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## **POSITION ON PROPOSED LEGISLATION**

BILL: HB 338 Facial Recognition Technology Requirements, Procedures, and Prohibitions FROM: Maryland Office of the Public Defender POSITION: Favorable DATE: 02/09/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 338.

In 2023, an armed robbery case was dismissed in Baltimore City because the Office of the Public Defender established that facial recognition was used inappropriately, and certain discovery obligations were not adhered to. In that same year, a number of Black men were charged with misdemeanors and faced the threat of imprisonment on nothing more than an unsupported facial recognition report. Ultimately, all of those cases were also dismissed, but not without significant agony imposed on each of our clients. We have seen similar discovery violations with similar results in an attempted murder, rape, and gun possession case. The reality is that this technology has developed too rapidly and law enforcement is using it too recklessly, or without proper education, and society is not any safer as a result.

The Office of the Public Defender requested data from around the State regarding the use of facial recognition technology and from that data we have learned that this technology is used in at least three major metropolitan jurisdictions, with differing requirements and discovery obligations in each of those jurisdictions. Additionally, courts are challenged to decipher best practices and proper procedures related to facial recognition technology. While some of our clients' cases have been dismissed as a result of the improper use of facial recognition technology or the government's failure to produce the appropriate discovery, it is our belief that even more clients have been prejudiced by the lack of uniform procedures and requirements. To ensure fairness and a more just system, we

urge a favorable report on HB 338, as it is a very important starting point towards regulating the use of facial recognition technology.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 338

Submitted by: Maryland Office of the Public Defender, Government Relations Division. Authored by: Deborah Katz Levi, Director of Special Litigation, Baltimore City, (667)406-2348; <u>Deborah.Levi@Maryland.Gov</u>;