

June 9, 2022

To Honorable President and Members of the Baltimore City Council:

Re: City Council Bill 22-0234 Police Accountability

From: Natalie Novak, District 5 resident, Secretary of the Baltimore City Civilian Review Board

Position: Support with amendments

**Testimony in response to Potential Amendments:**

**Potential Amendment 1:** Favorable

**Potential Amendment 3:** Favorable

**Potential Amendment 4:** Favorable

**Potential Amendment 5:** Favorable

**Potential Amendment 6:** Favorable – **First Option** (“Bar all current and former police officers [law enforcement officers] from serving on the PAB, while allowing city, state, et al. employees (except those who work closely with law enforcement) to serve on the PAB and ACC):

- Both current and former law enforcement should be prohibited from serving on the PAB and ACC because there is too high a risk of impartiality.
- DOJ report: “Officers, even if from other departments or retired, may not be able to be objective about the culpability of another officer’s conduct.”
- The purpose of bill 22-0234, which represents a hard-won legislative victory, is to create civilian oversight. Baltimore City already has police oversight of police via BPD’s Public Integrity Bureau. Effective *civilian* oversight cannot be accomplished if current or former officers are on the PAB or ACC.
- The PAB and ACC members will be selected to ensure they have the traits needed to execute their duties in fair, unbiased, effective, and professional manner, and they will receive extensive training. Therefore, there is no need for former or current law enforcement.

**Potential Amendment 17:** Favorable

**Potential Amendment 18:** Favorable

**Potential Amendment 19:** Favorable

- The language on pages 7-11 of bill 22-0234 is largely duplicative and therefore unnecessary to be included in the bill.
- Regardless, the portion that is not duplicative—Page 8, Lines 17 – 23—must be stricken. The membership requirements set forth on Page 8, Lines 17 – 23 are frightfully restrictive. And I didn’t see any proposed amendments addressing this.

- Sec. 11-10(b)(2)(II)(B) creates shockingly restrictive requirements for membership on the ACC. Under these conditions only former law enforcement, CRB members (and we have been told that we are not eligible to sit on the initial iteration of the PAB or ACC), or human resources managers and mediators would be qualified. This is a tiny sliver of the community and not at all representative of our city or people who have a demonstrated history with law enforcement and law enforcement misconduct.
- Because ACC members will go through extensive training, as laid out in the Police Accountability Act of 2021, there is no reason to limit ACC membership in this way. Again, the Police Accountability Act set out to create civilian oversight, which is wholly negated if former law enforcement are on the PAB or ACC.
- **Either all the ACC language must be struck or these membership restrictions must be removed in favor of the membership requirements for the PAB.**

**Potential Amendment 23** (independent investigations): Favorable

- Under the current form of the bill, the law enforcement agency against which the complaint was filed is the only entity investigating the complaint.
- Therefore, the ACC would only have access to BPD's own internal investigation in determining whether misconduct occurred, and the police would be policing themselves. Not only has this model repeatedly proven to be disastrous in Baltimore City, but it also is not best practices for effective police oversight anywhere.
- The authority to order independent investigations is critical to civilian oversight. Otherwise, the only investigation conducted is completed by another police officer and there is too high a probability that conscious or unconscious bias impacts the investigation. Without an independent investigation there is no third-party to ensure BPD's investigation is accurate.
- On the CRB, I estimate that approximately 20% of our final determinations differ from PIB's final determination, which often reveal significant differences in evidence analysis and policy interpretation. Without an independent investigation, we might not have had the information necessary to make our own independent determination.
- As discussed below, if the ACC language is wholly struck from the bill, then the authority to order independent investigations should be given to the PAB.

**Potential Amendment 24** (independent counsel): Favorable

- Police oversight is ineffectual without some independence from the police department and the entity that oversees the police department—Baltimore City. Under the current draft of the bill, the PAB and ACC would be represented by the same entity that represent the BPD. This is an untenable conflict of interest.
- Other counties have secured independent counsel for the PAB/ACC, including Montgomery County.
- Other city boards already have independent counsel via a memorandum of understanding with the City Solicitor's Office, such as the Baltimore City Liquor Board.
- In my experience on the CRB, we could have benefited from independent counsel on several occasions:
  - When we didn't think we were getting all of the investigative documents from BPD;
  - When we negotiated internal policies with BPD;
  - When we questioned why no new board members are being appointed to the CRB; and
  - Answering our questions regarding CRB's statutory compliance.
  - Before I joined the CRB, the City Solicitor began requiring the CRB members to sign restrictive confidentiality agreements. The CRB refused to sign the agreements because

decreased transparency is the anthesis of police oversight. The CRB scrambled to find pro bono representation to fight the restrictive confidentiality agreements. The CRB was forced to seek pro bono counsel because they were involved in a lawsuit against the same entity that was supposed to represent and counsel them. This is precisely the reason why the PAB and ACC need independent counsel.

Please contact me or any member of the CRB if you have any questions at all. Thank you for your attention to this matter.

Sincerely,

Natalie Novak

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Resident of District 5

Baltimore City Civilian Review Board, Secretary, Northern District