

Opposition to Senate Bill 290

Good afternoon Senators of the Maryland legislature, invited guests, ladies and gentlemen, my name is Wanda Keyes Heard. I have practiced law for 40 years and retired in December, 2019 as Chief Judge of the 8th Judicial Circuit of Maryland (Baltimore City). I rise from retirement today to speak in opposition to Senate Bill 290.

I served as a Judge on the Circuit Court for Baltimore City for 21 years trying civil and criminal cases. Prior to becoming a circuit court judge I served as an Assistant United States Attorney and Criminal Division Chief, Assistant Attorney General for Maryland, an Assistant State's Attorney and Division Chief for Baltimore City, and an Assistant Federal Public Defender for Maryland.

- I believe I am uniquely qualified to speak about the impact of expanding or extending the role of the Maryland Attorney General (herein referred to as "AG") from purely an investigative role to a prosecutorial role as it relates to criminal cases between law enforcement resulting in death of civilians. This bill, if passed, will place charging decisions and the prosecution of certain very crucial criminal cases in untrained hands. It is essential to understand that the citizens of the various jurisdictions around the State of Maryland have elected

- have chosen individual states attorneys as their representatives to prosecute the criminal cases in their communities. Each duly elected State's Attorney is the chief prosecutor of his or her jurisdiction, swearing an oath to protect the citizens, prosecute violators of the laws of the State of Maryland in accordance with the Maryland Constitution and the Constitution of the United States. It is not nor should it be the role of the Maryland Attorney General to undermine or usurp the responsibility of the individual states attorneys granted to them by the communities they serve but rather work as a team to assist in gathering information and investigating. In Maryland, the elected States Attorneys are charged with the duty to enforce the law, make charging decisions & decide to prosecute "their" criminal cases and when necessary, request support & assistance from the Maryland Attorney General.
- The Maryland Attorney General's Office has a stellar reputation nationally for the many outstanding civil cases it has spearheaded. As you know, the role of the Maryland Attorney General (AG) is a statewide elected position and its attorneys practice primarily civil law and engage in fraud litigation for the State of Maryland. They provide legal counsel to various Maryland statewide agencies, handle criminal appeals and have other statutory duties. Since many of these duties are statewide issues, the AG is in the best position to

gather cross jurisdictional information, records and documents from around the State. Further, the AG's cross jurisdictional authority allows them to easily conduct investigation of cases and/or incidents between law enforcement agencies and members of the community where the death of a civilian has occurred. Consequently, the current law makes sound administrative and procedural sense where the AG is statutorily charged to investigate and compile an investigative report in instances involving law enforcement and civilian death. During the collection of information, it allows the AG to further its duty to investigate civil rights violations and police misconduct. However, the Attorney General oversteps its responsibility, expertise and authority when it seeks to force or direct the prosecution of criminal cases or effectively manage the criminal prosecution(s) of certain serious criminal cases. In fact, the expertise needed to weigh and analyze whether to pursue criminal prosecutions resulting in death is more than mere legal analysis. A serious and rather complex analysis involves the jurisdiction itself. Baltimore City, AA County, Howard County, Calvert County etc. or any other county or subdivision, require a knowledge of the most effective way to present a criminal case. An experienced trial prosecutor knows that, in addition to legal knowledge and their trial experience, knowledge

of the jurisdiction and its people who serve as jurors is essential to every prosecution. Hence, in Maryland we have individual jurisdictionally elected prosecutors and judges who must live in the jurisdiction they serve.

- It is beyond the expertise of the Maryland Attorney General as a statewide “law firm” making necessary, all-encompassing criminal case analysis in these very important cases - It is simply outside of their wheelhouse.
- The current structure of the Maryland Attorney General’s office, suits investigatory gathering of information, documents, testimony and reports for determination on the prosecution of civil rights and other civil matters statewide which may affect the rights of the citizens of Maryland. In appropriate circumstances, collaboration occurs with other AGs in other states or referrals are made to the US Attorney’s Office or divisions of the Department of Justice. The Maryland Attorney General (AG) is uniquely capable of conducting these cross jurisdictional investigations and referrals forwarding reports to the appropriate entity or handing in-house civil rights cases which may be developed. However, any analysis of any serious criminal matter for prosecution and the determination of what or who is to be charged in any jurisdiction should be analyzed and determined by the individual

states attorneys elected to handle those criminal prosecutions in those jurisdictions.

A criminal investigation and the collection of data is crucial to any criminal case analysis but there are other factors that are considered to determine whether a criminal prosecution is legally viable, and may reasonably result in a conviction. Even within SAOs there are divisions and prosecutors with certain areas of expertise - not all attorneys are fungible. With time and experience prosecutors become skilled in case analysis prosecution. In many serious and complex criminal prosecutions teams of experienced prosecutors pool their combined knowledge of trial work to analyze criminal case filed and make charging decisions. It is totally inappropriate to leave the decision whether to prosecute a case or not in the hands of individuals lacking the criminal trial experience and technical ability to make such an assessment in a criminal case resulting in death, and even more so to prosecute successfully those cases.

The AG should ONLY collect the information and conduct a fact finding mission, drawing no conclusions and making no determinations but insuring a thorough completely transparent and objective investigation is done.

What the Maryland Attorney General seeks to do is to not only investigate but draw conclusions on the success of a

criminal prosecution, dictate the charges, remove local prosecutors from their role to prosecute serious criminal cases, become criminal prosecutors in death cases and fully undermine states attorneys across the state.

I believe if Senate Bill 290 is passed, it will be hurtful to the citizens of Maryland. It will not bolster trust and justice but will be detrimental to the confidence we seek to grow with our citizens in our system of justice. I believe this bill will undermine the trusted role of our elected states attorneys to represent the citizens who elected them and to exercise their immense discretion to prosecute criminal matters involving death of civilian's.

I believe Senate bill 290 extends the role of the Maryland Attorney General unnecessarily and in an improper fashion outside of its area of expertise.

I urge you to vote “NO” on Senate bill 290.

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After serving the citizens of Baltimore City for 21 years, Chief Judge Heard retired from the Circuit Court for Baltimore City. However, before retirement she set a judicial milestone by becoming the first woman to hold the position of Chief Judge of the 8th Judicial Circuit of Maryland. During her judicial career, she handled many high profile criminal and civil trials with a variety of other judicial assignments which included, but were not limited to; Discovery Judge for civil and criminal cases, Chambers Judge, Non-Hearing Motions Judge, Drug Treatment Court, Electronic Surveillance (Wiretap) Duty, Chair of the Sentencing Review Panel and Technology Oversight Committee. Over her years of service, Chief Judge Heard taught seminars to judges and lawyers on Fourth Amendment Search & Seizure, pitfalls of Civil Discovery at the courthouse, law schools and as an instructor at the National Judicial College in Reno, Nevada, and the Maryland Judicial Institute. She has organized lectures on legal historical and civil rights issues as a member of the Board of the Library Company of the Baltimore City Bar.

As a lawyer, Chief Judge Heard was admitted to the Federal Trial Bar for the United States District Court for Maryland in 1987, admitted to practice before the Supreme Court of the United States in 1989 and has litigated cases in the District and Circuit Courts of Maryland. She served as an Assistant Attorney General for Maryland and Assistant Federal Defender. While an Assistant United States Attorney she was admitted to practice in United States District Court for the Middle District of Florida, United States Court for the Division of the Virgin Islands, United States Courts of Appeals for the 3rd, 4th and 11th Circuits. During her years as a federal prosecutor in the United States Attorney's Office, she distinguished herself as a Criminal Chief, Organized Crime Drug Task Force Attorney and Executive Assistant U.S. Attorney. Prior to appointment to the bench, Judge Heard was detailed to the Department of Justice, Office of Justice Programs in Washington, D.C., where she helped implement the Justice Department's Weed & Seed initiative by educating and training U.S. Attorneys Offices and federal agencies in the strategy of building "drug fighting" partnerships and coalitions with community groups, local prosecutors and local law enforcement agencies on behalf of Attorney General Janet Reno. As an attorney, Chief Judge Heard received numerous awards and professional recognition including special recognition from; the Executive Office of U.S. Attorneys, DEA, U.S. Customs, U.S. Secret Service and the Executive Office of Weed & Seed.

Most recently, Judge Heard was honored with; the 2023 Civil Rights Trailblazer Award by the Baltimore Chapters of the NAACP & the Urban League, the Daily Record's 2019 ICON Success and Leadership Award and their 2017 Maryland's Top 100 Women; the Baltimore Chapter of the NAACP's Thurgood Marshall Award for Judicial Excellence; and the 2018 Outstanding Alumna for Social Sciences from UMBC. She has earned with many other honors and awards throughout her 21 year judicial career.

She is a graduate of the University of Maryland King Carey School of Law ('82) and the University of Maryland Baltimore County ('79).