



PUBLIC COMMENT:
CIVILIAN REVIEW BOARD (CRB)
ON THE
PRELIMINARY REPORT OF THE
CIVILIAN OVERSIGHT TASK FORCE (COTF)

The CRB Supports Fully Empowered Civilian Oversight for the People of Baltimore City.

Strong civilian oversight is both critical and long overdue for Baltimore City. The Board and staff, recognize that a fully empowered civilian oversight body requires robust authority, independence and resources to be effective. The CRB would lend full support to any entity seeking to improve the quality of civilian oversight. Since its inception in 1999, the CRB has been hindered by inadequate funding, insufficient resources, crippling legislative impediments, and lack of cooperation from the Baltimore Police Department (BPD). In June 2017, the Board was fully appointed, for the first time since its inception, with members driven and committed to fulfill the call to serve the people of Baltimore in this watershed moment and effect positive change.

While the CRB echoes the COTF's call for urgent, sweeping, reforms of civilian oversight, we must highlight glaring inadequacies and factual inaccuracies contained in COTF's Preliminary Report. In so doing, we must note that COTF failed to make concerted efforts to thoroughly review the existing system and operations of the CRB in a manner necessary for holistic understanding. The existing CRB is capable to carry out the work necessary for effective civilian oversight once adequate resources are mandated and legislative impediments are removed. We urge the immediate allocation of resources and advocacy efforts by all parties, and stakeholders, necessary to strengthen the existing CRB.



The COTF contends: ‘the CRB in its current form “has very little, if anything, to offer Baltimoreans’.

(COTF Prelim. Report: ¶ 2 , page 24)

This averment is reductive and inaccurate. The existing CRB provides value:

Even in its underfunded and legislatively impaired state, the Civilian Review Board is a vital community resource.

- The Board provides a safe, neutral space where civilians can go to file their complaints and gain information about the process for investigating claims of police misconduct.
- Independent CRB investigations are rooted in impartiality, and CRB’s investigators are often able to gain additional testimony due to the fact that their status as civilians engenders more trust in community members.
- Monthly Board meetings provide integral forums where members of the public can come to ask questions, learn more about police practices, and give voice to community priorities and concerns.
- The Board has proven to be a formidable watchdog in identifying and pushing back on policies, systems and structures that impede its work. The Board has gained community trust through its consistency in being both vocal and transparent in its operations and advocacy.
- The Board is responsive to community needs. On November 30, 2017, the CRB took the initiative to hold a forum to hear community concerns regarding the police presence in Harlem Park following the death of Detective Sean Suiter. The CRB has developed, and will implement, a community outreach plan to further connect the CRB to community partners and service providers for vulnerable populations to expand their outreach and make the CRB as accessible as possible.
- Through keeping records of officers with multiple complaints, as well as demographics, area specific reports and significant events, the Board serves as a community clearinghouse for crucial data.



The challenges as listed by the COTF report stem solely from legislative and resource impediments. The CRB itself is neither ineffective nor illegitimate. It is obstructed. The obstacles that the COTF has outlined in its report are important points of focus, but a more communicative relationship with CRB and diligent review of the CRB's daily functions would have provided the necessary background for a more holistic presentation.

- The CRB agrees that greater independence of staff would serve to further enhance the independence of the CRB. The COTF charge that the CRB is not independent, due to the fact that the agency head is appointed by the Mayor, does not account for the fact that the Board is comprised of unpaid volunteers. Thus, the Board itself is independent.
- Although complaint classification has been a historical problem faced by the CRB, the Consent Decree seeks to resolve the issue per ¶ 339 (b) which states “The CRB will have information sufficient to determine whether a civilian complaint falls within the jurisdiction of the CRB, regardless of its source or initial classification”. The CRB has been working proactively with the DOJ, Independent Monitor, and Office of Professional Responsibility to adapt current protocols to meet that requirement.
- Per its governing statute, the CRB is empowered to subpoena any witness other than the accused officer, or the production of any book, record or other document it deems necessary. The CRB could benefit from independent counsel to effectively utilize this power, in addition to the added legal authority to subpoena subject officers.
- With respect to authority and transparency, legislative changes to both LEOBR and the MPIA are needed to resolve those issues. The CRB has the will and motivation to enforce its recommendations and hold officers accountable while simultaneously keeping members of the public informed and involved. The missing piece is not a new agency, but new and updated laws that serve civilian interests.
- The full measure of comprehensive legislative changes needed to holistically empower the Board can be found clearly outlined in the Board's report, “15 Recommendations to Make the Civilian Review Board Effective” (attached and available at civilrights.baltimorecity.gov).



The COTF contends: The CRB is “beyond repair”.
(COTF Prelim Report: ¶ 1, page 25).

This averment is inaccurate. The current structure of the CRB can easily be repaired and enhanced by removing the legislative impediments and allocating sufficient resources.

The CRB’s limitations are entirely grounded in legislative impediments. All stakeholders, including COTF, should use energy, efforts and resources on improving the existing CRB rather than the laborious undertaking of creating two new agencies.

- The COTF’s idea to create a PAC and COPA would require new legislation to authorize the creation of these agencies, followed by staffing and appointment, development of new budgetary and administrative structures, the development of policies and procedures, etc. All of these pieces already exist in the current Board, and only need enhancement. **In fact, many of COTF’s recommendations for the COPA, including a complaint tracking system and the development of cooperation protocols between BPD and CRB, will be accomplished for the CRB through the implementation of the court enforceable Consent Decree.**
- Even if the PAC were established by the City Council, it would not be able to replace the CRB since the CRB is created by a state statute. The power of civilian oversight being grounded in state statute is that it guarantees that it cannot be overridden by state legislation, including LEOBR. In a similar vein, the COTF’s recommendation to place the Baltimore Police Department under City control would not mitigate the fact that the LEOBR applies to all law enforcement entities in the state of Maryland, and that MPIA stymies civilian oversight efforts for transparency. These legislative changes would be necessary regardless of any restructuring in the BPD or any new agency created. The existing CRB could as easily be made exempt from LEOBR, as could a newly created, currently non-existent COPA. The CRB has laid out how the flawed CRB statute can best be enhanced, as outlined in “15 Recommendations to Make the Civilian Review Board Effective”. The solution lies in improving the existing statute, rather than creating a new one.



- While the CRB supports the COTF's focus on racial equity, the Civilian Review Board's position within the Office of Civil Rights gives it access to an additional staff of fully trained equity and inclusion experts through the Community Relations Commission.

While the CRB supports the idea of a single body doing investigative work and replacing IAD, the COTF's proposed structure is unwieldy, unlikely to garner stakeholder support, and would not provide adequate staffing resources. The CRB should have an expanded, well-resourced, professional staff, and the Board itself should be made up of civilian representatives (smart, committed, diverse, and resourceful). The CRB should be independent of other city departments and agencies.

- The inclusion of 25 members of the PAC would create an unnecessarily large and unwieldy Board that would make the scheduling and conduct of meetings difficult. This large number of Board members would create additional administrative staffing needs as well.
- The COTF report does not specify the number of staff that would be assigned to a COPA. This is an important factor because alongside technology, adequate staffing is a critical piece that the Board is currently missing. The CRB agrees with the inclusion of policy analysts, complaint navigators, and community engagement personnel to support civilian oversight work. However, we'd seek to ensure that, along with investigative staff, these additional staff would be provided in sufficient number. Since the proposed COPA would be city funded and therefore a City agency, it is unclear how the hiring committee and discharge processes would work with the processes required by the Department of Human Resources.
- The role of community engagement, while ideally supported by staff, is best undertaken by the CRB, as representatives of the communities we serve. The CRB members' status as unpaid volunteers further supports our independence in voicing community needs.
- The CRB supports the recommendation for professional staff to have full and immediate access to all BPD records.
- While the CRB supports a guarantee of 3% of the Baltimore Police Department's annual budget, the COTF recommendation that the proposed COPA should submit an annual budget request to the Mayor is confusing, especially given that the proposed COPA is deemed to be independent of



City leadership. In addition, a guaranteed budget is not a budget that is free from constraints. Any funding provided by the City would still require approvals from the Baltimore City Department of Finance prior to spending decisions on resources and the addition of staff positions.

- The Board supports a more independent administration, but there is indisputable value to housing the Civilian Review Board within the Office of Civil Rights. Creating an independent Director's position, much like the recently proposed charter amendment for the Inspector General's Office, would allow for full staff independence while maintaining needed access to City resources.
- It seems unlikely that the City, Independent Monitor and DOJ would seek to abolish BPD's internal investigative division after spending significant time and resources in reforming it. Many of CRB's administrative impediments, specifically lack of cooperation and access to evidence from BPD, are being proactively explored and overseen by the DOJ and Independent Monitor through this process.

The COTF Preliminary Report failed to adequately describe current daily CRB operations and did not reveal a comprehensive understanding of its functions. The report contained several factual inaccuracies about the CRB's work, addressed as follows:

- The COTF report contends "civilian oversight of the police is largely exercised through the CRB" (p.20 ¶ 3). As the sole civilian oversight entity in Baltimore City, civilian oversight of the police is solely exercised through the CRB.
- In listing the entities within CRB's jurisdiction (p.21¶ 1), the Environmental Police (formerly Watershed Police) are omitted.
- The COTF report contends that, although the CRB is limited to five categories of complaints within its jurisdiction, "the Consent Decree is requiring the investigation of more categories" (p.21¶ 1). The Consent Decree does not detail any process or expectation for expanding CRB's jurisdiction beyond the five categories.
- The COTF report's description of CRB's potential findings (p.21¶ 2) erroneously contends that the CRB may refer a complainant to mediation upon review of the completed investigation. Complainants are briefed on the option to seek mediation upon intake. If a complainant chooses



mediation, the attempt to mediate the complaint is completed before the complaint is referred to the Board. Referral to mediation is not an option as a Board finding. The list of findings and their correct definitions are found in the CRB's governing statute, PLL § 16-46 (c).

- It should be noted that in addition to the CRB's disciplinary recommendation, the findings and reasoning are sent to the Police Commissioner as well.
- The COTF report noted that "existing structures do not allow the community to weigh in on BPD policies, procedures, or practices in any way" (p.25¶ 1). The existing CRB is statutorily empowered to make policies recommendations and is completely amenable to community input.

The section of the COTF Preliminary Report outlining transitional reform for the CRB is sparse, and additional details are needed about bridging that gap. Board members would like to see a focused plan with set timelines and deliverables on how the current CRB can be empowered.

The CRB needs additional staffing and technological resources.

- The Board agrees with the COTF's recommendation that the CRB be provided with a minimum budget of 3% of the police department's annual operating budget. Based on 2018 budgetary numbers, this would net the CRB a budget of \$14.8 million. This is significantly less than the police department's recent request for \$21 million to cover their overtime shortfall, which was rejected by City Council.
- In addition to this minimum budget, the CRB posits that staffing guarantees based on caseload best practices are essential. As an example, San Francisco's Department of Police Accountability is guaranteed a minimum of one investigator for every 150 police officers.
- Given the recent decision by City Council to reject BPD's \$21 million request (July 23, 2018), stakeholder support groups could go before the City council at their September meeting to request that these funds be diverted to the Civilian Review Board by January of 2019.
- With respect to technological and staffing resources, the Department of Justice has assessed and advised the CRB, and there is ongoing interaction among the Parties to address the gaps in the CRB's operational shortfalls. The CRB would support COTF in recommending that the



recommendations of professional assessors be fully implemented with City funding and support no later than January 2019.

The CRB needs full and timely access to police records and information.

- While the CRB is currently participating in the ongoing process of collaborating with the Parties in the Consent Decree to gain access to information, additional advocacy and stakeholder support is necessary.
- The development of policies and protocol to govern CRB's relationship with OPR and ensure the timely delivery of information is a dynamic and ongoing process. With full City and community support to push these efforts forward and further seek immediate and unobstructed access to police information, the Board should have this access by January of 2019.

The CRB needs Independent Counsel vetted and chosen by the Board to represent them.

- The Board believes that as a measure of full independence, it is necessary that we be provided resources to appoint our own independent counsel that counts the CRB as their sole client.
- The significant increase of the CRB's budget as outlined above could support this activity and see the Board with independent legal counsel by March of 2019.

While the Board appreciates COTF's invitation to work together on implementing needed reforms, the Board's prior relationship with the COTF was one marked by a lack of trust and transparency.

- In the CRB's first official meeting with the COTF, Board members were refused answers to questions about the COTF's work and progress, and were met with outward hostility by former chair.
- The sparse interactions with members of the COTF between that meeting and the publishing of the report, further illustrated by the above mentioned factual errors, have left the Board skeptical of whether a productive partnership between the two entities could be forged.
- The CRB notes that while our relationship was strained with the COTF, COTF was actively engaged in communication and collaboration with BPD. While the report includes 3 pages on transitional reforms for CRB, it includes 15 pages recommending technological enhancements,



programs, and strategic plans to support the operations of BPD. While the Board supports enhancements to any agency that ultimately benefit the community, given the CRB's history of being under resourced as BPD's budget and resources grow, this creates serious concerns for the Board.

- This report seems to indicate that early on in the process, after minimal interaction with CRB, the COTF chose to recommend an entirely new system of oversight, thereby de incentivizing thorough review of the CRB's operations.

The Civilian Review Board of Baltimore City has the full potential to carry out the effective civilian oversight that the City of Baltimore needs. Current Board members and staff have the expertise and the experience to work together with stakeholders, legislators and community members to make the necessary changes to the landscape of civilian oversight. The Board is poised to hold the Baltimore Police Department accountable for maintaining high professional standards and serving community priorities, but it needs resources and legislative changes to do so. The CRB would counter the COTF's recommendations with the recommendation that the Board be given the short term resources it needs as outlined above by January 2019, while legislative efforts are focused on necessary changes to the LEOBR, MPIA, and CRB governing statute. One year after these changes are accomplished, the Board's efficacy can be assessed by robust community input and a qualified, independent auditor, who would be charged with evaluating the Board's operations and the recommendations of the COTF report to determine whether any further changes are needed.

Respectfully Submitted,

Bridal Pearson,

**Chairman,
Baltimore City Civilian Review Board
(CRB)**