



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

TO: The Honorable William C. Smith, Jr. Chairman and  
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee  
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: January 21, 2021

RE: **SB 71 – Police Officers – Testimony – Presumption of Inadmissibility  
(Maryland police Accountability Act of 2021)**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 71**. This bill creates a rebuttable presumption to make any testimony of an officer who knowingly and willfully fails to turn on their body-worn camera inadmissible.

MCPA and MSA fully supports requiring body cameras for all law enforcement agencies within a reasonable timeframe and agrees policies should be put in place for their use. However, MCPA and MSA must oppose a rebuttable presumption for this purpose.

Critical incidents erupt, often without warning, in which officers are forced to make split-second judgments, in circumstances that are tense, uncertain, and rapidly changing, responding to the actions of another that pose an imminent threat of death or serious bodily injury. As an example, an officer goes into a convenience store to grab a drink. On the officer's way out, the officer hears shots fired nearby and immediately observes a victim shot and gives chase to suspect. The law of physics states that action is quicker than reaction, already placing an officer at a distinct disadvantage. To expect an officer to delay his/her response to such a threat to activate a camera is both unreasonable and dangerous. Most BWC policies stipulate that at no time is a member expected to jeopardize his/her safety to activate or deactivate a BWC. In certain environments, such as hospitals and detention centers, the activation of body worn cameras may be restricted or prohibited due to security reasons. Officers must comply with the instructions of the facility regarding recording policies, unless the officer believes continuing or activating recording is necessary for evidentiary, safety, or law enforcement reasons. Furthermore, when victims, witnesses or other individuals wish to make a statement or share information they may be uncomfortable and refuse to do so while being recorded.

The Maryland Police Training and Standards Commission (MPTSC) in accordance with 3-511 of the Public Safety Article required the MPTSC to develop and publish online a policy for the issuance and use of a BWC by a law enforcement officer. One of the key policies addresses this situation stating, “officers shall begin recording with their BWCs in the below circumstances unless doing so would be unsafe, impossible, or impractical. If officers are unable to begin recording with the BWC due to circumstances making it unsafe, impossible, or impractical to do so, officers shall begin recording with the BWC at the first reasonable opportunity to do so.”

Statutorily creating a rebuttable presumption to make any testimony of an officer who knowingly and willfully fails to turn on their body-worn camera inadmissible creates an unreasonable burden of proof and may well place lives in danger. For these reasons, MCPA and MSA OPPOSE SB 71 and urge an UNFAVORABLE report.