

The Hiring and Discipline Subcommittee members of the Policing Advisory Commission, having reviewed Bill 34-20, share their comments on the bill.

- The subcommittee members agree, with one member abstaining, that LEOBR needs to be repealed or significantly reformed, especially with respect to disciplinary measures. The members believe that their views on LEOBR are relevant to the consideration of this bill because our understanding is that Bill 34-20 represents an effort by Council Members to respond to the community's concerns about inadequate police discipline and while LEOBR embodies the larger obstacle to ensure police oversight, Bill 34-20 would move MOCO towards a system of greater accountability, even absent LEOBR repeal or reform.
- The subcommittee has met several times a month since its inception. In addition to meetings, the members have researched, reviewed and discussed a copious amount of material. Among (and this list is not exhaustive) the data research received and reviewed were: the legislative history of Bill 34-20; Professor Christy Lopez's presentation regarding LEOBR; the Executive Director of the Dept. of Public Safety and Correctional Services Mr. Albert Liebno's memo response to subcommittee member Eric Sterling's pointed questions regarding training of citizens for the LEOBR hearing panel; MCPD FC300 Department Rules; the 2019-20 CBA between the FOP and Montgomery County Government.

- Our views are captured by the comments of the drafters of this bill:

"But none of the content of our policies and procedures will matter if officers are not subject to quick, fair discipline for violating them. Through state law (LEOBR) and the Collective Bargaining Agreement with the County, we have a slow, uncertain, and complex process to discipline officers for violations of Department policies. This must change because we should have a department where the Chief's ability to set a culture and hold officers accountable for meeting high expectations is strong.

Officer Morris was convicted by a jury in December for use of excessive force in July of 2019. Over a year later, he remains on the MCPD payroll awaiting a final determination on his disciplinary charge. Similarly, the officer who used the N-word in White Oak still has not faced official discipline for her actions. We understand that an officer was once on paid administrative leave for four years while waiting for the appeal of their termination to be resolved. The reason these officers have not been held accountable is because we have a disciplinary process that doesn't work."

- The subcommittee members believe LEOBR should be repealed because it impedes the administering of disciplinary measures to address officers' misconduct. It does so by affording officers protections that no other public worker/civic servant enjoys. For example, officers may choose a hearing by a board comprised of mostly officers. Such a board composition and other aspects of LEOBR deny the police chief the authority to dismiss officers even if she/he believes that the officer has committed a fireable offense. While officers are entitled to the

same rights under the Constitution as all citizens, they are NOT entitled to MORE rights than the very citizens they are charged to protect AND whose tax dollars pay their salaries!

- The foregoing having been stated, Bill 34-20 addresses some of the concerns of the community: mandating a traditional hearing board with two voting public members in cases of citizens' complaints alleging excessive force; and authorizing the chief of police to issue a final order based on the hearing board's recommendations and to exercise his/her right as an "employer", meaning the authority to fire the officer. Finally, the Bill would exclude collective bargaining over the composition of a police hearing board, the right of the Chief to make a final decision on discipline, and the right of the Chief to issue a directive or administrative order implementing an employer right.
- Expedited Bill 34-20 would simply move the County back to the traditional hearing board authorized by the LEOBR, including the additional public members for a case originating from a citizen complaint alleging excessive force. Under the LEOBR, if the Chief wants to increase the penalty recommended by the hearing board, the Chief must first meet with the officer to hear the officer's position and the Chief must state his or her reasons for increasing the penalty on the record. The final decision would be subject to appeal to the Circuit Court. Thus, Bill 34-20 would not deny officers any appropriate due process protections but would rather restore a system that accords full but not excessive protections to law enforcement.
- The subcommittee believes that "voting members of the public" should be enough in number that the public (by and through the public voting members) would have a real impact on the final decision on what disciplinary measure should be recommended for an accused officer.

Respectfully submitted with one abstention.