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POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 202 - Police Discipline - Order to Show Cause

FROM: Maryland Office of the Public Defender

POSITION: UNFAVORABLE

DATE: Mar 31, 2026

The Maryland Office of the Public Defender respectfully requests that this Committee issue an unfavorable report on Senate Bill 202, as amended.

Senate Bill 202, as amended, creates an open pathway for police officers to bypass the law enforcement disciplinary process established in 2021. By introducing parallel, unnecessary orders to show cause hearings, this bill allows an officer to resolve their case before their disciplinary matter reaches the statutorily mandated trial board for disposition. More specifically, Maryland's current law requires law enforcement officers to bring contested disciplinary matters before a multi-member trial board that includes an administrative law judge or a retired judge from a circuit or district court; a member of the public; and an equal rank police officer. The procedure proposed in SB 202 will allow the officer to skirt around the multi-member panel and address matters outside the normal course with a single judge, absent the input from the trained administrative law judge, the member of the public, or the perspective of an equal ranking officer. This would shred the ability of the trial board to oversee the proceedings; maintain a record; and comply with the transparency and accountability requirements of the Police Accountability Act of 2021.

Further, SB 202, as amended, will cause significant delay and confusion in a system that is already severely backlogged. The solution to the backup cannot be a shortcut that removes the accountability of a multi-member trial board and creates further delay. The Baltimore Police Department (BPD) is currently grappling with a severe backup of over 500 discipline cases, many of which have taken more than a year to reach a trial board. *See* Dan Belson, Baltimore Police officers wait months, years to face discipline amid backlog of trial board cases, Balt. Sun, Dec. 5, 2025. In a

consent decree hearing in December 2025, Federal District Judge James K. Breddar publicly criticized the BPD for this failure. The Department's excuse was woefully inadequate: that it is still experiencing "growing pains" in staffing, training, and implementing the Police Accountability Act of 2021. This situation highlights a critical failure: one of Maryland's largest departments—which remains under a federal consent decree due to a pattern of unconstitutional policing—has yet to implement key changes enacted by the legislature to bring Marylanders closer to true accountability and transparency.

As Judge Breddar clearly exclaimed on the record, the BPD's excuse is inadequate: "Justice delayed is justice denied." *Id.* Instead of allowing departments to prolong the disciplinary process, Judge Breddar urged them to prioritize efficiency—specifically, by increasing staffing and training to close cases more quickly and meet accountability and transparency standards. This backlog problem is not unique to Baltimore, as jurisdictions throughout Maryland face significant challenges related to closing disciplinary cases. The solution to the backlog cannot be a shortcut, as proposed in SB 202, that removes transparency and accountability safeguards.

Additionally, SB 202 significantly clouds the disciplinary process by referring to matters not "eligible to be remedied by a trial board under § 3–106" of the public safety code, without defining what those matters are. Under the current law, an administrative law judge is able to address matters regarding the rights of the accused, prior to disposition. This bill, however, suggests otherwise, without providing any guidance to the Judiciary regarding what matters cannot or should not be addressed by the administrative law or retired judge and allowing for a lack of consensus to develop. Were the need for orders to show cause to exist in limited scenarios, the proponents of the bill should define those scenarios. Otherwise, the bill merely creates confusion and allows law enforcement the opportunity to forum shop and pursue their matter outside the eye of the statutorily required trial board.

If enacted, SB 202 would critically undermine the existing disciplinary process for officers and cause even more delay. By introducing an "order to show cause" procedure, officers could stall the disciplinary process almost indefinitely. This mechanism, whether by design or consequence, would effectively lead to the dismissal of complaints without a disciplinary finding.

Equally, if not more important, SB 202 is wholly unnecessary. Law enforcement officers already have a clearly established pathway to raise critical issues throughout the original disciplinary process; through a trial board hearing with judicial oversight and civilian participation; and through the appellate process, at the circuit court and appellate court levels. Law enforcement officers are not in need of a special proceeding beyond those afforded to all litigants in Maryland to challenge the application of the law to the facts of their case. That procedure already exists.

Ultimately, SB 202 is an unnecessary piece of legislation that would impede fairness and judicial economy, frustrate accountability, and interrupt justice. Maryland litigants already have existing procedures to address the issues contemplated in the bill. They should be encouraged to exercise those rights within Maryland's current framework, rather than creating a new procedure that has no guardrails, skirts the accountability protections implemented in the Police Accountability Act of 2021, and undermines its intent.

For the foregoing reasons, the Office of the Public Defender urges an unfavorable report on SB202, as amended.

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