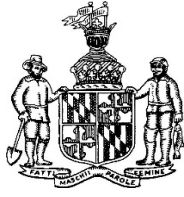


# **Feinstein Letter of Support SB755.pdf**

Uploaded by: Debbie Feinstein

Position: FAV



STATE'S ATTORNEY  
JOHN J. MCCARTHY

## State's Attorney for Montgomery County

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DEPUTY STATE'S ATTORNEYS  
PETER A. FEENEY  
RYAN S. WECHSLER

March 13, 2023

The Honorable William C. Smith, Jr.  
Chairperson, Senate Judicial Proceedings Committee  
11 Bladen Street  
Annapolis, MD 21401

Dear Chairperson Smith:

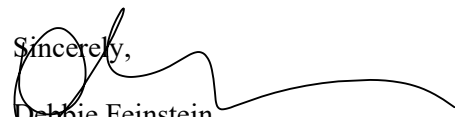
I write in support of SB0755—Law Enforcement Officers—Sexual Contact With a Person in Custody—Penalty. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office and a member of the Montgomery County's Child Advocacy Center's Multidisciplinary Team and Sexual Assault Response Team. I also chair Choose Respect Montgomery, an initiative aimed at reducing teen dating violence and sexual assault. Lastly, I co-chair the Maryland State's Attorneys Association's Special Victims Subcommittee.

A number of years ago, my office prosecuted a case where a law enforcement officer was charged with having sexual contact with a suspect in his custody. The suspect was handcuffed at the time of the sexual contact. The officer repeatedly sexually assaulted the suspect and threatened to go after them or their family if they told anyone. The officer was not convicted of the sex offenses they committed, but instead, the jury found them guilty on a lesser misdemeanor, and they received a short sentence.

SB0755 provides an appropriate sentencing range for this crime. Third Degree Sexual Offense, section 3-307 of the Criminal Law Article, already criminalizes sexual contact with a person who is physically incapacitated. SB0755 will bring the level of offense and penalty for sexual contact with a person in police custody into parity with the now-existing law. Moreover, by providing a higher penalty and by making this crime a felony, this bill will provide greater protection against sexual assault for suspects and charged defendants.

Law enforcement officials hold positions of trust in our society. Those that abuse that trust and sexually assault individuals in their custody should be held fully accountable and the law should clearly reflect the gravity of their actions. I urge a favorable report on SB0755.

Sincerely,

  
Debbie Feinstein  
Chief, Special Victims Division  
Senior Assistant State's Attorney

# **2023-03-14 SB 755 (Support with Sponsor Amendment)**

Uploaded by: Jer Welter

Position: FAV

**ANTHONY G. BROWN**  
*Attorney General*



**CANDACE McLAREN LANHAM**  
*Chief of Staff*

**CAROLYN A. QUATTROCKI**  
*Deputy Attorney General*

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

FACSIMILE NO.  
(410) 576-6475

WRITER'S DIRECT DIAL NO.  
(410) 576-6435

March 14, 2023

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

**FROM:** Jer Welter, Assistant Attorney General  
Deputy Division Chief for Legal Affairs, Criminal Appeals Division  
Office of the Attorney General

**RE:** SB 755 – Law Enforcement Officers – Sexual Contact With Person in  
Custody – Penalty (Support with Sponsor Amendments)

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The Office of Attorney General supports Senate Bill 755 with the sponsor amendments proposed by Senator Muse.

The bill would raise the maximum penalty, from a 3-year misdemeanor to a 10-year felony, for law enforcement officers, correctional officers, and other correctional personnel engaging in sexual conduct (vaginal intercourse, sexual acts, or sexual contact) with a person in the officer's custody or who is a victim, witness, suspect, person requesting the officer's assistance in the course of the officer's duties, or person under supervision. *See* § 3-314 of the Criminal Law Article.

We support increasing the potential penalties for sexual conduct by officers with persons in their custody or with whom they are interacting in their official duties. With the sponsor amendments, the bill would do so by raising the penalty for the § 3-314 offense, classifying it as a felony, and subjecting it to Tier I sex offender registration when committed against an adult victim (the offense when committed against a minor victim is already subject to Tier II or Tier III registration, depending on whether the victim is over or under 14 years of age; the bill does not alter those provisions).

This legislation is an appropriate measure to hold accountable officers who violate the public trust and victimize the persons in their custody or supervision, and we urge a favorable report with the sponsor amendments.

**cc:** Committee Members

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or [sbrantley@oag.state.md.us](mailto:sbrantley@oag.state.md.us)

# **Cops and sex - testimony - senate - 2023 - MCASA F**

Uploaded by: Lisae C Jordan

Position: FAV



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## Working to end sexual violence in Maryland

P.O. Box 8782  
Silver Spring, MD 20907  
Phone: 301-565-2277  
Fax: 301-565-3619

For more information contact:  
Lisae C. Jordan, Esquire  
443-995-5544  
mcasa.org

### **Testimony Supporting Senate Bill 755** **Lisae C. Jordan, Executive Director & Counsel** March 14, 2023

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 755.

#### **Senate Bill 755 – Sexual Offenses – Law Enforcement**

Current law recognizes the power disparities between law enforcement and those in their “custody.” Criminal Law §3-314 prohibits a law enforcement officer from engaging in sexual contact, vaginal intercourse, or a sexual act with a person in their custody of the law enforcement officer; is a victim, witness or suspect in an investigation; or who have requested assistance. Senate Bill 755 increases the penalties for this conduct from a 3 year misdemeanor which can be charged in addition to other sex crimes, to a 3<sup>rd</sup> degree sex offense with a 10 year penalty.

**The unequal power between law enforcement and people who are in their custody, involved in police investigations, or who have requested assistance, heightens the risk of exploitation and abuse of power.** SB755 stems from a case involving a woman who was speeding because she was on the way to see her injured young child. The officers who stopped her put her in handcuffs and took her back to the station. Her car was also impounded. At the station they uncuffed her and an officer told her that if she would help him, he could help her, and then engaged in vaginal penetration with her at the station. She testified that she did not feel like she really had a choice. A 3 year penalty is inadequate for this abuse of power by a police officer.

The US Department of Justice investigation of the Baltimore City Police Department (BPD) provides further example of why this legislation should be enacted in Maryland:

[W]e found evidence that some BPD officers engage in criminal behavior that BPD does not sufficiently address. We heard complaints from the community that some officers target members of a vulnerable population—people involved in the sex trade—to coerce sexual favors from them in exchange for avoiding arrest, or for cash or narcotics. This conduct is not only criminal, it is an abuse of power. Unfortunately, we not only found evidence of this conduct in

BPD's internal affairs files, it appeared that the Department failed to adequately investigate allegations of such conduct, allowing it to recur. For example, BPD investigators became aware of one officer's alleged misconduct in March of 2012 when they conducted a "prostitution initiative" "for the purposes of gathering intelligence and obtaining confidential informants relating to police corruption." One of the women interviewed informed BPD investigators that she met with a certain officer and engaged in sexual activities in the officer's patrol car once every other week "in exchange for U.S. Currency or immunity from arrest." U.S. Department of Justice, Civil Rights Division, *Investigation of the Baltimore City Police Department*. 149-150 (2016). <<https://www.justice.gov/crt/file/883296/download>>. See also, [https://www.washingtonpost.com/outlook/how-some-cops-use-the-badge-to-commit-sex-crimes/2018/01/11/5606fb26-eff3-11e7-b390-a36dc3fa2842\\_story.html](https://www.washingtonpost.com/outlook/how-some-cops-use-the-badge-to-commit-sex-crimes/2018/01/11/5606fb26-eff3-11e7-b390-a36dc3fa2842_story.html), citing the BPD investigation report.

People should be able to have confidence that law enforcement officers are not using their positions of authority to coerce others for sexual favors during the course of their duties.

**OAG Amendments** – MCASA concurs with the observations of the Attorney General that moving this crime into the 3<sup>rd</sup> degree sex offense statute would reduce the available sentence in some cases involving forcible sex crimes. One option to address this would be to simply increase the penalties under Criminal Law §3-314. This would have the advantage of capturing other law enforcement and correctional personnel, but the disadvantage of failing to require sex offender registration which is available under 3<sup>rd</sup> degree sex offense. MCASA supports any option that increases offender accountability.

**The Maryland Coalition Against Sexual Assault urges the  
Judicial Proceedings Committee to report favorably on Senate Bill 755**

**SB 755\_MNADV\_FAV.pdf**

Uploaded by: Melanie Shapiro

Position: FAV





**BILL NO:** Senate Bill 755  
**TITLE:** Law Enforcement Officers - Sexual Contact With Person in Custody -  
Penalty  
**COMMITTEE:** Judicial Proceedings  
**HEARING DATE:** March 14, 2023  
**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 755.**

Senate Bill 755 builds off previously passed legislation to ensure that law enforcement officers do not abuse their power over a victim, witness, or suspect in a police investigation. Existing law prohibits law enforcement from engaging in sexual contact, vaginal intercourse, or a sexual act with a person who is a victim, witness, or suspect and the officer is involved in the investigation or knew or should have known of the person was a victim, witness, or suspect. In any situation, a police officer, likely uniformed and armed, empowered with the authority to arrest wields an extraordinary amount of power and control over others. There cannot be true consent to sexual contact during a police investigation due to the imbalanced power and control that police have over victims, witnesses, and suspects.

Survivors of domestic violence frequently do not report the violence they suffer to the police. It is one of the most underreported crimes. A 2015 study conducted by the National Domestic Violence Hotline found that 80% of the survivors of domestic violence surveyed who had never called the police before indicated that they were “somewhat or extremely afraid to call them in the future.”<sup>1</sup> Of the survivors surveyed that had called the police because of the domestic violence, 1 out of 4 said that they would not call again.<sup>2</sup> In order to begin to end the trauma and violence suffered by survivors of domestic violence, they must feel trust and confidence in the police when calling for help, and unfortunately that trust and confidence does not currently exist.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report with sponsor amendments on SB 755.**

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<sup>1</sup> National Domestic Violence Hotline, Who Will Help Me? Domestic Violence Survivors Speak Out About Law Enforcement Responses. Washington, DC (2015). <http://www.thehotline.org/resources/law-enforcement-responses>

<sup>2</sup> *Id.*

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

**SB 755 - WLCMD - FAV.pdf**

Uploaded by: Michelle Siri

Position: FAV

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BILL NO.: Senate Bill 755  
TITLE: Law Enforcement Officers – Sexual Contact with Person in Custody – Penalty  
COMMITTEE: Senate Judicial Proceedings Committee  
DATE: March 14, 2023  
POSITION: **SUPPORT**

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In 2021 the Maryland General Assembly passed House Bill 43 – Criminal Law – Law Enforcement Officers – Prohibition on Sexual Activity. This important piece of legislation ensured that law enforcement officers could not engage in sexual conduct with victims, witnesses, or suspects in open investigations.

Senate Bill 755 seeks to move that recently passed law into the previously existing statute prohibiting sexual offenses in the third degree. In so doing, a person violating the law would be guilty of a felony of a instead of a misdemeanor, and the penalty for such a crime would increase from “imprisonment of 3 years or a fine not exceeding \$3,000 or both”, to “imprisonment not exceeding 10 years”. As the Women’s Law Center of Maryland firmly believes in all sexual activity being mutual, respectful, and consensual, and that anything else would be rape and should be treated as such, we support the changes to SB755.

The Center for Disease Control recognizes that sexual violence includes “non-physically forced penetration which occurs after a person is pressured verbally or through intimidation or *misuse of authority* to consent or acquiesce”<sup>1</sup>. When power or authority is involved, it is not possible to give true consent. Relationship dynamics where consent cannot be given include any relationship where a person might feel compelled to say yes because of the power that the authority figure holds over them or the trusted position that that the person in authority holds. Given the positional authority of law enforcement officers over victims, witnesses, and suspects, there is no time during an investigation where an individual could realistically provide consent freely and without intimidation. The very real possibility of physical violence, retaliation, and abuse of authority, places those individuals in situations where they feel they have no choice but to “consent”, which is of course, not actual consent.

For all those reasons state above, the Women’s Law Center of Maryland urges a favorable report for SB 755.

*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.*

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<sup>1</sup> <https://www.cdc.gov/violenceprevention/sexualviolence/definitions.html>

**SB 0755 - Sex in Custody Written Testimony.pdf**

Uploaded by: Nicholas Leonardi

Position: FAV

**AISHA N. BRAVEBOY**  
STATE'S ATTORNEY



**JASON B. ABBOTT**  
PRINCIPAL DEPUTY STATE'S ATTORNEY

**State's Attorney for Prince George's County**  
14735 Main Street, Suite M3403  
Upper Marlboro, Maryland 20772  
301-952-3500

March 13, 2023

Testimony in **Support** of

**SB 0755 – Law Enforcement Officers - Sexual Contact With Person in Custody -  
Penalty**

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Dear Chairman Smith, Vice Chairman Waldstreicher, and Members of the Committee:

I am an Assistant State's Attorney in the Public Integrity Unit of the Office of the State's Attorney for Prince George's County. I am writing to show my strong support for Senate Bill 0755 on behalf of State's Attorney Aisha Braveboy and to urge a favorable report.

In January of this year, I, along with my co-counsel Ashley Elias, tried a case against a former police officer in Prince George's County who pulled over a 19-year-old woman for speeding, arrested her for disorderly conduct, brought her back to the police station in handcuffs, and had sex with her there in exchange for her freedom and for the return of her towed vehicle. The Defendant was charged with first and second degree rape, third degree sexual offense, and sexual contact with a person in custody, among other things. After a four-day trial, the jury returned a verdict of guilty as to only sexual contact with a person in custody. Under current Maryland law, that offense is a misdemeanor punishable by up to three years in prison.

If that sentence seems woefully inadequate, the problem may lie with the state of Maryland law rather than with the jury's verdict. Absent a showing that the Defendant employed or displayed a weapon, harmed the victim, or threatened to harm the victim, that three-year misdemeanor is the only sexual offense of which an officer may be convicted for the above-described conduct. That is true even in an instance, such as in the case we prosecuted, when the sex was part of an explicit quid pro quo for an arrestee's freedom or for more lenient treatment.

The 2018 passage of HB1292 acknowledged that there can be no consent to sexual contact with a police officer by a person in their custody, and that as such, consent cannot be a complete defense for a police officer who does so. But HB1292 did not go far enough to acknowledge the

overwhelmingly coercive and destructive nature of such an encounter. When a police officer who is in control of a person's freedom uses that freedom as a sexual bargaining chip, either implicitly or explicitly, they have committed an aggravating act at least as serious as those enumerated in Sexual Offense in the Third Degree. It is not something that any police officer might do unintentionally or by accident but rather is a deliberate abuse of the power and authority entrusted in them by the people of Maryland, and a deliberate decision to wield that power and authority for their own sexual gratification.

For the foregoing reasons, I respectfully urge a favorable report, and ultimately passage, on Senate Bill 0755 – Law Enforcement Officers - Sexual Contact With Person in Custody – Penalty.

Sincerely,

/s/ Nicholas Leonardi

Nicholas Leonardi  
Assistant State's Attorney  
State's Attorney's Office for Prince George's County

**SB 755 - Sexual Assault - TESTIMONY.pdf**

Uploaded by: C. Athony Muse

Position: FWA



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**TESTIMONY by Senator C. Anthony Muse**

**SB 755: Law Enforcement Officers, Correctional Officers, and Court-Ordered Services Providers – Prohibition on Sexual Activity – Penalties and Registry**

Good afternoon, Mr. Chairman, Vice Chairman, and members of the Senate Judicial Proceedings Committee. Senate Bill 755 **as amended** would prohibit a law enforcement officer, correctional employee, or a court-ordered services provider from engaging in sexual activity with a person that is in their custody.

Also, if convicted, SB 755 would change the act to a felony instead of a misdemeanor and the defendant would be subject to imprisonment up to 10 years or a fine up to \$3,000 or both.

Colleagues, no one that is in the custody of an officer, while they are in their official capacity, should be forced or subjected to any sexual contact. We cannot tolerate these heinous offenses and behavior by persons who take an oath to protect the community. Delegate Nicole Williams has presented this bill before the legislature over the last two years after several unfortunate incidences happened in her district, which include:

- In 2018, a six-year veteran officer forced an undocumented Latina woman into engaging in a sexual act in exchange for evading a ticket or arrest.
- In 2020, an officer from a local municipality sexually assaulted a 19-year-old woman while in custody after a traffic stop.
- In October of 2022, a Maryland Sheriff was charged with second degree rape and assault of an individual while in custody.

In closing, there are a thousand wonderful things I can highlight about our officers across the state of Maryland, but unfortunately the small number of officers that commit these crimes reduce the public's trust. SB 755 would hopefully deter law enforcement officers, correctional officers and or a court ordered service providers from committing such a disgraceful crime.

Therefore, I urge this committee for a FAVORABLE report for SB 755 as amended.



**SB0755-163728-01 Amendments(003).pdf**

Uploaded by: C. Athony Muse

Position: FWA



SB0755/163728/1

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

13 MAR 23  
12:42:58

BY: Senator Muse  
(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 755  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “– **Sexual Contact With Person in Custody – Penalty**” and substitute “, **Correctional Employees, and Court-Ordered Services Providers – Prohibition on Sexual Activity – Penalties and Registry**”; strike beginning with “with” in line 3 down through “officer” in line 4 and substitute “between a law enforcement officer, correctional employee, or court-ordered services provider and certain individuals”; in line 5, after “circumstances;” insert “requiring a person convicted of a certain offense to register on a certain sex offender registry;”; in the same line, strike “law enforcement officers” and substitute “sexual offenses”; in line 8, strike “3–307 and”; and after line 10, insert:

“BY repealing and reenacting, with amendments,

Article - Criminal Procedure

Section 11–701(o)(1)

Annotated Code of Maryland

(2018 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,

Article - Criminal Procedure

Section 11–704(a)

Annotated Code of Maryland

(2018 Replacement Volume and 2022 Supplement)”.

AMENDMENT NO. 2

On pages 1 through 3, strike in their entirety the lines beginning with line 14 on page 1 through line 7 on page 3, inclusive.

On page 3 in lines 23 and 24, and on page 4 in lines 12, 27, 28, and 31, in each instance, strike the bracket.

On page 4, in line 28, strike “(E)”; in the same line, strike “misdemeanor” and substitute “**FELONY**”; in line 29, strike “3” and substitute “**10**”; strike beginning with “or” in line 29 down through “both” in line 30; in line 31, strike “(F)”; and after line 34, insert:

“Article – Criminal Procedure

11–701.

(o) “Tier I sex offender” means a person who has been convicted of:

(1) conspiring to commit, attempting to commit, or committing a violation of § 3–308 OR § 3–314 of the Criminal Law Article;

11–704.

(a) A person shall register with the person’s supervising authority if the person is:

(1) a tier I sex offender;

(2) a tier II sex offender;

(3) a tier III sex offender; or

(4) a sex offender who is required to register by another jurisdiction, a federal, military, or tribal court, or a foreign government, and who is not a resident of this State, and who enters this State;

- (i) to begin residing or to habitually live;
- (ii) to carry on employment;
- (iii) to attend a public or private educational institution, including a secondary school, trade or professional institution, or institution of higher education, as a full-time or part-time student; or
- (iv) as a transient.”.

# **HPP ACU & Power Inside SB 755 Testimony- INFORMA**

Uploaded by: Jessica Emerson

Position: INFO

**BILL NO:** Senate Bill 755  
**TITLE:** Law Enforcement Officers – Sexual Contact with Person in Custody – Penalty  
**COMMITTEE:** Judicial Proceedings  
**HEARING DATE:** March 14, 2023  
**POSITION:** INFORMATION

**The undersigned provides this INFORMATION  
to the Senate Judicial Proceedings Committee on Senate Bill 755.**

In 2018, the Maryland General Assembly passed a bill prohibiting sexual contact between a law enforcement officer and a person in their custody.<sup>1</sup> In 2021, Senators Elfretth and Hettleman, along with numerous advocates working on behalf of victims of sexual violence, rightfully sought to build upon that progress by also prohibiting sexual contact between law enforcement and any “victim, witness, or suspect in an open investigation that the law enforcement officer is conducting, supervising, or assisting with[,]” or who are “requesting assistance” from law enforcement,<sup>2</sup> rightfully recognizing that the unequal power dynamic that exists between law enforcement and civilians significantly heightens the risk of exploitation in any sexual contact between the two.

In response to concerns raised by smaller police jurisdictions over scenarios around consensual sexual contact between a police officer and a civilian who may be a victim, witness, or suspect or otherwise requesting assistance from law enforcement, an exception was crafted stating that sexual conduct between law enforcement and a civilian would *not* be prohibited under this statute if the officer had a “prior existing legal sexual relationship with the person,” *and* “did not act under the color or pretense of office or under color of official right when seeking consent to the . . . sexual contact.”<sup>3</sup>

While this exception was intended to address the scenarios posed by law enforcement, it actually does very little to protect *any* victim of law enforcement-initiated violence, including those with whom an officer may have had a relationship in their personal capacity. While law enforcement’s history of violence and abuse in their professional capacity has been well-documented,<sup>4</sup> far less attention has been paid to victims who are or have been

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<sup>1</sup> 2018 Maryland Laws Ch. 500 (H.B. 1292).

<sup>2</sup> 2021 Maryland Laws Ch. 314 (S.B. 43).

<sup>3</sup> MD Code Ann. § 3-314(2) (West, 2021).

<sup>4</sup> See generally U.S. Department of Justice, Civil Rights Division, Investigation of the Baltimore City Police Department. 149-150 (2016), <https://www.justice.gov/crt/file/883296/download>, (stating that the DOJ “heard complaints from the community that some officers target members of a vulnerable population—people involved in the sex trade—to coerce sexual favors from them in exchange for avoiding arrest, or for cash or narcotics. This conduct is not only criminal, it is an abuse of power. Unfortunately, we not only found evidence of this conduct in BPD’s internal affairs files, it appeared that the Department failed to adequately investigate allegations of such conduct, allowing it to recur.”); Jacqueline Robarge, Opinion: Survivor-Focused Approach Needed on Law Enforcement Sexual Misconduct (Mar. 2, 2021), <https://www.marylandmatters.org/2021/03/02/opinion-survivor-focused-approach-needed-on-law-enforcement-sexual-misconduct/> (citing the experiences of a woman struggling with homelessness and addiction who was coerced into sex by a law enforcement officer. The victim states that the officer “provided what I needed at the time, or what I thought I needed. He was an officer of the law; he should’ve gotten me help. Instead, he participated in my addiction and kept me strung out longer.”); Katherine H.A. Footer, et. al., *Police-Related Correlates of Client-Perpetrated Violence Among Female Sex Workers in Baltimore City, Maryland* (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6336048/> (reporting the results of a Johns Hopkins University study of 250 women involved in the street-based sex trade in which one quarter surveyed reported having law enforcement officers engage them in a sexual transaction over the 12-month study period, with police comprising 11% of all sex trades. Among the police-involved sex trades, over three-quarters of the women considered an individual officer a “regular.”); Andrea Ritchie, *How Some Cops Use the Badge to Commit Sex Crimes* (Jan. 2018), [https://www.washingtonpost.com/outlook/how-some-cops-use-the-badge-to-commit-sex-crimes/2018/01/11/5606fb26-eff3-11e7-b390-a36dc3fa2842\\_story.html](https://www.washingtonpost.com/outlook/how-some-cops-use-the-badge-to-commit-sex-crimes/2018/01/11/5606fb26-eff3-11e7-b390-a36dc3fa2842_story.html); Dave Phillips, *Former Oklahoma City Police Officer Found Guilty of Rapes* (Dec. 2015), <https://www.nytimes.com/2015/12/11/us/former-oklahoma-city-police-officer-found-guilty-of-rapes.html> (citing the case of former Officer Daniel Holtzclaw, who was convicted of multiple counts of rape involving “poor, black victims with criminal backgrounds whose stories would not be believed.”).

the intimate partners of law enforcement officers. Despite research showing that violence by officers toward their intimate partners is startlingly common,<sup>5</sup> the “exception” built in to § 3-314 of the Criminal Code designed to account for these types of intimate personal relationships provides a potential legal “out” for the type of serial predation so many survivors of police violence experience, whose “consent” to sex with law enforcement is commonly obtained through coercion and manipulation of their vulnerabilities.

The fact that we allow this type of exception *only for law enforcement* should give all of us pause. The presence of this exception within the Sexual Crimes subtitle of the Maryland Criminal Law Article should raise even more eyebrows given that the General Assembly is currently considering House Bill 412 to legally define consent, which explicitly states that “a current or previous dating, social, or sexual relationship” *does not* constitute consent, as well as House Bill 4/Senate Bill 129, which rightfully clarifies that marriage should never be a defense to a sex crime.

Despite these reservations concerning the current language of the statute at issue in SB 755, we recognize that the conduct the bill seeks to address is abhorrent and indeed deserving of a felony designation. As a result, we would welcome an opportunity to examine how to amend the current law so that it does not criminalize sex acts that are truly consensual while protecting *all* victims of police abuse.

*For more information, please contact:*

*Jessica Emerson, LMSW, Esq.*  
*Director, Human Trafficking Prevention Project*  
*(E): jemerson@ubalt.edu*

*Jacqueline Robarge*  
*Executive Director, Power Inside*  
*(E): jrobarge@powerinside.org*

*Yanet Amanuel*  
*Public Policy Director, American Civil Liberties Union of Maryland*  
*(E): amanuel@aclu-md.org*

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<sup>5</sup> See Leigh Goodmark, *Hands Up at Home: Militarized Masculinity and Police Officers Who Commit Intimate Partner Violence* 107-113 (2015), [https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2519&context=fac\\_pubs](https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2519&context=fac_pubs); Philip M. Stinson & John Liederbach, *Fox in the Henhouse: A Study of Police Officers Arrested for Crimes Associated with Domestic and/or Family Violence* (2013), [https://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1005&context=crim\\_just\\_pub](https://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1005&context=crim_just_pub); See generally Conor Friedersdorf, *Police Have a Much Bigger Domestic-Abuse Problem Than the NFL Does* (Sept. 2014), <https://www.theatlantic.com/national/archive/2014/09/police-officers-who-hit-their-wives-or-girlfriends/380329/>; National Center for Women & Policing, *Police Family Violence Fact Sheet* (2013), <https://olis.oregonlegislature.gov/liz/2017R1/Downloads/CommitteeMeetingDocument/132808>.