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SB 0031

January 19, 2022

TO: Members of the Senate Judicial Proceedings Committee
FROM: Natasha Mehu, Director of Government Relations
RE: Senate Bill 0031 – Public Information Act – Inspection of Records From Body Worn Digital Recording Devices

POSITION: FAVORABLE

Chair Smith, Vice-Chair Senator Jeff Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration **supports** Senate Bill 31.

This bill is nearly identical to SB 695 from the 2021 session. It implements the recommendation of the General Assembly’s 2015 Special Commission to amend the Public Information Act “to incorporate provisions specifically governing the release of audio/video recordings captured by a law enforcement officer’s body-worn camera, to include, but not be limited to, those recordings which **depict victims of violent crimes and domestic abuse.**” September 16, 2015 Final Report, Including Findings and Best Practices, [p. 11 https://goccp.maryland.gov/wp-content/uploads/body-cameras-commission-final-report.pdf](https://goccp.maryland.gov/wp-content/uploads/body-cameras-commission-final-report.pdf); mandated by 2015 Laws of Md., Ch. 129 (emphasis added).

Although the bill appears wordy, it is narrowly tailored to prevent disclosure of the body-worn camera videos of interviews with victims or perpetrators of sexual crimes or domestic violence. These victims should not fear calling the police for help simply because the perpetrator could obtain a copy of the body-worn camera video interview and use it to shame or intimidate the victims by showing it to friends, family, employers or putting on social media.

While providing the requisite privacy to these victims, the bill **specifically allows disclosure of body camera videos showing the types of police conduct that the public desires to view:**

1. arrest or attempted arrest
2. temporary detention or attempted temporary detention
3. search or attempted search
4. any citation

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5. any death or any injury

Any other body-camera videos that you want the public to view can be added to this list by amending the Bill's Section 4-357 (B)(1)(IV). This list should reflect the General Assembly's desire to be clear about what videos can and cannot be seen by the public. Many other states recognize the unique need to protect sexual assault and domestic violence victims from disclosure of body-camera videos, including, Wisconsin, California, Oklahoma, Kentucky, North Dakota, Ohio, Tennessee, Colorado and Connecticut.

Similar text to this bill was included in 2018 SB 788. At the hearing on that bill, the local chapter of the American Civil Liberties Union took a position against victim's rights not in-line with the National ACLU position on this issue. The ACLU argued that the bill is not needed because investigatory records can always be withheld under existing PIA Section 4-351(b)(3).

However, PIA Section 4-351 is not the answer. It is too narrow because it only applies when denying access to the subject of the video, which is usually not the perpetrator. Additionally, it fails to guarantee victims that their privacy will be respected because PIA Section 4-351 is a DISCRETIONARY exemption, allowing governments to release videos when they choose. Government lawyers should not make balancing decisions on a case by case basis when the protecting privacy of the domestic abuse and sexual violence victims is ALWAYS in the public interest. Rather, as many other states have done, the legislature should strike this balance, and not leave it up to government lawyers or record custodians to have to articulate each time why protection of these victims is in the public interest. This is why Maryland General Assembly's 2015 Special Commission to amend the Public Information Act asked for this law. It is time to enact this law for victims of domestic violence and sexual assault. They deserve the peace of mind that comes with knowing that calling the police for help will never result in the release of a video about their incident to the public or to their abuser.

We respectfully request a **favorable** report on Senate Bill 31.