

February 23, 2024

Submitted Electronically

Luke Clippinger, Chair J.
Sandy Bartlett, Vice Chair
House Judiciary Committee
House Office Building
6 Bladen St.
Annapolis, MD 21401 - 1991

**RE: HB 732–Baltimore City – Control Over Powers of Police
Commissioner**

Dear Chair Clippinger and Vice Chair Bartlett:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF),¹ we submit this written testimony in support of House Bill 732 (“HB 732”) and Senate Bill 894 (“SB 894”), the Baltimore City – Control Over Powers of Police Commissioner Act. If passed by the Maryland General Assembly, this legislation would amend Baltimore City’s Charter by striking language that prohibits a city ordinance or act, other than from the mayor, from “conflicting, impeding or obstructing the powers of the police commissioner.”² This move would effectively authorize the Baltimore City Council to pass ordinances that provide oversight of the Baltimore City Police Department (BPD), regulating their operation and conduct. For more than a decade, Baltimore City residents have pushed for the Baltimore City Council to have local legislative control over BPD and to increase civilian participation in the oversight and accountability of a city-operated police department. In January 2024, Baltimore City enacted two ordinances to advance the transfer of legislative oversight of BPD to the Baltimore City Council. First, ordinance 23-0449 embeds key general provisions regulating qualifications and appointments within BPD, compensation, labor relations, and apportionment of BPD officers in each district, to the Baltimore City Code, relocating it from the Public Laws of Baltimore. The second ordinance 23-0445 sets forth a charter amendment to establish the objectives, powers, and duties of BPD, the police commissioner, and officers. This charter amendment will be considered by Baltimore

¹ Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. It has been a separate organization from the NAACP since 1957. LDF’s work to address police violence and misconduct dates back to its inception. *See, e.g., Shepherd v. Florida*, 341 U.S. 50 (1951) (reversing the wrongful interracial rape convictions of Black men who were brutally beaten by sheriff’s deputies in an attempt to force confessions). Today, LDF’s Justice in Public Safety Project uses litigation, policy advocacy, research, community organizing, and strategic communications to transform public safety systems, advance police accountability, and prevent and remedy the impact of racial bias in public safety.

² *See* S.B. 894, 2024 Leg., 445th Gen. Assemb., Reg. Sess. (Md. 2024) available at, <https://mgaleg.maryland.gov/2024RS/bills/sb/sb0894F.pdf>

voters in November of 2024. While Baltimore City lost local control of its own police department, law enforcement has engaged in disproportionate misconduct against Black Baltimoreans for generations. Within the context of this history, Baltimore City voters have decisively supported the steps required to complete local control of BPD, and that support is only growing. It thus remains imperative for the Maryland General Assembly to remove the limiting language from the Baltimore City Charter through the passage of HB 732.

I. Baltimore City Residents Must Regain Authority Over its Local Police Department.

Baltimore City residents and officials have studied and debated the transfer of control of BPD for years.³ Unlike all other jurisdictions in Maryland, Baltimore City has had limited power over its police department since the 1860s when state officials took over the city's police force. In the 1850s, Baltimore's police department had been used to execute the political will of the anti-immigrant "Know-Nothing" party, which held a majority control of the Baltimore City Council and Maryland General Assembly.⁴ Yet, in the over 160 years that state officials have controlled the BPD, the agency continues to grapple with corruption, including the criminal acts of the BPD's Gun Trace Task Force.⁵ While Baltimore City taxpayers pay civil settlements⁶ for police misconduct,⁷ the City Council has been unable to adopt laws and policies to hold police officers accountable for misconduct.⁸ Instead, Baltimore City officials and residents have just the 90-day Maryland General Assembly session to ask state officials to enact laws to increase police accountability and other public safety issues that are entirely local to Baltimore City.⁹

³ See Danielle Kushner, *The Community Oversight Task Force's Recommendations for Strengthening Police Accountability and Police-Community Relations in Baltimore City*, COMMUNITY OVERSIGHT TASK FORCE 38 (Aug. 2018), <https://consentdecree.baltimorecity.gov/sites/default/files/Final%20COTF%20Report.pdf>.

⁴ See e.g., George A. Nilson, The Abell Foundation, *The Baltimore Police Department: Understanding its status as a state agency*, 2-3 (March 2019), <https://abell.org/publication/baltimore-police-department-understanding-its-status-as-a-state-agency/>; See also Danielle Kushner, *The Community Oversight Task Force's Recommendations for Strengthening Police Accountability and Police-Community Relations in Baltimore City*, COMMUNITY OVERSIGHT TASK FORCE 38 (Aug. 2018), <https://consentdecree.baltimorecity.gov/sites/default/files/Final%20COTF%20Report.pdf>.

⁵ Justin Fenton, *Baltimore expected to pay \$8 million to settle Gun Trace Task Force lawsuit*, WASH. POST (Nov. 15, 2020), https://www.washingtonpost.com/local/public-safety/baltimore-expected-to-pay-8-million-to-settle-gun-trace-task-force-lawsuit/2020/11/15/d3e8be22-2785-11eb-9b14-ad872157ebc9_story.html.

⁶ The Fiscal and Policy Note for SB 894 does not anticipate this bill to have any material effect on Baltimore City's finance. available at https://mgaleg.maryland.gov/2024RS/fnotes/bil_0004/sb0894.pdf.

⁷ Jayne Miller, *Report details taxpayer payouts in Baltimore police misconduct cases*, WBALTV (Jan. 31, 2020), <https://www.wbalvtv.com/article/report-payout-baltimore-police-misconduct-cases/30733232#>.

⁸ Edward Ericson Jr., *As City Council and public clamor for police body cameras, mayor hires group to clarify questions raised*, BALT. SUN (Nov. 4, 2014), <https://www.baltimoresun.com/citypaper/bcp-as-city-council-and-public-clamor-for-police-body-cameras-mayor-hires-group-to-clarify-questions-rai-20141104-story.html>.

⁹ Even so, attempts to pass laws that regulate BPD fail when introduced in the Maryland General Assembly, such as the 2016-2017 effort to require the BPD Commissioner to notify Baltimore City officials of the development of new tactics, technologies, and devices. See H.B. 58, 2017 Leg., 437th Gen. Assemb., Reg. Sess. (Md. 2017), available at <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0058?ys=2017RS&search=True>.

Black residents in Maryland and Baltimore are disproportionately policed and more likely to be subjects of police violence. In Baltimore, where 63% of residents were Black, 90% of all police use of force incidents were against Black people between 2015 and 2019, whereas just 7.3% of force incidents were against white people.¹⁰ The killing of Freddie Gray in 2015, and the police response to the uprising that followed, demonstrated the urgent need for police accountability and drew the U.S. Department of Justice (DOJ) to launch a pattern or practice investigation of BPD. DOJ's 2017 investigation of BPD found stark racial disparities in the Department's stops, searches, arrests, and uses of force,¹¹ likewise establishing the overdue necessity of immediate corrective action. Following DOJ's investigation, a federal consent decree was agreed to and is still in effect six years later. The Court recently found BPD to be in full and effective compliance of the Transportation and Officer Assistance and Support portions of the consent decree; after achieving sustained compliance for at least one year, BPD can be released from those provisions of the consent decree. Nevertheless, reaction from community members to the Court's finding suggests there is much more work to be done: "We remain weary about the progress made on other central provisions of the consent decree like stops, searches, and arrests; use of force; and youth interactions. Lack of progress in these areas contributes to the culture that leaves residents feeling as distrustful of the Baltimore Police Department as they did in 2015 when Mr. Gray was killed."¹² The transfer of oversight authority of BPD to the Baltimore City Council is vital to ensure that the people of Baltimore have access to and a greater voice in the kinds of accountability measures that BPD ultimately adopts pursuant to the remaining portions of the consent decree.

To be sure, measures to reform BPD's policies are underway, as mandated by the federal consent decree, and community engagement is one of the centerpiece reforms that is required. Specifically, Baltimore City and BPD are required to "develop and implement community-engagement plans for creating opportunities for routine and frequent positive interactions between officers and community members, including those critical of BPD."¹³ Some requirements of these community-engagement plans include "outreach in all neighborhoods, including neighborhoods where no neighborhood association has been established to provide consultation and input to BPD"¹⁴ and "collaborat[ion][, where feasible, with neighborhood mediations in Baltimore that promote lasting resolutions of appropriately selected disputes among community members to reduce police involvement in these disputes."¹⁵ Once control of

¹⁰ AMERICAN CIVIL LIBERTIES UNION OF MARYLAND, CHASING JUSTICE: ADDRESSING POLICE VIOLENCE AND CORRUPTION IN MARYLAND, 15, (Jan. 2019), <https://www.aclu-md.org/en/publications/chasing-justice-addressing-police-violence-and-corruption-maryland>.

¹¹ *Investigation of the Baltimore City Police Department*, U.S. Dept. of Justice Civil Rights Div. (Aug. 10, 2016), https://static1.squarespace.com/static/59db8644e45a7c08738ca2f1/t/59db9c97cd39c33ffea89afe/1507564699528/bpd_findings_8-10-16.pdf.

¹² Campaign for Justice, Safety & Jobs, *Reaction to the move to terminate provisions of DOJ's consent decree with BPD* (Feb 6, 2024) <https://www.facebook.com/justicesafetyandjobs/>

¹³ Consent Decree, *United States of America v. Police Department of Baltimore City, et. al*, ¶ 19 <https://www.justice.gov/crt/case-document/file/925036/download>.

¹⁴ *Id.* at ¶ 19(f).

¹⁵ *Id.* at ¶ 19(g).

BPD is transferred to Baltimore City Council, the City Council will be able to play a greater role in facilitating community engagement, so BPD may hear from all residents, as the City, DOJ, and the monitoring team continue to push BPD closer to substantial compliance with all of the terms of the consent decree.

II. The Baltimore City Senate Delegation Must Pass SB 894 to Transfer Control of BPD to Baltimore Pursuant to the Will of the People.

For decades, Baltimore residents have sought oversight of BPD. Baltimore's Civilian Review board was established in 1999, long before many other municipalities in Maryland established similar, yet less authoritative, police accountability boards through statewide legislation in 2021.¹⁶ In 2021, the Maryland General Assembly also enacted legislation to transfer control of BPD to Baltimore City if Baltimore residents voted in favor of the measure.¹⁷ In 2022, Baltimore residents overwhelmingly voted in favor of transferring control of BPD to Baltimore City.¹⁸ Of the 130,000 Baltimore residents who voted, over 82% supported ratification of the charter amendment that transferred BPD from state control to a city agency.¹⁹

Though the Maryland General Assembly's work to advance Baltimore City Council's local control of BPD remains undone, in 2023, we were encouraged by the representation of City and City Councils officials, that supported the city ordinances, that will effectuate local control of BPD. Now that the Baltimore City Council, informed by the work of the Local Control Advisory Board, has established the scope of the powers and duties of BPD and streamlined local laws governing essential BPD structures, hiring policies, and processes, we hope Maryland General Assembly Members will eagerly support HB 732 and SB 894. We thus urge this committee to work expeditiously and collaboratively to pass HB 732 and bring Baltimore City residents one step closer to local control of BPD.

In sum, we strongly urge the House Judiciary Committee to support and make every effort to pass HB732 894, to advance this long-sought change. While state legislatures²⁰ and even the U.S. Congress²¹ have sought to disempower plurality Black cities, the Maryland General

¹⁶ Fern Shen, *Civilian Review Board Bill Aims to Protect Key Powers Needed to Hold BPD Accountable*, BALT. BREW, (Feb. 16, 2022) <https://www.baltimorebrew.com/2022/02/16/civilian-review-board-bill-aims-to-protect-key-powers-needed-to-hold-bpd-accountable/>.

¹⁷ See S.B. 786, 444th Leg., Maryland Police Accountability Act of 2021 – Baltimore City – Control of the Police Department of Baltimore City (Md. 2021), https://mgaleg.maryland.gov/2021RS/chapters_noln/Ch_133_sb0786E.pdf.

¹⁸ Official 2022 Gubernatorial General Election Results for Baltimore City (last accessed Feb. 17, 2023) https://elections.maryland.gov/elections/2022/general_results/gen_qresults_2022_by_county_3.html.

¹⁹ *Id.*

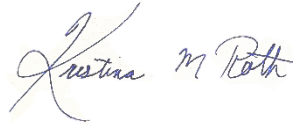
²⁰ Ann Brown, *Mayor Of Jackson, A Tuskegee Alumnus, Says Mississippi Legislature Move Is 'Colonization' and a Takeover*, Moguldom Nation (Feb. 28, 2023), <https://moguldom.com/438397/mayor-of-jackson-a-tuskegee-alumnus-says-mississippi-legislature-move-is-colonization-and-a-takeover/>.

²¹ Press Release, LDF Urges President Biden to Veto Resolution to Strike Down Washington D.C.'s Police Reform Act, Express Disappointment at Veto of Revised Criminal Code (Mar. 28, 2023), <https://www.naacpldf.org/press-release/ldf-urges-president-biden-to-veto-resolution-to-strike-down-washington-d-c-s-policing-reform-act-expresses-disappointment-at-veto-of-revised-criminal-code/>.

Assembly has a chance to buck this wrongheaded trend and empower Baltimore residents to regain local control of BPD through the Baltimore City Council.

Thank you for considering our testimony. If you have any questions, please do not hesitate to contact us at kroth@naacpldf.org.

Sincerely yours,



Kristina Roth
Senior Policy Associate

Jin Hee Lee
Director, Department of Strategic
Initiatives