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February 25, 2025

TO: The Honorable Delegate Luke Clippinger
Chair, Judiciary Committee

FROM: Tiffany Clark
Director, Legislative Affairs, Office of the Attorney General

RE: House Bill 954 - Public Safety - State and Local Governments - Use of
Unmanned Aircraft - **Oppose**

The Office of the Attorney General (OAG) urges an unfavorable report on **House Bill 954** – Public Safety - State and Local Governments - Use of Unmanned Aircraft. **House Bill 954** prohibits a unit of State government or a political subdivision of the State from (1) deploying or operating an unmanned aircraft for surveillance, evidence collection, or any other purpose or (2) using information acquired through the use of an unmanned aircraft operated by any entity, whether public or private. Additionally, any evidence obtained through the use of an unmanned aircraft in violation of the bill's provisions is inadmissible in any criminal, civil, or administrative proceeding.

House Bill 954 would significantly impact the work of the Criminal Division of the OAG, in that it would make any evidence obtained by drone “inadmissible in any criminal, civil, or administrative proceeding.” The Environmental and Natural Resources Crimes Unit (ENRCU) coordinates the investigation and prosecution of criminal environmental violations and other associated criminal charges throughout the State, including cases involving alleged illegal dumping/burial of solid waste, illicit discharge of pollutants, and a range of environmental and natural resource crimes. Because ENRCU frequently uses drone surveillance as an essential and valuable investigatory tool in their cases, **House Bill 954** would significantly impair our ability to investigate and prove our cases. ENRCU relies on existing 4th Amendment law (see *Florida v. Riley*, 488 U.S. 445 (1989)(helicopter in legal airspace hovering 400' over a greenhouse in a residential backyard to observe/photograph contents was not a ‘search’ and did not violate 4th Amendment), *Dow Chemical Company v. United States*, 476 U.S. 227 (1986)(aerial

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.

photography by EPA and open fields doctrine), and U.S. v. Dunn, 480 U.S. 294 (1987)(open fields doctrine, generally).

In addition to ENRCU, by prohibiting drone surveillance, **House Bill 954** would impact a variety of government public safety activities, including: finding lost children or vulnerable adults, firefighting and prevention, public health issues, and mapping/surveying.

Additionally, **House Bill 954** only prohibits the introduction of such evidence by units of the State. Nothing in the bill would prohibit a citizen or a non-profit entity from using a drone without a search warrant to obtain evidence they wish to admit in a civil action (contested divorce, auto tort, etc.).

OAG suggests that this bill be referred to summer study to bring stakeholders together to survey the other enacted state laws and monitor for opinions from the Supreme Court of the United States and the Supreme Court of Maryland.

For these reasons, the Office of the Attorney General opposes **House Bill 954** and urges the bill be referred to summer study.