



House Bill 767

Public Information Act – Inspection of Records From Body-Worn Digital Recording Devices

MACo Position: **SUPPORT**

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To: Judiciary Committee

From: Leslie Knapp, Jr. & Natasha Mehu

The Maryland Association of Counties (MACo) **SUPPORTS** HB 767. This bill will implement a balanced release of police body camera video – an issue identified by Maryland’s 23 counties and Baltimore City as one of four top legislative priorities for 2017.

HB 767 would create a needed policy on how police body camera video would be handled under the Maryland Public Information Act (PIA). The bill would provide for: (1) law enforcement officer accountability and transparency; (2) protection for victims of abuse, domestic violence or sexual attacks; and (3) clarity of and protection from potentially abusive requests to local government and State records custodians. MACo believes that HB 767 achieves these necessary protections for all parties without altering any current discovery rights or PIA exceptions.

Body Cameras and the PIA

If properly implemented, police body cameras can help provide transparency and accountability for officer actions and protect both citizens and the officer. However, recognizing that body cameras pose significant implementation issues, the General Assembly passed legislation (HB 533/SB 482 of 2015) creating the Commission Regarding the Implementation and Use of Body Cameras by Law Enforcement Officers. The Commission did not undertake a thorough review of how body camera video should be handled under the PIA, but acknowledged the importance of such a review as part of its recommendations; specifically noting concerns with the public release of videos showing victims of violent crime or domestic abuse.

The PIA works well for paper documents and similar media but is not configured to properly address the massive amounts of video that will be created through police body cameras. Even the update to the PIA several years ago to better handle electronic records focused more on static records like documents, spreadsheets, and database search results.

Unlike police dashboard cameras, which are limited in both use and the areas they film, there will be far more body camera video generated and it will show scenes never before subject to public scrutiny – including the insides of private homes and businesses. The potential for abusive use of such video, including posting on the internet, is extremely high.

Finally, the time and costs for attorney review and potential redaction of body camera video are significant and a single large request could quickly run into the thousands or tens of thousands of dollars and consume many hours of staff time.

MACo believes HB 767 addresses the concerns raised by the PIA while not altering any rights under criminal or civil discovery or existing PIA exceptions.

Law Enforcement Officer Transparency and Accountability

The bill provides that, subject to existing law and PIA exceptions, 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 the incident.

Victim Protection

HB 767 would prohibit the release of video showing victims of domestic violence, sexual crimes, or abuse unless the victim or another individual who was a subject in the video and directly involved in the incident that prompted the recording requests its release. However, if the requesting individual is the alleged perpetrator of the crime or has been found responsible for the crime, then that person may view the video but not receive a copy of it.

Clarity and Protection from Abusive Requests

The bill would restrict the release of other video (essentially where nothing of public concern happened) unless requested by an individual who was a subject in the video and directly involved in the incident that prompted the recording. This will save significant time and resources for records custodians. Such video must still be maintained under existing record retention laws and for liability purposes.

Approach to the Legislation

When approaching the issue of police body camera video and the PIA, MACo took a comprehensive and collaborative approach, reaching out to the Maryland Municipal League, Maryland Association of Boards of Education, state and local law enforcement, the Maryland-Delaware-DC Press Association, Common Cause of Maryland, the ACLU of Maryland, and the Maryland Coalition Against Sexual Assault. As a result of those deliberations, the bill has addressed almost all of the concerns of these stakeholders.

Conclusion

In conclusion, MACo believes that HB 767 offers a thoughtful and reasonable solution to the issues posed by police body cameras under the PIA. The bill ensures police officer accountability and transparency, includes victim protections, and addresses the expense and potential for abusive requests facing local governments and State records custodians.

Accordingly, MACo urges the Committee to give HB 767 a **FAVORABLE** report.