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DEPUTY MAJORITY WHIP

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Senate Chair, Legislative Ethics

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Baltimore County Senate Delegation



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony for SB 40
Public Information Act – Inspection of Records
From Body-Worn Digital Recording Devices
Before the Judiciary Committee
On April 4, 2023

Good afternoon Chairman Clippinger and members of the Judiciary Committee,

Senate Bill 40 addresses a vitally important topic that balances how police body camera video should be handled under the Maryland Public Information Act (“MPIA”) with the rights of individuals whose images are captured on video. SB 40 is a thorough piece of legislation that attempts to balance victim’s rights with the justified need for transparency between police departments and the public. The bill provides that, subject to existing law and MPIA exception, that a records custodian shall provide police body camera video of an incident where something happened that could raise public concern. This includes an arrest, temporary detention, death, or injury of an individual, or a complaint of officer misconduct made against any officer involved in an incident.

Senate Bill 40 attempts to strike a balance in protecting victim privacy while assuring transparency in policing. SB 40 accomplishes this by enumerating the circumstances under which a records custodian may or may not release police video records. SB 40 will prohibit releasing video depicting victims of domestic violence, sexual crimes, or child or vulnerable adult abuse; unless requested by those who were subjects in the video. This bill will also ensure that individuals who are subjects of the video records but are alleged perpetrators will be able to inspect the video, but not able to copy it. This will ensure the video cannot be used for victim humiliation nor shaming.

Section 4-357(A) clarifies that the bill’s framework does not apply to criminal or civil proceedings. Section 4-357(B) lists the instances in which a records custodian shall deny inspection of bodycam video: identification of victims of domestic abuse, victims of sexual crimes, or victims of child abuse and vulnerable adult abuse. It prohibits release of video depicting the death of an officer in the performance of his or her duties. It further prohibits inspection of bodycam video unless it involves: (1) an officer’s arrest, attempted arrest, detention, attempted detention, search, attempted

search, citation, death, or injury of an individual; (2) use of force against an individual; or (3) a complaint or allegation of officer misconduct.

Section 4-357(C) provides exceptions to the prohibitions listed above. Custodians are required to allow inspection by: an individual who is a subject in the recording and is involved in the incident; their parent or legal guardian; or in the event of the individual's incapacitation, the individual's personal representative.

In sum, §4-357(B) concerns the *content* of videos that should be protected from disclosure, while §4-357(C) lists *individuals* who may inspect and/or copy bodycam video in spite of the general restrictions. By identifying the key records that should be accessible only to those who are subjects in the video records, SB 40 ensures victim privacy while allowing access to others who request video records of public concern. For these reasons, I ask you to vote favorably in support of SB 40.