



## POLICING ADVISORY COMMISSION

To: Montgomery County Councilmembers  
Cc: County Executive Marc Elrich  
From: Policing Advisory Commission  
Date: March 8, 2021  
Re: Bill 45-20 - Police - Community Policing – Data

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Dear Councilmembers,

The Policing Advisory Commission (PAC) respectfully submits our comments on Bill 45-20. We welcome this opportunity to advise the Council on policing matters and recommend policies, programs, legislation, or regulations, per our authorizing statute in the Montgomery County Code §35-6(f). After careful review, consultation with relevant stakeholders and experts, and deliberation amongst PAC members, **we recommend that the Council amend the bill such that MCPD: (1) designate a single individual to act as the point of contact for all data-related matters and (2) restructure its complaint data collection and reporting system. With the inclusion of these amendments, as outlined below, we recommend that the Council vote in favor of this bill.**

### Proposed Amendments

1. 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.
2. 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

### Background

The PAC received notice that the Council planned to introduce Bill 45-20 on November 16, 2020. On December 14, 2020, we referred it to our subcommittee on Discretionary Policing for further review. The members of the subcommittee studied the bill and presented a statement to the full PAC at our next monthly meeting on January 11, 2021. The PAC also convened a special meeting on January 25, 2021 to allow Commissioners more time to discuss the proposed legislation. On February 8, 2021, the subcommittee presented their proposed amendments to the PAC. The PAC **voted unanimously to support an amended Bill 45-20, as outlined above.**



## **POLICING ADVISORY COMMISSION**

### Rationale

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 on this bill notes, the collection of data as outlined in Bill 45-20 may assist MCPD in its efforts to build capacity to use policing data to advance best practices in constitutional and community policing.

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 inclusion of the two amendments outlined above. If passed by the Council, the PAC will urge the County Executive to sign the bill.

Please feel free to contact us if you have any questions or requests for clarification.

Sincerely,

Shabab Ahmed Mirza, Chair & Dalbin Osorio, LMSW, Vice Chair

On behalf of the Policing Advisory Commission

Enclosed: IAD White Paper by Dr. Robin Gaster

**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.

Table 5. Blank findings only

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.

## Attachment – IAD White Paper

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	Completed	Forward	Initial	Grand Total
	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 Findings	Column Labels				
	Row Labels	External	Internal (blank)			Grand Total
	Administrative	100	131			231
	Corrective Action	285	55			340
	Declined	119	1	1		121
	Exonerated	83	48			131
	Insufficient Evidence	20	22			42
	No Corrective Action	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 complaints	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.

# Attachment – IAD White Paper

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	
	<b>Grand Total</b>	<b>507</b>			