

SENATE BILL 290
ANNE COLT LEITESS, ANNE ARUNDEL COUNTY STATE'S ATTORNEY
POSITION: UNFAVORABLE FOR SB 290

February 10, 2023

My name is Anne Colt Leitess and I am the elected State's Attorney for Anne Arundel County and served as a prosecutor for more than 34 years in both Anne Arundel County and Baltimore City. I am writing today to offer my opposition to Senate Bill 290 because it is a solution looking for a problem that was already solved by last year's legislation. This bill is not only unnecessary, but it will result in the further loss of experienced local prosecutors who will be hired to fill positions this legislation will generate.

Last year, the Maryland General Assembly passed legislation to have the Attorney General's Office (AG) investigate all on duty, police-involved deaths. The idea was that police agencies shouldn't investigate their own officers and that there should be an independent investigation to protect against possible bias. I understand and respect the need for independent investigations.

However, Senate Bill 290 now wrongfully assumes that the 24 elected State's Attorneys in Maryland cannot and should not be trusted to prosecute police officers when appropriate, and that power should reside in only one elected official—the AG. Historically, the AG has never prosecuted homicides and doesn't have the experienced staff to take on this type of nuanced and complex litigation. That has been the province of the local elected State's Attorneys. Homicide prosecution is a field that requires highly skilled attorneys who have many years of trial experience and training. In my county, and throughout the State of Maryland, police investigate crimes and State's Attorneys review their work, and if appropriate, prosecute those crimes. These are separate and distinct roles with different ethical considerations. It is a system of checks and balances that ensures that people are only charged with crimes, especially homicides, when there is clear evidence supporting that a crime was indeed committed. The irony of this proposed legislation is that, if passed, the AG would now investigate *and* prosecute these matters making them no longer an independent agency. They would now wear the hats of both police and prosecutor.

I have held police officers accountable for crimes as a line prosecutor and as the elected State's Attorney. If there is a true conflict of interest in prosecuting a particular person who has close ties or a relationship with the office, that case is paneled to another State's Attorney's office. Rarely do those paneled cases involve police officers, and my office is able to prosecute the local police when there is evidence of a crime. Likewise, the other State's Attorneys in Maryland prosecute police officers for a myriad of wrongdoing in their own counties. There is simply no compelling need to create a shadow prosecutor's office and separate system of justice for matters involving police where the AG becomes the 25th State's Attorney. Our local citizens elected their State's Attorneys to do a job and will remove us from office if we fail to do it. That is the check and balance needed for holding police accountable in our counties.

Since I was elected in 2019, and during the last four years, my attorneys have or are prosecuting police officers for the following cases:

- (1) Murder
- (2) Automobile Manslaughter
- (3) Sexual Assault and Second Degree Assault
- (4) Burglary and Trespass (Domestic Violence)
- (5) Theft Scheme and Misconduct in Office
- (6) Theft and Misconduct in Office
- (7) Misconduct in Office- False Statements and Failure to Investigate
- (8) Driving Under the Influence of Alcohol
- (9) Leaving the Scene of an Accident
- (10) First Degree Assault, pointing a handgun at a motorist
- (11) Interference with Airport Security
- (12) Reckless driving and traffic offenses

Reviewing the actions of the police is a part of our daily routine. We analyze their actions when we review their reports, body worn camera footage, witness statements and other evidence. We judge if they made a lawful arrest. We decide if they have the right suspect, and whether the law and facts fairly support the charges they seek. In the end, it is the State's Attorneys who have the final say in whether the police got it right or wrong. We also evaluate whether an officer committed wrong doing and should be held accountable at the criminal level.

This proposed legislation suggests that the State's Attorneys can no longer be relied upon to review the actions of the police in one specific category: in custody serious injuries or deaths. I disagree that the Attorney General's Office should be the sole arbiter to determine whether an officer committed a crime or the actions were lawful, necessary, or justified. There is no foundation for a claim that, simply because the matter involves a police officer, the State's Attorneys cannot be trusted to be fair and unbiased.

Finally, the impact of this bill on local State's Attorney's offices will be swift and drain local prosecutors' offices of experienced attorneys. Last year, the Governor of Maryland secured funding to fight crime in Baltimore and the result was that the Attorney General recruited 20 *temporary contractual* prosecutors they detailed to work at the United States Attorney's Office. The result was that the majority of those hires were local prosecutors who were paid up to \$20,000 more in salary to handle low level matters for a year or two. Local prosecutors' offices cannot compete with State or Federal budgets for staff and will lose experienced attorneys if the Attorney General is given this wide jurisdictional authority and the funding to pay for it. Currently, the State of Maryland has an employee vacancy rate of 16%. The AG doesn't need more funding or attorney positions and it doesn't need to fill the role of the local prosecutor.

We do just fine on our own.

For these reasons, **I respectfully request an unfavorable report for Senate Bill 290.**