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## **Testimony of Cynthia Knight Chief Human Resources Officer for the Maryland Office of the Public Defender**

Thank you for allowing me the opportunity to comment on HB 1277. The Office of the Public Defender (OPD) has a vibrant and specialized class of employees united by the mission of tenacious advocacy for our clients. Our attorneys say “being a public defender is not a job it’s a calling”. I have a professional calling too -- to protect and advocate for the human resource, my people, the dedicated staff of this agency. Just as I advocate and defend the rights of my staff, my attorneys fight for the justice, civil rights, and liberties of our clients. When you hear the word caseloads, I would ask that you replace it with the word lives. My people fight for the lives of other people on a daily basis and we support and encourage them in their efforts.

Being a Public Defender is a difficult job with long hours and unique circumstances. The Office of the Public Defender is the largest law firm in the State of Maryland and a national leader among Public Defender Offices across the country. OPD proudly employs 521 attorneys -- 226 of whom (more than 40%) have served faithfully for more than ten years, including 105 who have served 20 years or more. OPD is a place where attorneys called to this mission can find a long-term career.

HB 1277 seeks to place our special appointment attorneys in the merit classification. I believe strongly that this would be a mistake and is an effort to solve a problem that simply doesn’t exist. We are a very unique state agency--our employees, Assistant Public Defenders, must be able to advocate for their clients in the most flexible and proactive ways possible. Currently we are free from political influence, and exempt from collective bargaining to allow our assistant public defenders the “efficiency and quality of services” needed to do their jobs.

Special Appointments are not a downgrade from merit positions; they are “at will” employees who follow the same hiring and disciplinary appeals processes as Executive Service and Management Service positions. Special Appointments include: direct appointees of the Governor and positions assigned to the Governor’s office; direct appointees of the Board of Public Works; positions determined by the Secretary of DBM to perform a significant policy role or provides direct support to an employee of the Executive Service; and any other position designated by law to be a Special Appointment.

I am an at-will employee. I have been at-will for my 16 years of state service and my entire 28 year career. Because of the importance of their work, APDs also merit this recognition and deserve the flexibility in advancements and promotions that it allows. A promising young district court attorney can participate in felony trial cases sooner than the merit system will offer; leadership positions can be selected based on skill and commitment to clients rather than mere time with the office; and transfers can swiftly be executed to accommodate individual attorney lifestyles and overall client needs. Converting assistant public defenders to professional service

provides merit protections for underperforming attorneys but is a demotion in opportunities for rising stars.

There is no basis for a generalized fear of losing one's job based on at-will status. If you show up daily, do the job as expected, and meet the standards of your performance evaluations, you have nothing to fear. This is true of any career. Administration and Human Resources do not terminate employees, employees terminate themselves. Over the past 10 years, we have had 30 for cause terminations across our 52 offices.

With the ethical obligation to ensure effective representation of our clients, we will always need to be able to terminate attorneys who do not meet basic constitutional standards. However, we also take care to do so in a way that respects professional judgement in an incredibly challenging environment, and we conduct evaluations and provide written feedback through the State of Maryland's Performance Evaluation Program (P.E.P.). Our disciplinary process is used sparingly in only the most extreme situations, while also allowing for timely resolution so that positions can be filled and caseloads swiftly redistributed.

The merit system would require a rigid advancement structure that shifts priorities away from our client-centered values. An attorney who is not well suited for felony trial work should not be representing felony clients at trial merely because they have seniority in state employment.

Every agency has opportunities for improvement and, like many other state agencies, we have moved forward with improving our diversity equity and inclusion efforts in all areas. Our Director of Diversity Equity and Inclusion has established a strategic focus for this year on Culture/Programming; Recruitment; and Training and Professional Development.

AFSCME 423 has not been elected as the exclusive representative of any bargaining unit, and does not speak for all OPD employees. They only represent a small percentage of our agency. The leadership throughout our twelve districts and five statewide divisions share the concerns raised by this letter, as well as our Board of Trustees.

Our employees are vibrant and passionate and they excel at the work they do each day. For the reasons stated I respectfully request that you vote against HB1277.