



TESTIMONY IN SUPPORT OF HB 771, WITH AMENDMENT House Judiciary Committee, February 28, 2023

My name is Joanna Silver. I am a resident of Silver Spring in District 18. I am testifying on behalf of the Silver Spring Justice Coalition in support of HB771, with amendment.

The Silver Spring Justice Coalition (SSJC) is a coalition of community members, faith groups, and civil and human rights organizations from throughout Montgomery County committed to eliminating harm caused by police and empowering those communities most affected by policing. For this reason we support authorizing the Attorney General to investigate and obtain equitable and declaratory relief for patterns and practices of civil rights violations, but have one requested amendment.

We know that the United States Department of Justice has initiated pattern and practice investigations in many troubled police departments, including Ferguson, Baltimore City, and where I live, in Montgomery County.¹ We know that those pattern and practice investigations have led to revelations of persistent and wide-spread violations of civil rights and resulted in consent decrees that have been important steps in reforming racist and broken systems. We also know that the Department of Justice can investigate and pursue only a tiny fraction of the possible cases of systemic civil rights violations perpetrated by police departments and other government agencies responsible for the welfare of our most vulnerable community members.

Here in Maryland, organizations like SSJC have little hope of attracting the attention of the Department of Justice to what are clearly systemic abuses, as evidenced by, among other things, data showing grossly disparate enforcement of our state's traffic laws, and the disparate use of force against people of color and people with mental health disabilities.

Giving the Maryland Attorney General the right to investigate pattern and practice violations would provide a much needed additional layer of protection between harmful state systems and the most vulnerable members of our communities. Knowing that their behavior will be subject to greater scrutiny may also motivate law enforcement and other state agencies to examine and reform their own patterns and practices to ensure that they are safeguarding, rather than violating, the civil rights of Maryland residents.

¹<https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/MontgomeryCounty.pdf>.

Unfortunately, one aspect of HB771 raises concerns, and that is section 20–1041(b)(2), which states that information obtained under a subpoena issued as part of a pattern or practice investigation is not admissible in a later criminal proceeding against the person who provides the information. We believe this exclusion could provide protection to bad state actors who rightfully should be prosecuted and who would otherwise not have a 5th Amendment privilege. Should the 5th Amendment offer a testimonial privilege to someone who is subpoenaed during a pattern or practice investigation, then the privilege would operate independent of any language included in this bill and therefore the proposed language is not necessary and should be deleted. In the alternative, the language could be modified to read: “information obtained under a subpoena issued in accordance with this subsection is not admissible in a later criminal proceeding WHEN PROHIBITED BY THE 5TH AMENDMENT.”

For these reasons we respectfully urge you to issue a favorable report, with amendment.