



**Testimony for the House Judiciary Committee
March 13, 2018**

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PUBLIC POLICY DIRECTOR

**HB 1649 Public Safety – Police Misconduct and Civil Rights Actions – Settlement
Database**

FAVORABLE

The ACLU of Maryland urges a favorable report on HB 1649, which would require local law enforcement agencies to report annually to the Governor’s Office of Crime Control and Prevention (GOCCP) on the total dollar amount for the previous calendar year paid to plaintiffs and complainants to settle claims and pay judgments for police misconduct and civil rights actions. GOCCAP must in turn publish a report with this data.

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The challenges accessing this basic information about our government’s response to police misconduct and civil rights litigation is unacceptable. Several jurisdictions require “non-disparagement” agreements pursuant to their settlement agreements with victims of abuse. These agreements function as an effective gag order, preventing victims of abuse from speaking publicly about the facts of their case and the settlement award paid out by the government.

Consider for example in 2012, Ashley Overbey, then a 25-year-old Black woman, called the Baltimore City Police Department for help, reporting a burglary at her apartment. Three sets of police officers were dispatched to her apartment at various times. The crime lab unit radioed for police officers to return and one of them, Officer Fred Hannah, forcefully entered and began searching her apartment without her permission. Officers beat, tackled, choked, tased and handcuffed Ms. Overbey, who was transported to the hospital, then jailed for 24 hours, and charged with six counts of assault and one count of resisting arrest.

All charges against Ms. Overbey were dropped and she successfully sued the Baltimore Police Department for wrongful arrest and unwarranted physical abuse. But as a condition of settling the case, the city and police department required Ms. Overbey to agree to a gag order that silenced her from talking publicly about her experience. Ms. Overbey was victimized again by the police misconduct when half of her settlement was taken away just because she defended herself in comments on a blog where members of the public disparaged her personal character for suing the police and accepting a settlement, without any understanding of the level of excessive and illegal force used by the police. The Baltimore Police Department is punishing her by withholding half of her settlement amount for exercising her right to free speech.

The Sun's investigation, published after city officials approved Overbey's settlement,

found that residents have suffered broken bones and battered faces during arrests. The city has paid \$5.7 million in court judgments and settlements in 102 civil suits since 2011, and nearly all of the people involved in incidents leading to those lawsuits were cleared of criminal charges. Some officers were involved in multiple lawsuits.

A second and equally troubling example stems from a 2014 case in which four Salisbury University students sued the city of Salisbury and one officer with the Salisbury Police Department (SPD), alleging police brutality, excessive force, illegal seizure, detention and arrest. The lawsuit also alleged that SPD personnel confiscated surveillance footage and created fictional narratives to cover up what happened. In 2015, the court concluded that the plaintiffs sufficiently proved illegal patterns and practices by the SPD to allow the case to move forward. In 2016, the case was settled, but all details of the settlement, including the amount of the award, were withheld from the press and public. When the ACLU of Maryland and the Real News Network filed a Maryland Public Information Act (MPIA) request seeking documents about the settlement, the City rebuffed the request, claiming that neither it nor the SPD had any documentation regarding the settlement. This lack of transparency has caused at least one of the student plaintiffs to question whether SPD was holding its officers accountable for their actions, though he is silenced by the gag order that governs the settlement and risks losing his award if he speaks out.

These examples demonstrate that local governments—from Baltimore City to the Eastern Shore—are not disclosing critical information about their responses to civil rights and police misconduct litigation. Additionally, this practice deprives the public of the basic understanding of how their taxpayer dollars are being used.

For these reasons, we urge a favorable report on HB 1649.