

Silver Spring, MD
January 7, 2022

Montgomery County Council
Rockville, MD
(submitted online)

Dear County Council Members:

I appreciate this opportunity to provide testimony on MC Bill 49-21 (Enabling Legislation for Police Accountability Board and Administrative Charging Committee). I was surprised to see that our county executive created this bill with little input from community members and trust that you will involve more diverse voices going forward. In particular, I recommend that you listen to the voices speaking through Action in Montgomery, The People's Community Baptist Church, and the Silver Spring Justice Coalition.

In concert with the global outcry over the vicious murder of George Floyd and the forward-thinking provisions of the Maryland Police Accountability Act (HB 670, MPAA), which was enacted in the 2021 Legislative Session, I am pleased to see that you are considering local legislation to create meaningful citizen oversight of the Montgomery County police department. Civilian oversight is just part of the broader set of structural changes needed to better align our law enforcement resources to make our County a more perfect union.

I am a lay person with no special knowledge about how to mend the broken parts of our policing system but have found some hopeful information via the internet that can inform your urgent legislative work. While not a panacea for the horrors of racism, building transparent accountability systems should become a standard practice at every level of government, as we seek to reframe the relationship between Black Americans and predominately white power structures.

The National Association for Civilian Oversight of Law Enforcement (NACOLE) has a wealth of information on their website: <https://www.nacole.org/>. In addition to a sobering letter about the killing of George Floyd, they describe the benefits of civilian oversight and thoroughly address a list of frequently asked questions that can provide talking points for your members and constituents. Furthermore, NACOLE released a succinct list of recommendations on June 2, 2020 for local, state, and federal policymakers in their press release titled, "Civilian Oversight of Law Enforcement Necessary for Meaningful Reform" as listed below and available at the following weblink: https://d3n8a8pro7vhmx.cloudfront.net/nacole/pages/1/attachments/original/1591134883/NACOLE_Floyd_Press_Release_FINAL_20200602.pdf?1591134883:

- 1. To start, NACOLE strongly recommends that the U.S. Department of Justice once again conduct systematic and thorough pattern-or-practice investigations.*
- 2. We strongly recommend that legislatures repeal laws that conceal police disciplinary records from public view.*
- 3. We strongly recommend changes to state licensing laws and the mandatory use of a national de-certification index to prevent bad officers, terminated from one police force, from getting a job at another.*

4. *We strongly recommend that state and local laws and law enforcement policies and procedures require the greatest possible transparency of internal processes, community inclusion, and strong accountability mechanisms.*
5. *We strongly recommend that oversight entities have unfettered access to department data and records, personnel files, and police, jail, and prison facilities, so that they can carry out their existing mandates.*
6. *We strongly recommend that oversight agencies have the authority to investigate, take testimony, audit or review internal investigations or processes, and make policy recommendations that will allow law enforcement departments to begin to serve communities in a truly just and unbiased way*

Montgomery County's civilian oversight authority should be a practical mechanism to help 1) protect civil rights by revising individual cases or patterns of potential civil rights cases, such as the use of excessive force and racial profiling; 2) ensure greater accountability and compliance with existing laws; 3) build bridges between police forces and communities; 4) increase public trust and confidence in the police; 5) support effective policing by fostering public cooperation with law enforcement; and 6) help municipalities and agencies manage risk from lawsuits claiming unlawful actions by individual officers or departmental failures. In your legislation, please state the County's intent to evaluate the effectiveness of the new civilian oversight board so we can learn what is working and what needs to change over time.

NACOLE's FAQs address critical issues that must be discussed locally here in Montgomery County if we are to generate the widespread political and public support needed to establish and sustain an effective oversight board. Please address these topics in your anticipated hearings and rule-making processes.

- [What are the benefits of police oversight?](#)
- [Oversight Models: Is one model better than another?](#)
- [What are the features of an effective police oversight body?](#)
- [What are the steps a community should take in establishing effective police oversight?](#)
- [How can NACOLE help community members/city officials implement or improve oversight?](#)
- [What should the qualifications and training be for oversight practitioners?](#)
- [What types of complaints should be accepted?](#)
- [Is it necessary for an oversight authority to conduct investigations?](#)
- [Who should make the final determination as to whether the allegations in a complaint should be sustained and what corrective actions, or disciplinary measures should be imposed?](#)
- [Should the oversight entity have subpoena power?](#)

Another credible third-party information source is The Urban Institute, which published a short article titled, "Are civilian oversight agencies actually holding police accountable?" at the following web address:

<https://www.urban.org/urban-wire/are-civilian-oversight-agencies-actually-holding-police-accountable#:~:text=Although%20there%20is%20no%20strict,of%20complaints%20against%20police%20officers>. Organizations like this will be needed to assess the effectiveness of oversight bodies at every level of government.

Two examples illustrate the variation regarding civilian oversight at the local level:

- Next door in the District of Columbia, the Office of Police Complaints appears to be a functional oversight entity, as described on its website at <https://policecomplaints.dc.gov/page/opc-police-complaints-board>. The Office consists of a five-member board that must include four individuals who live in DC, but do not work for the Metropolitan Police Department. The website provides meeting minutes since 2008, but no stand-alone audit reports or assessments.
- Spokane, Washington, also established an Office of the Police Ombudsman in 2008, as described on their website at <https://my.spokanecity.org/opo/>. One of their major accomplishments has been publishing an independent analysis of data on the use of force by Spokane police from 2013 – 2018, which available online at <https://static.spokanecity.org/documents/opo/analysis/spd-use-of-force-summary-report-from-2013-to-2018.pdf>.

For an international perspective, check out the United Kingdom’s civilian oversight commissions.

- The Independent Office for Police Conduct (IOPC) oversees the police complaints system in England and Wales. According to their website, <https://policeconduct.gov.uk/>, “We investigate the most serious matters, including deaths following police contact, and set the standards by which the police should handle complaints. We use learning from our work to influence changes in policing. We are independent, and make our decisions entirely independently of the police and government.”
- In Northern Ireland, Mrs. Marie Anderson serves as the Police Ombudsman. Her office “....provides an independent, impartial system for the handling of complaints about the conduct of police officers. We will deal with those complaints in a manner which is free from any police, governmental or sectional community interest and which is of the highest standard.” See more at <https://www.policeombudsman.org/Home>.

We desperately need to engage more civilians in our democratic institutions and use them to assure police accountability regardless of one’s race or ethnicity.

Please let me know if you have any questions. I appreciate your courage and leadership on this and so many other issues.

Sincerely,

Daniel Champion