



**PAUL DeWOLFE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
DIRECTOR OF POLICY AND DEVELOPMENT

**KRYSTAL WILLIAMS**  
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

**ELIZABETH HILLIARD**  
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB429 Public Safety - Law Enforcement Agencies - Body-Worn Cameras**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: 02/24/2022**

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 429, Kwamena's Law.

House Bill 429 further extends and hones the critical protections of Maryland Police Accountability Act of 2021, passed last year as SB 71. SB 71 imposed a statewide body worn camera requirement on all county and state police officers who regularly interact with the public as part of their official duties to have body-worn camera. House Bill 429 requires that these Body Worn Camera (BWC) requirements, which bring with them critical transparency and accountability, apply to all municipalities, plainclothes, and off-duty police officers as well as for on-duty, uniformed officers.

In an increased effort to provide transparent policing, BWC have been required by police departments across the country, including Maryland through last year's SB 71. Many tapes from body cameras have been used to protect both citizens *and* police officers. BWCs "can be mounted on an officer's eyeglasses or chest area, offering real-time information when used by officers on patrol or other assignments that bring them into contact with members of the community."<sup>1</sup> In addition, a cost-benefit analysis revealed that savings from reduced complaints

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<sup>1</sup> Chapman, Brett. "Body-Worn Cameras: What the Evidence Tells Us." *National Institute of Justice*, 14 Nov. 2018, <https://nij.ojp.gov/topics/articles/body-worn-cameras-what-evidence-tells-us>.

against officers, and the reduced time required to resolve such complaints, resulted in substantial cost savings for the police department.<sup>2</sup> Many other universities corroborated this study.

Since George Floyd’s murder in 2020, there has been a growing demand for police officers to receive drastically better training to minimize violent interactions. BWCs can help with that — “Law enforcement trainers and executives can assess officer activities and behavior captured by body-worn cameras — either through self-initiated investigations or those that result from calls for service — to advance professionalism among officers and new recruits. Finally, video footage can provide law enforcement executives with opportunities to implement new strategies and assess the extent to which officers carry out their duties in a manner that is consistent with the assigned initiatives.”<sup>3</sup>

Our experience as advocates for police transparency shows us that many Marylanders feel the same way. Maryland, home to Baltimore—a city with one of the highest crime rates in the country—has implemented the program and has seen great success. Senator Charles Sydnor has remarked repeatedly on the positive impact BWC has on reducing police brutality towards Black people. He said that “video camera footage is evidence of things and mistreatment of people have said have been happening for decades...A lot of mistreatment in the Black community at the hands of the police is nothing new. It just hasn’t been documented at the level it is today.”<sup>4</sup> This legislature recognized the critical import of BWC when it passed SB 71 last

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<sup>2</sup> Braga, Anthony, et al. “The Benefits of Body-Worn Cameras: New Findings from a Randomized Controlled Trial at the Las Vegas Metropolitan Police Department.” *Benefits of Body-Worn Cameras: New Findings from a Randomized Controlled Trial at the Las Vegas Metropolitan Police Department / Office of Justice Programs*, Sept. 2017, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/benefits-body-worn-cameras-new-findings-randomized-controlled-trial>. In a study conducted by the U.S. Department of Justice’s Office of Justice Programs, a randomized controlled trial of more than 400 Las Vegas Metropolitan Police Officers revealed “that BWC-wearing officers generated significantly fewer complaints and use of force reports relative to control officers without cameras. BWC-wearing officers also made more arrests and issued more citations than their non-BWC-wearing controls. In addition, a cost-benefit analysis revealed that savings from reduced complaints against officers, and the reduced time required to resolve such complaints, resulted in substantial cost savings for the police department. BWC-wearing officers also made more arrests and issued more citations than their non-BWC-wearing controls.

<sup>3</sup> Chapman, Brett. “Body-Worn Cameras: What the Evidence Tells Us.” *National Institute of Justice*, 14 Nov. 2018, <https://nij.ojp.gov/topics/articles/body-worn-cameras-what-evidence-tells-us>.

<sup>4</sup> McFadden, Ryan. “Maryland Explores Statewide Mandate on Police Body Cameras.” *Maryland Matters*, 3 Jan. 2021, <https://www.marylandmatters.org/2021/01/03/maryland-explores-statewide-mandate-on-police-body-cameras/>.

year. And, we urge this Committee issue a favorable report on HB 429 as the logical continuation of that effort.

In 2020 the Baltimore City Police Department eliminated most of their plainclothes officer units. The Baltimore Sun reported that these officers were long associated with the largest number of complaints and misconduct, noting that the notorious Gun Trace Task Force and others charged in the fallout of the GTTF scandal operated in the plainclothes units of the department for years.<sup>5</sup> Plainclothes officers are not immediately identifiable as police officers when they engage in misconduct and therefore onlookers are less likely to take notice and use their cell-phones to film the interaction themselves. This is what happened in the case for which HB 429 is named. On January 8, 2021, plainclothes officers of the Gaithersburg City Police Department shot and killed Kwamena Ocran. Because they were not in uniform, the officers who killed Kwamena were not wearing BWC. A grand jury, without the benefit of BWC footage, did not criminally charge the officers.

Shortly after Kwamena Ocran's killing, the City of Gaithersburg amended their body-worn camera policy to include plainclothes officers. The City of Gaithersburg's policy also applies to security-related secondary employment. Kwamena's situation is tragically not unique. In some instances, cell-phone footage has been the only way we have discovered about the murders of many people by police including William Green, who was killed last year by a uniformed Prince George's County Police Officer who was not wearing a BWC. Accordingly, HB 429's assurance that plainclothes officers must be subject to the BWC mandates previously imposed on their uniformed counterparts is critical to effectuate safer police, community interactions.

Additionally, HB 429 will ensure more uniformed officers will be subject to BWC requirements already imposed on county departments. There are 88 municipalities in Maryland with their own police departments. Many of these municipalities already have their own body-worn camera programs. But, HB 429 will ensure all of them do so. There is no reason why

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<sup>5</sup> Fenton, Justin. "Baltimore Police plainclothes units now in uniform, marked cars." 18 Sept. 2020, <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-police-plainclothes-ordered-into-uniform-20200918-7wj5nyxqefcv3ccciompirenee-q-story.html>

municipal police officers and Marylanders subjected to their authority should be excluded from the uniform BWC requirement throughout the state.

Finally, HB 429 ensures that off-duty police officers, who are entitled under the law to exercise their policing powers at any time, will be subject to BWC requirements. In many jurisdictions off-duty officers are given police vehicles to take home on the condition that they carry their weapon and respond to calls as necessary. Many officers engage in secondary employment where they can carry their guns and insignia and exercise their police powers just as they would if they were on duty. Maryland Office of the Public Defender has been notified of a friendly amendment to apply the BWC requirements to off-duty officers only when they are engaged in such work, and we have no objection to such an amendment.

The necessity of such regulations for off-duty officers can be seen in tragic deaths across Maryland. In Montgomery County, three of the five men killed by police in 2021 were killed by off-duty officers. In April 2021, David Hall Dixon, an off-duty Pentagon Police Officer, shot and killed Dominique Williams and James Johnson in Takoma Park. In February 2021, less than a month after police killed Kwamena Ocran, an off-duty Montgomery County Sheriff's Deputy killed Kevin Costlow in Rockville. We urge this legislature to issue a favorable report on HB 429 and include these officers in sensible BWC regulations.

House Bill's 429 mandate of Body Worn Cameras on plainclothes police officers, off-duty officers, and all municipalities would increase the transparency of the State of Maryland's justice system, rebuild a strong relationship between citizens and law enforcement, encourage civil and lawful interactions between citizens and law enforcement, and advance Maryland's anti-racist agenda.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 429.**

**Submitted by: Government Relations Division of the Maryland Office of the Public Defender.**