



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

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**SB0166 - Criminal Procedure-Police Officers-Duty to Report Misconduct  
(The Maryland Police Accountability Act)  
Judicial Proceedings Committee – January 21, 2021  
SUPPORT WITH AMENDMENT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club** (WDC) for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC supports SB166 as an important step to create accountability for serious police misconduct.<sup>1</sup> However, WDC urges *amendment* to SB166 to replace the “objectively unreasonable” (HB0166 at line 21) standard to define “Excessive Force” (HB166 at line 20) with an *objectively necessary* (proposed amendment language) standard. This standard is proposed in **HB139-Law Enforcement Officers-Use of Force**. The “objectively unreasonable” (HB0166 at line 21) standard is problematic for many reasons, several of which we highlight below.

First, who is the “objectively reasonable” officer? Are they the officers in *Graham v. Conner* (referenced in the [Fiscal and Policy Note](#)) who injured and denied medical help to a victim in a diabetic crisis who did nothing more than enter and leave a convenience store quickly rather than wait in a long line to purchase a product containing glucose? Are they the officers who idly watched George Floyd and Eric Garner beg for their lives? The multitude of Americans protesting police violence tell us that a police officer's view of what is objectively reasonable is not necessarily what Americans think is objectively reasonable.

Second, the “objective reasonableness” standard considers neither the officer's nor the victim's race, which, within our structurally racist criminal system makes use of force against Black people too often seem reasonable. As Georgetown University Law professor Paul Butler wrote, “what happens in places like Ferguson, Missouri, and Baltimore, Maryland, where the police routinely harass and discriminate against African-Americans, is not a flaw in the criminal justice system. [They] are examples of how the system [of structural racism and racial subordination] are *supposed* to work.”<sup>2</sup>

Third, the “objective reasonableness” standard does not consider the offense the police believe the victim committed. Are there any circumstances in which it is ever reasonable to cause injury or death for suspicion of using a counterfeit \$20 bill or selling single cigarettes?

The Montgomery County Council recently adopted the “necessary” standard for use of force in Montgomery County Council [Bill 27-20E](#). This use-of-force law permits the use of force only when “necessary,” which “means that another reasonable law enforcement officer could objectively conclude, under the totality of the circumstances, that there was no alternative to the use of force” and that “such force is necessary, as a last resort, to prevent imminent and serious bodily injury or death to the officer or another person.”

**We ask for your support for SB166 and urge the Committee to issue a favorable report with the amendment noted in this testimony.**

Respectfully,

Diana Conway  
President

<sup>1</sup> As an organization that primarily advocates for the interests of women and youth, WDC particularly appreciates the inclusion of sexual crimes as misconduct which fellow officers must report.

<sup>2</sup> Paul Butler, *Chokehold: Policing Black Men*, 6 (2017)