

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.”

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SUMMARY  
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**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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