



If Baltimore is serious about police reform, give citizens more say

Lawrence Grandpre

August 12, 2016

There have been many proposed solutions to the problem of police brutality – everything from independent prosecutors and increased federal oversight to the complete disbanding of police departments. The release this week of the Department of Justice [report](#) about the Baltimore City Police Department will only amplify these demands in the public dialogue about police reform.

– which mostly focus on monitoring and policies related to individual officers – fail to do is establish functional systems of accountability which address the systemic nature of the problem of police brutality. For lasting change, [Baltimore](#) and other police departments must establish meaningful accountability of police to the communities they serve.

This is because focusing on individual “bad cops” doesn’t work. Law and custom have resulted in only the most egregious and extreme incidences of police brutality being held accountable – and even then, there aren’t necessarily consequences, as we saw most recently in [the acquittal](#) of the cops in the Freddie Gray case. Thus, those believing the damning justice department report signals the advent of more criminal prosecution of cops will likely be disappointed.

What does work? Deterrence. The goal must be to prevent future incidents of brutality, not only to mitigate past grievances. This means we must go beyond the DOJ report to dig deeper into the reality of how police accountability happens at a state and local levels.

In the vast majority of incidents in which police officers are accused of wrongdoing, punishment is handed down not by criminal courts or the federal government, but the police department’s internal disciplinary review board. When it comes to accusations of excessive force in police brutality, review boards in Baltimore have been exceedingly lenient in their punishments of most officers.

The reason for this is obvious: those making the decisions are themselves police officers. In states that have enacted the [Law Enforcement Officers Bill of Rights \(LEOBR\)](#) legislation, internal review boards require that at least one member of the board be the same rank at the accused officer; this is not only police policing police, but friends policing friends. This LEOBR legislation makes it illegal for anyone but sworn police officers to lead primary investigations of accused brutality or to serve on the internal review board.

To illustrate how absurd this is in practice, if a police officer is accused of sexual harassment, it would be against the law to have an expert on sexual harassment weigh in on whether the police officer should be suspended or not, leaving this critical decision to fellow officers, who in many jurisdictions have no training or expertise and how to understand or address it, and who may have a personal relationship with the accused. After reviewing the practice of the Philadelphia Police Department, the DOJ ruled that at least one member of the internal review board should be a non-sworn police officer. Yet in 15 states, including Maryland, that's legally impossible.

While the DOJ report mentions these state laws, it does so only in passing. And in the past, DOJ officials have told us that these state laws are “beyond the purview” of their investigation. This is concerning for grassroots folk in the Baltimore community who hope the report can be used to bolster their reform efforts. Many close observers, from left-leaning Campaign Zero to the libertarian-leaning Cato Institute, have seen the LEOBR legislation as a critical impediment to a fair process for making police officers accountable to the community when it comes to accusations of excessive force.

Unfortunately, the Department of Justice report is weakest on this particular point, which is the most important aspect to meaningful police reform. The DOJ report provides meaningful information and outlines specific policies that are problematic, but it obscures the most critical principle: that giving communities power over the institutions that govern their lives is fundamental to systemic police reform.