

My name is Conor McCadden and I am writing today to offer testimony in support of HB 392. I am a current history PhD student at the University of Maryland, College Park. Before starting my PhD I spent the previous five years investigating housing discrimination in Des Moines, IA as the Human Rights Specialist for the Des Moines Civil and Human Rights Commission and in Anchorage, AK as the Fair Housing Testing Coordinator with Alaska Legal Service Corporation's Statewide Fair Housing Project. All told, across my years of fair housing investigations I have conducted hundreds of tests and subsequently, captured and analyzed hundreds of hours of audio recordings of interactions between fair housing testers and property owners/managers. I'd like to offer my perspective today as to why I believe an exemption to the Wiretap Act is vital in Maryland.

I had the fortune to investigate discrimination in two different one-party consent states. Meaning, my fair housing testers did not need to try to pull the interaction from their memory and write out a long, detailed narrative when they returned from a test. Instead, we always had a clear and accurate accounting of what occurred. This accounting, again, was not based in memory, but in an observable recording that was admissible and could protect all parties involved. An underrated positive aspect of allowing fair housing testers to record their interactions is that it protects EVERYONE, not just the tester. The trouble with witness testimony is that it is fallible and is subject to the biases of the person asked to recall their experiences. But fair housing testing with recording devices ensure that human error is removed. Not only will the questions asked by the tester be preserved for posterity, but the full, clear, and accurate responses by the Respondent being investigated will also be preserved. This protects landlords and property owners from having their words misunderstood or misremembered. If the interaction was above board, and within the confines of local, state, and Federal fair housing laws, than the Respondent who is alleged to have discriminated against someone should trust that those recordings will be heard by the proper authorities and the case will be concluded with a finding of no probable cause.

Fair housing testing, as a tool to root out and eliminate discrimination in housing, is second to none – it is the single most important enforcement tool in the arsenal for fair housing investigators. But testing needs testers in order to carry out its purpose. Even when testers are paid for their services, the wages are moderate. The scores of testers I have personally supervised were not people who signed up for the job for the money. Instead they were attracted to the position because it affords them an opportunity to participate in creating a stronger community. But placing the burden on these folks to recall every single detail vividly enough to write down a comprehensive narrative does not honor the sacrifices they are making for their civic participation. Fair housing enforcement IS law enforcement. Other law enforcement already have an exemption under the Wiretap Act. It is high time that fair housing enforcement is given the teeth it deserves to stop illegal housing discrimination.