



HB1035- Support With Amendments

February 12, 2021

Delegate Luke Clippinger
Chair, Judiciary Committee
House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: Support With Amendments – HB1035

Dear Chairman Clippinger and Committee Members:

As the State's Attorney for Baltimore City, I strongly support and applaud the recognition of the need to increase accountability and reform police practices during the 2021 session. While we need to hold police officers accountability across the State, we also must not undermine the will of the voters in the guise of "reform". My office has been advocating for police reform since the beginning of my first term as State's Attorney. HB1035 attempts to address one of the biggest problems with policing, but falls short. With the correct amendments, we would fully support a favorable report and final passage.

Accountability for the prosecution of a police officer in instances as outlined in HB1035 is not equally required across State. I recognize that not every jurisdiction in Maryland has the same policies and practices as it relates to the prosecution of police officers, but since my tenure began in Baltimore City, our Police Integrity Unit, the first of its kind in Maryland, has a successful track record of prosecuting police officers who have broken the law. And, while not every State's Attorney may have a police integrity unit, some of them do and every State's Attorney is voted into office every four years. It is this vote that holds the elected State's Attorney accountable; they are accountable to the communities that elected them. HB1035 does not take this accountability seriously and instead assumes that an elected official is not capable of providing their obligations to the communities in which they work. While good intentioned, this bill misses the mark and those elected officials who are meeting the needs and the demands of their communities, while ensuring public safety and equal justice for all, are being undermined.

Providing the Attorney General oversight privileges by allowing a case to be prosecuted if the local State's Attorney declines to prosecute would create accountability across the state, and not undermine the will of the voters and the trust in the community in our local elected officials. Our proposed language to be adopted is as follows:

- The Attorney General may prosecute a criminal case involving serious bodily injury or death allegedly caused by a police officer's use of force, if the case is referred by the State's Attorney's Office with jurisdiction, or if the State's Attorney's Office, after an investigation, declines to prosecute.
- If the Attorney General elects to prosecute the case, the State's Attorney's Office and independent investigative agency shall provide all of their investigative records to the Attorney General's Office.



Additionally, it is imperative that we recognize no matter who attempts the prosecution of the case, without an independent investigation, the prosecution – be it at the Local or the State level- will face the same challenges we see across our Country. The investigation of any case is the foundation for prosecution, and cases are only as strong as the initial investigation. Current practice is for the police, of the same jurisdiction in which a crime occurred, to investigate the actions of the officer. Unfortunately, the officers' investigation of their own creates a natural conflict of interest. HB1035 proposes that the Office of the Attorney General would replace the local State's Attorney Office in overseeing the investigation; however it does nothing to remove the local police department from the process. Investigators in prosecuting office do not have police powers, and must rely on local police departments to carry out the investigations. As we found out during the prosecution of the officers for the murder of Freddie Gray, police investigating themselves is not in the best interest of justice. Our proposed amendments are as follows:

- Strike language on
 - Page 2, lines 20-29
 - Page 3, lines 2-28
 - Page 4, lines 1-2
- Replace the language with language used in HB670, listed below
 - Page 15, lines 19-32
 - Page 16, lines 1-21

As I stated in 2016, without being able to work with an independent investigatory agency from the start, we could have tried the Freddie Gray case one hundred times, and cases just like it, and we would still end up with the same result. As this bill is currently drafted, a case just like Freddie Gray could be tried one hundred times, and we would still end up with the same result. With our proposed language, the case of Anton Black could have been tried by the Attorney General after the Caroline County prosecutor declined to bring forth charges.

My office has been championing these reforms for over six years. We know what works, and what will not work. I urge you to consider the adoption of these amendments for HB1035. We can wait no more, lives are at stake.

Sincerely,

A handwritten signature in blue ink that reads "Marilyn J. Mosby".

Marilyn J. Mosby
State's Attorney for Baltimore City