



Montgomery
County Council

Committee: PS
Committee Review: July 23, 2020
Staff: Amanda Mihill, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #MoCoAsstPoliceChief

AGENDA ITEM #2A
July 29, 2020
Action

SUBJECT

Bill 24-20, Administration – Police – Assistant Chiefs of Police
Lead Sponsor: Council President at the request of the County Executive

EXPECTED ATTENDEES

Police Chief Marcus Jones
Assistant CAO Caroline Sturgis

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Action – Council vote expected
- The Committee recommended enacting Bill 24-20 with an amendment to make the bill expedited.

DESCRIPTION/ISSUE

Bill 24-20 would create a non-merit civilian assistant chief of police position and rename the existing non-merit assistant chief of police positions.

SUMMARY OF KEY DISCUSSION POINTS

- None

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MEMORANDUM

July 24, 2020

TO: County Council

FROM: Amanda Mihill, Legislative Attorney
Susan J. Farag, Legislative Analyst

SUBJECT: Bill 24-20, Administration – Police – Assistant Chiefs of Police

PURPOSE: Action – Roll call vote required on Bill¹

Expected attendees:
Police Chief Marcus Jones
Assistant CAO Caroline Sturgis

Public Safety Committee recommendation (3-0): enact Bill 24-20 with an amendment to make the bill expedited.

Bill 24-20, Sworn and Civilian Assistant Chiefs of Police, sponsored by Lead Sponsor Council President at the request of the County Executive, was introduced on June 16, 2020. A public hearing was held on July 7 at which four people testified and a Public Safety Committee worksession was held on July 23.

Bill 24-20 would create a non-merit civilian assistant chief of police position and rename the existing non-merit assistant chief of police positions. In addition to Bill 24-20, the Council is scheduled to act on two regulations to implement Bill 24-20 after action on this Bill.

Background

The Montgomery County Police Department (MCPD) currently has four operational bureaus, each overseen by a sworn Assistant Chief. MCPD has a Patrol Services Bureau, Investigative Bureau, Field Services Bureau, and a Management Services Bureau. The Assistant Chiefs are responsible for daily oversight of all functions within each bureau, ensure compliance with all departmental policies, help determine budgetary and staffing needs, and work together to identify, formulate, and implement new, more efficient departmental practices as needed.

The new Assistant Chief of Police (Civilian) would oversee a fifth bureau to be named

¹ #MoCoAsstPoliceChief

the Community Resources Bureau. According to the County Executive, the new Bureau will oversee the Community Engagement Division, the Policy and Planning Division, and the Public Information Office. The new Civilian Assistant Chief will also be responsible for creating an evidence-based policing unit to research best practices. Creation of this new position and departmental bureau will enable the Department to:

- enhance community engagement efforts and continue to build trust in the community;
- enhance department communications with the public;
- structure the department in the most effective manner to deliver police services;
- align organizational units with similar missions to eliminate silos and enhance efficiencies;
- balance span of control to provide greater supervision and accountability; and
- create a framework for evolving needs of the community and department.

Council staff comments: There are no legal issues with Bill 24-20.

Committee Worksession

Councilmembers Rice and Jawando participated in the discussion with the Committee. The Executive Branch was represented by Police Chief Marcus Jones and Assistant CAO Caroline Sturgis. Legislative Analyst Susan Farag and Senior Legislative Attorney Robert Drummer represented Council staff. The Committee discussed amending the Bill to reduce the 4 sworn Assistant Chiefs to 3 sworn Assistant Chiefs and 1 Civilian Assistant Chief. Chief Jones explained that the plan was to create a 5th Bureau to be led by the new Civilian Assistant Chief and requested the Bill be enacted as drafted. The Committee also indicated a preference for community input on the selection of the new Civilian Assistant Chief and the need to amend the Bill to be expedited in order to permit the new person to begin in less than 90 days after the Bill became law.

The Committee amended the Bill (3-0) to make it expedited and recommended approval of the Bill (3-0) with the Civilian Assistant Chief and the existing 4 sworn Assistant Chiefs.

Fiscal Impact

According to the Executive's Fiscal Impact Statement, this Bill will not affect County revenues and changes to expenditures will be minimal. The Department plans to abolish a vacant Captain's position in order to create the new Civilian Assistant Chief Position. While the Captain position's mid-point is \$129,765, the new Civilian Assistant Chief Position will be a grade X-III position on the Executive Leadership Salary Scale. The midpoint for that salary band is \$157,505. Council staff agrees that any fiscal impact depends on the actual salary provided and will likely be minimal. Council staff notes that a Civilian Assistant Chief will also have lower retirement benefit costs as well.

The Committee (3-0) recommended the Council enact Bill 24-20 with an amendment to make the bill expedited.

This packet contains:

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Expedited Bill No. 24-20
Concerning: Administration – Police
– Assistant Chiefs of Police
Revised: July 23, 2020 Draft No. 2
Introduced: June 16, 2020
Expires: December 16, 2021
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) create a non-merit civilian assistant chief of police position,
- (2) rename the existing non-merit assistant chief of police positions; and
- (3) make other stylistic changes.

By amending

Montgomery County Code
Chapter 2, Administration
Section 2-43

| | |
|-------------------------------------|--|
| Boldface | <i>Heading or a defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

The County Council for Montgomery County, Maryland, approves the following act:

Sec 1. Section 2-43 is amended as follows:

Sec. 2-43. Organization and functions.

(a) The Department of Police includes the County police and the Office of County Security, and the Animal Services Division. The Department has the authority, functions and activities prescribed by law.

(b) The Department has five non-merit positions: four Assistant Chief of Police (Sworn) positions and one Assistant Chief of Police (Civilian) position. [Four positions of Assistant Chief of Police are non-merit positions].

(c) Any reference in this Code or in regulation or other document to “superintendent of police” or “superintendent” means “Executive Director of Police,” or “Chief of Police,” or “Executive Director”

Sec. 2. Expedited effective date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

LEGISLATIVE REQUEST REPORT

Bill 24-20

Administration – Police – Assistant Chiefs of Police

DESCRIPTION: This bill revises §2-43 to create a non-merit civilian Assistant Chief of Police position and rename the existing Assistant Chief of Police positions.

PROBLEM: The County Executive and County Council expects the Montgomery County Police Department to be more engaged, transparent and accountable to the community as evidenced by the passage and proposal of recent legislations.

GOALS AND OBJECTIVES: The creation of the 5th Assistant Chief of Police will focus on community relations and evidenced-based policing.

COORDINATION: Office of the Chief Administrative Officer

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Office of Legislative Oversight

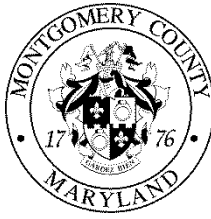
EVALUATION: Subject to the general oversight of the County Executive and the County Council. The Office of the County Attorney will evaluate for form and legality.

EXPERIENCE ELSEWHERE: To be researched

SOURCES OF INFORMATION: Caroline Sturgis
Assistant Chief Administrative Officer

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: N/A




OFFICE OF THE COUNTY EXECUTIVE
Rockville, Maryland 20850

Marc Elrich
County Executive

MEMORANDUM

May 6, 2020

TO: Sidney Katz, President, Montgomery County Council

FROM: Marc Elrich, County Executive 

RE: **Proposed Legislation: Sworn and Civilian Assistant Chiefs of Police**

I am transmitting for Council introduction the attached legislation which would create a non-merit civilian Assistant Chief of Police position and rename the existing Assistant Chief of Police position. The creation of the fifth Assistant Chief of Police (Civilian) position supports my vision for thriving youth and families as well as safe neighborhoods by strengthening the Montgomery County Police Department's (Department) focus on community engagement and evidence-based policing. The vision addresses the expectations of the Council to be a more engaged, transparent and accountable Department to the community as evidenced by the passage and proposal of recent bills.

The Assistant Chief of Police (Civilian) would oversee a fifth bureau to be named the Community Resources Bureau (Bureau). The new Bureau will oversee the Community Engagement Division, the Policy and Planning Division, and the Public Information Office. The new Assistant Chief of Police (Civilian) would be responsible for creating the Evidence-Based Policing Unit to research and discover best practices within this concept. Creation of this Assistant Chief of Police (Civilian) position and Bureau will support a reorganization that allows the Department to:

- Enhance community engagement efforts and continue to build trust in the community
- Enhance department communications with the public
- Structure the department in the most effective manner to deliver police services
- Align organizational units with similar missions to eliminate silos and enhance efficiencies
- Balance span of control to provide greater supervision and accountability
- Create a framework for evolving needs of the community and department

Montgomery County Code § 1A-104(b)(2) requires that each of these positions be supported by a position description established by executive regulation under method (1).

Executive Regulation No. 3-20 (Assistant Chief of Police (Civilian)) and 4-20 (Assistant Chief of Police (Sworn)) were advertised in the Montgomery County Register during the period April 1, 2020 through April 30, 2020, but no comments were received. Fiscal impact statements for the regulations are also included.

With this proposed legislation I am attaching a legislative request report and Fiscal Impact Statement. I appreciate the Council's introduction of this legislation and my staff is ready to assist in any way needed.

cc: Marc Hansen, County Attorney
 Dale Tibbitts, Special Assistant to the County Executive

Fiscal Impact Statement
Bill XX-20, Police – Assistant Chief (Civilian Sworn)

1. Legislative Summary

Bill XX-20 would increase the number of Assistant Chief of Police positions from four to five through the creation of a new non-merit Civilian Assistant Chief of Police position. The Bill also renames the existing non-merit Assistant Chief of Police positions to indicate that they are sworn positions.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

This Bill will not affect County revenues and changes to expenditures will be minimal. A vacant Police Captain position is being abolished to ensure that the creation of the fifth Assistant Chief (Civilian) position will be close to cost neutral. The average cost of a Police Captain (Midpoint salary = \$129,765) is roughly equivalent to the cost of a new Civilian Assistant Chief assuming a mid-point hire (Midpoint salary = \$157,505). Given the minor variance and unknown hiring salary this action is not expected to have a material impact on County expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

This Bill is expected to have a minimal impact on expenditures over the next 6 fiscal years.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Bill XX-20 does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

There is no additional staff time needed to implement the bill.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

The Civilian Assistant Chief will oversee a newly created bureau within the Department, the Community Relations Bureau. When this bureau is created, several currently existing divisions will be transferred into this bureau to increase oversight and limit span of control to ensure quality of services. The current plan is to transfer the Community Engagement Division, Policy and Planning Division, and the Public Information Office into this new bureau. In addition, Police is planning to merge the School Resource Officer program into the Community Engagement Division. Finally, this Assistant Chief

would research and implement evidence-based policing models through the entire department via the Policy and Planning Division.

By taking these programs from existing bureaus, it will reduce the span of control for three of the current bureau Chiefs. However, the actual reduction in span of control for each of the bureaus would be minor, because the transferred divisions are relatively small in comparison to others in the department.

9. An estimate of costs when an additional appropriation is needed.

No additional appropriation is needed to implement Bill XX-20

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

This Bill will have no material fiscal impact because a vacant Police Captain position is being abolished to ensure that the creation of the fifth Assistant Chief (Civilian) position will be cost neutral. The average cost of a Police Captain is roughly equivalent to the cost of a new Civilian Assistant Chief assuming a mid-point hire.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Neil Shorb, MCPD Management and Budget Division

Trevor Lobaugh, Office of Management and Budget



Richard S. Madaleno, Director
Office of Management and Budget

4/10/20
Date

Bill 24-20

Administration – Police – Assistant Chiefs of Police

SUMMARY

The Office of Legislative Oversight (OLO) expects Bill 24-20 to have an insignificant impact on the Montgomery County economy.

BACKGROUND

Bill 24-20 would revise §2-43 of the Montgomery County Code to “create a non-merit civilian assistant chief of police position” and “rename the existing non-merit assistant chief of police positions.” The new Assistant Chief of Police position would “focus on community relations and evidenced-based policing.”¹

INFORMATION, ASSUMPTIONS and METHODOLOGIES

No methodologies were used in this statement. The assumptions underlying the claims made in the subsequent sections are based on the judgment of OLO staff.

VARIABLES

Not applicable.

IMPACTS

Businesses, Non-Profits, Other Private Organizations

Workforce, operating costs, property values, capital investment, taxation policy, economic development, competitiveness, etc.

OLO believes that Bill 24-20 would have little to no impact on private organizations in the County in terms of the Council’s priority indicators, namely workforce, operating costs, capital investments, property values, taxation policy, economic development and competitiveness.

Residents

Employment, property values, taxes paid, etc.

OLO believes that Bill 24-20 would have little to no impact on County residents in terms of the Council’s priority indicators, namely employment, property values, and taxes paid.

¹ Montgomery County Council, Bill No. 24-20 Administration – Police – Assistant Chiefs of Police, Montgomery County, Maryland, 1-3.

WORKS CITED

Montgomery County Council. Bill No. 24-20 Administration – Police – Assistant Chiefs of Police. Montgomery County, Maryland.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

This economic impact statement was drafted by Stephen Roblin (OLO).

From: "Jaime Koppel" <jaimekoppel@gmail.com>

Date: 7/7/2020 12:07:42 PM

To: "county.council@montgomerycountymd.gov" <county.council@montgomerycountymd.gov>

Cc: "Zakiya Sankara-Jabar" <z.sankara-jabar@rjndmv.org>, "Carolyn Lowery" <carolyn@rjndmv.org>

Subject: I strongly oppose Bill 24-20, Administration – Police – Assistant Chiefs of Police

Council President Katz, members of the County Council, and County Executive Elrich,

I am deeply disturbed by the introduction of Bill 24-20. After reviewing the language, it is clear to me that the person hired for this position would be responsible for essentially lobbying community members to support police positions and requests. Creating this structure would further perpetuate the existing divide and lack of police accountability that exists in Montgomery County.

I would like to make particular note that within my overall concern with the proposed legislation, I was struck by the fact that there is particular mention of merging "the School Resource Officer program into the Community Engagement Division." Such an approach boldly ignores calls for police free schools and the many young people and families who have repeatedly indicated that SROs do not make them feel safe - opinions grounded in empirical evidence that these feelings are true.

While I see that there is "no fiscal impact", the human impact of passing this legislation would be significant and negative. At a time when many jurisdictions in our nation are boldly and necessarily responding to calls for authentic dialogue and action around what it means to defund police - divesting from harmful law enforcement approaches that criminalize communities of color and instead investing in strengths-based supports - I am beyond disappointed by this proposed action that will further entrench law enforcement approaches as the singular possible approach to ensuring public safety.

Thank you,

Jaime Tackett Koppel
Takoma Park

--

Jaime T. Koppel
646-894-1150

Good afternoon, Bill 24-20 does absolutely nothing to address the core of the real issue: police brutality. More assistant chiefs change nothing. Reform of police has proven to fail.

I must ask the white people on this council, who have called defunding and abolishing the police “extreme”, what is more extreme? A comprehensive reimagining of public safety or continuing to allow cops to murder and assault civilians with impunity?

Every act of police brutality is committed against an innocent person because our laws state that everyone is innocent until proven guilty. Police have been free to act as judge, jury and executioner. It's said “actions speak louder than words” and all I can hear from you is callous disregard for human life and safety.

In closing, we need fewer police, not more. I urge this council to dispose of this bill and redirect its energy to crafting a bill to create a Department of Public Safety that can respond flexibly and appropriately to various types of emergencies. I know it won't be easy to create such a Department from scratch, but the idea at its core is simple: Public Safety must come a place of compassion and care, the way we treat medical emergencies, instead of starting with violence like we do now by sending armed officers to every emergency, this new department would keep the few armed officers it will need only for those emergencies that reasonably require it. To do this we must first start by defunding the police, not expanding them as this bill seeks to do.

Thank you for listening and I yield the rest of my time.

From: "Roxanne Edwards" <dockrox@icloud.com>

Date: 7/6/2020 12:26:24 PM

To: "county.council@montgomerycountymd.gov" <county.council@montgomerycountymd.gov>

Cc:

Subject: Montgomery County Council: Bill 24-20, Administration - Police - Assistant Chiefs of Police [July 7, 2020]

Greetings Montgomery County Council,

Here are the comments I plan to make at tomorrow's meeting (I just got notification today to do so thus less than usual 2 day lead time):

I come to this as a mother and a wife (As well as a physician, business owner and citizen whose taxes pay police salaries). While I recognize that my being an African American woman also places me at risk for being the victim of police violence, I am particularly worried for my husband and son. My kind, caring, hard working husband, who remembers being pulled over EVERY WEEK when he had a job that put him on the road at 4 a.m. every day. My beautiful, loving, insightful 21 year old son, who despite maintaining a 3.6 GPA at Georgetown University, where he also plays Division 1 football, knows he's at risk for police brutality based on the color of his skin. I helplessly watched That amazing young man cry INCONSOLABLY for only the second time in his life, in response to his seeing the televised lynching of Mr. George Floyd while the perpetrator smirked at being filmed. As calm and composed as my son usually is, he powerlessly asked his father and I, "Why do they hate us so much??"

Here are my questions:

How can the the Montgomery County Police Department prevent reprisals from other officers Against those who speak out or report inappropriate behaviors, including excessive force?

- What steps are being taken to prevent officers from using "qualified immunity" to avoid accountability for poor behavior?

- While information on terminated officers will be shared with jurisdictions inside Maryland, what's to prevent them from getting a job in another state's police department?

- How does MPD incorporate other professionals (e.g. those in mental health, medical, substance use disorders) in the work to prevent officers from having to make judgement calls when responding to those kind of situations?

On behalf of my son, on behalf of my husband, on behalf of myself, please address these issues with all deliberate speed.

Sincerely,

Roxanne Dryden-Edwards, M.D.

Sent from my iPhone