



## **Senate Bill 930**

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

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

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From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** SB 930. The bill is one of MACo's 2016 Legislative Initiatives - it 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 and protection of potentially abusive requests to local government and State records custodians.

#### **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 SB 930, with the proposed sponsor amendments, 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, use of excessive force, death or injury of an individual, or a complaint or allegation of officer misconduct made against any officer involved in the incident.

### **Victim Protection**

SB 930 would prohibit the release of video showing victims of domestic violence, sexual crimes, or abuse, or information that could be used to identify such victims, 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. Furthermore, victims will be notified of all requests to inspect the recording of an incident.

### **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 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. The sponsor's offered amendments are a result of those deliberations and will further improve and clarify the bill's provisions and address the concerns of most of these groups.

### **Conclusion**

In conclusion, MACo believes that SB 930 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 receive helpful bill amendments, but ultimately give SB 930 a **FAVORABLE** report.