



Committee: PS
Committee Review: At a future date
Staff: Khandikile Mvunga Sokoni, Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #Police#PolicingAdvisoryCommission#PAC
#Community Advisory Commission on Public Safety

AGENDA ITEM#12A
July 25, 2023
Introduction

SUBJECT

Bill 32-23, Police – Policing Advisory Commission - Amendments
Lead Sponsor: Councilmember Luedtke

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION:

N/A

DESCRIPTION/ISSUE

Bill 32-23 would:

- (1) rename the Policing Advisory Commission so that it will now be known as Community Advisory Commission on Public Safety;
- (2) amend the law regarding the Policing Advisory Commission regarding appointment of members and scope of the Commission; and
- (3) generally amend the law regarding policing, public safety and law enforcement.

SUMMARY OF KEY DISCUSSION POINTS

None

This report contains:

Staff Report	Pages 1-2
Bill 32-23	© 1
Md. Public Safety Code Ann. §3-101 <i>et seq.</i>	© 6

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MEMORANDUM

July 20, 2023

TO: County Council

FROM: Khandikile Mvunga Sokoni, Legislative Attorney

SUBJECT: Bill 32-23, Police - Policing Advisory Commission - Amendments

PURPOSE: Introduction – no Council vote required

Bill 32-23, Police – Policing Advisory Commission - Amendments, whose lead sponsor is Councilmember Luedtke, is scheduled to be introduced on July 25, 2023. A public hearing is tentatively scheduled for September 12, 2023, and the worksession before the Public Safety Committee will be scheduled at a later date.

Bill 32-23 would:

- (1) rename the Policing Advisory Commission so that it will now be known as Community Advisory Commission on Public Safety;
- (2) amend the law regarding the Policing Advisory Commission regarding appointment of members and scope of the Commission; and
- (3) generally amend the law regarding policing, public safety and law enforcement.

BACKGROUND.

The purpose of Bill 32-23 is to amend the provisions in the County Code that provide for and govern the Policing Advisory Commission (PAC). The PAC was established by Bill No. 14-19¹ which was enacted on December 3, 2019, and took effect on March 13, 2020. The Bill provided that the PAC would consist of 13 voting members (appointed by the Council with each Councilmember nominating one member), and two ex-officio non-voting members (nominated by the County Executive). On July 28, 2020², the Council, by [Resolution No: 19-573](#) appointed the Commissioners to the PAC, whose terms are set to expire on July 31, 2023.

Subsequent to the creation of the PAC, on April 10, 2021 the State Assembly amended the Maryland Public Safety Article to among other things require each County to have a police accountability board.³ The County, pursuant to this State mandate enacted [Bill No. 49-21](#), which took effect on May 2, 2022, to:

¹ <https://apps.montgomerycountymd.gov/ccllims/BillDetailsPage?RecordId=2610&fullTextSearch=14-19>

² Any vacancies arising since the original appointment(s) were filled for the remainder of the term.

³ Md. Public Safety Code Ann. §3-102.

- (1) establish the Police Accountability Board for the County;
- (2) define the membership and duties of the Police Accountability Board;
- (3) establish the Administrative Charging Committee for the County;
- (4) define the membership, duties, and compensation for members of the Administrative Charging Committee; and
- (5) generally amend the law governing police accountability and discipline.

Members of the Police Accountability Board were appointed on June 28, 2022 by [Resolution 19-1313](#), to terms that started on July 1, 2023.

According to the sponsor of this expedited bill, because of the establishment of the Police Accountability Board and the Administrative Charging Committee it is important to clarify the role of the Policing Advisory Commission. Hence this bill.

The bill sponsor previously introduced Expedited Bill 27-23, co-sponsored by Councilmember Katz which sought to repeal⁴ the PAC. However, Councilmember Luedtke wishes to withdraw that bill and instead is introducing this new Bill 32-23.

BILL SPECIFICS

In summary, some of the changes to the PAC proposed by Bill 32-32 include:

- Renaming the PAC.
- Introducing term limits of two consecutive three-year terms.
- Staggering of initial terms.
- Making it clear that the Commission is responsible for advising the County Council on certain policing matters and is not an oversight body of the Police Department.
- Clarifying that the Commission does not consider policing matters relative to police misconduct and discipline that are within the scope of the PAB to align with a proposed amendment to Bill 27-23 that OLO had recommended in its Racial Equity and Social Justice Impact Statement for Bill 27-23.
- Changing the number and eligibility of commissioners.
- Changing voting eligibility of commissioners.

This packet contains:

Expedited Bill 27-23

Md. Public Safety Code Ann. §3-101 *et seq.*

Circle #

© 1

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⁴ After introduction the bill sponsors presented proposed amendments to the Committee.

Bill No. 32-23
Concerning: Police – Policing Advisory Commission - Amendments
Revised: 6/30/2023 Draft No. 1
Introduced: July 25, 2023
Expiration: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Luedtke

AN ACT to:

- (1) rename the Policing Advisory Commission so that it will now be known as Community Advisory Commission on Public Safety;
- (2) amend the law regarding the Policing Advisory Commission regarding appointment of members and scope of the Commission; and
- (3) generally amend the law regarding policing and law enforcement.

By amending

Montgomery County Code
Chapter 35
Sections 35-6 and 35-6A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 35-6 is amended as follows:**

2 **35-6. [Policing Advisory Commission] Community Advisory Commission on**
3 **Public Safety**

4 (a) Definitions. In this Section the following words have the meanings
5 indicated:

6 *Commission* means the [Policing Advisory Commission] Community
7 Advisory Commission on Public Safety.

8 *Department* means the Montgomery County Police Department.

9 *Institutional members* are: (A) the Police Chief or the Police Chief's
10 designee; and (B) the President of an employee organization certified
11 under Article V of Chapter 33 or the President's designee.

12 (b) Established. The County Council must appoint a [Policing Advisory
13 Commission] Community Advisory Commission on Public Safety.

14 (c) Composition and terms of members.

15 (1) The Commission has [13]15 members consisting of 13 public
16 members and 2 institutional members.

17 (2) The Council must appoint [9 public]all members. [Each] Except
18 for the institutional members, every other member should
19 represent a community organization operating in the County or
20 be an individual. [Each Councilmember should nominate one
21 member].

22 (3) [The Council should appoint 4 public members nominated by the
23 Executive.] Staggering of initial terms. Of [these]the initial
24 public members:

25 (A) [one member should be 25 years of age or younger at the
26 time of appointment]5 must be appointed to 1-year terms;
27 [and]

28 (B) [one member should be 26-35 years of age at the time of
29 appointment.]5 must be appointed to 2-year terms; and

30 (C) 3 must be appointed to 3-year terms.

31 (4) The public members appointed under paragraphs (2) and (3)
32 should:

33 (A) reflect a range of ethnicities, socioeconomic status, and
34 places of origin to reflect the racial and economic diversity
35 of the County’s communities, including religious creed,
36 age, sex – including on the basis of gender identity or
37 orientation, disability, and geographic location, with
38 emphasis on those disproportionately impacted by
39 inequities; [and]

40 (B) include representation from business owners or
41 organizations, Urban Districts, homeowners’ associations,
42 common ownership communities, and tenants’
43 associations; and

44 (C) have an interest or expertise in policing matters.

45 (5) [The Council should appoint the following as non-voting ex
46 officio members:

47 (A) the Police Chief or the Police Chief’s designee; and

48 (B) the President of an employee organization certified under
49 Article V of Chapter 33 or the President’s designee.

50 (6) The term of each member is 3 years. A member must not serve
51 more than two consecutive terms. Members continue in office
52 until their successors are appointed and qualified. After an
53 appointment to fill a vacancy before a term expires, the successor
54 serves the rest of the unexpired term.

- 55 (d) Citizens Academy participation. The public members appointed under
56 paragraph (c) must participate in the Montgomery County Police
57 Department Citizens Academy.
- 58 (e) Voting, officers, meetings, and compensation.
- 59 (1) [~~Except the ex officio members, all~~]All members of the
60 Commission are voting members.
- 61 (2) The Commission must elect a Chair and Vice-Chair from among
62 its [voting] members.
- 63 (3) The Commission meets at the call of the Chair. The Commission
64 must meet as often as necessary to perform its duties, but not less
65 than 6 times each year.
- 66 (4) A member must serve without compensation. However, a
67 member may request reimbursement for mileage and dependent
68 care costs at rates established by the County.
- 69 (f) Duties. The Commission must:
- 70 (1) advise the Council on policing matters;
- 71 (2) provide information regarding best practices on policing matters;
- 72 (3) recommend policies, programs, legislation, or regulations for the
73 Council's consideration;
- 74 (4) comment on matters referred to it by the Council;
- 75 (5) conduct community outreach for community input on policing
76 matters;
- 77 (6) accept correspondence and comments from members of the
78 public[;], except that the Commission must not accept
79 complaints involving police misconduct and discipline that fall
80 under the jurisdiction of the Police Advisory Board pursuant to
81 Section 35-24; and

- 82 (7) engage in public education.
- 83 (g) Requests for information. The County, including the Police
- 84 Department, should respond to Commission requests for information
- 85 within 30 days after the County receives the request.
- 86 (h) Annual Report. By July 1 each year, the Commission must submit to
- 87 the Executive and the Council an annual report on its functions,
- 88 activities, accomplishments, and plans and objectives.
- 89 (i) Advocacy. The Commission must not engage in any advocacy activity
- 90 at the State or federal levels unless that activity is approved by the
- 91 Office of Intergovernmental Relations.
- 92 (j) Staff. The Executive Director of the Office of the County Council must
- 93 provide appropriate staff to the Commission.
- 94 (k) The Commission is not an oversight body of any law enforcement entity
- 95 operating in Montgomery County .

* * *

Sec. 35-6A. Community Informed Police Training.

* * *

- 99 (c) *Reporting requirements.*

* * *

101 (6)(2) The Department must also provide the information reported

102 under paragraph (1) to the [Policing Advisory Commission]

103 Community Advisory Commission on Public Safety established under

104 Section 35-6.

[Md. Public Safety Code Ann. § 3-101](#)

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)

§ 3-101. Definitions.

- (a) In this title the following words have the meanings indicated.
- (b) “Administratively charged” means that a police officer has been formally accused of misconduct in an administrative proceeding.
- (c) “Disciplinary matrix” means a written, consistent, progressive, and transparent tool or rubric that provides ranges of disciplinary actions for different types of misconduct.
- (d) “Exonerated” means that a police officer acted in accordance with the law and agency policy.
- (e) “Law enforcement agency” has the meaning stated in § 3-201 of this title.
- (f) “Not administratively charged” means that a determination has been made not to administratively charge a police officer in connection with alleged misconduct.
- (g) “Police misconduct” means a pattern, a practice, or conduct by a police officer or law enforcement agency that includes:
 - (1) depriving persons of rights protected by the constitution or laws of the State or the United States;
 - (2) a violation of a criminal statute; and
 - (3) a violation of law enforcement agency standards and policies.
- (h) “Police officer” has the meaning stated in § 3-201 of this title.
- (i) “Serious physical injury” has the meaning stated in [§ 3-201 of the Criminal Law Article](#).
- (j) “Superior governmental authority” means the governing body that oversees a law enforcement agency.
- (k) “Unfounded” means that the allegations against a police officer are not supported by fact.

History

[2021, ch. 59, § 3.](#)

Annotations

Notes

Editor's note. —

Md. Public Safety Code Ann. § 3-101

Acts [2021, ch. 59, § 8](#), provides that “Title 3, Subtitle 1 of the Public Safety Article, as enacted by Section 3 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to:

“(1) any bona fide collective bargaining agreement entered into on or before June 30, 2022, for the duration of the contract term, excluding any extensions, options to extend, or renewals of the term of the original contract; or

“(2) a disciplinary matter against a law enforcement officer based on alleged misconduct occurring before July 1, 2022.”

Acts [2021, ch. 59, § 12](#), provides that “except as provided in Section 11 of this Act, this Act shall take effect July 1, 2022.”

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Md. Public Safety Code Ann. § 3-102

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§ 3-102. County police accountability board — Purpose — Local governing body — Complaint of police misconduct — Forwarded to law enforcement agency.

- (a) Each county shall have a police accountability board to:
 - (1) hold quarterly meetings with heads of law enforcement agencies and otherwise work with law enforcement agencies and the county government to improve matters of policing;
 - (2) appoint civilian members to charging committees and trial boards;
 - (3) receive complaints of police misconduct filed by members of the public; and
 - (4)
 - (i) on a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and
 - (ii) on or before December 31 each year, submit a report to the governing body of the county that:
 - 1. identifies any trends in the disciplinary process of police officers in the county; and
 - 2. makes recommendations on changes to policy that would improve police accountability in the county.
- (b)
 - (1)
 - (i) Subject to subparagraph (ii) of this paragraph, the local governing body shall:
 - 1. establish the membership of a police accountability board;
 - 2. establish the budget and staff for a police accountability board;
 - 3. appoint a chair of the police accountability board who has relevant experience to the position; and
 - 4. establish the procedures for record keeping by a police accountability board.
 - (ii) An active police officer may not be a member of a police accountability board.
 - (2) To the extent practicable, the membership of a police accountability board shall reflect the racial, gender, and cultural diversity of the county.
- (c)
 - (1) A complaint of police misconduct filed with a police accountability board shall include:
 - (i) the name of the police officer accused of misconduct;
 - (ii) a description of the facts on which the complaint is based; and

Md. Public Safety Code Ann. § 3-102

(iii) contact information of the complainant or a person filing on behalf of the complainant for investigative follow-up.

(2) A complaint need not be notarized.

(d) A complaint of police misconduct filed with a police accountability board shall be forwarded to the appropriate law enforcement agency within 3 days after receipt by the board.

History

[2021, ch. 59, § 3.](#)

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[Md. Public Safety Code Ann. § 3-103](#)

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§ 3-103. Complaint filed with employing entity — Items included.

(a) An individual may file a complaint of police misconduct with the law enforcement agency that employs the police officer who is the subject of the complaint.

(b)

(1) A complaint of police misconduct filed with a law enforcement agency shall include:

(i) the name of the police officer accused of misconduct;

(ii) a description of the facts on which the complaint is based; and

(iii) contact information of the complainant or a person filing on behalf of the complainant for investigative follow-up.

(2) A complaint need not be notarized.

History

[2021, ch. 59, § 3.](#)

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Md. Public Safety Code Ann. § 3-104

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§ 3-104. Administrative charging committee — Statewide committee — Training on police procedures — Investigative files forwarded to committee — Meetings — Confidentiality.

(a)

- (1)** Each county shall have one administrative charging committee to serve countywide law enforcement agencies and local law enforcement agencies within the county.
- (2)** A county administrative charging committee shall be composed of:
 - (i)** the chair of the county's police accountability board, or another member of the accountability board designated by the chair of the accountability board;
 - (ii)** two civilian members selected by the county's police accountability board; and
 - (iii)** two civilian members selected by the chief executive officer of the county.

(b)

- (1)** There shall be at least one statewide administrative charging committee to serve statewide and bi-county law enforcement agencies.
- (2)** A statewide administrative charging committee shall be composed of:
 - (i)** three civilian members appointed by the Governor;
 - (ii)** one civilian member appointed by the President of the Senate; and
 - (iii)** one civilian member appointed by the Speaker of the House.

(c) Before serving as a member of an administrative charging committee, an individual shall receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission.

(d) On completion of an investigation of a complaint of police misconduct involving a member of the public and a police officer, regardless of whether the complaint originated from within the law enforcement agency or from an external source, the law enforcement agency shall forward to the appropriate administrative charging committee the investigatory files for the matter.

(e) An administrative charging committee shall:

- (1)** review the findings of a law enforcement agency's investigation conducted and forwarded in accordance with subsection (d) of this section;
- (2)** make a determination that the police officer who is subject to investigation shall be:
 - (i)** administratively charged; or
 - (ii)** not administratively charged;

Md. Public Safety Code Ann. § 3-104

- (3) if the police officer is charged, recommend discipline in accordance with the law enforcement agency's disciplinary matrix established in accordance with § 3-105 of this subtitle;
 - (4) review any body camera footage that may be relevant to the matters covered in the complaint of misconduct;
 - (5) authorize a police officer called to appear before an administrative charging committee to be accompanied by a representative;
 - (6) issue a written opinion that describes in detail its findings, determinations, and recommendations; and
 - (7) forward the written opinion to the chief of the law enforcement agency, the police officer, and the complainant.
- (f) In executing its duties in accordance with subsection (e) of this section, an administrative charging committee may:
- (1) request information or action from the law enforcement agency that conducted the investigation, including requiring additional investigation and the issuance of subpoenas;
 - (2) if the police officer is not administratively charged, make a determination that:
 - (i) the allegations against the police officer are unfounded; or
 - (ii) the police officer is exonerated; and
 - (3) record, in writing, any failure of supervision that caused or contributed to a police officer's misconduct.
- (g) An administrative charging committee shall meet once per month or as needed.
- (h) A member of an administrative charging committee shall maintain confidentiality relating to a matter being considered by the administrative charging committee until final disposition of the matter.

History

[2021, ch. 59, § 3](#); [2022, ch. 141, § 2](#).

Annotations

Notes

Effect of amendments. —

Acts 2022, ch. 141, § 2, effective July 1, 2022, substituted “complaint of police misconduct involving a member of the public and a police officer, regardless of whether the complaint originated from within the law enforcement agency or from an external source” for “complaint made by a member of the public against a police officer” in (d).

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[Md. Public Safety Code Ann. § 3-105](#)

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§ 3-105. Model uniform disciplinary matrix — Adoption.

- (a) The Maryland Police Training and Standards Commission shall develop and adopt, by regulation, a model uniform disciplinary matrix for use by each law enforcement agency in the State.
- (b) Each law enforcement agency shall adopt the uniform State disciplinary matrix for all matters that may result in discipline of a police officer.
- (c)
- (1) Within 15 days after an administrative charging committee issues an administrative charge against a police officer, the chief of the law enforcement agency shall offer discipline to the police officer who has been administratively charged in accordance with the disciplinary matrix.
 - (2) The chief may offer the same discipline that was recommended by the administrative charging committee or a higher degree of discipline within the applicable range of the disciplinary matrix, but may not deviate below the discipline recommended by the administrative charging committee.
 - (3) If the police officer accepts the chief's offer of discipline, then the offered discipline shall be imposed.
 - (4) If the police officer does not accept the chief's offer of discipline, then the matter shall be referred to a trial board.
 - (5) At least 30 days before a trial board proceeding begins, the police officer shall be:
 - (i) provided a copy of the investigatory record;
 - (ii) notified of the charges against the police officer; and
 - (iii) notified of the disciplinary action being recommended.

History

[2021, ch. 59, § 3](#); [2022, ch. 141, § 2](#).

Annotations

Notes

Effect of amendments. —

Acts 2022, ch. 141, § 2, effective July 1, 2022, added “for all matters that may result in discipline of a police officer” in (b).