

HOUSE BILL 857

ALISON M. HEALEY, HARFORD COUNTY STATE'S ATTORNEY

POSITION: UNFAVORABLE FOR HB 857

March 3, 2023

My name is Alison Healey. I am the State's Attorney for Harford County and a board member of the Maryland State's Attorney's Association (hereinafter MSAA). I am here today to offer my opposition to House Bill 857, as agreed upon by 23 out of 24 State's Attorneys in the State of Maryland.

The legislative intent of the applicable statute included a separation of the agency involved in the incident, the investigative body for the incident, and the prosecutorial determination in a case. Support of House Bill 857 flies directly in the face of that intention, as it would pair the investigation and the prosecution to the same agency.

In addition, as State's Attorney's, the citizens elected me, and the other State's Attorneys in Maryland, to spearhead the prosecution of crimes in our respective counties. That is because we are the most experienced individuals across the State to evaluate and handle these crimes, and our elections confirm that we are the most qualified individuals to maintain prosecutorial authority of all incidents and potential crimes which occur in our counties, including officer involved death and serious injury investigations. The State's Attorneys of Maryland have tried countless homicide and attempted homicide cases, which far exceeds the experience in these types of cases held by the individuals of the Independent Investigations Division of the Attorney General's Office. By passing this law, we would be doing a great disservice to our citizens in having less experienced individuals make charging decisions in these cases and further potentially prosecuting these cases, individuals who are far less knowledgeable about the wide variety of laws that affect these cases. In addition, by divesting State's Attorneys of their prosecutorial authority in these investigations, we are equally divesting our citizens and voters of the rights instilled to them by the great democracy we maintain here in our country. If the voters in our counties disapprove of the handling of these cases, the State's Attorney could directly face those consequences in a future election. Conversely, if the voters in the relevant disagree with the decision of the Office of the Attorney General if this legislation

were to pass, they would have no recourse to have a voice in those matters. In addition, we, as elected officials, do not propose bills which take away the ability for you, as legislators, to make laws that impact your job duties, as our citizens have elected you to do so, and likewise, it would be inappropriate to divest State's Attorney's of the authority they are granted by their voters to prosecute the crimes in their respective counties.

When we took office, we took an oath to support the Constitution and laws of this State and to do so without partiality or prejudice. There is no merit to claims that prosecutors are unable to evaluate and hold accountable law enforcement officers within our jurisdictions. To assert that we, as the elected State's Attorneys, would be biased and either incapable or unwilling to prosecute law enforcement officers in these cases under the appropriate circumstances is not founded in any facts. We, very often, in our normal duties have occasion to take actions against the interest of our law enforcement, which includes declination of prosecution of cases they seek to be charged, dismissal of cases they have already charged, initiating disciplinary actions and criminal charges against an officer who engages in inappropriate actions, and much more. The fact that the incident happens to be a police-involved investigation of a death or serious bodily injury likely to cause death does not change our analysis of the case or the oath that we swore to uphold when we took office. In fact, my office in the month of February, 2023, proceeded to trial against an individual who was a law enforcement officer at the time of the alleged crime. I am equally aware that the other State's Attorney's of this state have prosecuted law enforcement officers who have committed criminal offenses. When a crime is committed in Harford County, regardless of the identity or profession of the offender, we will prosecute it.

Moreover, State's Attorneys are still bound as attorneys by the Maryland Rules of Professional Conduct. We, on occasion, must obtain a special prosecutor from another jurisdiction on cases where a conflict exists. Examples of this include individuals who are related to employees of our office or defendants who have been represented by the State's Attorney in private practice before taking office. Due to my private practice prior to taking office, in just a short month and a half, I have already obtain a special prosecutor on several cases, demonstrating my ability to maintain my ethical responsibilities. I firmly maintain that every

State's Attorney across this State maintains the same high standards of professional conduct. This would likewise apply to the cases in question in this bill. These mechanisms are already in place to address the issue to allow for the fair and just administration of justice, as that is and always will be our first priority as State's Attorney. Thus, if a State's Attorney felt that were unable to judge a case in an unbiased fashion, these mechanisms which are already in place are readily available to us. Thus, this legislation is completely unnecessary and unwarranted.

If this bill is enacted into law, we eliminate the voice of communities impacted by police-involved deaths or serious injury cases. The Attorney General is a state-wide elected position whereas State's Attorneys are directly elected by the communities they serve, where these incidents transpire and have a tremendous impact. Every four years the impacted community gets an opportunity to affirm or reject the elected State's Attorney's actions while in office, while the local communities have little to no access or voice as to the entity who would be handling these cases if prosecutorial authority were assigned to the Attorney General's Office.

Finally, police involved deaths are some of most complex investigations and prosecutions within the realm of criminal justice. Because, as previously stated, The Office of the Attorney General does not have within its ranks the skilled and experienced prosecutors to handle these cases, there is widespread concern by the State's Attorneys across the State that they would address that issue by poaching prosecutors from the same offices that are alleged to have a bias. It is well-established that the Office of the Attorney General also does not have the staffing of prosecutors to handle these cases. Our State's Attorney's Offices across the State will likely lose prosecutors due to the Office of the Attorney General's need to hire prosecutors for these matters if this legislation passes. Not only will this be to the extreme detriment to our public safety across the State by diminishing our State's Attorney's Offices of quality, experienced prosecutors, the sole fact that a prosecutor would now work for the Office of the Attorney General does not change whatever bias is professed they have. They are still the same prosecutor. The detriment to the public safety of our communities by the depletion of our State's Attorney's Offices' resources would far outweigh any benefits, if any, although I see none, that there are to Bill.

For these reasons, I respectfully request an unfavorable report for House Bill 857.