



PUBLIC SAFETY– LAW ENFORCEMENT- BODY WORN CAMERAS

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

HOUSE BILL 0162

POSITION: FAVORABLE WITH AMENDMENTS

February 25, 2022

My name is Rich Gibson, I am the State's Attorney for Howard County and the President of the Maryland State's Attorneys' Association. Part of my obligations as State's Attorney is to advocate for laws that enhance the safety and well-being of our community; that is the reason I am writing today to **SUPPORT** House Bill 0162 **with amendments**.

Last year laws were enacted that mandated body worn cameras (hereinafter BWC) for all law enforcement agencies throughout the state of Maryland by 2025. The Maryland State's Attorneys' Association and I fully support the statewide implementation of BWC. Now that BWC is required, House Bill 0162 attempts to put in place rules that will govern its implementation across the State. I agree and support the establishment of statewide minimum standards for the implementation of BWC. However, it is critical that those standards offer sufficient flexibility to meet the capabilities and needs of every community within our State. Furthermore, the policies put in place in House Bill 0162 must take into account the many jurisdictions throughout the State that have BWC programs already in place and jurisdictions like Howard

County, that have moved to put in place programs in advance of our 2023 mandate.

Specifically, sections 3-511(H), 3-511.1, and 3-511.2 are problematic in that the current proposed language would require the Police Training and Standards Commission (hereinafter referred to as PTSC) to negotiate contracts for the acquisition of BWC and requires that all cameras, equipment, and technology used by law enforcement agencies SHALL be integrated into a statewide uniform storage and access system. This language presents several problems. First, it is likely violative of the Article 1, Section 10, Clause 1 of the U.S Constitution, commonly referred to as the Contracts Clause. The Contracts Clause prohibits States from enacting laws that interfere with private contracts. In this instance, many local governments including Howard County, already have existing contracts previously negotiated with BWC service providers currently in place. Those contracts have defined terms of service and consequences for breach of the agreement between service provider and government entity receiving the service. If this bill, as currently drafted, were to pass it would result in the changing of the requirements of existing service providers to include compatibility with and use of different systems defined by the PTSC rather than the local government. In short it would disrupt the contracts for all jurisdictions that currently have BWC or are already in the process of implementing BWC Programs. I would suggest changing the “shall” language in aforementioned sections to “may” and explicitly making clear that the PTSC has the power to grant exceptions to this law provided the technology and services already in place in BWC Programs meet generic minimum thresholds.

An additional problem posed by the language in Section 3-511.2 is that as currently drafted it would require all BWC data be stored in a uniform statewide database. This ignores the fact that each law

enforcement agency within the State has unique language, identifiers, and codes for their particular system (e.g., In Baltimore City each case has a control number nine Alphanumeric digits referred to as a CC number identifying that particular case. In Howard County, each case has an investigative report number which is six or seven numbers depending on the time of year the incident occurred, referred to as an IR number). This process would also affect the custodian of records for the BWC information, which in turn could impact chain of custody testimony in court, MPIA/FOIA request, and record recovery. Moreover, having one database for all the BWC data in the State also presents security risk. BWC footage will be an essential element in vast majority of court cases and our discovery rules require prosecutor's offices to have safe and rapid access to the video. If we have one database and it were to crash or be hacked, it will lead to debilitating effects on the pursuit of justice for the entire State. One need look no further than our past experience with the Maryland Health Exchange, to see the dangers of centralizing an essential product. I request that section 3-511.2(A) be altered to the following:

(A) ON OR BEFORE JULY 1, 2023, THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, IN COORDINATION WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY AND THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION, SHALL ESTABLISH STATEWIDE UNIFORM STORAGE MINIMUM STANDARDS FOR ALL BODY-WORN CAMERA DATA CAPTURED IN ACCORDANCE WITH § 3-511 OF THIS SUBTITLE. (B) THE STATEWIDE UNIFORM STORAGE AND ACCESS STANDARDS UNDER SUBSECTION (A) OF THIS SECTION SHALL: (1) ENABLE LAW ENFORCEMENT AGENCIES TO REMOTELY UPLOAD DATA FROM BODY-WORN CAMERAS IN AN EFFICIENT MANNER; (2) PROVIDE FOR AN ORGANIZED CATALOGING AND RETENTION OF BODY-WORN CAMERA DATA TO ENSURE EASE OF ACCESS AND MANAGEMENT; (3) ENABLE LAW ENFORCEMENT AGENCIES TO REMOTELY USE THE STATEWIDE UNIFORM STORAGE AND ACCESS SYSTEM TO VIEW, EDIT, REDACT, AND TRANSFER DATA FROM BODY-WORN CAMERAS; (4) BE CAPABLE OF ADAPTING TO THE

DIFFERENT SIZES AND NEEDS OF LAW ENFORCEMENT AGENCIES ACROSS THE STATE; AND (5) CONFORM TO INDUSTRY STANDARDS AND BEST PRACTICES.

I ask that the legislature give House Bill 0162 a **favorable** report with the recommended amendments.

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