



HARFORD COUNTY SHERIFF'S OFFICE

COURAGE HONOR INTEGRITY

House Bill 638 - Oppose

State Government – Attorney General – Independent Investigations Division

Letter of opposition to the House Judiciary Committee

March 1, 2022

Mr. Chairman and Members of the Committee, I am pleased to submit my written testimony in opposition to House Bill 638.

During the 2021 legislative session this body passed Senate Bill 600, legislation I supported with amendments. The bill that this body enacted, established a process in which the Office of the Attorney General (OAG) will conduct an independent investigation whenever there is an incident that involves the death of a civilian and there is potential police involvement. The actions of the Independent Investigative Unit (IIU) since enactment are an extreme overreach and an attempt to subvert the initial intent of the legislation.

The legislative framework provides that “the Independent Investigative Unit shall investigate all alleged or potential police involved deaths of civilians.” The passing of this law last year allows for the intended oversight and transparency expected by our citizens through separate and/or parallel investigations; similar to that of the U.S Department of Justice in a civil rights investigation. It also provides the oversight in a fiscally responsible manner, as the bill passed did not require the creation of an additional police agency within the OAG. The current law, as passed, did not usurp the responsibilities of local law enforcement and government to serve their community and, if properly implemented by the OAG, as originally intended, we would not have the State Police investigating their own members and other police officers as part of the independent investigation.



Since the bill was passed by this body and enacted into law, the OAG has taken a broader interpretation of the law, and by simple fiat, assumed legislative function to issue written protocols outside the framework of the statute. Nothing in the current law precludes or absolves responsibility of police departments or sheriff's offices from performing their duties to conduct criminal investigations in their jurisdictions as they historically have done. Unfortunately, the protocols put in place by the OAG seek to prohibit local investigations, interfere with the timely collection of evidence, and the investigation of criminal activities that lead to the police involved death of a civilian.

A clear example of this is the use of the Maryland State Police forensics lab in the evidence collection portion of the investigations. The current law (resulting from SB 600) allows the Maryland State Police to detail one or more **sworn** members to the IIU; however, nowhere in the Law does it permit the OAG to detail non-sworn employees to take part in the investigation, which has occurred routinely. That is except for reportedly those cases which have occurred in Baltimore City, where the local police has collected and processed the evidence as well as conducted its own investigation, all consisted with law.

While there are changes that should be made to the language from last year's Senate Bill 600, the changes proposed in House Bill 638 only serve to further complicate the process and provide less transparency, less accountability, and ineffective investigative practices that do not ensure a fair and impartial investigation is conducted. For example, since the current law went into effect, my Office has notified the OAG's IIU 25 times and there has been no, zero, responses by the IIU to civilian deaths that have occurred during police related activities (as the law requires). These were not use of force situations, so the IIU's "phone call investigation" and deferral falls short of the law should there be an allegation of impropriety on the part of law enforcement related to these police involved deaths.

This is also an area where I would offer an amendment to the data collection and annual reporting from the IIU to the Legislative Policy Committee, the number of declined responses to notifications to the IIU. As presently written, the data required begins with "the number of cases referred to the Division." I believe it is as equally important to collect the data (as my Agency currently does) on those cases requiring notification per the statute that are declined by the IIU.

As I have stated many times when testifying on various versions of this legislation, as the elected sheriff, the citizens of Harford County have entrusted me with the duties of my Office. Those duties include these types of investigations when they unfortunately occur.

It is me, like each of you and our state's attorneys that the residents of our counties can hold accountable through the power of their vote. Citizens have very limited ability to hold the Maryland Attorney General accountable for the results and handling of these investigations, and no ability to hold accountable the Superintendent of the Maryland State Police, who, by defacto, are the true investigative body, not the OAG IIU. This, in my opinion, is in opposition to the intent of the current law, police investigating police and their own as a part of the independent investigation and is completely opposite to public interest.

That said, I also recognize the need to be transparent in these types of cases and that is why I have offered support in the past and today for independent parallel and collaborative investigations that the framework of last year's Senate Bill 600 provides. Not the further removal of local law enforcement from these investigations and the resulting fiscal irresponsibility that House Bill 638 seeks to accomplish. House Bill 638, and the continued efforts of the OAG to radically redefine what has been passed by this body represent a grave threat to the intent of the original law and law enforcement's ability to comply with it as written. By again attempting to alter the process, the OAG is replacing common sense and transparency for politics and fiefdom building.

I ask the members of the committee for an unfavorable report on House Bill 638.