

Bill Number: SB 896

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Opposed to SB 896

WRITTEN TESTIMONY OF ALLAN J. CULVER,
STATE'S ATTORNEY FOR CARROLL COUNTY
IN OPPOSITION TO SENATE BILL 896
OFFICE OF THE ATTORNEY GENERAL
INDEPENDENT INVESTIGATIONS – REVISIONS

I write in opposition to Senate Bill 896. This bill, with all due respect, is irrelevant. It mandates certain actions that are already occurring and attempts to mandate other actions that can't be mandated.

The Independent Investigations Division of the Attorney General's Office was created over one year ago. The division already determines if an incident is a "police-involved incident." Furthermore, the Attorney General has already dictated that the Independent Investigative Division is the primary investigative unit of "police-involved incidents."

The legislature cannot force a law enforcement agency to turn over evidence in one of their investigations to another investigative unit. Whether it is a "police-involved incident" or not, independent law enforcement agencies should and will act in accordance with what is in the best interest of the investigation that they are conducting. In certain circumstances, such as forensic analysis, law enforcement agencies need to retain evidence to ensure the reliability and eligibility for analysis.

In SB 896 there is a clause that indicates that a law enforcement agency "may not engage in activity that impedes or interferes with the investigation of a police-involved incident." Once again, this is an action that cannot be legislated. If a law enforcement agency is conducting their own independent investigation into possible serious criminal activity that agency is going to take what necessary actions, it believes are necessary to conduct a complete and thorough investigation.

SB 896 goes on to state that after the Attorney General completes its investigation it shall transmit a report with detailed findings and a determination as to whether the Attorney General's Office recommends prosecution. Once again, these requirements are irrelevant. Each State's Attorney's Office is an independent body that has a duty to review all information related to an investigation and make an unbiased, independent determination on what action is appropriate. We as prosecutors would not be doing our job if we did not do an independent review of investigations and make our own determination on whether to prosecute.

The bottom line is that SB 896 is an attempt to legislate cooperation. Whether it's the Attorney General's Office, local law enforcement agencies or state's attorney's

offices, each agency has a job to do. Sometimes those jobs work in concert, other times those agencies must work together to resolve conflicts. Either way these actions do not require legislation.

The Carroll County State's Attorney's Office joins the Maryland State's Attorneys' Association in requesting that this committee give SB896 an unfavorable report.