



Working to end sexual violence in Maryland

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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 3rd 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, 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 3rd 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 3rd 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**