



**Testimony for the Baltimore City Council Rules and Legislative Oversight  
Committee**

**Council Bill 22-0234 An Ordinance Concerning Police Accountability**

**Thursday, June 23, 2022**

The expressed aim of this law was to create new systems of accountability, transparency, and discipline for law enforcement officers in the state. The bill presented to the council, Council Bill 22-0234, outlines Baltimore City's iteration of the Police Accountability Boards (PAB) described in the Maryland Police Accountability Act of 2021 (MPAA). We are pleased to see that the Council has accepted many of the community-backed recommendations proposed by activists and impacted individuals. However, this bill still lacks many of the provisions necessary to create accountability and transparency. In order to honor the intent of the MPAA and create a PAB that is truly representative of the Baltimore City residents, the ACLU of Maryland recommends the following amendments.

- 1. Ensure PAB membership is representative of the city and prioritizes residents most directly impacted by corrupt policing. Eliminate arbitrary exclusions that bar certain individuals from board membership.**

We appreciate the inclusion of lived experience in the section regarding qualifications for membership. However, in order to truly represent the landscape of policing in the city, membership must specifically prioritize community residents most directly impacted by corrupt policing. The creation of trust between law enforcement and the community is incumbent upon the inclusion of those who have witnessed, first hand, the endemic misconduct and lack of accountability within Baltimore City's law enforcement agencies. Additionally, knowledge from individuals with such experiences would be an invaluable asset to the board.

We take particular issue with the provision that excludes individuals who have been convicted of a felony or misdemeanor with a statutory penalty of more than five years. Police officers are responsible for serving *ALL* residents in the community, regardless of their previous encounters with the criminal justice system. These restrictions exclude a large portion of residents from being able to fully participate in the community oversight process. The exclusion of certain individuals based on past criminal history is arbitrary and challenges the legitimacy of a supposedly representative body. Additionally, the City has expressed that it is investing significant resources in community re-entry. The exclusion of returning citizens not

only ignores the benefits of civic engagement in reducing recidivism, it invalidates the City's efforts by treating returning citizens like second class citizens.

We also recommend eliminating the provision that bars employees of the state, city, or any other political subdivision of the state from serving on the board. This provision would bar thousands of otherwise qualified individuals from membership. We recommend creating a more narrow provision to bar individuals who have conflicts of interest, such as employees of public safety agencies or employees of the Mayor's Office. These types of provisions, which protect the integrity of the PAB without excluding large portions of the population, have been implemented in jurisdictions around the state.

The PAB, which is meant to provide a form of external institutional accountability to the public, should be truly representative of the public. Those individuals excluded from board membership are not excluded from law enforcement interaction. As such, they should not be barred from participating in the oversight process.

Additionally, it is antithetical to the principle of community oversight to allow former law enforcement officers and family members of law enforcement officers to serve on the PAB. They should be excluded from PAB membership.

## **2. Independent legal counsel must be hired to assist the PAB.**

As it stands, the bill is silent on the issue of independent legal counsel. A municipal attorney's dual representation of the municipality and the municipality's civilian oversight agency signals a clear conflict of interest. We have seen how a lack of access to independent counsel has hampered oversight efforts in Baltimore City in the past.

Since its inception, the city's Civilian Review Board has had to obtain legal counsel support from the city solicitor's office, the same legal counsel used to defend BPD against allegations of misconduct. This made it extremely difficult for the CRB to ensure their investigations are adequate and their findings responsibly available to the public. The public witnessed this play out in the summer of 2018 when the city solicitor's office tried to force the Civilian Review Board to sign a confidentiality agreement out of concern that their findings would be public and damaging to BPD. The GTTF report and the DOJ consent decree make it clear that this type of inherently limited legal support made it needlessly difficult for the CRB to hold police accountable, inform the public, and focus on their responsibilities. Without access to independent legal support, these issues are bound to continue under the new oversight body.

An effective oversight board simply cannot be represented by the same counsel that represents the Baltimore Police Department. The Police Accountability Board must

have access to independent counsel in order to avoid conflicts of interest encountered by the Civilian Review Board.

**3. Guarantee compensation for board members.**

As the bill stands, compensation for board members is not guaranteed. Per the MPAA and CB 22-0234, the Police Accountability Board's mandate is robust and will require considerable time and effort from board members. In order to fulfill their responsibilities, members will likely have to meet more often than the required quarterly meetings. Without compensation, only those with the financial means to give their time will be able to participate. This excludes much of Baltimore's populace who live paycheck to paycheck and often work multiple jobs. In order for the PAB to be a truly representative body, these barriers to entry must be eliminated through adequate compensation.

**4. Remove language related to the Administrative Charging Committee.**

The membership and structure is already described within HB 670 and is unnecessary.

These recommendations represent critical features of a board that will advance the goals of accountability, transparency and trust within the community. With the July 1st deadline approaching, it is imperative that the council takes these community backed recommendations seriously. Considering the overwhelming lack of trust in law enforcement and the routine failure of law enforcement accountability mechanisms in the city, the need for a robust Police Accountability Board cannot be understated.

The aforementioned amendments present a viable and promising path forward for law enforcement oversight. Moreover, they are supported by community members and individuals directly impacted by rampant police misconduct. The ACLU of Maryland respectfully requests that these amendments are included in the final bill.