



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**SB626-LAW ENFORCEMENT OFFICERS-USE OF FORCE
JUDICIAL PROCEEDINGS COMMITTEE-FEBRUARY 4, 2021
SUPPORT WITH AMENDMENT**

Thank you for this opportunity to submit written testimony to the Judicial Proceedings Committee concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)**. 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.

Senate Bill 626 is comprehensive legislation that governs the circumstances in which a law enforcement officer's use of force is excessive and is criminally and civilly actionable. If enacted, SB626 has the potential to transform Maryland's law enforcement officers' use of force. WDC commends Senator Carter for introducing such an important measure to end police brutality in Maryland.

WDC strongly supports the passage of SB626, but respectfully suggests amending the definition of "Necessary Force" to include the perspective of an "reasonable civilian" so that the reasonableness of the necessity of the use of force is not viewed *solely* from the perspective of "another reasonable law enforcement officer."

WDC suggests this amendment because it is difficult to define who is the "reasonable law enforcement officer," even one with "experience and training in the use of force or lethal force." Although there is no Policy Note for SB626 or its House cross-file, HB139, we note that the "reasonable officer" standard derives from the U.S. Supreme Court's decision in *Graham v. Connor*,¹ in which the Court exonerated police officers who severely injured 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.

Despite the Supreme Court's decision, WDC does not believe that most reasonable Americans would objectively view the officer's use of force in *Graham v. Connor* as either reasonable or necessary. The millions of Americans protesting police violence tell us that a police officer's view of what is objectively reasonable is not the same as what Americans might think is objectively reasonable. Both the courts and disciplinary bodies within law enforcement agencies should consider both civilian and police perspectives because it is important that the public view disciplinary or legal proceedings as rendering just outcomes.

¹ 490 U.S. 386 (1989).



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We further note that a disproportionate number of the victims of police use of force are Black, and unfortunately, 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.”²

We ask for your support for SB626 and urge the Committee to issue a favorable report with the amendment noted in this testimony.

Respectfully,

Diana Conway
President

² Paul Butler, *Chokehold: Policing Black Men*, 6 (2017)