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Michigan Requires Greater Transparency to Support Public Trust in Law Enforcement

In a free and safe society, law enforcement is essential for maintaining the rule of law and protecting persons and property from harm by others. At the same time, law enforcement officers have a tremendous responsibility to uphold the constitutional rights of the citizens with whom they interact. Even a few “bad apples” can undermine public trust in law enforcement—especially when governments fail to hold these officers accountable for misconduct. Michigan must embrace transparency and accountability in law enforcement to demonstrate a commitment to upholding the rule of law and maintaining the public's confidence in the justice system. Consistent with this objective, House Bill 5749 would clarify that law enforcement disciplinary records are not considered personal information exempted from public records requests.

Transparency is essential for protecting constitutional rights.

- Public access to government records under Michigan’s Freedom of Information Act (FOIA) is a vital tool for ensuring transparency and accountability in all areas of government, including law enforcement.
- Law enforcement agencies in Michigan frequently decline FOIA requests for law enforcement disciplinary records by citing statutory exemptions against disclosure of information that “would constitute a clearly unwarranted invasion of an individual’s privacy.”
- Of course, officers’ sensitive personal information, including Social Security numbers, private contact information, and residential addresses, should be exempted from public disclosure. However, public access to disciplinary records is necessary for holding officers accountable for misconduct. H.B. 5749 strikes the appropriate balance between transparency and protecting the personal privacy of law enforcement officers.

Secrecy about police misconduct makes it difficult for law enforcement agencies to avoid liability and bad hires.

- Even when law enforcement officers are terminated for serious or repeated instances of misconduct, a lack of transparency allows them to move from one department to another.
- In 2017, Michigan lawmakers passed legislation that requires law enforcement agencies to maintain records that explain why an officer left the agency. This allows police chiefs and sheriffs to avoid hiring officers with poor records. However, there have been several instances where these records were not accurate or were not filed promptly.
- Greater transparency through public records disclosure is a necessary remedy.

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