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To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Carrie J. Williams
Office of the Attorney General

Re: SB 31 – Public Information Act – Inspection of Records From Body-Worn Digital
Recording Devices – **Support with Amendment**

The Office of the Attorney General urges the Judicial Proceedings Committee to add one perfecting amendment and then favorably report SB 31. The amendment would prevent law-enforcement officers who are the subject of an ongoing investigation from viewing other officers' body-worn camera footage from the incident being investigated.

Senate Bill 31 provides certain categories of individuals with access to body-worn camera footage while also protecting certain information from disclosure. The bill provides access to individuals who are the subject of the recording and involved in the incident in question, or to those individuals' parents, guardians, or similar representatives in certain circumstances. The bill also protects from inspection footage that includes: information that could identify victims of domestic violence, sexual crimes, and certain other crimes against minors and vulnerable adults; depictions of the deaths of law-enforcement officers; and incidents which do not involve an actual or attempted detention, search, arrest, citation, use of force, injury, or death, or which do not lead to a complaint of misconduct against an officer.

As written, SB 31 has the potential to undermine investigations into law enforcement misconduct by providing the officers being investigated with access to body-worn camera footage of the incidents in question. Proposed Crim. Law § 4-357(C)(1)(I) would allow inspection of footage by, "an individual who is a subject in the recording and is directly involved in the incident that prompted the recording." Such individuals could include law enforcement officers. This would allow officers being investigated to review not only their own body-worn camera footage, but also that of other officers, which often portrays actions, statements, and other information that was not actually perceived by the officers being investigated. Access to

this information could undermine ongoing investigations by affecting officers' recollections or accounts of the incident.

This unintended consequence could be remedied by clarifying that a custodian may deny a law enforcement officer who is involved in the injury or death of a civilian access to body-worn camera footage related to the incident. Such an amendment would preserve the salutary effects of SB 31 without jeopardizing active investigations into possible law enforcement misconduct.

Subject to the Committee's adoption of this amendment, which is stated below, the Office of Attorney General urges a favorable report on SB 31, as amended.

Amendment:

Add the following after page 7, line 2: (4) A CUSTODIAN MAY NOT ALLOW INSPECTION OR COPYING OF A RECORDING FROM A BODY-WORN DIGITAL RECORDING DEVICE BY A LAW ENFORCEMENT OFFICER WHO IS INVOLVED IN THE INJURY OR DEATH OF A CIVILIAN IF THE RECORDING CONCERNS THE INCIDENT LEADING TO THE INJURY OR DEATH.

cc: Committee Members