

**SB0031-JPR\_MACo\_SUP.pdf**

Uploaded by: D'Paul Nibber

Position: FAV



## Senate Bill 31

### *Public Information Act – Inspection of Records From Body-Worn Digital Recording Devices*

MACo Position: **SUPPORT**

Date: January 19, 2022

To: Judicial Proceedings Committee

From: D’Paul Nibber

The Maryland Association of Counties (MACo) **SUPPORTS** SB 31. This bill will implement a balanced release of police body camera video.

SB 31 would create a needed policy on how police body camera video would be handled under the Maryland Public Information Act (PIA). The bill would provide for: (1) law enforcement officer accountability and transparency; (2) protection for victims of abuse, domestic violence or sexual attacks; and (3) clarity of and protection from potentially abusive requests to local government and State records custodians. MACo believes that SB 31 achieves these necessary protections for all parties without altering any current discovery rights or PIA exceptions.

If properly implemented, police body cameras can help provide transparency and accountability for officer actions and protect both citizens and the officer. However, body cameras pose significant implementation issues, specifically the public release of videos showing victims of violent crime or domestic abuse.

**The PIA works well for paper documents and similar media but is not configured to properly address the massive amounts of video that will be created through police body cameras.**

Unlike police dashboard cameras, which are limited in both use and the areas they film, there will be far more body camera video generated and it will show scenes never before subject to public scrutiny – including the insides of private homes and businesses. The potential for abusive use of such video, including posting on the internet, is extremely high. Additionally, the time and costs for attorney review and potential redaction of body camera video footage are significant and a single large request could quickly run into the thousands or tens of thousands of dollars and consume many hours of staff time. MACo believes SB 31 addresses the concerns raised by the PIA while not altering rights under criminal or civil discovery or existing PIA exceptions.

The bill ensures police officer accountability and transparency, includes victim protections, and addresses the expense and potential for abusive requests facing local governments and State records custodians. Accordingly, MACo **SUPPORTS** SB 31 and urges a **FAVORABLE** report.

# **SB 31 - Public Information Act - Inspection of Rec**

Uploaded by: Laure Ruth

Position: FAV

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BILL NO.: Senate Bill 31  
TITLE: Public Information Act - Inspection of Records From Body-Worn Digital  
Recording Devices  
COMMITTEE: Judiciary Proceedings  
DATE: January 19, 2022  
POSITION: **SUPPORT**

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Senate Bill 31 would deny inspection or copying of the part of a recording from a certain body-worn digital recording device worn by a law enforcement officer regarding certain individuals. The Women's Law Center of Maryland supports SB 31 as we have seen how damaging, scary, and dangerous allowing unfettered access to body-worn camera footage can be. It would also clarify for law enforcement when they must turn over the recordings versus when they shall not. It provides for inspection and copying when being sought for a legitimate use, such as for the media or for use as evidence in a court case.

The Women's Law Center has been engaged since 2018 in an on-going high conflict custody case, where access to the body-worn camera footage has been obtained by the opposing party and distributed widely and repeatedly on social media. There is a long history of domestic violence in this case. It is but another tool being used to intimidate our client and place her in fear. Managing this has caused untold hours of attorney time, and has placed our client in fear over and over. It is impossible to predict how other people will react to seeing something presented out of context and with only one side of the story online. Complete strangers have come to our client's home after viewing what the abuser has posted.

Furthermore, our client now fears that she cannot contact law enforcement. In fact, the opposing party has sent law enforcement several times to the home, on a pretext, but she is unwilling to open the door. When she explains to the officers she does not want to open the door or be recorded because the opposing party has obtained the camera footage in the past, the officers tell her that is simply not true and that won't happen. Yet despite some apparent policies on the website of this jurisdiction's police department stating that requests for copies of the footage are only granted after evaluation and in specific circumstances and that an evaluation is made prior to providing inspection or a copy, at least in this case, the opposing party had no problem obtaining the footage and using it for his own purposes.

SB 31 would clarify for law enforcement that even if the person may inspect the footage, they may not copy it. It offers appropriate policies for legitimate use, while protecting disreputable reasons for seeking the footage. It requires notification to the victim if the footage is sought.

Thus, the Women's Law Center of Maryland urges a favorable report for SB 31.

*The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.*

# **Body Cameras - testimony - senate - 2022 - MCASA -**

Uploaded by: Lisae C Jordan

Position: FAV



**Working to end sexual violence in Maryland**

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For more information contact:  
Lisae C. Jordan, Esquire

**Testimony Supporting Senate Bill 31**  
**Lisae C. Jordan, Executive Director & Counsel**  
January 19, 2022

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 31.

**Senate Bill 31 - Inspection of Records from Body-Worn Digital Recording Devices**

Senate Bill 31 addresses public access to records of body-worn digital recording devices. Of critical importance, this bill includes strong protection for survivors of sexual violence. We note that body-worn digital recording devices raise serious privacy concerns for many crime victims, including victims of sexual assault, domestic violence, child abuse, and other personal violence. Camera images and audio can include survivors following some of the most traumatic and difficult times in their lives and care should be taken to ensure the justice system does not add to the trauma by publically disclosing body camera footage. At the same time, recordings can provide important information about how victims are treated. Senate Bill 31 carefully addresses and balances these concerns.

SB31 limits to a recording access if a recording contains images of certain crime victims. We strongly support SB31's mandatory restrictions and appreciate that it specifically requires that "A CUSTODIAN SHALL DENY" inspection of recordings regarding an incident involving domestic violence, sexual assault (described as a violation of title 3, subtitle 3 of the Criminal Law Article), or other personal violence (described as a violation of title 3, subtitle 6 except for hazing of an adult, and including child sexual abuse).

SB31 contains exceptions permitting inspection of records in certain circumstances. Access to recordings is permitted, but copying is not when the viewer is the subject of the recording but under investigation for, charged with, received a PBJ for domestic violence/sexual assault/personal violence crimes or has a peace or protective order. This helps protect the victim while still providing access to appropriate people. Importantly, SB31 also provides victims with notice that someone attempted to view a recording. This assists victims and survivors of these crimes with safety planning and is vital for protection.

**Senate Bill 31 is in the same form as last session's SB690, which unanimously passed this Committee and the Senate.**

**The Maryland Coalition Against Sexual Assault urges  
the Judicial Proceedings Committee to report favorably on Senate Bill 31**

**SB 31\_MNADV\_FAV.pdf**

Uploaded by: Melanie Shapiro

Position: FAV



**BILL NO:** Senate Bill 31  
**TITLE:** Public Information Act – Inspection of Records From Body–Worn Digital Recording Devices  
**COMMITTEE:** Judicial Proceedings  
**HEARING DATE:** January 19, 2022  
**POSITION:** **SUPPORT**

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The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report on SB 31.**

Senate Bill 31 addresses the viewing and release of body-worn camera (hereinafter “BWC”) footage in a limited number of cases including those related to domestic violence, sexual crimes, hazing and the death of a law enforcement officer in the course of performance of their duties. With the proliferation of BWCs it is critical that laws and policies are developed to protect victims who are documented during these incredibly vulnerable moments when they have summonsed the courage to seek assistance from law enforcement. SB 31 protects the constitutional rights of all parties by affirmatively stating that the BWC footage can be admitted into evidence and be used in civil and criminal proceedings while balancing the need for victim privacy and safety.

Senate Bill 31 incorporates the recommendations from the 2015 Commission Regarding the Implementation and Use of Body Cameras by Law Enforcement Officers in Maryland.<sup>1</sup> This bill is also consistent with policy considerations generated from national experts during the International Association of Chiefs of Police 2017 National Forum on Body-Worn Cameras and Violence Against Women.<sup>2</sup>

For victims of domestic violence to develop trust and confidence in law enforcement it is important for them to know that the BWC recordings will not simply be released to the accused or the public. MNADV supports the use of body-worn cameras. However, there is distrust between victims of domestic violence and law enforcement contributing to an overwhelming number of incidents of domestic violence going unreported. In a 2015 survey, 88% of victims of domestic violence or sexual assault reported that police

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<sup>1</sup> <https://goccp.maryland.gov/wp-content/uploads/body-cameras-commission-final-report.pdf>

<sup>2</sup> <https://www.theiacp.org/sites/default/files/all/b/IACP%20Body%20Worn%20Camera%20Victim%20Consideration%20Brochure.pdf>





“sometimes” or “often” do not believe victims or blamed victims for the violence.<sup>3</sup> In that same survey, 83% of the those surveyed thought police “sometimes” or “often” do not take allegations of sexual assault and domestic violence seriously. Over 80% believed that police-community relations with marginalized communities influenced survivors’ willingness to call the police. MNADV believes that the accountability and transparency created by the use of BWCs by law enforcement can help restore trust and confidence in law enforcement and SB 31 creates an important and necessary balance with how the footage can be viewed.

In addition to the distrust in law enforcement, domestic violence also goes unreported due to the private nature of the violence and the shame victims feel. Under SB 31, victims will be notified when there is a request to view the BWC footage and the images of the violence they have experienced will remain protected and confidential outside of any court proceedings.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB 31.**

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<sup>3</sup> [https://www.aclu.org/sites/default/files/field\\_document/2015.10.20\\_report\\_-\\_responses\\_from\\_the\\_field\\_0.pdf](https://www.aclu.org/sites/default/files/field_document/2015.10.20_report_-_responses_from_the_field_0.pdf)

For further information contact Melanie Shapiro • Public Policy Director • 301-852-3930 • [mshapiro@mnadv.org](mailto:mshapiro@mnadv.org)

**2022 General Assembly Testimony SB 31.pdf**

Uploaded by: Natasha Mehu

Position: FAV



BRANDON M. SCOTT  
MAYOR

*Office of Government Relations  
88 State Circle  
Annapolis, Maryland 21401*

**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.

# **SB 31 (BWC Inspection - Favorable with Amendments)**

Uploaded by: Carrie Williams

Position: FWA

**BRIAN E. FROSH**  
*Attorney General*



**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6422

January 17, 2022

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**

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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

**MDDC Oppose SB31.pdf**

Uploaded by: Rebecca Snyder

Position: UNF





**Maryland | Delaware | DC Press Association**

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To: Judicial Proceedings Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: January 18, 2022

Re: **SB 31 - OPPOSE**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of newspaper publications, from large metro dailies such as the Washington Post and the Baltimore Sun, to hometown newspapers such as The Frederick News Post and Hagerstown Herald-Mail to publications such as The Daily Record, Baltimore Jewish Times, and online-only publications such as Baltimore Fishbowl, MarylandReporter.com and Baltimore Brew.

The Press Association urges the Committee to reject this legislation as it diminishes the Public Information Act. We agree with the intentions of SB 31—sensitive footage should not be released and survivors of domestic violence should be protected – we believe there are already significant discretionary exemptions already protect this footage from disclosure. Specifically, sections 4-357(B)(IV) and (V) create large swaths of body camera footage that will automatically be out of the public’s access. The extremely broad language makes it difficult to imagine the universe of scenarios that may be shielded, but could include footage earlier in the shift of an officer accused of misconduct or events leading up to an incident. Senate Bill 31 is the beginning of a slippery slope, which will steadily erode the public’s access to public footage.

In order to be an accountability tool, body camera footage must remain reasonably accessible. By requiring that custodians **shall** deny inspection of the footage, SB 31 creates a new categorical bar on access to public information. Currently, the PIA provides adequate discretion to custodians to deny release of sensitive information or images. Custodians may deny requests for information if disclosure would be an unwarranted invasion of personal privacy; endanger the life or physical safety of an individual; or interfere with a valid and proper law enforcement proceeding. Custodians have long employed these exemptions to shield sensitive materials from disclosure and can apply these principles to body camera footage.

We urge an unfavorable report.



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**SB 31\_UFAV.pdf**

Uploaded by: Yanet Amanuel

Position: UNF



Maryland

*Holding Power Accountable*



TO: Chair Smith, Vice Chair Waldstreicher, and members of the  
Judicial Proceedings Committee

FROM: ACLU of Maryland

DATE: January 18, 2022

**OPPOSITION**

**SB 31 Public Information Act – Inspection of Records From Body–  
Worn Digital Recording Devices**

For the reasons expressed below, the undersigned organizations respectfully urge an unfavorable report on SB 31 Public Information Act – Inspection of Records From Body–Worn Digital Recording Devices.

SB 31 would prohibit disclosure of ALL body-worn camera footage of:

- Incidents that do not result in:
  - the use of force, arrest, attempted arrest, temporary detention, attempted temporary detention, search, attempted search, citation, death, or injury of an individual; and
  - a complaint or allegation of police misconduct against the officer involved in the incident.

Additionally, it specifically prohibits the disclosure of body-worn camera footage of:

- Incidents that depict victims of certain offenses or information that could identify such victims;
- Incidents that depict the death of a law enforcement officer in the performance of their duties;

**1. The recently amended MPIA already protects against improper disclosure.**

The MPIA grants custodians broad discretion to withhold documents—including body-worn camera footage—during the pendency of an investigation. Md. Code, Gen. Prov. §§ 4-343, 4-351(a)(1). After the investigation is complete, custodians may nonetheless withhold documents if disclosure would meet any of the following criteria:

1. Interfere with a valid and proper law enforcement proceeding;
2. Deprive another person of a right to a fair trial or an impartial adjudication;
3. *Constitute an unwarranted invasion of personal privacy;*
4. Disclose the identity of a confidential source;
5. Disclose an investigative technique or procedure;
6. Prejudice an investigation; or
7. *Endanger the life or physical safety of an individual.*

Md. Code, Gen. Prov. § 4-351(b). Therefore, when requests are made for material that may be an invasion into victims' privacy or endanger the life or physical safety of a victim, custodians already have full license to withhold that material.

Moreover, some sensitive materials may never be disclosed:

- Medical and psychological information about an individual (§ 4-329(b)(1))
- Information about a person with or perceived to have a disability (§ 4-

**2. Custodians have the right and responsibility to redact body-worn camera footage.**

As with other documents—photographs, documents, etc.—custodians may redact portions of body-worn camera footage that ought not be released. The power to redact material negates the need for categorical bans on disclosure.

**3. The implementation of Anton’s Law (SB 178, 2021) has not been fully seen.**

Less than a year ago, this body passed Anton’s Law to allow for greater transparency over policing. Anton’s Law needs more time to be implemented before further restrictions on release are made to the MPIA.

**4. SB 31 is a solution in search of a problem**

There has been no incident in Maryland where material about victims of violence has been improperly released by a state agency. SB 31 is at best unnecessary.

**5. The PIA is rooted in transparency**

The Maryland Public Information Act is based on the *enduring principle that public knowledge of government activities is critical to the functioning of a democratic society*; that a Government of the people, by the people, and for the people must be open to the people. (emphasis added).<sup>1</sup>

For these reasons, the undersigned organizations respectfully urge an unfavorable report on SB 31.

Respectfully,

ACLU of Maryland  
Common Cause Maryland  
Jews United for Justice  
Maryland Center on Economic Policy

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<sup>1</sup> Office of the Attorney General, Maryland Public Information Act Manual (Fourteenth Edition, 2015).

Marylanders for Open Government  
Public Justice Center