

HB0351.pdf

Uploaded by: Andrew Lewis

Position: FAV

Andrew Lewis

685 Winding Stream Way, Odenton MD, 21113

District 21

TESTIMONY IN SUPPORT OF HB 0351, Public Safety - Federal Agents - Digital Unmasking

2/18/2026

TO: Chair J. Sandy Bartlett & Members of the House Judiciary Committee

FROM: Andrew Lewis

Members of the Judiciary Committee, my name is Andrew Lewis, I live in Odenton, Maryland, and I am writing to support HB 0351, to allow Maryland to hold federal agents accountable and track known complaints against them.

Accountability is the cornerstone of any form of society. Any place where two or more people meet, be it for commerce; camaraderie, or politics, history shapes these interactions. If I cannot look back and recall how much a grocer charges me for an apple, how can I pay them? If my doctor does not sign my prescription, how will I get my needed medication from a pharmacy?

The ability to look back, and identify who, did what, and when, is central to our ability to have any mutual understanding. How then, can we expect our Nation to function without accountability in its law enforcement? A population of citizens, empowered by the State to make choices not only of life and death, but of freedom and detainment, must be held accountable. While it is true that members of Law enforcement do require certain protections to make their jobs possible, too many protections make our watchmen unwatchable. Those whom the Federal Government empowers to use force should be held more accountable for their actions, not less.

Masks create anonymity, turning the very people we should be looking to for safety and comfort into faceless danger. It turns them from human beings to unaccountable arms of an already dangerous and Authoritarian Federal government.

Please let Maryland be a safer place for all of us than elsewhere in our country. Allowing State law enforcement to help us hold Federal Agents accountable for their actions is one small step we can take in order to give Maryland Citizens some protection against abuse. I urge you to support HB 0351 and hold federal agents accountable in our state.

Andrew

HB0351 Digital Unmasking.pdf

Uploaded by: Anne Manuel

Position: FAV

**TESTIMONY IN SUPPORT OF HB 0351, Public Safety - Federal Agents - Digital
Unmasking**

Chair J. Sandy Bartlett & Members of the House Judiciary Committee

February 18, 2026

Chair Bartlett and members of the House Judiciary Committee: My name is Anne Manuel. I have lived in Silver Spring, Maryland, for more than 40 years. I am among a group of neighbors who last year formed North Woodside Civil Resistance out of concern for the threat to our democracy posed by the actions of the Trump administration. I am writing to support HB 0351, Public Safety - Federal Agents - Digital Unmasking.

Federal immigration agents have been operating all over the country as if our laws did not apply to them. Masked unidentified agents terrorize our communities with no regard for basic American protections such as due process, freedom of assembly, freedom of speech, freedom of the press, and protection from unreasonable searches and seizures.

Violence seems to be an essential part of immigration agents' *modus operandi*; they actually seem to delight in using excessive force. ICE's calling card is the smashed car window, the mother thrown on the ground, the children crying in fear or choking on pepper spray. Videos of brutal apprehensions are posted on government social media accounts, as if for entertainment.

Our state needs to make clear that we do not accept these lawless tactics. We need to impose a price on agents who would terrorize the most vulnerable members of our community as if their lives did not count. Allowing such crimes to continue unchecked invites further abuses. HB0351 would be an important step towards accountability by instructing the state police to gather and preserve evidence in the case of a complaint of misconduct by federal agents.

It is important to clarify what this bill *does not do* as well as what it does. The administration frequently accuses those seeking to hold their agents accountable of wanting to "dox" government agents, and thereby put their lives in danger.

This bill is not about doxing. Digital evidence gathered by the state police would only be turned over to a court authorized to hear a complaint of wrongdoing. HB0351 is a straightforward method to protect our community from violations of basic rights. Thank you for your consideration.

HB 0351 - Digital Unmasking 2026.pdf

Uploaded by: Ayla Hurley

Position: FAV

Ayla Hurley
6385 Windharp Way
Columbia, MD 21045
District 13

TESTIMONY IN SUPPORT OF HB 0351, Public Safety - Federal Agents - Digital Unmasking
2/18/2026

TO: Chair J. Sandy Bartlett & Members of the House Judiciary Committee
FROM: Ayla Hurley

Members of the Judiciary Committee, my name is Ayla, I live in Columbia, Maryland, and I am writing to support HB 0351, to allow Maryland to hold federal agents accountable and track known complaints against them.

The current administration's penchant for ignoring - or pardoning - violent and inhumane acts against its citizens and peaceful immigrants means that victims of these acts may never get justice. It is important that we, as Marylanders, keep track of federal agents' misconduct in our state, lest malicious actors have free reign to misbehave on our streets, and get away with it. Due process is for everyone, and everyone should be held to the same standard of it. "Digitally unmasking" agents operating in our state is one step towards upholding that standard.

Under any other circumstances, an anonymous criminal would be threatening in every sense of the word - to the community, to the state, to the country. Maryland should be a place where we uphold the values of law and order that the current administration has foregone in favor of militaristic authoritarian power grabs.

I urge you to support HB 0351 and hold federal agents accountable in our state to the extent possible.

HB0351 – Public Safety – Federal Agents – Digital

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB0351
Public Safety – Federal Agents – Digital Unmasking

Bill Sponsor: Delegate Moon

Committee: House Judiciary

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, Cochair

Position: FAVORABLE

Chair, Vice Chair, and Members of the Committee,

I am submitting this testimony in support of **HB0351** on behalf of the Maryland Legislative Coalition. We are an association of unpaid citizen advocates—individuals and grassroots groups in every district—representing more than 30,000 Marylanders.

HB0351 creates court-supervised process for handling complaints of misconduct involving federal law-enforcement agents. When a Marylander files a complaint, the bill allows the Attorney General or a State’s Attorney to direct the Maryland State Police to collect and securely retain digital identifying information about the agent involved. That information can only be accessed with a court order, preserving both accountability and due-process protections.

Across the country, questions about digital surveillance, federal-state coordination, and transparency in law-enforcement encounters have been front-page news. With digital systems—body-worn cameras, automated tools, and online communications—our state needs a clear mechanism to preserve evidence and determine identities when concerns arise. HB0351 provides that clarity without interfering with federal authority or presuming wrongdoing.

The bill directly supports the mission of the Maryland Legislative Coalition. Our work centers on transparency, equity, and civic empowerment. HB0351 strengthens public trust by ensuring that Marylanders who report misconduct have a meaningful path forward, while also ensuring that federal agents are protected by a consistent, fair process. It is a balanced reform that reinforces democratic accountability at a moment when communities are asking for exactly that.

For these reasons, we respectfully urge a **FAVORABLE** report on HB0351.

Chris Apple - HB 0351 - FAVORABLE.pdf

Uploaded by: Chris Apple

Position: FAV

Chris Apple
6385 Windharp Way
Columbia, MD 21045
District 13

TESTIMONY IN SUPPORT OF HB 0351, Public Safety - Federal Agents - Digital Unmasking
2/18/2026

TO: Chair J. Sandy Bartlett & Members of the House Judiciary Committee
FROM: Chris Apple

Members of the Judiciary Committee, my name is Chris Apple, I live in Columbia, Maryland, and I am writing to support HB 0351, to allow Maryland to hold federal agents accountable and track known complaints against them.

The current administration's penchant for ignoring - or pardoning - violent and inhumane acts against its citizens and peaceful immigrants means that victims of these acts may never get justice. It is important that we, as Marylanders, keep track of federal agents' misconduct in our state, lest malicious actors have free reign to misbehave on our streets, and get away with it. Due process is for everyone, and everyone should be held to the same standard of it. "Digitally unmasking" agents operating in our state is one step towards upholding that standard.

Under any other circumstances, an anonymous criminal would be threatening in every sense of the word - to the community, to the state, to the country. Maryland should be a place where we uphold the values of law and order that the current administration has foregone in favor of militaristic authoritarian power grabs.

I urge you to support HB 0351 and hold federal agents accountable in our state to the extent possible.

SEIU Local 500 Testimony in Support of HB 351 2026

Uploaded by: Christopher Cano

Position: FAV



Testimony - HB 351, Public Safety - Federal Agents - Digital Unmasking
Favorable
House Judiciary Committee
February 18, 2026
Christopher C. Cano, MPA
Director of Political & Legislative Affairs on Behalf of SEIU Local 500

Honorable Chairwoman Bartlett & Members of the House Judiciary Committee:

SEIU Local 500 represents thousands of public sector and higher education workers across Maryland. Our members believe deeply in the rule of law, constitutional protections, and the fundamental principle that no one—especially law enforcement officers acting under color of authority—is above accountability.

HB 351 addresses a growing and dangerous accountability gap. Across the country and here in Maryland, federal agents and contractors have increasingly operated without clear identification, often using unmarked vehicles, obscured badges, or anonymity that makes it nearly impossible for victims of misconduct to seek justice. This erosion of transparency undermines public trust, civil liberties, and workplace safety.

This bill takes a measured and responsible step to restore balance.

HB 351 authorizes the Attorney General or a State's Attorney, upon receipt of a credible complaint of serious federal agent misconduct—including excessive force, unlawful detention, assault, or civil rights violations—to direct the Maryland State Police to preserve identifying digital data related to the agents involved. Importantly, the bill does not provide open access to this information. Disclosure is permitted only by court order and only in the context of a civil rights case or criminal proceeding. These safeguards ensure due process while preventing evidence from being lost, destroyed, or concealed.

For SEIU Local 500 members—many of whom work in schools, universities, and public institutions—this legislation is about safety and constitutional integrity. Workers and community members should not be subjected to force or detention by unidentified federal actors with no meaningful path to accountability. When misconduct occurs, the state must have the ability to preserve evidence so that justice is possible.

HB 351 also sends an important message: Maryland will not normalize secret policing or tolerate civil rights violations carried out under the cover of anonymity. Accountability is not anti-law-enforcement; it is pro-democracy.

For these reasons, SEIU Local 500 respectfully urges the Committee to issue a favorable report on House Bill 351.

Thank you for your time and consideration.

Christopher C. Cano, MPA
Director of Political & Legislative Affairs
SEIU Local 500

HB351 Favorable 2026.pdf

Uploaded by: Debi Jasen

Position: FAV

Judiciary Committee
House Bill 351
Favorable

Honorable Chair, Vice Chair, and Members of the Judiciary Committee;

Please give House Bill 351 a favorable report.

Everyone should be held accountable for their actions. Some federal agents are getting away with horrible crimes because they're refusing to identify themselves and are wearing masks, making it more difficult to hold them criminally responsible. We have the right to justice. Thank you.

Sincerely,
Debi Jasen
Pasadena, MD

EzraTowne_HB0351_Favorable_2026_0216 (JUD).pdf

Uploaded by: Ezra Towne

Position: FAV

EZRA MACLEOD TOWNE

Testimony Favorable to HB0351: Public Safety - Federal Agents - Digital Unmasking

February 16, 2026

Delegate J. Sandy Bartlett, Chair, Delegate Debra Davis, Vice-Chair, and esteemed members of the Judiciary Committee:

My name is Ezra Towne, and my pronouns are they/them. I am writing to you today because **I strongly support HB0351, and ask for a favorable report from the Judiciary committee.**

As a transgender person, I am deeply concerned about when transgender folks encounter police and the forms of harrassment that they face.

According to Policing Progress, a report from the ACLU, transgender people are transgender people are 32.8% more likely to have police-initiated contact than other LGBTQ+ people in the last 12 months.¹ But that is not all:

- Transgender and nonbinary people are 44.9% and 33.1% more likely than LGBTQ+ cisgender men to be harassed by police via insulting language.
- Black transgender recipients were most likely to have experiences physical force from police.

HB0351 is a simple bill, that will protect all people from inappropriate police interactions, including violence, but especially so for trans, nonbinary, and black people.

When police officers face disciplinary action as a result of their discriminatory (and sometimes violent) behavior, their records are protected within internal police HR records and generally unavailable to the public.

HB0351 will make it possible for those who experience these disturbing interactions with police can have access to various data that would reveal the identity of the federal agent in the case of a court order on behalf of a victim.

This information is critical to holding police officers accountable to the public they are charged with protecting.

For these reasons, **I ask for a favorable report on HB0351: Public Safety - Federal Agents - Digital Unmasking.**

Sincerely,
Ezra MacLeod Towne
Wheaton, D18

¹<https://www.aclu.org/publications/policing-progress-findings-from-a-national-survey-of-lgbtq-peoples-experiences-with-law-enforcement>

Hess - HB0351.pdf

Uploaded by: Jennifer Hess

Position: FAV

**TESTIMONY IN SUPPORT OF HB 0351, Public Safety - Federal Agents - Digital
Unmasking**
Chair J. Sandy Bartlett & Members of the House Judiciary Committee
February 18, 2026

Chair Bartlett and members of the House Judiciary Committee: My name is Jennifer Hess. I have lived in Silver Spring, Maryland, for almost 30 years. I am among a group of neighbors who last year formed North Woodside Civil Resistance out of concern for the threat to our democracy posed by the actions of the Trump administration. I am writing to support HB 0351, Public Safety - Federal Agents - Digital Unmasking.

Federal immigration agents have been operating all over the country as if our laws did not apply to them. Masked unidentified agents terrorize our communities with no regard for basic American protections such as due process, freedom of assembly, freedom of speech, freedom of the press, and protection from unreasonable searches and seizures.

Violence seems to be an essential part of immigration agents' *modus operandi*; they actually seem to delight in using excessive force. ICE's calling card is the smashed car window, the mother thrown on the ground, the children crying in fear or choking on pepper spray. Videos of brutal apprehensions are posted on government social media accounts, as if for entertainment.

Our state needs to make clear that we do not accept these lawless tactics. We need to impose a price on agents who terrorize the most vulnerable members of our community as if their lives do not matter. Allowing such crimes to continue unchecked invites further abuses. HB0351 would be an important step towards accountability by instructing the state police to gather and preserve evidence in the case of a complaint of misconduct by federal agents.

It is important to clarify what this bill *does not do* as well as what it does. The administration frequently accuses those seeking to hold their agents accountable of wanting to "dox" government agents, and thereby put their lives in danger. This bill is not about doxing. Digital evidence gathered by the state police would only be turned over to a court authorized to hear a complaint of wrongdoing. HB0351 is a straightforward method to protect our community from violations of basic rights. Thank you for your consideration.

TESTIMONY IN SUPPORT OF HB 0351.pdf

Uploaded by: Judy Karasik

Position: FAV

TESTIMONY IN SUPPORT OF HB 0351, Public Safety - Federal Agents - Digital Unmasking
Chair J. Sandy Bartlett & Members of the House Judiciary Committee
February 18, 2026

Chair Bartlett and members of the House Judiciary Committee: My name is Judy Karasik. I have lived in Silver Spring, Maryland for 25 years and previously resided in Chevy Chase from 1958 to 1971. I am among a group of neighbors who last year formed North Woodside Civil Resistance out of concern for the threat to our democracy posed by the actions of the Trump administration.

I write in support of HB 0351, Public Safety - Federal Agents - Digital Unmasking.

Unlike all other American police officers, Federal immigration agents currently operate under cover of anonymity.

This is especially problematic as their methods often violate basic Constitutional protections including due process, freedom of assembly, freedom of speech, freedom of the press, and protection from unreasonable searches and seizures.

In addition, **their methods are violent:** smashing windows, throwing residents on the ground, using pepper spray, attacking and beating residents even after residents -- as young as children -- have been brutally restrained.

In short, **Federal immigration agents operate as though they can violate the United States Constitution with impunity and use violence in the exercise of those violations.**

Their anonymity makes these violations possible. The judicial system, including the Maryland Attorney General, State's Attorney, and the Maryland State Police, to hold them accountable -- as all of our public safety professionals are held accountable -- needs to know who these masked agents are.

HB0351, which enables and instructs the state police to gather and preserve evidence in the case of a complaint of misconduct by federal agents -- digital unmasking through collecting and preserving the data listed and referenced in the text of the bill -- will make it possible for the Maryland Attorney General, State's Attorney, and the Maryland State Police, working separately or together, to hold accountable violent, lawless, rogue Federal immigration agents.

The bill *does not authorize "doxing" of Federal agents.* Digital evidence gathered by the state police would only be turned over to a court authorized to hear a complaint of wrongdoing.

HB0351 will help to protect our communities from violations of basic rights.

I therefore support it and thank you for your consideration.

Favorable HB 351 Digital Unmasking.pdf

Uploaded by: Marcia Greenberg

Position: FAV

HB 351 – Public Safety – Federal Agents – Digital Unmasking

IN FAVOR

Honorable Delegates:

I am a private citizen. I have been appalled, saddened and outraged by the many ways in which individuals hired by DHS (ICE/CBP) have been breaking the law and violating the rights supposedly protected by our Federal Constitution. These are not normal times. People with clothing that marks them as officials are carrying guns and other mechanisms by which to cause physical harm – and other kinds of harm.

Insofar as they are being instructed to ignore the laws and our rights, or insofar as they feel that they can act with impunity, it is essential that there be mechanisms by which to hold them accountable. If the Federal government has gone “rogue”, then we absolutely need protections at the state level.

We are no longer in a phase of wondering what *might* happen; we have seen clear evidence of patterns of behavior that violate the rights of innocent people. We need to assure that our first amendment, fourth amendment and fifth amendment rights are respected. We need to assure that federal agents will be held accountable when they purposefully engage in conduct that is outside the permitted boundaries set by our Constitution, state laws and regulations.

This legislation has been carefully crafted to ensure that Federal agents are not unduly or unnecessarily revealed or targeted. But with the proper procedures, they must be identified.

Please support this legislation – for the sake of all residents of Maryland, whether citizens or not.

Thank you for your commitment to the rule of law, and to the safety and well-being of all Marylanders.

I urge you to report this bill out favorably.

Thank you

Marcia Greenberg

St Mary’s County

HB 0351 - Digital Unmasking 2026 Favorable Testimo

Uploaded by: Mary Beck

Position: FAV

Mary Beck
1317 Maple Ave
Halethorpe, MD 21227
District 44B

TESTIMONY IN SUPPORT OF HB 0351, Public Safety - Federal Agents - Digital Unmasking
2/18/2026

TO: Chair J. Sandy Bartlett & Members of the House Judiciary Committee
FROM: Mary Beck

Members of the Judiciary Committee, my name is Mary Beck, I live in Halethorpe, Maryland, and I am writing to support HB 0351, to allow Maryland to hold federal agents accountable and track known complaints against them.

The current administration's penchant for ignoring (or pardoning) violent and inhumane acts against its citizens and peaceful immigrants means that victims of these acts may never get justice. It is important that we, as Marylanders, keep track of federal agents' misconduct in our state, lest malicious actors have free reign to misbehave on our streets, and get away with it. Due process is for everyone, and everyone should be held to the same standard of it. "Digitally unmasking" agents operating in our state is one step towards upholding that standard.

Under any other circumstances, an anonymous criminal would be threatening in every sense of the word - to the community, to the state, to the country. Maryland should be a place where we uphold the values of law and order that the current administration has foregone in favor of militaristic authoritarian power grabs.

I urge you to support HB 0351 and hold federal agents accountable in our state to the extent possible.

HB0351 - Public Safety - Federal Agents - Digital

Uploaded by: Maryland Legislative Latino Caucus

Position: FAV



MARYLAND LEGISLATIVE LATINO CAUCUS

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ASHANTI MARTINEZ, CHAIR
GABRIEL ACEVERO, VICE-CHAIR
DENI TAVERAS, TREASURER
JOE VOGEL, SECRETARY
JASON A. AVILA GARCIA, EXECUTIVE DIRECTOR

TO: Delegate J. Sandy Bartlett, Chair
Delegate Debra Davis, Vice Chair
Judiciary Committee Members
FROM: Maryland Legislative Latino Caucus
DATE: 02/18/2026
RE: HB0351 - Public Safety - Federal Agents - Digital Unmasking

The MLLC supports HB0351 - Public Safety - Federal Agents - Digital Unmasking

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of HB0351.

Federal agents, such as Immigration and Customs Enforcement (ICE), are swarming immigrant and Latino communities and are conducting aggressive operations. During these operations, agents are not required to show personal identifiers and are consistently using tactics to obscure their faces and federal designation. When federal agents descend on a community in unidentified vehicles, while wearing masks, and use excessive force, assault a member of the community, and/or kidnap a member of the public, it is in the interest of the community to be able to identify the federal agent or agents involved in misconduct. Additionally, the lack of a clear policy that requires federal agents to identify themselves has created an environment for federal agent impersonators to conduct criminal activity¹.

All communities need an avenue to identify federal agents involved in egregious conduct. This bill authorizes the Office of the Attorney General or a State's Attorney, upon receipt of a complaint of federal misconduct, to direct the Maryland State Police to collect and preserve digital data in an effort to identify certain federal agents involved in violent or unconstitutional misconduct. Law enforcement may obtain access to digital information such as license plates, cell data, image search results, and facial recognition pursuant to court order. This bill would benefit all Marylanders, but particularly Latino and immigrant communities, who are being persecuted by federal agencies such as Immigration and Customs Enforcement (ICE).

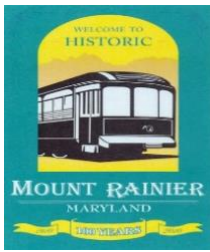
For these reasons, the Maryland Legislative Latino Caucus respectfully requests a favorable report on HB0351.

¹ [PBS News. Rise of ICE agents wearing masks creates opportunity for imposters to conduct crimes. 27 Jul. 2025](#)

HB 351.pdf

Uploaded by: Mayor Celina Benitez

Position: FAV



Office of The Mayor Celina R. Benitez

1 Municipal Place, Mount Rainier, Maryland 20712 Telephone: (301) 985-6585 MountRainierMD.org

Date: February 18, 2026

Re: House Bill 351 - Public Safety - Federal Agents - Digital Unmasking

Dear Chair Bartlett, Vice-Chair Davis, and Members of the Judiciary Committee,

On behalf of the City of Mount Rainier, we respectfully submit this letter in support of **House Bill 351**, legislation that establishes a clear, lawful process for preserving identifying digital information in cases involving credible allegations of federal agent misconduct.

Mount Rainier is a diverse, close-knit municipality that places a high value on civil rights, public trust in government, and transparency in law enforcement. Our residents expect that when serious allegations arise, particularly those involving excessive force, unlawful detention, or potential civil rights violations, there are appropriate mechanisms in place to preserve evidence and ensure accountability. HB 351 provides such a mechanism while maintaining important judicial safeguards.

For municipalities like Mount Rainier, HB 351 reinforces confidence that allegations involving federal law enforcement activity within our communities can be reviewed responsibly, transparently, and in accordance with the rule of law. Preserving relevant digital evidence at the outset of a complaint helps ensure that investigations are not compromised by the loss of time-sensitive data, while still respecting constitutional protections and judicial oversight.

The City of Mount Rainier appreciates the General Assembly's continued efforts to strengthen accountability frameworks and uphold civil liberties across Maryland. For these reasons, we urge the Judiciary Committee to issue a **favorable report on House Bill 351**.

Thank you for your consideration and for your continued leadership on public safety and community trust. Please feel free to contact me at 301-985-6585 or via email MayorBenitez@MountRainierMd.org if you have any questions.

Sincerely,

Celina R. Benitez

Mayor Celina R. Benitez, City of Mount Rainier.

Copy of HB0351 __ Public Safety __ Federal Agents __

Uploaded by: Rebecca Turner

Position: FAV

TESTIMONY FOR HB0351
Public Safety – Federal Agents – Digital Unmasking

Bill Sponsor: Delegate Moon

Committee: House Judiciary

Organization Submitting:

Person Submitting: Rebecca M. Turner

Position: FAVORABLE

Chair, Vice Chair, and Members of the Committee,

I am submitting this testimony in support of **HB0351** on behalf of Rebecca M. Turner.

HB0351 creates a court-supervised process for handling complaints of misconduct involving federal law-enforcement agents. When a Marylander files a complaint, the bill allows the Attorney General or a State’s Attorney to direct the Maryland State Police to collect and securely retain digital identifying information about the agent involved. That information can only be accessed with a court order, preserving both accountability and due-process protections.

Across the country, questions about digital surveillance, federal-state coordination, and transparency in law-enforcement encounters have been front-page news. With digital systems—body-worn cameras, automated tools, and online communications—our state needs a clear mechanism to preserve evidence and determine identities when concerns arise. HB0351 provides that clarity without interfering with federal authority or presuming wrongdoing.

The bill will ensure that Marylanders who report misconduct have a meaningful path forward, while also ensuring that federal agents are protected by a consistent, fair process. It is a balanced reform that reinforces democratic accountability at a moment when communities are asking for exactly that.

For these reasons, we respectfully urge a **FAVORABLE** report on HB0351.

Rebecca M. Turner, 21 Walnut Hill Road, La Plata, MD 20646

Testimony in support of HB0351 - Public Safety - F

Uploaded by: Richard KAP Kaplowitz

Position: FAV

HB0351_RichardKaplowitz_FAV

02/18/2026

Richard Keith Kaplowitz

Frederick, MD 21703

TESTIMONY ON HB#/0351- POSITION: FAVORABLE
Public Safety - Federal Agents - Digital Unmasking

TO: Chair Bartlett, Vice Chair Davis, and members of the Judiciary Committee

FROM: Richard Keith Kaplowitz

My name is Richard Keith Kaplowitz. I am a resident of District 3, Frederick County. I am submitting this testimony in support of HB#/0351, **Public Safety - Federal Agents - Digital Unmasking**

The conclusion of the Guardian Newspaper is that *The alarming rise of US officers hiding behind masks: 'A police state'*¹

Reported by [Sam Levin](#) in Los Angeles - Mike German, an ex-FBI agent, said immigration agents hiding their identities 'highlights the illegitimacy of actions'

Some [wear](#) balaclavas. Some [wear](#) neck gators, sunglasses and hats. Some wear masks and [casual clothes](#). Across the country, armed federal immigration officers have increasingly hidden their identities while [carrying out immigration raids](#), arresting [protesters](#) and [roughing up](#) prominent Democratic critics. It's a trend that has sparked alarm among civil rights and law enforcement experts alike.

Mike German, a former [FBI](#) agent, said officers' widespread use of masks was unprecedented in US law enforcement and a sign of a rapidly eroding democracy. "Masking symbolizes the drift of law enforcement away from democratic controls," he said.

The Department of Homeland Security (DHS) has insisted masks are necessary to protect officers' privacy, arguing, [without providing evidence](#), that there has been an uptick in violence against agents. But, German argued, the long term consequences could be severe. The practice could erode trust in the US law enforcement agencies: "When it's hard to tell who a masked individual is working for, it's hard to accept that that is a legitimate use of authority," he noted. And, he said, when real agents use masks more frequently, it becomes easier for [imposters](#) to operate.

German – who previously [worked undercover](#) in white supremacist and militia groups and is now a fellow at the Brennan Center for Justice, a non-profit – spoke to the Guardian about the dangers of officer masking, why he thinks officers are concealing themselves and how far the US has deviated from democratic norms.

¹ <https://www.theguardian.com/us-news/2025/jun/25/immigration-officers-wearing-masks>

HB0351_RichardKaplowitz_FAV

There are too many videos online showing misconduct by alleged law enforcement wearing masks while violating civil and constitutional rights. These are crimes being committed that should be prosecuted.

This bill authorizes the Office of the Attorney General or a State's Attorney, upon receipt of a complaint of federal agent misconduct, to direct the Maryland State Police to gather and securely retain certain identifying digital data about a certain federal agent or federal agents; and authorizing a certain complainant to obtain certain identifying digital data only pursuant to a court order issued in a certain case.

Adding the certainty of prosecution with possible conviction may, it is hoped, cause moderation in how federal law enforcement interacts with the public in Maryland.

I respectfully urge this committee to return an favorable report on HB#/0351.

HB0351_fav_mascioli.pdf

Uploaded by: William Mascioli

Position: FAV

HB0351 - SUPPORT
William Mascioli
2021 Luzerne Avenue
Silver Spring, MD 20910

B3mascioli@verizon.net
301.404.7490

HB0351–Public Safety – Federal Agents – Digital Unmasking

House Judiciary Committee
February 18, 2026

Chair Bartlett, Vice Chair Davis, and members of the House Judiciary Committee:

My name is William Mascioli. I have lived in Silver Spring, Maryland, for more than 40 years. I am among a group of neighbors who last year formed North Woodside Civil Resistance out of concern for the threat to our democracy posed by the actions of the Trump administration. I am writing to support HB 0351, Public Safety - Federal Agents - Digital Unmasking.

Federal immigration agents have been operating all over the country as if our laws did not apply to them. Masked and unidentified agents terrorize our communities with no regard for basic American protections such as due process, freedom of assembly, freedom of speech, freedom of the press, and protection from unreasonable searches and seizures.

Violence seems to be an essential part of immigration agents' *modus operandi*; they actually seem to delight in using excessive force. ICE's calling card is the smashed car window, the mother thrown on the ground, the child crying in fear or choking on pepper spray. Videos of brutal apprehensions are posted on government social media accounts, as if for entertainment.

Our state needs to make clear that we do not accept these lawless tactics. We need to impose a price on agents who would terrorize the most vulnerable members of our community as if their lives did not count. Allowing such crimes and abuses to continue unchecked invites further abuses. HB0351 would be an important step towards accountability by instructing the state police to gather and preserve evidence in the case of a complaint of misconduct by federal agents.

It is important to clarify what this bill *does not do* as well as what it does. The administration frequently accuses those seeking to hold their agents accountable of wanting to "dox" government agents and thereby put their lives in danger.

This bill is not about doxing. Digital evidence gathered by the state police would only be turned over to a court authorized to hear a complaint of wrongdoing. HB0351 is a straightforward method to protect our community from violations of basic rights. It is basic accountability, plain and simple. I urge a favorable report on HB0351 and thank you for your consideration.

HB 351_ Public Safety - Federal Agents - Digital

Uploaded by: Trudy Tibbals

Position: UNF

HB 351: Public Safety - Federal Agents - Digital Unmasking: Please advocate **TO OPPOSE** this bill.

Dear Judiciary Committee:

I am writing to respectfully **oppose HB 351**, concerning *Public Safety – Federal Agents – Digital Unmasking*.

This legislation raises serious concerns about public safety, operational security, and the proper balance between state and federal authority. Federal law enforcement officers often operate in sensitive environments involving organized crime, drug trafficking, terrorism, and violent criminal networks. Publicly disclosing identifying information—particularly in a digital format—could expose these officers and their families to harassment, retaliation, or physical danger.

In an era where personal information can be rapidly disseminated and weaponized online, **“digital unmasking” creates significant risks**. Even limited disclosures can quickly spread beyond their original intent, potentially compromising ongoing investigations or placing officers at personal risk.

Additionally, federal law enforcement operates under federal authority. State-level policies that interfere with or attempt to regulate federal operations may create constitutional and jurisdictional conflicts, **leading to costly legal disputes** and unnecessary tension between state and federal agencies.

Transparency and accountability are important principles, but they must be balanced with the safety of law enforcement personnel and the integrity of ongoing investigations. Existing oversight mechanisms already exist at the federal level to address misconduct or abuse, without broadly exposing individual officers to potential harm. **HB 351** strikes this balance.

For these reasons, I respectfully urge you to **oppose HB 351**.

Thank you for your time and thoughtful consideration.

Respectfully,

Trudy Tibbals

MSI Testimony on SB 346 and HB 332 informational o

Uploaded by: Mark Pennak

Position: INFO



President
Mark W. Pennak

February 18, 2026

**WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT,
MARYLAND SHALL ISSUE,
IN SUPPORT WITH AMENDMENTS TO SB 346 and HB 332 and
AS INFORMATIONAL FOR HB 351**

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan, non-profit organization dedicated to the preservation and advancement of gun owners’ rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of the District of Columbia and the Bar of Maryland. I retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland Firearms Law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License (“HQL”) and a certified NRA instructor in rifle, pistol and personal protection in the home and outside the home and muzzle loading. I appear today as President of MSI in SUPPORT WITH AMENDMENTS SB 346 and the cross-file, HB 332 (“the Bill”) AND AS INFORMATIONAL FOR HB 351.

The Bill: The Bill, dubbed the “No Kings Act,” amends MD Code, Courts and Judicial Proceedings, §§ 3-2701, 3-2702, to create a new cause of action for lawsuits in Maryland Courts, providing that AN AGGRIEVED PARTY MAY BRING AN ACTION AGAINST AN INDIVIDUAL WHO, UNDER COLOR OF LAW, DEPRIVES THE AGGRIEVED PARTY OR CAUSES OR ALLOWS THE AGGRIEVED PARTY TO BE DEPRIVED OF A RIGHT, A PRIVILEGE, OR AN IMMUNITY SECURED BY THE U.S. CONSTITUTION. The Bill defines “law” to include (1) THE U.S. CONSTITUTION; (2) THE MARYLAND DECLARATION OF RIGHTS (3) THE MARYLAND CONSTITUTION; (4) THE LAWS OF THE UNITED STATES; AND (5) THE LAWS OF MARYLAND. The Bill provides that AN AGGRIEVED PARTY MAY SEEK DAMAGES AND DECLARATORY AND INJUNCTIVE RELIEF. The Bill further provides that A COURT MAY AWARD REASONABLE FEES AND COSTS, INCLUDING ATTORNEY’S FEES AND EXPERT WITNESS FEES, TO A PREVAILING PLAINTIFF UNDER THIS SECTION. Finally, A DEFENDANT IN AN ACTION UNDER THIS SECTION MAY ASSERT A DEFENSE OF ABSOLUTE OR QUALIFIED IMMUNITY TO THE SAME EXTENT AS A PERSON SUED UNDER 42 U.S.C. § 1983 UNDER LIKE CIRCUMSTANCES.

Discussion:

We support this Bill if it is amended as suggested below. But before we get into suggested amendments, we wish to provide information to the Committee concerning the legal context in which this Bill will operate. Specifically, from the testimony of the sponsor and others during hearing before JPR on the Senate cross-file of this Bill, it appears that the Bill will be amended in the Senate to limit the cause of action created by this Bill to federal officials ONLY. At the very least, the Bill, as originally drafted, will create a cause of action against federal officers, as well as other “individuals” acting under “color of” federal and Maryland law. Given that change in focus, we have revised our written testimony given in the Senate to take these changes into account. For the reasons set forth below, application of this Bill solely to federal officials will almost certainly fail.

The Westfall Act and *Osborn v. Haley*: First, this Bill is unlikely to overcome the Westfall Act, 28 U.S.C. § 2679(b)(1). Under the Westfall Act, federal employees “have absolute immunity” from claims “arising out of acts they undertake in the course of their official duties.” *Osborn v. Haley*, 549 U.S. 225, 229 (2007). Such “acts” would necessarily encompass this Bill’s coverage of actions taken by individuals under color of THE LAWS OF THE UNITED STATES.

Specifically, Section 2679(b)(1) provides:

The remedy against the United States provided by sections 1346(b) and 2672 of this title¹ for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim or against the estate of such employee. Any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred.

Section 2679(d)(1) provides:

Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court *shall be deemed an action against the United States* under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant.

(Emphasis added).

Section 2679(d)(2) then provides:

¹ The cross-reference to “sections 1346(b) and 2672 of this title” is to provisions of the Federal Tort Claims Act.

Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court *shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending*. Such action or proceeding *shall be deemed* to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, *and the United States shall be substituted as the party defendant*. This certification of the Attorney General shall conclusively establish scope of office or employment for purposes of removal.

(Emphasis added).

These provisions were authoritatively construed by the Supreme Court in *Osborn*.² *Osborn* holds that the Attorney General's certification that the federal employee was acting within the scope of his or her employment is conclusive for purposes of removal to federal district court and thus federal district courts have "no authority to return cases to state courts on the ground that the Attorney General's certification was unwarranted." 549 U.S. at 241. The Court thus held that any contention that the certification was unwarranted must be adjudicated solely in federal district court *without any remand to state court*. *Id.* at 243 ("§ 2679(d)(2) renders the federal court exclusively competent and categorically precludes a remand to the state court."). (Emphasis added). That means the Westfall Act strips Maryland courts of any power to adjudicate the cause of action created by this Bill where the Attorney General has issued such a certification. Significantly, the Westfall Act further provides that in cases where the Attorney General has refused to issue the certification, the federal employee may contest that decision after removing the case to federal court. See 28 U.S.C. § 2679(b)(3) ("In the event that the Attorney General has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment.").

Osborn also squarely holds that the Attorney General's certification may be based on a denial of the allegations of the complaint. As the Court stated, Section 2679(d)(1) "encompasses an employee on duty at the time and place of an 'incident' alleged in a complaint who denies that the incident occurred." 549 U.S. at 247. While the Court noted that the Attorney General's certification is subject to judicial review by the district court, the Court made clear that the merits of such a denial (and hence an adjudication of the case itself) must be adjudicated in federal district court. The Court explained that such a determination *is without a jury* because the United States is substituted for the individual officer upon certification under Section 2679(d)(2) at the outset, and there is no right to a jury trial in suits against the United States. *Osborn*, 549 U.S. at 252-53. If the district court overturns the Attorney General's certification, then the federal employee has a right to an

² Full disclosure, the undersigned was counsel for the United States in *Osborn*.

immediate appeal of that determination under the collateral order doctrine because the Westfall Act was “designed to immunize covered federal employees not simply from liability, but from suit.” *Id.* at 238.

The upshot of the Westfall Act is that a plaintiff is effectively left to a suit against the United States and is entitled only to the remedies provided by the Federal Tort Claims Act. See, e.g., 28 U.S.C. § 2680(h). If the FTCA does not provide any remedy, then the suit is barred by the sovereign immunity of the United States, and the complaint must be dismissed for lack of jurisdiction under Rule 12(b)(1) (federal sovereign immunity is jurisdictional) or for failure to state a claim upon which relief can be granted under Rule 12(b)(6). See, e.g., *Ferrari v. United States*, 2021 WL 5277089 (9th Cir. 2021); *Williams v. United States*, 71 F.3d 502 (5th Cir. 1995); *Omnipol, A.S. v. Multinational Defense Services, LLC*, 32 F.4th 1298 (11th Cir. 2022).

***Bivens*-type Claim and Section 1442 Removal:** The Westfall Act immunity does not apply to suits which are “brought for a violation of the Constitution of the United States.” 28 U.S.C. § 2679(b)(2)(A). Such a suit is directly based on the Constitution itself and was recognized in *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971), for a violation of Fourth Amendment rights in *Davis v. Passman*, 442 U.S. 228 (1979), for a former congressional staffer’s Fifth Amendment sex-discrimination claim, and in *Carlson v. Green*, 446 U.S. 14 (1980), for a federal prisoner’s inadequate-care claim under the Eighth Amendment. Since these decisions, however, the Supreme Court has refused to recognize such suits for violations of other constitutional rights outside of those three cases. See *Egbert v. Boule*, 596 U.S. 482, 486, 493-94 (2022) (summarizing the case law and refusing to recognize a *Bivens* claim against federal agents for excessive force and for retaliation for the exercise of First Amendment rights).

By definition, the exclusion from Westfall Act immunity for suits brought for a violation of federal constitutional rights would not apply to suits for violation of rights secured by federal statutory law, or by State statutory law (such as this Bill) or by common law or by State constitutions. Those kinds of suits against federal officials would continue to be barred by the Westfall Act, as discussed above. This Bill thus effectively seeks to create, *by statute*, a *Bivens*-type remedy *in State court* for claims based on violations of rights secured by the United States Constitution. That attempt will fail with respect to federal officials. First, federal law permits federal defendants to remove such claims to federal district court under 28 U.S.C. § 1442. Section 1442 provides for such removal of suits against “[t]he United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, *in an official or individual capacity*, for or relating to any act *under color of such office*” (Emphasis added). The Bill’s attempt to authorize adjudication of such federal constitution claims *in State court* under the cause of action created by this Bill would thus be pointless under Section 1442. See *Mesa v. California*, 489 US. 121 (1989).

Second, it seems highly doubtful that a federal court would be willing to adjudicate the merits of this newly created State cause of action for *Bivens*-type constitutional claims, especially in light of the Supreme Court's repeated refusal to broaden the *Bivens* remedy. See *Egbert*, 596 U.S. at 486. Unlike *Bivens*, which, again, was based directly on a cause of action implied by the *Constitution itself*, the cause of action created by this Bill is a State *statutory right of action*. State statutory causes of actions against federal officials are precluded by the immunity accorded by the Westfall Act, as noted above. Any claim based on this Bill will thus likely fail for that reason alone. *Bivens*-type claims based directly on the Constitution would be controlled by federal law and are thus limited to the three situations already recognized by the Supreme Court. This Bill is not necessary to preserve those limited claims which can be brought in State or federal court already. If brought in State court, the claim is just removed to federal district court under Section 1442. The Bill's attempt to accord jurisdiction to state courts will thus fail.

Federal Defenses: Suits for actions taken by federal officers under color of federal law are *always* subject to *federal* defenses, which cannot be abolished or limited by States under the Supremacy Clause of the United States Constitution, Art. VI, cl.2. Those defenses include (but are not limited to) federal sovereign immunity, absolute immunity (e.g., the President, prosecutors, judges, Members of Congress), qualified immunity, preemption and inter-governmental immunity. See, e.g., *Trump v. United States*, 603 US. 593 (2024) (absolute immunity); *United States v. Washington*, 596 U.S. 832 (2022) (holding that “the intergovernmental immunity doctrine” prohibits “state laws that either regulat[e] the United States directly or discriminat[e] against the Federal Government or those with whom it deals’ (e.g., contractors)”), quoting *North Dakota v. United States*, 495 U.S. 423, 435, (1990) (plurality opinion); *Hammer v. United States Department of Health and Human Services*, 905 F.3d 517 (7th Cir. 2018) (federal sovereign immunity); *Geo Group, Inc. v. Newsom*, 50 F.4th 745 (9th Cir. 2022) (en banc) (preemption). These principles were applied recently by the federal district court in California to enjoin enforcement of a California law that barred the use of masks by federal law enforcement agents. *United States v. California*, --- F.Supp.3d ---, 2026 WL 363346 (C.D. Calif. Feb. 9, 2026) (applying Supremacy Clause immunity and the intergovernmental immunity). State laws, like HB 351, that seek to regulate **only** federal agents or federal officials will not survive judicial review under the inter-governmental immunity doctrine. *Id.* Again, all such defenses would be litigated in federal court under 28 U.S.C. § 1442, not in Maryland state court.

Given all these legal realities, if the Bill is limited or applied to federal officials as suggested by the Senate sponsor, then the Bill can be reasonably viewed as performative rather than truly creating any viable cause of action against federal officials. See “Performative,” Merriam-Webster Dictionary (defining the term to mean an act “made or done for show (as to bolster one's own image or make a positive impression on others)”). The undersigned respectfully submits that performative legislation is “beneath the dignity” of the General Assembly as a constitutional body. Cf. *Saunders v. State*, 2023 WL 118518 at *13 (Md. Appellate Court 2023) (State's Attorney's office).

Suggested Amendments:

No amendment to this Bill can overcome the obstacles to recovery against federal officials outlined above. But the Bill can be amended to protect the rights of Marylanders in other contexts. First the Bill is seriously and inappropriately limited to suits against “AN INDIVIDUAL” for deprivation of A RIGHT, A PRIVILEGE, OR AN IMMUNITY SECURED BY THE U.S. CONSTITUTION. For a Bill grandly dubbed the “No Kings Act,” both limitations are wholly unwarranted. It should go without saying that **governments** (“Kings”) may violate the constitutional rights of individuals. That includes the governments of Maryland. The Bill should thus be amended to provide that a suit may be brought against AN INDIVIDUAL, THE STATE OF MARYLAND, ITS AGENCIES AND ANY COUNTY, CITY OR MUNICIPALITY OF THE STATE OF MARYLAND. Such language would waive the State’s sovereign immunity from suit and open Maryland courts to individuals who have suffered a deprivation of rights because of the actions of the State, its agencies and other Maryland governmental bodies. See, e.g., *Board of Educ. of Baltimore County v. Zimmer-Rubert*, 409 Md. 200 (2009)(“the General Assembly may waive sovereign immunity either directly or by necessary implication”)(citation omitted).

Refusing to permit recovery against the State and its agencies and municipalities for violations of constitutional and rights secured by state and federal law would be hypocritical in the extreme. Federal law, 42 U.S.C. § 1983,³ already permits **damages** suits and suits in equity against municipalities, including fee recoveries, under *Monell v. New York City Dept. of Social Servs.*, 436 U.S. 658, 690 (1978). See *Uzuegbunam v. Preczewski*, 484 Md. 534, 551 (2021). As the text of Section 1983 makes clear, Section 1983 suits are available for actions taken *under color of State law*. Actions taken by individuals under *color of federal law* are not covered by Section 1983. Full Stop. See, e.g., *Thai v. County of Los Angeles*, 127 F.4th 1254 (9th Cir. 2025) (collecting case law). That reality bears directly on HB 351 which focuses solely on *federal* law enforcement agents and Section 1983 suits. And while the State and State agencies have sovereign immunity from **damages** awards under Section 1983, they are nonetheless subject to Section 1983 suits in State and federal court seeking declaratory and injunctive relief (and fee awards) under the doctrine of *Ex parte Young*, 209 U.S. 123 (1908). See, e.g., *Trump v. CASA*, 606 U.S. 831, 846 n.9 (2025) (collecting caselaw). Section 1983 litigation has led to the advancement

³ Section 1983 provides:

Every person who, *under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia*, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. (Emphasis added).

of federal constitutional and statutory rights since the enactment of Section 1983 on April 20, 1871, as Section 1 of the Civil Rights Act of 1871, also known as the Ku Klux Klan Act. Marylanders are entitled to no less protection under State law and the State Constitution and Declaration of Rights.

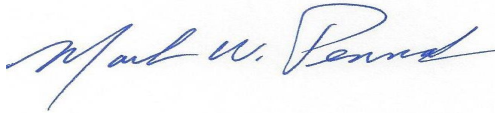
The Bill authorizes suits only for deprivation of rights SECURED BY THE U.S. CONSTITUTION. As applied to federal officials, that limitation is performative for all the reasons set forth above. That point aside, one is compelled to wonder why the Bill ignores the rights “secured by” the Maryland Constitution and the Maryland Declaration of Rights and other rights “secured by” federal and State law. The Bill defines “law” to include rights originating from all these sources but unaccountably then **limits** the application of that definition to actions taken by an INDIVIDUAL who acts UNDER COLOR OF LAW. Are the rights secured by the Maryland Constitution and the Maryland Declaration of Rights (and other State and federal law) somehow **less important** than the rights secured by the U.S. Constitution? By limiting the cause of action to violations of the U.S. CONSTITUTION, the General Assembly would make these provisions into second-class rights. Maryland already waives sovereign immunity for common law tort actions under the Maryland Tort Claims Act. See, e.g., *Williams v. Morgan State University*, 484 Md. 534, 551-52 (2023). Such an amendment would be a useful addition to that waiver to include State and federal statutory claims as well. *Id.*

Third, the Bill incorporates the standards for qualified immunity established in the caselaw under 42 U.S.C. § 1983, but that endorsement is unfortunate and ill-advised. See David Rudovsky, *The Qualified Immunity Doctrine in the Supreme Court: Judicial Activism and the Restriction of Constitutional Rights*, 138 U. Pa. L. Rev. 23, 74 (1989); *Baxter v. Bracey*, 140 S.Ct. 1862 (2020) (mem) (Thomas, J., dissenting from the denial of certiorari). Federal qualified immunity often unfairly leaves the victim without any remedy. The officials of the State and its agencies and municipalities who violate the constitutional and statutory rights of the victim should be held fully liable for the consequences of their actions.

Finally, the Bill also authorizes the award of attorneys’ fees and costs but does not define any governing standard, such as developed under 42 U.S.C. § 1988, for such awards. That oversight should be corrected. Section 1988 fees have been sharply limited by the Supreme Court to preclude fee awards under the “catalyst theory.” See, e.g., *Lackey v. Stinnie*, 604 U.S. 192 (2025). Before the Supreme Court abolished any use of that theory in *Buckhannon Board & Care Home, Inc. v. West Virginia Dept. of Health and Human Resources*, 532 U.S. 598, 603 (2001), the federal courts routinely awarded Section 1988 fees where the suit acted as a “catalyst” to the relief sought because lawsuit brought about voluntary change in defendant’s conduct. 532 U.S. at 605-06. See e.g., *Stanton v. Southern Berkshire Regional School Dist.*, 197 F.3d 574 (1st Cir. 1999). *Buckhannon* abrogated that line of precedent, holding that a person cannot be a prevailing party under Section 1988 without obtaining *court ordered* relief. This Bill provides an opportunity for the State to make clear that a “prevailing party” under this Bill may also include parties who also prevail under the catalyst theory. With that exception, the Bill should

cross-reference Section 1988 standards for fee awards under the Bill. These changes would provide important guidance to Maryland courts and minimize the potential for expensive and protracted disputes over fee awards.

Sincerely,

A handwritten signature in blue ink that reads "Mark W. Pennak". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Mark W. Pennak
President, Maryland Shall Issue, Inc.
mpennak@marylandshallissue.org

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Uploaded by: Tiffany Clark

Position: INFO

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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

ANTHONY G. BROWN
Attorney General

February 18, 2026

TO: The Honorable J. Sandy Bartlett
Chair, Judiciary Committee

FROM: Tiffany Clark
Director, Legislative Affairs, Office of the Attorney General

RE: House Bill 351 - Public Safety - Federal Agents - Digital Unmasking (Letter of Information)

The Office of the Attorney General (OAG) respectfully submits this letter to provide information to the Committee regarding HB 351 - Public Safety - Federal Agents - Digital Unmasking. HB 351 authorizes the Attorney General or a State's Attorney to direct the Maryland State Police to gather and retain identifying digital data of federal law enforcement officers following complaints of misconduct. As the Committee considers this legislation, we want to ensure you have complete information about the bill's operational framework, constitutional considerations, and technical provisions.

HB 351 would create a process whereby the Attorney General or a State's Attorney, upon receiving a complaint alleging federal officer misconduct, may direct the Maryland State Police to collect and securely retain identifying digital data about the officer involved. The bill defines "misconduct" to include violations of federal or state constitutional rights, civil rights laws, or criminal laws. The collected information would be maintained confidentially and could be disclosed to a complainant only pursuant to court order in connection with legal proceedings.

Under this framework, OAG would have authority to request investigations but would not gain additional enforcement authority against federal officers beyond what currently exists under federal law.

Additionally, the Committee should be aware of several complex questions that this legislation may raise:

1. Many of the data collection methods specified in the bill, including contents of electronic devices, location data, and communications records, would ordinarily require judicial authorization through a search warrant supported by probable cause. The bill's current structure does not explicitly address how these requirements would be satisfied, particularly in situations where the alleged misconduct may not constitute criminal conduct.
2. While Maryland has legitimate authority to investigate federal officers for criminal conduct occurring within the State, federal officers may be able to remove such prosecutions to federal court if they can demonstrate the conduct occurred within the scope of their federal duties. The bill's application to non-criminal misconduct may raise additional federalism concerns, as states have limited authority to regulate federal officers' performance of core federal functions.
3. The federal government has enacted protections against disclosure of identifying information about federal law enforcement officers (18 U.S.C. § 119). While this statute requires intent to intimidate, threaten, or incite a crime, federal authorities may scrutinize state collection and potential disclosure of such information under this framework.

Drafting Considerations

The Committee may wish to consider several technical aspects of the bill:

1. The bill references Section 1983 civil rights actions in multiple places. However, Section 1983 applies only to state and local officials, not federal officers
2. Definition of "Complainant": The bill authorizes disclosure of collected information to a "complainant" by court order, but does not define this term.
3. Relationship to Existing Public Information Act: Subsection (c) appears to create confidentiality protections that may differ from or override existing Public Information Act provisions.
4. Scope of "Misconduct": The bill's definition includes conduct that may not always be criminal in nature.

The Office of the Attorney General appreciates the Committee's consideration of these important accountability questions and remains available to provide additional information or technical assistance as this legislation advances.

Cc: Members of the Committee