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Testimony in **Support** of

HB 0290 – Crimes – Interception of Wire, Oral, or Electronic Communications –
Exception for Imminent Danger

Dear Chairman Clippinger, Vice Chairman Bartlett, and Members of the Committee:

I am writing to show my strong support for House Bill 0290 on behalf of State's Attorney Aisha Braveboy and the Maryland State's Attorneys' Association, and to urge a favorable report.

As the Chief of the Special Victims Unit in Prince George's County, I am aware of several cases in which a victim has recorded his or her own abuse. Unfortunately, under current Maryland law these recordings cannot be used as evidence because an audio recording must be consented to by all parties involved in that communication. The law is clear that without consent from both parties, this evidence cannot be used in court, even as impeachment evidence.

In one such case, a young woman was sexually assaulted in her vehicle. After the assault, her attacker refused to get out of her car. She recorded a lengthy conversation she had with him in which she is repeatedly requesting that he leave her car while he attempts to convince her that they had a consensual encounter. At the time of the conversation, the victim did not know if she would suffer further violence at the hands of her attacker. Under current Maryland law, this conversation cannot be used in court.

In another case, a woman anticipated that she would be assaulted by someone she knew and set up her cell phone to record the encounter. Unfortunately, the phone was knocked askew, and she was only able to record audio of her own sexual assault. Video of the assault was not captured. Under current Maryland law, the audio of this victim's sexual assault cannot be used in court.

House Bill 0290 seeks to correct the injustices that are evidenced in the two short examples above. When a victim has a good faith belief that he or she is about to suffer a crime of violence, stalking, abuse, or violation of a protective order, the law should protect the memorialization of that crime through both audio and visual recording for use as evidence to prove that the crime occurred.

HB 0290 protects Maryland's status as a two-party consent state, while creating a fair and common-sense exception for people who are imminently going to become victims of some of the worst crimes in our communities, to include murder, rape, and carjacking. HB 0290 also brings Maryland law more in line with the reality of modern times – almost everyone has a cell phone that is capable of recording on their person at all times.

For the foregoing reasons, I respectfully urge a favorable report, and ultimately passage, on HB 0290.

Sincerely,



Jessica L. Garth
Chief, Special Victims Unit
State's Attorney's Office for Prince George's County