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SB 441

February 16, 2022

TO: Members of the Judicial Proceedings Committee
FROM: Natasha Mehu, Director, Office of Government Relations
RE: SB 441 - Baltimore City - Civilian Review Board
POSITION: OPPOSE

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **opposes** SB 441.

In 2021 the legislature passed sweeping police reforms that were historic in nature. The passage of the Maryland Police Accountability Act presented the State, City, and other local jurisdictions with the opportunity to transform police accountability. The BCA is excited to embark on this transformation and further increase civilian participation in the discipline and accountability process. However, we oppose SB 441 as (1) the bill undermines Baltimore City's local authority; (2) it creates an unworkable framework; and (3) the BCA already fully intends to comply with the reform requirements while honoring the spirit of the Civilian Review Board, locally.

Local Authority

The 2021 reforms repealed the Law Enforcement Officers' Bill of Rights and established a new statewide accountability and discipline process for police officers that importantly incorporates civilians in the process. They carefully balanced statewide uniformity and local authority by mandating local jurisdictions to establish Police Accountability Boards (PAB), Administrative Charging Committees (ACC), and Trial Boards but requiring the specifics for shaping the boards to fall to the local jurisdictions through their local ordinance processes.

SB 441 removes the ability for Baltimore City to implement a local ordinance to establish these boards. Last session, the BCA fought hard to pass a bill that would enable Local Control of the Baltimore City Police Department. This was the Mayor's top priority and had been 10 years in the making. From BCA testimony on SB 786 (2021):

“Baltimore City is the only jurisdiction in Maryland that does not directly oversee its police department...Transferring control of the BPD to Baltimore City would enable City residents and local elected officials the ability to set policies and provide oversight without advocating for reform through state representatives. It would simply put the City in same posture as comparable jurisdictions in Maryland.”

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Rather than enable the City to lead transformation efforts, SB 441 maintains the status quo. While the 23 counties and 156 municipalities across the state will have the authority to establish these boards through their local council process with weigh in from their respective residents, Baltimore City would be held to a different standard where the General Assembly would continue to serve as the gatekeeper for the City. Local residents would be prevented from having direct say in the establishment process through their local elected officials. If issues with implementation should arise, the Mayor and City residents would have to wait for the 90-day General Assembly Session window to request changes from State elected officials unlike our counterparts who would be able to address any issues that arise locally.

Framework Concerns

Accountability and discipline of police officers in the face of public complaints should be taken seriously and should involve civilians in a greater capacity that is currently afforded to them. But the process and oversight of how that is done should be carefully considered and overseen lest it creates unintended consequences. The volume of police complaints in Baltimore City is significant – significantly more than the current Civilian Review Board (CRB) was designed to handle. SB 441 tries to rectify concerns raised about funding and independence but does so in a way that creates new problems.

SB 411 creates an unfunded mandate on the City as it requires no less than 2% of the Baltimore Police Department’s budget to go to the Boards operations. To the BCA’s knowledge, the funding level was arbitrarily determined and is not based in, or in consideration of, the City’s budget and budgeting authority. Additionally, the City would be mandated to fund the Board but would have no oversight over its work or its employees. Finally, it would grant the board the ability to sue and be sued – an authority that cannot be granted as they are a permanent statutory agency of the City and would not have the legal capacity to sue or be sued separately from the City.

Next Steps on Implementing Reform

Historically, Baltimore City has been at the forefront of civilian accountability as the Civilian Review Board (CRB) was established in state law 20 years ago. It replaced the Complaint Evaluation Board (CEB) which did not include citizens. As such the establishment of the CRB was groundbreaking for its time. We respect the work and history of the CRB and understand the challenges it has faced under past Administrations since its creation. Like the move from the CEB to the CRB, the ability to establish the trifecta of local accountability boards under HB 670 (2021) that mandate civilian involvement should not be seen as an affront to the existing CRB but an opportunity to take what was started by the Civilian Review Board to the next level *locally*.

Mayor Brandon Scott was elected on a platform that included building public safety and ensuring there is transparency and accountability in government. The BCA stands ready to ensure that these two important directives are kept in mind as we work in partnership with the council, residents of the City, and interested stakeholders to locally establish a PAB, ACC, and Trial Board that meets the requirements of police reform, engages the public, and honors the spirit of the CRB.

For these reasons, the BCA respectfully requests an **unfavorable** report on SB 441.