



SB0043 Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity
Presented to the Hon. Will Smith and Members of the Senate Judicial Proceedings Committee
January 21, 2021 11:00 a.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland **urges House Judiciary Committee a favorable report on SB0043 Criminal Law - Law Enforcement Officers - Prohibition on Sexual Activity**, sponsored by Senators Sarah Elfreth and Shelly Hettleman.

Our organization is an advocate for reproductive health, rights, and justice. We work to protect every person's freedom to decide if, when, and how to build their families. This freedom relies on respecting the sexual and reproductive agency of every individual. Every person has the right to decide where, when, how, and with whom they have sex. Accordingly, we support banning coercive sexual interactions between police and civilians.

Current Maryland law only bans sexual activity between law enforcement officers and those in their custody. SB0043 extends this ban to include people requesting assistance from a police officer, as well as victims, witnesses, and suspects in investigations in which an officer is involved, unless the officer previously had a legal sexual relationship with that person. SB0043 represents a major step toward eliminating sexual misconduct perpetrated by law enforcement officers.

Sexual misconduct is a widespread problem in American police departments and not limited to officers' interactions with those in their custody. Across the country, an accusation of sexual misconduct or assault is levelled at a police officer once every five days.ⁱ Reported incidents include officers harassing women in false traffic stops, fondling prisoners, and leveraging immunity from arrest for sexual favors.ⁱⁱ A federally funded nationwide study of arrests of police officers from 2005 to 2011 identified over 400 rape and 350 forcible fondling cases and found that half of sexual misconduct arrests were for incidents involving minors.ⁱⁱⁱ Sexual misconduct and assault occur during traffic stops, arrests, and job shadowing programs and most often involve crime victims, police informants, drivers, and teenagers. About half of police sexual misconduct cases involve incidents that occurred while the officer was on duty; police officers who engage in sexual misconduct while off-duty frequently use their badge or service weapon to pressure victims.^{iv} Existing statistics likely only capture a fraction of cases of police sexual misconduct and assault. Three quarters of all sexual assault cases go unreported,^v and 15 percent of women who do not report assault do so because they believe the police could not or would not do anything.^{vi} These fears are likely to be stronger in cases in which the police are the perpetrators. It becomes even harder for survivors of sexual assault to seek justice when the people they would turn to for help are the ones responsible for the violation.

Police sexual misconduct has a disproportionate impact on vulnerable populations, such as LGBTQ people, teenagers, homeless individuals, sex workers, people impaired by drugs or alcohol, and survivors of domestic violence. Police officers tend to target people with limited power who would be less likely to be believed if they tried to make a report.^{vii} In 2016, the U.S. Department of Justice found in an investigation of the Baltimore Police Department (BPD) that officers routinely pressure vulnerable people into sex.^{viii} The investigation found evidence that BPD officers engaged in sexual coercion by threatening sex workers with arrest or offering them money or drugs in exchange for sexual favors, and that the BPD failed to conduct any meaningful investigations of misconduct allegations or reports of sexual assault made by sex workers.^{ix}

Police officers who initiate sexual activity with civilians take advantage of an extreme power imbalance. When a police officer threatens, intimidates, or otherwise pressures someone into sexual activity, that is an abuse of their power and a violation of their community's trust. Police are the third most trusted institution in the country, behind only the military and small businesses.^x Sexual misconduct takes advantage of this trust and undermines the legitimacy of law enforcement officers and their ability to effectively protect their communities. It also taints the reputations of the majority of police officers who respect the power and responsibilities of their positions.

SB0043 would help hold officers accountable for sexual misconduct and strengthen trust between police and the communities they serve by making it clear that this behavior is not acceptable under any circumstances. It leaves no room for police to claim such encounters were consensual, recognizing that there can be no true consent when the power imbalance between two people is as strong as it is in a police-civilian interaction. Banning police-civilian sexual activity will help protect vulnerable populations from sexual coercion and strengthen the legitimacy of Maryland's law enforcement officers. For these reasons, NARAL Pro-Choice Maryland **urges a favorable committee report on SB0043**. Thank you for your time and consideration.

ⁱ Ritchie, Andrea J. "How Some Cops Use the Badge to Commit Sex Crimes." *Washington Post*, January 12, 2018. https://www.washingtonpost.com/outlook/how-some-cops-use-the-badge-to-commit-sex-crimes/2018/01/11/5606fb26-eff3-11e7-b390-a36dc3fa2842_story.html.

ⁱⁱ Stamper, Norm. *Breaking Rank: A Top Cop's Exposé of the Dark Side of American Policing*. PublicAffairs, 2009.

ⁱⁱⁱ Philip Matthew Stinson, Sr., John Liederbach, and Steven P. Lab. "Police Integrity Lost: A Study of Law Enforcement Officers Arrested." Bowling Green, OH: Bowling Green State University, January 2016. <https://www.ncjrs.gov/pdffiles1/nij/grants/249850.pdf>.

^{iv} Stinson, Philip Matthew, John Liederbach, Steven L. Brewer, and Brooke E. Mathna. "Police Sexual Misconduct: A National Scale Study of Arrested Officers." *Criminal Justice Policy Review* 26, no. 7 (October 2015): 665–90. <https://doi.org/10.1177/0887403414526231>.

^v Morgan, Rachel E., and Barbara A. Oudekerk. "Criminal Victimization, 2018." U.S. Department of Justice, Bureau of Justice Statistics, September 2019.

^{vi} Planty, Michael, Lynn Langton, Christopher Krebs, Marcus Berzofsky, and Hope Smiley-McDonald. "Female Victims of Sexual Violence, 1994-2010." U.S. Department of Justice, Bureau of Justice Statistics, March 2013. <https://doi.org/10.1037/e528212013-001>.

^{vii} Ritchie, Andrea J. "How Some Cops Use the Badge to Commit Sex Crimes." *Washington Post*, January 12, 2018. https://www.washingtonpost.com/outlook/how-some-cops-use-the-badge-to-commit-sex-crimes/2018/01/11/5606fb26-eff3-11e7-b390-a36dc3fa2842_story.html.

^{viii} "Investigation of the Baltimore City Police Department." U.S. Department of Justice, Civil Rights Division, August 10, 2016. <https://www.justice.gov/crt/file/883296/download>.

^{ix} "Investigation of the Baltimore City Police Department." U.S. Department of Justice, Civil Rights Division, August 10, 2016. <https://www.justice.gov/crt/file/883296/download>.

^x Gallup. "Military, Small Business, Police Still Stir Most Confidence," June 28, 2018. <https://news.gallup.com/poll/236243/military-small-business-police-stir-confidence.aspx>.