

**Memorandum**

November 3, 2021

TO: Public Safety (PS) Committee

FROM: Carlos Camacho, Legislative Analyst  
Susan Farag, Legislative Analyst

SUBJECT: Briefing – Policing Advisory Commission (PAC)

PURPOSE: Receive an update from PAC. No action required.

Those expected to brief the Committee include:

- Dalbin Osorio, Chair, PAC

The Public Safety (PS) Committee will receive an update from the Policing Advisory Commission (PAC).

**Background**

The Policing Advisory Commission (PAC) was created in 2019 by the Montgomery County Council, via Bill 14-19 - Police - Policing Advisory Commission – Established, in response to the ongoing public dialogue around policing practices and as an effort to increase community involvement in matters of public safety.<sup>1</sup> The Commission’s mission is to advise the Council on policing matters and recommend policies, programs, legislation, or regulations with regards to policing.

More specifically, the Commission’s duties are to:

- 1) advise the Council on policing matters;
- 2) provide information regarding best practices on policing matters;
- 3) recommend policies, programs, legislation, or regulations;
- 4) comment on matters referred to it by the Council;
- 5) conduct at least one public forum each year for community input on policing matters;
- 6) engage in public education; and
- 7) submit an annual report.

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<sup>1</sup>Text of [Bill 14-19](#)

## **Structure**

The PAC is composed of 11 public voting members and two ex officio members representing the Montgomery County Police Department (MCPD) and the Police Union.<sup>2</sup>

The PAC is further divided into four subcommittees:

- 1) Discretionary Policing Subcommittee
- 2) Emergency Response Subcommittee
- 3) Hiring and Discipline Subcommittee
- 4) Safety In Schools Subcommittee

Details related to each subcommittee's work can be found in the PAC's Annual Report on ©3 – 8.

The PAC meets twice a month on the second and fourth Monday of each month. Members of the public regularly attend PAC meetings, and all meetings are recorded with videos subsequently posted on the PAC website.<sup>3</sup>

## **Initiatives**

The PAC is one of various organizations focusing on improving policing within the County and the state. As such, the PAC has collaborated and commented on work from the Reimagining Public Safety Task Force (RPSTF), the audit of MCPD being led by Effective Law Enforcement For All (ELE4A), various advocacy groups, County public safety agencies, members from the Maryland General Assembly, and the County Council.

The PAC reviewed the recommendations issued by the RPSTF and on May 10, 2021 voted to endorse the work done by the RPSTF and the broad conclusions of the report, emphasizing the important nature of the data collected through the RPSTF process.

The PAC is also currently reviewing and offering input on the preliminary recommendations of the MCPD audit. The PAC plans on sharing a finalized document with the Council and other stakeholders detailing their insights on the audit recommendations.

The PAC has also formally commented on several pieces of legislation introduced by the Council:

- Bill 34-20E - Police - Disciplinary Procedures - Police Labor Relations - Duty to Bargain – Amendments
- Bill 45-20 - Police - Community Policing – Data
- Bill 46-20 - Police - School Resource Officers – Prohibited

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<sup>2</sup> [Current PAC Members](#)

<sup>3</sup> [PAC Website](#)

On June 14, 2021, the PAC held a virtual public hearing to give members of the public the opportunity to share their thoughts and experiences on the issue of drug enforcement in the County. The PAC heard from community members on their experiences including arrests for drug possession, interactions that resulted in a stop and frisk or search for drugs even in which no drugs were found, and the issuance of civil citations for possession of less than 10 grams of marijuana. Community members were encouraged to submit written, audio, or video testimony prior to the public hearing or register to give live testimony during the hearing. Also, community members were allowed to submit testimony anonymously due to the sensitive nature of the topic.

Currently, the PAC is focusing its efforts on analyzing traffic stops. The PAC has submitted multiple information requests to MCPD to gather additional information on MCPD's traffic enforcement policies and practices. The PAC will also host MCPD at its meeting on November 8 to continue the conversation on traffic enforcement. The PAC also received a presentation from the Office of Legislative Oversight (OLO) regarding OLO's study on Reassigning Traffic Enforcement from the MCPD to the Montgomery County Department of Transportation. The PAC is also collecting public input on traffic enforcement via a public comment form/survey found on the PAC's website. The PAC plans to consolidate all of this information and provide MCPD, the County Executive, and the Council recommendations to improve traffic enforcement in the County.

## **Challenges**

All new entities encounter challenges when they first begin to operate, the PAC is no different. Now with a year and half since its inception, the PAC is beginning to identify and work to resolve issues regarding its internal processes and procedures.

One example is meeting frequency. The PAC moved from one meeting a month to two meetings to accelerate progress on issues being deliberated on. However, the two meetings per month structure has contributed to some attendance issues. The PAC will deliberate on whether to shift back to a monthly meeting structure and rely on subcommittee meetings to further its work. Furthermore, the PAC will reflect on its current subcommittee structure and decide whether to reorganize the subcommittees to facilitate greater cross-collaboration.

The PAC has also strived to form a productive working relationship with MCPD. The PAC has collaborated with MCPD in various ways including attending a modified version of MCPD's Citizen Academy, inviting MCPD to brief the PAC on various topics, and sending numerous information requests to MCPD. Part of the challenge has been identifying the specific data needs of the PAC and how MCPD can best meet those needs. The PAC and MCPD continue to work together in order to ensure that the best available data is shared in a timely manner. Also, the PAC is hoping that MCPD's procurement of a new records management system and the Council's enactment of Bill 45-20 will further improve data collection and sharing.

This Packet Contains:

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1) PAC Annual Report

1-23

Montgomery County, Maryland

# Policing Advisory Commission

2020 – 2021 Annual Report



## EXECUTIVE SUMMARY

The Policing Advisory Commission (PAC) was created in 2019 by the Montgomery County Council in response to the ongoing public dialogue around policing practices and as an effort to increase community involvement in matters of public safety. The Commission's mission is to advise the Council on policing matters and recommend policies, programs, legislation, or regulations with regards to policing.

The PAC is one of various County and state efforts currently working on police reform issues. For example, the County Executive launched his [Reimagining Public Safety initiative](#) in June 2020, which created the Reimagining Public Safety [Task Force](#) tasked with developing recommendations that would reimagine the Montgomery County Police Department (MCPD). The initiative also prompted an independent [audit](#) of MCPD. At the state level, the General Assembly convened the [Work Group to Address Police Reform and Accountability in Maryland](#). Much of the work and recommendations issued by the Work Group translated into public safety-related legislation passed in the General Assembly's 2021 Legislative Session, including [HB 670 - Maryland Police Accountability Act of 2021](#). The PAC has monitored the work done by these institutions, as well as collaborated with numerous entities involved in advancing police reform efforts to support and advance evidence-based policies that will improve public safety in Montgomery County.

The current members of the PAC are:

- Alicia Hudson
- Caroline Fredrickson
- Cherri Branson
- Dalbin Osorio
- Eric Sterling
- Jasmine Williams
- Jenn Lynn
- Jerome Price
- Justice Reid
- Nadia Salazar Sandi
- Robin Gaster
- Shabab Ahmed Mirza
- Vernon Ricks
- Chief Marcus Jones (ex officio member)
- Sergeant Cate Brewer (ex officio member)

The PAC has met 14 times since the commissioners were appointed in August 2020. These meetings have given us an opportunity to review legislation, dissect data, and hear directly from community members and local elected officials concerning the need to reimagine public safety in our County. We have been able to speak with stakeholders in the County to incorporate their suggestions in recommendations we have made, and we are fortunate to be able to collaborate with the Montgomery County Police Department, and our community members as we work towards a more equitable society.

This annual report is a sample of the work we have completed over our first year and should serve as a snapshot of how much we still have to do. We spent our first year focusing on what: what is happening in our County? What does public safety look like? And what does equitable

justice look like drove this work? Now we will shift our focus to the how: how do we create an equitable county? How do we achieve true public safety? And how do we define equitable justice?

We are excited for the year ahead.

Sincerely,

*Dalbin A. Osorio, Ms.Ed, MSW, Chair*

*Nadia Salazar, Vice Chair*

## **SUBCOMMITTEE WORK**

### ***Discretionary Policing Subcommittee***

The Subcommittee has focused its work on three issues to date: 1) traffic stops, 2) drug enforcement, and 3) pedestrian stops.

The committee has undertaken significant analysis of the data regarding traffic stops, in addition to reviewing the data provided from OLO and from the Re-Imagining Public Safety Task Force [report](#). This analysis has raised a number of key questions for MCPD, which have been presented to the PAC leadership for PAC approval prior to submission to MCPD.

The subcommittee has undertaken additional statistical analysis of traffic stops and accident data to test the MCPD argument that traffic stops are primarily designed to prevent accidents. Preliminary analysis suggests that only about 20% of the distribution of traffic stops is explained by the distribution of accidents.

Following a response from MCPD, the subcommittee anticipates holding a public hearing to review concerns raised both by the data and via committee members' discussions in their communities. The hearing will be followed by a full PAC meeting, and subsequently by recommendations to the Council and the County Executive.

The subcommittee has also supported work elsewhere in the PAC analyzing data on drug arrests. This work supported the information request submitted by the PAC, and the upcoming public hearing on traffic stops.

Following completion of the Subcommittee's work on traffic stops, the Subcommittee anticipates shifting its focus to pedestrian stops.

## ***Emergency Response Subcommittee***

This past year, the Emergency Response Subcommittee worked to improve, streamline, and coordinate appropriate responses to mental health, Intellectual and developmental disabilities (IDDs)-related crises.

The subcommittee met monthly to discuss ways to increase successful interactions with our most vulnerable and complex residents, including but not limited to:

- Merging police and fire and rescue response into one Computer-Aided Dispatch (CAD) system for storage of prior interactions and known diagnoses, teaching self-disclosure strategies.
- Increasing the amount of Crisis Intervention Team (CIT) specialized officers.
- Pairing officers with Licensed Clinical Social Worker's as needed.
- Supporting upcoming CAHOOTS training and researching implementation of the Crisis Now Model.
- Prioritization of the development of a Restoration/Stabilization Center, as well as interim mini-centers.
- Need for increased capacity to serve vulnerable populations in Montgomery County, preventatively, as well as during and post-hospitalization without the involvement from law enforcement.

In an effort to streamline work and create a cross-disciplinary response, Subcommittee Chair Jenn Lynn created a collaborative group of decision makers from all involved agencies called the Emergency Response Collaboration Group. The Subcommittee and the Group meets quarterly, with participants representing County agencies and organizations such as:

- Department of Health and Human Services (DHHS)
- Housing Opportunities Commission (HOC)
- Cornerstone Montgomery, Inc.
- County Council
- Montgomery County Fire and Rescue (MCFRS)
- Bethesda Cares
- EveryMind.
- Montgomery County Crisis Center
- Montgomery County Police Department (MCPD)
- Crisis Intervention Team
- Commission on Juvenile Justice
- National Alliance on Mental Illness (NAMI)

The Subcommittee Chair also consults with Dr. Rolando Santiago from DHHS biweekly, attends Mental Health Advisory Commission meetings, and updates several County and State committees on Developmental Disability. She will also be training Crisis Center staff on Autism.

Moving forward, the Subcommittee plans to closely monitor the distribution, quantity, training, and assignment of mental health professionals in the County, while also informing the public on progress made in this respect. The Subcommittee also hope to schedule listening sessions as a way to stay involved in this desperately needed societal paradigm shift.

### ***Hiring and Discipline Subcommittee***

Soon after the PAC established the subcommittee structure, the PAC assigned County [Bill 34-20](#) regarding police discipline, to the Hiring and Discipline Subcommittee for initial review of the legislation.

The Subcommittee met throughout the months of November and December 2020, to understand Bill 34-20 and to gather relevant documents and hear from experts in the field of police disciplinary procedures to develop a recommendation for the PAC.

The Subcommittee met with Prof. Christy Lopez, Georgetown Law Center, former U.S. Department of Justice manager of consent decrees for law enforcement agencies, and a national expert on police accountability mechanisms to discuss Maryland's Law Enforcement Officer Bill of Rights (LEOBR), its problems and potential reforms, and the IAD.

In particular, the Subcommittee reviewed concerns about LEOBR's impact on a police department's culture of accountability, whether IAD staffing is adequate, and the appropriate structure for hearing boards. In addition, Professor Lopez helped the Subcommittee analyze the then-current MCPD Use of Force Policy and the recent requirement for intervention by every officer present when force is being applied inappropriately. One program for such intervention is called Active Bystander for Law Enforcement (ABLE), based at Georgetown University.

The Subcommittee also discussed the evidence of infiltration of police departments by white supremacist organizations, as well as the value of several interventions such as: 1) analyzing the social media accounts of recruits in pre-employment background checks, 2) the use of psychological screening tools, 3) teaching about unconscious bias awareness, and 4) teaching of techniques to slow down and practice changed behavior. This led to the Subcommittee transmitting an information request to MCPD on psychological screening for racial bias.

The Hiring and Discipline Subcommittee also met with Assistant County Attorney Sarah Daken who supports the MCPD Internal Affairs Division (IAD). She described the process for receiving and reviewing complaints of misconduct, which can come from the public or from the police department and the process of vetting complaints before the stage of a trial before a hearing board under LEOBR. Ms. Daken asserted that the IAD and the vetting process of alleged misconduct in the MCPD has been "impartial" although though not "independent." According to Ms. Daken, multiple levels of review prevent any conflict of interest between an officer in IAD and an officer being investigated.



At the PAC meeting on January 11, 2021, the Subcommittee reported its consensus position supporting Bill 34-20 and Subcommittee members participated in the PAC discussion. Furthermore, the Subcommittee expressed its opinion that there be members of the public who can vote on all hearing boards for police misconduct. Both a majority report and a minority report were developed, both encouraging enactment of Bill 34-20.

The Subcommittee shifted its focus after review of Bill 34-20 and met with representatives of Young People for Progress, based in Montgomery County, specifically Danielle Blocker and David Atkinson. They described their experiences with MCPD, the M-NCPPC Park Police and the experiences of other youth in the County. They noted the high frequency of negative interactions with the police and being belittled and subjected to the n-word. They recounted colleagues who lost their jobs because of being stopped by the police. They also felt a great risk of retaliation and were unwilling to go on the record to complain because they believe that complaints do not result in discipline.

Mr. Atkinson and Ms. Blocker described extremely disturbing incidents. In one, a female student was frisked and groped by police as she was walking home from a bus stop. In another, students described being stopped and photographed for what they learned would be inclusion in a database of “gang members.” What became clear to the Subcommittee is that for many young people in the County, the idea of “police accountability” and the value of making a complaint of police misconduct are ephemeral at best.

The Subcommittee also heard from MCPD Captain Jason Cokinos regarding the training of plain-clothed police officers and pedestrian stops. The discussion centered around the constitutional standards for conducting stops. Captain Cokinos reviewed the law regarding stops, the Supreme Court landmark case [\*Terry v. Ohio \(1968\)\*](#), as well as state court decisions regarding criteria for lawful stops in compliance with the 4<sup>th</sup> Amendment governing searches and seizures.

The Subcommittee also discussed how the police handle someone who lawfully has a gun and wishes to alert the officer, as well as someone who asserts their right to resist unlawful arrest. Captain Cokinos advised that in such an instance, the individual should not resist but rather follow up with filing a complaint. Captain Cokinos noted that officers do not know that an armed person is not going to kill or seriously injure them. He also noted that the vast majority of stops are peaceful and occur without the officer needing to use force. He also stated that he recalls disarming an individual upon arrest without incident.

The Subcommittee also discussed with Captain Cokinos how to improve relations between the community and the police, including requirements for officers to live within the County and the advantages and disadvantages of such an approach.

The last major effort put forth by the Subcommittee was in preparation of questions for Chief Marcus Jones and Sergeant Cate Brewer for the March 8 PAC meeting. The questions spanned many topics but one issue of primary concern was the 2000 Memorandum of Agreement between the MCPD, the FOP Lodge, and U.S. Department of Justice.

After receiving responses from Chief Jones and Sgt. Brewer, the Subcommittee met to discuss the inadequacy and generality of the responses. This led to the Subcommittee drafting a letter of concern from the Subcommittee, which was presented to the PAC but not acted upon. At the subsequent PAC meeting on May 10, the Subcommittee announced that it would revise and clarify its letter of concern.

Moving forward the Hiring and Discipline Subcommittee hope to emulate the approach outlined by [Delegate Atterbeary's letter to House Speaker Adrienne A. Jones](#) transmitting the report of the House of Delegates Police Accountability Workgroup. To this effect, the Subcommittee hopes to hold public forums to hear directly from Montgomery County residents.

The Reimagining Public Safety Task Force utilized a web-based survey to gather information from County residents. Anonymous surveys can be used to obtain input from stakeholders regarding law enforcement practices they have experienced -- without fear of retaliation -- which is needed for an accurate and comprehensive picture of police behavior. The Subcommittee is considering using surveys to gather information to inform our work.

In addition, the Subcommittee plans to hear from black law enforcement officers. The Subcommittee has followed reports of discrimination faced by black law enforcement officers within the police force. The Subcommittee wishes to hear from representatives of the National Organization of Black Law Enforcement Executives (NOBLE) and/or other black law enforcement organizations. The subcommittee will research and consult experts regarding possible racially discriminatory practices within MCPD and whether there has been retaliatory discipline against those officers.

### ***Safety In Schools Subcommittee***

In its first year, the Safety in Schools Subcommittee met with the Montgomery County Juvenile Justice Commission, Montgomery County's Racial and Ethnic Disparities Committee, Youth People for Progress, the Montgomery County Council on Parent-Teacher Associations, over 30 student-led organizations, over 200 Montgomery County Public School (MCPS) teachers and administrators, and the County's Reimagining Safety Task Force.

The Subcommittee received presentations and supporting documents and testimonials from the Silver Spring Justice Coalition and over 50 MCPS student groups created in the aftermath of the George Floyd murder.

Moreover, the Subcommittee formally and informally heard from numerous stakeholders during PAC meetings and followed up regarding concerns raised during those meetings.

The Subcommittee also analyzed two pieces of legislation, County Bills [46-20](#) and [7-21](#) respectively, and endorsed Bill 46-20 with its specified budgets. The Subcommittee refused to support Bill 7-21, as it is an inadequate piece of legislation that did not meet the needs of the community and instead served to further criminalize youth of color.

The Subcommittee has also analyzed the sparse information that has been provided regarding the current proposed Community Resource Officer (CRO) model and does not support this model. The Subcommittee's perspective is that this model is a rebranding of the School Resource Officer (SRO) model and simply expands police involvement in communities to now encompass middle and elementary schools.

The Subcommittee has created a year-end plan and begun to work on an alternative proposal to the CRO model that takes into account all of the information gathered this year and ensures that children and teachers are in safe environments that allow for positive youth development.

Over the next year, the Subcommittee will focus their work on the following:

1. Identifying professional development opportunities for Montgomery County Public School (MCPS) staff in the topics of positive youth development and crisis intervention.
2. Scheduling presentations from experts on age-appropriate behavior management tools that MCPS can implement instead of calling the police.
3. Identifying community-based organizations that can partner with MCPS schools to provide mentoring to students.
4. Designing a School-Safety & Well-Being model for MCPS that does not include law enforcement.

## **COUNTY LEGISLATION**

As part of the PAC's charge to "advise the Council on policing matters [and] recommend policies, programs, legislation, or regulations," the PAC has reviewed, commented, and taken a position on various pieces of legislation.

The PAC has instituted a formal process for legislative review to guide PAC action whenever a police-related bill is introduced by the County Council. Legislation is first referred to the appropriate PAC Subcommittee, which is tasked with providing a written recommendation to the full PAC as to whether the PAC should endorse, take a position, and/or provide any other recommendations or comments concerning the bill to the Council. The PAC then convenes a public meeting to discuss the Subcommittee's recommendations, whereby the recommendations are discussed, and a vote is taken by the PAC as to whether to endorse the Subcommittee's recommendations or not. If a majority of Commissioners vote to endorse the Subcommittee's recommendations, then the PAC sends a letter to the County Council outlining the recommendations of the Subcommittee, the vote of the full Commission, and a brief summary of the discussion at the public meeting where the bill endorsement vote took place.

The PAC has formally commented on three pieces of legislation<sup>1</sup> introduced by the County Council; they are:

- [Bill 34-20E](#) - Police - Disciplinary Procedures - Police Labor Relations - Duty to Bargain – Amendments
- [Bill 45-20](#) - Police - Community Policing – Data
- [Bill 46-20](#) - Police - School Resource Officers – Prohibited

Four additional pieces of legislation have also been referred to PAC Subcommittees, but formal letters have not yet been sent to the Council either because the Subcommittee recommended the PAC not go forward with a full review of the legislation or because the PAC is still in the process of taking a formal position on legislation; these four bills are:

- [Bill 7-21](#) – Police – School Resource Officer – Building Positive Law Enforcement Relationships Within Schools
- [Bill 17-21](#) – Police – Community Informed Police Training
- [Bill 18-21](#) – Police – Internal Affairs – Procedures and Reporting Requirements
- [Bill 19-21](#) – Finance – Reports on Settlements

## **PUBLIC OUTREACH**

### ***Public Comment Form***

In an effort to more thoroughly engage with the public, the PAC published a public comment form on the PAC website on December 30, 2020. To date, the PAC has received four written comments via the public comment form and one comment sent to Council staff. Three of the comments were regarding SROs, which were submitted during the time when the PAC was examining Bill 46-20. These comments were generally critical of the SRO program and were in favor of removing SROs from schools.

The fourth comment submitted via the public comment form came from the organization Young People for Progress and was in regards to the public hearing the PAC held on June 14, 2021 on drug enforcement efforts and policy in Montgomery County.

### ***Public Hearing***

On June 14, 2021 the PAC held a virtual public hearing to hear from the community regarding their thoughts and experiences on the issue of drug enforcement in the County. The PAC was hoping to hear about community experiences including arrest for drug possession arrests, interactions that resulted in a stop and frisk or search for drugs even in which no drugs were found, and the issuance of civil citations for possession of less than 10 grams of marijuana.

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<sup>1</sup> See Appendix A, B, and C for PAC letters sent to the County Council commenting on legislation.

Community members were encouraged to submit written, audio, or video testimony prior to the public hearing or register to give live testimony during the hearing. Also, community members were allowed to submit testimony anonymously due to the sensitive nature of the topic.

The PAC received eight pieces of written testimony and/or comments regarding drug enforcement in the County. Furthermore, seven community members provided public testimony during the public hearing.

The Silver Spring Justice Coalition, Young People for Progress, retired MCPD Captain Sonia Pruitt, community leader Isabella Wise, and an anonymous piece of testimony received, spoke about the over-policing of citizens, particularly black and brown individuals and youth, for petty possession of marijuana or due to a person smelling of marijuana. Many recalled traumatic personal experiences or experiences from other members within the Montgomery County community that, from their perspective, has not only eroded the trust between the community and police but has produced negative consequences in the form of unnecessary arrests, trauma, and violence, while having no effect on crime reduction. Recommendations given included reducing arrests for petty marijuana possession, de-escalation when the only cause for stop/arrest is possession or use of marijuana, implementation of the recommendations offered by the Reimagining Public Safety Task Force, and generally working to increase trust, accountability, and respect among officers and how they interact with the community.

Additionally, community members like Miguel Oliveros, Teresa Wright, and Pilar Muñoz used their time to thank MCPD and speak about the positive experiences they have had with the police, as well as the positive forms of engagement the police have with the community through programs like the Hispanic Citizens Academy, the Truancy Prevention Program (run by the State's Attorneys Office), the Opioid Bus Initiative, and the SRO program. These community members stated that they appreciate the presence of the police in their community and their role in educating community members on illicit drugs and helping curb the use of illegal drugs.

The PAC plans to hold a broader public forum in September 2021 to gain additional community input on policing in the County.



## POLICING ADVISORY COMMISSION

To: Montgomery County Council  
Cc: County Executive Marc Elrich  
From: Policing Advisory Commission  
Date: February 23, 2021  
Re: Request for the PAC to Review Bill 34-20E - Police - Disciplinary Procedures - Police Labor Relations - Duty to Bargain – Amendments

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Dear County Council,

The Policing Advisory Commission (PAC) respectfully submits our comments on Bill 34-20E. We welcome this opportunity to comment on matters referred to us by the Council, per our authorizing statute (Montgomery County Code §35-6(f)4). After careful review, consultation with relevant stakeholders and experts, and deliberation amongst PAC members, **we recommend that the Council vote in favor of the bill in its current form.**

The PAC believes that the Maryland Law Enforcement Officers' Bill of Rights (LEOBR) needs to be repealed or significantly reformed, especially with respect to disciplinary measures. Bill 34-20E represents an effort by the Council to respond to the community's concerns about inadequate police discipline and while LEOBR embodies the larger obstacle to ensure police oversight, Bill 34-20E would move Montgomery County towards a system of greater accountability, even absent LEOBR repeal or reform.

### Background

The PAC received your request to review bill 34-20E on October 7, 2020. We convened a special meeting to discuss the bill at our meeting on October 19, 2020 and referred it to our subcommittee on Hiring & Discipline for further review. The members of the subcommittee have met numerous times to discuss the bill. They have researched, reviewed and discussed a copious amount of material, including: the legislative history of Bill 34-20E; Professor Christy Lopez's presentation regarding LEOBR; the Executive Director of the Department of Public Safety and Correctional Services Mr. Albert Liebno's memo response to subcommittee member Eric Sterling's pointed questions regarding training of citizens for the LEOBR hearing panel; Montgomery County Police Department (MCPD) FC300 Department Rules; and the 2019-20 Collective Bargaining Agreement between the Fraternal Order of the Police Lodge 35 and Montgomery County Government. The subcommittee presented their findings to the full PAC on January 11, 2021, and their statement is available on the PAC website. On January 25, 2021, **the PAC voted in favor of the subcommittee's recommendation to support Bill 34-20E with a vote of 11-1 with one abstention** (out of the 13 voting members of the PAC).



## **POLICING ADVISORY COMMISSION**

### Rationale

The ability for officers to choose a hearing by a board comprised of mostly officers is not a luxury afforded to any other government employee in the County. If we are to rebuild trust between our community and MCPD, we need to ensure that there is meaningful accountability for officers. The current process simply does not work, as illustrated by the following examples:

- An MCPD officer was convicted by a jury in December for use of excessive force in July of 2019. However, this officer remained on the MCPD payroll awaiting a final determination on their disciplinary charge for over a year.
- An officer who used the N-word in White Oak also waited over a year to receive any disciplinary action.
- An officer was once on paid administrative leave for four years while waiting for the appeal of their termination to be resolved.

Bill 34-20E addresses some of the concerns that have been raised by the community: this bill would mandate a traditional hearing board with two voting public members in cases of citizens' complaints alleging excessive force; and would authorize the Police Chief to issue a final order based on the hearing board's recommendations and to exercise their right as an employer to terminate the officer's employment. Finally, the Bill would exclude collective bargaining over the composition of a police hearing board, the right of the Chief to make a final decision on discipline, and the right of the Chief to issue a directive or administrative order implementing an employer's right. This bill would simply move the County back to the traditional hearing board authorized by the LEOBR, including the additional public members for a case originating from a citizen complaint alleging excessive force. Bill 34-20E would not deny officers any appropriate due process protections but would rather restore a system that accords full but not excessive protections to law enforcement. This Commission believes that voting members of the public should be enough in number that the public (by and through the public voting members) would have a real impact on what disciplinary measure should be recommended for an accused officer.

Please feel free to contact us if you have any questions or requests for clarification.

Sincerely,

Shabab Ahmed Mirza, Chair & Dalbin Osorio, LMSW, Vice Chair  
On behalf of the Policing Advisory Commission



## POLICING ADVISORY COMMISSION

To: Montgomery County Councilmembers  
Cc: County Executive Marc Elrich  
From: Policing Advisory Commission  
Date: March 8, 2021  
Re: Bill 45-20 - Police - Community Policing – Data

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Dear Councilmembers,

The Policing Advisory Commission (PAC) respectfully submits our comments on Bill 45-20. We welcome this opportunity to advise the Council on policing matters and recommend policies, programs, legislation, or regulations, per our authorizing statute in the Montgomery County Code §35-6(f). After careful review, consultation with relevant stakeholders and experts, and deliberation amongst PAC members, **we recommend that the Council amend the bill such that MCPD: (1) designate a single individual to act as the point of contact for all data-related matters and (2) restructure its complaint data collection and reporting system. With the inclusion of these amendments, as outlined below, we recommend that the Council vote in favor of this bill.**

### Proposed Amendments

1. MCPD must designate a specific individual to act as the point of contact for all data-related matters. This individual would be responsible for maintaining all existing data, meeting new data requirements, and answering queries from the Council, the PAC, and the public in a timely manner. Currently, there is no publicly responsible official for MCPD data noted on the Open Data Portal. Requests for additional data or explanations are simply ignored. The name and contact information for the designated individual should be published on the Open Data portal and on the MCPD website.
2. MCPD must restructure its complaints data collection and reporting system. The current data and reporting systems do not provide confidence that complaints are being addressed in a timely, fair, and transparent way. Attached is an analysis and some specific recommendations to help ensure that the public can see exactly what actions result from complaints. In particular, it is critically important that the data be reformed and published so that:
  - a. detailed outcomes from all complaints are fully described
  - b. confusing and obfuscatory categories are simplified
  - c. data provided through the open data portal and the IAD annual report are identical

### Background

The PAC received notice that the Council planned to introduce Bill 45-20 on November 16, 2020. On December 14, 2020, we referred it to our subcommittee on Discretionary Policing for further review. The members of the subcommittee studied the bill and presented a statement to the





## POLICING ADVISORY COMMISSION

full PAC at our next monthly meeting on January 11, 2021. The PAC also convened a special meeting on January 25, 2021 to allow Commissioners more time to discuss the proposed legislation. On February 8, 2021, the subcommittee presented their proposed amendments to the PAC. The PAC **voted unanimously to support an amended Bill 45-20, as outlined above.**

### Rationale

According to the staff report, the bill would require MCPD to collect and annually report data on: demographic information regarding individuals stopped (including a stop and frisk that does not result in a citation or arrest), searched, cited, arrested, or the subject of a use of force incident by the Department, including: race; ethnicity; gender; and any other demographic information voluntarily provided by the detainee. The bill also would require MCPD to post on Data Montgomery information about each of the following types of incidents, including information about race and ethnicity: • use of force incidents; • field interview reports; • juvenile citations; • criminal citations, including trespassing citations; • alcohol beverage violations; • possession of marijuana violations less than 10 grams; and • smoking marijuana in public places. As the staff report on this bill notes, the collection of data as outlined in Bill 45-20 may assist MCPD in its efforts to build capacity to use policing data to advance best practices in constitutional and community policing.

Given that this type of data would provide additional information on how discretion in policing affects the community and may shed light on questions of implicit, explicit or systemic bias, we respectfully request the Council pass the bill with the inclusion of the two amendments outlined above. If passed by the Council, the PAC will urge the County Executive to sign the bill.

Please feel free to contact us if you have any questions or requests for clarification.

Sincerely,

Shabab Ahmed Mirza, Chair & Dalbin Osorio, LMSW, Vice Chair  
On behalf of the Policing Advisory Commission

Enclosed: IAD White Paper by Dr. Robin Gaster

Attachment – IAD White Paper

**Review of internal affairs data, 2013-2018**

**Robin Gaster**

**Feb 2019 (updated 2021)**

This analysis shows that while data and transparency are important, current efforts fall short. It offers recommendations for improving complaints data , and raises some questions based on the data that are available. It is based on an analysis of Data Montgomery, plus a review of the annual IAD reports from MCPD.

This paper reviews only the data of the complaints procedures. Other questions – such as whether the complaints procedures are too challenging, or issues related to LEOBOR, are not considered here.

This paper was originally shared with MCPD in 2019. It was updated in January 2021. No response was received by from MCOB .

**Questions refer to attached tables (see Appendix A below)**

Table 1. All complaints

1. Why are the published data available only back to 2013. Are previous years available?
2. No breakouts by
  - a. Station
  - b. Officer (anonymized)
  - c. Arrests and charges (e.g. “resisting arrest”)
  - d. Police subgroups (e.g. schools, SWAT, drug enforcement)
3. No complainant demographics. This would provide important context, showing for example whether complainants come disproportionately from specific demographics compared to county demographics (e.g. % of Black residents in the county)

Table 3. Current status

1. 40 complaints dating back to 2013-16 are still unresolved.

Table 2. Findings

1. The findings field is a mess, making it difficult to determine exactly what is being reported. Broadly, it appears that:
  - a. Of the 1,617 complaints where a finding is reported, 507 (31%) were clearly sustained, and 370 (23%) were clearly rejected. The remaining 740 (46%) resulted in ambiguous outcomes (primarily “administrative action” and “No corrective action taken” )
  - b. Corrective action was taken in about 24% of complaints from citizens, and 12% of cases brought internally. This is surprising: one imagines that police tend to accuse their colleagues of actions in cases that are *more* egregious. Why the difference?
2. Explanations for categories. What in particular is meant by
  - a. Administrative closure
  - b. Declined
  - c. No corrective action taken
  - d. Sustained

Attachment – IAD White Paper

3. No subcategories for action taken – without knowing *what* action was taken, these data are not useful for building community trust.

Table 5. Blank findings only

1. There are complaints which have been resolved, but for which there are no reported findings. This is about 7% of all complaints.
2. A much higher proportion of complaints from outside the department are completed without any recorded finding.
3. There is no pattern by year – it appears that in average about 30 complaints annually are left blank.

**Policy recommendations based on these data.**

**A. Process**

1. MCPD must report a finding for every complaint.
2. Complaints must be dealt with in a timely manner.
3. MCPD must at a minimum provide aggregate data covering each of the last 10 years.

**B. Reporting issues**

The current Findings field must be broken into three fields. Currently, Findings includes the following categories, which overlap and obfuscate: Administrative action, corrective action, declined, exonerated, insufficient evidence, no corrective action, policy failure, sustained, unfounded, blank. As a result, it is impossible to determine what happened with 46% of complaints where there were findings.

1. The Findings field should be broken into three linked fields:
  - a. Was the complaint sustained (yes/no);
    - i. On what basis (did officer break policy, break law or some other; for no, insufficient evidence etc.);
    - ii. If yes to a., what specific actions were taken (see 2. below)
2. “Corrective action taken” is not a sufficient description of outcomes. The Actions Taken field must be expanded to capture the kind of action taken. Categories should include officer retrained (including what retraining), fired, suspended, warned, reduced rank. Other categories may be useful here is well.
3. Complainant demographics must be tracked (gender, race, ethnicity, ESL, age where known) and reported for each complaint.
4. Officer information must be expanded included in the data for each complaint (e.g. station, responsibilities (e.g. drug task force, SWAT, schools)
5. Summary data by officer should also be provided (i.e. distribution of complaints by officer – fully anonymized). It matters if specific officers receive multiple complaints, and it especially matters for the community to know how this is handled.

**C. Questions raised by the existing data.**

1. Preliminary and limited trend analysis suggests an increase in complaints.
2. The share of complaints referred where corrective action was taken increased in recent years (except 2015). What explains this?

Attachment – IAD White Paper

3. Almost all completed complaints with blank findings are external. Why? What steps are being taken to ensure that all complaints generate findings.
4. The poor design of the findings field leaves many open questions e.g. what in fact happened to the 45% of complaints whose findings are ambiguous? And what “corrective actions” were in fact taken?
5. Similarly, we have no insight at all as to the circumstances of a complaint, police actions related to it, demographics of the complainant, organizational affiliation of Police Officer within the PD, etc. The data are simply not granular enough to answer important policy questions.
6. 2014 is anomalous: many complaints, higher proportion clearly sustained. What happened?

**D. Links to additional data sets**

1. Reporting in this area needs to be contextualized. Population size and composition change over time and so do those of the MCPD. These data are external to the complaints data set, but should be linked in any reporting.
2. Is approximately 420 complaints annually an acceptable number? Compared to what - what external benchmarks does MCPD use, if any?

**E. Alignment between data from Data Montgomery and IAD reports**

1. There are significant discrepancies between IAD reports and Data Montgomery. I have in the main used Data Montgomery as the data source here, because it provides granular data.

Attachment – IAD White Paper

**Appendix A. Tables from Internal Affairs complaints database, available from Open Data Montgomery**

Accessed Feb 2, 2018

All					
Table 1	Count of File N Column Labels				
	Row Labels	Active	Comple	Forward Initial	Grand Tot
	2013		240		240
	2014	2	446		448
	2015	14	359	4	377
	2016	24	390		414
	2017	108	319		427
	2018	31	11		43
	<b>Grand Total</b>	<b>179</b>	<b>1765</b>	<b>4</b>	<b>1949</b>
All except blank findings					
Table 2	Count of Findii Column Labels				
	Row Labels	External	Internal (blank)		Grand Total
	Administrative	100	131		231
	Corrective Acti	285	55		340
	Declined	119	1	1	121
	Exonerated	83	48		131
	Insufficient Evi	20	22		42
	No Corrective ,	473	36		509
	Policy Failure		1		1
	Sustained	42	124	1	167
	Unfounded	43	32		75
	(blank)				332
	<b>Grand Total</b>	<b>1165</b>	<b>450</b>	<b>2</b>	<b>1617</b>
	status	(All)			
Table 3	Count of ID Column Labels				
All compla	Row Labels	External	Internal (blank)		Grand Total
	2013	14		1	15
	2014	28	2	2	32
	2015	35	14	7	56
	2016	35	19		54
	2017	72	65	2	139
	2018	27	9		36
	<b>Grand Total</b>	<b>211</b>	<b>109</b>	<b>12</b>	<b>332</b>

Appendix B – PAC Recommendation to the County Council on Bill 45-20

Attachment – IAD White Paper

Cont.

Table 4	Row Labels ▼	Count of File Number	Corr	Sust	
sustained	2013	69	51	18	
by year	2014	133	73	60	
	2015	81	47	34	
	2016	118	83	35	
	2017	106	86	20	
	<b>Grand Total</b>	<b>507</b>			



## POLICING ADVISORY COMMISSION

To: Montgomery County Councilmembers  
Cc: County Executive Marc Elrich  
From: Policing Advisory Commission  
Date: March 8, 2021  
Re: Bill 46-20 - Police - School Resource Officers – Prohibited

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Dear Councilmembers,

The Policing Advisory Commission (PAC) respectfully submits our comments on Bill 46-20. We welcome this opportunity to advise the Council on policing matters and recommend policies, programs, legislation, or regulations, per our authorizing statute in the Montgomery County Code §35-6(f). After careful review, consultation with relevant stakeholders and experts, and deliberation amongst PAC members, **we recommend that the Council support Bill 46-20 in its current form.**

The passage of this bill would be an important step towards equity by reallocating resources from School Resource Officers (SROs) to improved mental and behavioral health services.

### Background

The PAC received notice that the Council planned to introduce Bill 46-20 on November 16, 2020. On December 14, 2020, it was referred to our subcommittee on Policing in Schools (then called the subcommittee on School Resource Officers) for further review. The members of the subcommittee met with numerous community stakeholders over the course of their review, including students, teachers, and parents. Materials reviewed by the subcommittee include, but are not limited to: the Office of Legislative Oversight report on the bill; preliminary and final reports from the Reimagining Safety Task Force; news media coverage of statements made by principals and other community members; and a letter to the subcommittee from more than 180 staff members at Montgomery County Public Schools (MCPS) asking that the PAC endorse the bill. On January 11, 2021, the subcommittee shared a statement about the bill with the full PAC. The PAC convened a special meeting on January 25, 2021 to allow Commissioners more time to discuss the proposed legislation.

In the previous months, the PAC has solicited comments on the matter of School Resource Officers from our *ex officio* members Chief Marcus Jones and Sergeant Catherine Brewer at our regular meetings. Their perspectives on this issue as Montgomery County Police Department (MCPD) staff have informed our analysis of this issue. In addition, PAC members have reviewed documents prepared by the MCPD and other County staff on School Resource Officers (SROs), considered expert analysis and academic studies on the issue of removing SROs from schools in other jurisdictions, and listened to testimony shared during the public hearing on the bill on February 4, 2021.

The PAC received more public input on this bill than on any other issue before our body to date. MCPS students, teachers, parents, and alumni attended PAC meetings where this issue was under discussion and offered comments in the public chat. We also received comments submitted through our public comment portal. All such comments from the public were in favor of the bill.



## POLICING ADVISORY COMMISSION

After a formal discussion on the bill at our monthly meeting on February 8, 2021, the PAC **voted 11-2 in support of Bill 46-20** as recommended by the subcommittee.

### Subcommittee Findings

The presence of officers in school settings can create an atmosphere of fear and heighten trauma for students, particularly students of color. The Policing in Schools subcommittee received numerous reports of specific instances of biases expressed and acted on by law enforcement in MCPS from students and teachers. It is important to note that trauma faced by students of color does not only come from a student's own negative experiences with an SRO, but also from negative experiences with officers outside of school or simply from turning on the news and watching people who look like them being murdered by police officers who aren't held accountable. This view was expressed to the subcommittee by both students of color and White students, regardless of whether that individual student had negative interactions with SROs. The subcommittee made special note that students sharing their personal stories of negative experience feel that they are often not believed, that anecdotal positive experiences with SROs are used to invalidate their negative ones, and that there is a myth that our county and our police department are somehow immune to racism—in spite of the overwhelming disparities in the data, such as the disproportionate rate of arrests for Black MCPS students compared to their peers.

### Appropriations

The counselor-to-student ratio at MCPS falls well below the recommendation of the National Association of School Psychologists. This lack of support does not go unnoticed by our students. Commissioner Jasmine Williams, chair of the Policing in Schools subcommittee and a 2020 alumna of Clarksburg High School, described how clear to her it was that the majority of counselors were too overwhelmed by scheduling and administrative duties to address students' mental health and wellbeing. Currently, there are only two full-time restorative justice employees at MCPS. Our county's commitment to equity should be reflected in its budget. Redirecting the \$3 million currently allocated towards policing in schools towards mental and behavioral health resources can provide MCPS students, staff, and families with the resources required to truly have an equitable school system.

While we have considered the views of many stakeholders, it is essential to note that those directly impacted by this policy are MCPS students themselves. The Council has previously acknowledged the importance of including youth voices in the issue of policing by appointing two youth members to the PAC. Both of them serve on the Policing in Schools subcommittee, and they have been committed to representing the voices of young people in our county by advocating for this bill on their behalf. In line with their recommendations, the PAC respectfully asks the Council to vote in favor of Bill 46-20 in its current form.

Please feel free to contact us if you have any questions or requests for clarification.

Sincerely,  
Shabab Ahmed Mirza, Chair & Dalbin Osorio, LMSW, Vice Chair  
On behalf of the Policing Advisory Commission



**LIST OF DATA REQUESTED AND A SUMMARY OF THE REQUEST (As of July 1, 2021)**

1. September 15, 2020 – PAC requested from MCPD a list of all databases used by the Department and, for each database, a list of data fields and the data dictionary that defines and explains each data field.
  - i. MCPD responded with the requested information on November 5, 2020
2. November 5, 2020 – H&D Subcommittee requested information from MCPD/IAD regarding data it collects and shares with the Maryland Police Training and Standards Commission (PTSC) on the number of serious police officer involved incidents and the type of discipline administered to officers as a result.
  - i. MCPD responded with the information requested on December 8, 2020
3. November 10, 2020 – The PAC requested information from MCPD on traffic enforcement, specifically regarding the mission, policies, and objectives of traffic enforcement done by MCPD and also related to data collection and analysis on traffic stops and enforcement.
  - i. MCPD responded with the information requested on December 22, 2020.
4. December 5, 2020 – H&D Subcommittee requested information from MCPD on bias and psychological evaluations for both prospective hires and current officers.
  - i. MCPD responded with the information requested on December 15, 2020
5. December 14, 2020 – The PAC expressed a desire to learn more about the goals of the MCPD Citizen Academy and how that program is evaluated. Staff reached out to MCPD for more information.
  - i. MCPD responded on December 24, 2021 with the information requested.
6. December 18, 2020 – The H&D Subcommittee requested to hear from Assistant County Attorney Sarah Daken to better understand how hearing boards are conducted under LEOBOR in the County.
  - i. The H&D Subcommittee hosted Ms. Daken at a subcommittee meeting on January 8, 2021.
7. February 1, 2021 - H&D Subcommittee requested information from MCPD on the number of street stops (i.e. stop and frisks) of non-minority individuals (not black, Latino or of African descent) that ended in a shooting (fatal or otherwise) of that individual by the officer for the current and past two years. The Subcommittee also requested a briefing from MCPD on the specific training given to officers who are unmarked and in plain clothes.
  - i. MCPD responded with the information requested on February 5, 2020
  - ii. Captain Cokinos of MCPD gave a presentation to the Subcommittee on February 22, 2021.

Appendix D – PAC Data Requests: September 2020 through July 1, 2021

8. March 5, 2021 – The PAC submitted a series of questions for Chief Jones and Sgt. Cate Brewer to address at the March 8, 2021 PAC Meeting.
  - i. Chief Jones and Sgt. Brewer provided answers to some of the questions during the meeting and then provided written responses to the remaining questions on April 9, 2021.
  
9. April 12, 2021 – The PAC requested clarification on the number of yearly marijuana arrests in the County.
  - i. MCPD provided additional information on April 19, 2021.