



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
US ARMY INSTALLATION MANAGEMENT COMMAND
OFFICE OF THE STAFF JUDGE ADVOCATE
4217 MORRISON STREET
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HEARING TESTIMONY FOR HOUSE BILL 720

NOTE: This testimony is not intended as an official statement on behalf of the United States Army, the Department of Defense or the United States Government, but is limited to the personal opinions of the author.

I am writing in support of House Bill 720, entitled: "Intercepted Communications – Penalties and Admissibility of Evidence". This bill will benefit victims of domestic violence, among others.

I have had clients who are victims of domestic violence who have asked whether they would be permitted to record their abusers using "one party consent" (their own consent when they agree to make a recording). I have had to advise them that under the current "two party consent" rule in the Maryland Wiretapping statute, they cannot because the recording would be inadmissible and they could be charged with a felony for making the recording if the abuser did not know about or consent to the recording.

Unfortunately, the military is not immune from domestic violence, although the frequency of incidents is significantly less than in the general civilian population. In 2020, there were 71 Army and Air Force domestic violence cases at Fort Meade and 5542 cases Army-wide.

As you are probably aware, crimes such as domestic violence often take place in the home where third-party adult witnesses are absent. Allowing victims to create recordings of their abuse and permitting these recordings to be admitted in Maryland courts in criminal prosecutions would go a long way towards protecting victims while bringing their abusers to justice. Under the current "two party consent" requirement, it is a miscarriage of justice that not only would the recorded evidence of abuse be inadmissible but the victim could actually be charged with a felony for recording their abuser. Saying it another way, abusers should have their "safe harbor" to perform abusive conduct eliminated and domestic violence survivors should instead receive a "safe harbor" to make and admit recordings of their abuse.

Maryland is currently in the minority of jurisdictions that require two-party consent for audio recordings. The Federal Wiretapping statute and Military Rules of Evidence along with thirty-eight (38) states and the District of Columbia currently have one-party consent laws. It is long overdue that in cases of domestic violence, one-party consent recordings should be admissible.

Although not perfect, HB720 is a strong step in the right direction to help military victims of domestic violence present credible corroborating evidence against the offenders. I therefore conclude that HB720 will benefit military families.

Thank you for your attention.

Yosefi Seltzer
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Fort George G. Meade, Maryland, is an installation dedicated to providing quality support to service members, Department of Defense civilian employees, family members, and military retirees. Fort Meade strives to be the Nation's Preeminent Center for Information, Intelligence and Cyber.

Every day, more than 100,000 people seek the services Fort Meade offers. Its primary mission is to provide a wide range of services to more than 95 partner organizations from the Army, Navy, Air Force, Marines and Coast Guard, as well as to several federal agencies including the National Security Agency, Defense Media Activity, Defense Information Systems Agency, the Defense Courier Service and the U.S. Cyber Command.

The installation lies approximately five miles east of Interstate 95 and one-half mile east of the Baltimore-Washington Parkway, between Maryland State routes 175 and 198. Fort Meade is located near the communities of Odenton, Laurel, Columbia and Jessup, and is home to approximately 11,000 military personnel along with about 29,000 civilian employees. Nearly 6,000 family members reside on-post. With more than 56,000 employees, Fort Meade is Maryland's largest employer and is the third-largest workforce of any Army installation in the U.S. In response to the military's Base Realignment and Closure plan, construction of new facilities has now been completed for Defense Adjudication Activities, the Defense Information Systems Agency and the Defense Media Activity.

The **Legal Assistance Division** provides free legal services to Active-Duty service-members, retirees and spouses in a wide variety of areas including tax assistance, domestic relations, estate planning, consumer law, military administrative appeals and the like.

Mr. Seltzer served for more than four years on Active Duty at the Third Infantry Division (Mechanized) and the U.S. Army Legal Services Agency's Environmental Law Division of the Headquarters, Department of the Army and has served as a Legal Assistance Attorney since 2008 at Fort Meade and Fort Belvoir, Virginia, and has served as a Supervisory Attorney since 2018. Mr. Seltzer is licensed to practice law in Maryland, Washington, D.C., Georgia and New York. He is an active member of the Maryland State Bar Association's Veteran's Affairs and Military Law Committee, is a graduate of the George Washington University (1993) and the University of Maryland School of Law (1999) and is a native of Silver Spring.