



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Jill P. Carter
In Favor of SB285 - County Police Accountability Boards –
Investigation of Complaints of Police Misconduct
Before the Senate Judicial Proceedings Committee
On February 14, 2023

SB-285 will authorize a local governing body of a county (including Baltimore City) to authorize the local Police Accountability Board (PAB) to exercise investigative and subpoena powers; and conduct investigations of police conduct concurrently with a law enforcement agency investigation.

In 2021, the General Assembly, recognizing the need and benefits of a police accountability board, passed HB0670, also known as the Maryland Police Accountability Act (MPAA). The MPAA, among other things, mandated the formation of PBAs in each of Maryland's 23 counties and Baltimore City. The purpose of the PAB is to provide *independent*, community-controlled oversight into police misconduct.

The MPAA, however, does not permit PABs to provide *independent*, community-controlled oversight into police misconduct. For example, Section 3-104(e) of the MPAA does not authorize the PAB to conduct investigations or have subpoena power. Instead, the PAB must rely upon the results of the local police department's investigation of its own. Accordingly, PABs have little power, if any, to fully investigate facts; thereby effectively preventing them from fulfilling their mandate, *i.e.*, to provide *independent*, community-controlled oversight into police misconduct.

The main function of PABs is to assess the quality of internal police investigations of alleged police misconduct. However, without investigative and subpoena powers, PABs are hamstrung and unable to fulfill their role. One of the essential purposes of a PAB is transparency. There have been several instances throughout Maryland where local police departments have failed and/or refused to properly investigate claims of excessive force and other police misconduct.

For example, the Graham report issued in 2021 found that the Prince George's County Police Department routinely failed to respond to internal and external complaints of harassment, discrimination, and use of excessive force. The Baltimore Police Department is under a consent order resulting from its failure to properly train and discipline its officers. According to the Department of Justice, the Baltimore Police Department's procedures to investigate such claims were both inconvenient to the public and wholly inadequate.

Simply stated, the public cannot rely upon the police to investigate themselves. We all have witnessed incidents of police misconduct caught on video, but the police reports of the same event provide a completely different account. For example, the reports submitted in the recent Tyree Nichols case were substantially different from appeared on video. If that video did not exist, and the PAB had to rely upon the police department's account, the truth of what happened may have never be known.

SB-285 closes gaps left behind in the 2021 MPAA. By providing subpoena and investigatory powers, PABs will no longer be forced to take police investigations at face value. Rather, they will be able to investigate simultaneously with police internal investigators to reach the most honest and accurate response, and to prevent and rectify misconduct, instead of simply awaiting the results of internal investigations from police.

Since 1973, the City of Berkley, California has a citizen review board that has subpoena and investigatory powers to investigate complaints of police misconduct simultaneously with the police department, rather than sequentially. Berkley's system has worked successfully for forty (40) years. Maryland can and should do the same.

When the General Assembly passed the MPAA, it was hoped that counties and local jurisdictions would do what is best and appropriate to empower PABs That, however, did not happened. Granting PABs with subpoena and investigatory powers will restore confidence in police misconduct investigations and the much-needed transparency in the entire investigative process. PABs need the tools ensure that police departments in Maryland are using the best possible practices, as well as ensuring safety and accountability for the citizenry.

Maryland counties, local jurisdictions and police departments do not want PABs to have such power and have repeatedly opposed such legislation. One should ask the question: "Why?" Is it because an independent and transparent investigation will expose the jurisdiction to civil liability for its failure to train and discipline its officers? Are they concerned about a DOJ investigation? Is it because they simply want to protect their officers who engage in misconduct? If any of these reasons are true, it is an illegitimate reason to not to give PABs subpoena and investigative power.

For these reasons, I urge the committee to give a favorable report on SB-285.

Respectfully,



Jill P. Carter