



**Committee:** PS  
**Committee Review:** Completed  
**Staff:** Khandikile Mvunga Sokoni, Legislative Attorney  
**Purpose:** Final action – vote expected  
**Keywords:** #Police#PolicingAdvisoryCommission#PAC  
 #Community Advisory Commission on Public Safety

AGENDA ITEM#6A  
 October 24, 2023  
**Action**

**SUBJECT**

Bill 32-23, Police - Policing Advisory Commission - Amendments  
 Lead Sponsor: Councilmember Luedtke

**EXPECTED ATTENDEES**

Eric Sterling, Chair, Policing Advisory Commission  
 Ty McKinney, Vice Chair, Policing Advisory Commission

**COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION:**

The Public Safety Committee recommended enactment of Bill 32-23 with amendments.

**DESCRIPTION/ISSUE**

Bill 32-23 would:

- (1) rename the Policing Advisory Commission so that it will now be known as Community Advisory Commission on Public Safety;
- (2) amend the law regarding the Policing Advisory Commission regarding appointment of members and scope of the Commission; and
- (3) generally amend the law regarding policing, public safety and law enforcement.

**SUMMARY OF DECISIONS POINTS**

Whether to enact Bill 32-23 with amendments.

**This report contains:**

Staff Report	pages 1-6
Bill 32-23	© 1
Md. Public Safety Code Ann. §3-101 <i>et seq.</i>	© 6
Climate Assessment	© 14
Economic Impact Statement	© 17
Racial Equity and Social Justice Impact Statement	© 20
Fiscal Impact Statement	© 25
Public Testimony	
NAACP Letters	© 26
Greater Silver Spring Chamber of Commerce	© 31
Silver Spring Justice Coalition	© 33
Eric Sterling, Chair of the PAC	© 36
Gary Frace	© 41

Montgomery County Chamber of Commerce	© 43
Jews United for Justice	© 44
Michael English	© 46
Letter from the League of Women Voters	© 47
Draft bill showing amendments recommended by PS Committee	© 49
Councilmember Jawando Memorandum	© 55
Councilmember Mink's proposed amendments considered by PS Committee	© 58
Letter of PAC Chair, Eric Sterling to Council President Glass	© 59
Letter from Greater Silver Spring Chamber of Commerce	© 60

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**MEMORANDUM**

October 19, 2023

TO: County Council

FROM: Khandikile Sokoni, Legislative Attorney

SUBJECT: Bill 32-23, Police - Policing Advisory Commission - Amendments

PURPOSE: Action – roll call vote expected

**EXPECTED/INVITED ATTENDEES:**

- Eric Sterling, Chair, Policing Advisory Commission
- Ty McKinney, Vice Chair, Policing Advisory Commission

Bill 32-23, Police – Policing Advisory Commission - Amendments, whose lead sponsor is Councilmember Luedtke, was introduced on July 25, 2023. A public hearing was held on September 12, 2023, and a worksession before the Public Safety Committee was held on Monday October 2, 2023. The Public Safety Committee recommended enactment of Bill 32-23 with amendments.

Bill 32-23 would:

- (1) rename the Policing Advisory Commission so that it will now be known as Community Advisory Commission on Public Safety;
- (2) amend the law regarding the Policing Advisory Commission regarding appointment of members and scope of the Commission; and
- (3) generally amend the law regarding policing, public safety and law enforcement.

**BACKGROUND.**

The purpose of Bill 32-23 is to amend the provisions in the County Code that provide for and govern the Policing Advisory Commission (PAC). The PAC was established by Bill No. 14-19<sup>1</sup> which was enacted on December 3, 2019, and took effect on March 13, 2020. The Bill, among other things, provided that the PAC would consist of 13 voting members (appointed by the Council with each Councilmember nominating one member), and two ex-officio non-voting and two young members (nominated by the County Executive). On July 28, 2020<sup>2</sup>, the Council, by [Resolution No: 19-573](#) appointed the Commissioners to the PAC, whose terms were set to expire on July 31, 2023. Under the Charter unless there is a contrary requirement, members of a board, committee or

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<sup>1</sup> <https://apps.montgomerycountymd.gov/ccllms/BillDetailsPage?RecordId=2610&fullTextSearch=14-19>

<sup>2</sup> Any vacancies arising since the original appointment(s) were filled for the remainder of the term.

commission may serve up to 6 months passed the expiry of their term if a successor has not been appointed.

Subsequent to the creation of the PAC, on April 10, 2021 the State Assembly amended the Maryland Public Safety Article to among other things require each County to have a police accountability board.<sup>3</sup> The County, pursuant to this State mandate enacted [Bill No. 49-21](#), which took effect on May 2, 2022, to:

- (1) establish the Police Accountability Board for the County;
- (2) define the membership and duties of the Police Accountability Board;
- (3) establish the Administrative Charging Committee for the County;
- (4) define the membership, duties, and compensation for members of the Administrative Charging Committee; and
- (5) generally amend the law governing police accountability and discipline.

Members of the Police Accountability Board were appointed on June 28, 2022 by [Resolution 19-1313](#), to terms that started on July 1, 2023.

According to Councilmember Luedtke, because of the establishment of the Police Accountability Board and the Administrative Charging Committee it is important to clarify the role of the PAC. Hence this bill.

Councilmember Luedtke previously introduced Expedited Bill 27-23, co-sponsored by Councilmember Katz which sought to repeal<sup>4</sup> the PAC. However, Councilmember Luedtke moved, and the Council voted to withdraw that bill. In its place Councilmember Luedtke introduced this Bill 32-23 on July 25, 2023.

#### **BILL SPECIFICS**

In summary, some of the changes<sup>5</sup> to the PAC proposed by Bill 32-32 include:

- **Name change.** Renaming the PAC so that it will now be known as Community Advisory Commission on Public Safety.
- **Term limits.** Introducing term limits of two consecutive three-year terms.
- **Staggering of initial terms.**
- **Scope.** (1) Making it clear that the Commission is responsible for advising the County Council on certain policing matters and is not an oversight body of the Police Department. (2) Clarifying that the Commission does not consider policing matters relative to police misconduct and discipline that are within the scope of the PAB to align with a proposed

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<sup>3</sup> Md. Public Safety Code Ann. §3-102.

<sup>4</sup> After introduction the bill sponsors presented proposed amendments to the Committee.

<sup>5</sup> The PS Committee reviewed proposed amendments to Bill 32-23 which are addressed later in this report.

amendment to Bill 27-23 that OLO had recommended in its Racial Equity and Social Justice Impact Statement for Bill 27-23.

- **Membership.** Changing the number and eligibility of commissioners. At present each member of Council nominates a public member of the Commission. If that configuration were kept, then an amendment would be required to change the reference from each of the “9” councilmembers to each of the “11” councilmembers. Bill 32-23 changes the method of nomination so that all public commissioners would have to be appointed by the Council as a whole.
- **Voting.** Changing voting eligibility of commissioners including re-classifying the institutional members (i.e. the Chief of Police and the Police union President) from non-voting to voting members.

### SUMMARY OF IMPACT STATEMENTS

The Office of Legislative Oversight (OLO) provided a **Racial Equity and Social Justice (RESJ)** impact statement dated September 7, 2023. © 20. OLO anticipates Bill 32-23 could have a negative impact on racial equity and social justice (RESJ) in the County as its amendments changing the composition of the Policing Advisory Commission (PAC) could diminish its independence and power in promoting policing best practices that advance RESJ in the County. To offset the potential negative RESJ impact of Bill 32-23, OLO offers several policy options for consideration:

- *Repeal adding the Police Chief and President of the FOP (or their designees) as voting members. A combined civilian and law enforcement advisory commission undermines the independence needed for civilian oversight agencies to garner legitimacy and trust with community members and BIPOC constituents. The PAC emerged in response to concerns that the MCPD lacked the wherewithal to hold itself accountable for investigating and preventing incidences of police misconduct in the community. Retaining the Police Chief and FOP President as non-voting members would allow the PAC to remain a civilian oversight agency that the community could trust.*<sup>6</sup>
- *Repeal eliminating the age requirements for two voting members. Young people are disproportionately impacted by police interactions with the public, particularly in uses of force and police pursuits. As the age group most impacted by policing interactions and likely incidents of police misconduct when they occur, it is critical that they be represented among PAC members and in decision-making. Retaining the young adult members requirement promotes power-sharing with constituents most impacted by policing as well as RESJ.*<sup>7</sup>
- *Repeal requiring the PAC to represent business interests and homeowners. Under current law, members of the PAC should “reflect the racial and economic diversity of the County’s communities, including religious creed, age, sex – including on the basis of gender identity or orientation, disability, and geographic location, with emphasis on those disproportionately impacted by inequities.” Requiring the PAC to also include representation from business*

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<sup>6</sup> © 23

<sup>7</sup> © 24

*owners or organizations, homeowners' associations, common ownership communities and tenants' associations could shift PAC membership from those unfavorably impacted by inequities to those that benefit from inequities.*

- *Repeal prohibiting the PAC from serving as an oversight body of any law enforcement entity. The power that the PAC has in its current oversight of MCPD, and local law enforcement more broadly, is limited at best. One of three essential conditions of effective civilian oversight agencies is to have sufficient power so that law enforcement cannot ignore their recommendations. Yet, the PAC too often lacks sufficient power to have MCPD meaningfully respond to its data requests despite the law (Bill 14-19) requiring them to do so within 30 days. This amendment to prohibit the PAC from serving as an oversight body of any law enforcement entity undermines the PAC's effort to promote accountability and transparency in local policing and best practices for advancing RESJ.*

OLO's **Economic Impact Statement (EIS)** anticipates that the Bill would have insignificant impacts on private organizations, residents, and overall economic conditions in the County in terms of the indicators prioritized by the Council.<sup>8</sup>

The County's Office of Management and Budget provided a **Fiscal Impact Statement** which states that this "legislation is not expected to impact County expenditures or revenues" and has no anticipated fiscal impact.<sup>9</sup> This bill does not authorize future spending.

#### SUMMARY OF PUBLIC TESTIMONY AND LETTERS

Eight speakers registered to testify at the public hearing, which was held on September 12, 2023, including Mr. Earl Stoddard who spoke on behalf of the County Executive, and Eric E. Sterling, the Chair of the PAC. The written testimony submitted is attached to this staff packet and can be found from © 26 to 46. Although it was not recorded as testimony because it was received after the time allotted for written testimony, the League of Women Voters of Montgomery County submitted a letter dated September 25, 2023 which can be found at © 47.

Councilmember Jawando submitted a letter dated September 13, 2023<sup>10</sup>, in which he expressed support for the name change, and increasing the number of members of the Commission. He, however, objects to the rest of the changes presented in Bill 32-23 including removal of the young members; conversion of the ex-officio members (Police Chief and FOB President) to voting members; staggered terms and inclusion of business/property owners on the Commission.

#### SUMMARY OF THE COMMITTEE RECOMMENDATION

The decision before the Council now is whether to enact Bill 32-23 with amendments, as recommended by the PS Committee. The amendments that were recommended by the Committee are outlined below:

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<sup>8</sup> © 17

<sup>9</sup> © 25

<sup>10</sup> © 55

**A. Except where noted otherwise, the Committee voted unanimously to recommend the following amendments to the full Council for action:**

1. Change the name of the Commission to “Advisory Commission on Policing.”
2. Establish term limits so that commissioners must serve no more than two full terms: When there is a vacancy, the replacement must be appointed for a full three-year term (instead of status quo where appointment is for remainder of the term).
3. Reserve two commission appointments for one youth member, aged 25 years or younger, and a young adult member aged between 26-35 years.
4. Exempt the youth member from the requirement to participate in the Citizens’ Academy.
5. Rephrase line 108 of Bill 32-23 about the Commission not being an oversight body of any law enforcement entity; and instead say that “The Commission is not a regulatory or disciplinary body over any law enforcement agency”.
6. Amend lines 77-81 to state that when the Commission receives complaints involving police misconduct, they must forward them to the Police Accountability Board.
7. By a split vote the Committee recommended amending the bill so that each Councilmember must nominate one member of the Commission.  
Councilmember Katz: Yes  
Councilmember Luedtke: No  
Councilmember Mink: Yes
8. Make the bill expedited.

**B. The PS Committee considered and with a split vote recommended against the following amendments:**

1. Whether institutional members (i.e. the Police Chief and FOP President) must become voting members?  
Councilmember Katz: No  
Councilmember Luedtke: Yes  
Councilmember Mink: No
2. Whether to require completion of the Citizens’ Academy for all members except for the youth member? Currently, participation rather than completion is required.  
Councilmember Katz: No  
Councilmember Luedtke: Yes  
Councilmember Mink: No

3. Whether failure to complete the Citizens' Academy within one year of appointment must be a basis for removal from serving on the PAC?

Councilmember Katz: No  
Councilmember Luedtke: Yes  
Councilmember Mink: No

4. Whether to expand the criteria for consideration in appointing members to include businesses, urban districts, tenants & homeowners associations?

Councilmember Katz: No  
Councilmember Luedtke: Yes  
Councilmember Mink: No

A version of the bill marked "draft" is attached at ©49 showing all the proposed amendments recommended by the PS Committee.

**Next Step:** Roll call vote on whether to enact Bill 32-23 with amendments, as recommended by the Public Safety Committee.

**This packet contains:**

	<u>Circle #</u>
Bill 32-23	© 1
Md. Public Safety Code Ann. §3-101 <i>et seq.</i>	© 6
Climate Assessment	© 14
Economic Impact Statement	© 17
Racial Equity and Social Justice Impact Statement	© 20
Fiscal Impact Statement	© 25
Public Testimony	
NAACP Letters	© 26
Greater Silver Spring Chamber of Commerce	© 31
Silver Spring Justice Coalition	© 33
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Montgomery County Chamber of Commerce	© 43
Jews United for Justice	© 44
Michael English	© 46
Letter from the League of Women Voters	© 47
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Bill No. 32-23  
Concerning: Police – Policing Advisory Commission - Amendments  
Revised: 8/4/2023 Draft No. 2  
Introduced: July 25, 2023  
Expiration: December 7, 2026  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Luedtke

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**AN ACT** to:

- (1) rename the Policing Advisory Commission so that it will now be known as Community Advisory Commission on Public Safety;
- (2) amend the law regarding the Policing Advisory Commission regarding appointment of members and scope of the Commission; and
- (3) generally amend the law regarding policing and law enforcement.

By amending

Montgomery County Code  
Chapter 35  
Sections 35-6 and 35-6A

<b>Boldface</b>	<i>Heading or 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:*

1           **Sec. 1. Section 35-6 is amended as follows:**

2   **35-6. [Policing Advisory Commission] Community Advisory Commission on**  
3           **Public Safety**

4           (a) Definitions. In this Section the following words have the meanings  
5           indicated:

6           *Commission* means the [Policing Advisory Commission] Community  
7           Advisory Commission on Public Safety.

8           *Department* means the Montgomery County Police Department.

9           *Institutional members* are: (A) the Police Chief or the Police Chief's  
10           designee; and (B) the President of an employee organization certified  
11           under Article V of Chapter 33 or the President's designee.

12           (b) Established. The County Council must appoint a [Policing Advisory  
13           Commission] Community Advisory Commission on Public Safety.

14           (c) Composition and terms of members.

15           (1) The Commission has [13]15 members consisting of 13 public  
16           members and 2 institutional members.

17           (2) The Council must appoint [9 public]all members. [Each] Except  
18           for the institutional members, every other member should  
19           represent a community organization operating in the County or  
20           be an individual. [Each Councilmember should nominate one  
21           member].

22           (3) [The Council should appoint 4 public members nominated by the  
23           Executive.] Staggering of initial terms. Of [these]the initial  
24           public members:

25           (A) [one member should be 25 years of age or younger at the  
26           time of appointment]5 must be appointed to 1-year terms;  
27           [and]

28 (B) [one member should be 26-35 years of age at the time of  
29 appointment.]5 must be appointed to 2-year terms; and

30 (C) 3 must be appointed to 3-year terms.

31 (4) The public members appointed under paragraphs (2) and (3)  
32 should:

33 (A) reflect a range of ethnicities, socioeconomic status, and  
34 places of origin to reflect the racial and economic diversity  
35 of the County’s communities, including religious creed,  
36 age, sex – including on the basis of gender identity or  
37 orientation, disability, and geographic location, with  
38 emphasis on those disproportionately impacted by  
39 inequities; [and]

40 (B) include representation from business owners or  
41 organizations, Urban Districts, homeowners’ associations,  
42 common ownership communities, and tenants’  
43 associations; and

44 (C) have an interest or expertise in policing matters.

45 (5) [The Council should appoint the following as non-voting ex  
46 officio members:

47 (A) the Police Chief or the Police Chief’s designee; and

48 (B) the President of an employee organization certified under  
49 Article V of Chapter 33 or the President’s designee.

50 (6) The term of each member is 3 years. A member must not serve  
51 more than two consecutive terms. Members continue in office  
52 until their successors are appointed and qualified. After an  
53 appointment to fill a vacancy before a term expires, the successor  
54 serves the rest of the unexpired term.

- 55 (d) Citizens Academy participation. The public members appointed under  
56 paragraph (c) must participate in the Montgomery County Police  
57 Department Citizens Academy.
- 58 (e) Voting, officers, meetings, and compensation.
- 59 (1) [~~Except the ex officio members, all~~]All members of the  
60 Commission are voting members.
- 61 (2) The Commission must elect a Chair and Vice-Chair from among  
62 its [voting] members.
- 63 (3) The Commission meets at the call of the Chair. The Commission  
64 must meet as often as necessary to perform its duties, but not less  
65 than 6 times each year.
- 66 (4) A member must serve without compensation. However, a  
67 member may request reimbursement for mileage and dependent  
68 care costs at rates established by the County.
- 69 (f) Duties. The Commission must:
- 70 (1) advise the Council on policing matters;
- 71 (2) provide information regarding best practices on policing matters;
- 72 (3) recommend policies, programs, legislation, or regulations for the  
73 Council's consideration;
- 74 (4) comment on matters referred to it by the Council;
- 75 (5) conduct community outreach for community input on policing  
76 matters;
- 77 (6) accept correspondence and comments from members of the  
78 public[;], except that the Commission must not accept  
79 complaints involving police misconduct and discipline that fall  
80 under the jurisdiction of the Police Advisory Board pursuant to  
81 Section 35-24; and

- 82 (7) engage in public education.
- 83 (g) Requests for information. The County, including the Police
- 84 Department, should respond to Commission requests for information
- 85 within 30 days after the County receives the request.
- 86 (h) Annual Report. By July 1 each year, the Commission must submit to
- 87 the Executive and the Council an annual report on its functions,
- 88 activities, accomplishments, and plans and objectives.
- 89 (i) Advocacy. The Commission must not engage in any advocacy activity
- 90 at the State or federal levels unless that activity is approved by the
- 91 Office of Intergovernmental Relations.
- 92 (j) Staff. The Executive Director of the Office of the County Council must
- 93 provide appropriate staff to the Commission.
- 94 (k) The Commission is not an oversight body of any law enforcement entity
- 95 operating in Montgomery County.

\* \* \*

**Sec. 35-6A. Community Informed Police Training.**

\* \* \*

- 99 (c) *Reporting requirements.*

\* \* \*

101 (6) The Department must also provide the information reported under

102 paragraph (1) to the [Policing Advisory Commission] Community

103 Advisory Commission on Public Safety established under Section 35-

104 6.

## [Md. Public Safety Code Ann. § 3-101](#)

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

***Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)***

### **§ 3-101. Definitions.**

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- (a) In this title the following words have the meanings indicated.
- (b) “Administratively charged” means that a police officer has been formally accused of misconduct in an administrative proceeding.
- (c) “Disciplinary matrix” means a written, consistent, progressive, and transparent tool or rubric that provides ranges of disciplinary actions for different types of misconduct.
- (d) “Exonerated” means that a police officer acted in accordance with the law and agency policy.
- (e) “Law enforcement agency” has the meaning stated in § 3-201 of this title.
- (f) “Not administratively charged” means that a determination has been made not to administratively charge a police officer in connection with alleged misconduct.
- (g) “Police misconduct” means a pattern, a practice, or conduct by a police officer or law enforcement agency that includes:
  - (1) depriving persons of rights protected by the constitution or laws of the State or the United States;
  - (2) a violation of a criminal statute; and
  - (3) a violation of law enforcement agency standards and policies.
- (h) “Police officer” has the meaning stated in § 3-201 of this title.
- (i) “Serious physical injury” has the meaning stated in [§ 3-201 of the Criminal Law Article](#).
- (j) “Superior governmental authority” means the governing body that oversees a law enforcement agency.
- (k) “Unfounded” means that the allegations against a police officer are not supported by fact.

### **History**

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[2021, ch. 59, § 3.](#)

Annotations

### **Notes**

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Editor’s note. —

## Md. Public Safety Code Ann. § 3-101

Acts [2021, ch. 59, § 8](#), provides that “Title 3, Subtitle 1 of the Public Safety Article, as enacted by Section 3 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to:

“(1) any bona fide collective bargaining agreement entered into on or before June 30, 2022, for the duration of the contract term, excluding any extensions, options to extend, or renewals of the term of the original contract; or

“(2) a disciplinary matter against a law enforcement officer based on alleged misconduct occurring before July 1, 2022.”

Acts [2021, ch. 59, § 12](#), provides that “except as provided in Section 11 of this Act, this Act shall take effect July 1, 2022.”

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## **Md. Public Safety Code Ann. § 3-102**

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

***Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)***

### **§ 3-102. County police accountability board — Purpose — Local governing body — Complaint of police misconduct — Forwarded to law enforcement agency.**

---

- (a) Each county shall have a police accountability board to:
  - (1) hold quarterly meetings with heads of law enforcement agencies and otherwise work with law enforcement agencies and the county government to improve matters of policing;
  - (2) appoint civilian members to charging committees and trial boards;
  - (3) receive complaints of police misconduct filed by members of the public; and
  - (4)
    - (i) on a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and
    - (ii) on or before December 31 each year, submit a report to the governing body of the county that:
      - 1. identifies any trends in the disciplinary process of police officers in the county; and
      - 2. makes recommendations on changes to policy that would improve police accountability in the county.
- (b)
  - (1)
    - (i) Subject to subparagraph (ii) of this paragraph, the local governing body shall:
      - 1. establish the membership of a police accountability board;
      - 2. establish the budget and staff for a police accountability board;
      - 3. appoint a chair of the police accountability board who has relevant experience to the position; and
      - 4. establish the procedures for record keeping by a police accountability board.
    - (ii) An active police officer may not be a member of a police accountability board.
  - (2) To the extent practicable, the membership of a police accountability board shall reflect the racial, gender, and cultural diversity of the county.
- (c)
  - (1) A complaint of police misconduct filed with a police accountability board shall include:
    - (i) the name of the police officer accused of misconduct;
    - (ii) a description of the facts on which the complaint is based; and



Md. Public Safety Code Ann. § 3-102

(iii) contact information of the complainant or a person filing on behalf of the complainant for investigative follow-up.

(2) A complaint need not be notarized.

(d) A complaint of police misconduct filed with a police accountability board shall be forwarded to the appropriate law enforcement agency within 3 days after receipt by the board.

## History

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[2021, ch. 59, § 3.](#)

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## [Md. Public Safety Code Ann. § 3-103](#)

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

***Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)***

### **§ 3-103. Complaint filed with employing entity — Items included.**

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(a) An individual may file a complaint of police misconduct with the law enforcement agency that employs the police officer who is the subject of the complaint.

(b)

(1) A complaint of police misconduct filed with a law enforcement agency shall include:

- (i) the name of the police officer accused of misconduct;
- (ii) a description of the facts on which the complaint is based; and
- (iii) contact information of the complainant or a person filing on behalf of the complainant for investigative follow-up.

(2) A complaint need not be notarized.

### **History**

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[2021, ch. 59, § 3.](#)

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## **Md. Public Safety Code Ann. § 3-104**

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

**Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)**

### **§ 3-104. Administrative charging committee — Statewide committee — Training on police procedures — Investigative files forwarded to committee — Meetings — Confidentiality.**

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**(a)**

- (1)** Each county shall have one administrative charging committee to serve countywide law enforcement agencies and local law enforcement agencies within the county.
- (2)** A county administrative charging committee shall be composed of:
  - (i)** the chair of the county's police accountability board, or another member of the accountability board designated by the chair of the accountability board;
  - (ii)** two civilian members selected by the county's police accountability board; and
  - (iii)** two civilian members selected by the chief executive officer of the county.

**(b)**

- (1)** There shall be at least one statewide administrative charging committee to serve statewide and bi-county law enforcement agencies.
- (2)** A statewide administrative charging committee shall be composed of:
  - (i)** three civilian members appointed by the Governor;
  - (ii)** one civilian member appointed by the President of the Senate; and
  - (iii)** one civilian member appointed by the Speaker of the House.

**(c)** Before serving as a member of an administrative charging committee, an individual shall receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission.

**(d)** On completion of an investigation of a complaint of police misconduct involving a member of the public and a police officer, regardless of whether the complaint originated from within the law enforcement agency or from an external source, the law enforcement agency shall forward to the appropriate administrative charging committee the investigatory files for the matter.

**(e)** An administrative charging committee shall:

- (1)** review the findings of a law enforcement agency's investigation conducted and forwarded in accordance with subsection (d) of this section;
- (2)** make a determination that the police officer who is subject to investigation shall be:
  - (i)** administratively charged; or
  - (ii)** not administratively charged;

## Md. Public Safety Code Ann. § 3-104

- (3) if the police officer is charged, recommend discipline in accordance with the law enforcement agency's disciplinary matrix established in accordance with § 3-105 of this subtitle;
  - (4) review any body camera footage that may be relevant to the matters covered in the complaint of misconduct;
  - (5) authorize a police officer called to appear before an administrative charging committee to be accompanied by a representative;
  - (6) issue a written opinion that describes in detail its findings, determinations, and recommendations; and
  - (7) forward the written opinion to the chief of the law enforcement agency, the police officer, and the complainant.
- (f) In executing its duties in accordance with subsection (e) of this section, an administrative charging committee may:
- (1) request information or action from the law enforcement agency that conducted the investigation, including requiring additional investigation and the issuance of subpoenas;
  - (2) if the police officer is not administratively charged, make a determination that:
    - (i) the allegations against the police officer are unfounded; or
    - (ii) the police officer is exonerated; and
  - (3) record, in writing, any failure of supervision that caused or contributed to a police officer's misconduct.
- (g) An administrative charging committee shall meet once per month or as needed.
- (h) A member of an administrative charging committee shall maintain confidentiality relating to a matter being considered by the administrative charging committee until final disposition of the matter.

## History

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[2021, ch. 59, § 3](#); [2022, ch. 141, § 2](#).

Annotations

## Notes

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### Effect of amendments. —

Acts 2022, ch. 141, § 2, effective July 1, 2022, substituted “complaint of police misconduct involving a member of the public and a police officer, regardless of whether the complaint originated from within the law enforcement agency or from an external source” for “complaint made by a member of the public against a police officer” in (d).

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End of Document

## [Md. Public Safety Code Ann. § 3-105](#)

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

***Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)***

### **§ 3-105. Model uniform disciplinary matrix — Adoption.**

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- (a) The Maryland Police Training and Standards Commission shall develop and adopt, by regulation, a model uniform disciplinary matrix for use by each law enforcement agency in the State.
- (b) Each law enforcement agency shall adopt the uniform State disciplinary matrix for all matters that may result in discipline of a police officer.
- (c)
- (1) Within 15 days after an administrative charging committee issues an administrative charge against a police officer, the chief of the law enforcement agency shall offer discipline to the police officer who has been administratively charged in accordance with the disciplinary matrix.
  - (2) The chief may offer the same discipline that was recommended by the administrative charging committee or a higher degree of discipline within the applicable range of the disciplinary matrix, but may not deviate below the discipline recommended by the administrative charging committee.
  - (3) If the police officer accepts the chief's offer of discipline, then the offered discipline shall be imposed.
  - (4) If the police officer does not accept the chief's offer of discipline, then the matter shall be referred to a trial board.
  - (5) At least 30 days before a trial board proceeding begins, the police officer shall be:
    - (i) provided a copy of the investigatory record;
    - (ii) notified of the charges against the police officer; and
    - (iii) notified of the disciplinary action being recommended.

### **History**

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[2021, ch. 59, § 3](#); [2022, ch. 141, § 2](#).

Annotations

### **Notes**

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#### **Effect of amendments. —**

Acts 2022, ch. 141, § 2, effective July 1, 2022, added “for all matters that may result in discipline of a police officer” in (b).

# Climate Assessment

## Office of Legislative Oversight

### Bill 32-23: Police – Policing Advisory Commission - Amendments

#### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 32-23 will have no impact on the County's contribution to addressing climate change as it is proposing changes regarding the name and composition of an existing committee.

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#### BACKGROUND AND PURPOSE OF BILL 32-23

The Police Advisory Commission (PAC) was established by Bill 14-19, which was enacted on December 3, 2019, and took effect on March 13, 2020.<sup>1</sup> The Commission was established in response to the ongoing public dialogue around policing practices and as an effort to increase community involvement in matters of public safety by advising the Council on policing matters and recommending policies, programs, legislation, or regulations regarding policing.

In 2021, the Maryland Legislature passed the Maryland Police Accountability Act, which mandated the creation of three distinct police oversight boards. These boards include a Police Accountability Board, an Administrative Charging Committee, and a Trial Board.<sup>2</sup> The Police Accountability Board (PAB) is composed of nine members appointed by the County Executive and holds quarterly meetings with heads of law enforcement agencies and County officials to enhance policing practices. The Board also receives complaints of police misconduct filed by members of the public and on a quarterly basis, reviews outcomes of disciplinary matters considered by the charging committee. To comply with this new policy change, on April 19, 2022, Bill No. 49-21 was enacted to establish the Police Accountability Board for the County.<sup>3</sup>

Due the implementation of this state law, in May 25, 2023, Expedited Bill 27-23, Police – Police Advisory Commission – Repeal, was introduced by the County Council in order to repeal the Police Advisory Commission, out of concerns that it would duplicate the functions of the Police Accountability Board.<sup>4</sup> Specifically, according to the sponsor of this expedited bill, because of the establishment of the Police Accountability Board and the Administrative Charging Committee it is important to clarify the role of the Policing Advisory Commission. The bill sponsors are now proposing amendments to the bill rather than repealing the PAC.

Hence, on July 25, 2023, the County Council introduced Bill 32-23, Police – Policing Advisory Commission – Amendments.<sup>5</sup> The purpose of Bill 32-23 is to amend the provisions in the County Code that provide for and govern the Policing Advisory Commission (PAC). This Bill would:

- (1) Rename the Policing Advisory Commission so that it will now be known as Community Advisory Commission on Public Safety.
  - (2) Amend the law regarding the Policing Advisory Commission regarding appointment of members. This includes introducing term limits of two consecutive three-year terms, staggering of initial terms, changing the number and eligibility for commissioners and changing voting eligibility of commissioners.
  - (3) Remove the selection of one member by each Councilmember and make all four existing County Executive selections be Council selections so these 13 total members are selected by a vote of the entire Council; Additionally, make the two current ex-officio members full voting members – the Fraternal Order of Police (FOP) and the Police Department representatives – for a total of 15 voting members.
  - (4) Mandate the Commission to perform community outreach and discussion with an emphasis on getting feedback and input from those living or working in Equity Focus Areas.
- 

## ANTICIPATED IMPACTS

As Bill 32-23 proposes changes to an existing committee, OLO anticipates it will have no impact on the County’s contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

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## RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.<sup>6</sup> OLO does not offer recommendations or amendments as Bill 32-23 is likely to have no impact on the County’s contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

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## CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. 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.

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## PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptive capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

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## CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

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<sup>1</sup> [Bill 14-19 Police – Policing Advisory Commission – Established, Montgomery County Council, December 2, 2019](#)

<sup>2</sup> [House Bill 670, Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures.](#)

<sup>3</sup> [Bill 49-21 Police – Police Accountability Board – Administrative Charging Committee – Established, April 19, 2022](#)

<sup>4</sup> Khandikile Sokoni, Memorandum to County Council, [Introduction Staff Report for Expedited Bill 27-23](#), May 22, 2023

<sup>5</sup> [Bill 32-23, Police – Policing Advisory Commission -- Amendments](#)

<sup>6</sup> Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022



# Economic Impact Statement

Montgomery County, Maryland

## Bill 32-23

## Police – Policing Advisory Commission – Amendments

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 32-23 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.

### BACKGROUND AND PURPOSE OF BILL 32-23

The Police Advisory Commission (PAC) was established by Bill 14-19, which was enacted on December 3, 2019, and took effect on March 13, 2020.<sup>1</sup> The Commission was established in response to the ongoing public dialogue around policing practices and as an effort to increase community involvement in matters of public safety by advising the Council on policing matters and recommending policies, programs, legislation, or regulations regarding policing.

In 2021, the Maryland Legislature passed the Maryland Police Accountability Act, which mandated the creation of three distinct police oversight boards. These boards include a Police Accountability Board, an Administrative Charging Committee, and a Trial Board.<sup>2</sup> The Police Accountability Board (PAB) is composed of nine members appointed by the County Executive and holds quarterly meetings with heads of law enforcement agencies and County officials to enhance policing practices. The Board also receives complaints of police misconduct filed by members of the public and on a quarterly basis, reviews outcomes of disciplinary matters considered by the charging committee. To comply with this new policy change, on April 19, 2022, Bill 49-21 was enacted to establish the Police Accountability Board for the County.<sup>3</sup>

Due the implementation of this state law, in May 25, 2023, Expedited Bill 27-23, Police – Policing Advisory Commission – Repeal, was introduced by the County Council in order to repeal the Police Advisory Commission, out of concerns that it would duplicate the functions of the Police Accountability Board.<sup>4</sup> Specifically, according to the sponsor of this expedited bill, because of the establishment of the Police Accountability Board and the Administrative Charging Committee it is important to clarify the role of the Policing Advisory Commission. The bill sponsors are now proposing amendments to the bill rather than repealing the PAC.

Hence, on July 25, 2023, the County Council introduced Bill 32-23, Police – Policing Advisory Commission – Amendments.<sup>5</sup> The purpose of Bill 32-23 is to amend the provisions in the County Code that provide for and govern the Policing Advisory Commission (PAC). This Bill would:

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<sup>1</sup> Bill 14-19.

<sup>2</sup> House Bill 670.

<sup>3</sup> Bill 49-21.

<sup>4</sup> Sokoni to County Council, Memorandum.

<sup>5</sup> Bill 32-33.

- (1) Rename the Policing Advisory Commission so that it will now be known as Community Advisory Commission on Public Safety.
- (2) Amend the law regarding the Policing Advisory Commission regarding appointment of members. This includes introducing term limits of two consecutive three-year terms, staggering of initial terms, changing the number and eligibility for commissioners and changing voting eligibility of commissioners.
- (3) Remove the selection of one member by each Councilmember and make all four existing County Executive selections be Council selections so these 13 total members are selected by a vote of the entire Council; additionally, make the two current ex-officio members full voting members – the Fraternal Order of Police (FOP) and the Police Department representatives – for a total of 15 voting members.
- (4) Mandate the Commission to perform community outreach and discussion with an emphasis on getting feedback and input from those living or working in Equity Focus Areas.

## **INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS**

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Bill 32-23 on County-based private organizations and residents in terms of the Council’s priority economic indicators and whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.<sup>6</sup> OLO sees no direct connection between the changes to the law and economic outcomes. For this reason, OLO anticipates that the Bill would have insignificant impacts on private organizations, residents, and overall economic conditions in the County in terms of the indicators prioritized by the Council.

## **VARIABLES**

Not applicable

## **IMPACTS**

**WORKFORCE ■ TAXATION POLICY ■ PROPERTY VALUES ■ INCOMES ■ OPERATING COSTS ■ PRIVATE SECTOR CAPITAL INVESTMENT ■ ECONOMIC DEVELOPMENT ■ COMPETITIVENESS**

Not applicable

## **DISCUSSION ITEMS**

Not applicable

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<sup>6</sup> Montgomery County Code, [Sec. 2-81B](#).

## WORKS CITED

[House Bill 670](#). Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures.

Khandikile Sokoni to County Council. Memorandum. [Introduction Staff Report for Expedited Bill 27-23](#). May 22, 2023.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Introduction Staff Report for Bill 32-23, Police – Policing Advisory Commission – Amendments](#). Introduced on July 25, 2023.

Montgomery County Council. [Bill 14-19 Police – Policing Advisory Commission – Established. December 2, 2019](#).

Montgomery County Council. [Bill 49-21 Police – Police Accountability Board – Administrative Charging Committee – Established. April 19, 2022](#).

## 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

Stephen Roblin (OLO) prepared this report.

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## BILL 32-23: POLICE – POLICING ADVISORY COMMISSION – AMENDMENTS

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 32-23 could have a negative impact on racial equity and social justice (RESJ) in the County as its amendments changing the composition of the Policing Advisory Commission (PAC) could diminish its independence and power in promoting policing best practices that advance RESJ in the County. To offset the potential negative RESJ impact of Bill 32-23, OLO offers several policy options for consideration.

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### PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF BILL 32-23

In recent years, the County has launched a variety of initiatives aimed at advancing best practices for racial equity and social justice in policing. These efforts have included the Reimagining Public Safety Initiative and Reimagining Public Safety Task Force, and enacting legislation for enhanced data collection by the Montgomery County Police Department (MCPD), community-informed police training, reports on settlements, reporting requirements for internal affairs, and the formation of the civilian-led Policing Advisory Commission to advise the Council on policing matters.

The purpose of Bill 32-23 is to amend the Policing Advisory Commission (PAC).<sup>3</sup> According to the Bill's sponsor, the purpose of the Commission needs to be clarified due to the establishment of the Police Accountability Board (PAB).<sup>4</sup> If adopted, Bill 32-23 would enact several changes to the PAC that include:

- Renaming the Policing Advisory Commission to the Community Advisory Commission on Public Safety.
- Increasing the size of the Commission from 13 to 15 members.
- Adding the Police Chief and President of the Fraternal Order of Police (or their designees) as voting members.
- Eliminating the two young adult members requirement (age 25 or younger; age 26 to 35 when appointed).
- Limiting members' terms to two-consecutive terms of three years.
- Requiring representation from business owners, Urban Districts, homeowners' associations, common ownership communities and tenants' association among members appointed by the Council.
- Prohibiting the Commission from accepting police misconduct complaints.
- Prohibiting the Commission from serving as "an oversight body of any law enforcement entity operating in Montgomery County."

# RESJ Impact Statement

## Bill 32-23

Bill 32-23 to amend the Policing Advisory Commission was introduced by the County Council on July 25, 2023, following the withdrawal of Expedited Bill 27-23, introduced on May 25, 2023, that would have repealed the Commission.<sup>5</sup> This RESJ impact statement (RESJIS) builds off two prior OLO RESJIS:

- In January 2022, OLO published a RESJIS for Expedited Bill 49-21, Police – Police Accountability Board – Administrative Charging Committee – Established.<sup>6</sup> For background information on policing in the U.S., racial disparities in police interactions with the public, and civilian review board best practices, refer to this RESJIS.
- In June 2023, OLO published a RESJIS for Expedited Bill 27-23, Police – Policing Advisory Commission – Repeal.<sup>7</sup> For background describing the origins and functions of the Policing Advisory Commission (PAC) and the Police Accountability Board (PAB), refer to this RESJIS.

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### CIVILIAN OVERSIGHT BOARDS AND RACIAL EQUITY

As issues of trust and accountability have characterized community-police relations, particularly in Black, Indigenous, and Other People of Color (BIPOC) communities, civilian oversight of law enforcement has emerged as a best practice to enhance police accountability and performance. Civilian oversight agencies are often established after an alleged incident of police misconduct when a community identifies a need. The June 2018 death of Silver Spring resident Robert Smith triggered questions about whether MCPD fosters trust, transparency, and accountability with all constituents and communities across the County. In response to this incident, the Policing Advisory Commission was proposed in 2019.

The Policing Advisory Commission (PAC) was initially proposed to enable public reviews and oversight of police disciplinary matters. With state law in 2019 precluding civilian oversight of police disciplinary matters, the Council enacted the PAC as a civilian commission to provide information about best practices in policing.

With Bill 14-19, the County Council intentionally limited voting membership within the PAC to civilians and required that two members represent younger constituents disproportionately impacted by interactions with law enforcement: a member aged 25 years or younger and another member between the ages of 26 and 35 at the time of their appointments. Further, the Council included the Chief of Police and President of the FOP (or their designees) as non-voting members to provide information and support to the PAC's civilian voting members. Duties of the PAC include:<sup>8</sup>

- Advising the Council on policing matters;
- Providing information regarding best practices on policing matters;
- Recommending policies, programs, legislation, or regulations;
- Commenting on matters referred to it by the Council;
- Conducting at least one public forum each year for community input on policing matters;
- Accepting correspondence and comments from members of the public;
- Engaging in public education; and
- Submitting an annual report.

As noted in the RESJIS for Expedited Bill 49-21, three conditions are essential for a civilian oversight agency to succeed:

- **Independence** from law enforcement so the civilian agency's recommendations can be trusted;
- **Power** so law enforcement cannot ignore the civilian agency's recommendations; and
- **Resources** to meet civilian oversight agency goals in a timely fashion (e.g., investigate cases, issue reports).

# RESJ Impact Statement

## Bill 32-23

These three essential conditions overlap with 12 core elements of successful civilian oversight of law enforcement identified by the National Association of Civilian Oversight in Law Enforcement (NACOLE): independence, adequate jurisdictional authority, adequate resources, unfettered access to records, access to law enforcement executives and internal affairs staff, full cooperation, support of process stakeholders, public reporting or transparency, patterns analysis, community outreach, community involvement, and respect for confidentiality requirements.

Among the three essential conditions of effective civilian oversight agencies, the PAC most closely aligns with the first condition – independence - because it operates independently of law enforcement in the County. However, the inclusion of MCPD leaders (the Chief and FOP President) as non-voting members in the PAC aligns with NACOLE-identified best practice of having access to law enforcement executive and internal affairs staff.

A review of the PAC’s efforts via its website and meeting minutes demonstrates a focus on racial equity in policing.<sup>9</sup> The PAC has focused on four priorities: discretionary policing (traffic stops, drug enforcement, and pedestrian stops); emergency responses; hiring and discipline; and safety in schools. The PAC has also met with BIPOC stakeholders and policing experts to solicit their perspectives on community needs and best practices for advancing RESJ in policing. Additionally, the PAC has offered proposed amendments for legislation aimed at advancing RESJ.

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### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 32-23 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

**In response to the first question**, OLO finds that MCPD and FOP would be the primary beneficiaries of this Bill as converting their non-voting positions to voting ones and prohibiting the PAC from serving as “an oversight body of any law enforcement entity operating in Montgomery County” would diminish MCPD’s accountability to the PAC.

As noted in the PAC meeting minutes, there have been ongoing debates within the PAC about the timeliness and value of information submitted by MCPD in response to their requests. For example, data requests regarding the demographics of marijuana arrests and citations remain outstanding.<sup>10</sup> Inclusion of MCPD and FOP as voting members may preclude the PAC from requesting policing data in the future, reducing MCPD’s accountability to the PAC and to the public at large for information and transparency about MCPD’s operations. The amendment to prohibit the PAC from serving as an oversight body to any law enforcement entity operating in the County also benefits MCPD and other law enforcement agencies by reducing their accountability to the PAC and the public at large.

**In response to the second question**, advancing community policing and other best practices that diminish racial disparities in police interactions with the public has been a PAC priority. As noted in the RESJIS for Expedited Bill 49-21, Black constituents are over-represented among traffic stops, arrests, and use of force incidents compared to their share of the County’s population. Youth and young adults are also over-represented in interactions with law enforcement, with persons under the age of 40 accounting for 82 percent of MCPD use of force incidents and 91 percent of MCPD pursuits in 2022.<sup>11</sup> Racial disparities and social inequities may also characterize other police interactions with the public in the County that are not currently reported.

# RESJ Impact Statement

## Bill 32-23

The PAC has advocated for greater transparency and data disaggregated by race and ethnicity on police interactions with the public. Including law enforcement leaders as voting members could diminish the advocacy for disaggregated policing data by the PAC. The PAC has also advocated for promising policies and practices to advance racial equity in policing. The inclusion of law enforcement leaders, business owners, and homeowners as PAC members combined with eliminating the requirement to include two young constituents as PAC members could diminish this advocacy.

Further, the demographics of law enforcement, business owners, and homeowners suggests that current BIPOC members on the PAC could likely be replaced by White members. Moreover, without a requirement for young adult members, the two young adult PAC members could likely be replaced by older members. Both potential shifts in PAC membership shifts power from marginalized groups to advantaged groups and widens racial and social disparities.

Taken together, OLO finds that racial and social disparities in police interactions with the public could widen with amendments to the PAC authorized under Bill 32-23 as civilian-led advocacy for racial equity in policing among those most impacted by policing disparities could diminish. More specifically, efforts the PAC has undertaken to understand and address racial disparities in traffic stops and drug enforcement, to support the coordination of emergency responses, and to ensure police personnel have proper training to serve increasingly diverse constituents could diminish with the proposed changes to the membership of the PAC.

While there have been other working groups and task forces that have focused on reducing racial inequities in policing, the PAC is the only group codified in County law with a long-term commitment to reduce racial disparities in policing. Including law enforcement as voting members and shifting membership to reflect older and more affluent County constituents could negatively impact RESJ in the County.

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## RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>12</sup> OLO anticipates Bill 32-23 could widen racial disparities in police interactions with the public by diminishing accountability for MCPD to implement more racially equitable policing practices. Should the Council seek to maintain RESJ considerations in policing, OLO offers several policy options for discussion and consideration:

- **Repeal adding the Police Chief and President of the FOP (or their designees) as voting members.** A combined civilian and law enforcement advisory commission undermines the independence needed for civilian oversight agencies to garner legitimacy and trust with community members and BIPOC constituents. The PAC emerged in response to concerns that the MCPD lacked the wherewithal to hold itself accountable for investigating and preventing incidences of police misconduct in the community. Retaining the Police Chief and FOP President as non-voting members would allow the PAC to remain a civilian oversight agency that the community could trust.
- **Repeal eliminating the age requirements for two voting members.** Young people are disproportionately impacted by police interactions with the public, particularly in uses of force and police pursuits. As the age group most impacted by policing interactions and likely incidents of police misconduct when they occur, it is critical that they be represented among PAC members and in decision-making. Retaining the young adult members requirement promotes power-sharing with constituents most impacted by policing as well as RESJ.



# RESJ Impact Statement

## Bill 32-23

- **Repeal requiring the PAC to represent business interests and homeowners.** Under current law, members of the PAC should “reflect the racial and economic diversity of the County’s communities, including religious creed, age, sex – including on the basis of gender identity or orientation, disability, and geographic location, with emphasis on those disproportionately impacted by inequities.” Requiring the PAC to also include representation from business owners or organizations, homeowners’ associations, common ownership communities and tenants’ associations could shift PAC membership from those unfavorably impacted by inequities to those that benefit from inequities.
- **Repeal prohibiting the PAC from serving as an oversight body of any law enforcement entity.** The power that the PAC has in its current oversight of MCPD, and local law enforcement more broadly, is limited at best. One of three essential conditions of effective civilian oversight agencies is to have sufficient power so that law enforcement cannot ignore their recommendations. Yet, the PAC too often lacks sufficient power to have MCPD meaningfully respond to its data requests despite the law (Bill 14-19) requiring them to do so within 30 days. This amendment to prohibit the PAC from serving as an oversight body of any law enforcement entity undermines the PAC’s effort to promote accountability and transparency in local policing and best practices for advancing RESJ.

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### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than 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.

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### CONTRIBUTIONS

OLO staffer Elaine Bonner-Tompkins, Senior Legislative Analyst, drafted this RESJ Impact Statement with assistance from Kayla Jones, OLO Summer Fellow.

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<sup>1</sup> Definition of racial equity and social justice adopted from [“Applying a Racial Equity Lens into Federal Nutrition Programs”](#) by Marlysa Gamblin, et.al. Bread for the World, and from [Racial Equity Tools](#).

<sup>2</sup> Ibid

<sup>3</sup> Khandikile Sokoni, Memorandum to County Council, [Introduction Staff Report for Expedited Bill 27-23](#), May 22, 2023

<sup>4</sup> Ibid

<sup>5</sup> Ibid

<sup>6</sup> Elaine Bonner-Tompkins, [Racial Equity and Social Justice Impact Statement for Expedited Bill 49-21](#), Office of Legislative Oversight, January 10, 2022

<sup>7</sup> Elaine Bonner-Tompkins, <https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2023/Bill27-23E.pdf>, Office of Legislative Oversight, June 5, 2023

<sup>8</sup> [Bill 14-19](#), Enacted December 3, 2019

<sup>9</sup> See for example [Policing Advisory Commission 2021 Annual Report](#)

<sup>10</sup> [Meeting Minutes](#), Policing Advisory Commission, December 12, 2022

<sup>11</sup> See Montgomery County Department of Police, Annual Use of Force Report, 2022 and Annual Pursuit Report, 2022

<sup>12</sup> [Bill 27-19 Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established](#), Montgomery County Council, December 2, 2019





# Fiscal Impact Statement

Office of Management and Budget

## Bill 32-23

## Police - Policing Advisory Commission - Amendments

### Bill Summary

Bill 32-23 renames the Policing Advisory Commission to the Community Advisory Commission on Public Safety and amends the law regarding the appointment of members and the scope of the Commission.

### Fiscal Impact Summary

This legislation is not expected to impact County expenditures or revenues.

### Fiscal Impact Analysis

There is no anticipated fiscal impact as this bill renames an existing commission, clarifies its advisory duties, and adds two unpaid members.

### Staff Impact

Staff time to implement this bill is minimal, and will not increase staff responsibilities.

### Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

### Information Technology Impact

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

### Other Information

*Later actions that may impact revenue or expenditures if future spending is projected*

The bill does not authorize future spending.

### Contributors

Dale Phillips, Montgomery County Police Department  
Derrick D. Harrigan, Office of Management and Budget





September 11, 2023

Councilman Evan Glass, Chair  
Montgomery County Council  
Council Office Building  
100 Maryland Avenue, 6th Floor.  
Rockville, MD 20850

Dear Councilman Glass,

As chair of the Montgomery County Branch of the NAACP Political Action Committee, I am writing to you in strong opposition to the MC Bill 32-23 Amendments to the Police Advisory Commission.

The Montgomery County NAACP and I do encourage the County Council to adopt several amendments to the original legislation which created the Policing Advisory Commission (PAC). First, we support the amendment which would change the name of the board. We believe a suitable name would be the Advisory Commission on Policing and urge you to adopt such a name. Second, we support an amendment that would increase membership of the PAC allowing each member of the Council to appoint one person to serve on the board. Third, we suggest an amendment that would prohibit family members of currently serving MCPD officers from serving on the board.

In its current form, this bill would fundamentally change the PAC and undermines community involvement in policing accountability. Additionally, this bill would undermine the NAACP's efforts to encourage constructive civic engagement that ensures fair treatment for all people in Montgomery County. **This county needs a forum for residents to express their concerns about policies, programs, and practices of the police.** The PAC must be able to hear those concerns, seek information, and make recommendations on the matters raised by residents. Eliminating an oversight role would require the board to do nothing more than collect concerns which would undermine public confidence in the PAC and in the Council's commitment to meaningful law enforcement reform.

In closing, I oppose the proposed amendments because I remain committed to ensuring that county residents and particularly residents who represent traditionally under-represented and marginalized communities not only have a forum to express their concerns but have access to a board that can effectively address the issues raised.

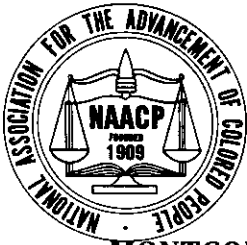
Thank you,

*Faith Blackburne-Proctor*

Faith Blackburne-Proctor, Chair  
Political Action Committee  
Montgomery County Branch NAACP

CC: Montgomery County Council Members

**NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE  
MONTGOMERY COUNTY, MARYLAND BRANCH**



P.O. BOX 2165  
ROCKVILLE, MARYLAND 20847-2165

**MONTGOMERY COUNTY NAACP STRONGLY OPPOSES COUNCIL BILL 32-23**

**Testimony**

**Tuesday, September 12, 2023**

Good afternoon, Council President Glass and Members of the County Council.

Montgomery County NAACP Branch encourages the County Council to adopt several amendments to the original legislation which created the Policing Advisory Commission (PAC). First, we support the amendment which would change the name of the board. We believe a suitable name would be the Advisory Commission on Policing and urge you to adopt such a name. Second, we support an amendment that would increase membership of the PAC allowing each member of the Council to appoint one person to serve on the board. Third, we suggest an amendment that would prohibit family members of currently serving MCPD officers from serving on the board.

Unfortunately, there is nothing else in this bill we can support. This bill fundamentally changes the PAC and undermines community involvement in policing accountability. Additionally, this bill would undermine the NAACP's efforts to encourage constructive civic engagement that ensures fair treatment for all people in Montgomery County. This county needs a forum for residents to express their concerns about policies, programs, and practices of the police. The PAC must be able to hear those concerns, seek information, and make recommendations on the matters raised by residents. Eliminating an oversight role would require the board to do nothing more than collect concerns which would undermine public confidence in the PAC and in the Council's commitment to meaningful law enforcement reform.

We agree that the PAC membership should be expanded to permit every council member to nominate one person to serve on the PAC. The nomination of each councilmember should be respected as a reflection of the needs and interests of their respective districts or constituencies.

We oppose efforts to limit those considered for nomination by councilmembers by requiring seats for representatives of the business community, homeowners' associations or civic associations. The purpose of this board is to provide an avenue for residents of the county to express their concerns about the policies and practices of the MCPD. Also, the law permits the county council to seek input regarding specific legislation. Given these county-specific functions, membership must be limited to county residents. Because there is no language in the bill that would require business owners or others representing trade groups or associations to be residents of the county, we oppose a change in membership that would allow non-county residents to sit on this board.

We oppose the elimination of the seats designated for high school students and young adults. These groups should be included because their perspective on policing is likely to provide valuable insights on policymaking. Moreover, as the county seeks to expand inclusion of the perspectives of marginalized groups in its legislative efforts, the effort to exclude young people from this body flies in the face of those efforts.

We oppose allowing police officers or their representatives to serve as voting members of this body. Representatives of the police and the FOP currently serve as advisory members of the body. Their role is to provide information and insight to the voting members. Allowing them a vote would present a clear conflict of interest for them. Additionally, it would undermine the role of the body as one that represents the interests of the community. Finally, as an agency in county government, the MCPD has a voice in all policy making affecting the agency. As a recognized collective bargaining entity, the FOP has a voice in policy affecting its officers.

We oppose efforts to eliminate the oversight role of the board. The purpose of the board is to provide a forum for community residents to express their concerns about policies, programs, and practices of the police. The board must be able to hear those concerns, seek information, and make recommendations on the matters raised by residents. Eliminating an oversight role would require the board to do nothing more than collect concerns.

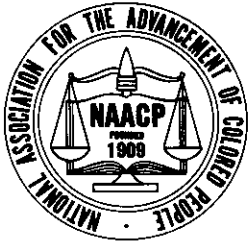
We oppose efforts to specify term limits. Currently, county policy provides a suggested term limit for all boards and commissions. However, because these volunteer positions are often difficult to fill, it is imprudent to limit the service of interested, qualified and experienced people.

In closing, the Montgomery County NAACP opposes these proposed amendments because we remain committed to ensuring that county residents and particularly residents who represent traditionally under-represented and marginalized communities not only have a forum to express their concerns but have access to a board that can effectively address the issues raised.

Thank you.

Contact information:  
1-888-649-5991  
Naacpmont7@aol.com

**NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE  
MONTGOMERY COUNTY, MARYLAND BRANCH**



P.O. BOX 2165  
ROCKVILLE, MARYLAND 20847-2165

Good afternoon, Council President Glass, and Members of the County Council.

My name is Pat Fenn. I am the Communications Chair of the Montgomery County NAACP. I encourage you to read the written testimony submitted by the NAACP. Today, I will provide an abbreviated version.

The Montgomery County NAACP Branch encourages the County Council to adopt several amendments to the original legislation which created the Policing Advisory Commission (PAC). First, we support the amendment which would change the name of the board. We believe a suitable name would be the Advisory Commission on Policing and urge you to adopt such a name. Second, we support an amendment that would increase membership of the PAC allowing each member of the Council to appoint one person to serve on the board. Third, we suggest an amendment that would prohibit family members of currently serving MCPD officers from serving on the board.

Unfortunately, there is nothing else in this bill we can support. This bill fundamentally changes the PAC and undermines community involvement in policing accountability. It undermines the NAACP's efforts to encourage constructive civic engagement that ensures fair treatment for all people in Montgomery County. This county needs a forum for residents to express their concerns about policies, programs, and practices of the police. The PAC must be able to hear those concerns, seek information, and make recommendations on the matters raised by residents. Eliminating an oversight role would require the board to do nothing more than collect concerns which would undermine public confidence in the PAC and in the Council's commitment to meaningful law enforcement reform.

We oppose the elimination of the seats designated for high school students and young adults. These groups must be included because their perspective on policing is likely to provide valuable insights on policymaking. As the county seeks to expand inclusion of the perspectives of marginalized groups in its legislative efforts, the effort to exclude young people from this body flies in the face of those efforts.

We oppose allowing police officers or their representatives to serve as voting members of this body. Representatives of the police and the FOP currently serve as advisory members of the body. As an agency of county government and a collective bargaining unit, they have ample opportunity to voice their concerns about policies.

We oppose efforts to eliminate the oversight role of the board. The board must be able to hear the concerns of residents, seek information, and make recommendations on the matters

raised by residents. Eliminating an oversight role would require the board to do nothing more than collect concerns.

In closing, the Montgomery County NAACP opposes these proposed amendments because we remain committed to ensuring that county residents and particularly residents who represent traditionally under-represented and marginalized communities not only have a forum to express their concerns but have access to a board that can effectively address the issues raised.

Thank you.



**September 12, 2023**

The Honorable Evan Glass  
Council President  
Montgomery County Council  
100 Maryland Avenue  
Rockville, Maryland 20850

Dear President Glass and Councilmembers:

**Re: Support for Business Community's Inclusion in Community Advisory Commission as Proposed in Bill 32-23, *Policing Advisory Commission - Amendments***

On behalf of the Greater Silver Spring Chamber of Commerce (GSSCC), the Gaithersburg-Germantown Chamber of Commerce (GGCC), and the Greater Bethesda Chamber of Commerce (GBCC), we appreciate the opportunity to comment on Bill 32-23, *Policing Advisory Commission - Amendments*. Bill 32-23 proposes to rename the existing Policing Advisory Commission to be the Community Advisory Commission on Public Safety and amend the law regarding appointment of members and scope of the Commission.

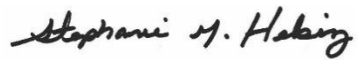
One of the specific changes proposed by Bill 32-23 is to require representation from business owners on the Commission. **Our joint Chambers strongly support the bill's proposed language that says the Commission includes representation from business owners or business organizations, while maintaining its emphasis on members who represent the County's diversity, geographic areas, and those disproportionately impacted by inequities.**

Our Chambers contend that public safety is a pivotal issue for all of Montgomery County's businesses. Local commerce is severely hindered if businesses, employees, and customers do not feel safe. The Chambers have long worked closely with our first responder community to ensure collaboration and sharing of information as part of this ongoing effort.


For these reasons, we were disappointed to see the Office of Legislative Oversight (OLO) recommend the removal of the business community as members of the Commission. Our Chambers ask the County

Council to reject OLO's recommendation and keep Bill 33-23's addition of the business community as part of the reconstituted Community Advisory Commission on Public Safety.

As always, our Chambers stand ready to work with the County Council on this and other important issues impacting the business community in Montgomery County.



Stephanie Helsing  
President & CEO  
Greater Silver Spring Chamber of Commerce



Paula Ross  
President & CEO  
Gaithersburg-Germantown Chamber of Commerce



Allie Williams  
President & CEO  
Greater Bethesda Chamber of Commerce





**Written Testimony in Opposition to  
Bill 32-23 to Undermine the Policing Advisory Commission**

**September 12, 2023**

My name is Dayo Akinsheye, I am a long-time Silver Spring resident, and I am submitting this testimony on behalf of the Silver Spring Justice Coalition in opposition to the proposed changes to the Policing Advisory Commission.

SSJC works to reduce the harms of policing while empowering communities. Critical to both of these efforts is giving voice to those most impacted by policing. It is important that the diverse communities represented on the PAC not have their voices overpowered by the votes of the police chief, the FOP, and other powerful constituents who already have ample ways to communicate their views on policing to you, the Council.

The PAC was enacted specifically to give voice to a range of community members, but especially those communities without an existing voice on matters of policing. As a result, the members of the PAC reflect a range of critical constituencies, including youth, people with disabilities, and communities of color, all of whom work together to advise the Council on improving policing in the County. This bill would completely upend the PAC's purpose and its membership. The bill would make the PAC a vehicle for MCPD, the FOP, and business interests to push for more policing, which will result in more harm and disparate treatment of our County's most vulnerable community members.

The bill's defenders will argue that the bill simply expands the range of voices and views on policing. But the added voices are not needed and will dilute the voices that are currently represented on the PAC. For example, every time the Public Safety Committee considers MCPD matters, a group of MCPD leaders, and often the FOP, are invited to talk directly to the Committee, not to mention all the informal discussions that happen behind the scenes. They are treated as the "experts" in matters of policing by the Council and given significant deference. Other constituencies specifically named in the bill, such as business owners, homeowners, and Urban Districts are neither under-represented, nor over-policed, and they have ample access to elected leaders and senior officials in county government. They do not need a special or separate forum to express their views on policing.

On the other hand, eliminating the two youth seats on the PAC will silence the voices of the members of our community who are most adversely impacted by policing. Young people are

significantly under-represented on County boards and commissions. Because their voices are so important for the Council to consider on matters of policing, two seats were intentionally reserved for them on the PAC. Please do not strip the county's youth of these seats on the PAC.

The bill would prevent the PAC from monitoring MCPD and providing the Council with its analysis. The PAC has been asking MCPD tough questions, many of which remain unanswered. This stonewalling by MCPD, along with insufficient communication and support for the PAC by Council staff, has significantly hampered its work and its ability to advise you about County policing. Removing the oversight component of the PAC and giving MCPD voting membership will further neuter the PAC. It will effectively prevent the PAC from asking MCPD tough questions and seeking important information necessary to inform the Council's legislative efforts to address MCPD's discriminatory and harmful practices.

In addition, the bill's requirement of staggered terms will dilute the effectiveness of the PAC by eliminating the institutional knowledge that has been built up over the past three years. The PAC has had a steep learning curve, and the new five members appointed for one-year terms, and their eventual replacements, due to the staggering, will significantly hamper the PAC's work.

Moreover, requiring the entire Council to agree on each PAC member eliminates the ability of each individual Councilmember to appoint someone who they believe will represent a needed community voice, thereby decreasing the likelihood that communities most impacted by policing will be represented. Consequently, having a PAC that a majority of the Council must approve will result in a PAC that embraces the status quo in policing, which is not the type of help the Council wants or needs.

The proposed name change to the PAC is an attempt to divert focus away from policing reforms. While addressing public safety broadly and holistically is important, it is also important to have a community group that focuses specifically on what the MCPD officers are and are not doing in our County. Moreover, there already exist other advisory boards and commissions in the County that address other aspects of public safety.

Arguments in favor of eliminating or restructuring the PAC have included suggestions that the community is confused by the existence of both a Policing Advisory Commission and a Police Accountability Board and that the existence of both boards is unnecessary. Neither argument has merit.

First, there is no evidence to support the confusion argument: the PAC has not received any police complaints meant to go to the PAB, nor has anyone written to the PAC thinking it was the PAB, or vice versa. Clear messaging and educational materials created by both bodies can prevent any confusion that could possibly occur.

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Second, the existence of the PAB does not render the PAC redundant and unnecessary. The PAB reviews police disciplinary actions and advises all branches of our government, including all police departments, on matters of policing. It is mandated by state law and has specific legal

obligations. The PAC is specifically created to advise the Council alone on matters of policing and has its own mandates. Moreover, the PAB has been operating for less than a year, and it would be premature for the Council to decide that it renders the PAC unnecessary.

At the same time, it is critically important that in considering this bill the Council does not limit or constrain the scope of current or potential activities of the PAB. State law grants the PAB a broad mandate to advise on all matters of policing. The Council should not attempt to limit the PAB's authority in order to justify the continuation of the PAC.

In closing, the PAC has engaged in important work over its three-year tenure. Its report on MCPD's discriminatory traffic enforcement is an important statistical and policy analysis, with sound recommendations. The PAC has issued several other policy papers and has held several valuable community listening sessions. This bill is an end-run around the sponsor's previous attempt to eliminate this valuable commission altogether. We urge the Council to reject any attempts to either eliminate the PAC or subvert its intended purpose.

Montgomery County Council  
September 12, 2023  
Hearing on  
**Bill 32-23**

Statement of the  
Policing Advisory Commission  
Submitted by Eric E. Sterling, Chair

Dear Council President Glass and members of the County Council:

Thank you for the opportunity to present a statement from the Montgomery County Policing Advisory Commission (PAC) to the County Council regarding Bill 32-23 to revise the Policing Advisory Commission (PAC). I am Eric E. Sterling. I am one of the original appointees to the PAC by the County Council when the PAC was created. I was nominated and elected Chair on November 14, 2022.

Respectfully, the PAC unanimously opposes Bill 32-23.<sup>1</sup>

We appreciate the interest of Councilmember Dawn Luedtke in the work and mission of the PAC. We are grateful that Councilmember Luedtke, after initially proposing to wholly abolish the PAC as proposed in Expedited Bill 27-23, took the time to meet with us at our May 2023 meeting to discuss her concerns, and to hear us, and to learn that her impression that we had “disbanded,” as she put it, was not correct. However, while Bill 32-23 does not directly abolish the PAC, we see Bill 32-23 as carrying forward the spirit of abolition by undermining the goals and structure of the PAC.

Preliminarily, we wish to note that the PAC was created out of the vivid reality that in 2020, Black people – men, women, and children -- were being stopped and killed by police in the United States in numbers grossly disproportionate to their numbers in the society. Black people were routinely stopped and often harassed by police officers in the United States. Those facts -- highlighted by the killings in 2020 of Breonna Taylor and George Floyd -- became the subject of daily, nationwide protests in 2020. That there no longer are daily protests does not mean the problem has gone away or the deep concern about it. To state that these problems have been and remain a reality in the United States is not an accusation against the officers or leaders of the Montgomery County Police Department. But the data gathered by Montgomery County nevertheless reveals that *police activity continues to disproportionately impact racial and ethnic minorities in this county*.

The PAC has both a practical and a symbolic importance. Symbolically, the PAC is the County’s statement that it is departing from the county’s history of policing of people of color. That history arose at the end of enslavement and is stained with three known episodes of lynching of

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<sup>1</sup> This statement was adopted unanimously on September 11 with 7 members voting yes, none opposed or abstaining.

prisoners in the County.<sup>2</sup> More recently, after complaints by the Montgomery County Branch of the NAACP to the U.S. Department of Justice of racially discriminatory law enforcement, the County and the MCPD entered into a Memorandum of Agreement with the Civil Rights Division of the U.S. Department of Justice in 2000 to address those complaints. The Agreement stated explicitly that it was not an acknowledgement of discrimination, illegality, or violation of constitutional protections. But the Agreement extensively cites Federal civil rights law in its introduction and stated that its purpose “is to . . . institute management practices by the MCPD that will promote nondiscriminatory law enforcement *and community support for the MCPD and its officers.*” (emphasis added).

Practically, the PAC has been created by the County Council to provide the residents of the county with a forum in which these matters can be raised and analyzed, where questions can be asked of the police, and where concrete suggestions can be made, considered, and promoted. Some of the concerns that were the subject of the complaint that triggered the Agreement of 2000 remain and are supported by data, and the creation of the PAC is a renewed effort by the County to provide for the “community support for the MCPD and its officers” called for in the Agreement. It is in the interest of the county that the county’s residents and the county government conscientiously address these matters without involving the federal authorities. We were pleased to see the conclusion of the report of the Council’s Office of Legislative Oversight (OLO) in its Racial Equity and Social Justice Impact Statement regarding Bill 27-23,

While there have been other working groups and task forces that have focused on reducing racial inequities in policing, **the PAC is the only group codified in County law with a long-term commitment to reduce racial disparities in policing. As such, its abolition could negatively impact RESJ [Racial Equity and Social Justice] in the County.** (emphasis added).

Regarding the specifics of Bill 32-23:

**First**, the Council should continue the PAC (renamed) but it must act quickly. The terms of the current members expired on August 1, 2023 (and pursuant to the County Code have been extended for 6 months to February 1, 2024). After that date, there will be no PAC. Six members of the PAC have expressed their willingness to extend their terms **until the persons selected to fill the new term have been confirmed. This would need to be authorized in a bill.** There is no value to the new members or to the County in emptying the PAC of its membership pending the confirmation of members to serve a new term.

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<sup>2</sup> George Peck, taken into custody by the Poolesville constable, was lynched in January 1880 having been arrested on suspicion of attempted rape of a white woman. John Diggs-Dorsey was lynched in July 1880 having been taken from the custody of the Sheriff in Rockville on allegation of rape, assault, robbery, and attempted arson. Sarah Hedlund, “At the hands of parties unknown: the 1880s lynchings in Montgomery County, Maryland,” *The Montgomery County Story*, Summer 2020, p.1, [https://montgomeryhistory.org/wp-content/uploads/2020/07/WEB\\_Montgomery-Story\\_Summer-2020.pdf](https://montgomeryhistory.org/wp-content/uploads/2020/07/WEB_Montgomery-Story_Summer-2020.pdf)

Sidney Randolph was lynched in July 1896 having been removed from the jail in Rockville where he was being held on a charge of murder of a White woman and assaulting other family members with an axe. Sarah Hedlund, “The Unwritten Law of Maryland”: The 1896 Lynching of Sidney Randolph,” *The Montgomery County Story*, Fall 2021, p. 1, [https://montgomeryhistory.org/wp-content/uploads/2021/09/WEB\\_Montgomery-Story\\_Fall-2021.pdf](https://montgomeryhistory.org/wp-content/uploads/2021/09/WEB_Montgomery-Story_Fall-2021.pdf)

**Second**, the original appointment process produced a PAC with a great deal of diversity. County Code section 35-6 ( c )(2) provides both that the Council should appoint 9 public members and that “**Each member of the County Council should nominate one member.**” To carry forward that approach with the expanded, eleven-member County Council, the language should be amended to provide for each member of the Council to make an appointment for a total of 11 public members. Perhaps the paragraph should be amended to provide that if a council member’s nominee leaves the PAC before the conclusion of their term, the council member (or their successor) has the privilege to again make a nomination to fill that seat.

**Third**, we think it is good policy to provide that the PAC includes **two young adults**, as County Code Section 35-6 ( c ) (3) currently provides. Youth and young adults have the most frequent interactions with the police. The County should continue to state clearly to the young people of the county that their voices will be heard in the public review of the practices of the county police. To assure that persons with particular characteristics, such as age, are to be selected, the nomination of such appointees should continue to be the responsibility of the County Executive. We suggest waiving the requirement to participate in the Citizens Academy of the MCPD for a member younger than age 25. Our youngest members have been students in Montgomery County Public Schools. The demands of their studies and other student activities as well as transportation issues has made that requirement much more challenging for them than for other members.

**Fourth**, we have found participation of the Chief of Police and the President of the Fraternal Order of Police lodge (or their designees) as *ex officio* members **has worked very well**. The role of the PAC is to review the programs, practices, and policies of the MCPD as they affect the residents of Montgomery County. The designees have been diligent and well-informed, and they regularly provide very useful information and perspective. However, we oppose converting their role to that of “voting member.” Their role would be transformed from supporting the PAC as valuable informational resources to becoming advocates in shaping the agenda. The proper role of an advisory board such as the PAC is to represent the community that faces the police – a community that is often afraid as the victims of crime, but also afraid of the police and comprised of persons disproportionately stopped on suspicion of a traffic violation or as other subjects of police inquiry.

It is not merely foreseeable but wholly predictable that as voting members, the police voices would powerfully determine the inquiries and recommendations proposed by the citizen representatives. A principle to exclude police representatives *as voting members* is similar to the principle that often prevails in jury selection of excluding lawyers from serving. The lawyer as juror brings an authority that is widely recognized as risking overshadowing the non-expert jurors. The attentive, non-expert juror is one of the great equalizing features of the American justice system. **Providing the police with a vote on an advisory board violates the well-established principle against serving as a judge in one’s own case.** The police department management and the representatives of the bargaining unit have direct access to the County Council on a regular basis.

Inherently, such a board or commission in making suggestions for change is implicitly criticizing some practice of the police. Even if a recommendation is to do more of something good, the recommendation is a criticism of the status quo for failing to devote sufficient resources to what

the board sees as valuable. It is logical to anticipate that police voting members will resist measures that are explicitly or implicitly critical of the police.

**Fifth, diffusing the focus of the mission from “policing matters” to “public safety matters” does not enhance the work of the commission.** Council Member Luedtke introduced the expedited bill to eliminate what she said was a redundancy between the Policing Advisory Commission and the state-mandated Police Accountability Board. Yet public safety matters are the subject of the 32-member [Criminal Justice Coordinating Council](#) (of which CM Luedtke is an *ex officio* member). At best **the revised mission of Bill 32-23 creates a real redundancy of purpose** in exchange for a non-existent redundancy only suggested by the similarity of the names of the PAC and the PAB. More particularly, what is gained by changing the mission to “public safety matters?” There is no perception of, nor is there a body of, complaints against Fire and EMS or the 9-1-1 call center regarding racial discrimination or disparity in service. And in any event, the County Council has no jurisdiction over the Sheriff, the courts, or the state’s attorney.

**Sixth,** Bill 32-23 seeks to change the composition of the PAC to provide that there is explicit representation from property owners: “business owners or organizations, Urban Districts, homeowners’ associations, common ownership communities...” To our knowledge, there is no evidence that representatives of these groups endure disproportionate contact or use of force by any police department, or that as crime victims they get inadequate responses. In general, most people would not feel that the business interests in the county have inadequate opportunity to express their concerns about county policies. If the Council is concerned that business is inadequately protected by the police and the criminal justice system, a bill to add business representation to the Criminal Justice Coordinating Council might be the appropriate approach.

**No one questions that business owners are important members of our community, as they are for any community, but given the history and purposes of the PAC, specifying them for inclusion in this body trivializes the concerns of minority communities in the county that experience disparate stops and arrests by the police.** A concern was raised regarding the potential new appointments under proposed amendment to County Code 35-6 ( c )(4)(B) of representation from “business owners or organizations. . . [and] common ownership communities” by persons who are not residents of the County. Article XI of the County Code regarding boards, committees and commissions (Sections 2-141 through 2-149) does not contain a general requirement that members be residents of Montgomery County. We note that the legislation creating the Policing Accountability Board (PAB) had a requirement that its members “must reside in the county” (County Code Section 35-24(b)). We think members of the PAC should also reside in the county.

**Seventh** and finally, we welcome a name that provides the PAC and its functions with a unique identity for providing the community the power to advise the County government regarding the MCPD. A name such Community Advisory Commission on Policing does not appear to overlap with any other in the county.<sup>3</sup>

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<sup>3</sup> Two members abstained from endorsing “Community Advisory Commission on Policing” and were content with “Advisory Commission on Policing.”

Montgomery County Council  
September 12, 2023  
Hearing on  
**Bill 32-23**

SUMMARY  
Statement of the Policing Advisory Commission  
Submitted by Eric E. Sterling, Chair

Respectfully, the PAC unanimously opposes Bill 32-23.

The PAC was created out of the vivid reality that in 2020, Black people – men, women, and children -- were being stopped and killed by police in the United States in numbers grossly disproportionate to their numbers in the society. Black people were routinely stopped and often harassed by police officers in the United States. Montgomery County data reveals that *police activity continues to disproportionately impact racial and ethnic minorities in this county.*

**First**, the Council should continue the PAC (renamed) and act quickly. The terms of the current members expired on August 1, 2023 (and pursuant to the County Code have been extended for 6 months to February 1, 2024). After that date, there will be no PAC.

**Second**, the appointment process has produced a PAC with a great deal of diversity because County Code section 35-6 ( c )(2) provides that **“Each member of the County Council should nominate one member.”** The code should provide for 11 Council-appointed members. If a council member’s nominee leaves the PAC before the conclusion of their term, the council member (or their successor) should have the privilege to nominate a successor.

**Third**, the PAC should include **two young adults**, as County Code Section 35-6 ( c ) (3) provides. The County should state clearly to our young people that their voices will be heard in the public review of the practices of the county police. We suggest waiving the requirement to participate in the Citizens Academy of the MCPD for a member younger than age 25.

**Fourth**, we have found participation of the Chief of Police and the President of the Fraternal Order of Police lodge (or their designees) as *ex officio* members has worked very well. We oppose converting their role to that of “voting member.”

**Fifth**, diffusing the mission from “policing matters” to “public safety matters” does not enhance the commission’s work. Public safety is the subject of the 32-member [Criminal Justice Coordinating Council](#). This revised mission would create a real redundancy.

**Sixth**, Bill 32-23 would provide explicit representation from “business owners or organizations, Urban Districts, homeowners’ associations, common ownership communities...” There is no evidence that these groups endure disproportionate contact or use of force or have inadequate opportunity to express their concerns about county policies. If necessary, add business representation to the Criminal Justice Coordinating Council. And members of the PAC should reside in the county.

**Seventh** we welcome a new name, such as Community Advisory Commission on Policing.

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September 8, 2023

Testimony on PAC Bill 32-23

From: Gary L. Frace

I would first like to thank the members of the County Council for their willingness to hear my views on this proposed bill. Elected officials listening to and considering the views of their constituents is a foundational aspect of a democracy.

I am 71 years old and have resided in Montgomery County my entire life. I am a retired MCPS teacher having spent 40 years teaching Social Studies at Springbrook High School where I still coach Cross Country. During my years at Springbrook, I helped to institute our "Justice, Law, and Society" signature. In that program I taught a variety of government and law related courses and thus became very familiar with policing on the federal, state, and local levels. In addition, while we still had the SRO program, which I hope will be reinstated, I got to work firsthand with the officers assigned to our school. From my interactions with them as well as many officers throughout the county, including some of my former students, I, like all of you, know what a difficult and demanding job it is to be a police officer today. We owe a great deal of gratitude to the women and men who serve our community as police officers.

As in any government related profession, there are times when a citizen may feel that an individual has not acted in an appropriate manner in accordance with set guidelines/regulations, etc. Fortunately, Montgomery County has an excellent police force and these complaints, though worthy, are not in great numbers. However, when complaints do arise, they need to be investigated thoroughly and fairly. The current Police Advisory Commission (PAC) is that body charged with this. Currently there are no members representing the police on the PAC. It is obvious to me, and others, that this is a glaring omission. Along with the other members, that addition, as proposed in PAC Bill 32-23 would be resolved by having two members, a representative of the FOP and a Chief's designee on the commission. These two new members, who would also be voting members, would be able to clearly provide insight, knowledge, and experience concerning policing that the other members do not have. Their addition would add greatly to both equity and comprehensiveness to the commission. Can you imagine having a commission like this charged with investigating complaints against physicians and

not having any physicians on it. Absolutely not. The PAC, which would also be renamed the "Police Accountability Board" (PAB), needs to do the same. Anything less would be tantamount to a profound error by the County Council and would, to many citizens, demonstrate a lack of fairness and professionalism.

I implore the members of the Council to do the right thing, the equitable thing, the democratic thing, and pass PAC Bill 32-23.

Sincerely,  
Gary L. Frace



September 12, 2023

The Honorable Evan Glass  
Council President  
Montgomery County Council  
100 Maryland Avenue  
Rockville, Maryland 20850

Dear President Glass and Councilmembers:

**Re: Support for Bill 32-23, *Policing Advisory Commission – Amendments* and the Business Community’s Inclusion in the Proposed Community Advisory Commission on Public Safety**

On behalf of the Montgomery County Chamber of Commerce (MCCC), we appreciate the opportunity to comment on Bill 32-23, *Policing Advisory Commission - Amendments*. Bill 32-23 proposes to rename the existing Policing Advisory Commission to be the Community Advisory Commission on Public Safety and amend the law regarding appointment of members and scope of the Commission.

One of the specific changes proposed by Bill 33-23 is to require increased representation on the Commission from a broader stakeholder group, including business owners. MCCC supports this change and asks the County Council to approve this provision while maintaining efforts to represent the County’s diversity.

The Chamber contends that public safety is a pivotal issue for Montgomery County’s businesses. Local commerce is severely hindered if businesses, employees, and customers do not feel safe. The Chamber has long worked closely with our first responder community to ensure collaboration and sharing of information as part of this effort.

MCCC applauds the bill sponsor’s understanding that public safety is part of the equation for employers and employees to thrive in Montgomery County. Part of this effort involves collaboration and input from the business community on matters concerning public safety.

For these reasons, we were disappointed to see that the Office of Legislative Oversight’s Racial Equity and Social Justice Impact Statement recommended the removal of the business community as members of the Commission. MCCC asks the County Council to reject this recommendation and keep the addition of the business community’s voice as part of the reconstituted Community Advisory Commission on Public Safety.

As always, MCCC looks forward to working with the County Council on this and other important issues.

Warmest regards,

A handwritten signature in black ink, appearing to read "G. Godwin".

Georgette “Gigi” Godwin  
President & CEO  
Montgomery County Chamber of Commerce

**Montgomery County Chamber of Commerce**  
51 Monroe St, Suite 1800, Rockville, MD 20850 | 301-738-0015 | [www.mccc.md.com](http://www.mccc.md.com)

**Testimony in Opposition to Bill 32-23 -  
Policing Advisory Commission - Amendments**

**My name is Heidi Rhodes, and I am a resident of Colesville in District 5. On behalf of Jews United for Justice (JUFJ), I am submitting this testimony in opposition to Bill 32-23, which would significantly weaken the Policing Advisory Commission (PAC).**

JUFJ represents over 2,000 Jews and allies from across Montgomery County, who act on our shared Jewish values to work to advance social and economic justice and racial equity in our local community. JUFJ was one of the organizations that supported the creation of the PAC, and we are concerned that the amendments in Bill 32-23 would significantly undermine the PAC's original purpose of providing a voice for the community in policing matters.

As a member of JUFJ, I have attended via Zoom more than 90% of the PAC's meetings over the last three years. I can testify to the intensive research and hard work of the PAC and its members. The PAC has held town halls and issued important policy papers on key policing issues, including its report on MCPD's discriminatory traffic enforcement, each with sound recommendations. The PAC has been effective in its mission to help to shape police policy. For example, Captain Satinsky from MCPD's Community Engagement Division recently shared that the PAC's recommendations regarding the use of Body Worn Cameras were helpful in the creation of a sound policy.

Jewish tradition teaches us that we must not place *mikhshol lifney iver*, a stumbling block, before the blind (Leviticus 19:14), thus making the lives of the already vulnerable more difficult.

**We oppose Bill 32-23 because it adds obstacles to police accountability and transparency in Montgomery County, which in turn harms the Black, brown, poor, disabled, and young people who are most at risk from their interactions with police.**

The proposed amendments to the PAC would reduce participation by members of overpoliced communities and replace those needed perspectives with people who already have the most power, including the police and business members.

**There are already avenues for institutional voices to give their feedback on public safety.** Chief Marcus Jones and the police union are regularly, and sometimes exclusively, asked to advise the Council on matters of safety and policing. They should not be given votes to counteract the impacted communities represented on the PAC. Similarly, business interests and homeowner associations have ample access to elected leaders through Urban District Advisory Committees and HOAs, and represent groups that are neither under-represented in local government nor are historically overpoliced. They do not need a special forum to express their views on policing.

**Furthermore, Bill 32-23's changes to the PAC's structure minimize its impact.**

Changing the nomination process from Councilmember recommendations to full Council votes removes the accountability and transparency of the current system. Staggered terms will eliminate the institutional knowledge the PAC has built over the last three years. One-year terms provide no time for new members to have any impact in their role. And the removal of both youth seats from this commission literally takes away seats at the table from the very young people who experience disproportionate harm from their interactions with police.

**Despite concerns that the PAC and Policing Advisory Board (PAB) are redundant bodies, their missions and mandates are distinct.** The PAC was established to provide a means for the community to advise the County Council on policing, to inform the Council's legislative efforts, and to assist in conducting needed oversight of the Montgomery County Police Department. The PAB is mandated by state law to review police disciplinary actions and advises all branches of our local government, including police departments, on matters of policing. While the PAC does not have all the powers as the newly-established PAB, its contributions are valuable.

**We urge you to recommit to the PAC's purpose of providing needed community engagement in policing matters and to oppose Bill 32-23 and any weakening of the PAC.**

Hello Members of the County Council

I am writing to you to express my opposition to Bil 32-23, which would make numerous changes to the current Police Advisory Commission process, but there are a few I want to focus on in particular.

- The elevation of the Police Chief and Fraternal Order of Police representatives from non-voting advisory members to full voting members.
- The inclusion of homeowners associations and common ownership communities to the PAC.
- The elimination of seats for youth members

I understand the desire to support law enforcement, and broadly speaking that is laudable goal. Police are and will remain an important part of public safety. I imagine that some of this is also to combat the very real problems of morale and recruitment, but there are better solutions for that (the recent recruitment bonuses for example), than this bill, which I fear would fundamentally undermine a needed accountability tool.

I do not need to tell you the instances of police misconduct, both nationally and locally, in the past. It can be and I believe is simultaneously true that most cops are good cops, some cops are bad cops, and even good cops need to be held accountable sometimes.

As for homeowners associations and common ownership communities, I can speak first hand from experience on other issues just how unrepresentative of the communities they claim to represent they are. I say this as a member of an HOA. Their input represents a narrow, relatively privileged subset of society, and should not be catered to above that of the general population. They are often treated as a proxy for the “view of the community” and they just are not a good proxy for that and never will be.

The current commission works better than it would under this reform, I respectfully urge the council to reject the bill.

Thank you,

Michael English

A large black rectangular redaction box covering the signature area.

September 25, 2023

**Letter to the Montgomery County Council**

**Re: Bill 32-23: Police – Policing Advisory Commission – Amendments**

Dear Council Members,

The League of Women Voters of Montgomery County (LWVMC) thanks the council for welcoming public input on the proposed Bill 32-23: Police – Police Advisory Commission – Amendments. An open and respectful dialogue between the community and elected officials is essential to fair and equitable governance. It is in this spirit that **LWVMC wishes to express its concern with Bill 32-23 as currently written.**

We understand the stated intent of this bill is to clarify the mission of the county's Policing Advisory Commission (PAC) as distinct from the Police Accountability Board (PAB) and the Administrative Charging Committee (ACC). We also understand the bill would elevate the voices of police and county business and homeowners' entities within the PAC. The League appreciates the need for law enforcement personnel to be engaged in community and governmental conversations about policing policies and practices. The League also understands that business owners and homeowners are important to the economic and social well-being of the county and that both have a stake in preserving public safety.

However, **LWVMC raises objections to some of the specific amendments in this bill and is concerned by the legislation's overall impact on racial equity and social justice in the county** for the following reasons:

1. The League supports a mechanism for civilian oversight of law enforcement that includes *independence* to address systemic problems of law enforcement agencies and formulate recommendations that can improve relations with communities. Therefore, **we do not support the amendment to convert the ex-officio members from the Montgomery County Police Department and the Fraternal Order of Police to full voting members of the PAC. We also do not support the addition of a statement that the PAC "is not an oversight body of any law enforcement entity operating in Montgomery County."** We believe these amendments would undermine the original intent of the PAC and would hinder its ability to hold law enforcement accountable both to the public and to the council.
2. The League supports collaboration between government and community throughout every stage of the criminal justice system as well as reliance on evidence-based research in decision-making about law enforcement programs and policies. **We fail to**

**see how the current membership requirements of the PAC are insufficient to meet these aims, and we think the proposed amendments would not improve collaboration between government and community.** Based on testimony from the PAC chair to the council on September 12, 2023, and based on the county's Office of Legislative Oversight's (OLO) review of PAC activity, the PAC already has access to police personnel as non-voting members and already can request MCPD information on its practices and public interactions, although many of these requests remain unanswered. We believe there are better ways to amend the PAC's powers for more effective government-community collaboration than the proposed amendments.

3. The League recognizes that Black people and all historically marginalized people of color are disproportionately criminalized and subjected to excessive force by law enforcement. Our principled positions compel us to speak out against systemic racism in the justice system and our commitment to diversity, equity, and inclusion **does not allow us to support the amendment to require that members include representatives from business owners or their organizations, urban districts, homeowners' associations, common ownership communities, and tenants' associations.** These are groups which, like law enforcement, are already in a more advantaged position to negotiate for public safety practices and have greater resources for communicating their interests. The OLO has warned that this amendment, **along with the repeal of the youth membership requirement,** would most likely shift the PAC's membership in an older, Whiter, and wealthier direction. Considering that the Montgomery County Economic Development Corporation counts only 45% of county businesses as minority-owned and considering that less than half of both Black and Latinx county residents own their homes while a majority of White and Asian county residents do, LWVMC thinks this is not an unfounded expectation.

Many groups who represent marginalized populations of the county most impacted by systemic racism and institutional biases in policing have spoken against this bill for the above stated reasons, as well as others. When those groups as well as the OLO—which is legally mandated by the county to measure legislation's potential negative impact on racial equity and social justice—both raise concerns for a bill's ramifications, then we believe the council should listen.

Again, we thank you for inviting public comments in consideration of this bill. We hope the council will make a decision that furthers the county's promise to create a government which is free of institutional biases and which is unafraid to confront legacy discrimination in all areas of public life no matter how difficult.

Susan Albertine  
President  
League of Women Voters of Montgomery County



Expedited Bill No. 32-23  
Concerning: Police – Policing Advisory Commission - Amendments  
Revised: 10/19/2023 Draft No. 3  
Introduced: July 25, 2023  
Expiration: December 7, 2026  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Luedtke

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**AN ACT** to:

- (1) rename the Policing Advisory Commission so that it will now be known as Community Advisory Commission on Public Safety;
- (2) amend the law regarding the Policing Advisory Commission regarding appointment of members and scope of the Commission; and
- (3) generally amend the law regarding policing and law enforcement.

By amending

Montgomery County Code  
Chapter 35  
Sections 35-6 and 35-6A

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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:*

1           **Sec. 1. Section 35-6 is amended as follows:**

2   **35-6. [Policing Advisory Commission] [[Community Advisory Commission on**  
3           **Public Safety]] Advisory Commission on Policing**

4           (a) Definitions. In this Section the following words have the meanings  
5           indicated:

6                 *Commission* means the [Policing Advisory Commission] [[Community  
7                 Advisory Commission on Public Safety]] Advisory Commission on  
8                 Policing.

9                 *Department* means the Montgomery County Police Department.

10                *Institutional members* are: (A) the Police Chief or the Police Chief's  
11                designee; and (B) the President of an employee organization certified  
12                under Article V of Chapter 33 or the President's designee.

13           (b) Established. The County Council must appoint a [Policing Advisory  
14                Commission] [[Community Advisory Commission on Public Safety]]  
15                Advisory Commission on Policing.

16           (c) Composition and terms of members.

17                (1) The Commission has [13]15 members consisting of 13 public  
18                members and 2 institutional members.

19                (2) The Council must appoint [9 public]all members. [Each] Except  
20                for the institutional members, every other member should  
21                represent a community organization operating in the County or  
22                be an individual. [Each Councilmember should nominate one  
23                member] Each Councilmember should nominate one public  
24                member.

25                (3) [The Council should appoint 4 public members nominated by the  
26                Executive.] [[Staggering of initial terms]]. Of [these]the

27                [[initial]] public members:

28 (A) [one member should be 25 years of age or younger at the  
29 time of appointment] [[5 must be appointed to 1-year  
30 terms]]; [and] one member, known as the youth member,  
31 must be 25 years of age or younger at the time of  
32 appointment; and

33 (B) [one member should be 26-35 years of age at the time of  
34 appointment.] [[5 must be appointed to 2-year terms]] one  
35 member, known as the young adult member, must be 26-  
36 35 years of age at the time of appointment.]]; and

37 (C) 3 must be appointed to 3-year terms.]]

38 (4) The public members appointed under paragraphs (2) and (3)  
39 should:

40 (A) reflect a range of ethnicities, socioeconomic status, and  
41 places of origin to reflect the racial and economic diversity  
42 of the County's communities, including religious creed,  
43 age, sex – including on the basis of gender identity or  
44 orientation, disability, and geographic location, with  
45 emphasis on those disproportionately impacted by  
46 inequities; [and] and

47 (B) [[include representation from business owners or  
48 organizations, Urban Districts, homeowners' associations,  
49 common ownership communities, and tenants'  
50 associations; and

51 (C)]] have an interest or expertise in policing matters.

52 (5) [The Council should appoint the following as non-voting ex  
53 officio members:

54 (A) the Police Chief or the Police Chief's designee; and

55 (B) the President of an employee organization certified under  
56 Article V of Chapter 33 or the President's designee.

57 (6) The term of each member is 3 years. A member must not serve  
58 more than two consecutive full terms. Members continue in  
59 office until their successors are appointed and qualified. After an  
60 appointment to fill a vacancy before a term expires, the successor  
61 serves ~~[[the rest of the unexpired term]]~~ three years.

62 (d) Citizens Academy participation. The public members appointed under  
63 paragraph (c) must participate in the Montgomery County Police  
64 Department Citizens Academy.

65 (e) Voting, officers, meetings, and compensation.

66 (1) ~~[Except the ex officio members, all]~~ ~~[[All]]~~ Except the institutional  
67 members, all members of the Commission are voting members.

68 (2) The Commission must elect a Chair and Vice-Chair from among  
69 its ~~[voting]~~ voting members.

70 (3) The Commission meets at the call of the Chair. The Commission  
71 must meet as often as necessary to perform its duties, but not less  
72 than 6 times each year.

73 (4) A member must serve without compensation. However, a  
74 member may request reimbursement for mileage and dependent  
75 care costs at rates established by the County.

76 (f) Duties. The Commission must:

77 (1) advise the Council on policing matters;

78 (2) provide information regarding best practices on policing matters;

79 (3) recommend policies, programs, legislation, or regulations for the  
80 Council's consideration;

81 (4) comment on matters referred to it by the Council;

82 (5) conduct community outreach for community input on policing  
83 matters;

84 (6) accept correspondence and comments from members of the  
85 public;], except that the Commission must ~~[[not accept]]~~  
86 forward to the Police Advisory Board complaints involving  
87 police misconduct and discipline that fall under the jurisdiction  
88 of the Police Advisory Board pursuant to Section 35-24; and

89 (7) engage in public education.

90 (g) Requests for information. The County, including the Police  
91 Department, should respond to Commission requests for information  
92 within 30 days after the County receives the request.

93 (h) Annual Report. By July 1 each year, the Commission must submit to  
94 the Executive and the Council an annual report on its functions,  
95 activities, accomplishments, and plans and objectives.

96 (i) Advocacy. The Commission must not engage in any advocacy activity  
97 at the State or federal levels unless that activity is approved by the  
98 Office of Intergovernmental Relations.

99 (j) Staff. The Executive Director of the Office of the County Council must  
100 provide appropriate staff to the Commission.

101 (k) The Commission is not ~~[[an oversight body of any law enforcement~~  
102 entity operating in Montgomery County]]a regulatory or disciplinary  
103 body over any law enforcement agency.

104 \* \* \*

105 **Sec. 35-6A. Community Informed Police Training.**

106 \* \* \*

107 (c) *Reporting requirements.*

108 \* \* \*

109 (6) The Department must also provide the information reported under  
110 paragraph (1) to the [Policing Advisory Commission] [Community  
111 Advisory Commission on Public Safety]~~]~~ Advisory Commission on  
112 Policing established under Section 35-6.

113 **Sec 2. Expedited Effective Date.**

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

DRAFT



**MONTGOMERY COUNTY COUNCIL**  
ROCKVILLE, MARYLAND

WILL JAWANDO  
COUNCILMEMBER, AT-LARGE  
CHAIR, EDUCATION & CULTURE COMMITTEE  
PLANNING, HOUSING, AND PARKS COMMITTEE

September 13, 2023

Dear Colleagues,

In advance of the Public Safety Committee worksession on Bill 32-23 - Policing Advisory Commission - Amendments, I want to share some of my thoughts regarding this bill and some historical context the committee may find useful as it considers next steps.

As you know, I was one of the lead co-sponsors, along with former Councilmember Hans Riemer, of Bill 14-19 to establish the Policing Advisory Commission (PAC). The bill was co-created with the community to provide a forum for residents to advise the Council on issues related to policing in light of the national call to action around reforming law enforcement to better protect communities of color, who are disproportionately subject to negative interactions with police.

This bill was the creation of many in the community crying out for a different relationship with law enforcement. As you know, that bill was passed unanimously by the last Council. And, remarkably, once the bill was passed, over 200 applicants applied to be part of the PAC - one of the largest pools of applicants for any board or commission.

Unfortunately, I believe the vast majority of the proposed amendments in Bill 32-23 undercut the previous Council's goals of creating a forum to serve the public, the Council, and law enforcement through the PAC. Indeed, I concur with the Office of Legislative Oversight (OLO) in anticipating that the bill "could have a negative impact on racial equity and social justice (RESJ) in the County as its amendments changing the composition of the Policing Advisory Commission (PAC) could diminish its independence and power in promoting policing best practices that advance RESJ in the County."<sup>1</sup> I also largely agree with the comments by members of our community shared at the public hearing in support of maintaining the PAC and/or making some minor adjustments to strengthen it.

Specifically, I support several amendments to the original PAC bill at this time:

- **First, I am in favor of a name change.** I believe the name suggested by the Montgomery County NAACP chapter would be most appropriate - Advisory Commission on Policing (ACP). I do not support a name that replaces "policing" with "public safety," effectively obscuring the focus of

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<sup>1</sup> <https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2023/Bill32-23.pdf> at 1.

this body. I believe the name change should resolve any of the sponsor's concerns that this body would somehow be mistaken for a distinct entity, the Police Accountability Board (PAB).

- **Second, I support expanding the membership of the body**, such that each member of the now 11-member Council can nominate one member of the PAC (or ACP, if the name is changed). The provision that each Councilmember nominate one member was an important aspect of the creation of this body, and I do not support eliminating that mechanism for nominating members. Relatedly, the bill should be amended such that a Councilmember may nominate a new member of the commission if the person they nominated resigns before the end of their term.
- **Third, I believe that the current members of the PAC should be allowed to serve until the new members are confirmed.**
- **Fourth, the requirement that youth members participate in the MCPD's Citizen Academy should be waived** given the thoughtful observation from the current PAC that this requirement proved difficult for young people. However, these young people should be encouraged to participate, if able, and encouraged to otherwise get to know members of the MCPD and learn more about their work in the community. A ride along requirement could be a compromise.

I am not in favor of any of the other proposed amendments, which I believe are fundamentally flawed for many of the reasons already set forth in the RESJ Impact Statement, at the public hearing, and in written testimony from the community, including from the current PAC. For example:

- I recommend removing the addition of the Police Chief and President of the FOP (or their designees) as voting members. From what I understand, the *ex officio* law enforcement members of the PAC have ably contributed to the PAC's work, and I hope they will continue to be an important part of this body going forward.
- I recommend removing the elimination of the age requirements for two voting members. This proposal is contrary to the Council's prevailing view that youth play an important role in our County and democratic process. Youth voices are also particularly important in this context, where young people interact with law enforcement more than any other group and their interactions with law enforcement can be most fraught with risk and the potential for negative outcomes.
- I recommend removing the requirement that the PAC represent business interests and property owners. I do not believe that preference should be given to these groups in this commission, although individual Councilmembers may nominate individuals with business backgrounds and/or who own property as they see fit.
- I recommend removing the prohibition that the PAC serve as an oversight body of any law enforcement entity. Law enforcement holds tremendous power. A group of concerned residents providing basic community oversight of that power is reasonable and responsible, and a core principle in the creation of the PAC.
- I am also concerned about the staggered term limits, and oppose such limits particularly if the idea is, as indicated at the public hearing, to slot young people into short-term roles, thereby weakening their participation and power in this body. If members of the body do not want to serve their entire terms, they can resign, and the vacancies can be filled.



All of us on the Council are committed to improving the safety of our residents. Providing an opportunity for residents to be in dialogue with law enforcement and share recommendations to the Council regarding policing is an important part of working towards public safety for all. A body such as the PAC (or ACP, if there is a name change) encourages transparency, accountability, and continued improvement of law enforcement. We should all be in support of such progress, particularly at a time when so many members of the community are focused on public safety issues and eager to engage with law enforcement on these matters.

Thank you in advance for your thoughtful consideration of my recommendations. I hope we can move forward with the name change and expanded body, with full Council support for the future of this important commission.

Finally, I wish to thank the past and current members of the PAC for their service. The PAC's letter to the Council regarding the proposed bill demonstrates the diligence, capability, commitment, and thoughtfulness of members of the commission. Many people have put a lot of heart and effort into this work in our community, including the *ex officio* members of the PAC, and I am grateful for their service.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Jawando', with a long horizontal flourish extending to the right.

WILL JAWANDO

## Councilmember Mink Amendments

1. Change the name of the PAC to be the “Advisory Commission on Policing” or ACP
2. Retain the *ex officio* members from MCPD and FOP as non-voting members
3. Strike this: The Commission is not an oversight body of any law enforcement entity operating in Montgomery County
4. Under “duties”: accept correspondence and comments from members of the public[;], except that the Commission must ~~not accept~~ **forward to the Police Accountability Board any formal complaints** involving police misconduct and discipline that fall under the jurisdiction of the Police Accountability Board pursuant to Section 35-24
5. Amend the bill to state that each of the 11 councilmembers will select a member of the PAC (or ACP if it is renamed), and that a councilmember may nominate a new member if the person they nominated resigns before the end of their term.



## POLICING ADVISORY COMMISSION

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October 12, 2023

The Honorable Evan Glass, President  
Montgomery County Council  
100 Maryland Avenue  
Rockville, Maryland 20850

Re: Bill 32-23 -Policing Advisory Commission Amendments

Dear President Glass:

The Policing Advisory Commission (PAC) voted on October 9, 2023, to encourage the Council to pass Bill 32-23 as reported by the Public Safety Committee on October 2. We believe the bill, as reported, will provide the Council with a strong **Advisory Commission on Policing** (the proposed new name of the Policing Advisory Commission) to assure that the voices of the community concerned about the practices, policies, and procedures of the Montgomery County Police Department can be heard and acted upon.

The Policing Advisory Commission greatly appreciates the great interest and strong support of our work by all the members of the Public Safety Committee, and especially Chair Sidney Katz, and urges passage of the Committee's reported bill.

With best wishes,

Eric E. Sterling, Chair  
Policing Advisory Commission

Policing Advisory Commission

100 Maryland Avenue • 240-777-7900 • [www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

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**OUR MISSION:**

Working to enhance the economic prosperity of greater Silver Spring through robust promotion of our member businesses and unrelenting advocacy on their behalf.

October 16, 2023

The Honorable Evan Glass  
Council President  
Montgomery County Council  
100 Maryland Avenue  
Rockville, Maryland 20850

Dear President Glass and Councilmembers:

**Re: Support for Business Community's Inclusion in Community Advisory Commission as Proposed in Bill 32-23, Policing Advisory Commission - Amendments**

On behalf of the Greater Silver Spring Chamber of Commerce (GSSCC), we appreciate the opportunity to comment on Bill 32-23, *Policing Advisory Commission - Amendments*. Bill 32-23 proposes to rename the existing Policing Advisory Commission to be the Community Advisory Commission on Public Safety and amend the law regarding appointment of members and scope of the Commission.

One of the specific changes proposed by Bill 32-23 is to **require** representation from business owners on the Commission. **The Greater Silver Spring Chamber of Commerce support the bill's proposed language that urges the Commission to include representation from business owners or business organizations from the pool they draw from, while maintaining its emphasis on members who represent the County's diversity, geographic areas, and those disproportionately impacted by inequities.**

The GSSCC contends that public safety is a pivotal issue for all of Montgomery County's businesses and has been a notable focus for Silver Spring, as evidenced by our Silver Spring Safety Alliance initiative. Local commerce is severely hindered if businesses, employees, and customers do not feel safe. The GSSCC has long worked closely with our first responder community to ensure collaboration and sharing of information as part of this ongoing effort.

For these reasons, we were disappointed, and quite surprised, to see the Office of Legislative Oversight (OLO) recommend the removal of the business community as required members of the Commission. Perhaps OLO does not see the businesses as citizens of the community? The Greater Silver Spring Chamber of Commerce begs to differ, and asks the County Council to reject OLO's recommendation and keep Bill 33-23's addition of the business community as part of the reconstituted Community Advisory Commission on Public Safety.

The business community, like other citizen residents of the County, particularly in Silver Spring, represents the "County's diversity, geographic areas, and those disproportionately impacted by inequities." One need only look at the membership of our Chamber, and then the compilation of negative rhetoric directed at our businesses to understand the critical need for business to have a voice in the discussion.

As always, the GSSCC stands ready to work with the County Council on this and other important issues impacting the business community in Montgomery County.

Should you have questions or wish to discuss this issue, don't hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie M. Haskins".

Stephanie Helsing  
President & CEO  
Greater Silver Spring Chamber of Commerce