

TESTIMONY in Support of SB 441
Baltimore City - Civilian Review Board

TO: Chair Smith, Vice Chair Waldstreicher, members of the Judicial Proceedings Committee
FROM: Matt Parsons on behalf of Baltimore Action Legal Team

My name is Matt Parsons, and I am the Community Lawyer at Baltimore Action Legal Team (BALT). I submit this testimony in favor of Senate Bill 441. Since 2015, BALT has been committed to educating community members about their rights and ensuring access to public records like police misconduct investigations.

Senate Bill 441 offers the City of Baltimore a way out from an ongoing conflict of interest regarding its current legal representation of the CRB. This conflict of interest has substantially interfered with the CRB's aim to hold police officers accountable for misconduct. Specifically, the bill will allow the CRB to retain independent legal counsel to represent its interests as an independent agency separate from the City of Baltimore. In its current form, the CRB is represented by the Baltimore City Law Department (BCLD), which simultaneously represents the divergent interests of the Baltimore Police Department (BPD). Not only is this an inherent conflict of interest on its face, but also the unlawful conduct of the BCLD and BPD demonstrate this conflict poses concrete, material harm to the CRB's work.

CRB members consistently complain they do not receive citizen complaints at all or in a timely manner. In the past, the City Solicitor has pressured CRB members to sign a confidentiality agreement to protect the reputation of the BPD; members who refused to sign were then rejected access to complaints against BPD officers. Between 2013-2015, the BPD failed to forward more than two-thirds of police misconduct complaints received at their station to the CRB. Complaints have been withheld from the CRB for over twelve months, rendering them moot, in an illicit attempt to shield the BPD from accountability to the public whom it purports to serve. Such conduct is unlawful under Maryland law, and creates the exact kind of conflict of interest considered impermissible under the Maryland Attorneys' Rules of Professional Conduct. If the CRB remains under the legal counsel of the BCLD, its ability to meaningfully provide justice to the public will suffer, even with the additional jurisdiction and powers SB 441 would provide.

We know that the City Solicitor has three points of legal contention against the bill.

First, the City Solicitor states that under the City Charter the Mayor has the sole power of appointment of municipal officers, which includes members of boards such as the CRB. However, SB 441 does not pertain to the hiring of CRB "members" as considered under its enacting statute, which expressly lists the types and number of members to serve on the Board. SB 441 only allows the CRB to hire additional staff members to assist with its functions, while retaining the same process through which the Mayor selects and the City Council approves prospective "members".

Secondly, the City Solicitor avers the CRB is not an independent legal entity, and does not have the power to sue or be sued, nor to retain independent legal counsel. This contradicts settled law which the Court of Special Appeals established in 2006: "*The CRB is not an agency of the Mayor and City Council of Baltimore City or the BCPD. It is an independent entity created by the General Assembly to advise the*

Police Commissioner on matters of police discipline arising from complaints of abusive language, harassment, and use of excessive force" (emphasis added).¹ Even if viewed as an unincorporated association, the CRB is an independent agency with the legal ability to sue and be sued, and retain independent legal counsel on its behalf. This ability is not merely expedient: "Political independence is necessary for civilian oversight to be seen as credible and legitimate."²

Finally, the City Solicitor maintains that SB 441's provision allocating funding to the CRB from the Baltimore City annual budget is an unconstitutional overreach of the General Assembly's powers regarding a public local law. However, similar public local laws require the City of Baltimore to appropriate funds to other state agencies such as the BPD. Public Local Law § 16-38 states in pertinent part, the Mayor and City Council of Baltimore "*shall... appropriate annually a sum of money for the relief of disabled, and superannuated members of the police force of Baltimore City,*" as well as others identified in the statute (emphasis added). The City Solicitor's legal assertion is inconsistent with the existence of such public local laws, yet their position does not surprise. The City's willingness to allocate substantial funding to the BPD, coupled with the BCLD and BPD's misconduct toward the CRB, reveals their deep loyalty to the status quo and bias against police accountability.

Without this legislation Baltimore will be forced to create a Police Accountability Board as outlined in The Speaker's 2021 bill HB 670, as well as maintain its Civilian Review Board as outlined in 1999's SB 747. This would be a colossal waste of city resources, would continue to leave the CRB without independent counsel, and would deprive the public of meaningful recourse for police officer misconduct. Therefore, I urge a favorable report on SB 441.

¹ *Wilbon v. Hunsicker*, 172 Md. App. 181, 199 (2006) (citing Pub. Local Laws of Md., Art. 4, §16-42).

² Community Oversight Task Force, The Community Oversight Task Force's Recommendations For Strengthening Police Accountability and Police-Community Relations in Baltimore City, pg. 19, June 30, 2018.