

Bill Number: SB 71
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF SB 71
POLICE OFFICERS TESTIMONY – PRESUMPTION OF INADMISSABILITY
(MARYLAND POLICE ACCOUNTABILITY ACT OF 2021)

I write in opposition to Senate Bill 71 making testimony inadmissible if a police officer does not turn on their body camera. For hundreds of years anyone, including police officers, have been able to walk into a courtroom and tell a fact finder everything they saw, heard, and smelt. Now that we have put body cameras on officers, the failure to turn it on makes testimony untrustworthy and inadmissible. The only exception is proof of malfunction. Are officers not allowed to make a simple mistake? Are any of us held to that standard? What about the situation when the officer's safety or the safety of another makes it difficult or impossible to turn on their body cameras. If Senate Bill 71 passes an officer who witnesses a homicide or hears a confession would not be able to testify if they did not turn on their body camera. Yet, if a civilian was standing next to that officer and saw and heard the same thing they could testify even if they are an untrustworthy person. This does not make sense.

Picture the circumstances of the L.A. County Deputy Sheriff's shot in the fall. The Deputy was sitting in his car eating lunch when someone walked up to the window and shot him. Assuming they were issued body worn cameras do you think they were on while they were sitting in their car on an apparent break? If the perpetrator is caught does this mean that neither can testify at the trial because the body camera was not on. Body cameras are an excellent tool to bring the best possible evidence to the fact finder. Baltimore County has embraced them. So now, a simple mistake of forgetting or being unable to turn it on makes an officer untrustworthy.

If this bill were to pass the extreme response could be to not require officers to wear body worn cameras or on the opposite extreme require the officers to always have the body worn camera on while they are on duty. We should encourage jurisdictions to obtain and use body cameras. Suppression of testimony will hamper this. This is financially and logistically impossible. It would also impinge on personal matters of the officer during their shift.

I oppose Senate Bill 71 and ask for an unfavorable report.