

MEMORANDUM

April 22, 2022

TO: Public Safety Committee

FROM: Susan J. Farag, Legislative Analyst
Christine Wellons, Senior Legislative Attorney

SUBJECT: Worksession: FY23 Operating Budget
Police Accountability Board Non-Departmental Account (NDA)

PURPOSE: Vote on Recommendations for Council's Consideration

Those expected at this worksession:
Dr. Earl Stoddard, Assistant Chief Administrative Officer
Taman Morris, Office of Management and Budget (OMB)

Budget Summary

- *The County must fund and staff the newly created Police Accountability Board and Administrative Charging Committee*
- *Initial funding is \$100,510 but provides no staffing*
- *The Executive's proposed budget amendment adds another \$336,031 and 2 FTEs.*
- *Funding and staffing must be in place by July 1, 2022, to meet the State mandate.*

Background

For FY23, the County Executive recommends \$100,510 and 0 FTEs to fund and staff the newly created Police Accountability Board (PAB). The PAB¹ was created under Bill 49-21, Police – Police Accountability Board – Administrative Charging Committee – Established.² The PAB and the Administrative Charging Committee (ACC) must be fully staffed and operating by July 1, 2022. On April 19, the Executive submitted a budget amendment that increases total funding for the PAB to \$336,031 and adds two FTEs, bringing total funding to \$436,531.

¹ [Police Accountability Board](#) website

² [Action Staff Report](#), Bill 49-21, Police – Police Accountability Board – Administrative Charging Committee – Established

The Maryland General Assembly enacted a series of laws establishing uniform standards for police department operations throughout the State. One of these laws, House Bill 670, created a new uniform procedure for police accountability and discipline. This new law requires the governing body of each county to establish a Police Accountability Board (PAB) and an Administrative Charging Committee (ACC) to handle each complaint alleging police misconduct by a police officer employed by the County or a municipal police department located in the County involving a member of the public.

House Bill 670 of 2021 repealed and replaced the Law Enforcement Officers Bill of Rights (LEOBR) with a new State-wide disciplinary system for police officers in Maryland. The new uniform disciplinary system established in HB 670 generally applies to misconduct occurring on or after July 1, 2022. The new law also contains a grandfather clause that delays the effective date of the new disciplinary system until the expiration of any existing collective bargaining agreement for the duration of the agreement, excluding extensions.

As passed by the Council, the bill provides annual compensation different members:

- \$16,000 per member for four ACC members; and
- \$22,000 for the ACC Chair; and
- \$10,000 for the eight of the nine PAB members who do not also serve on the ACC.

Other potential costs include funding outside legal counsel when needed and training for ACC members.

Fiscal Impact

The Executive initially included \$100,510 in his March 15 Recommended FY23 Operating Budget submission, reflecting its initial fiscal impact of the bill, as introduced. The bill was later amended to provide compensation for both ACC members and certain PAB members and specified that the PAB must be appropriately staffed. The Executive submitted a budget amendment on April 19, that provides an additional \$336,031.

The Executive's updated fiscal estimate is reflected below:

Description	Police Accountability Board (9 Members)	Administrative Charging Committee (5 Members)	Total
Executive Director (MII)	114,797	-	114,797
Administrative Spec. II	83,814	-	83,814
Personnel Costs	198,611	-	198,611
Dependent Care Costs	1,080	1,800	2,880
Interpreter Services	-	3,060	3,060
Salary Compensation	80,000	86,000	166,000
Outside Counsel	50,000	-	50,000
Office Supplies	6,300	-	6,300
Printing/Copying & Imaging	720	-	720
Mail	360	150	510
Travel	360	600	960
Training	-	7,500	7,500
Operating Costs	138,820	99,110	237,930
Total	337,431	99,110	436,541

Council staff agrees with the proposed staffing classifications for the PAB, but has concerns about the proposed Executive Director salary, which may be too low given the need to recruit someone who can stand up a PAB to ensure it is seen as legitimate to both the community and the police who are subject to it. Council staff advises that the proposed salary is \$90,375, with benefits of \$24,442. For comparative purposes, the Ethics Commission is similarly staffed with an M2 and an Administrative Specialist III. The EC Executive Director is at the maximum salary point for M2, although the incumbent has held that position for many years. For the Merit System Protection Board, which is also similarly staffed with an M2 and one support staff position, the Executive Secretary makes \$127,000 part-time.

Council staff notes the proposed salary is for only nine months, reflecting a 90-day hiring delay. Council staff advises that starting the new Director at least at mid-point, which is \$133,395 after the June 19 GWA, may be more appropriate.

Council staff also cautions that ACC workloads may increase in FY24 when the current FOP collective bargaining agreement expires, and all sworn MCPD officers are subject to the new disciplinary scheme. The Committee may wish to receive periodic updates on staffing, caseloads, and resource needs. ***Council staff recommends approval of the total \$436,531 in the PAB NDA.***

Potential Discussion Questions

- 1) Has the Executive created a job description for the Executive Director position?
- 2) When will the positions be advertised?
- 3) What is the Executive's plan regarding interim staffing until both positions are filled?

<u>This report contains the follow attachments</u>	©
Recommended FY23 Operating Budget for the PAB NDA	1-2
April 19, 2022, Executive Amendment to the Recommended FY23 Operating Budget	3-9

Payment to Municipalities - FY23 Recommended

Municipality	FY23Payment
Brookeville	15,186
Chevy Chase, Sec. III	55,648
Chevy Chase View	77,527
Chevy Chase Village	275,985
Town of Chevy Chase	237,650
Drummond	8,665
Friendship Heights	108,511
Gaithersburg	3,498,978
Garrett Park	91,049
Glen Echo	38,992
Kensington	266,908
Laytonsville	44,373
Martin's Additions	50,393
North Chevy Chase	47,428
Oakmont	6,157
Poolesville	529,829
Rockville	6,593,160
Somerset	105,600
Takoma Park	5,133,285
Washington Grove	84,368
TOTAL	\$17,269,690

This does not include the estimated Municipalities' Speed Camera Allocation of \$129,344

FY23 Recommended Changes	Expenditures	FTEs
FY22 Approved	9,122,411	0.00
Increase Cost: New Bill 2-22 Municipal Tax Duplication	8,147,279	0.00
FY23 Recommended	17,269,690	0.00

Police Accountability Board

This NDA provides funding for the Police Accountability Board (PAB) and the Administrative Charging Committee (ACC) in accordance with the Maryland Police Accountability Act of 2021. The purpose of the PAB and the ACC is to review police data, and adjudicate on law enforcement officers being investigated or charged for disciplinary infractions. At the time of this budget development, local enabling legislation had not been fully executed by the County Council and, therefore, this NDA will likely need to be adjusted in the future. Funding in the NDA would accommodate the projected administrative needs of the anticipated nine PAB members and five ACC members. Administrative and operating costs incurred by those bodies include expenses for annual meetings, staffing support, compensation for ACC members, office supplies, printing, interpreter services, and dependent care for board and committee members. The NDA will also accommodate training costs for board and committee members, however until those costs can be finalized by the Maryland Police Training and Standards Commission (MPTSC) an estimate consistent with other certifications provided by MPTSC was used. The operations of the Police Accountability Board and the Administrative Charging Committee are independent of the Montgomery County Police Department (MCPD) and MCPD leadership.

FY23 Recommended Changes	Expenditures	FTEs
--------------------------	--------------	------

FY23 Recommended Changes	Expenditures	FTEs
FY22 Approved	0	0.00
Add: Police Accountability Board	100,510	0.00
FY23 Recommended	100,510	0.00

Prisoner Medical Services

This NDA provides reimbursements to physicians and hospitals for medical care provided to individuals in the custody of any Montgomery County law enforcement agency, with the following exceptions:

- Offenders committed to the custody of the Department of Correction and Rehabilitation (DOCR) and receiving medical treatment paid for by the budget of that department,
- Medical treatment expenses covered by Workers' Compensation,
- Medical treatment expenses covered by personal medical insurance,
- Medical treatment expenses covered by the Federal Government,
- Medical treatment expenses covered by other appropriate and available outside resources.

The Department of Police manages this account with the assistance of the County Attorney. All bills are reviewed to determine the appropriateness of the medical expense reimbursement and to assess the responsible party for the medical expense.

FY23 Recommended Changes	Expenditures	FTEs
FY22 Approved	20,000	0.00
FY23 Recommended	20,000	0.00

Public Elections Fund

Article IV of Chapter 16 of the County Code requires the Director of Finance to create a Public Election Fund to provide public campaign financing for qualified candidates for County Executive or County Council. The law is intended to encourage more candidates who do not have access to large contributions from interest groups or individuals to run for County elective offices.

This NDA provides for the distribution of public contributions to qualified candidates in a contested election. This funding level was recommended by the Public Election Fund Committee.

FY23 Recommended Changes	Expenditures	FTEs
FY22 Approved	3,000,000	0.00
Enhance: Public Election Fund	2,500,000	0.00
Reduce: Prior Year Appropriation	(3,000,000)	0.00
FY23 Recommended	2,500,000	0.00

Public Technology, Inc.

The Public Technology Institute (PTI) actively supports local government executives and elected officials through research, education, executive-level consulting services, and national recognition programs. As the only technology organization created by and for cities and counties, PTI works with a core network of leading local officials - the PTI membership - to identify research opportunities, provide thought leadership and professional development opportunities, share solutions, provide technology




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

April 19, 2022

TO: Gabe Albornoz, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Amendments to the Recommended FY23 Operating Budget

Since I submitted my FY23 Recommended Operating Budget on March 15, there have been a number of developments that necessitate sending over amendments to the recommended budget. These amendments center around changes in revenue projections as well as expenditure adjustments for Montgomery County Fire and Rescue Service, Office of Racial Equity and Social Justice, Office of Human Rights, Transit Services, Incubator Programs, Police Accountability Board, and Community Grants. The amendments are described in detail below (including source of funds), and the attached report contains the necessary information for your analysts to account for them. The amendments submitted are consistent with the County's policy to maintain ten percent of adjusted governmental revenues in reserve.

CHANGES IN RESOURCES

County Income Tax Revenue

The FY22 revised income tax revenue estimate and the FY23 Recommended Budget income tax forecast (as of March 15) are both higher than the December Fiscal Plan update. The FY22 income tax revenue estimate increased in part due to a strong February income tax distribution reflecting strong wage and salary growth, but also due to notification from the Maryland Comptroller of an estimated \$58 million distribution to correct prior under-distributions of Tax Year 2020 income taxes in November 2021 and January 2022. These increases in FY22 were built into the base used for the forecast of FY23 income taxes and are expected to be ongoing.

Following the submission of the FY23 Recommended Budget, the Maryland Comptroller provided the correcting distribution on March 25 of \$68 million, an increase of \$10 million over their initial notification. As a result, this \$10 million of additional revenue will be available for FY22, and an additional \$11.468 million is now forecast to be available for FY23 due to the higher FY22 revenue base. Since this additional revenue is subject to the County's reserve policy, 90 percent, or \$10.321 million is available for programmatic uses.

State Aid for Police Protection

The FY23 estimate for State Aid for Police Protection was based on the Governor's proposed FY23 Operating Budget, which included a significant year-over-year increase. In enacting the FY23 State Operating Budget, the General Assembly changed the distribution for the increase. The funds will be based on the number of reported total violent crime offenses instead of the traditional per officer allocation methodology. As a result of this change, the estimate for the County's share of the State Aid for Police Protection will decrease by \$3.290 million. This revenue write-down will be fully offset by the increased income tax revenue estimate for FY23.

Transit Revenue

The FY23 Recommended Budget restores Ride On service and Call-N-Ride to pre-pandemic levels. As part of the budget, I also recommended reducing fares on all Ride On routes by one half, bringing the cost of most Ride On trips to \$1.00, in line with our fare equity study. The Transit Revenue estimate assumed that the new fares would go into effect in July. Given the process for coordinating fare changes however, it is unlikely that Ride On would be able to implement the fare change before September. As a result, the fare revenue estimate for FY23 will decrease by \$1.638 million. This revenue decrease will be fully offset by a reduction in CIP Current Revenue expenditures for transit projects for which we have received State aid sufficient to allow for repurposing County funding.

CHANGES IN EXPENDITURES

Office of Racial Equity and Social Justice

My FY23 budget included \$50,000 in funds to assist with planning for a memorial to Black residents who were tortured and killed by lynching. After subsequent consideration, I am recommending that the funds be included in the capital budget instead of the operating budget to allow for more time for public input and coordination with the Equal Justice Initiative. Thus the \$50,000 reduction to the budget for the Office of Racial Equity and Social Justice will be fully offset by an expenditure increase to the capital budget to create the Montgomery County Lynching Memorial Project (P362308).

Fire and Rescue Service

The FY22 agreement with the Montgomery County Career Firefighters Association IAFF Local 1664, included a provision that if the CPI-U for the Washington-Arlington-Alexandria area for the 12-month period ending March 2022 exceeds 1.5 percent that I would submit a supplemental appropriation to Council to increase the general wage adjustment (GWA) provision from 1.5 percent up to a maximum of 2.25 percent. As of March, the CPI-U for the Washington-Arlington-Alexandria area was 7.3 percent, thus triggering the requirement in the agreement. That supplemental appropriation for FY22 will be forthcoming for Council consideration and, if approved, the increased GWA will be effective the pay period beginning June 19, 2022. The FY23 impact of this change will be \$860,267 – including the annualization of the FY22 increase and the impact of this cost increase on the FY23 agreement. This amendment will be funded by increased tax revenues for FY23.

Office of Human Rights

The Commission on Remembrance and Reconciliation submitted a funding request for \$56,000 in operating funds to conduct historical research, capture oral histories, traveling to and engaging with the Equal Justice Initiative, hosting community seminars and collaborating with community partners, enhancing Remembrance and Reconciliation Month, and delivering memorials and markers to commemorate the victims of lynching in the County. This request was inadvertently left out of the FY23 Recommended Budget and will be funded by increased tax revenues for FY23.

I am also recommending including \$100,000 to fund County celebrations to commemorate the Juneteenth holiday. This amount includes funds for venues, technical support, equipment, and services and entertainment. The amendment will be funded by increased tax revenues for FY23.

Transit Services

The Recommended Budget included \$11,015 in the Transit Services budget to fund the six percent inflationary adjustment to non-profit service provider contracts. This amount inadvertently left out funds to provide the inflationary adjustment for the service contract that provides fixed route services for communities in the Tobytown and surrounding areas. I am recommending an additional \$29,071 to fund the inflationary adjustment for this contract, and the amendment will be funded by increased tax revenues for FY23.

NDA – Incubator Programs – Economic Development Partnership

The Recommended Budget included an increase of \$74,915 to increase staffing capacity to support the development and entrepreneurial ecosystem and manage all programming and

portfolio management duties at the Germantown, Rockville, and Silver Spring innovation centers. Due to a calculation error, my budget inadvertently left out the full funding for this enhancement. The cost of this amendment is \$235,349 and will be funded by increased tax revenues for FY23.

NDA – Police Accountability Board

The FY23 Recommended Budget included \$100,510 to fund the Police Accountability Board Non-Departmental Account budget. This amount reflected the estimated fiscal impact from implementation of Bill 49-21, as introduced. Since introduction, the Council has adopted amendments to the initial text of the bill, including increasing the number of Board members; requiring full-time, dedicated staff; and providing for compensation of the members. As a result of these adopted amendments, the estimated fiscal impact for implementing Bill 49-21 increases to \$436,541, an increase of \$336,031 above the initial recommended amount and adds 2.0 FTEs to the budget. This amendment will be funded by increased tax revenues for FY23.

NDA – Community Grants

My FY23 Recommended Operating Budget included \$500,000 in the Community Grants Non-Departmental Account budget for Business District Development Grants. The purpose of the program is to support the development of grassroots organizations and non-profit entities that engage in place making, place management, business recruitment and retention, branding, and economic development activities in emerging business districts. The program must lead to the establishment of a Main Street, Business Improvement District, or an Urban District Corporation. After submission of the budget, I have received feedback that interest in the program was greater than expected. As a result, I am recommending increasing the amount to this grant program by \$300,000 for a total of \$800,000. This amendment will be funded by increased tax revenues for FY23.

The net impact of all of the above amendments includes \$1.917 million in new expenditures which are offset by a net \$7.031 million in additional revenue, leaving \$5.114 million to be used for other priorities. We are finalizing additional potential amendments for the Department of Health and Human Services and the Department of Police, and those will be transmitted in the coming days.

Department staff and staff from the Office of Management and Budget will be happy to answer any questions you may have about these amendments as we work together to finalize the FY23 operating budget.

ME:jw

Amendment to the Recommended FY23 Operating Budget

April 19, 2022

Page **5** of **5**

Enclosure: Details on Recommended FY23 CE Amendments Report

cc: Richard S. Madaleno, Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Officer
Marlene Michaelson, Executive Director, County Council
Jennifer R. Bryant, Director, Office of Management and Budget
Michael Coveyou, Director, Department of Finance
Joy Nurmi, Chief of Staff to Council President Albornoz

Detail on Recommended FY23 CE Amendments

Tax Supported

EXPENDITURE AMENDMENTS

Racial Equity and Social Justice

Shift: Funding for Lynching Memorial from Operating Budget to Montgomery County Lynching Memorial CIP Project (P362308) **-50,000**

Fire and Rescue Service

Increase Cost: FY23 Impact of FY22 General Wage Adjustment Supplemental **860,267**

Human Rights

Add: Juneteenth Celebration Expenditures **100,000**

Enhance: Commission on Remembrance and Reconciliation **56,000**

Transit Services

Increase Cost: Six Percent Inflationary Increase to Non-Profit Service Provider Contracts Correction **29,071**

NDA - Incubator Programs - Economic Development Partnership

Increase Cost: Staffing Capacity Expenditure Correction **235,349**

NDA - Police Accountability Board

Add: Police Accountability Board Adjustment **336,031**

NDA - Community Grants

Add: Business District Development Grants Increase **300,000**

Total Tax Supported Expenditures 1,866,718

RESOURCE AMENDMENTS

Countywide Generic

FY23 Income Tax Adjustment **11,468,000**

Police

Police Protection State Aid **-3,290,000**

Transit Services

Ride On Fare Revenue Reduction offset by a reduction in CIP Current Revenue expenditures **-1,637,505**

Detail on Recommended FY23 CE Amendments

Tax Supported

Total Tax Supported Resources	6,540,495
-------------------------------	-----------
