A general description of the alleged misconduct;
3. The date and location of the alleged misconduct;
4. The date the complaint was filed;
5. The law enforcement agency's that is the officer's employer; and
6. The disposition of the complaint.

It is this last portion of the submission which is causing the most controversy. However, if a complaint is determined to be unsustainable or unfounded, this result will be clearly indicated. Officers who have done no harm do not need to worry about being listed in the database with complaints providing no information about the incident; the database will include the finding that the officer was not found to have committed any misconduct.

Finally, this database may also be used by law enforcement agencies solely for making hiring decisions. With that, I am asking for a favorable report on SB 588.

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The Baltimore Sun (February 11, 2020 at 8:00 AM). See <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-do-not-call-list-compel-20200211-xsjzrh2we5df7etgreyxgu2e4y-story.html>

<sup>3</sup> <https://fairandjustprosecution.org/wp-content/uploads/2019/01/St.-Louis-Brady-Sign-On-Statement.01.08.19-9.04.44-PM.pdf>.

<sup>4</sup>Hunter, George. Wayne County prosecutor to release list of untruthful cops. The Detroit News (July 15, 2020) See <https://www.detroitnews.com/story/news/local/wayne-county/2020/07/15/wayne-county-prosecutors-to-release-list-of-untruthful-cops/5443444002/>