



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

TO: The Honorable William C. Smith, Jr., Chair and  
Members of the Environment and Transportation Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee  
Samira Jackson, Representative, MCPA-MSA Joint Legislative Committee

DATE: January 31, 2025

RE: **SB 381 – Motor Vehicles - Automated Enforcement Programs - Privacy Protections**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 381**. This bill seeks to limit the use of recorded images or other data from automated enforcement programs by state and local enforcement agencies.

Automated enforcement cameras play a crucial role in traffic safety. They are used to deter people from speeding, running red lights, passing stopped school buses, or other traffic safety purposes and to penalize those who violate those laws. The goal is to ensure the safety of all who use our roads be it pedestrians, drivers, or bicyclists.

These cameras are also powerful tools that enhance public safety and aid law enforcement in not only solving crimes but exonerating individuals. Police investigators may use camera recordings and data to identify suspects on the run, track their movements, and reconstruct events. MCPA and MSA opposed similar legislation last year and was pleased to be contacted by the bill Sponsor during the interim to discuss concerns. Although the bill Sponsor accepted several suggested changes that are included in SB 381, MCPA and MSA still have concerns.

**Requirement to Seek a Warrant, Subpoena, or Court Order Except in Exigent Circumstances** (pg. 5, lines 12-18) – MCPA and MSA appreciates the exigent circumstances exclusion that was included in the bill last session, but is still concerned with the requirement to request a warrant, subpoena, or court order if exigent circumstances do not exist. Situations requiring the use of these data and images vary. What is viewed as exigent circumstances by one individual, may not be by another. This requirement is open to legal interpretation and could significantly hinder law enforcement's ability to investigate and solve crimes.

Further, in many circumstances, law enforcement agencies are the owners of the data. Outside of "exigent circumstances," agencies would be subpoenaing themselves for the data. This would add an unnecessary step in the process and burden limited judicial resources with simple internal data sharing.

**Limitation on Retaining Data** (pg. 6, lines 1-5) SB 381 allows data captured that constitutes evidence of a violation to be retained for up to 6 months or until the conclusion of any criminal investigation or criminal or civil court action involving the recorded image or associated data.

Investigations are not perfect science. It may not be known immediately that a vehicle was involved in a crime and only after the investigation begins does the officer become aware this data may need to be reviewed. If the data/images are removed and destroyed after the civil fine is paid, the data/image may no longer be available in these circumstances. Law enforcement agencies have policies in place for the retention and destruction of data and images. Placing statutory limitations on these policies is concerning. At the very least, data and images should be authorized to be held for up to one year. This is consistent with the requirement for License Plate Reader data and images and was discussed with the Sponsor during the interim.

SB 381 is entitled "Privacy Protections." Respectfully, there is no reasonable expectation of privacy involved in data captured by automated enforcement systems. Automated enforcement systems only exist on public roads and, "A person traveling in an automobile on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another." *United States v. Knotts*, 460 U.S. 276, 281 (1983). Moreover, an image or video is only created when there is a *violation of safety laws*. There is no, and should not be, any expectation of privacy by those who have violated the State's laws intended to protect all Marylanders.

SB 381 is, as MCPA and MSA understand it, to prevent the misuse of recorded images. MCPA and MSA fully support that goal. Any employee who misuses law enforcement records is already subject to discipline and potential criminal prosecution for misconduct in office. MCPA and MSA would give serious consideration to supporting amendments to SB 381 that target the misuse or abuse of automated enforcement data that is not related to legitimate law enforcement objectives.

Prohibiting the use of automated enforcement camera images and data from law enforcement investigations may jeopardize timely response to crime, place individuals at further risk, and eliminate a means to exonerate individuals. For these reasons, MCPA and MSA **OPPOSE SB 381** and request an **UNFAVORABLE** committee report.