

SUPPORT SB 290 – independent prosecution for police misconduct

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



To: Chair Will Smith and Senate Judicial Proceedings Committee
From: MAJR Executive Committee
Date: February 14, 2023

Md. Alliance for Justice Reform (MAJR-www.ma4jr.org) strongly supports SB 290 for its practical solution to a serious crisis in public confidence. According to a recent survey, 85% of Marylanders survey support the concept of an independent prosecutor when police conduct is alleged. See Goucher College poll, October 2020. Similar support is shown by national surveys across the political spectrum. See Cato Inst.poll, January 2017.

“Who will police the policemen?” is a perennial problem memorialized by Plato more than 300 B.C.E. Maryland’s version of the problem, today, is obvious: Under current Maryland law, even though an Independent Investigations Unit may find misconduct is found, current law still relies on local prosecutors to decide a) the sufficiency of potential evidence, b) whether they should do a prosecution themselves—and on what specific charges, and c) whether to seek an outside special prosecutor.

However, the local prosecutors themselves are conflicted because they work with the very same police officers on a daily basis. Public prosecution of these colleagues may result in weakening and loss of many other prosecutions in which suspected officers were involved as investigators and witnesses.

As a former prosecutor and participant in police disciplinary boards, the undersigned can attest to the factors of peer pressure and team loyalty that can work against solid accountability. Compare “Plea to Maryland leaders: Fix Baltimore police discipline,” Baltimore Sun opinion July 2018 by David Plymyer, former County Attorney for Anne Arundel Co. and legal advisor to local police.

Because the Attorney General’s relationship with local prosecutors and local police is limited, this plan should provide sufficient independence for more reliable outcomes.

Notably, in other jurisdictions, independent civilian oversight has resulted in 78% increase in findings of misconduct. Citizen Complaints Against the Police: An Eight City Examination, Police Quarterly (Oct.2015). That statistic should not scare legislators, but should let you know how bad the problem is without independent oversight.

SB290 provides a reasonable and effective solution to these problems in the context of police-caused fatalities by automatically referring investigations and possible prosecution to the Law Enforcement Prosecution Unit within the Maryland Attorney General’s office. Such cases, historically, are the most likely to result in strong public protests such as those brought by the killings of Freddie Gray, George Floyd, Breonna Taylor and others.

Please give a favorable report to SB 290, a very valuable bill. -Phil Caroom

Please note: Phil Caroom provides this testimony for MAJR and not for the Md. Judiciary.