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Testimony in **Support** of

**HB 0748 – Law Enforcement Officers - Sexual Contact With Person in Custody -  
Penalty**

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Dear Chairman Clippinger, Vice Chairman Moon, 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 House Bill 0748 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 HB 0748 – Law Enforcement Officers - Sexual Contact With Person in Custody – Penalty.

Sincerely,

/s/ Nicholas Leonardi

Nicholas Leonardi  
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