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POSITION ON PROPOSED LEGISLATION

BILL: SB 533 - Public Safety - Police Accountability - Time Limit for Filing Administrative Charge

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 03/21/2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 533. As the proponents of Senate Bill 533 testified to, this bill seeks to delay an administrative investigation if there is a companion criminal investigation. What the bill does not specify is whose companion criminal investigation triggers the delay. For example, when an officer shoots someone, uses excessive force, and illegally harms them, oftentimes, the police charge the shooting victim instead of the officer who used excessive force. Under this bill, the police will delay investigating the officer's misconduct until after the defendant shooting victim's criminal trial. This will necessarily delay important conclusions that must be drawn before a person who may be innocent, and is legally presumed innocent, is prosecuted for a police officer's known misconduct. Thus, as written, this bill and the procedures contained therein will be used to circumvent justice and accountability.

Additionally, the bill will be used to delay or prevent accountability for police officers. Police departments will generally not complete an administrative investigation until the local prosecutor issues a declination letter. Delaying the administrative investigation until after the officer's criminal investigation will mean that no investigations will be completed within the year and a day time period because each agency is waiting for the other one to conclude. When they both delay, and no administrative investigation concludes, no discipline is imposed.

Finally, SB 533 also seeks to shorten the amount of time that officers can be held accountable by beginning the one year period of time as soon as an "appropriate official" becomes aware of the misconduct. The clock for discipline, under this bill, begins to run as soon as anyone in the police department becomes aware of the misconduct, not when it has been officially reported or flagged for review by internal affairs. For example, if the police department's body worn camera unit views an illegal shooting on body worn camera, but the reviewing individual does not report it to another unit, the year and a day has started running the second he or she viewed it even if no report was made to internal affairs. This is exceptionally problematic because there is no mandatory reporting requirement for the reviewing officer, or the officer who was there in person and viewed it. So, despite no investigation, under this bill the bad-acting officer could claim statute of limitations. In other words, he or she could claim that the police department knew about the misconduct the second it happened, not when the internal affairs unit

became aware of it, and if the department chose not to act immediately, the officer who deserves discipline would avoid it. This is the result the fraternal order of police is seeking to avoid discipline and would significantly roll back the effect of the Police Accountability Act of 2021.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 533.

Submitted by: Deborah Levi, Strategic Litigation Chief, Maryland Office of the Public Defender. Deborah.Levi@maryland.gov