



To: The FOIA Council Subcommittee on Records Issues  
Re: Police officer disciplinary files (HB 2196)

Tuesday, August 31, 2021

Dear FOIA Council Subcommittee members,

VCOG writes in support of HB 2196, which provides access to law-enforcement disciplinary records so that the public and law enforcement itself can better identify, monitor and hold accountable the officers who protect and serve the people, but who also wield enormous power over them.

VCOG supports narrowing the bill to apply to **serious complaints**, not technical infractions of departmental policy or the everyday complaints, grievances and personnel concerns common to any and all public employees.

Arguments have been advanced that law enforcement is being singled out, being treated differently from other public employees. That is true and it is because the power to arrest, detain and use force carries with it a heightened public interest and responsibility in ensuring that the power is used appropriately

VCOG also supports broadening the bill to include both **founded and unfounded complaints**.

Arguments have been advanced that making unfounded complaints public will encourage the filing of frivolous or vindictive allegations. On the contrary. When all complaints are made available, the public, the officers and the law enforcement departments can demonstrate time and again when an officer acted appropriately.

Limiting public access to only founded complaints encourages less rigorous investigations or questionable investigative conclusions. Testimony has already been offered to suggest that departments will simply characterize all complaints — regardless of their degree of severity or level of culpability— as unfounded just to avoid having to disclose them.



It has also been suggested that police reforms passed in 2020 and 2021, such as to the decertification statute (§15.2-1707), already provide a mechanism for officer oversight. Four of the six decertification categories in that statute involve the violation of criminal statutes, and the remaining two involve violation of internal policies. And while these activities are of importance, they do not address the interactions with the public that fall short of criminal conduct but that nevertheless harm individuals, sow distrust within communities and negatively reflect upon law enforcement departments. Further, access to and oversight over non-criminal conduct complaints can help identify problem officers before a more serious incident arises that could lead to decertification.

Again, it is as much in the interest of law enforcement to be transparent in the disciplinary process as it is in the public's. As with any profession, the misconduct of one can cast a disproportionately negative reflection on the upstanding, hardworking, fair and selfless officers who maintain the highest standards of conduct.

VCOG is open to working on adjusting language to address law enforcement needs and concerns, but we remain committed and supportive of the overall concept of bringing sunshine to law enforcement disciplinary complaints.

Sincerely,

A handwritten signature in black ink that reads "Megan Rhyne".

Megan Rhyne  
Virginia Coalition for Open Government