

Testimony for the Montgomery County Council

January 11, 2022 public hearing on Bill 49-21 - Police – Police Accountability Board – Administrative Charging Committee - Established

OPPOSE UNLESS AMENDED

To: Council President Gabe Albornoz and Councilmembers:

My name is Paul Holmes and I am a twenty-nine-year resident of Silver Spring, Maryland. I am testifying in opposition to Bill 49-21 because I firmly believe that justice, an end to racial violence, and reconciliation are all impossible absent meaningful law enforcement accountability.

Here in Montgomery County, we've wasted opportunities for improving trust between police and the communities they serve because law enforcement has refused to provide information about police abuse, including several police-killings in recent years.

I work with the Montgomery County Lynching Memorial Project. As the County Executive and Councilmembers know, the County Office Building sits on the site of the old county jail. In 1880 and again in 1896, men were dragged from that jail and lynched on the edges of Rockville.

Despite the very public and repulsive nature of those lynchings, the juries of inquest determined that those men had "died at the hands of persons unknown." Sherylyn Iffyl's "On the Courthouse Lawn" notes that "In the fourteen cases of reported lynchings in Maryland beginning in 1885 and ending in 1933, no suspected lynchings were ever indicted." Whites "closed ranks" to protect ... their neighbors and acquaintances from prosecution..." Besides the certainty of White silence, the bold brutality of the lynch mobs was buoyed by confidence that "the system" would let them go unpunished.

Nationally, state-wide and right here in Montgomery County, vivid threads connect those barbaric acts of the past to common practices today. Police boards have disciplined officers only in a very low percentage of cases, even then, rarely resulting in punishment commensurate with the gravity of the misconduct. That history sends the dangerous message that the police can act with impunity and it erodes any community trust in the concept of police accountability.

Given that history and because the state of Maryland had ranked among the least transparent states in regards to police misconduct complaints, I was encouraged that the 2021 Legislative Session repealed the Law Enforcement Officers Bill of Rights (LEOBR) and replaced it with the Maryland Police Accountability Act (HB 670, MPAA). Though MPAA should have been stronger, I still was optimistic that it would help the community gain greater control and oversight over police misconduct. Because MPAA mandates that each county creates a police accountability board and an administrative charging committee, I was confident that we would do it right, at least here in Montgomery County. I imagined that here, in what is usually

considered a “progressive” county, we might even establish what could be a model for the state and the nation.

I was dismayed, however, when I learned that County Executive Elrich had introduced expedited Bill 49-21 on December 14 with no community input, set a public hearing date of January 11, and did not require a Racial Equity and Social Justice Impact Statement. As currently drafted, Bill 49-21 makes a mockery of true public accountability. By fraudulently coopting the word “accountability,” it asks the public to swallow the rebranding, essentially perpetuating the status quo while denying the public meaningful citizen participation.

Besides the lack of community input, the bill itself has numerous additional flaws, including:

- The specific experience it requires of PAB members;
- Perpetuation of the status quo, virtually excluding people outside of law enforcement, particularly those most impacted by bad policing;
- The fact that exclusion of community members from the PAB not only conflicts with the intent of the new state law, but substantially eviscerates it, essentially denying meaningful community involvement in the police disciplinary process;
- Diluting the value and standing of the PAB by not providing compensation to the members. That also throws up additional barriers to serious community participation; and
- Setting up an improper conflict of interest by requiring the County Attorney to serve as PAB counsel, when the County Attorney also represents the MCPD and the County.

Numerous community partners have demonstrated their commitment to work with the county on rebuilding trust and on establishing real, effective and transparent police oversight which can benefit all county stakeholders. That process must begin with public input and be sustained by maintaining public confidence and communications. I ask that the Council defeat Bill 49-21 and restart the legislative process with substantial public input.

Lynchings were racially violent extralegal practices that denied citizens due process and their “day in court.” By again allowing law enforcement to “close ranks” and by failing to hold law enforcement meaningfully accountable for misconduct, Bill 49-21 would preserve their role as agents of extrajudicial justice. It must be defeated.

Sincerely,
Paul Holmes