To: Police Advisory Commission

Fr: Committee on Discretionary Policing Practices

Re: Council Bill 45-20

Dear Fellow Commissioners:

The Committee on Discretionary Policing Practices has reviewed Council Bill 45-20. The Bill was introduced in November 2020. The bill is currently sponsored by every member of the Council.

According to the staff report, the bill would require MCPD to collect and annually report data on:

• demographic information regarding individuals stopped (including a stop and frisk that does not result in a citation or arrest), searched, cited, arrested, or the subject of a use of force incident by the Department, including: race; ethnicity; gender; and any other demographic information voluntarily provided by the detainee.

The bill also would require MCPD to post on Data Montgomery information about each of the following types of incidents, including information about race and ethnicity: • use of force incidents; • field interview reports; • juvenile citations; • criminal citations, including trespassing citations; • alcohol beverage violations; • possession of marijuana violations less than 10 grams; and • smoking marijuana in public places

As the staff report notes, such data may assist MCPD in its efforts to build capacity to use policing data to advance best practices in constitutional and community policing.

The subcommittee is also proposing the following amendments to Bill 45-20:

- MCPD must designate a specific individual to act as the point of contact for all data-related matters. This individual would be responsible for maintaining all existing data, meeting new data requirements, and answering queries from the Council, the PAC, and the public in a timely manner. Currently, there is no publicly responsible official for MCPD data noted on the Open Data Portal. Requests for additional data or explanations are simply ignored. The name and contact information for the designated individual should be published on the Open Data portal and on the MCPD website.

- MCPD must restructure its complaints data collection and reporting system. The current data and reporting systems do not provide confidence that complaints are being addressed in a timely, fair, and transparent way. Attached is an analysis and some specific recommendations to help ensure that the public can see exactly what actions result from complaints. In particular, it is critically important that the data be reformed and published so that:

        a) Detailed outcomes from all complaints are fully described
        b) confusing and obfuscatory categories are simplified
        c) data provided through the open data portal and the IAD annual report are identical

Given that this type of data would provide additional information on how discretion in policing affects the community and may shed light on questions of implicit, explicit or systemic bias, we respectfully request the Council pass the bill with the amended language proposed by the Police Advisory Commission. If passed by the Council, the Commission should urge the County Executive to sign the bill.

Respectfully Submitted,

Cherri Branson, Robin Gaster, Justice Reid.

Review of internal affairs data, 2013-2018

Robin Gaster

Feb 2019 (updated 2021)

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

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

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

Questions refer to attached tables (see Appendix A below)

Table 1. All complaints

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

Table 3. Current status

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

Table 2. Findings

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

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

<u>Table 5. Blank findings only</u>

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

Policy recommendations based on these data.

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

B. Reporting issues

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

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

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

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

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

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

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

Accessed Feb 2, 2018

	All					
Table 1	Count of File N	Column Labels				
	Row Labels	Active	Complet	Forward	Initial	Grand Tot
	2013		240			240
	2014	2	446			448
	2015	14	359	4		377
	2016	24	390			414
	2017	108	319			427
	2018	31	11		1	43
	Grand Total	179	1765	4	1	1949

	All except blank findings				
Table 2	Count of Findi	Column Labels			
	Row Labels	External	Internal	(blank)	Grand Total
	Administrative	100	131		231
	Corrective Acti	285	55		340
	Declined	119	1	1	121
	Exonerated	83	48		131
	Insuffecent Evi	20	22		42
	No Corrective	473	36		509
	Policy Failure		1		1
	Sustained	42	124	1	167
	Unfounded	43	32		75
	(blank)				332
	Grand Total	1165	450	2	1617

	status	(All)			
Table 3	Count of ID	Column Labels			
All compla	Row Labels	External	Internal	(blank)	Grand Total
	2013	14		1	15
	2014	28	2	2	32
	2015	35	14	7	56
	2016	35	19		54
	2017	72	65	2	139
	2018	27	9		36
	Grand Total	211	109	12	332

Cont.

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