



SUPPORT HB18-1404

For TRANSPARENCY & ACCOUNTABILITY BY LAW ENFORCEMENT

For too long, files showing “police policing themselves” have been shrouded in secrecy

HB 18-1404 allows the public access to law enforcement internal investigative files related to interactions between officers and the public AFTER THE INVESTIGATION HAS BEEN COMPLETED.

Any truly private information, such as Social Security and bank account numbers, must be redacted before internal affairs records can be disclosed. Any identifying information on confidential informants, youth, and victims of sex offenses also must be redacted.

Law enforcement agencies may redact certain information that would compromise the safety of the public, officers, victims, witnesses or informants. They may also withhold confidential intelligence information.

THE PUBLIC HAS A RIGHT TO KNOW HOW POLICE OFFICERS CONDUCT THEMSELVES WHILE ON DUTY AND HOW SERIOUS ALLEGATIONS OF MISCONDUCT ARE INVESTIGATED

- **Transparency and accountability build public confidence in law enforcement.**
- **Investigators are more likely to do a better job knowing that their findings will be scrutinized by the public.**
- **The public has a compelling interest in knowing that their complaints about officer misconduct are handled fairly and thoroughly.**
- **If an officer has been disciplined, the public should know whether that action was fair and appropriate.**
- **Taxpayers should know how and why public dollars have been spent to settle cases of law enforcement misconduct.**

INTERNAL AFFAIRS (IA) FILES ARE TOO OFTEN KEPT HIDDEN FROM PUBLIC SCRUTINY

- **Most criminal justice agencies in Colorado have blanket policies refusing to disclose an IA files.** Such policies flout a Colorado Supreme Court ruling that requires law enforcement to examine each request on a case-by-case basis, balancing public and private interests to determine if records should be disclosed, and “redacted sparingly” to release as much information as possible.
- **Lawsuits won’t solve the problem.** Although some agencies have disclosed IA files when a court orders them to do so, it is not possible for the public to sue in every instance.
- **Other states require police transparency.** At least 12 other states promote accountability by mandating that IA files must be disclosed to the public.

EXAMPLES OF POLICE MISCONDUCT INVESTIGATIVE FILES WITHHELD FROM THE PUBLIC

- **Colorado Springs** - In May 2016, the city of Colorado Springs paid Alexis Acker \$100,000 to settle the lawsuit she filed after a police officer slammed her to the floor, face-first, while she was handcuffed in a hospital waiting area. The impact broke a tooth and bloodied her face. Ms. Acker, 18 at the time, had been arrested for assault on an officer and taken to the hospital before being jailed. An internal investigation of the incident took more than a year and resulted in discipline against the officer, who later resigned. The city denied several requests from the Colorado Springs Independent for records on the investigation.
- **Castle Rock** - Michael and Susan Cardella were sitting inside their parked car a few blocks from their suburban home when the car was hit by a Castle Rock police officer's stray bullet in February 2013. According to Mr. Cardella, a veteran of 35 years of police work, the officer fired at the suspect's approaching SUV, then blindly turned while still discharging his rifle. As the Cardellas watched the officer spin and fire, Mr. Cardella covered his wife's body with his own, at which point they both felt the impact of the gunfire slam into their vehicle. The Castle Rock police department found the officer's actions were "in conformance with Department policy." Castle Rock refuses to provide its internal investigation file to Mr. Cardella.
- **Aurora** - In July 2017, the city of Aurora paid Darsean Kelley \$110,000 to settle his claims against an Aurora police officer who tased him in the back. Although Mr. Kelley was innocent of any crime, the police stopped him and, without explanation, ordered him to turn around and raise his hands. Mr. Kelley complied with officer directives while verbally protesting the illegal stop. The officer nonetheless tased him, causing him to fall straight back and hit his head on the concrete. A video of the incident has been viewed thousands of times, and Mr. Kelley's case has generated nationwide media coverage. An Aurora police investigation found that the officer's actions were "reasonable, appropriate and within policy." But Aurora refuses to provide the public with the investigative files. The public has no opportunity to know how the city could justify such a significant expenditure of taxpayer money and yet find no officer wrongdoing.
- **Greeley** - The city of Greeley agreed to pay masseuse Ping Wang \$150,000 in March 2017 to settle a lawsuit in which she accused a police detective of lying in an affidavit related to her 2015 arrest on suspicion of prostitution. Ms. Wang was found innocent of the charge against her, and the detective left the department. But the city did not admit fault in the case and the police chief said the detective was not fired. The Greeley Tribune's efforts to tell the public more about the case were stymied by the department's denial of its request for records on the investigation. Disclosing the files "would not be in the public interest," the newspaper was told.