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SENATE BILL 290 (UNFAV)

February 14, 2023

Maryland Senate
Senate Judicial Proceedings Committee

RE: SB290 - Office of the Attorney General – Independent Investigations Division –
Authority to Prosecute – Testimony in Opposition

Dear Chair Smith and Members of the Committee:

I write and testify in opposition to Senate Bill 290 (SB290). I request an unfavorable report because SB290 represents a complete usurpation of the authority granted under the Maryland Constitution to duly-elected local State's Attorneys when it comes to the investigation and decision to charge or not, of police-involved incidents that result in the death of individual or injuries that are likely to result in the death of an individual. *See*, Art. V, Sec. 1 -6 of the Md. Const. & Art. V, Sec. 7 -12 of the Md. Const.

Stripping locally-elected State's Attorneys in Maryland's twenty-three counties and Baltimore City of the power of investigation and charging in police-involved fatal and near-fatal incidents and handing it to the Attorney General is an affront to the division of labor contemplated by the Maryland Constitution and the voters in each of these jurisdictions. Moreover, walling off local prosecutors from those in law enforcement who will investigate these incidents is a corrosive recipe for alienation and distrust between sworn officers and local prosecutors who must continue to workday-in and day-out, hand-in-hand on investigations prosecutions in each county and Baltimore City.

The long-standing constitutional requirement that the top local prosecutor in each jurisdiction in Maryland be picked by the voters is an important check on the conduct of the person who is essentially the top law enforcement officer in that jurisdiction and ensures investigations and charging decisions are reviewed not only by the local judiciary, but the voters who live in that jurisdiction.

The decision to charge or not to charge is one that requires the exercise of considerable discretion and is best left to the State's Attorney in each jurisdiction. Whether you decide to pass SB290 into law or not, the Maryland Constitution shall still require local a State's Attorney make his or her own independent determination on whether an officer-involved incident resulting in a fatality or near fatality warrants charging or not.

The bottom line is that police-involved incidents should be investigated by the front-line prosecutors in each jurisdiction, and any charging decision resulting therefrom, should fall to the discretion of the locally-elected State's Attorney to ensure justice is done. Diverting these investigations to the Attorney General has the potential for a "one-size-fits-all" approach driven by political optics and pressure, rather than rooted firmly in the facts and circumstances surrounding each incident.

Accordingly, the Carroll County State's Attorney's Office joins the Maryland State's Attorneys' Association in requesting that this Committee give SB290 an unfavorable report.