



Testimony for the Senate Judicial Proceedings Committee

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YANET AMANUEL
PUBLIC POLICY ADVOCATE

SB 777 - Public Information Act - Records Relating to Police Misconduct - Fees

FAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 610
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

DANA VICKERS SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland urges a favorable report on SB 777, which as amended seeks to make MPIA requested documents that serve public interest free of charge and create a mechanism for enforcement of Anton's Law to ensure compliance.

Last year, the passage of SB 178, Anton's Law, represented a major step towards greater transparency and accountability in Maryland. Among other provisions, Anton's Law made police disciplinary records available to the public through MPIA requests. As a result, members of the public were given greater insight into the quality of police misconduct investigations, victims' families were able to gain a clearer picture of the officers involved in the death of their loved ones, and the public was afforded more oversight over a broken system of policing.

However, various financial and bureaucratic barriers have challenged the successful implementation of this law, with some departments outright denying requests or demanding members of the public pay fees totaling several thousand dollars.¹ Requests for the disciplinary records of just five Anne Arundel officers with criminal and internal complaints resulted in an estimated cost of \$8,400. This is on the lower end of fees. When the Baltimore Action Legal Team (BALT) requested closed use-of-force files, on behalf of Open Justice Baltimore, from the Baltimore Police Department, they were initially hit with a fee of almost \$1.5 million dollars. After challenging these outrageous fees, the amount was

¹ Fenton, J., & Price, L. (2021, December 30). Anton's law promised to make Maryland police disciplinary records public, but in reality, transparency has been slow or nonexistent. Baltimore Sun. Retrieved from <https://www.baltimoresun.com/news/crime/bs-md-cr-antons-law-compliance-20211230-fhkt5dcznbd5phdnbm2plwvrse-story.html>

reduced, yet still totaled almost \$250,000.² These fees are especially ridiculous when considering that the requestor, like many other organizations interested in obtaining these records, is a non-profit with limited funds. Public access must be afforded to everyone, regardless of their ability to pay.

This financial burden means that public access is only afforded to those who can pay. In addition to outrageous fees, according to a Baltimore Sun article, individuals have come across a myriad of excuses for why their requests cannot be fulfilled in a timely manner or at all. Many of these excuses amount to a purposeful refusal to fulfill the duties outlined in Anton's Law. These burdens are contrary to the spirit of the law that this legislature passed last session.

The reforms passed last session were aimed at increasing transparency and accountability, essential components of public trust and confidence in law enforcement. The inability to obtain disciplinary records in an affordable and timely manner further erodes this confidence.

This law cannot function as intended without some sort of method to ensure compliance. Under the amended SB 777, if a judge has ruled that an agency has not complied with Anton's Law, that agency will be subject to losing funding from the Governor's Office of Crime Control & Prevention for the following fiscal year.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 777 as amended.

² Open Justice Baltimore v. Baltimore City Police Department, et al. (Maryland Court of Special Appeals February 7, 2022).

