



Policing Advisory Commission
Monday, January 11, 2021
Virtual Meeting
6:30 – 8:00 pm
Meeting Minutes

Commission Members Present: Jerome Price, Jenn Lynn, Shabab Ahmed Mirza, Caroline Fredrickson, Nadia Salazar Sandi, Vernon Ricks, Eric Sterling, Alicia Hudson, Robin Gaster, Dalbin Osorio, Justice Reid, Cherri Branson

Commission Members Absent: Jasmine Williams

Ex Officio Members Present: Chief Marcus Jones, Sergeant Cate Brewer (FOP representative)

Support Staff: Carlos Camacho, Susan Farag

Guests: Susan Smith (HOC, Mental Health Advisory Committee, and Commission on People with Disabilities), Nicholas Augustine (MCPD), Allora Goode Cyrus (Kingdom Fellowship AME & Delta Sigma Theta Sorority), Heidi Rhodes (Jews United from Justice), Linda Thompson (MoCo resident), Alicja Nutting (MoCo League of Women Voters)

Meeting was called to order at 6:36pm

Agenda:

- 1. Attendance and Recording of Meeting:** Mr. Camacho took attendance and began recording the meeting.
- 2. Administrative Updates:**
 - i. Ms. Mirza started off by referencing feedback received from the Commission on how things have been going thus far. What stood out to her is the fact that many Commissioners noted their sense of purpose being on the Commission and the fact that they feel they are being heard. Other feedback noted that the PAC has developed a good working relationship and sense of collegiality. She also noted the amount of expertise and combined experiences that members of the Commission have, particularly now given that all members should have participated or viewed the Citizen Academy recordings.
 - ii. The Commission voted on approving the minutes from the December 14 meeting.
 - No edits were recommended. Minutes were approved by 10 members with one abstention.
 - iii. Reminder for all subcommittees to share meeting times, links to online meetings, and minutes with Mr. Camacho.
 - iv. A Public Comment Form has been made live on the [Commission's website](#).

- v. All PAC data requests have been saved to the Teams page.
- vi. There was a discussion regarding the administrative process for scheduling and posting subcommittees meetings. How far in advance should subcommittee's let Mr. Camacho know? Should subcommittee's coordinate so that they are not meeting on the same couple of days?
 - Subcommittee's should set up a zoom link and then send to Mr. Camacho who will then post the meeting details on the PAC website. Mr. Camacho will ensure that subcommittees are not all meeting at the same time.
 - Dr. Gaster also expressed concern over not having a paid zoom account, as a basic account limits meeting to only 40 minutes.
 - Ms. Hudson mentioned that she has bought a zoom account and the cost is minimal. Subcommittee members could also share the cost of an account.

3. Subcommittees Updates (5 minutes to present updates and 5 minutes for questions)

- i. School Resource Officers Subcommittee
 - Nothing to share save for the statement on the SRO bill, which was shared later in the meeting and is posted on the PAC website.
- ii. Emergency Response Subcommittee
 - Ms. Lynn stated that she has been working with Susan Smith from the Housing Opportunities Commission (HOC) and the Mental Health Advisory Committee to identify what is being done in the County regarding Emergency/Crisis/Mental Health response. Will be holding a collaborative meeting on Jan. 28 with relevant County stakeholders working on these issues.
- iii. Discretionary Policing Subcommittee
 - Ms. Branson provided an update – PAC received MCPD data on traffic enforcement and are reviewing this information to create their own narrative and recommendations based on what the subcommittee learned from the data and the meeting with MCPD on traffic enforcement. In the next few days, the subcommittee will be able to issue to the PAC a statement and recommendation on this.
 - Mr. Reid hopes these first round of recommendations will provide some guidance and consistency across subcommittees.
 - Dr. Gaster – Putting these recommendations in place will give the PAC the opportunity to get feedback and for other stakeholders to push back.
- iv. Hiring and Discipline Subcommittee
 - Ms. Hudson – Met several times this past month and have come to a consensus on certain items including LEOBR. Also, explained that the subcommittee received a presentation from Assistant County Attorney Sarah Daken from the County Attorney's Office.
 - Mr. Sterling has prepared a memo based on the conversation with Ms. Daken. Have shared it with her first and will share with the PAC once it is finalized.

4. Input from Ex-Officio Members –

- i. Sergeant Brewer
 - Want to ensure that the PAC continues to gather information from both sides on all issues. Fears that recommendations will be made on things that are already being done or that will not directly impact MCPD. Wants to ensure that changes sought are changes that should be or can be implemented in MoCo. Shared an article in Bethesda Magazine on the SRO issue, with principals weighing in:

- <https://bethesdamagazine.com/bethesda-beat/schools/mcps-principals-say-police-officers-stationed-in-schools-are-essential/>
- Mr. Reid asked if there is a source in particular from the FOP or other organizations that the PAC can look to? Want to make sure we don't miss any official stances or reports.
 - Sgt. Brewer – it depends on the topic. Just cautioning that research needs to be thorough and not just confirm preconceived notions.
- Ms. Hudson – Agree that we should get different perspectives including that of teachers, students, parents on the SRO issue.
- Dr. Gaster – The SRO bill is very binary, either we have them or we don't. Interested in getting Chief Jones' and Sgt. Brewer's perspective on how the SRO program could be improved.

5. Recommendations on Pending Legislation – Subcommittees discussed the pending County legislation below:

- i. Bill 34-20, Police – Disciplinary Procedures, referred to subcommittee on Hiring and Discipline
 - Ms. Hudson – The Subcommittee met to discuss the bill and would like to share the following comment where members were in agreement:
 - LEOBR should be repealed. It impedes the administering of disciplinary measures to address police misconduct. It affords officers protection that no other civil servant or public worker enjoys. The Chief should have plenary authority, he does not under LEOBR. Officers should have no more protections than the citizen they are charged in serving.
 - Bill 34-20 addresses some of the community concerns - reverting back to a traditional hearing board with two voting citizen members in cases arising from a citizen complaint on excessive use of force, authorizes the Chief to implement a final order based on findings of a hearing board and allows the Chief to exercise his authority as an employer to fire an officer.
 - The number of citizen voting members should be such that they would have a real impact on the discipline given to an accused officer.
 - Mr. Sterling clarified that it's not that LEOBR doesn't allow the Chief to have the final disciplinary authority, the issue is the way that LEOBR is applied in Montgomery County.
 - Ms. Fredrickson wanted to further clarify that LEOBR does speak to the disciplinary process so it's a combination of things, particularly the extensive protections laid out in LEOBR beyond what is afforded to other public employees.
 - Ms. Branson – LEOBR is a product of state law so we cannot repeal that but want to clarify her understanding of the current process in MoCo. Is the subcommittee recommending supporting the enactment to Bill 34-20 with no amendment?
 - Ms. Hudson clarified that the subcommittees position that LEOBR should be repealed was just the subcommittee's comments. The MD House of Delegates has put forth a bill to repeal LEOBR.
 - Ms. Fredrickson – Believes that one of the reasons for this bill is as a placeholder and a step the County can take in desiring LEOBR repeal.
 - Mr. Sterling – The process in MoCo is that there is a fact-finding process undertaken by Internal Affairs. Then there is a review board, which includes executives in the dept, that reviews and makes a recommendation to the Chief who then makes a decision. If there is discipline that is recommended then the provisions of LEOBR are

triggered and a hearing board can be brought in. This bill makes a modification to the hearing board process. There is a traditional hearing board under LEOBR and an alternative hearing board in MoCo. The decision of that alternative hearing board is final and can overrule the Chief.

- Sgt. Brewer – LEOBR nor does the FOP contract provide police with extra protection than what is in the 5th Amendment, which provides protections to all citizens during criminal procedures. LEOBR covers internal investigations. If an officer elects to appeal discipline that is above a certain threshold then their appeal is heard by either an alternate hearing board or a traditional hearing board. The alternate hearing board is composed of one person elected by the Chief, one person selected by the union, and one third-party, neutral arbiter. This is similar to the structure that other unions in the County use including the teacher’s union. It’s not unique to the Police.
- Chief Jones – Cate is spot on in the describing the hearing boards. Only clarification is that the officers get to select which hearing board they would like. In a traditional hearing board the Chief chooses two members of the Executive staff and then one member would be an FOP member of equivalent rank to the officer being disciplined. LEOBR already allows for public voting members. The motive of this bill is to eliminate the alternative hearing board. When the Chief makes a recommendation for discipline prior to a hearing board, the alternative hearing board can override the Chief’s decision, this is not so in the traditional hearing board. The alternative hearing board has the final say.
- Dr. Gaster – What percentage of cases go to each type of board, is it overwhelming alternative hearing boards? Also, do you collect and can you provide aggregate data about the cases that go to the board (e.g. what the Chief recommended, where they went, and what came out of it)?
- Chief Jones – If there is a recommended punishment (e.g. summary punishment – suspension of 3 days or less or fine less than \$500) then that officer does not have the right to a hearing board. But if the punishment is more severe than that they can choose between the type of hearing board they would like. The majority of the officers do choose the alternative hearing board. This also doesn’t mean that every case goes to trial, as there are opportunities for plea agreements or other types of compromise to avoid a trial. There is some data that we have for those who selected an alternative hearing board and the outcomes from the trial. There have been very few trials over the past few years. Trials have commenced again, there was one this past November.
- Dr. Gaster stressed that the community needs to know the path and outcome of each case.
- Mr. Ricks – are the results of each case made public?
 - Chief Jones – MCPD can release charges, findings, and punishment but cannot give officer names or details of the investigation.
 - Ms. Mirza – It seems that these data can be made available but are not currently available to us.
- Ms. Branson – Is MoCo the only County that uses this alternative board hearing process?
 - Chief Jones believes Baltimore County uses this process as well as another smaller jurisdiction. Perhaps not in the same way but similar.
- Ms. Hudson stressed that one of the most important aspects of Bill 34-20 is the inclusion of voting members of the public on the hearing boards. This speaks directly to the issue of community trust.
- Ms. Fredrickson suggested that in order for all Commissioners to feel more comfortable on voting on various pieces of legislation, perhaps we could set a deadline to submit

questions to the subcommittees, on reviewing the legislation and committee statements, and then at which point a vote on a statement could take place.

- Sgt. Brewer did want to clarify that the alternate hearing board must be made available to the public. Also, the decision that was handed down most recently in November was the same that the Chief recommended.
- ii. Ms. Mirza – Not going to vote on legislation at this meeting but a week from now all Commissioners should have read the bills, any supplementary information, and sent their questions/comments directly to the subcommittee members. We will find another time to vote on endorsing the bills.

6. PAC Proposals – Commissioners will comment and may vote to formalize processes with regards to:

- i. Automatic referral process for legislation
- Commissioners received a proposed legislative referral and review process. The proposal states that when legislation concerning policing is introduced by the Council, it will automatically be referred to the subcommittee that the issue discussed in the bill falls under. In instances where it may not be clear as to which subcommittee should examine the bill, then the Chair and Vice Chair will assign the bill to a subcommittee. This will then prompt a 30-day timeframe whereby the subcommittee should examine the bill and provide a recommendation/statement to the full PAC as to whether the PAC should endorse the bill or otherwise take a stance on the bill. The PAC would then hold a meeting to allow the subcommittee to discuss the issue in more detail and give the opportunity for Commissioners to ask questions. The issue would then go back to the subcommittee to draft the letter to the Council. The PAC would ultimately vote on whether to endorse the bill or not.
- ii. PAC and subcommittee workplans
- A workplan template was shared with all Commissioners and subcommittees that looks at what the PAC has been charged to do by statute and creates a timeline for accomplishing the PAC's objectives.
 - It would be ideal for all subcommittees to create a workplan that can be shared during the February meeting.
- iii. Regular Q&A sessions with Sgt. Brewer/Chief Jones/other MCPD staff
- There has been interest in getting more input from MCPD. Ms. Mirza and Mr. Osorio have proposed the PAC schedule a time for the PAC to ask questions to Sgt. Brewer and Chief Jones, as well as other MCPD staff, as needed. PAC members could submit questions before the meeting so they be sent to Chief Jones and Sgt. Brewer ahead of time so that they can gather any information needed to provide thoughtful responses to the PAC.
- iv. Subcommittee meetings on day of full PAC meetings
- Given everyone's schedules it may be helpful for subcommittees to meet at 6pm before PAC meetings to provide a chance for subcommittees to discuss and coordinate subcommittee meeting updates prior to the full meeting.
- v. Non-subcommittee members attending subcommittee meetings
- Want to ensure all subcommittees are open to the public and also give non-subcommittee members the opportunity to attend subcommittee meetings that they are interested in.
 - Two potential issues - 1) subcommittee meetings exceeding a quorum in a non-public meeting; and 2) would non-subcommittee members have the opportunity to speak and ask questions during a subcommittee meeting?

- The suggestion presented is for commissioners to avoid attending subcommittee meetings that they are not a part of.

Ms. Mirza suggested that the Commission hold off on voting on any of the processes until they can be written out and formalized.

Ms. Branson noted that as the PAC comes up with standard operating procedures they all need to be in writing and voted on by the Commission. Cannot have ad hoc processes. Things that get voted on will become the model for this Commission and potentially for the next Commission.

Ms. Mirza agreed that voting on the workplan and on monthly subcommittee meetings that are open to the public is a good idea.

7. New Business

- i. Ms. Branson shared the statement on behalf of the Discretionary Policing Subcommittee on Bill 45-20 - Police – Community Policing – Data.
 - The bill is unanimously supported by the Council so it is likely to pass. The bill charges MCPD with additional data collection and reporting requirements.
 - The data will advance policing best practices
 - Given that this type of data will provide additional information on how discretion in policing affects the community and may shed light on questions of explicit, implicit, or systemic bias, the Committee urges that the Council pass the bill and the CE to sign on to it.
- ii. Mr. Ricks asked what the Reimagining Public Safety Task Force’s stance on the bill is?
 - Ms. Branson - Do not think they have taken a stance on this particular bill. Additionally, within the PAC’s annual report we could ask for additional kinds of demographic data that we think would be helpful. This is basically a starting point.
 - Mr. Ricks – sounds like MCPD may have to hire more officers given the additional asks of the bill.
 - Ms. Branson – MCPD may need to retrain personnel and it may be an administrative hurdle initially but any kind of change that the PAC recommends will likely present some type of initial administrative hurdle.
- vi. Ms. Hudson stated that this bill is exactly what is needed to boost transparency and community trust. Also, think data on pre-existing conditions should be collected as it could impact physical well-being as result of being detained. Only drawback of the bill is that MCPD would only have to present data annually, why not more frequently?
 - Dr. Gaster – data will also be available through the open data portal (DataMontgomery). What does need to be clarified is that this data should be updated in real time and not just annually.

Ms. Mirza urged Commissioners to send questions to the subcommittees with regards to legislation and that perhaps the week/two weeks before the Feb 8 PAC meeting, the PAC can meet to discuss the pending legislation.

Meeting was adjourned at 8:03pm