



MARYLAND COALITION FOR JUSTICE & POLICE ACCOUNTABILITY

**Testimony on HB 671: Public Information Act – Personnel and Investigatory Records – Complaints Against Police Officers**

**UNFAVORABLE UNLESS AMENDED**

Maryland Coalition for Justice and Police Accountability

February 9, 2021

Dear Honorable Chairman Clippinger, Vice Chair Atterbeary and Members of the House Judiciary Committee:

The Maryland Coalition for Justice and Police Accountability (MCJPA) is opposed to **HB 671: Public Information Act – Personnel and Investigatory Records – Complaints Against Police Officers**. MCJPA is a statewide coalition of over 90 organizations united to achieve meaningful police reform in Maryland - and includes individuals and family members who have been impacted by police violence, civil rights activists, religious leaders, legal experts, advocacy groups, and more.

Under current law, if you file a complaint of police misconduct, you cannot find out how the department investigates your complaint. You may only learn whether the complaint was sustained and what discipline if any was imposed. You cannot find out whether the department conducted a thorough or lackluster investigation of your complaint. You cannot find out why the department decided not to sustain the complaint, and you cannot find out why the department chose the discipline that it did. Furthermore, apart from complainants, the public at large, including the press, is unable to find out *anything* about police disciplinary investigations. When there is a critical incident, where an officer's conduct has raised public concerns, the public cannot learn anything about that officer's disciplinary history, and what the department previously knew about the officer, and what they did.

This is because Maryland's Public Information Act (MPIA) prohibits disclosure of disciplinary files. Disciplinary files are categorized as "personnel records" that are categorically prohibited from being disclosed under the MPIA. This bill amends the MPIA, but provides only very limited, and wholly inadequate, transparency of the critical public function of holding officers accountable for misconduct.

HB 671 allows discretionary disclosure over only the following disciplinary files:

1. Allegations, regardless of the outcome, regarding:
  - a. Discharge of a firearm at a person by an officer; and
  - b. Use of force resulting in death or serious bodily injury;
2. Only "administratively charged" allegations of:
  - a. Sexual assault against a member of the public;
  - b. Dishonesty, perjury, false statements, false reports, falsified or concealed evidence directly related to the reporting, investigation, or prosecution of a crime; and
  - c. Prohibited discrimination directly related to the reporting, investigation, or prosecution of a crime.

The disclosures that the bill would permit do not constitute meaningful transparency and accountability and are not consistent with the way the bill is being publicly described. HB 671 fails to require the disclosure of other serious incidents of misconduct, including discrimination, dishonesty, and improper use of force, where police officers are administratively charged." Instead, it expressly permits the custodian of record to deny access to those records for seven specifically listed reasons.

Talking points for the bill has described it as “require[ing] the disclosure of complaints against a police officer related to misconduct involving the discharge of a firearm or use of force that resulted in death or serious bodily injury.” However, the bill does NOT require such disclosure, and expressly permits the custodian of record to deny access to those records for seven specifically listed reasons. Additionally, talking points for bill has described it as “require[ing] the disclosure of other serious incidents of misconduct, including discrimination, dishonesty, and improper use of force, where police officers are administratively charged.” However, the bill does NOT require the disclosure of any of those records, and, as above, expressly permits the custodian of record to deny access to those records for seven specifically listed reasons.

Apart from whether disclosure is required, the categories and types of records that are permitted to be disclosed are far too limited. Apart from the discharge of a firearm, or use of force resulting in death or serious bodily injury, disclosure is limited to officers who have been “administratively charged.” This means that for the limited category of other records that might be disclosed, there will be absolutely NO disclosure of records when the complaint is not sustained. That means that complainants will still never be able to learn *why* their complaint was not sustained, which is the outcome for roughly 90% of the complaints made by the public. They will still be told simply that they have to trust the integrity of the investigation and outcome. But that is precisely why there is no trust in the outcome, and why the law must be changed.

The bill does not include any use of force complaints where the victim doesn’t die or suffer serious bodily injury unless the officer is administratively charged. Thus, there would be potentially no disclosure at all regarding uses of force where officers improperly point a firearm or even use a firearm when the injuries are not sufficiently serious. It also would not include improper use of a taser, or baton, or beating a suspect with a flashlight, or using a chokehold in violation of departmental policies, if the victim doesn’t die and if the officer is not administratively charged. There would also be no disclosure of claims of most illegal searches, including illegal strip searches. There would be no disclosure of most improper or illegal stops or arrests, including improper stop and frisks. The list goes on and on.

Similarly, the public and press will never be able to learn about those investigations. We need disclosure of records of police investigations into alleged police misconduct, regardless of the outcome, because the problems with accountability that currently exist relate to too few officers being held accountable for misconduct, that is where the charges are not sustained, not with too many officers being held accountable.

We urge the committee to expand the range of misconduct that our communities have transparency over to include ALL categories of misconduct. Most importantly, our communities deserve transparency regardless of the outcome and particularly when complaints are unsustainable because police departments often conduct slow, weak, or biased investigations (or no investigation at all!) and thereby allow officers to escape accountability for wrongdoing. Suppose there are problems with police internal investigations, and we believe that there is ample evidence that there are. In that case, they exist with respect to the cases where police are not being held accountable, and that is where transparency is needed.

Unless the bill is expanded, its passage will create the illusion of transparency without actual reform. Therefore, **the Maryland Coalition for Justice and Police Accountability respectfully urges an unfavorable report on HB 671.**

Respectfully,  
Maryland Coalition for Justice and Police Accountability

*\*See the full list of coalition membership attached.*

Advocates for Children and Youth  
ACLU of Maryland  
ACLU of Maryland, Montgomery County Chapter  
Amnesty International  
Arts Education in Maryland Schools Alliance (AEMS)  
Baltimore Action Legal Team  
Baltimore Bern Unit  
Baltimore City Civilian Review Board  
Baltimore City Democratic Socialists of America  
Baltimore for Border Justice  
Be More Unified  
Council on American-Islamic Relations (CAIR) Office in Maryland  
Central Atlantic Conference of the United Church of Christ  
CASA  
Caucus of African-Americans Leaders  
Citizens Policing Project  
Coalition for Justice for Anton Black  
Coalition of Concerned Mothers  
Coalition of People Opposed Violence and Extremism  
Common Cause Maryland  
Community Actively Seeking (C.A.S.T.)  
Community Justice  
Disability Rights Maryland  
Do the Most Good  
Drug Policy Alliance  
Equity Matters  
For Kathy's Sake  
FreeState Justice  
Greater Baltimore Democratic Socialists of America - Steering Committee  
Greenbelt People Power  
Hispanic National Law Enforcement Association  
Homeless Persons Representation Project  
Innocence Project  
InterFaith Action for Human Rights  
Jews United For Justice  
Job Opportunities Task Force  
Justice for Tyrone West Coalition  
Justice Policy Institute  
Kevin L. Cooper Foundation  
Law Enforcement Action Partnership  
Leaders of a Beautiful Struggle  
League of Women Voters of Maryland  
LGBTQ Dignity Project  
Life After Release  
Making Changes  
Mama Sisterhood of Prince George's County  
March for Our Lives Maryland  
Maryland Alliance for Justice Reform  
Maryland Center on Economic Policy

Maryland Consumer Rights Coalition  
Maryland Defenders Union  
Maryland Justice Project  
Maryland Office of the Public Defender  
Maryland Poor People's Campaign  
Maryland Prisoners' Rights Coalition  
Maryland Restorative Justice Initiative  
Maryland State Conference of NAACP Branches  
Marylanders to Prevent Gun Violence  
Moms Demand Action  
Montgomery County Civil Rights Coalition  
Montgomery County Democratic Socialists of America  
Mothers on the Move  
NARAL Pro-Choice Maryland  
National Coalition for Drug Legalization  
Nigerian American Lawyers Association - Washington DC Chapter  
Organizing Black  
Our Maryland  
Our Prince George's  
Our Revolution Maryland  
Out For Justice  
Planned Parenthood of Maryland  
Power Inside  
Prevent Gun Violence Ministry, River Road Unitarian Universalist Congregation  
Prince George's County Branch of Democratic Socialists of America  
Prince George's People's Coalition  
Prisons to Professionals  
Progressive Maryland  
Public Justice Center  
Racial Justice NOW!  
Rebuild, Overcome, and Rise (ROAR) Center at UMB  
Reproductive Justice Inside  
Sanctuary DMV  
SEIU 1199  
Showing up for Racial Justice Annapolis and Anne Arundel County (SURJ3A)  
Showing Up for Racial Justice, Baltimore  
Showing Up for Racial Justice, Montgomery County  
Sierra Club Maryland Chapter  
Silver Spring Justice Coalition  
Takoma Park Mobilization  
The JustUs Initiative  
Wicomico County NAACP Branch 7028  
Women's Law Center  
Young People for Progress

