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POSITION ON PROPOSED LEGISLATION

BILL: SB 866 – Baltimore Police Department - Consent Decree - Exceptions to State Law

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 02/28/2022

The Maryland Office of the Public Defender respectfully requests that this Committee issue a favorable report on Senate Bill 866.

Senate Bill 866 ensures that all of the measures established by the 2017 federal consent decree between the United States of America, the Mayor and City Council of Baltimore, and the Baltimore Police Department are able to be fully implemented. This includes the oversight and accountability mechanisms put forward, even if they may conflict with some portions of the Maryland Police Accountability Act of 2021.

The consent decree was part of a watershed moment in acknowledging and responding to police corruption, misconduct, and abuse in Baltimore City. Based on a civil rights investigation conducted in the wake of Freddie Gray's death, and occurring alongside the prosecution of the Gun Trace Task Force scandal, it provides extensive recommendations to ensure that the troubled police department institutes the policy and practice reforms and cultural shifts needed to comply with constitutional standards. A significant priority of the consent decree has been to improve transparency and accountability, including formalized policies, training and documentation for supervision; improvements to the Office of Professional Responsibility; policies and protocols for civilian complaints, investigations, disciplinary hearings; increased documentation; widespread training; and a testing program for the civilian complaint intake process.

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The Police Accountability Act, 2021 Ch. 59, as it relates to police accountability and discipline, provides some external mechanisms and minimum requirements for police departments. In most respects, these provisions are complementary to the internal mechanisms of the consent decree or provide a base expectation that the consent decree exceeds. However, to the extent that Act is interpreted to conflict with the consent decree, the provisions that were negotiated with extensive input from national experts, local stakeholders, and members of the public and were carefully tailored in response to the constitutional crisis within Baltimore policing must prevail.

The consent decree implementation has been a slow, but important process that is not yet finished. While there are ways in which it can and should be strengthened, the progress of the past five years, and the potential that would come from full robust implementation, should not be weakened by statewide reform efforts.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 866.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

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