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TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: Perry Wasserman
Assistant Attorney General, Independent Investigations Division
Office of the Attorney General

RE: House Bill 703, Juvenile Law - Police Record Concerning a Child -
Confidentiality Exception: **Support**

The Office of the Attorney General (OAG) urges the Judiciary Committee to favorably report House Bill 703, Juvenile Law - Police Record Concerning a Child - Confidentiality Exception, sponsored by Delegate Elizabeth Embry. If enacted, this bill would permit the OAG to publicly release limited information when a child under 18 years of age is killed or seriously injured as a result of an interaction with police.

The OAG's Independent Investigations Division (IID) was created by the General Assembly in 2021, and expanded the following two legislative sessions, to investigate and prosecute when appropriate police-involved incidents that result in the death, or injuries likely to result in the death, of an individual. The IID was one of several police reform initiatives enacted into law over the last few years as the General Assembly has worked to increase transparency and accountability in police misconduct cases. House Bill 703 is consistent with these prior legislative enactments and the IID's practice of publicly releasing its findings.

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us.

Under current state law, the contents of a “police record concerning a child” must remain confidential and are not generally subject to public release. *Md. Code, Cts. & Jud. Proc. § 3-8A-27*. While this law exists to protect juvenile privacy, it has the potential to severely restrict what information, if any, the OAG could make public in cases handled by the IID when the injured or deceased person at the center of an investigation is a minor and relevant investigatory information is exclusively contained in “protected” police records. House Bill 703 would remedy this issue by providing a narrowly-tailored exception to the existing confidentiality requirement. Specifically, in IID cases involving a seriously injured or deceased child, the bill would permit the OAG to publicly release the name and age of the child and video, such as body-worn camera footage, that depicts the police-involved incident under investigation, just as the IID does in cases involving adult decedents.

Any disclosure permitted by the OAG pursuant to House Bill 703 would be *limited* in three important ways. First, the exception only applies in cases that otherwise fall within the IID’s statutory authority and are thus under investigation by the division. Second, disclosure is only permitted if the child’s parent or guardian expressly consents to the disclosure. Third, House Bill 703 only permits disclosure of records related to the injured or deceased child that prompted the IID investigation and would not apply to, for example, another juvenile who may be involved in the police interaction under investigation.

In sum, House Bill 703 is a targeted, preventative measure that balances juvenile privacy with the IID’s mandate for transparency and will act to support greater police accountability in Maryland. For the foregoing reasons, the OAG urges the Committee to give House Bill 703 a favorable report.