



**Committee:** PS  
**Committee Review:** At a future date  
**Staff:** Khandikile Mvunga Sokoni, Legislative Attorney  
**Purpose:** To receive testimony – no vote expected  
**Keywords:** #Police#PolicingAdvisoryCommission #PAC

AGENDA ITEM#8  
June 13, 2023  
**Public Hearing**

## SUBJECT

Expedited Bill 27-23, Police – Policing Advisory Commission - Repeal  
Lead Sponsor: Councilmembers Luedtke and Katz

## EXPECTED ATTENDEES

Members of the public

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION:

N/A

## DESCRIPTION/ISSUE

Expedited Bill 27-23 would:

1. repeal the law regarding the Policing Advisory Commission; and
2. generally amend the law regarding policing and law enforcement.

## SUMMARY OF KEY DISCUSSION POINTS

None

### **This report contains:**

Staff Report	Pages 1-2
Expedited Bill 27-23	© 1
Md. Public Safety Code Ann. §3-101 <i>et seq.</i>	© 5
Racial Equity and Social Justice (RESJ) Impact Statement	© 13
Fiscal Impact Statement	© 18
Economic Impact Statement	© 19
Climate Impact Statement	© 21

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**MEMORANDUM**

June 8, 2023

TO: County Council

FROM: Khandikile Mvunga Sokoni, Legislative Attorney

SUBJECT: Expedited Bill 27-23, Police - Policing Advisory Commission - Repeal

PURPOSE: Public hearing – no Council vote expected

Expedited Bill 27-23, Police – Policing Advisory Commission - Repeal, whose lead sponsors are Councilmembers Luedtke and Katz, was introduced on May 25, 2023. A public hearing is scheduled for June 13, 2023, and the worksession before the Public Safety Committee is tentatively scheduled for June 26, 2023.

The bill would:

- (1) repeal the law regarding the Policing Advisory Commission; and
- (2) generally amend the law regarding policing and law enforcement.

**BACKGROUND.**

The purpose of Bill 27-23 is to repeal the provisions in the County Code that provide for and govern the Policing Advisory Commission (PAC). The PAC was established by Bill No. 14-19<sup>1</sup> which was enacted on December 3, 2019, and took effect on March 13, 2020. The Bill provided that the PAC would comprise of 13 voting members (appointed by the Council), and two ex-officio non-voting members (nominated by the Executive).

On July 28, 2020, the Council, by [Resolution No: 19-573](#) appointed the Commissioners to the PAC, whose terms are set to expire on July 31, 2023.

By July 1 each year, the PAC must submit to the Executive and the Council an annual report on its functions, activities, accomplishments, as well as its plans and objectives.

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

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

accountability board.<sup>2</sup> The County, pursuant to this State mandate enacted [Bill No. 49-21](#), which took effect on May 2, 2022, to:

- (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 (PAB) were appointed on June 28, 2022 by [Resolution 19-1313](#), to terms that started on July 1, 2022.

According to the sponsors of this expedited bill, the establishment of the PAB and the Administrative Charging Committee (ACC) is duplicative of the pre-existing PAC and the latter is no longer required. Hence this bill which seeks to repeal the latter Commission.

#### **BILL SPECIFICS**

This expedited bill 27-23 seeks to repeal the PAC effective August 1, 2023. This would allow the terms of the current commissioners of the PAC to run their full course and lapse, as well as allow an opportunity for the PAC to present its annual report which the Commission is required to submit to Council no later than July 31<sup>st</sup>.

This packet contains:

	<u>Circle #</u>
Expedited Bill 27-23	© 1
Md. Public Safety Code Ann. §3-101 <i>et seq.</i>	© 5
Racial Equity and Social Justice (RESJ) Impact Statement	© 13
Fiscal Impact Statement	© 18
Economic Impact Statement	© 19
Climate Assessment	© 21

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<sup>2</sup> Md. Public Safety Code Ann. §3-102.

Expedited Bill No. 27-23  
Concerning: Police – Policing Advisory Commission - Repeal  
Revised: May 22, 2023 Draft No. 1  
Introduced: May 25, 2023  
Expiration: December 7, 2026  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsors: Councilmembers Luedtke and Katz

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**AN EXPEDITED ACT** to:

- (1) repeal the law regarding the Policing Advisory Commission; and
- (2) generally amend the law regarding policing and law enforcement.

By repealing

Montgomery County Code  
Chapter 35  
Section 35-6

**Boldface**

Underlining

**[Single boldface brackets]**

Double underlining

**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

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

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

2           **35-6. [Policing Advisory Commission] Reserved.**

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

5                     *Commission* means the Policing Advisory Commission.

6                     *Department* means the Montgomery County Police Department.

7           [(b) Established. County Council must appoint a Policing Advisory  
8           Commission.

9           [(c) Composition and terms of members.

10                   (1) The Commission has 13 members.

11                   (2) The Council should appoint 9 public members. Each member  
12                   should represent a community organization operating in the  
13                   County or be an individual. Each Councilmember should  
14                   nominate one member.

15                   (3) The Council should appoint 4 public members nominated by the  
16                   Executive. Of these members:

17                           (A) one member should be 25 years of age or younger at the  
18                           time of appointment; and

19                           (B) one member should be 26-35 years of age at the time of  
20                           appointment.

21                   (4) The public members appointed under paragraphs (2) and (3)  
22                   should:

23                           (A) reflect a range of ethnicities, socioeconomic status, and  
24                           places of origin to reflect the racial and economic diversity  
25                           of the County's communities, including religious creed,  
26                           age, sex - including on the basis of gender identity or  
27                           orientation, disability, and geographic location, with

28 emphasis on those disproportionately impacted by  
29 inequities; and

30 (B) have an interest or expertise in policing matters.

31 (5) The Council should appoint the following as non-voting ex  
32 officio members:

33 (A) the Police Chief or the Police Chief's designee; and

34 (B) the President of an employee organization certified under  
35 Article V of Chapter 33 or the President's designee.

36 (6) The term of each member is 3 years. After an appointment to fill  
37 a vacancy before a term expires, the successor serves the rest of  
38 the unexpired term.

39 [(d) Citizens Academy participation. The public members appointed under  
40 paragraph (c) must participate in the Montgomery County Police  
41 Department Citizens Academy.

42 [(e) Voting, officers, meetings, and compensation.

43 (1) Except the ex officio members, all members of the Commission  
44 are voting members.

45 (2) The Commission must elect a Chair and Vice-Chair from among  
46 its voting members.

47 (3) The Commission meets at the call of the Chair. The Commission  
48 must meet as often as necessary to perform its duties, but not less  
49 than 6 times each year.

50 (4) A member must serve without compensation. However, a  
51 member may request reimbursement for mileage and dependent  
52 care costs at rates established by the County.

53 [(f) Duties. The Commission must:

54 (1) advise the Council on policing matters;

- 55 (2) provide information regarding best practices on policing matters;
- 56 (3) recommend policies, programs, legislation, or regulations;
- 57 (4) comment on matters referred to it by the Council;
- 58 (5) conduct at least one public forum each year for community input
- 59 on policing matters;
- 60 (6) accept correspondence and comments from members of the
- 61 public; and
- 62 (7) engage in public education.

63 [(g) Requests for information. The County, including the Police  
64 Department, should respond to Commission requests for information  
65 within 30 days after the County receives the request.

66 [(h) Annual Report. By July 1 each year, the Commission must submit to  
67 the Executive and the Council an annual report on its functions,  
68 activities, accomplishments, and plans and objectives.

69 [(i) Advocacy. The Commission must not engage in any advocacy activity  
70 at the State or federal levels unless that activity is approved by the  
71 Office of Intergovernmental Relations.

72 [(j) Staff. The Executive Director of the Office of the County Council must  
73 provide appropriate staff to the Commission.]

74 **Sec. 2. Expedited Effective Date.** The Council declares that this legislation is  
75 necessary for the immediate protection of the public interest and that this Act takes  
76 effect on August 1, 2023.

## [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.**

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- (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**

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[2021, ch. 59, § 3.](#)

Annotations

### **Notes**

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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**

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)**

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

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- (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

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[2021, ch. 59, § 3.](#)

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

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)***

### **§ 3-103. 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**

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)**

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

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**(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

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

Annotations

## Notes

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### 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](#)

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)***

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

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- (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**

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

Annotations

### **Notes**

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#### **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).

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## EXPEDITED POLICE – POLICING ADVISORY COMMISSION – BILL 27-23: REPEAL

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 27-23 could have a negative impact on racial equity and social justice (RESJ) in the County as the functions of the Policing Advisory Commission (PAC) and Police Accountability Board (PAB) differ significantly, and the repeal of the PAC could diminish efforts to promote best practices for advancing RESJ in policing that are not within the scope of the PAB. To sustain RESJ in the County, OLO offers one policy option for consideration.

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### PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF EXPEDITED BILL 27-23

In recent years, the County has launched a variety of initiatives aimed at advancing best practices for racial equity and social justice in policing. These efforts have included the Reimagining Public Safety Initiative and Reimagining Public Safety Task Force, and enacting legislation for enhanced data collection by the Montgomery County Police Department (MCPD), community-informed police training, reports on settlements, reporting requirements for internal affairs, and the formation of the civilian-led Policing Advisory Commission to advise the Council on policing matters.

The purpose of Bill 27-23 is to repeal the Policing Advisory Commission (PAC).<sup>3</sup> According to the Bill's sponsors, they endorse the repeal of the Commission because it duplicates the functions of the Police Accountability Board (PAB).<sup>4</sup> If enacted, Bill 27-23 would repeal the PAC effective August 1, 2023, allowing the Commission time to submit its annual report to the Council by July 31, 2023, as required.<sup>5</sup>

Expedited Bill 27-23, Police – Policing Advisory Commission – Repeal, was introduced by the County Council on May 25, 2023.<sup>6</sup>

In January 2022, OLO published a RESJIS for Expedited Bill 49-21, Police – Police Accountability Board – Administrative Charging Committee – Established.<sup>7</sup> For background information on policing in the U.S., racial disparities in police interactions with the public, and civilian review board best practices for advancing RESJ, refer to this RESJIS.

# RESJ Impact Statement

## Expedited Bill 27-23

### PAC AND PAB ORIGINS AND FUNCTIONS

Considering the anticipated impact of repealing the Policing Advisory Commission (PAC) on RESJ in the County requires understanding the functions of the PAC, the potential value of these functions for advancing RESJ, and whether the Police Accountability Board (PAB) duplicates these functions. While both the PAC and PAB are required to advise the County Council on policing matters, OLO finds their functions differ significantly.

**Origins of PAC and PAB.** The Montgomery County Policing Advisory Commission, established in 2019, originates with the County Council. The PAC was initially proposed as a civilian oversight board to enable public review and oversight of police disciplinary matters.<sup>8</sup> The Law Enforcement Officers Bill of Rights (LEOBR) that was state law at the time, however, prohibited the formation of a civilian oversight board to hold police officers accountable for misconduct.<sup>9</sup> Thus, the purpose of the PAC shifted from police oversight and discipline to a broader mission to provide the County Council information about best practices in policing. In addition to policing personnel, the PAC also advises on other policing policies that include data, training, emergency responses and police officers in schools.

The Montgomery County Police Accountability Board, established in 2022, originates with the General Assembly. With the repeal of LEOBR in 2021, the state mandated every Maryland jurisdiction to establish a new police disciplinary system for misconduct and to create a new oversight board inclusive of civilians by July 2022.<sup>10</sup> Thus, the County's PAB embodies many of the functions originally proposed for the PAC in 2019 because it focuses on providing greater civilian oversight and transparency in police discipline and accountability for misconduct.

**Functions of the PAB and PAC.** Given the PAB's focus on police discipline and the PAC's focus on best practices and policies in policing, the functions of these two entities are distinct. As noted in the Maryland Public Safety Code (section 3-102), police accountability boards are required to:<sup>11</sup>

- Hold quarterly meetings with law enforcement agencies and the County to improve policing matters;
- Appoint civilian members to charging committees and trial boards;
- Receive complaints of police misconduct filed by members of the public;
- Review outcomes of disciplinary matters considered by charging committees on a quarterly basis; and
- Submit annual report by December 31<sup>st</sup> of each year that identifies trends in the disciplinary process of police officers in the County and makes recommendations that would improve police accountability in the County.

Conversely, the activities of the Policing Advisory Commission center around providing information and recommendations to the Council for County-action based on its analysis of existing and proposed policies. Specific duties of the PAC enacted under Bill 14-19 include the following:<sup>12</sup>

- Advise the Council on policing matters;
- Provide information regarding best practices on policing matters;
- Recommend policies, programs, legislation, or regulations;
- Comment on matters referred to it by the Council;
- Conduct at least one public forum each year for community input on policing matters;
- Accept correspondence and comments from members of the public;
- Engage in public education; and
- Submit an annual report by July 1<sup>st</sup> of each year.

# RESJ Impact Statement

## Expedited Bill 27-23

**PAC and Racial Equity.** A review of the PAC's efforts since its enactment demonstrates that a common theme of their work has involved a focus on racial equity in policing to understand what equitable policing and justice looks like and what shifts in local practices, programs, and policies are necessary to advance public safety and equitable justice in the County.<sup>13</sup> The PAC has focused on four priorities in its work: discretionary policing (traffic stops, drug enforcement, and pedestrian stops); emergency responses; hiring and discipline; and safety in schools. The PAC has also met with Black, Indigenous, and other People of Color (BIPOC) stakeholders and policing experts to solicit their perspectives on community needs and best practices for advancing RESJ in policing. Additionally, the PAC has offered proposed amendments for legislation aimed at advancing RESJ (e.g., Bill 45-20).

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### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 27-23 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

**In response to the first question,** OLO finds that MCPD would be the primary beneficiary of this Bill as the elimination of the PAC would diminish MCPD's accountability to the Commission, including responding to requests for information on policing practices and data. Bill 14-19 requires that the County, including MCPD, respond to PAC requests for information within 30 days of receiving the request. Yet, PAC meeting minutes reveal there have been ongoing debates within the Commission about the timeliness and value of information submitted by MCPD in response to PAC requests. For example, data requests regarding the demographics of marijuana arrests and citations remain outstanding.<sup>14</sup>

**In response to the second question,** as described previously, advancing community policing and other best practices that diminish racial disparities in police interactions with the public has been a PAC priority. As noted in the RESJIS for Expedited Bill 49-21, racial disparities characterize traffic stops, arrests, and use of force incidents in Montgomery County. Racial disparities and inequities may also characterize other police interactions with the public in the County that are not currently reported. The PAC has advocated for greater transparency and data disaggregated by race and ethnicity on police interactions with the public. The repeal of the PAC would likely diminish the availability of and advocacy for disaggregated policing data. The PAC has also advocated for promising policies and practices to advance racial equity in policing; the repeal of the PAC would diminish this advocacy as well as advice to the Council on best practices for advancing RESJ in policing.

Taken together, OLO finds that racial disparities in police interactions with the public could widen with the repeal of the Policing Advisory Commission, as a community-based group advocating for racial equity in local policing would be lost. More specifically, efforts the PAC have undertaken with MCPD to understand and address racial disparities in traffic stops and drug enforcement, to support the coordination of emergency responses, and to ensure police personnel have proper training to serve increasingly diverse constituents could be lost or at minimum, slowed down with the repeal of the Commission. While there have been other working groups and task forces that have focused on reducing racial inequities in policing, the PAC is the only group codified in County law with a long-term commitment to reduce racial disparities in policing. As such, its abolition could negatively impact RESJ in the County.

# RESJ Impact Statement

## Expedited Bill 27-23

### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>15</sup> OLO anticipates Expedited Bill 27-23 could widen racial disparities in police interactions with the public by diminishing accountability for MCPD to implement more racially equitable policing practices. Should the Council seek to maintain RESJ considerations in policing, OLO offers one policy option for discussion and consideration:

- **Preclude the PAC from considering police misconduct and discipline.** This RESJIS notes one function of the PAC that overlaps with the PAB: both are charged to advise the Council on policing matters. Given the different priorities of the PAC (policing policies and practices) and the PAB (discipline for police misconduct), it is unlikely that each entity would offer advice to the Council on similar “policing matters.” However, to the extent that both the PAB and PAC offer advice on similar policing matters, it would only center around police misconduct and discipline, which the PAC has chosen to consider in its work. To reduce the potential for redundancy and duplicity across the PAC and PAB, Expedited Bill 27-23 could be amended to retain the PAC and preclude them only from considering policing matters relative to police misconduct and discipline that are within the scope of the PAB.

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### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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### CONTRIBUTIONS

OLO staffer Elaine Bonner-Tompkins, Senior Legislative Analyst, drafted this RESJ Impact Statement with assistance from Janmarie Peña, Performance Management and Data Analyst.

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<sup>1</sup> Definition of racial equity and social justice adopted from [“Applying a Racial Equity Lens into Federal Nutrition Programs”](#) by Marlysa Gamblin, et.al. Bread for the World, and from [Racial Equity Tools](#).

<sup>2</sup> Ibid

<sup>3</sup> Khandikile Sokoni, Memorandum to County Council, [Introduction Staff Report for Expedited Bill 27-23](#), May 22, 2023

<sup>4</sup> Ibid

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> Elaine Bonner-Tompkins, [Racial Equity and Social Justice Impact Statement for Expedited Bill 49-21](#), Office of Legislative Oversight, January 10, 2022

<sup>8</sup> Hans Riemer, Dear Colleague Letter, March 29, 2019 included in [staff packet by Amanda Mihill for Bill 14-19](#) (circle 6-7)

<sup>9</sup> Ibid

<sup>10</sup> Bonner-Tompkins

# RESJ Impact Statement

## Expedited Bill 27-23

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<sup>11</sup> Included in Sokoni memorandum and staff packet for Expedited Bill 27-23

<sup>12</sup> [Bill 14-19](#), Enacted December 3, 2019

<sup>13</sup> See for example [Policing Advisory Commission 2021 Annual Report](#)

<sup>14</sup> [Meeting Minutes](#), Policing Advisory Commission, December 12, 2022

<sup>15</sup> [Bill 27-19 Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established](#), Montgomery County Council, December 2, 2019

# Fiscal Impact Statement

Office of Management and Budget

<b>Bill 27-23</b>	<b>Police - Policing Advisory Commission - Repeal</b>
<b>Bill Summary</b>	<p>Bill 27-23 repeals the Policing Advisory Commission (PAC) established by Bill 14-19 which was enacted on December 3, 2019.</p> <p>Subsequent to the creation of the PAC, State legislation was enacted requiring each County to have a police accountability board. Pursuant to this State mandate, the County enacted Bill 49-21 establishing the Police Accountability Board and an Administrative Charging Committee (ACC). The bill is aimed at eliminating duplication between these bodies.</p>
<b>Fiscal Impact Summary</b>	Repealing the PAC is not expected to impact County expenditures or revenues.
<b>Fiscal Impact Analysis</b>	PAC members serve without compensation and no dedicated full-time staff support is budgeted to support the commission. As a result, repealing the PAC is not expected to impact County expenditures. In addition, repeal is not expected to impact County revenues.
<b>Staff Impact</b>	The bill is not expected to impact staff time or duties.
<b>Actuarial Analysis</b>	Because the Commission does not have dedicated staff support, the bill is not expected to significantly impact retiree pension or group insurance costs.
<b>Information Technology Impact</b>	The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.
<b>Other Information</b>	
<i>Later actions that may impact revenue or expenditures if future spending is projected</i>	The bill does not authorize future spending.
<b>Contributors</b>	Earl Stoddard, Ph.D. Office of the County Executive Kenneth B.J. Hartman-Espada, Office of the County Executive Derrick D. Harrigan, Office of Management and Budget



# Economic Impact Statement

Montgomery County, Maryland

## Expedited Bill 27-23

## Police – Policing Advisory Committee – Repeal

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Expedited Bill 27-23 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.

### BACKGROUND AND PURPOSE OF EXPEDITED BILL 27-23

In recent years, the County has launched a variety of initiatives aimed at advancing best practices for racial equity and social justice in policing. These efforts have included the Reimagining Public Safety Initiative and Reimagining Public Safety Task Force, and enacting legislation for enhanced data collection by the Montgomery County Police Department (MCPD), community-informed police training, reports on settlements, reporting requirements for internal affairs, and the formation of the civilian-led Policing Advisory Commission to advise the Council on policing matters.

The purpose of Bill 27-23 is to repeal the Policing Advisory Commission (PAC). According to the Bill’s sponsors, they endorse the repeal of the Commission because it duplicates the functions of the Police Accountability Board (PAB). If enacted, Bill 27-23 would repeal the PAC effective August 1, 2023, allowing the Commission time to submit its annual report to the Council by July 31, 2023, as required.<sup>1</sup>

The County Council introduced Expedited Bill 27-23, Police - Policing Advisory Commission – Repeal, on May 25, 2023.

### INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Expedited Bill 27-23 on County-based private organizations and residents in terms of the Council’s priority economic indicators and whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.<sup>2</sup> OLO sees no connection between repealing the PAC and the Council’s priority indicators. Therefore, OLO anticipates the Bill would have insignificant impacts on private organizations, residents, and overall economic conditions in the County.

### VARIABLES

Not applicable

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<sup>1</sup> [Introduction Staff Report for Expedited Bill 27-23](#).

<sup>2</sup> Montgomery County Code, [Sec. 2-81B](#).

## IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

## DISCUSSION ITEMS

Not applicable

## WORKS CITED

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Introduction Staff Report for Expedited Bill 27-23, Police – Policing Advisory Commission – Repeal](#). Introduced on May 25, 2023.

## CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

## CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

# Climate Assessment

Office of Legislative Oversight

## Expedited

## Bill 27-23: Police – Policing Advisory Commission – Repeal

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 27-23 will have no impact on the County's contribution to addressing climate change as the proposed repeal of the Policing Advisor Commission (PAC) as the functions of PAC do not impact the County's contribution to addressing climate change nor community climate resilience.

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### BACKGROUND AND PURPOSE OF EXPEDITED BILL 27-23

In recent years, the County has launched a variety of initiatives aimed at advancing best practices for racial equity and social justice in policing. These efforts have included the Reimagining Public Safety Initiative and Reimagining Public Safety Task Force, and enacting legislation for enhanced data collection by the Montgomery County Police Department (MCPD), community-informed police training, reports on settlements, reporting requirements for internal affairs, and the formation of the civilian-led Policing Advisory Commission to advise the Council on policing matters.

The purpose of Bill 27-23 is to repeal the Policing Advisory Commission (PAC).<sup>1</sup> According to the Bill's sponsors, they endorse the repeal of the Commission because it duplicates the functions of the Police Accountability Board (PAB).<sup>2</sup> If enacted, Bill 27-23 would repeal the PAC effective August 1, 2023, allowing the Commission time to submit its annual report to the Council by July 31, 2023, as required.<sup>3</sup>

Expedited Bill 27-23, Police - Policing Advisory Commission – Repeal, was introduced by the County Council on May 25, 2023.<sup>4</sup>

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### ANTICIPATED IMPACTS

As Expedited Bill 27-23 is proposing to repeal a committee whose actions do not impact the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community climate resilience, and adaptative capacity, OLO anticipates Expedited Bill 27-23 will have no impact.

## RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.<sup>5</sup> OLO does not offer recommendations or amendments as Expedited Bill 27-23 is likely to have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

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## CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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## PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

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## CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

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<sup>1</sup> Khandikile Sokoni, Memorandum to County Council, [Introduction Staff Report for Expedited Bill 27-23](#), May 22, 2023

<sup>2</sup> Ibid

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022