



## National Police Accountability Project

A Project of the National Lawyers Guild

**SUPPORT HB 745 – An Act That Will Amend the Law Enforcement Bill of Rights to Increase Accountability and Transparency.**

**Written Comment** by National Lawyers Guild-National Police Accountability Project, Lauren Bonds, Legal Director

**House Judiciary Committee**– Wednesday, April 27, 2022

Chairman Gaines and Members of this Committee,

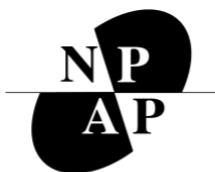
Thank you for the opportunity to provide written comment on this important issue. The National Lawyers Guild National Police Accountability Project (“NPAP”) is a nonprofit organization dedicated to holding law enforcement and corrections officers accountable to constitutional and professional standards. We strongly support the passage of HB 745. This bill will amend LEBOR to permanently preserve sustained findings of officer misconduct, empower communities to protect themselves from abuse, and forbid retaliation against police officers who do the right thing.

HB 745 would play a critical role in enhancing police accountability. Currently, the law permits police officers to expunge findings of misconduct after ten years. Erasing evidence of misconduct undermines a department’s ability to account for repeated acts of bad behavior and impose progressive discipline. Moreover, these provisions make it more difficult to pursue community and legal accountability measures.<sup>1</sup> By requiring departments to permanently preserve records of officer misconduct and permitting public access, HB 745 will help communities identify dangerous police officers and apply public pressure on their employing agencies to take corrective action.<sup>2</sup>

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<sup>1</sup> See *Law Enforcement Bill of Rights Statutes: How State Law Limitations Contribute to Police Harm and Community Distrust* 7 (2021), <https://www.nlg-npap.org/wp-content/uploads/2021/12/LEBOR-White-Paper-Final-Paper.pdf>.

<sup>2</sup> Barry Friedman and Maria Ponomarenko, *Democratic Policing*, 90 NYU L. Rev. 1827, 1838 (2015)(describing how transparency allows police to monitor police and exert political pressure to push for changes).



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The bill's requirement that police agencies permanently retain records of misconduct also ensures integrity of the criminal legal system in post-hoc proceedings. Many people are convicted and currently incarcerated because of police officer misconduct that did not emerge during their initial prosecutions.<sup>3</sup> Transparency about officers who violated policies or otherwise participated in deprivations of individual rights often signals to attorneys to scrutinize past convictions that may have been tainted by investigatory or other misconduct.<sup>4</sup> HB 745 will ensure that information of officer misconduct is not erased before it can be used in exoneration proceedings. In all, HB 745's changes to current record retention and access laws will improve police accountability and fair legal process.

Finally, HB 745 will create important protections for whistleblowers. Fear of retaliation often prevents law enforcement officers who have witnessed misconduct from coming forward to report wrongdoing. Even when a police officer wants to report corrupt cops, police departments make it almost impossible when they do not provide police whistleblower protections. Protecting internal whistleblowers is essential to prevent and correct government corruption in law enforcement and elsewhere. The whistleblower protections in HB 745 would create a cause of action against retaliation for the people reporting these incidents.

We urge you pass this important piece of legislation and provide comment on this important issue. Please do not hesitate to contact me at [legal.npap@nlg.org](mailto:legal.npap@nlg.org) if you have any questions.

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<sup>3</sup> *What You Need to Know About Police Misconduct and Wrongful Convictions*, The Innocence Project, Sept. 30, 2020, <https://innocenceproject.org/police-misconduct-wrongful-convictions-what-you-should-know/>.

<sup>4</sup> Barry Scheck, *The Integrity of Our Convictions: Holding Stakeholders Accountable in An Era of Criminal Justice Reform*, 48 Geo. L. J. Ann. Rev. Crim. Proc. iii (2019).