

MEMORANDUM

September 4, 2019

TO: Public Safety Committee

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: Bill 14-19, Police – Policing Advisory Commission - Established

PURPOSE: Worksession – Committee to receive briefing/have discussion on Bill

Background

Bill 14-19, Police – Policing Advisory Commission - Established, sponsored by Lead Sponsor Councilmember Riemer and Co-Sponsors Councilmembers Jawando, Hucker, and Glass was introduced on June 18. A public hearing was held on July 9. The Council received testimony and correspondence from individuals and organizations both in support of, and in opposition to, the bill.¹

The Public Safety Committee is not scheduled to vote on Bill 14-19 at this worksession. This worksession is an opportunity for Committee members to review the provisions of Bill 14-19 in depth, receive a summary of the public hearing testimony and written correspondence the Council has received, receive an overview of the issues raised, and provide Committee members with an opportunity to raise questions and have a general discussion.

Provisions of Bill 14-19

Composition The Commission would be composed of 13 members. Nine of those members would be public members that have an interest in policing matters and should either be an individual or representative of an organization that operates in the County. Four of the members would be nominated by the Executive. In addition, the Police Chief and a representative of the police union would be ex officio, non-voting members of the Commission.

Duties The Commission would:

- advise the Council on policing matters;
- provide information regarding best practices on policing matters;

¹ #MoCoPolicingCommission

- 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;
- engage in public education; and
- submit an annual report.

Advocacy As with most County boards, the Commission would be prohibited from engaging in advocacy activity at the State or federal levels unless those activities are approved by the Office of Intergovernmental Relations. This language does not prohibit the Commission for advocating at a County level (one of the specific duties of the Commission is to advise the Council on policing matters). Nor does this language prohibit an individual Commission member from advocating *as an individual* on State and/or federal matters.

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Riemer Amendment

The lead sponsor of Bill 14-19, Councilmember Riemer, has proposed an amendment to Bill 14-19 to address some of the concerns articulated at the hearing and in written correspondence (©118-119). Councilmember Riemer’s amendment would:

- add language to the bill so that the public members appointed to the Commission are representative of the diverse population of the County or have an interest in policing matters;
- allow the Commission to elect a chair and vice chair (after initial designation by the Council);
- require the Commission to accept correspondence and comments from members of the Commission; and
- require the County (including MCPD) to respond to Commission requests for information within 30 days after receiving the request.

In addition to this amendment, Councilmembers Riemer and Jawando indicate that they support including 2 younger Commission members.

Issues for Future Committee Discussion

Individuals and organizations suggested several amendments to Bill 14-19 and they are described in this section.

Composition Several individuals and organizations recommended changes to the composition of the Commission. Many of these recommendations related to ensuring that there was diversity on the Commission. For instance, Mike Mage recommended that the 9 members appointed by the Council should have demonstrated “public activity or advocacy on behalf of police reform and equity” and that the members should include persons whose interactions with the police have shown the need for police reform” (©105).

Specifically, the following amendments were requested related to diversity on the Commission:

- Public members should reflect the diversity of the county, including LGBTQ people and people of color – LGBTQ Democrats of Montgomery County (©101).
- Showing Up for Racial Justice (©109) and Takoma Park Mobilization (©112-113) expressed their concern that groups “most impacted” by these issues should be represented on the Commission.
- Latin American Youth Center, CASA and Identity (©96-98) and Young People for Progress (©116-117) urged an amended to add 1 Commission member that is under 25 years old and 1 member under 35 years old.
- The City of Takoma Park urged an amendment to require representation on the commission of young people of color and those who work with special needs (©111).

Council staff note: The Riemer amendment on ©118-119 would add language to the bill so that the public members appointed to the Commission are representative of the diverse population of the County or have an interest in policing matters. Additionally, Councilmembers Riemer and Jawando support including 2 younger Commission members.

Related to whether MCPD and the FOP should have representation on the Commission, the Council heard a variety of viewpoints. As introduced, MCPD and the FOP would each have a non-voting ex officio member. Councilmembers heard requests for amendments to:

- make MCPD a voting member of the Commission – League of Women Voters (©99-100).
- remove MCPD and the FOP as members of the Commission – Michael Rubin (©103-104) and Showing Up for Racial Justice (©109).
- remove FOP as members – ACLU of Montgomery County MD (©92-92A) and Takoma Park Mobilization (©112-113).
- The Executive recommended an amendment to specify that the union representative is the union president or present’s designee (©91).

Other composition-related suggested amendments include:

- The number of Executive-nominated members should be reduced from 4 to 3 – Mike Mage (©105).
- Commission members should be elected, not appointed – Takoma Park Mobilization (©112-113), Jews United for Justice (©94-95), and Showing Up for Racial Justice (©109).
- The number of Commission members should be increased – Mitchell Berger (©106-108).

- The number of ex officio members should be increased and include the Sheriff’s Office, Department of Correction and Rehabilitation, the State’s Attorney’s Office, the Public Defender, Fire & Rescue Service, Department of Health and Human Services, and Montgomery County Public Schools. Additionally, there should be specific liaisons from the Mental Health Advisory Committee, Commission on Children and Youth, Criminal Justice Coordinating Commission, Domestic Violence Coordinating Council, Human Rights Commission, and Victim Services Advisory Board – Mitchell Berger (©106-108).

Compensation for members Some individuals and organizations, specifically Michael Rubin (©103-104), Takoma Park Mobilization (©112-113), and Jews United for Justice (©94-95), noted that the bill prevents a Commission member from receiving compensation for serving on the Commission. They raised concerns that this could limit the likelihood of low income individuals from serving on the Commission. Council staff notes that most County advisory boards, committees, and commissions, including the Community Action Board, Interagency Commission on Homelessness, include this language regarding compensation.

Council staff note: If Councilmembers are interested in reviewing this policy, it may be helpful to have a broader conversation about compensation for service on County boards, committees, and commissions.

Access to data The ACLU of Montgomery County (©92-92A), Jews United for Justice (©94-95), Mike Mage (©105) and Takoma Park Mobilization (©112-113) all noted that it is critical that the Commission be provided with data in order to review policies and make recommendations. Under existing law, the Commission would be entitled to have any publicly available data and information. Bill 14-19 could be amended to specify this.

Council staff note: The Riemer amendment on ©118-119 would require the County (including MCPD) to respond to Commission requests for information within 30 days after receiving the request.

Commission Recommendations The Council heard from many individuals and organizations that urged amendments to specify the process by which recommendations are provided by the Commission. For instance, ACLU of Montgomery County (©92-92A), Takoma Park Mobilization (©112-113) and Jews United for Justice (©94-95) all suggested that the Commission’s recommendations be presented to the full Council in a public hearing setting and to require a public response from MCPD.

Other recommended amendments include:

- Specifically allow the Commission to transmit recommendations to MCPD – Art Brodsky (©93). Similarly, the Executive recommended that the Commission also advise the Executive (not just the Council) on policing matters (©91).
- Ensure the recommendations of the Commission are made public – ACLU of Montgomery County (©92-92A) and Mike Mage (©105).
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Advocacy As noted above, the Commission would be prohibited from engaging in advocacy at the State or federal levels unless those activities are approved by the Office of Intergovernmental Relations. Several organizations and individuals took issue with this restriction (as an example, ACLU of Montgomery County (©92-92A), Showing Up for Racial Justice (©109), and Takoma Park Mobilization (©112-113). Jews United for Justice urged an amendment to clarify that individual members can engage in advocacy and suggested providing a mechanism for the Commission to engage in state and federal advocacy when necessary (©94-95).

Council staff note: The County law establishing most County boards, committees, and commissions include this advocacy language. The purpose of this language is to ensure that county “speaks with one voice” when advocating at the state and federal levels. This language is not intended to inappropriately hinder a board’s advocacy of issues within its jurisdiction. In fact, the Office of Intergovernmental Relations can often be helpful for boards wishing to advocate at the State or federal level.

As noted above, this language does not prohibit the Commission for advocating at a County level (one of the specific duties of the Commission is to advise the Council on policing matters). Nor does this language prohibit an individual Commission member from advocating *as an individual* on State and/or federal matters.

Other proposed amendments In addition to the amendments raised above, the Council heard the following proposed amendments:

- The Commission should select its own chair and co chair – Takoma Park Mobilization (©112-113). [**Council staff note:** The Riemer amendment on ©118-119 would address this concern.]
- The Commission should take petitions from the public – ACLU of Montgomery County (©92-92A). [**Council staff note:** The Riemer amendment on ©118-119 would require the Commission to accept correspondence from the public.]
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- Some organizations/individuals urged an amendment to specify resources and staffing needed for the Commission – Takoma Park Mobilization (©112-113), Jews United for Justice (©94-95), and Mitchell Berger (©106-108)
- Clarify that the Commission’s scope includes all law enforcement agencies in the county, including municipalities, County Sheriff, Metro Transit, State police – Mitchell Berger (©106-108). [**Council staff note:** the County does not have jurisdiction over all these law enforcement agencies.]
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Bill No. 14-19
Concerning: Police – Policing Advisory Commission - Established
Revised: 5/16/2019 Draft No. 6
Introduced: June 18, 2019
Expires: December 18, 2020
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Riemer
Co-Sponsors: Councilmembers Jawando, Hucker, and Glass

AN ACT to:

- (1) create and specify the membership and duties of a Policing Advisory Commission;
- (2) generally amend County law relating to policing and boards, commissions, and committees.

By adding

Montgomery County Code
Chapter 35, Police
Section 35-6

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 added as follows:**

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

3 (a) Definitions. In this Section the follow 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 with an interest in
12 policing matters. Each member should represent a community
13 organization operating in the County or be an individual. Each
14 Councilmember should nominate one member.

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

17 (4) The Council should appoint the following as non-voting ex officio
18 members:

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

20 (B) a representative of an employee organization certified under
21 Article V of Chapter 33.

22 (5) The term of each member is 3 years. After an appointment to fill
23 a vacancy before a term expires, the successor serves the rest of
24 the unexpired term.

25 (d) Voting, officers, meetings, and compensation.

26 (1) Except the ex officio members, all members of the Commission
27 are voting members.

- 28 (2) The Council must designate the Chair and Vice-Chair.
- 29 (3) The Commission meets at the call of the Chair. The Commission
 30 must meet as often as necessary to perform its duties, but not less
 31 than 6 times each year.
- 32 (4) A member must serve without compensation. However, a member
 33 may request reimbursement for mileage and dependent care costs
 34 at rates established by the County.
- 35 (e) Duties. The Commission must:
- 36 (1) advise the Council on policing matters;
- 37 (2) provide information regarding best practices on policing matters;
- 38 (3) recommend policies, programs, legislation, or regulations;
- 39 (4) comment on matters referred to it by the Council;
- 40 (5) conduct at least one public forum each year for community input
 41 on policing matters; and
- 42 (6) engage in public education
- 43 (f) Annual Report. By July 1 each year, the Commission must submit to the
 44 Executive and the Council an annual report on its functions, activities,
 45 accomplishments, and plans and objectives.
- 46 (g) Advocacy. The Commission must not engage in any advocacy activity at
 47 the State or federal levels unless that activities is approved by the Office
 48 of Intergovernmental Relations.
- 49 (h) Staff. The Executive Director of the Office of the County Council must
 50 provide appropriate staff to the Commission.

LEGISLATIVE REQUEST REPORT
Bill 14-19

Police – Policing Advisory Commission – Established

DESCRIPTION: Bill 14-19 would create and specify the membership and duties of a Policing Advisory Commission.

PROBLEM: Although the County has the Criminal Justice Coordinating Commission, there is not a County advisory Committee that focuses on best practices on policing matters.

GOALS AND OBJECTIVES: To create an entity that will inform the Council on policing best practices.

COORDINATION:

FISCAL IMPACT: To be requested

ECONOMIC IMPACT: To be requested

EVALUATION: To be requested

EXPERIENCE ELSEWHERE: To be researched

SOURCES OF INFORMATION: Amanda Mihill, Legislative Attorney, 240-777-7815

APPLICATION WITHIN MUNICIPALITIES: n/a

PENALTIES: n/a



MONTGOMERY COUNTY COUNCIL

ROCKVILLE, MARYLAND

HANS RIEMER
COUNCILMEMBER (AT LARGE)

CHAIR
PLANNING, HOUSING, AND
ECONOMIC DEVELOPMENT COMMITTEE

TRANSPORTATION, INFRASTRUCTURE,
ENERGY, AND ENVIRONMENT COMMITTEE

March 29, 2019

Dear Colleagues,

I am writing to ask for your support for legislation to create a Policing Advisory Commission to review our current practices in a variety of areas, research best practices from across the country, and provide recommendations to the Council.

Montgomery County's Police Department is widely respected for its progressive leadership and dedicated and professional officers. Our public safety agencies do an excellent job of keeping us safe. But our police can only keep all Montgomery County residents safe if they have the full trust of everyone in our community. Recent events in our County and the growing national dialogue about the role and practices of police, particularly in communities of color, have put a sharp focus on trust, transparency and accountability.

For the past six months I have worked with representatives from the Montgomery County chapter of the NAACP and other groups to consider several reforms.

We extensively discussed creating a Civilian Review Board to enable public review and oversight of police disciplinary matters. After careful analysis with Council legal staff, we concluded that state law puts significant limitations on what information could be shared with any Civilian Oversight Board, and ultimately with the public. I hope that the general assembly will reform these laws and I am pleased that the Council has supported state legislation this session to amend the MPIA and make it easier for a Civilian Review Board, members of the public, and even government officials like our Inspector General to view important records when their are complaints against police officers.

Councilmember Jawando, meanwhile, has proposed legislation to have an independent criminal investigation when there is an officer-involved death; as well as to make all possible information public after a charging decision has been made. I am a co-sponsor of that legislation and I appreciate Mr. Jawando's strong leadership on the proposal. Since joining the Council, he has worked closely with me on this legislation as well.

The concept for a Policing Advisory Commission was first presented to me and to others by Robin Gaster, a Silver Spring resident who has been active at the County and State level on criminal justice

reform issues. The Commission should examine the strategies that our department uses to promote public safety (for example, data collection and sharing, community policing, officer training, discipline) as well as the specific rules that officers are trained to follow (for example, use of force or when to pursue).

The Commission would report to the Council. There would be eleven civilian members of the Commission, as well an ex-officio or non-voting seat for the Police Department and for the Fraternal Order of Police. Each Councilmember would appoint one civilian member of the Commission (a suggestion made by Councilmember Jawando), and the Executive would recommend two civilian members for appointment. There would be an ex-officio or non-voting seat for the Department as well as the Fraternal Order of Police. The Public Safety Committee would review the reports and recommendations from the Commission.

Each Councilmember would decide who to appoint and I hope we can work together to ensure a broad spectrum of voices is heard. Perhaps you would recommend someone who is active with a community organization; or a career federal employee with expertise in police oversight issues; or an academic or criminal justice policy expert. There are many possibilities.

Thank you for your consideration. Please be in touch with Ken Silverman in my office if you would like more information or to co-sponsor the legislation.

Regards,



Hans Riemer
Councilmember (At Large)



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

COUNCIL PRESIDENT NANCY NAVARRO
DISTRICT 4

CHAIR, GOVERNMENT OPERATIONS AND FISCAL
POLICY COMMITTEE

EDUCATION AND CULTURE COMMITTEE

MEMORANDUM

Friday, March 29, 2019

TO: Councilmember Hans Riemer

FROM: Council President Nancy Navarro

SUBJECT: Policing Advisory Commission Bill

Dear Hans,

I would like to acknowledge and thank you for the work you have put into your proposed legislation for the Policing Advisory Commission. Your legislation would create a body that would review our current practices in the various areas of law enforcement, research best practices from across the country and provide recommendations to the Council. This is a laudable initiative and I pledge my support in creating an effective oversight group that would work with the Police department and key stakeholders to ensure accountability and trust between our communities and those entrusted to keep them safe.

Let me share a few suggestions as you continue your work on this initiative:

1. The Montgomery County Police Department (MCPD) is currently a member of the Commission on Accreditation for Law Enforcement Agencies (CALEA), which awards accreditation to law enforcement agencies. As part of having their accreditation renewed, CALEA reviews current policies and compares them to recommended best practices. MCPD has been reaccredited every three years by CALEA since joining in 1993, with the most recent policy review and reaccreditation having occurred in 2016, and another to be expected sometime in 2019 under the current cycle. It would be helpful for you to review that process to see how it aligns with your goals and also whether its work could be integrated into this bill.
2. The Criminal Justice Coordinating Commission is a 32-member body, with 12 voting members (7 of whom are members of the general public) and 20 ex-officio members from various law enforcement, judicial, and legislative bodies within Montgomery County. The Commission has the power to review and comment on programs at the request of either the Executive or the Council, and it can make reports and recommendations to the Executive and Council periodically, as it deems appropriate. Additionally, the Commission can provide

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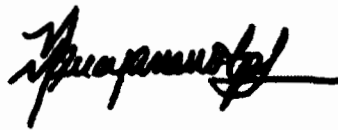
analyses concerning criminal justice programs at the request of the Executive, Council, or judicial system. The Office of the Chief Administrative Officer (CAO) provides staff, subject to appropriation. It would be helpful to work with the Office of Legislative Oversight (OLO) to review the work of the Commission, including its charter, reporting and oversight requirements with a view to seeing how the work of the commission aligns with your vision.

Based on your review and analysis of the above groups, you could recommend legislation that establishes one or both of the following:

- A. Create a new commission that reports to the County Council and request the County Executive to disband the Criminal Justice Coordinating Commission if you deem it duplicative and not meeting all the stated objectives of reporting and oversight.
- B. Based on OLO staff review, reconstitute the Criminal Justice Coordinating Commission by:
 1. Authorizing greater oversight authority to the Criminal Justice Coordinating Commission. Instead of solely focusing on program analyses, the Commission could also be authorized to look at broader departmental policies.
 2. Assigning the Office of Legislative Oversight to assist the Commission in a way similar to the current role of CAO staff.
 3. Requiring an annual report to the County executive and County Council that is presented before the full Council at a public session with follow-up work by the Public Safety Committee as appropriate
 4. Providing more independence to the Commission by making it a Commission of the Council, rather than of the County Executive.

Again, I thank you for all your work on this initiative and look forward to supporting you in the shared goal of ensuring greater oversight of our Police force.

Sincerely,



Nancy Navarro
Council President

CC: Councilmembers

Attachments: Police Advisory Commission Bill (f:\law\bills\19xx policing advisory commission\bill 4.docx)
[Montgomery County Code Section 2-60 webpage](#)
[MCPD's "About Us- Accreditation" webpage](#)
[CALEA's "Law Enforcement Accreditation: Cost" webpage](#)



HANS RIEMER
COUNCILMEMBER AT-LARGE

COMMITTEES:
CHAIR
PLANNING, HOUSING, AND ECONOMIC DEVELOPMENT (PHED)
MEMBER
TRANSPORTATION AND ENVIRONMENT (T&E)

MONTGOMERY COUNTY COUNCIL

ROCKVILLE, MARYLAND

May 22, 2019

The Honorable Nancy Navarro
President, Montgomery County Council
Stella Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Dear Council President Navarro,

Thank you for agreeing to schedule introduction on June 18 of the Policing Advisory Commission legislation that I am proposing with Councilmember Jawando.

I am grateful for your support and I appreciate the opportunity to clarify why a new Commission is necessary. You requested that we review the possibility of adapting the existing Criminal Justice Coordinating Commission (CJCC) for this purpose. Other Council Members have also asked about this topic, as have the County Executive and Council staff.

Having now looked closely at the structure, mission, and operations of the CJCC, we believe it would not be a suitable body to take on the work of a Policing Advisory Commission, for three main reasons:

- 1) Membership and leadership. Only 7 of the 32 members of the CJCC are civilians, and the leadership is dominated by officers and staff from county criminal justice agencies. While their expertise is invaluable, they would collectively present the wrong impression for an entity that must be – and must appear to be – community driven and independent. The purpose of our proposed body is to provide for civilian or community participation in policing policy-making; the CJCC is substantially made up of public safety officials, as is appropriate for its mission.
- 2) Mission. The CJCC has the critical responsibility of coordinating between the numerous county agencies with responsibilities relative to the criminal justice system, or other organizations that interact with those agencies. CJCC’s efforts and focus are tied directly to this cross-departmental mission – and not to the equally important task of improving MCPD in specific high-priority areas. It would not be fair or appropriate to burden the CJCC with this additional mission or to ask other county departments and agencies to recommend policies for MCPD. Nor would it be beneficial to allow the CJCC’s work to be slowed or made more difficult by tasking that body with some of the more controversial issues that the Policing Advisory Commission should take on.

Council President Nancy Navarro

May 22, 2019

Page 2

3) Operations. The CJCC is a coordinating body. Its meetings are focused on smoothing links between the various entities, and making the first responder network as efficient as possible. It does not produce public reports or recommendations, and indeed has no defined process for doing so. Nor could CJCC provide the detailed assessment and firm empirical analysis, based on data, that should underpin any recommendations.

Some have suggested that the CCJC could use changes; we do not have a strong view on that question at this time. We would welcome a separate discussion about it to ensure that the mission of that body is well served.

You also alluded in your letter to CALEA, the police accreditation body. CALEA also plays an important role, but CALEA's mission is to ensure that police departments meet *minimum* standards; we believe this is already true for MCPD, but we want to see MCPD rise far above minimum standards, and adopt *best practices*. Furthermore, CALEA cannot directly address concerns raised by the community, which we see as a central function for the proposed PAC. As a national body, CALEA is not in a position to address local issues on an ongoing basis.

For these reasons, we believe that a new body is needed to perform the key function of ensuring community involvement in the development of police policy, and therefore building greater community trust.

Thank you for working with us to advance this legislation, supported by the NAACP, Identity, Casa de Maryland, Jews United for Justice, and ACLU of Maryland, among other groups.

Sincerely,



Hans Riemer

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June 12, 2019

County Executive Marc Elrich
Montgomery County Executive Office Building
101 Monroe Street, 2nd Floor
Rockville, MD 20850

Dear County Executive Elrich:

We are writing to support the proposed legislation establishing a Policing Advisory Commission for Montgomery County. The Advisory Commission will address policing policy across several dimensions, and we believe will become an important pathway to enhance trust between the community and the Police Department. Thank you for meeting with a coalition of groups to discuss this issue on April 1, 2019, and for agreeing to lend your support for the legislation.

Our proposed Policing Advisory Commission differs in important ways from the Civilian Oversight Board model used in other jurisdictions. Most notably, our Commission would focus on *policy*, while a review board typically addresses matters of *discipline*. We stress that the proposed Policing Advisory Commission will *not* address discipline for individual officers. It will instead focus on key policy issues: use of force, recruiting and training, traffic stops, policing in schools, dealing with the mentally ill, technology and policing, and others. Such policies are the backbone of the Police Department's interaction with the community.

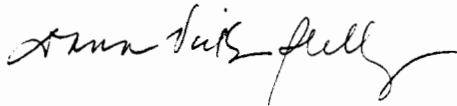
The Policing Advisory Commission will provide a high-quality review for these policies and will generate public reports and recommendations that can be the basis for further Police Department, Council, and Executive actions. But equally, the Commission will provide a direct voice for communities that have not always been heard on policing issues. We strongly believe that *our* voice has *not* been sufficiently heard and that the Policing Advisory Commission offers a pathway to a better and more sustained dialog between all segments of the community and the Police Department.

Current opportunities and institutions are insufficient. The Criminal Justice Coordinating Committee, for example, provides neither a voice for stakeholders (such as our organization) nor a focus on policing policy. It seems to be an important and useful body, but it cannot function as a Policing Advisory Commission.

Policing policy is a matter of considerable importance to us. As elsewhere, there are urgent issues to address here in Montgomery County. The police-involved shooting death of a man with mental illness in Silver Spring last year is one such issue, raising entirely understandable concerns about police policy and training for such situations. Similarly, sharp differences in rates of traffic stops by race need a clear explanation and a detailed analysis. These issues are included here to illustrate the kinds of cases in which a Policing Advisory Commission analysis and recommendations could address community concerns and also provide a way to build better relations between the Police Department and the community at large.

Given the significance of this progressive initiative both to our members and to Montgomery County as a whole, we hope that you become part of the coalition and that you will provide full and public support for the proposed legislation.

Cordially,



Dana Vickers Shelly
Executive Director, ACLU of Maryland



Jacob Feinspan
Executive Director, Jews United for Justice



Gustavo Torres
Executive Director, CASA



Linda Plummer
President, Montgomery County NAACP



Diego Uriburu
Executive Director, Identity

cc: Montgomery County Councilmembers

The Post's View Opinion

Allow civilian oversight of Montgomery police

By Editorial Board

May 18

THE IDEA that police are no good at conducting high-stakes investigations of themselves prompted Montgomery County lawmakers to enact a measure requiring that outsiders — meaning law enforcement officers from elsewhere — be enlisted to look into the county's own police-involved deaths and report the findings publicly. Nice idea. In practice, no outsiders want the job so far.

Prompted by the legislation, sponsored by council member Will Jawando (D-At Large), Montgomery officials have been scouring area localities in search of a police department willing to enter into a reciprocal arrangement to investigate each other's cases when a police officer causes a civilian's death. So far, they've found no takers, possibly because other nearby departments are smaller and are busy with their own matters.

That raises a larger question: What are best practices to ensure that police-involved deaths are subject to honest, transparent investigations fully accountable to the publics they serve?

Nationally, a number of state police departments or other state-level investigative agencies have units empowered to investigate police-involved deaths in localities. Maryland has no such provision. It should. Moreover, the Maryland legislature, in thrall to police unions, has barred civilians from access to police personnel records, meaning they can take no part in reviewing police-involved deaths when they occur.

In Montgomery, lawmakers on the all-Democratic County Council have limited options. They may not be able to change the status quo under which police investigate their own when police-involved deaths occur. However, they can inject some sensible civilian oversight of law enforcement, even if it is not in the investigative process. (A reciprocal arrangement under which state prosecutors in Montgomery and Howard counties have agreed to review police-involved deaths in each other's jurisdiction does not apply to initial police investigations.)

A bill being drafted by council at-large member Hans Riemer would establish a civilian board that would oversee and make recommendations on police policy and procedures. It is unpopular with police and getting a skeptical reception from some council members who question why such a board would be foisted on law enforcement but not on other county agencies and departments.

There's a simple and compelling answer to that: because other agencies and departments are not empowered and equipped to kill civilians. And while Montgomery's police department is highly professional and well regarded, it has had instances of police-involved deaths — including one last year — and likely will have them again. It is foolish to believe that the county's police force, with 1,200 sworn officers, is immune to mishaps, misjudgments and even malicious conduct, some of which may result in unwarranted deaths.

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With more than 1 million residents, Montgomery is Maryland's most populous jurisdiction. It is a bellwether and a leader whose example could prompt other localities to fashion more meaningful civilian oversight of law enforcement. It can move proactively now, or be forced to act later, under pressure and amid controversy, when an unwarranted death occurs at the hands of police. The former is the smarter way to go.

Read more:

Rachel Barkow: Prosecutors need to treat police shootings like a threat to public safety

Eugene Robinson: Bulldoze the 'blue wall' of silence — or black men will keep dying

The Post's View: Black man down — again

The Post's View: Police killed two good guys with guns. Arming more people isn't the answer.

The Post's View: The FBI stonewalls again on Bijan Ghaisar's killing

Fiscal Impact Statement
Bill 14-19, Policing Advisory Commission – Established

1. Legislative Summary

Bill 14-19 establishes the Policing Advisory Commission; and sets its membership, duties, and reporting requirements. The legislation also specifies that the Executive Director of the Office of County Council must provide staff for the Commission.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The Bill might require additional personnel to staff the Commission. For illustrative purposes, one full-time (1.0 FTE) Legislative Analyst position costs \$78,000.

Operating expenses are estimated to be approximately \$5,000 annually for costs related to hosting an annual public forum including venue-related costs, public engagement activities, and printed materials.

The members of the Policing Advisory Commission are appointed and serve without regular compensation. Members of the Commission would be eligible for mileage and dependent care reimbursements. The costs of these reimbursements cannot currently be estimated.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Staff costs cannot be reliably estimated at this time. Should one Legislative Analyst position be required for implementation, the Bill could cost up to \$498,000 over the six years for staff costs and operating expenses.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

No IT-related expenditures are anticipated as a result of this legislation.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

While this Bill does not authorize future spending, there will be ongoing costs associated with its implementation.

7. An estimate of the staff time needed to implement the bill.

See Question 2.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

It is unknown how the new responsibilities will affect the workload of the attorney and legislative service coordinator.

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Although the members of the Commission are expected to serve without compensation, the Bill does allow for reimbursements for mileage and dependent care costs at current County-established rates. These costs are highly variable and specific to each members' activities and cannot currently be estimated.

12. If a bill is likely to have no fiscal impact, why that is the case.


Not Applicable.

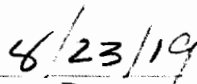
13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Dale Tibbitts, Special Assistant to the County Executive, Office of County Executive
Caroline Sturgis, Assistant Chief Administrative Officer, Office of County Executive
Jane Mukira, Office of Management and Budget
Naeem Mia, Office of Management and Budget


Richard S. Madaleno, Director
Office of Management and Budget


Date

Economic Impact Statement
Bill 14-19 Bill 14-19 Police – Policing Advisory Commission – Established

Background:

Bill 14-19 would create and specify the membership and duties of a Policing Advisory Commission.

1. The sources of information, assumptions, and methodologies used.

There were no sources of information, assumptions, or methodologies needed in the formulation of this economic impact statement. Although the County has the Criminal Justice Coordinating Commission, there is not a County Advisory Committee that focuses on best practices on policing matters.

2. A description of any variable that could affect the economic impact estimates.

There are no variables that could affect the economic impact estimates from this legislation. The goal of the legislation is to create an entity that will inform the Council on policing best practices and includes the following duties:

- 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; and
- engage in public education.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.


The Bill will have no measurable effect on employment, spending, savings, investment, incomes, or property values in the County.

4. If a Bill is likely to have no economic impact, why is that the case?

Please see paragraph 3.

5. The following contributed to or concurred with this analysis:

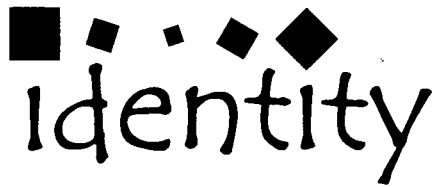
David Platt, Dennis Hetman – Department of Finance.



Michael Coveyou, Acting Director
Department of Finance

7/2/19

Date



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Testimony submitted by Carolyn Camacho, Identity, Inc.

Policing Advisory Commission

July 9, 2019

Thank you for the opportunity to comment on the proposed establishment of a Montgomery County Policing Advisory Commission.

My name is Carolyn Camacho. I am a resident of Montgomery Village and a Program Director at Identity where I have been working to build relationships between law enforcement and the youth in our programs including those enrolled in MCPS High School Wellness Centers and Youth Opportunity Centers. Together we have worked to foster communication, understanding, and trust between youth and law enforcement which research shows are the building blocks of effective community-oriented policing.

We applaud County Council Member Hans Riemer and the other co-sponsors for proposing the involvement of the community in recommending policies and practices for our police department. The establishment of this Commission is a promising step in further engaging the community in public safety and in building trust along lines of difference.

We do hope that the leadership and the 13 members of the Commission reflect the diversity of Montgomery County, including those disproportionately affected by poor relations with law enforcement.

We look forward to supporting the County Council in this work.

Thank you again for focusing attention on the importance of improved communication, understanding and trust, which are the keys to keeping both the community and officers safe.

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Testimony in SUPPORT of Bill 14-19, Police – Police Advisory Commission – Established

July 9, 2019

The Jewish Community Relations Council of Greater Washington (JCRC) serves as the public affairs and community relations arm of the Jewish community, representing over 100 Jewish organizations and synagogues throughout Maryland, Virginia, and the District of Columbia. The JCRC is strongly committed to cultivating a society based on freedom, justice and pluralism. We remain faithful to our four pillars of government relations, Israel advocacy, inter-group relations and social justice. The JCRC works tirelessly throughout the entire Greater Washington area to advocate support for our agencies who serve the most vulnerable residents and to campaign for important policy interests on behalf of the entire Jewish community.

Justice (tzedek), repentance (teshuvah), and the preservation of human life (Exodus 20:13) are core values of the Jewish faith. Accordingly, the JCRC is committed to advocating for a criminal justice system that is just, restorative, and provides equal treatment for all under the law. JCRC is grateful to our local, state, and federal law enforcement agencies, and judicial systems for their tireless devotion to the safety of our communities. We especially applaud the increased utilization of community policing practices, restorative justice models, and diversion programs.

In 2017, the JCRC renewed its strong commitment criminal justice reform through a new policy resolution. In the policy we stated that regarding encounters with law enforcement, the JCRC reaffirms its opposition to the use of racial profiling; moreover, JCRC encourages the use of community policing strategies to enhance law enforcement agencies' ability to protect the public, while simultaneously nurturing positive relationships and trust within the communities they serve.

Therefore, we believe that the creation of a police advisory commission will help bring together both the community and our Montgomery County Police Department to better understand the challenges faced on both sides. The establishment of this commission will ensure that a broad range of strategies and voices are presented to help promote public safety in a fair and equitable fashion. We sincerely thank the members of the County Council for consideration of our perspective on this very important issue.

Thank you for allowing me to share and voice my opinion this evening.

I am a County resident, specifically here in the City of Rockville for over 25 years. During these years, I was a working Mother, provide for my three sons, and volunteered within the community.

During my initial years of living here, any encounter with the Police were from a position of service, trust and safety. A call for a tow truck when my vehicle became disabled, a meet-and-greet at National Night Out, and even an occasional conversation in line at our neighborhood convenience store reinforced that sense of safety and trust. Unfortunately, this experience has drastically changed, as I have personally experienced and observed negative encounters with officers. Observations of misconduct has caused me great concern and leaves me wondering how things can improve. In an effort to address my concerns, my actions have included contacting and volunteering for community organizations as well as filing complaints. Despite my efforts, these issues have not been properly addressed and continues to this day.

Incidents of police profiling, harassment and brutality continue, yet there is an expectation for many in our community to have confidence in a system that allows the same misconduct to continue with no accountability. Confidence with the Police and trust in the system has been broken. Many residents, particularly of color, are disconnected from the expectation of true accountability, and has resulted in the loss of trust with Officers. This needs to change.

Montgomery County has been known to take pride in many attributes including diversity, family, community, and justice. However, this world of pride fails to exists for many of us. Our citizens, ALL citizens, deserve to feel safe to walk in our neighborhoods without being intimidated, drive our cars without being profiled, and patronize local stores without being concerned about being approached, suspected, or accused of a crime. As a mother of young black men, police accountability is a top priority when it comes to quality of life here in the County. My expectation is that together as a community, fairness and justice can be achieved.

Therefore, I ask that you take my testimony as an expression of support for the creation of the policing Advisory Commission.

Thank you for your time.

Kimberly Dawkins

Statement of Mark Paster re: Policing Advisory Commission (Bill 14-19)

My name is Mark Paster and I am resident of Silver Spring. I am speaking tonight as an individual, not for any organization.

I support the goals of Bill 14-19. Our community needs more of a voice in how we are policed. Our community needs to feel more connected, more involved and more comfortable that policing in Montgomery County reflects the values of the community.

There have been too many incidents recently in which policing did not reflect the values of who we are. We are painfully aware of some of these incidents, but there are many many more interactions between police and residents that are not well known, which I'll get to in a moment, and which raise serious systemic questions.

No police department in 21st-century America can do its job well without support from the local community. To rebuild some of the lost trust, residents of the community must have input into how we are policed.

I hope that this discussion results in a Commission or other group that will be looking proactively at policing in Montgomery County. All too often, after a bad result, we are told that no fault or punishment is appropriate for those involved because 'they followed procedures'. We know that if we want different outcomes, we need to change our inputs, change the procedures.

We have history and data about how aspects of policing in the county works. Thanks to the Police Department's data efforts and the Data Montgomery web site, we have public data on all County Police traffic stops since 2012.

The attached charts raise troubling questions. In the first 6 months of 2019, County Police officers gave out almost 105,000 traffic violation notices. These were during traffic stops, and do not include camera-issued violations. Black men (5,021) been given 2.7 times as many traffic violation notices as White men (1,853), per 10,000 population and 5 times the rate of Asian men (1,001)? The rate for Hispanic men (3,790) is twice that of White men (1,853) and more than 3.5 times the rate of Asian men (1,001). Why? For traffic citations, with

Statement of Mark Paster re: Policing Advisory Commission (Bill 14-19)

accompanying fines, points and insurance cost hikes, Black men (1,943) are cited 3 times the rate of White men (622) and the numbers for Hispanic men (1,724) are pretty close to Black men (1,943) for citations. The data for prior years tells essentially the same story. There is much more to be learned in this data, but I only have 3 minutes. I would be happy to meet with any of you to delve deeper into the patterns in the County Police data.

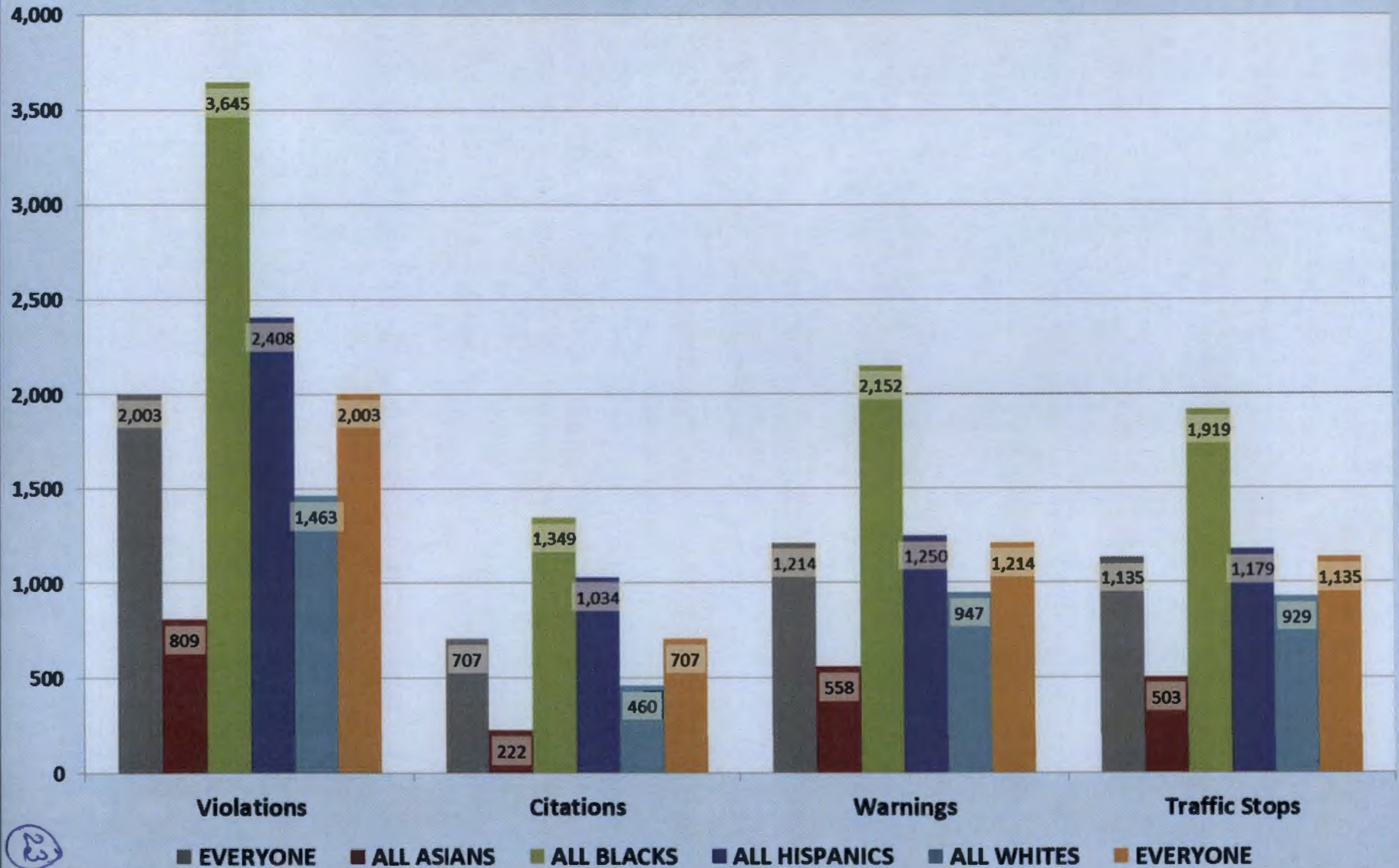
The data shows stark differences in the disparate impacts of traffic enforcement by the County Police. While the data doesn't prove the cause of the disparity, I believe this analysis puts the onus on the Police Department to explain this ongoing consistent pattern. I hope these discussions lead to a rigorous self-examination, community discussions, change, and greater equity in policing.

If the Police Department is to do its job, it must have the trust of the community. If the community is to trust the Police Department, the community must believe the Department is treating all people fairly. We've got some work to do to get to that point and I think this effort can help get us there.

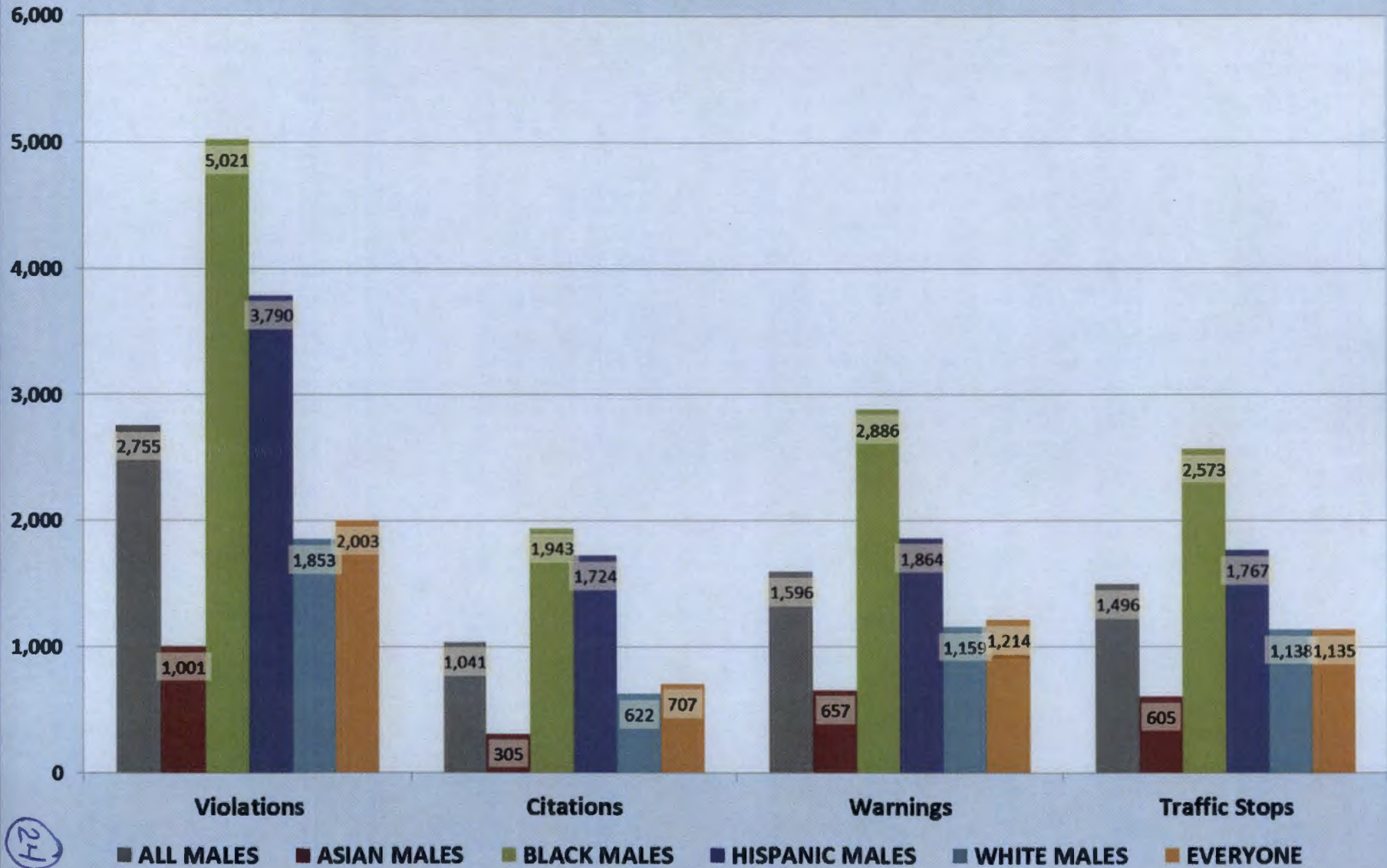
Thank you for your time and consideration this evening.

Submitted by:
Mark Cantor Paster
703 Hankin Street
Silver Spring, MD 20910
mark@sunnydoor.net
Cell: 202-489-7529
Home: 301-588-5711

**Montgomery County Traffic Violation Data
Per 10,000 Population Annualized
Jan - June 2019
Showing Population Groups**



Montgomery County Traffic Violation Data Per 10,000 Population Annualized Jan - June 2019 Showing Males



(21)

MONTGOMERY COUNTY TRAFFIC VIOLATION DATA - Jan - June 2019 - By Gender and Population Group

GROUPS	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ASIAN FEMALES	2,480	567	1,833	80	1,608	75,815	628	144	464	20	407
ASIAN MALES	3,694	1,126	2,423	145	2,233	70,488	1,001	305	657	39	605
ASIAN UNKNOWN	3	0	3	0	2						
BLACK FEMALES	11,151	3,757	6,931	463	6,178	90,634	2,359	795	1,466	98	1,307
BLACK MALES	22,178	8,581	12,748	849	11,366	84,266	5,021	1,943	2,886	192	2,573
BLACK UNKNOWN	6	1	5	0	3						
HISPANIC FEMALES	5,694	1,985	3,456	253	3,209	96,403	1,116	389	677	50	629
HISPANIC MALES	18,070	8,220	8,888	962	8,425	89,636	3,790	1,724	1,864	202	1,767
HISPANIC UNKNOWN	6	5	1	0	3						
OTHER FEMALES	2,157	535	1,532	90	1,413	18,784	2,170	538	1,541	91	1,422
OTHER MALES	4,262	1,174	2,916	172	2,676	17,466	4,590	1,264	3,140	185	2,882
OTHER UNKNOWN	198	14	184	0	129						
WHITE FEMALES	13,265	3,718	9,062	485	8,865	245,090	1,097	308	750	40	733
WHITE MALES	20,929	7,029	13,084	816	12,852	227,819	1,853	622	1,159	72	1,138
WHITE UNKNOWN	3	3	0	0	2						
EVERYONE	104,096	36,715	63,066	4,315	58,964	1,016,401	2,003	707	1,214	83	1,185

POPULATION GROUPS	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ALL ASIANS	6,177	1,693	4,259	225	3,843	146,304	809	222	558	29	503
ALL BLACKS	33,335	12,339	19,684	1,312	17,547	174,900	3,645	1,349	2,152	143	1,919
ALL HISPANICS	23,770	10,210	12,345	1,215	11,637	186,038	2,408	1,034	1,250	123	1,179
ALL OTHERS	6,617	1,723	4,632	282	4,218	36,250	3,442	896	2,409	136	2,194
ALL WHITES	34,197	10,750	22,146	1,301	21,719	472,909	1,463	460	947	56	929
EVERYONE	104,096	36,715	63,066	4,315	58,964	1,016,401	2,003	707	1,214	83	1,185

FEMALES	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ASIAN FEMALES	2,480	567	1,833	80	1,608	75,815	628	144	464	20	407
BLACK FEMALES	11,151	3,757	6,931	463	6,178	90,634	2,359	795	1,466	98	1,307
HISPANIC FEMALES	5,694	1,985	3,456	253	3,209	96,403	1,116	389	677	50	629
OTHER FEMALES	2,157	535	1,532	90	1,413	18,784	2,170	538	1,541	91	1,422
WHITE FEMALES	13,265	3,718	9,062	485	8,865	245,090	1,097	308	750	40	733
ALL FEMALES	34,747	10,962	22,814	1,371	21,273	536,726	1,293	393	889	51	792

MALES	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ASIAN MALES	3,694	1,126	2,423	145	2,233	70,488	1,001	305	657	39	605
BLACK MALES	22,178	8,581	12,748	849	11,366	84,266	5,021	1,943	2,886	192	2,573
HISPANIC MALES	18,070	8,220	8,888	962	8,425	89,636	3,790	1,724	1,864	202	1,767
OTHER MALES	4,262	1,174	2,916	172	2,676	17,466	4,590	1,264	3,140	185	2,882
WHITE MALES	20,929	7,029	13,084	816	12,852	227,819	1,853	622	1,159	72	1,138
ALL MALES	69,133	28,130	40,059	2,944	37,532	489,675	2,755	1,041	1,586	117	1,496

GENDER UNKNOWN	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ASIAN UNKNOWN	3	0	3	0	2						
BLACK UNKNOWN	6	1	5	0	3						
HISPANIC UNKNOWN	6	5	1	0	3						
OTHER UNKNOWN	198	14	184	0	129						
WHITE UNKNOWN	3	3	0	0	2						
ALL UNKNOWN	216	23	193	0	130						

Analysis by Mark Cantor Paster (mark@sunnydoor.net or 202-489-7529)

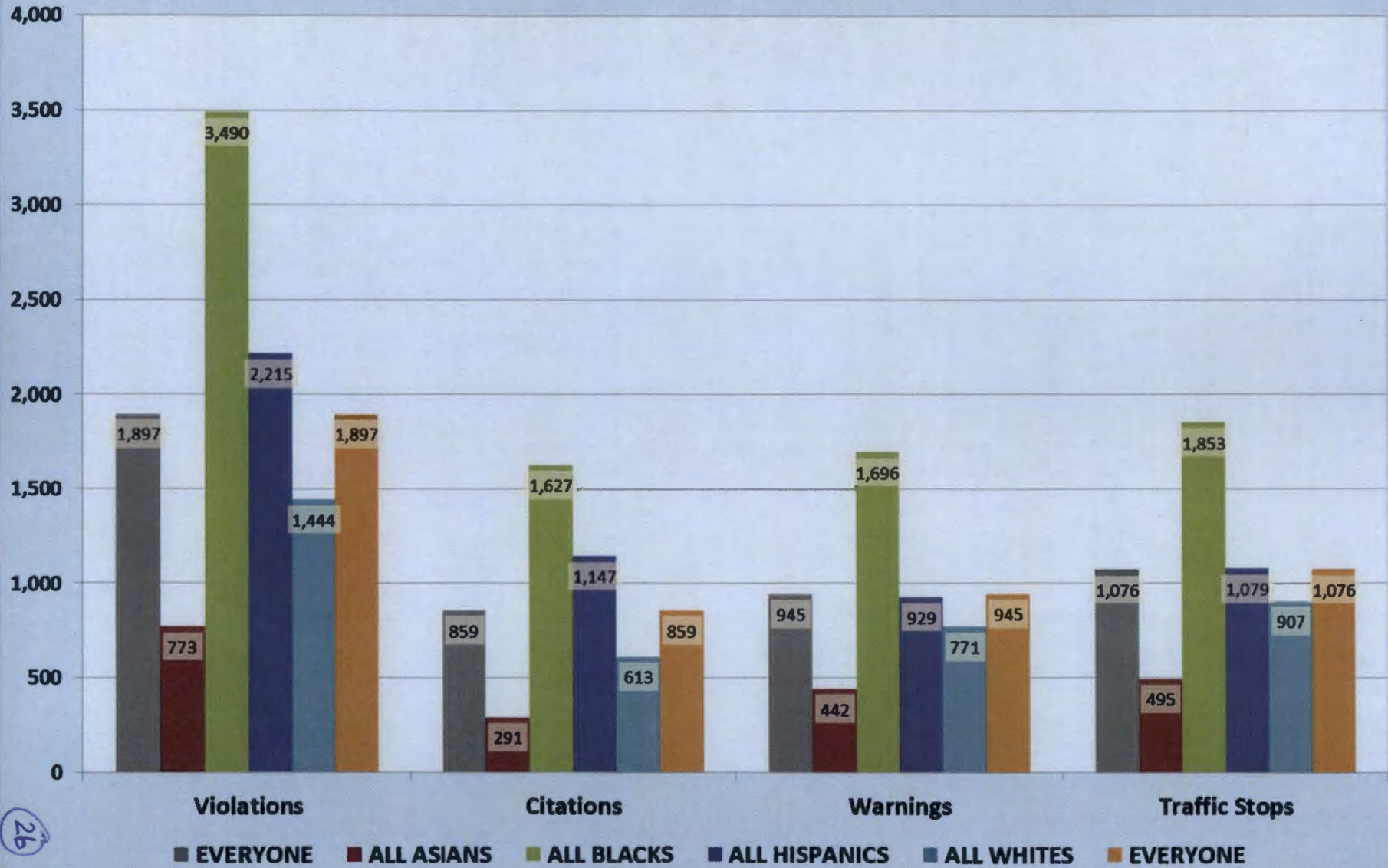
* Population averaged for selected years

Traffic Violation data downloaded from Data Montgomery at <https://data.montgomerycountymd.gov/Public-Safety/Traffic-Violations/4mse-ku6q>

Population Data Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates
https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?_af=ACS_17_5YR_CP05&prodType=table

Prepared by Mark Cantor Paster

**Montgomery County Traffic Violation Data
Per 10,000 Population Annualized
2012 - June 2019
Showing Population Groups**



26

MONTGOMERY COUNTY TRAFFIC VIOLATION DATA - 2012 - June 2019 - By Gender and Population Group

GROUPS	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ASIAN FEMALES	35,029	12,146	21,298	1,574	23,387	78,978	578	200	351	26	386
ASIAN MALES	55,391	21,888	30,397	3,083	34,511	73,784	982	388	539	55	612
ASIAN UNKNOWN	12	5	6	1	7						
BLACK FEMALES	164,613	69,352	86,941	8,232	93,578	94,559	2,270	956	1,199	114	1,291
BLACK MALES	323,717	158,279	150,378	14,892	165,698	88,340	4,802	2,348	2,231	221	2,458
BLACK UNKNOWN	24	14	10	0	15						
HISPANIC FEMALES	76,036	33,072	38,579	4,332	43,327	102,080	986	429	500	56	562
HISPANIC MALES	253,620	137,579	99,623	16,201	117,201	95,367	3,537	1,919	1,389	226	1,634
HISPANIC UNKNOWN	45	27	16	2	21						
OTHER FEMALES	28,021	10,177	16,581	1,252	17,879	19,879	1,865	677	1,103	83	1,190
OTHER MALES	57,642	23,583	31,278	2,749	34,965	18,572	4,125	1,688	2,239	197	2,502
OTHER UNKNOWN	1,829	194	1,630	5	1,482						
WHITE FEMALES	203,866	79,490	116,583	7,708	135,682	241,769	1,040	405	595	39	692
WHITE MALES	342,469	152,553	175,056	14,649	207,269	225,870	1,879	837	960	80	1,137
WHITE UNKNOWN	38	15	23	0	26						
EVERYONE	1,542,352	608,374	788,399	74,680	875,048	1,039,198	1,897	859	945	92	1,076

POPULATION GROUPS	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ALL ASIANS	90,432	34,039	51,701	4,658	57,905	152,762	773	291	442	40	495
ALL BLACKS	488,354	227,645	237,329	23,124	259,291	182,899	3,490	1,627	1,696	165	1,853
ALL HISPANICS	329,701	170,678	138,218	20,535	160,549	197,448	2,215	1,147	929	138	1,079
ALL OTHERS	87,492	33,954	49,489	4,006	54,326	38,450	3,017	1,171	1,707	138	1,873
ALL WHITES	546,373	232,058	291,662	22,357	342,977	467,639	1,444	613	771	59	907
EVERYONE	1,542,352	608,374	788,399	74,680	875,048	1,039,198	1,897	859	945	92	1,076

FEMALES	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ASIAN FEMALES	35,029	12,146	21,298	1,574	23,387	78,978	578	200	351	26	386
BLACK FEMALES	164,613	69,352	86,941	8,232	93,578	94,559	2,270	956	1,199	114	1,291
HISPANIC FEMALES	76,036	33,072	38,579	4,332	43,327	102,080	986	429	500	56	562
OTHER FEMALES	28,021	10,177	16,581	1,252	17,879	19,879	1,865	677	1,103	83	1,190
WHITE FEMALES	203,866	79,490	116,583	7,708	135,682	241,769	1,040	405	595	39	692
ALL FEMALES	507,565	204,237	279,982	23,098	313,853	537,265	1,205	485	664	55	748

MALES	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ASIAN MALES	55,391	21,888	30,397	3,083	34,511	73,784	982	388	539	55	612
BLACK MALES	323,717	158,279	150,378	14,892	165,698	88,340	4,802	2,348	2,231	221	2,458
HISPANIC MALES	253,620	137,579	99,623	16,201	117,201	95,367	3,537	1,919	1,389	226	1,634
OTHER MALES	57,642	23,583	31,278	2,749	34,965	18,572	4,125	1,688	2,239	197	2,502
WHITE MALES	342,469	152,553	175,056	14,649	207,269	225,870	1,879	837	960	80	1,137
ALL MALES	1,032,839	483,882	488,722	51,574	539,644	501,933	2,637	1,281	1,342	132	1,419

GENDER UNKNOWN	VIOLATIONS	CITATIONS	WARNINGS	ESERO	TRAFFIC STOPS	POPULATION*	VIOLATIONS per 10,000 Population	CITATIONS per 10,000 Population	WARNINGS per 10,000 Population	ESERO per 10,000 Population	TRAFFIC STOPS per 10,000 Population
ASIAN UNKNOWN	12	5	6	1	7						
BLACK UNKNOWN	24	14	10	0	15						
HISPANIC UNKNOWN	45	27	16	2	21						
OTHER UNKNOWN	1,829	194	1,630	5	1,482						
WHITE UNKNOWN	38	15	23	0	26						
ALL UNKNOWN	1,948	255	1,685	8	1,551						

Analysis by Mark Cantor Paster (mark@sunnydoor.net or 202-489-7529)

* Population averaged for selected years

Traffic Violation data downloaded from Data Montgomery at <https://data.montgomerycountymd.gov/Public-Safety/Traffic-Violations/4mse-ku6q>

Population Data Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates
https://factfinder.census.gov/tables/tableservices/jsi/pages/productview.html?pid=ACS_17_STR_CPO5&prodType=table

Testimony of Scott Schneider on Council Bill 14-19- Policing Advisory Commission, July 9, 2019

Thank you for allowing me to testify. My name is Scott Schneider. I am a 35-year resident of Montgomery County and live in the Long Branch neighborhood, just a few blocks from Three Oaks where Robert White was killed a year ago. I am a graduate of the Citizen’s Police Academy two years ago and of the IMPACT Silver Spring Network Weavers Program which is focused on racial and economic justice. I am also on the Steering Committee for Progressive Neighbors, a local advocacy group focused on electing more progressive candidates to local office. During my career as an occupational safety professional, I have done substantial work on how to create a culture of safety in the workplace to encourage workers to speak up about safety problems.

I am speaking in support of Bill 14-19 and applaud Councilmember Riemer for introducing it. It is an important step in the right direction. However, it does need to be strengthened. It needs to be more specific about who will be appointed to ensure the commission is representative of the county and specifically of those most affected by policing. The chair should be chosen by the commission members. And the commission needs specific powers to gain access to data on policing.

Trust is the most critical ingredient in successful policing and ensuring community safety. That trust has been damaged in Montgomery County by the Robert White shooting, the incident at Wendy’s in White Oak, the incident last week in Aspen Hill, and the data showing racial disparities in policing. **Citizen input into police policies will help rebuild that trust.** The President’s Commission on Twenty-First Century Policing reported that less than half of people of color have confidence in the police to protect them from violent crime. Incarceration rates for racial minorities have skyrocketed in the past 3 decades and are a direct result of disparities in policing, as well as in prosecution. As Montgomery County is becoming a majority minority County, this fact makes citizen input into policing especially critical.

Here is one specific example. Traffic stops are the number one way most county residents interact with the police. Montgomery County performs what it calls “pretext stops” of vehicles. Vehicles can be stopped for numerous violations large and small. Is your tail light out? Did you fail to use your turn signal? Did you make a complete stop at the stop sign? I would venture to say that everyone in this room has violated traffic laws at some time, possibly on your way to this hearing. Yet racial minorities get stopped at a disproportionate rate, because there is a lot of discretion in determining who gets stopped. During those stops the police routinely ask for permission to search the vehicles. Drivers have a right to refuse a search, unless there is probable cause. Yet most agree to a search, fearful that to refuse might make it seem as though

they had “something to hide.” This is the vehicular analogue of the Stop and Frisk policy that has been discarded as racially discriminatory. A simple policy change, such as requiring police to inform drivers of their rights to refuse a search and if they do so it won’t be held against them, could help reduce the racial disparities in policing.

It is critical to refocus policing on major crimes and violent offenders and away from minor offenses, such as possession of small amounts of marijuana or minor shoplifting charges. Officers who use deadly force should be held accountable for their actions. In some cases, force is justified, but it could result from lack of training, inexperience or fear. Officers who have a history of misconduct need to be disciplined or weeded out. De-escalation training and community policing are important steps forward. How the police interact with mentally ill residents can be critical, and more training is needed to help them cope with such individuals. Body cameras are helpful, but only if they are turned on and the video footage is available for others to make independent judgements. Transparency goes a long way in building up trust.

Making policing fairer is an important step, but only a first one. As 95% of cases are settled by plea deals and prosecutors often demand jail time and long sentences to force pleas to a lower charge, I would urge this commission to look at other aspects of the criminal justice system, e.g. how people are charged once arrested. Emily Bazelon’s book *Charged* includes a set of comprehensive recommendations which I have appended to my testimony.

Thank you again for the opportunity to testify on this bill. I urge you to pass it expeditiously and begin the process of healing in our county.

APPENDIX

Twenty-One Principles for Twenty-First-Century Prosecutors

One day while I was working on this book, I had coffee with Miriam Krinsky, the executive director of Fair and Just Prosecution, at a hotel in midtown Manhattan. I think I drank decaf, but by the end of the hour, I couldn't sit still. We'd gotten together to hash out how exactly elected prosecutors could do their jobs differently. Talking to them and listening to them share ideas, what were we learning about what they could aspire to, so that they and their constituents knew they were on the right track? We decided to work together on a list of practical goals the D.A.s could set to transform their offices and, collectively, their profession. Miriam called it "the principles doc."

In the months that followed, we had added two collaborators: L. B. Eisen, a senior fellow at the Brennan Center's Justice Program, and Jake Sussman, managing director of the Justice Collaborative. We also enlisted the aid of a platoon of staff members and law students.

Once we had a draft, we presented it to the elected D.A.s connected with Fair and Just Prosecution, who gave us feedback. We also solicited helpful comments from academics and other experts. This appendix is the result of this collective enterprise. It's organized in two sections. The first is about reducing incarceration, and the second is about increasing fairness. We've included examples of innovative endeavors by prosecutors around the nation, not necessarily as endorsements, but as illustrations of new approaches. We recognize that because prosecution is local, some of these recommendations and examples won't be suited to all jurisdictions. We nonetheless hope that these ideas generate conversation, creative thinking, and change. We have one big hope:

Too often, prosecutors have historically sought sentences that penalize people who exercise their right to trial, and state and federal prosecutors' associations have lobbied state legislatures and Congress for harsher penalties.

Recommendations

- Screen cases rigorously and early to determine if evidence supports all elements of the offense so that weak cases can be declined or dismissed. Screening should be the job of experienced prosecutors who look at the accusation and evidence *before* charges are filed.
- Don't file the maximum possible charge as a matter of course. Adopt office-wide policies making clear that charges should reflect the facts and circumstances of each case and be designed to achieve a just result.
- Absent extenuating circumstances (like the protection of a vulnerable witness), don't withdraw a plea offer if a defendant chooses to wait for the results from the grand jury, a motion requesting relief from a judge, or a pretrial hearing.
- Don't threaten to seek the death penalty, life without parole, habitual offender (three strike) charges, or to transfer a case from juvenile to adult court as a way to leverage a guilty plea.
- Don't make a plea offer if you can't prove the charge beyond a reasonable doubt.
- Consider collateral consequences in plea discussions, such as impacts on immigration status.
- Limit the use (or threatened use) of sentencing enhancements (for example, based on criminal history or the presence of a weapon). Require a supervisor to sign off when a sentencing enhancement is sought.
- In making sentencing recommendations, consider the systemic or socioeconomic factors that may have disadvantaged the defendant and played a part in bringing him or her before the court.
- In general, do not condition plea offers on the waiver of a defendant's right to seek pretrial release or discovery, or to litigate constitutional violations.
- Support legislation to reduce sentence lengths and eliminate mandatory minimum sentences and three-strike laws.

Examples: In 2016, Seattle Prosecuting Attorney Dan Satterberg introduced charging standards designed to ensure that the punishment for an offense is proportionate to the offense (taking into account criminal history) and commensurate with the punishment imposed on others who have committed a similar offense. The standards caution prosecutors against filing every case that can be filed and against overcharging to obtain a guilty plea.

In 2018, Philadelphia District Attorney Larry Krasner instructed the prosecutors in his office to make plea offers below the bottom end of the Pennsylvania sentencing guidelines for most crimes. When a prosecutor thinks that an offer at the bottom end would be too low, he or she must seek a supervisor's approval to go higher. When the sentencing guidelines call for a sentence of two years or less, Krasner instructed prosecutors generally to seek probation, another alternative to incarceration, or house arrest.

3. Move Toward Ending Cash Bail

Overview: Most people in jail in the United States are there because they can't afford bail. This starting point serves no public safety purpose, effectively punishes people for being poor, and pressures them to plead guilty. It costs taxpayers billions of dollars each year, enriching the bail industry.

Recommendations

- In general, recommend release for defendants, including those charged with felonies, unless there is a substantial risk of harm to an individual or the community. Some states, in lieu of money bail, have directed courts to use risk assessment tools in making determinations about public safety. A note of caution: There is a tension in using these tools. While they have helped reduce cash bail, some risk assessment tools have been shown to reinforce patterns of racial disparity. For example, arrest history, a variable used in some assessments, has been associated with racial bias.
- Support pretrial services that help people remember to return to court (for example, notification by phone or text). If a defendant has a record of failing to appear in court, consider weekly calls, check-in appointments, or curfews rather than cash bail or detention.
- Publicly support the elimination of money bail. Educate the public, lawmakers, and local criminal justice leaders about the perverse effects of a system in which detention decisions turn on ability to pay rather than public safety.
- Do not seek pretrial detention because a defendant missed a court date if he or she subsequently reports to court.
- Where there are no alternatives to bail, support alternative methods of payment, like debit and credit card payments or unsecured bonds, and support nonprofit bail funds, which displace the bail industry.

Examples: In June 2017, Cook County State's Attorney Kim Foxx announced that her office would recommend releasing people on their own recognizance when they have no violent criminal history, the current offense is a misdemeanor or low-level felony, and no other risk factors suggest they are a danger to the community or will fail to appear in court. Foxx's policy built on her previous commitment to make a similar recommendation of release for people who were in jail because they couldn't afford to post bail of \$1,000 or less.

Kentucky has been at the forefront of pretrial reforms since 1976, when the state banned for-profit bail and established a pretrial services agency to analyze defendants' risk of flight and reoffending. In 2011, Kentucky passed a law requiring judges to release pretrial all individuals considered at low or moderate risk of reoffending or flight. Since then, the number of people arrested while out on release has declined every year: in 2015, the rate was only 10 percent. Following this success, the Kentucky Supreme Court instituted automatic pretrial release for most nonviolent defendants (excluding those accused of sex offenses) below a certain risk threshold.

4. Encourage

Overview: Pen-tem more than hospitals but and more likely prisoners. Up-ment plan or back into the

Recommendations

- Encour- sponse- lize peo-
- Support- involv- force of-
- When ; instead- Screen- vices at-
- Train E-
- If you ; defend-
- Work ; as Med-
- At vari- who h- fession-
- Bring t- ramps- and so-

Examples: M- so they can b- treatment me- and symptom- charged with- crisis stabiliz- gible for treat- charges again- In 2010, intervention- offenses wh- the state acc-

4. Encourage the Treatment (Not Criminalization) of Mental Illness

Overview: People who struggle with mental illness wind up in the criminal justice system more than they should. As a result, America's largest psychiatric facilities are not hospitals but jails and prisons. People with mental illness are less likely to make bail and more likely to face longer sentences. They make up a large percentage of death row prisoners. Upon release, they are often sent back into the community without a treatment plan or the prospect of good healthcare, and too often find themselves cycling back into the criminal justice system.

Recommendations

- Encourage the use of public health models as a starting point for developing responses to individuals in crisis and promote community-based services to stabilize people who otherwise end up in jail.
- Support crisis-intervention training of law enforcement to deescalate situations involving individuals with mental illness and reduce the likelihood of use of force or arrest as a response.
- When possible, divert individuals who struggle with mental illness to treatment instead of making an arrest that can lead to incarceration rather than help. Screen cases before charging to identify individuals in need of mental health services and support.
- Train line prosecutors and staff on the impact of mental illness and trauma.
- If you have a mental health court, make sure prosecutors don't seek to supervise defendants indefinitely simply to make sure they're continuing to access services.
- Work with correctional and mental health staff to reinstate public benefits, such as Medicaid, at the time of release from custody.
- At various stages of the criminal justice process, employ and listen to individuals who have experienced mental illness as advisors, trainers, and peer support professionals.
- Bring together relevant agencies to collaborate on data-sharing, developing exit ramps from the criminal justice system, and filling gaps in community services and support.

Examples: Miami-Dade County trains police officers in responding to people in crisis so they can better deescalate conflicts. The police have the authority to divert people to treatment instead of jail. When people are booked into jail, they are screened for signs and symptoms of mental illness. Those with a diagnosis who need acute care and are charged with misdemeanors or low-level felonies are transferred to a community-based crisis stabilization unit within forty-eight hours of booking. These individuals are eligible for treatment, support, and housing services. If they complete the treatment, the charges against them may be dismissed or modified.

In 2010, as state attorney in Burlington, Vermont, T. J. Donovan started the Rapid Intervention Community Court to divert into treatment people charged with low-level offenses who suffered from mental illness and addiction. A dedicated staff member in the state attorney's office determines eligibility and conducts a risk and needs assess-

ment. The person's case is dismissed if he or she successfully completes the program's requirements. Preliminary research showed that only 7.4 percent of those who did so were convicted of a new crime.

5. Encourage the Treatment (Not Criminalization) of Drug Addiction

Overview: The "war on drugs" has failed to curb drug use or make communities safer. Instead, it has resulted in destructive policing and prosecution, disproportionately affecting communities of color. It's time to move toward decriminalizing drug addiction.

Recommendations

- Don't prosecute low-level marijuana possession, and don't make exceptions because of someone's criminal record.
- Support legislation that decriminalizes marijuana and reclassifies other simple drug possession as a misdemeanor or civil violation.
- Don't seek mandatory minimum or habitual offender sentences based on underlying charges for drug possession.
- Don't prosecute people who call the police in response to an overdose and don't prosecute users for homicide when they share drugs that cause an overdose when there was no specific intent to cause harm or death.
- Expunge (or seek sentencing reductions for) past convictions that would be treated differently today.
- Offer drug treatment programs with evidence-based solutions, such as medication-assisted treatment, and treat use and relapse as a part of recovery. Support medically assisted drug treatment in jails.
- Support needle exchanges and safe consumption sites.
- Support training and access to naloxone and other overdose-reversal drugs.

Examples: Seattle City Attorney Peter Holmes stopped prosecuting marijuana possession misdemeanors in 2010. Washington State legalized marijuana in 2014, though police can still issue citations for public consumption. In 2018, Holmes moved to vacate the judgments and dismiss all marijuana possession charges brought from 1996 to 2010, citing evidence of racial disparity in arrests.

Seattle also pioneered a widely replicated pre-charge drug diversion program, called LEAD, in 2011. The police can direct low-level drug offenders to community-based treatment and other services instead of prosecution. LEAD participants were 58 percent less likely to be arrested for another offense, compared to others who were criminally charged. In 2018, the Seattle Prosecuting Attorney's Office stopped prosecuting possession of less than a gram of heroin, cocaine, or methamphetamine.

6. Treat Kids Like Kids

Overview: The adolescent brain differs from the adult brain in ways that increase the likelihood of risky and reckless behavior. Neurological development continues until around the age of twenty-five, and most young people who commit crimes don't con-

fully completes the program's
4 percent of those who did so

Drug Addiction

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education, disproportionately af-
criminalizing drug addiction.

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and reclassifies other simple

for sentences based on under-

use to an overdose and don't
that cause an overdose when

convictions that would be

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elapse as a part of recovery.

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sion in 2014, though posses-
sion in 2015. Holmes moved to vacate
cases brought from 1996 to 2010.

drug diversion program, called
cases to community-based treat-
ment participants were 58 percent less
than others who were criminally
stopped prosecuting posses-
sion in 2015.

in ways that increase the
development continues until
commit crimes don't con-

continue to do so in adulthood. Long-term outcomes for teenagers and young adults are substantially better when they have as little contact with the criminal justice system as possible, or when their cases remain in juvenile court. Prosecutors have enormous power over how teenagers and young adults are treated in the justice system. They influence decisions about whether to bring charges, what charges to bring, whether to transfer a child to the adult system, and whether to ask that a child be incarcerated.

Recommendations

- Do not prosecute kids for typical adolescent behavior such as fistfights, smoking marijuana, disorderly conduct, or infractions at school that don't result in serious physical harm.
- In general, don't seek incarceration for teenagers while their cases are pending. If they can't safely stay home, promote alternatives to detention such as community day supervision and treatment centers.
- After conviction, seek alternatives to incarceration for teenagers whenever possible.
- Advocate for diversion programs and specialized courts that address the needs of young adults.
- Work with law enforcement to prevent the interrogation of kids absent the presence and advice of counsel (and parents, when appropriate).
- Recognize that young people accused of crimes often have experienced trauma, and may lack the ability to express remorse, especially in the days and weeks immediately after an offense. Take that into account in charging, plea bargaining, and sentencing.
- Recognize that implicit racial bias often affects perceptions of adolescent culpability, predictions about reoffending, and recommendations for punishment or treatment, and develop training and policies to reduce the impact of bias when deciding how to proceed at each stage of a case.
- Protect the confidentiality of juvenile records. Expunge juvenile records for cases that are dismissed or when young people don't incur new charges after a few years.
- Don't ask to try children under the age of eighteen in adult court, except in very limited circumstances and based on an evaluation of factors such as the defendant's background and circumstances and the nature of the offense. These decisions should require high-level approval in the office.
- Where a state statute mandates trying a child as an adult for a certain offense, consider charging the child with a lesser included crime if possible.
- When a child must be tried as an adult, consider a sentence at the low end of state guidelines. In general, advocate for incarceration to be close to home and to include educational and vocational programming.
- Don't seek sentences of life without parole (or de facto life without parole) for those who committed their crime of conviction before the age of eighteen.

Examples: The state attorneys in Jacksonville and Tampa, Florida, have put in place a process for issuing citations to many teenagers who would otherwise be arrested.

In San Francisco's Young Adult Court, case managers, who are licensed therapists, evaluate the risks and needs of young people between the ages of eighteen and twenty-five and come up with wellness care plans that can include substance abuse and mental health care as well as educational, vocational, and mentor opportunities. The court accepts teenagers who have committed violent felonies as well as lower-level offenses. The rate of rearrest for participants between 2015 and 2017 was 15 percent, less than half the rate for juveniles statewide.

7. Minimize Misdemeanors

Overview: Misdemeanor charges make up approximately 80 percent of state and local dockets. The majority are for offenses like trespassing, loitering, prostitution, and drug possession. Arrests and prosecutions for misdemeanors and violations can significantly affect people's lives even when they result in short sentences or probation, costing people their employment, housing, student loans, immigration status, and even their children, and contributing to a cycle of incarceration and poverty that is hard to break.

Recommendations

- In general, do not charge misdemeanors, such as trespassing or loitering, which are associated with poverty, mental illness, and homelessness.
- In general, do not charge sex workers or clients when both parties are over eighteen and consent. Don't prosecute underage trafficking victims. Support efforts to decriminalize sex work and instead marshal resources to prosecute trafficking.
- Where it's not possible or doesn't make sense to decline prosecution, develop cite-and-release programs to keep people out of jail.
- Promote procedures or systemic changes that ensure defendants facing misdemeanors have competent lawyers and the cases go before judges.

Examples: In 2018, two district attorneys in Texas stopped charging people with misdemeanors for possessing small amounts of marijuana. In Nueces County, District Attorney Mark Gonzalez began diverting people to drug education classes, also asking them to pay a \$250 fine or do twenty-five hours of community service. In Harris County, District Attorney Kim Ogg started sending people to drug education classes without arresting them or giving them a ticket. She also stopped the prosecution of residue amounts of other drugs and ended jail time for small retail thefts.

8. Account for Consequences to Immigrants

Overview: Criminal charges and convictions can trigger detention and deportation proceedings for people who are not U.S. citizens, subjecting them to far greater collateral punishments and taking them away from their families. Being jailed before trial also increases the likelihood of being detained and deported by federal immigration officials. These threats to immigrants discourage the reporting of crimes, making communities less safe.

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Recommendations

- Make sure prosecutors and supervisors understand the immigration consequences of plea deals and defendants receive and understand this information.
- In plea discussions and sentencing recommendations, consider the immigration consequences of a conviction. When two similarly weighted charges have different immigration consequences, choose the immigration-neutral charge.
- Support and streamline processes for vacating convictions when an immigrant who pled guilty was unaware of the immigration consequences or when there are other equitable grounds to do so.
- Work with local authorities to protect against ICE enforcement in courthouses and with probation departments to prevent ICE arrests at probation offices. Alert groups that represent immigrants if ICE seeks to question or detain individuals who come to court.
- Protect immigrants who serve as witnesses and report crimes.
- Speak out for protecting the rights of immigrants and oppose policies that entangle local law enforcement in federal immigration enforcement.

Examples: In 2017, Brooklyn District Attorney Eric Gonzalez hired two experienced immigration attorneys to advise prosecutors on tailoring criminal charges and plea offers to avoid placing defendants at risk of deportation. For example, prosecutors initially charged a green card holder who struck a child with endangering the welfare of a child, which carries deportation consequences. Later, however, they amended the charge to fourth-degree criminal mischief, which carries the same weight under criminal law but bears no deportation risk.

In San Francisco, District Attorney George Gascón has worked to end the questioning of witnesses at trial about their immigration status and assigned victim advocates to escort fearful undocumented witnesses or victims through the courthouse. Gascón's policy requires his staff to call the San Francisco Rapid Response Network, a group of nonprofits that can summon immediate legal help, if they learn that federal immigration agents are in the courthouse.

9. Promote Restorative Justice

Overview: Restorative justice is a community-based approach to responding to the harm that crime causes. In a group setting, individuals charged with crimes talk to the people they hurt, sharing stories and working toward accountability, repair, and rehabilitation. Restorative practices can be part of the criminal court process or a substitute for it. Research shows that crime victims often do not feel that prosecution and sentencing serve them well; restorative justice can help address their concerns. These programs have a consistent track record of achieving lower rates of recidivism than traditional penalties, including for serious offenses.

Recommendations

- Learn about and visit best-practice restorative justice programs.
- Establish restorative justice programs, or if they already exist in the community, refer cases to them and treat the outcome as the resolution of the charges.
- Consider restorative justice for adult and juvenile misdemeanor and felony offenses, including cases involving violence and injury.
- Unless necessary for public safety, don't exclude participants because of their criminal records.
- When possible, and with participation by crime victims if they are interested, refer cases to restorative justice programs before arraignment.
- Ensure that statements made during the restorative justice process can't be used against the defendant if the case returns to court.

Examples: District of Columbia Attorney General Karl Racine launched a restorative justice program for young people in 2016. At community conferences, victims meet with those who have done them harm. More than 80 percent of the young people who have successfully completed the program have avoided rearrest. The program has several full-time staff who are not attorneys. Prosecutors are required to observe at least one restorative justice conference to build understanding and acceptance of alternatives to the traditional court system.

10. Shrink Probation and Parole

Overview: The number of people under some form of probation or parole in the United States is about five million. This number is far too high, and periods of supervision are far too long. Supervision increases the likelihood that people who are otherwise at low risk of reoffending will end up incarcerated for technical violations that have little to do with public safety. The majority of violations occur within the first year, suggesting that supervision beyond that point serves little to no rehabilitative purpose. Some states have shortened supervision periods with no increase in crime or recidivism.

Recommendations

- Limit probationary terms after prison to one year, unless there is a compelling reason for a longer term. (For example, if probation is an alternative to incarceration as opposed to an addition to it, a longer term may be appropriate.)
- If longer terms are imposed at the outset, consider supporting requests to terminate parole and probation early for people who have fully complied with the terms of their supervision for one year.
- Limit supervision after local jail sentences to six months.
- Don't treat the use of marijuana or alcohol as a violation of supervision.
- Advocate with parole and probation departments for the use of graduated sanctions for violations. This means starting with mild sanctions (such as community service), and only if necessary moving to moderate sanctions (day reporting centers, intensive supervision) or more serious ones (ankle bracelets and brief jail

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Example: In 2017, the members of the Georgia Council on Criminal Justice Reform, including Houston County District Attorney George Hartwig, unanimously recommended less monitoring for low-risk people on probation after two years of good behavior. The recommendation became law, and within six months affected almost eighteen thousand felony probation cases. In 2018, forty-five prosecutors signed on to a statement that recommended shrinking probation and parole populations, and the district attorneys in Philadelphia and Salt Lake County publicly stressed the importance of these reforms.

PART TWO: HOW TO INCREASE FAIRNESS

11. Change Office Culture and Practice

Overview: Prosecutors are the gatekeepers of America's criminal justice system. The policies and incentives they put into place, and the dynamics inside their offices, have a tremendous effect on the pursuit of justice in their community and the system as a whole. Prosecutors can design (or redesign) key features of the system to make it more accountable, equitable, and just.

Recommendations

- Work with other agencies to gather and share data on charging, plea dispositions, and sentencing (including racial disparity), findings of prosecutorial misconduct, pretrial detention rates resulting from an inability to pay bail, diversion participation and completion, charging children as adults, and other outcomes that will help your office achieve more just results.
- Adopt performance standards that reflect your values. Instead of evaluating performance based on number of convictions, trial wins, or the lengths of sentences, prosecutors should encourage desired outcomes by adopting metrics like reducing incarceration, pretrial detention, and recidivism. You can measure progress by comparing rates from year to year or to other similar jurisdictions. Include these measures in promotion decisions.
- Make data available to the public so you can be held accountable for the performance of the office.
- Conduct mandatory trainings on issues like implicit bias, debunked forensic methods, false confessions, and witness identification.
- Set procedures for defense attorneys to appeal to a supervising prosecutor if they think a charge or plea offer is unfair.
- Consider requiring a supervisor's approval to charge potentially problematic cases, such as those with only one witness, jailhouse informants, or witnesses with credibility issues.
- Hire a diverse staff across all levels of seniority and report on staff diversity. In mid to large offices, hire a director of diversity and inclusion. Research has shown that across disciplines, teams that include people from a variety of racial, ethnic,

police practices. Work with police and other agencies to meaningfully compare and address racial disparity at different points in the system. If you meet resistance, propel changes to police practice by declining to prosecute cases that are clouded by a pattern of racial conduct.

Example: After Milwaukee District Attorney John Chisholm took office in 2007, he opened his office's files to the Vera Institute of Justice for an analysis of racial disparity. Vera showed a higher rate of prosecution of black people arrested for possession of drug paraphernalia. In response, Chisholm stopped prosecuting most paraphernalia cases, instead referring people to treatment programs. The rate of prosecution for the remaining cases equalized for black and white defendants.

13. Create Effective Conviction Review

Overview: Conviction review units (CRUs, also called conviction integrity units) scrutinize old cases to determine whether the outcomes were tainted by unjust practices, faulty evidence, or bias. In addition to righting past wrongs, CRUs provide helpful mechanisms for revisiting cases that an office previously believed to be justly prosecuted but that, in fact, may be materially flawed. Since they were first created in the early 2000s, CRUs have expanded from reviewing claims of actual innocence to reviewing violations of due process and corrupt law enforcement practices. Some offices are considering extending these principles to the review of past excessive sentences.

Recommendations

- Create a CRU (or another conviction review process) if your office does not already have one. Small to midsized offices may consider partnering with a local law school, Innocence Project, or law firm to expand capacity.
- Consider extending the CRU's mandate beyond claims of actual innocence by also scrutinizing cases in which a serious violation of a defendant's rights or other miscarriage of justice may have contributed to his or her conviction.
- Don't exclude convictions from review because they're based on guilty pleas, appeals are pending, or a defendant has served his or her sentence. Include misdemeanors if a systemic failure, for example in a crime lab, led to guilty pleas of innocent people.
- Review convictions that relied on discredited forensic methods like bite marks or questionable diagnoses of shaken baby syndrome.
- Support compensation for the wrongfully convicted and the expungement of wrongful convictions.
- Use the CRU as a tool for identifying and addressing the root causes of flawed prosecutions, such as Brady violations or reliance on discredited science, and incorporate lessons learned into office-wide training and policy changes.
- Create a process for reviewing and supporting clemency and pardon requests, as well as other relief for long sentences that raise concerns about proportional punishment and fairness, or that are being served by individuals who are elderly or ill and no longer pose a danger to the community.

- Structure the unit to demonstrate its independence and importance to the office. The CRU should be led by a respected senior lawyer who reports directly to the D.A. and be staffed with prosecutors and investigators committed to its mission. The CRU should be outside the appellate unit.
- Consider engaging outside expertise and reinforcing confidence in final decisions by creating an external advisory board for the unit.
- Release annual reports of the CRU's work and the outcomes that result, including internal reforms.

Examples: In Brooklyn, the late District Attorney Ken Thompson created a model conviction review unit in 2014 and hosted a summit on wrongful convictions the following year. Brooklyn's CRU has had nine full-time attorneys and three investigators, and had exonerated twenty-four people as of July 2018. It has an external advisory board that reviews case referrals, investigations, and determinations before they are finalized. Its scope is not limited to claims of actual innocence.

In San Francisco, the discovery of racist and homophobic texts by San Francisco police officers led District Attorney George Gascón to convene a task force, including three retired judges, to review more than three thousand cases connected to the police officers implicated in the scandal.

In 2009, Seattle Prosecuting Attorney Dan Satterberg recommended clemency in the case of a man sentenced to life in prison under Washington's three-strikes law. Since then, the office has continued reviewing old cases with life sentences (often involving a minor third-strike charge), recommending clemency for nineteen defendants through fall 2018.

14. Broaden Discovery

Overview: Discovery—the process for sharing evidence with the defense—is essential to the fair administration of justice. Without the information the state gathers through its police powers, defendants cannot make informed decisions and defense attorneys cannot provide effective counsel. Studies have shown that withholding evidence results in disturbingly high levels of the miscarriage of justice. When prosecutors take an expansive approach to discovery by making early and broad disclosures, they enhance the prompt and fair resolution of cases and increase the accountability of law enforcement.

Recommendations

- Establish an open-file policy, disclosing all relevant evidence to the defense, with case-by-case exceptions as necessary to protect witness safety, prevent witness tampering, or shield sensitive private information. Protect witness safety and privacy by redacting materials, as opposed to refusing to turn them over, whenever possible.
- Share the police report and other materials in the government's possession as soon as possible after charges are filed. As more evidence is gathered, it should be disclosed when it becomes available, before plea discussions and in ample time to prepare for trial.

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- Form a committee to decide how to collect and disseminate to the defense findings of misconduct in police personnel files. Consider creating a database that prosecutors in the office can easily access and that includes information on police officers who have been found to have lied in the course of their jobs, committed civil rights violations, or used excessive force. Establish clear guidelines about how individual officers are to be included or removed from the list. Flag cases involving officers in the database for the prosecutors handling them.
- Designate an ethics officer to advise staff, provide training, and address allegations of misconduct in the office.
- Explain disclosure obligations to the police and other agencies (like crime labs). Require police to sign a statement in every case charged stating that all relevant documents have been provided to the prosecutor.
- Institute rigorous training and supervision to ensure compliance with the office's open-file policy. Recognize and reward staff who catch and remedy disclosure errors or near misses.
- Ensure appropriate consequences for prosecutors who improperly and intentionally fail to disclose evidence, including discipline, firing, and reporting ethical violations to the state bar.

Examples: In Lowndes County, Mississippi, District Attorney Scott Colom has instituted an open discovery policy: prosecutors are instructed to give all information they receive from law enforcement to the defense. In Kansas City, Kansas, District Attorney Mark Dupree has a similar practice, providing all discovery to the defense immediately upon request.

Seattle Prosecuting Attorney Dan Satterberg negotiated an agreement with law enforcement for facilitating comprehensive disclosure of information on police misconduct. A committee in his office collects and reviews information regarding officer misconduct, including dishonesty or bias, so prosecutors have a systematic way to satisfy their disclosure obligations if they call police officers or crime lab technicians as witnesses.

15. Hold Police Accountable

Overview: Most police officers take great care to protect and respect the communities they serve. But when they do not, their actions can taint their departments and the justice system. When an officer is credibly accused of using excessive force or engaging in misconduct, the allegations must be credibly investigated. The role of prosecutors in conducting such investigations is complicated by the close working relationship they have with local police departments, which can lead to conflicts of interest or the appearance of such conflicts, undermining public confidence. Investigations and prosecutions of police officers should be safeguarded by procedures focused on ensuring independence, impartiality, and transparency.

Recommendations

- If feasible, create an independent internal investigations unit staffed with senior prosecutors and experienced investigators. The unit should report directly to the

- district attorney or his or her chief deputy. The investigators should have no daily contact with, or reliance on, the local law enforcement agency under investigation.
- Work with local law enforcement on a plan of action in the case of officer-involved shootings and misconduct allegations. The plan should include immediate notification of the D.A.'s office, an opportunity for personnel from the office to go to the scene, timely sharing of information, and investigation of the misconduct by an entity other than the employing agency.
 - Work with law enforcement partners on public disclosure of body- and dash-cam videos. Adopt a policy requiring prompt release of the videos in the event of an officer-involved shooting or allegation of excessive force (absent legitimate and specific concerns about witness safety, privacy, compromising the integrity of the investigation, or prejudicing a jury).
 - Consider creating an external advisory board to make recommendations before a final charging decision. If permitted, release the record of a grand jury proceeding when there is no indictment. Issue a public report detailing the investigation and explaining the findings.
 - Make public all policies and protocols related to investigations of law enforcement misconduct. Report investigations, prosecutions, and dispositions regarding police-involved incidents annually.
 - Support a second-look review by the state attorney general's office or an independent prosecutor when your investigation does not result in a decision to file criminal charges.
 - Support changes to state law if needed for independent and effective investigations, including reforms that ensure that police are not investigated by the agency that employs them.

Example: In 2016, the San Francisco District Attorney's office created an Independent Investigations Bureau to investigate and review all officer-involved shootings and other cases of excessive use of force. The staff, composed of six attorneys, six investigators, and two paralegals, were hired from outside the D.A.'s office and the San Francisco Police Department. The unit operates independently to address concerns about the close working relationship between prosecutors and the police.

16. End the Poverty Trap of Fines and Fees

Overview: When fines are imposed after a conviction, they're intended as a form of deterrent and punishment. Fees in criminal court play a different role: they shift the costs of the criminal justice system from taxpayers in general to the people who appear in court. While fines have a place as an alternative to incarceration, when they are levied without regard to a person's ability to pay, they can trap poor defendants in a cycle of incarceration and debt. Fixed fines, as well as fees, are also unfair: a \$200 fine or fee can be an annoyance for an affluent person and a financial calamity for an indigent one. While debtors' prisons are illegal, they effectively exist when people are sent to jail, or otherwise stuck in the criminal justice system, because they can't afford to pay fines or fees. And pursuing unpaid debt may cost the state more than it brings in.

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Recommendations

- Speak out about the problems caused by fines and fees and support efforts to fund courts in a way that reduces reliance on revenue from fines and fees.
- Advocate for assessing fees and fines on a sliding scale based on income and assets, taking into account debts and financial obligations such as child support and health care costs. This model has been successfully implemented in countries around the world.
- Support reasonable payment plans, and oppose requiring people to return to court again and again because of incomplete payments. Advocate against excessive late fees, payment plan fees, collection fees, and interest payments.
- Advocate for the elimination of driver's license revocations and suspensions for nonpayment of fines and fees. Work with courts to reinstate licenses and create diversion programs for people arrested for driving on a suspended license when the suspension is for unpaid fines and fees.
- Advocate for the elimination of all fines and fees in cases involving children and teenagers under the age of eighteen.
- Support defense motions to reduce or waive fines and fees based on indigency. Don't ask to jail people because they can't pay their fines or fees and eliminate the use of arrest warrants for nonpayment.
- Eliminate fees for diversion programs. If there is no way to avoid fees, use a sliding scale and do not restrict access to diversion for people who can't afford to pay. Oppose continuing or extending probation solely because of unpaid fines and fees.

Examples: Sliding-scale fines have worked in the United States. When a Staten Island court replaced fixed fines with sliding-scale fines in 1988, both collection rates and amounts increased. Over the past year, California, Maine, and Mississippi have eliminated driver's license suspension for nonpayment of fines and fees. In Minnesota, prosecutors are lobbying legislators to end driver's license suspensions for nonpayment of fines and fees. Washington State eliminated interest on fines and fees, while California and the cities of Philadelphia and New Orleans have eliminated fees in juvenile cases.

The Cook County State's Attorney's Office charges no fees for its diversion programs, which serve about five thousand defendants a year. The programs are funded through municipal and county budgets, federal grants, and partner organizations.

17. Expunge and Seal Criminal Records

Overview: About seventy million Americans have a criminal record, the same number as have a college education. A criminal record makes it harder to get a job or find housing, accounting for high rates of homelessness among people leaving prison. People may lose access to public benefits and become ineligible to receive federal loans. State laws may bar them from voting or obtaining professional and occupational licenses. Research shows that the stigma of having a record is worse for minority job applicants than for white ones, which means racial disparity in the system continues to affect people long after their sentences are served.

Recommendations

- In general, support petitions for expungement or sealing of records when permitted by statute.
- Support automated expungement for acts that are no longer criminal (for example, marijuana possession after state legalization). Support automated sealing or expungement for arrest records that did not lead to charges or convictions, or after a certain period of time has passed.
- Support clinics and amnesty programs to expunge records and clear old warrants in partnership with the court or the defense bar.
- In general, don't object to reinstating driver's licenses, or to applications for certificates of relief from disability, which inform prospective employers or landlords that an individual has been rehabilitated.
- Host workshops for job trainings, resume programs, and mock interviews. Encourage employers to hire people with criminal records.
- Support efforts to eliminate restrictions on expungement and sealing, such as long waiting periods.
- Support increasing the age for juvenile sealings from eighteen to twenty-one.
- Support efforts to ensure accuracy of criminal records, laws that require private databases to regularly remove expunged or sealed records, and "ban-the-box" legislation that bars employers, housing, and other social service providers from asking early in the application process about criminal records.

Examples: The state attorney in Broward County, Florida, runs one-day workshops to help people fill out paperwork, get fingerprinted, and submit their expungement applications, a process that usually takes several weeks. The San Francisco D.A.'s office is identifying and automatically expunging thousands of old marijuana convictions. The Pennsylvania District Attorneys' Association recently supported a Clean Slate Bill (which became law) to seal some arrests and minor convictions.

The Portsmouth, Virginia, Commonwealth's Attorney's Office offers a monthly seminar to help residents remove crimes from their records and restore their rights. The Albany County District Attorney's Office helps people navigate New York's newly passed sealing statutes to seal their criminal records.

18. Play Fair with Forensic Evidence

Overview: The power of forensic science is unmistakable. Advances in science and technology have helped solve crimes and exonerate people who were wrongfully convicted. The continued use of unreliable and misleading forensic evidence, however, imperils the integrity of the criminal justice system. It's critical for prosecutors to promote efforts that strengthen the reliability of forensic evidence and inform courts and jurors of its limitations.

Recommendations

- Stop using scientifically invalid evidence. Examples include comparison of bullet leads, fire and bloodstain patterns, bite marks, shoe prints, and hair matching.

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- Ensure that other types of forensic evidence used are foundationally valid and valid as applied (meaning that the particular method used by the examiner has been validated in contexts like the one at issue in the case).
- Do not offer forensic evidence supported only by an expert's experience, as opposed to validated methods and studies.
- Critically and continually examine emerging scientific literature, which may also call old methods into question, and train staff about these changes.
- Train prosecutors to understand the validity of the proffered evidence and expert testimony. Don't let an expert declare a "match" to a degree of certainty that's not supportable. Juries overvalue such testimony.

Example: In 2016, the Texas Forensic Science Commission conducted a six-month investigation into the use of bite-mark testimony, which had led to wrongful convictions and lacks scientific validation, according to the National Academy of Sciences. The investigation showed that board-certified forensic dentists who analyzed photographs of injuries could not agree on which ones were bite marks. The commission also heard a day of testimony from experts on all sides of the debate. At the conclusion of the investigation, the commission placed a moratorium on the use of bite-mark testimony. It also ordered a review of all past cases in which bite-mark evidence was used, appointing a panel of experts to review trial transcripts.

19. Work to End the Death Penalty

Overview: Countless studies have shown that the death penalty is fraught with error, provides no more public safety benefit than other sentences, and is routinely imposed on people with diminished culpability, including the intellectually disabled and mentally ill, teenagers, and people who have experienced extreme childhood trauma. Studies also show that the death penalty is applied in a racially discriminatory manner. It is expensive and puts victims through decades of litigation and uncertainty. And it has become increasingly concentrated in a small number of jurisdictions: 2 percent of counties are responsible for the majority of death sentences nationwide. This means that whether a killing takes place on one side or the other of a county line often determines whether someone will one day be executed for it.

Recommendations

- Oppose legislation to expand or expedite the death penalty and consider publicly supporting death penalty repeal.
- If state law requires consideration of the death penalty, ensure thorough and uniform review of relevant cases. For example, establish a review committee to make case-by-case determinations. The committee could include members of the bar and the community. It should consider alternative sentences and whether seeking a death sentence is absolutely required to protect public safety. Defense lawyers should have the chance to present to the committee and mitigating evidence should be considered.

- Examine previously imposed death sentences and consider alternative punishments, particularly when there is substantial evidence of reduced culpability.
- Don't threaten to seek the death penalty to coerce a plea.

Examples: After taking office in 2016, Denver District Attorney Beth McCann announced she would no longer seek the death penalty. McCann said she would support a statewide repeal by either voter referendum or legislation. Seattle Prosecuting Attorney Dan Satterberg has publicly supported repealing the death penalty in his state, saying that the system "no longer serves the interests of public safety, criminal justice, or the needs of victims."

20. Calculate Cost

Overview: Reducing spending on prison has bipartisan support. The incentives to cut costs are often misaligned, however. Counties largely fund prosecutors' offices and jails while states largely fund prisons. The result is that prosecutors can send people to prison without incurring a cost for their local jurisdiction, making them less accountable for spending. To change the dynamic, it's important to inform the public about the overall cost of incarceration.

Recommendations

- Calculate the cost-savings of alternatives to incarceration and factor it into plea offers and sentencing recommendations. (The formula will depend on the local per-person cost of prison and jail.)
- Calculate the expected cost of incarceration for a proposed jail or prison sentence and announce it before sentencing, so judges and the public can consider it.
- Report on the annual cost of incarceration and the office's efforts to reduce it.
- Work with legislators to reduce corrections budgets along with declining prison and jail populations. Advocate for the reinvestment of savings in crime prevention, improved law enforcement, recidivism reduction, and improving the lives of people and communities affected by incarceration.

Example: Philadelphia District Attorney Larry Krasner has instructed prosecutors to announce the cost of incarceration at sentencing. In a memo describing the new policy, the D.A. provides the following example: "If you are seeking a sentence of 3 years incarceration, state on the record that the cost to the taxpayer will be \$126,000.00 (3 × \$42,000.00) if not more and explain why you believe that cost is justified."

21. Employ the Language of Respect

Overview: Commonly used terms like "convict," "ex-convict," and "felon" are dehumanizing. They reduce people to their criminal status and perpetuate the stigma of criminal convictions, promoting negative stereotypes that inhibit reform and impede rehabilitation and reentry.

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Language affects perception; it also evolves. Once-established terms are abandoned as offensive (like "coloreds" or "illegals") while terms that once seemed unwieldy ("people of color") become familiar. The words we use also affect policy: mass incarceration has stemmed in part from harsh law-and-order rhetoric.

Recommendations

- When possible, in written materials and in representing the office, use phrases that convey information about criminal status without dehumanizing. Examples include "person convicted of a misdemeanor (or felony)," "incarcerated (or formerly incarcerated) person," "people behind bars," and "person with a criminal record."
- Try to avoid terms like "convict," and "parolee," which reduce a person to his or her criminal status, and terms like "rapist," and "drug dealer," which reduce a person to a particular act. (In an internal report of case outcomes, terms like "parolee" or "inmate" may be appropriate. However, such usage should be the exception.)
- In general, a person charged with a crime should not be called an "offender." The word "defendant" is a good substitute. Try to honor people's wishes about the words used to describe them.
- In cases involving children and teenagers, refer to them and their families by their names and avoid dehumanizing references such as "minor" or "juvenile," which have become synonymous with "criminal offender."
- Help change the narrative of crime and justice. Phrases like "tough on crime," "the wrong element," and "don't do the crime if you can't do the time" reinforced the narrative of mass incarceration. So did calling constitutional protections "technicalities" and "loopholes," or describing alternatives to incarceration as "coddling." To help propel criminal justice reform, prosecutors should talk about "mercy," "justice," "compassion," and "fairness" in ways that resonate with the public.
- Counsel prosecutors to avoid dehumanizing language in court. Words like "animal" and "gangbanger" should be off-limits.

Examples: In 2016, the Justice Department announced that the Office of Justice Programs will no longer use words like "felon" or "convict" to refer to formerly incarcerated people. The new terms are "person who committed a crime" and "individual who was incarcerated." The Department of Corrections in Pennsylvania announced a "people-first" language change for those released from jail or prison: instead of "offender," "felon," or "ex-con," the department adopted the term "reentrant."



Testimony in Support of Bill 14-19, Policing Advisory Commission

Council President Navarro, Councilmembers Riemer and Jawando, other Councilmembers, thank you for hearing our testimony. My name is Michael DeLong and I am the Treasurer of the Montgomery County Young Democrats. We represent a number of young Democrats ages 14-34 who work to promote policies that strive for liberty and justice for all and make Montgomery County a better place to live. Bill 14-19 is an excellent proposal that will improve council and public oversight of the Montgomery County Police Department and promote community trust in the police.

This legislation would establish a thirteen member Policing Advisory Commission. Eleven of them would be voting members, and the County Council would appoint nine public members who are interested in policing. Each Councilmember should nominate one member and they will either be individuals or represent a community organization. The other four members will be nominated by the Executive and appointed by the Council, and the police chief (or someone designated by the chief) and a representative of an employee organization will be nonvoting members.

The Commission members will serve for three years. The Commission will advise the County Council on policing matters, provide information on best policing practices, recommend policies, programs, legislation, and regulations, and comment on any matters that the Council refers to it. Also, the Commission will hold at least one public forum per year where the community can offer input on police officers and police conduct, and it will submit an annual report on its activities and plans.

The Montgomery County Police Department has the very important tasks of keeping Montgomery County citizens and residents safe, preventing and solving crime, and enforcing the laws. They must do this while upholding and safeguarding everyone's rights and building trust between law enforcement and ordinary people. Civilian advice and oversight is an essential part of this process-we need leaders who are knowledgeable about police departments and good policing behavior and ways to ensure accountability.

This Policing Advisory Commission is a big step toward improving that oversight. We hope that it will bring together a wide range of voices from across Montgomery County, and that County Councilmembers will work to make sure everyone is represented.

We further need to ensure that police officers do not engage in brutality and racial profiling. Too often we have heard anecdotes from African-Americans and people of color that this behavior exists, and even one incident is one too many. This is unacceptable, especially given the long history of tension between law enforcement and various communities. And without the trust and support of various people-white, black, and brown-police officers can't do their jobs effectively.

Being a police officer is a difficult job and boards that are offering advice should recognize that and recognize that it is different from most civilian job. But civilians can offer valuable insight, provide useful outside perspectives, and study policing in depth so they can make good recommendations.

We urge all members of the County Council to support Bill 14-19 and give the Commission the resources and staff needed to make it a success. Thank you.



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**NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
MONTGOMERY COUNTY BRANCH
TESTIMONY- MC BILL 14-19 THE POLICE ADVISORY COMMISSION
TUESDAY, JULY 9, 2019**

Good evening, Council President Navarro and Members of the County Council. Thank you for holding this hearing to receive comments on Council Bill 14-19 Police Advisory Commission, introduced by Councilmember Hans Riemer.

I am Faith Blackburne, Political Action Committee Chair of the Montgomery County Maryland Branch of the National Association for the Advancement of Colored People (NAACP).

For 110 years, the NAACP has been in the forefront of securing racial equality and civil rights for all. The Montgomery County Branch of the NAACP was founded in 1937. In its 82 year history in this county, it has forged relationships with community and county leaders to protect and promote the civil rights of every resident of the county, particularly African Americans and communities of color.

In 2014, President Obama issued an Executive Order establishing a Task Force on 21st Century Policing. The Community Oriented Policing Services (COPS) final report made several recommendations on community policing. Some of these recommendations focused on policy and oversight.

We believe that Bill 14 -19, Police Advisory Commission is a measure that heeds the clarion call of the 21st Century Policing Taskforce's Community Oriented Policing Service report.

Enactment of Bill 14-19 will allow community representatives to review police department policies in light of nationwide best practice standards.

Montgomery County has a proud history of community involvement on Boards and Commissions. This county invites the voices of residents on issues ranging from revocation of liquor licenses to merit system protections. This robust system of boards and commissions assures that the voice of the taxpayer is a part of decision-making in this county. This kind of community involvement is needed now more than ever to restore faith and confidence in the practice of policing in this county.

In recent months, several shocking incidents have gained public attention; an African American Council Member was pulled over in a questionable traffic incident; an officer was caught on video using the N-word toward several young African American men during a stop and frisk incident at a local fast food restaurant, and most recently, an officer was videotaped kneeling a suspect in the neck while the suspect was on the ground in handcuffs. These incidents have all received media coverage. And many of us have been left to wonder what is going on?



As the NAACP, we cannot accept these incidents as the new normal. And we are asking this Council--which represents all the residents of this county, not to accept these practices as acceptable or the new normal. We are simply asking that this Council enact a bill that will allow the residents of this county to have a voice in reviewing the policies of the police and determine whether those policies are in line with the kind of world-class police force this county needs and deserves.

Each of these well-publicized incidents--and others that may not receive public attention--demonstrate the need for re-tooling police and community interactions. The Police Advisory Commission is a valuable opportunity for high-quality review for these policies which will generate public reports and recommendations that can be the basis for further Police Department, Council, and Executive Actions. The Commission will provide a direct voice for communities that have not always been heard on policing issues.

The Montgomery County NAACP is fully committed to the goals and objectives of this legislation. We urge the Council to pass this bill as one step in assuring all residents of this county that the police are here to protect and serve. The Montgomery County NAACP Branch looks forward to working with you. Thank you.

Montgomery County needs a Policing Advisory Commission to oversee interaction with immigrants and strengthen community trust between the police and immigrant communities. It is not enough for our county government just to issue a statement promising that police will not to participate in any ICE immigration enforcement efforts. We need a clear policy that specifically details the Montgomery County Police will not assist ICE.

Some of our Montgomery County neighbors who have not been tried or convicted of a crime are already behind bars where ICE rents space at the Howard County Detention Center in Jessup. They could be transported back to an impoverished, violence-plagued land separating them from mothers, sisters, homes and communities they have built in Maryland.

I'm a teacher. Montgomery County police questioned my former student and his father on May 20. They expected to return home that afternoon. Instead, the police turned them over to ICE and they remain locked up in Jessup.

I taught this student when he first arrived from El Salvador with the beginning of the wave of unaccompanied minors in the spring of 2012 seeking safety from gang violence and economic insecurity. He was an intelligent, honest, teenage boy who grew into a hard-working young man. Since his graduation at DAR Constitution Hall in 2017, he has worked in commercial construction, welding, and auto repair.

Now, after being questioned by Montgomery County Police, he is behind bars in an ICE detention center. His family members are either not allowed to visit because they do not have driver's licenses to prove their identities or are too scared to go to a detention center. Instead they are selling food to members of their Spanish-speaking church community to raise money for his defense. Sharing their story and asking for help only fuels the fear in the immigrant community.

- This situation raises several legal and humanitarian issues:
- Are other immigrants who live in Montgomery County being detained without being tried or convicted or a crime?
- Are others being held in ICE detention without bail or with unaffordable bail?
- Are they receiving a speedy trial or enduring unnecessary separation from their families?
- Is the detention of the primary family breadwinners causing undue financial strain?
- How can immigrants feel they will be safe and protected when they need to report a crime?

Allowing Montgomery County Police to turn someone who has not been tried or convicted of a crime to ICE has a chilling effect on community relations with police officers. Montgomery County needs a clear law that would prohibit police from holding a person solely on the basis of an immigration detainer request and from transferring people who have not been tried or convicted to ICE custody.

Sara Nathan

Testimony In **SUPPORT** of MoCo Bill 14-19

Scott Webber

Community Member - Bethesda MD

July 9, 2019

Madam President and fellow members of the County Council, I appreciate this opportunity to share my views with you this evening.

My written testimony will be short, but I am willing to speak with any of you at length about this topic and my experiences.

I am a blonde-haired, blue-eyed, white, Anglo-Saxon, protestant, middle-class male living in Bethesda, MD. My two boys, however, have dark-eyes, dark-hair, and noticeably darker-skin, complements of their mother, who does not look like me. I am here tonight to tell you they also do not get treated like me by the Montgomery County Police. I have personally witnessed, and vicariously experienced extreme disparity in their treatment. For years, they have been profiled, pulled over, had their statements totally disregarded, and falsely accused for no reason.

Let me share three quick stories:

About 10 years ago we were the victim of a home invasion. A laptop, camera, and few other items went missing. The police were called immediately, but when they arrived, they had absolutely no interest in searching the perimeter of the house, dusting for finger prints, or anything other than interrogating my son and his 'non-white-American' friends. They told my son they did not believe him, and even asked him to come to the station to take a polygraph test. Later that week, at a PTA meeting, no less than 3 other neighbors reported break-ins and thefts from their homes that week. I reached out to MCPD, but was told I was over-reacting. I asked if they wanted to interview the other victims, and they told me... it would not be necessary... A few days later, one of my neighbors was murdered during a home invasion, by the same man that had broken into my house. Commander Hamill later apologized for not taking the community's concerns seriously, but it was too little, too late.

3-4 years ago a little after midnight, one of my sons was driving home from the Bethesda Metro, took a left onto Arlington Road and moved over to the right lane in front of the Bradley Shopping Center to turn right onto Bradley Blvd. toward home. A policeman ordered him into the parking lot and within minutes, there were 6 or more squad cars surrounding his car. Although he had had only 2 drinks in the past 5 hours, he was forced through the sobriety tests, and would have passed except the testing officer didn't think my son's eyes tracked 'right'. He was hand-cuffed, taken to the station, and the car was impounded - for 'failure to use his turn indicator before changing lanes.' When I called the station to inquire whether this was really an appropriate show of force, given the 'crime', I was merely told it was a judgment call by the officers...

In 2015, my younger son was involved in a near head-on collision just 1000 yards from our home. An elderly, white, jewish, lawyer [yes, I am being stereotypical on purpose] crossed the center line, struck my young, non-white, Afro-Caribbean son and his car full of Howard University student friends son who was driving my Cadillac home from getting a Christmas tree. The evidence of skid marks and car damage clearly indicated it was the other car, but the investigating officer matter-of-factly said he simply believed the other driver who said it was my son's fault – evidence and facts be damned. Except I had a hundred photos, measurements, benefit of being on-site during daylight etc. that I wanted to share with the police. Not only were they now interested, but were openly hostile toward a resident getting involved. We had to hire a lawyer, and go to court, where the judge found my son 'Not-Guilty' on all charges. And yet, the Police still refused to change their crash report and refused to discuss the matter further with me.

As a mere citizen, I was ignored and stonewalled completely. It took a personal request of a state senator to Chief Tom Manger, before the Montgomery County police were willing to even look into this matter. 3 ½ years, and a civil lawsuit later, we are close to getting a revised report, but I'm sorry, but it should not have to take that level of political intervention simply to get the MCPD to show such basic respect, and courtesy.

We have a wonderful police force in Montgomery County in many aspects, but its policies are in need of both review and revision to make it even better, especially in light of the rapidly changing demographics of our population. Instead of pushing away community involvement, the MCPD should be actively inviting and encouraging increased awareness and engagement – with all the communities that make up the beautiful county.

There is no question that we would all like to see improvement in MCPD policing, to adapt to, and better serve, the communities they are sworn to protect and serve, but such improvement is unlikely without the input and participation, understanding and trust of these very communities.

Bill 14-19 is a well-conceived and practical piece of local legislation that should help lay a solid foundation for years of constructive improvement, and should be passed.

Thank you.

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Message	Details	Attachments	Headers
Source			

[HTML](#)

From: "MCCouncil@App.MontgomeryCountyMD.gov"
 <MCCouncil@App.MontgomeryCountyMD.gov>
 Date: 7/8/2019 7:38:28 PM
 To: "county.council@mccouncilmd.lmhostediq.com"
 <county.council@mccouncilmd.lmhostediq.com>
 Cc:
 Subject: Bill 14-19 - Submitted By:Mr Tad Stahnke - (Attn: All CMs, Council Webform)

I have lived in Montgomery County for 20 years, I write to urge you to support Bill 14-19 which will help integrate the perspective of civilians — the ultimate consumers of police services — into law enforcement in the County. I have never had any complaint personally with any interaction with Montgomery County police. Nevertheless, we live in a very dynamic, populous and diverse county with a large police force. Inevitably, abuses can and will occur — and we have recently seen what appears to be a very troublesome encounter that resulted in the injuring of a civilian through the use of excessive force. It is important that the police themselves are seriously investigating this incident and that the Council pays close attention to that investigation. But in addition, a stronger civilian voice in policing — the goal of Bill 14-19 — can help create an environment of increased trust between police and communities so that problems can be addressed and minimized. Law enforcement has such a uniquely important function, and consequently have been given by the people of Maryland the authority to use force under certain circumstances, that a civilian body as envisioned by Bill 14-19 will in my view help make Montgomery County safer for every one of us. I strongly urge you to support it.

Close

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Montgomery County Lodge 35, Inc.

18512 Office Park Drive
Montgomery Village, MD 20886

Phone: (301) 948-4286

Fax: (301) 590-0317

July 9, 2019

Montgomery County Council

Bill 14-19 Policy Advisory Commission

Statement on Bill 14-19

Good evening:

My Name is Torrie Cooke, President of the Fraternal Order of Police Lodge 35, Inc. Bill 14-19, although well-intentioned, does not address the core issues necessary for the Montgomery County police department and community to move forward. Policies in the Montgomery County police meet or exceed best practices. What we are seeing is the result of the abandonment of true community policing and a return to stat driven policing. Police management proudly supports a commission reviewing police policy because they know, as the FOP knows, our policies are superior to most police departments. While police leadership may care less about waste, both time and money, the FOP does not care to see taxpayer dollars thrown away. The problem with this police department is not policies or rogue officers, the problem is leadership. Police leadership has become more abrasive and hostile toward the working police officer. I have been a police officer in this county for (25) twenty-five years, (9) nine serving as the Montgomery County FOP President. In my opinion, this police department has been on the decline for at least the last (12) twelve years.

Working police officers are pressured by police managers to focus primarily on traffic citations and arrests (criminal and civil). Managers seek increased numbers of arrests and traffic citations in an attempt to quantify productivity. Managers post numbers in open areas in an effort to shame officers with lower numbers. They even go to such extremes to create presentations that depict thinner body type officers as those with high numbers, and larger body type officers as lazy with lower numbers. If pressuring working police officers to aggressively seek out arrests and traffic citations by shaming is not enough, officers are told lack of numbers will prevent them from attending training and experiencing temporary assignments in specialized units. Yes, there is a community policing unit and police leaders attend various meetings with the community, but that is not good enough. Front line police officers are not receiving training in community policing or being engaged by police management on core community policing principles. The members of the FOP brought the lack of leadership to the attention of the County and have been ignored.

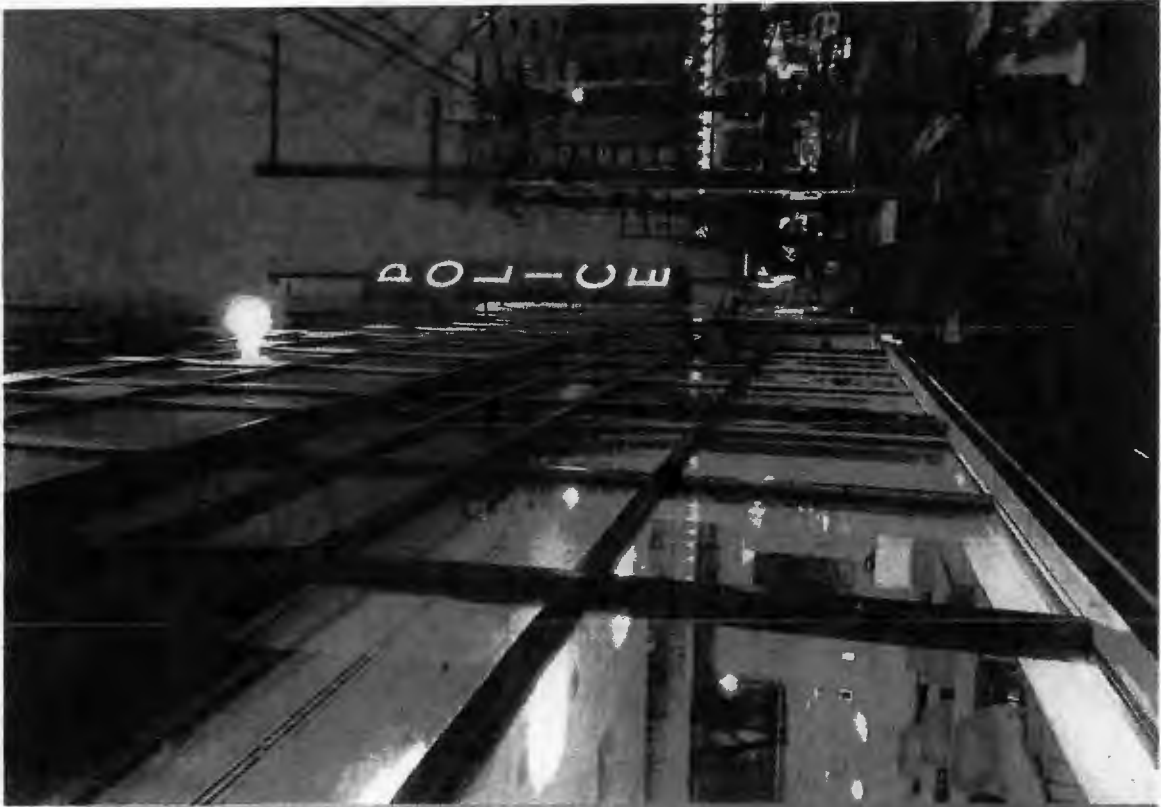
A strong emphasis should be placed on crime prevention rather than over enforcement. Management tactics and community concern about policing is why the Montgomery County

police and the FOP embraced Problem Oriented Policing (POP) in the late eighties, and fully implemented it in the early 1990's. Since the early to 2000's, community policing philosophy initiatives have stopped. As a result, the police department has returned to its failed management by statistics. Working police officers are pressed between following the direction of police managers and protecting the community. The past and Acting Police Chief, and police managers, believe the police department has a productive community policing effort. However, I do not believe they care to truly engage the department as a whole in true community policing. As I have said to each one of you and the County Executive, community policing is not a program for a single community policing officer or community policing division—community policing is an organizational philosophy that must be embraced from the top-down and the bottom-up. Police leadership must accept that police officers cannot fight crime alone and must build partnerships with the community to solve community problems. Every police officer on the police department must be involved.

Under the POP policing model, officers were empowered to use discretion when policing. Emphasis was placed on crime prevention through problem solving instead of aggressive, over-policing of the community. Strict enforcement should not be the rule, it should be last resort to address entrenched crime. Enforcement has its place and may be an outcome of collaboration. Quality of life for the community and the police officer should be the goal. Police officers and the communities they protect are less likely to have conflict when they work together toward the same goal—improving quality of life. It provides the front-line police officer the discretion needed to problem solve through seeking alternatives.

The FOP asks the Council to **oppose** Bill 14-19.

2nd District Workload Analysis 2019 Goals



2nd District

How do we spend our time

• The department = 233,065.

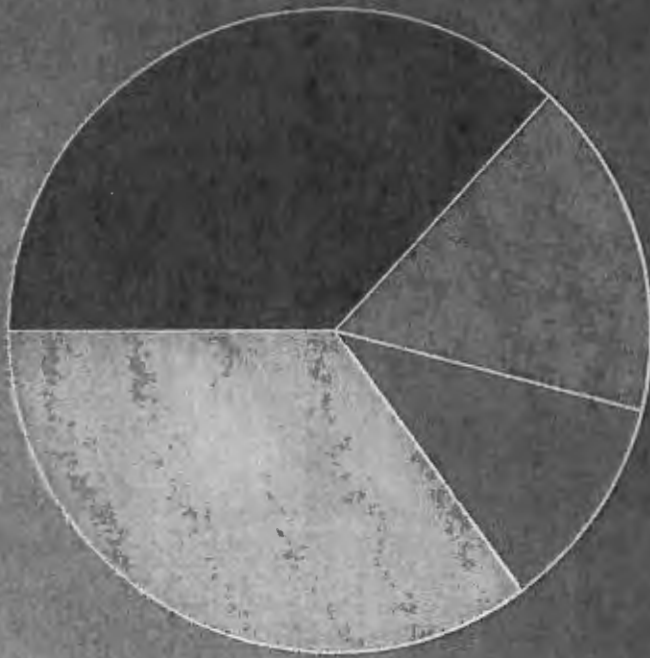
• The 2nd District = 35,791 (15%)

• 37% - 2991/2995 - 1

• 17% - Alarms

• 11% - 5511 (total)

Total Calls for Service

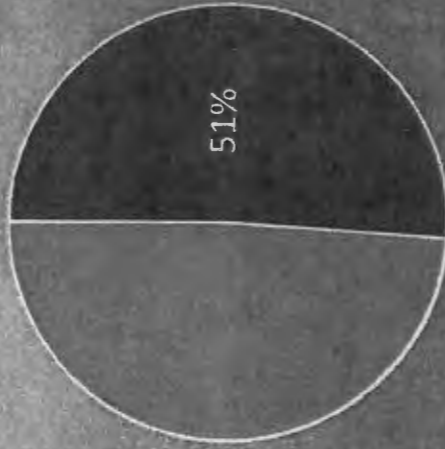


TOP 10

(Dash 2 and 4 Calls-for-Service)

- 1. Thefts (total) - 2,251
- 2. Fraud (total) - 640
- 3. Lost Property - 276
- 4. Burglary (total) - 227
- 5. Vandalism - 205
- 6. Domestic - 205
- 7. Suicidal Subjects - 195
- 8. Missing Person - 186
- 9. Police Information - 168
- 10. Assault - 166

Dash 2 & 4



Individual Officer Statistics

(CRIMINAL)

	FELONIES	MISDEMEANORS	CRIMINAL CITATIONS	CIVIL CITATIONS	WARRANTS
Low	0	0	0	0	0
High	7	17	15	103	29
Avg. - ALL	0.8	3.5	1.6	4.4	3.2
Avg. - zeros	1.8	4.7	3.6	7.7	4.6
Avg. - DAYS	0.4	3.4	1.1	0.9	5.6
Avg. - NIGHTS	1.0	5.0	2.4	3.6	4.0
Avg. - MIDS	1.2	3.1	1.8	10.3	1.2

Individual Officer Statistics (Traffic)

	Low	Average	Median	High
DUI	0	1.9 all	6.5	19
		3.5 - zeros		
		4.3 midnights		
		1.6 evenings		
Citations	0	47 all		498
		43 days		
		62 evenings		
		36 midnights		
Warnings	5	104		1005
		136 days		
		79 evening		
		96 midnights		
Combined	38	151 all		1096
		179 day		
		141 evening		
		132 midnights		



Unsatisfactory Performance



DAY WORK

- 42 traffic stops (< 1 / week)
- ZERO arrests
- ZERO criminal citations
- ZERO civil citations
- 74 total reports (1.4 / week)



MIDNIGHTS

- 41 traffic stops (< 1 / week)
- 4 arrests (3 from one incident)
- ZERO DUIs
- 4 ACRES (one / 3 months)



What's Possible

• Best Overall Productivity



302 Traffic Stops (174/265)

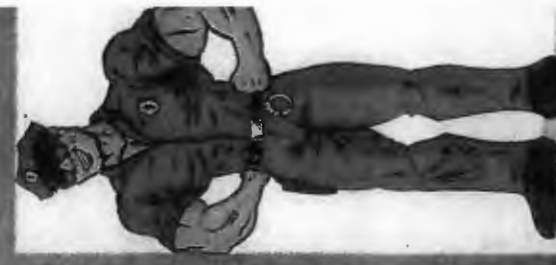
- 18 DUIs
- 5 Felony Arrests
- 2 Misdemeanor Arrests
- 9 Criminal Citations
- 11 Civil Citations
- 1 Warrant Served
- 50 total reports

per month



220 Citations/343 warnings

- 4 DUIs
- 3 Felony Arrests
- 11 Misdemeanor Arrests
- 10 Criminal Citations
- 103 Civil Citations
- 4 Warrants Served
- 92 total reports



500%

- 151 - Traffic Stops
- 9 - DUI's
- 2.5 - Felony arrest
- 1 - Misdemeanor Arrests
- 4.5 - Criminal Citations
- 5.5 - Civil citations
- 5 - Warrants Served

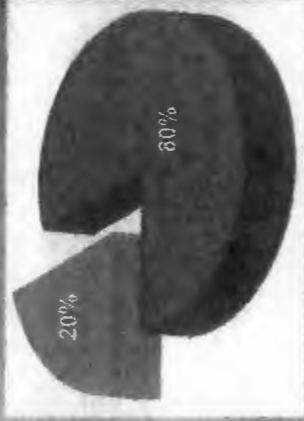
20% Productivity

- 110 - cites / 171.5 warnings
- 2 - DUI's
- 1.5 - Felonies
- 5.5 - Misdemeanor
- 5 - Criminal Citations
- 51.5 - Criminal Citations
- 2 - warrants



20%

20% Productivity



- 60.2 - Traffic Stops
 - 3.6 - DUI's
 - 1 - Felony arrest
 - .04 - Misdemeanor Arrests
 - 1.8 - Criminal Citations
 - 2.2 - Civil citations
 - 0.2 - Warrants Served
- 24 - cits / 68 warnings
 - .08 - DUI's
 - .06 - Felonies
 - 2.2 - Misdemeanor
 - 2 - Criminal Citations
 - 20.6 - Criminal Citations
 - .08 - warrants

What Should We Measure, and Why?

- Arrests total?
- Felonies?
- Misdemeanors?
- In custody & call for service vs. self-initiated?
- DUIs?
- Traffic Stops?
- Warnings?
- Citations?
- SEROs?



208 Days / year (10 hour shift)

2080 hours / year

- 48 days / 480 hours (3 months off – in service, vacation, sick, etc.)

- 416 hours (admin 2hrs/day)

- 140 hours (lunch 1/2 hour/day)

1044 hours / year

160 days / year



400 CHALLENGE



Dedicated Traffic Enforcement

1 hour a day

x 4 traffic contacts

4 citations/warning/SEROs

4 x 160 = 640 contacts

1600 quality traffic contacts in 3 years



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Source			

[HTML](#)

From: "MCCouncil@App.MontgomeryCountyMD.gov" <MCCouncil@App.MontgomeryCountyMD.gov>
 Date: 8/29/2019 12:31:41 PM
 To: "county.council@mccouncilmd.lmhostediq.com" <county.council@mccouncilmd.lmhostediq.com>
 Cc:
 Subject: MCPD review board - Submitted By:Mrs Andrea Kronzek - (Attn: All CMs, Council Webform)

I am writing to you in support of our wonderful Montgomery County Police Department. A citizen review board is not safe or fair for those officers who risk and sacrifice so much to keep our community safe. A review board should ONLY be comprised of individuals who have knowledge and experience in the profession of law enforcement, especially those who know what it's like to have "boots on the ground," like any other professional review board.

I have been a Montgomery County resident since 1980 and have been served well by MCPD. They do so much for us; please do what's right by them.

Sincerely,

Andrea Kronzek

Close

From: Navarro's Office, Councilmember [Councilmember.Navarro@montgomerycountymd.gov]
Sent: Wednesday, July 03, 2019 9:06:09 AM
To: Council President
Subject: FW: Bill 14-19 - Policing Advisory Commission Should Be Opposed

From: aferrufi <aferrufi@yahoo.com>
Sent: Tuesday, July 02, 2019 10:51 PM
To: Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>
Subject: Bill 14-19 - Policing Advisory Commission Should Be Opposed

[EXTERNAL EMAIL]

Bill 14-19 ♦ Policing Advisory Commission should be opposed.

Safety and protection typically rest near the top of most important needs of a community. The law enforcement professionals of Montgomery County are tasked with providing these critical elements of lifestyle. The idea to form an oversight committee which can evaluate and form policy for best practices in law enforcement is commendable. It is imperative to staff such a body with individuals that have training, experience and knowledge in law enforcement. Having Montgomery County citizens with no law enforcement experience making policy and procedure recommendations is irresponsible and threatens the provision of safety and protection to the residents of the County.

I will be in attendance of the up coming council meeting. Having been born and raised in Montgomery County, growing up on Piney Branch Road on the border of PG County, I have seen first hand the dangers my community faces and the tremendous help Montgomery County police does to help the innocent lives of those who need it. I have been chased by would be robbers, or rapists growing up in my neighborhood. I have had to call the police when my parents would have domestics. I have had to call on first responders as my mother suffered from mental breakdowns. Every single time, those sirens were angels to me. Our apartments were low income housing, none of us are white, my parents don't even speak English, and yet each time those officers helped us without second thought.

As a first generation Hispanic American, I support the Montgomery County Police, and my family supports them as well. I hope the County we have called home our entire lives can do the same. It truly breaks our hearts to see what the current times are doing to those who sacrifice so much.

Sincerely,

Angie Ferrufino

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Message	Details	Attachments	Headers
Source			

[HTML](#)

From: "MCCouncil@App.MontgomeryCountyMD.gov"
 <MCCouncil@App.MontgomeryCountyMD.gov>
 Date: 6/29/2019 5:10:38 PM
 To: "county.council@mccouncilmd.lmhostediq.com"
 <county.council@mccouncilmd.lmhostediq.com>
 Cc:
 Subject: Vote AGAINST a MCPD Citizen Review Board - Submitted By:Mr Edwin V. McKENNEY, Jr. - (Attn: All CMs, Council Webform)

Vote AGAINST a MCPD Citizen Review Board

As a former Law Enforcement Officer (42 years), a legal resident and registered voter in Montgomery County (42 years), I am adamantly AGAINST the establishment of a Citizen Review Board for the Montgomery County Police Department. I respectfully request that YOU VOTE AGAINST this Citizen Review Board. I strongly feel that to service on any such oversight committee you must have had the proper training in the subject matter, but in this case, it is more important to have the working experience of a Police Officer in order to establish or evaluate a safe, sound and effective work policy. Be mindful that most citizens, including yourself, have NOT walked in the shoes of a Law Enforcement Officer nor have you faced the diverse incidents that a Police Officer must deal with each and every day. Sometimes they only have limited information regarding the call that they are responding to and upon arrive at the scene may only have a matter of seconds to evaluate the incident and make a decision or take a course of action. Thank you for your consideration in this matter.

Vote AGAINST a MPCD Citizen Review Broad

Close

Dear County Council Members,

I am writing to you to ask that you reject this idea of creating a citizen review board committee to oversee what our MC Police officers do on a daily basis.

Our police have quite a good reputation of carrying out their jobs and responsibilities of being a police officer. Often times their jobs are routine situations where they interact with the citizens of this county. But sometimes they are faced with situations that may involve more serious risk, where they need to make split second decisions that can have lasting affects. They need to be able to trust their gut and not being told that they can't do their job.

The last thing they need is to have their jobs being questioned about what they do. Having a citizen review board judging what and why with what goes on in police work who do not understand laws will not work.

I ask that you consider the bigger picture and vote this down. Please trust the process and trust our police force that has such a great reputation through out our great Nation.

Thank you,
Brenda Hartwig

I back the blue and I support our Montgomery County Police Department.

Brenda_Hartwig@mcpsmd.org

Brenda Hartwig, CNA, CMT
MCGEO Union Steward
School Health Room Technician II at
Judith Resnik Elementary School

(240) 740 3242 direct line
(240) 740 3240 main office
(301) 840 7135 fax

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From: Navarro's Office, Councilmember [Councilmember.Navarro@montgomerycountymd.gov]
Sent: Friday, July 05, 2019 9:12:13 AM
To: Council President
Subject: FW: Vote NO on 14-19, stand AGAINST a costly and unnecessary buetocratic committee

From: Dominick Stanley <dj.stanley@comcast.net>
Sent: Thursday, July 04, 2019 10:46 AM
To: Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>
Subject: Vote NO on 14-19, stand AGAINST a costly and unnecessary buetocratic committee

[EXTERNAL EMAIL]

Dear Council President Navarro

i am emailing you you today to strongly encourage you to vote against bill 14-19, a piece of legislation sponsored by Hans Reimer and would, as you are aware, would create a Police Oversight Committee.

this is a misguided piece of legislation that aims to create needless government oversight and buerocratic red tape.

it is simply a hammer looking for a nail, there is hitherto no evidence that the Montgomery county police department is engaging in any corrupt or unseemly practices which would warrant such a intrusive over step into a department that is nationally recognized as currently one of the best agencies in the United States.

I have been a resident of Montgomery County for five years now and see the great work the Montgomery County Police Department does everyday, they are engaged, compassionate and helpful.

this bill would burden the already over taxed citizens of this county even further for absolutely no gain.

Bill 14-19 will require \$200,000 of taxpayer funds. The County Council has a responsibility to make use of this money in the very best interests of its citizenry and not on unilateral causes. In an already strained County budget, Education, Infrastructure and the Arts sustain life-threatening cuts. On balance, the cost of Bill 14-19 is an unnecessary expenditure to form a group whose purpose can be argued to be less than efficacious to the lives of Montgomery County residents.

i would highly encourage you to read this article which discredits the use of Police Oversight Committees as a tool:

<https://nccs.net/blogs/articles/dangerous-trends-toward-civilian-police-review-boards>

Also i think it should be noted that The Presidents Task Force of policing in the 21st century, commissioned by the Obama Administration states that there is no strong evidence that Police Oversight Committees work and suggest more research be done in this area.

Finally, in what other profession do individuals who have no experience in a field recommend policy for professionals who do the job everyday? We do not have non medical professionals review the actions of doctors or

Nurses, a medical review board is composed of peers. Judges review the decisions of other judges in case law, so on and so forth.

It is not the time nor place for a Police Oversight Committee, in short it would cost the tax payers too much money, there is no reason for this committee because trust is already high amongst the Montgomery County Police and the citizens they protect and all research suggests there is no evidence such a committee would work and more information needs to be gathered.

so please vote against bill 14-19 when presented the opportunity to do so.

Montgomery County Resident,

Dominick Stanley

From: Navarro's Office, Councilmember [Councilmember.Navarro@montgomerycountymd.gov]
Sent: Friday, July 05, 2019 1:45:58 PM
To: Council President
Subject: FW: STRONG OPPOSITION to Bill 14-19

From: Eric Penner <eric.penner@gmail.com>
Sent: Friday, July 05, 2019 1:45 PM
To: councilmember.albornoz@montgomerycontymd.gov
Subject: STRONG OPPOSITION to Bill 14-19

[EXTERNAL EMAIL]

Dear council members,

I am writing this email in strong opposition to Bill 14-19 - Police Advisory Commission.

I have lived the vast majority of my life in Montgomery County, Maryland. My friends live here. My family lives here. In my time in the county I have found that we have one of the greatest police departments in the entire nation. They are well trained and very professional. Day in and day out they risk their lives keeping us safe and the vast majority of the time they do the right thing. I do acknowledge that there have been a few isolated incidents that are alarming. However, they are just that, isolated incidents. The officers involved should be dealt with accordingly.

This bill will not help police/community relations. It will have the opposite effect. Citizens with no training and no experience have no business advising policy. Would you grab a random citizen off the street and ask them to balance your budget? I know I wouldn't. So why do you want to appoint people with no knowledge to tell the police how to do their job? The officers on the Montgomery County Police department deserve better. The voters of this county deserve better. You can do better.

Thank you,
Eric Penner
current residence 15422 Peach Leaf Dr. North Potomac MD 20878

From: Navarro's Office, Councilmember [Councilmember.Navarro@montgomerycountymd.gov]
Sent: Thursday, August 29, 2019 4:18:42 PM
To: Council President
Subject: FW: Montgomery County Police Department

From: J Eastman [mailto:jte4@verizon.net]
Sent: Thursday, August 29, 2019 4:18 PM
To: Albornoz's Office, Councilmember <Councilmember.Albornoz@montgomerycountymd.gov>; Friedson's Office, Councilmember <Councilmember.Friedson@montgomerycountymd.gov>; Glass's Office, Councilmember <Councilmember.Glass@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>; Jawando's Office, Councilmember <Councilmember.Jawando@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>; Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Riemer's Office, Councilmember <Councilmember.Riemer@montgomerycountymd.gov>
Subject: Montgomery County Police Department

[EXTERNAL EMAIL]

Dear Councilmember,

I support MCPD and do not feel as though a citizen review board is safe or fair for those officers out there risking their safety, sacrificing their holidays and birthdays with family to keep my family and neighbors safe. A review board should only be comprised of individuals who have knowledge and experience in the profession of law enforcement, as with any other professional review board.

I have been a resident for 50 years and have been served well by MCPD.

Sincerely,
Joyce Eastman

Joyce Eastman
Enchanted Adventures Travel

301-257-4939
<http://www.enchantedadventurestravel.com/>
"Like" Enchanted Adventures Travel on [Facebook](#)

From: Navarro's Office, Councilmember [Councilmember.Navarro@montgomerycountymd.gov]
Sent: Wednesday, July 03, 2019 10:08:21 AM
To: Council President
Subject: FW: Bill 14-19 Policing Advisory Commission

From: Hughes, Kristie L <Kristie_L_Hughes@mcpsmd.org>
Sent: Wednesday, July 03, 2019 9:38 AM
To: Albornoz's Office, Councilmember <Councilmember.Albornoz@montgomerycountymd.gov>; Friedson's Office, Councilmember <Councilmember.Friedson@montgomerycountymd.gov>; Glass's Office, Councilmember <Councilmember.Glass@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>
Subject: Bill 14-19 Policing Advisory Commission

[EXTERNAL EMAIL]

Dear Councilmember,

As a longstanding citizen of Montgomery County (62 years), I am contacting you regarding Bill 14-19, Policing Advisory Commission.

It is admirable to propose establishing a commission to evaluate and form policy for best practices in law enforcement. However, I feel it is imperative that members of such a commission consist of individuals that have training, experience, and knowledge in law enforcement. A commission comprised of Montgomery County citizens with no law enforcement experience making policy and procedure recommendations is negligent and jeopardizes the safety and protection of County residents.

As one of your constituents, I oppose Bill 14-19.

Kristie Hughes

Safety and protection typically rest near the top of most important needs of a community. The law enforcement professionals of Montgomery County are tasked with providing these critical elements of lifestyle. The idea to form an oversight committee which can evaluate and form policy for best practices in law enforcement is commendable. It is imperative to staff such a body with individuals that have training, experience and knowledge in law enforcement. Having Montgomery County citizens with no law enforcement experience making policy and procedure recommendations is irresponsible and threatens the provision of safety and protection to the residents of the County.

Thank You
Larry Jerman

From: Navarro's Office, Councilmember [Councilmember.Navarro@montgomerycountymd.gov]
Sent: Tuesday, July 02, 2019 1:09:54 PM
To: Council President
Subject: FW:

From: lamasada@aol.com <lamasada@aol.com>
Sent: Tuesday, July 02, 2019 1:07 PM
To: Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>
Cc: Friedson's Office, Councilmember <Councilmember.Friedson@montgomerycountymd.gov>; Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>
Subject:

[EXTERNAL EMAIL]

My name is Melanie Eberly. I am a resident in Montgomery county. Bill 14-19 will require 200,000 dollars of taxpayer funds. The county council has a responsibility to make use of this money in the very best interest of its citizens, and not unilateral causes. In an already strained county budget this bill is an unnecessary expenditure. To form a group whose purpose can be argued to be less than efficacious to the lives of Montgomery county residents.

I also think citizens with no law enforcement experience making policy and procedure recommendations is irresponsible. There are so many over sights to the police now why do we need one more. DOJ, PERF, Ethics commission, State Attorney, county attorney. The list can go on.

Iâ€™m asking you to oppose Bill 14-19
Thank you

Melanie Eberly

Montgomery County Council:

Bill 14-19 will require \$200,000 of taxpayer funds. The County Council has a responsibility to make use of this money in the very best interests of its citizenry and not on unilateral causes. In an already strained County budget, Education, Infrastructure and the Arts sustain life-threatening cuts. On balance, the cost of Bill 14-19 is an unnecessary expenditure to form a group whose purpose can be argued to be less than efficacious to the lives of Montgomery County residents.

This bill seems to stem from the Robert Lawrence White case and I have to say, I'm appalled at the reaction of my County Council. Yes, it was a tragic chain of events. I've watched the video many many times. Officer Badgujar tried to talk to the one person walking in the are of a home alarm. If the officer had not tried to speak to him, everyone would be saying; "Why didn't you stop him?", "Why did you let him get away." Mental illness or not, White was 100% responsible for the course of actions that day. He obviously, didn't need to be "ARMED" to cause bodily harm to someone. Two hands can end a life. No weapon needed. That being said, Montgomery County police already has administrative review process and have Howard County State's Attorney Office for independent review of police procedures and law. This County doesn't need to spend \$200,000 of taxpayer funds for this bill.

I see the County is already spending to much for immigration/undocumented immigrant/legal aid and the \$200,000 to "support" security needs for the Faith-based Community. Are you kidding me??? These church's, mosque's, and synagogue's WILL NOT pay for their own security and they have more money then the County.

As a conscientious, thoughtful, LAW ABIDING resident, bill 14-19 must be opposed.

Sheryll Jones
Germantown, Maryland

PS. Jawando - I've been hit by a car when I was in a cross walk. I've had back and neck surgeries and will have life-time injuries because of someone else's carelessness. You owe the residents of Montgomery County and Maryland State Police an apology for spinning that traffic stop into a race issue. Shame on you!

Email Viewer

Message	Details	Attachments	Headers
Source			

HTML

Safety and protection typically rest near the top of most important needs of a community. The law enforcement professionals of Montgomery County are tasked with providing these critical elements of lifestyle. The idea to form an oversight committee which can evaluate and form policy for best practices in law enforcement is commendable. It is imperative to staff such a body with individuals that have training, experience and knowledge in law enforcement. Having Montgomery County citizens with no law enforcement experience making policy and procedure recommendations is irresponsible and threatens the provision of safety and protection to the residents of the County.

Thank You

Terrance Johnson

Close

County Council,

As a county resident, I am writing to voice my strong opposition to Bill 14-19. The stated goal of this legislation is to "create a entity that will inform the Council on policing best practices." However, there is no requirement that members have any type of law enforcement experience (or any experience of any kind for that matter). This is very troubling because the Police Advisory Commission is to "focus on key policy issues: use of force, recruiting and training, traffic stops, policing in schools, dealing with the mentally ill, technology and policing, and others" (Diego Uriburu). Reading the language of this bill and the supporting documents in the packet published on the county website, this bill seems to be intended not to engage the public, but to empower special interest groups.

I have been involved in public safety in Montgomery County for nearly 20 years. Both of my parents also dedicated their careers to law enforcement in Montgomery County. You would not believe the amazing work public safety professionals do everyday in our county. Yet the recent actions by the council in this and other issues, have caused many in the law enforcement community to question if we have your support. It has become a major distraction from our duties and causing moral to tank.

If the council is truly concerned with embracing best practices, there are a number of amazing opportunity for invest in our department's continued learning and development. Some examples include the National Institute of Justice, Police Executive Research Forum, FBI Academy and the International Association of Chiefs of Police.

Thank you for your time and consideration,
Victor

*William R. Milam
19904 Briarely Hall Drive
Poolesville, Maryland
240-678-9396*

July 8, 2019

The Honorable Nancy Navarro
President, Montgomery County Council
Stella Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Re: Bill 14-19 – Policing Advisory Commission

Dear Council President Navarro,

I write this letter as a proud Poolesville and Montgomery County resident, and to stand in support of the women and men of the Montgomery County Police Department. My work causes me to do a great deal of traveling across this country. I have had the occasion to interact with many law enforcement professionals and departments across the U.S., and I think you would be hard-pressed to find other departments that demands the accountability and provides the services of the Montgomery County Police Department.

Each one of my interactions with the officers of this county has been professional and polite. Whenever I am traveling through our county with my young son, Jack, officers of all ethnicities are always kind enough stop, shake his hand, and say encouraging words to him. Similarly, whenever I have been stopped for a traffic violation, I have been treated with the utmost respect and professionalism.

Simply put, I am happy with the service and protection that the police department gives my family and me.

Like you, I've seen news clips and television reports of stories from around the country that appear to depict officers performing below the standards that we expect of them. In no way am I attempting to claim that all police officers and deputy sheriffs are perfect. They make mistakes and sometimes fall short of standards.

Just like in any other profession where there is the human element, there will be the occasional mistake. While some mistakes are more regrettable than others, I feel confident in saying that the vast majority officers in my community exceed the standards we set for them.

I am writing to you because I don't believe this legislation will address the sort of review oversight that is intend. As you know, the Montgomery County Police Department is a CALEA accredited agency, which means that they conduct their business in accordance with the best

practices from around the country and that they meet universally recognized standards created by experts in the field of professional policing. It is very difficult to achieve and then maintain certification, but the police department has accomplished this feat every three years since becoming accredited.

The Criminal Justice Coordinating Commission, which is comprised of experts in the fields of law enforcement, the judiciary and the legislature, as well as 7 members from the general public, has the power to review and comment on programs at the request of the County Executive or the Council, and can make reports and recommendations as it deems appropriate.

In addition, the police department has oversight from its office of Internal Affairs and is subject to more scrutiny on a daily basis than just about any other profession. Everyone is using a cell phone to record interactions and body and in-car cameras are used to watch everything that an officer does.

As it relates to civilian participation in policy-making, and oversight; while I think it is necessary, (and I applaud you for seeing the need) I also think it already exists.

Just like in the U.S. Military, the President of the United States, along with civilian secretaries of each branch, provides civilian oversight, policy-making authority, and control over the armed forces. On the local level, the civilian County Executive, with confirmation from the civilian County Council, appoints the police chief. We rely on you to provide oversight, participate in policy-making recommendations and serve as the County's legislative body over our public safety departments.

The Council was elected by our county's citizens to provide guidance and oversight over the government. We elected you because we trusted your judgement and governing ability. It is your job to guide the police department; not the job of a panel of non-expert, random citizens that I did not elect. The responsibility of policy-making and oversight over the police department is needed but, again, we have elected you to do that.

As far as I am concerned, I did not elect the Council and Executive to do a job so important, only for you to delegate that responsibility to someone else.

Additionally, people who are not experts in the field of professional policing should not be making or recommending policy decisions related to professional policing.

For example, I have never had a background in the medical profession. It would be inappropriate and, perhaps, dangerous for me to be appointed to a panel which would review and make policy recommendations to doctors and surgeons. I am neither a professional, nor am I an expert in that field. The same is true in this situation.

In a letter related to this matter, dated May 22, 2019, a councilmember explained, "The purpose of our proposed body is to provide civilian or community participation in policing policy-making..." and that "while the expertise of the members on the Criminal Justice Coordinating

Commission is invaluable, they would present the wrong impression for an entity that must be – and appear to be – community driven and independent.”

It appears to me that the goal of this committee isn't to strive towards that excellent standard that we all want; if it were, we would use and enhance the systems that we already have in place – systems that involve members of the general public and experts in the field. Rather, this seems to be a measure aimed at appeasing folks who have no business being involved in policy-making decisions.

Going one step further, and generally speaking, we know that doctors review and recommend policy changes for other doctors and lawyers review and make policy recommendations for other lawyers. In fact, the U.S. military has its own judicial system (the UCMJ), because people who are not experts or professionals in those fields should not be involved in reviewing, passing judgement, and policy-making decisions.

Why law enforcement would be treated any differently than those other professions doesn't make much sense.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'William R. Milam', with a stylized flourish at the end.

William R. Milam



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

July 9, 2019

Bill 14-19 Testimony

Good evening Council President Navarro and members of the Council.

I am Dale Tibbitts, Special Assistant to County Executive Elrich. I am here on behalf of Executive Elrich in support of Bill 14-19 Policing Advisory Commission.

The Executive wishes to state that support for public input through this bill does not in any way mean a lack of support for the hardworking, dedicated police officers who serve our county every day. Input from the community will make our department even better.

The Bill would create a commission, consisting of community members and other appointed members, to advise the Council on policing matters, best practices, policies and public education. The Council would appoint 9 public members. The County Executive would nominate 4 members for the Commission. The Police Chief, or the Chief's designee, would also sit on the commission as a non-voting ex officio member. There is also a representative of the employee organization certified under Article V of Chapter 33 – the FOP police union.

The Bill would require the Commission to meet at least 6 times during the year, to hold at least one public forum each year for community input on policing matters and to engage in public education.

The Executive has two recommendations:

- The Bill does not expressly say that the union is permitted to nominate their own member for Council confirmation to the commission. Like the other ex-officio member, the Police Chief or the Police Chief's designee, it should specify the union president or the president's designee.
- Under Duties, the Commission should advise the Council and the Executive on policing matters.

Thank you for this opportunity to express the County Executive's view on this bill.



Statement of Support with Amendments Bill 14-19: Police Advisory Commission

(July 9, 2019)

The ACLU of Montgomery County MD joins other local community groups to request amendments to Bill 14-19, establishing a police advisory commission.

Our chapter is in firm support of more community oversight and public transparency for the Montgomery County Police Department (MCPD). While we understand the current state law and the police union contract that the County approved, greatly limits public transparency, we see room to strengthen this proposed police advisory commission.

The community has seen too many high profile police misconduct incidents. Recently, we endured the shooting of Robert White, a black man out for a walk in his own neighborhood, we've heard a cop calling young black men the N Word, we have seen cops on video conducting body and property searches without any regard for the 4th amendment's prohibition against unlawful searches and seizures, and last week, the public witnessed an officer ramming his knee into the neck of a handcuffed man lying face down on the ground.

The Police Advisory Commission must be established as a unique entity amongst the County's various public commissions. In order to adequately serve its mission of ensuring MCPD is following best practices that are consistent with the County's values, a few amendments must be made:

The Police Advisory Commission must have access to all police department information that is accessible to members of the County Council.

The Police Advisory Commission cannot be restrained from advocating at the State level, as one of the primary reasons for creating this Commission is the need to reform state law, as it affects policing in Montgomery County.

The Commission must not include members of the Fraternal Order of Police. The legislation's sponsor, has stated the intent of the Commission is to establish trust, transparency, and accountability in policing, particularly in communities of color. The Fraternal Order of Police, as a matter of course, lobbies against each of those directives. The police union has adequate influence at the County and State level, the role of the Police Advisory Commission is to allow the public an opportunity to shape its police department.

The Commission must take petitions from the public as part of its work in evaluating current practices and making recommendations for improvement.

Recommendations made by the Police Advisory Commission must be shared with the public, along with a public response from MCPD.

All recommendations are to be made to the full Council (not just the Public Safety committee) in a public hearing setting.

Respectfully submitted,

ACLU of Maryland, Montgomery County Chapter

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Testimony of Art Brodsky
July 9, 2019
Before the Montgomery County Council
Subject: Bill 14-19 to establish a Policing Advisory Commission

President Navarro, Vice President Katz and members of the Council,

My name is Art Brodsky, and I am from Olney. Over the years, I have been involved in a number of civic and volunteer endeavors ranging from being a member and president of the Library Board to being a Board member with Nourish Now.

For the last two and a half years, I have worked as a volunteer with the Montgomery County Police Department, working first with former Chief Tom Manger and with his successors, Chief Russ Hamill and Chief Marcus Jones. My views tonight are my own.

I would like to commend Councilmember Riemer and the co-sponsors of this bill, Councilmembers Jawando, Hucker and Glass, for introducing a timely and important piece of legislation.

In looking at the bill, it is as important to note what the bill does, what it does not do and what it could do with some minor adjustment.

What the bill does is twofold. Its members will serve as advisers to the Council on policing matters while providing information on best practices and recommending changes to current policies. The Commission will also serve as a link to the community, taking on public liaison and public education roles.

The bill does not create a civilian board with the operating authority over the Police Department. Some jurisdictions have such boards. I don't believe we need one here as we already have one. Its members are sitting in front me.

I would like to suggest one minor addition. The bill as written, particularly in subsection (e), established the Commission as an advisory group to the Council. If the goal is to improve the Police Department, you should consider a language requiring or allowing in certain circumstances the Commission to transmit its research and findings directly to the Police Department.

There is a lot of background work needed to come up with comprehensive information and recommendations on best practices, legislation, whether at the County or State level, or other issues. The Department has limited resources for this type of work. That Commission's findings could be shared with the Police Department so that the Department can evaluate it and put it to use.

Jews United for Justice (JUFJ)

Melissa Coretz Goemann

Silver Spring, MD

www.jufj.org

**JEW'S UNITED
FOR JUSTICE**

THINK JEWISHLY. ACT LOCALLY.

Montgomery County Council Public Hearing - Bill 14-19

July 9, 2019, 7:30 pm

July 9, 2019

Dear Montgomery County Councilmembers:

My name is Melissa Coretz Goemann and I am offering this testimony in **support of Bill 14-19**, which establishes a Police Advisory Commission, on behalf of Jews United for Justice (JUFJ), an organization that includes 5,000 Marylanders who work to advance economic, racial, and social justice in Montgomery County and the Baltimore-Washington region by educating and mobilizing our local Jewish communities. I am also a resident of Silver Spring and have worked on juvenile justice and civil rights issues for 15 years, currently as the Senior Policy Counsel for the National Juvenile Justice Network.

JUFJ has become increasingly troubled by the treatment of people of color by the Montgomery County Police Department (MCPD). We recently marked the one-year anniversary of the killing of African-American Silver Spring resident Robert White by a Montgomery County police officer. Since that shooting, JUFJ has been a member of the Silver Spring Justice Coalition, which formed as a response to that event. We have listened to the concerns voiced by people of color who are treated differently by our police – stopped more often, subjected to more searches and more use of force, and treated disrespectfully – and there have also been several public incidents that have further substantiated these points. This includes body camera footage of a white Montgomery County police officer rounding up young African-American men waiting for a ride outside of a McDonald's in White Oak on alleged trespassing charges while calling them the n-word, and the incident from last week, for which a Montgomery County police officer was just charged, in which he was taped brutally kneeling a restrained young man of color who was lying on the ground. Additionally, recent Montgomery County racial equity data shows significant disparities in arrests of Black and Latino residents and in juvenile intake of Black and Latino residents.[1]

We appreciate Councilmember Riemer's bill 14-19 as an important step towards increasing needed public input into police policies and practices. As the Jewish leader Rabbi Yitzchak said: A leader can only lead a community if they consult with the community and the community agrees to the appointment. (Babylonian Talmud, Berachot 55a) This is especially important in terms of law enforcement. Due to the awesome power that the police have over individual liberty and life, the community should have greater input into how they wield that power to ensure that they act without bias and according to the highest standards and best practices. We must also recognize that institutions tend to have entrenched cultures that are resistant to change. It is not realistic to expect

them to change completely of their own accord; they need a push from the outside and particularly from people impacted by policing in our community. We can help to further that goal through establishing this commission.

However, we recommend the following amendments to strengthen the bill and ensure that the commission has a meaningful impact:

1. All commission meetings should be open to the public and provide time for public comment. The public should also be able to provide policy recommendations to the commission that the commission must respond to within a specified period of time.
2. The commission should report all recommendations to the full Council in a public hearing.
3. Provide a mechanism to elect some of the commission members and require that appointed members include many members from the groups most impacted by police misconduct and brutality, such as people of color and young people under thirty years old.
4. Since it could be a hardship for people from marginalized communities and young people to serve without compensation, a provision should be included for compensation of commission members.
5. The bill should explicitly specify the powers of the advisory commission and specify that the commission have the same access as council members to MCPD policies, data, and documents.
6. Explicit language should be added to the bill requiring a public response from MCPD regarding the recommendations made by the Commission, whether they will be adopted, and a rationale if they will not be adopted.
7. Clarify that individual PAC members can engage in advocacy at the state and federal levels in their individual capacity and provide a mechanism for the commission to engage in state and federal advocacy where necessary to effectively impact police policy.
8. Ensure adequate staff and resources are provided to the commission, including creating a special appropriation to fund it.

Our religion teaches that it was “all the people” who accepted the Torah at Mount Sinai. So too, we believe that all the people in our county have the right to help shape our county’s laws and policies. We support Bill 14-19 as a good first step towards more inclusion of the communities’ voice in guiding police policy and practices and urge you to support it with the suggested amendments.

Respectfully submitted,
Melissa Coretz Goemann, on behalf of Jews United for Justice

[1] Montgomery County Office of Legislative Oversight, “Racial Equity Profile Montgomery County” (June 20, 2019: 47-8).

From: Navarro's Office, Councilmember [Councilmember.Navarro@montgomerycountymd.gov]
Sent: Thursday, August 22, 2019 3:22:19 PM
To: Council President
Subject: FW: Including Youth and Young Adult Members on the Policing Advisory Commission

From: Diego Uriburu <duriburu@identity-youth.org>
Sent: Thursday, August 22, 2019 2:55 PM
To: Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>; Albornoz's Office, Councilmember <Councilmember.Albornoz@montgomerycountymd.gov>; Friedson's Office, Councilmember <Councilmember.Friedson@montgomerycountymd.gov>; Glass's Office, Councilmember <Councilmember.Glass@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>; Jawando's Office, Councilmember <Councilmember.Jawando@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Riemer's Office, Councilmember <Councilmember.Riemer@montgomerycountymd.gov>
Cc: Lupi Quinteros-Grady <lupi@layc-dc.org>; Gustavo Torres <gtorres@wearecasa.org>
Subject: Including Youth and Young Adult Members on the Policing Advisory Commission

[EXTERNAL EMAIL]



LAYC.Log



Identity Logo.jpg



CASALogoSansWo

August 22, 2019

Montgomery County Council

Council Office Building

100 Maryland Avenue

Rockville, MD 20850

Dear Esteemed Councilmembers:

We are writing to ask that you support our request to amend Bill 14-19, establishing a Policing Advisory Commission, to add two youth and young adult seats to the Commission; one for a person under 25 years of age, and the other for a person under 35 years of age. Both members would be selected and approved by a majority vote of the full County Council. We believe it is a necessary step in rebuilding trust between the

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community and the Police Department and ensuring those most negatively impacted by police interactions are represented on the Commission.

Thank you for your support of Bill 14-19. We appreciate your leadership and thoughtful consideration of this very serious issue.

While the proposed Policing Advisory Commission would provide a much needed outlet for community input on policing policy and is a good start, it is not nearly enough as is because it does not guarantee people who have the most negative interactions with the police are represented. Young adults often interact most with the police and have the most negative experiences. Accordingly, in order to have a chance at truly fixing the problem, this community needs to be fully represented in developing a solution, including representation on the Commission.

Young adults aged 18 to 34 comprise approximately 21% percent of the population of Montgomery County, but they comprised 60% of adults arrested last month from July 6th to August 5th, 2019. They were arrested at a rate three times higher than their share of the population and higher than every other age demographic. Many of those young adults, 24% of those arrested in that time period, were 18 to 24 years of age. However, we do not need data to know that young people have disproportionate contact with the Montgomery County police.

Almost all of the disturbing high profile and public incidents involving profiling or misuse of force have been against civilians younger (often significantly) than 35 years old. The young men detained at a McDonald's in White Oak this past May, where an officer was caught on camera using a racial slur, were all in their twenties. The young man assaulted by an officer at an Aspen Hill McDonald's in early July was nineteen years old.

Many of these incidents in which civilians are stopped and frisked, profiled, or subject to aggressive force or offensive and discriminatory language-- the incidents for which the community is calling for accountability and better policing--are all committed against young people of color. Yet of the county's over 75 already existing boards, committees, and commissions, very few comprise young people of color, few even have any members under 35 years old. Even in looking at those most involved and heard in advocating and negotiating for the creation of this Commission: despite being the most affected, young people have not been the loudest voice. Therefore, there is little reason to believe the voices and experiences of young adults, one of groups most affected by this issue, will be adequately represented unless they are explicitly included and given a seat at the table.

Every time we are mistreated by the police and see inadequate action, we begin to feel our lives and personhood are not valued. We lose trust in the police and in our elected officials. When we do not see ourselves included in the solutions, our trust and faith in our government further erodes. Now we have an opportunity to take an important step in rebuilding trust in our community and we hope you will help us in taking this step. Thank your work and leadership. We hope you will support our healing and rebuilding of trust by giving young people a meaningful seat at the table.

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Cordially,

LupiQuinteros-Grady
Signature_LAYC.png

Lupi Quinteros-Grady

President & CEO, Latin American Youth Center

GustavoTorresSig

Gustavo Torres

Executive Director, CASA

Diego's
signature
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Diego Uriburu

Executive Director, Identity

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July 9, 2019

Sent via email:

The Honorable Nancy Navarro, President, Montgomery County Council,
And other Montgomery County Council Members
100 Maryland Avenue
Rockville, Maryland 20850

Re: Bill 14-19, Police – Policing Advisory Commission Established

Dear Members of the Montgomery County Council:

The Montgomery County League of Women Voters adopted a position in 1994 **in support of pro-active preventive policing in Montgomery County**, including positions to support (1) increased funding in technical areas and (2) increased funding in personnel to implement pro-active/preventive policing. **We see this proposed Advisory Commission as an opportunity to further support a pro-active police presence in our county.**

In Mr. Riemer's March 29 letter to his fellow Councilmembers he states: "Recent events in our County and the growing national dialogue about the role and practices of police, particularly in communities of color, have put a sharp focus on trust, transparency and accountability." **The League concurs with the need for an advisory body to support and enhance pro-active community policing at this time.**

In addition, we wonder if the establishment of such a commission might be an opportunity not only to provide input from the community to the Police Department but also for the Police Department to provide input to the communities they serve.

We therefore suggest a broadening of the Duties of the Commission [found in sub-section (e) of the proposed legislation] **to include support for additional outreach** from the Department to our residents.

For instance, subsection (e)(5) might include -- in addition to "at least one public forum each year for community input on policing matters" -- at least one public forum for a police presentation(s) to the community on the ways in which county residents can be supportive of pro-active/preventive policing.

Also -- using the concept of a true teamwork approach to building trust between the Police and our residents, **we would also suggest that voting membership on the commission not be limited to public members but include voting representation from the Police Department.**

LWV LEAGUE OF WOMEN VOTERS* OF MONTGOMERY COUNTY

LWVMC recognizes and shares the real worry that residents of color and others have when a wrong move or a wrong word can turn deadly. We therefore believe that the first need is to provide a strong voice for those residents who see themselves not as persons whom police officers are sworn to support. We hope, however, that as the Council considers this legislation, the opportunity to build a community where both police officers and county residents work together to make their communities safe is not lost.

We look forward to working with the Council to build a Policing Advisory Commission that can be a national model of teamwork between those who serve to protect and those whom they are pledged to protect.

Sincerely,

Diane Hibino, co-president

Kathy McGuire, co-president



Councilmembers,

Thank you for taking the views of the LGBTQ Democrats of Montgomery County under consideration in your deliberations about passage of the Police Commission bill. On behalf of the LGBTQ Democrats, I urge you to support this legislation and recognize the importance that policing oversight has to your LGBTQ constituents.

Our Advocacy Committee identified community safety as one of our priorities for this year and recent events in the area have made this an issue of increasing urgency for us. In 2019 alone, two transgender women of color have been murdered in our neighboring county - Zoe Spears and Ashanti Carmon were taken too soon, within blocks of each other. This nearby anti-LGBTQ violence has a tangible effect on our own community and anti-trans violence and bigotry certainly does not respect borders of any kind. We say their names here to underline the urgency of these tragedies and to push for a transparent, swift process in finding justice for lives lost too soon. The trust that our trans siblings and the broader LGBTQ community has in the police to thoroughly and appropriately investigate this brutal violence is directly related to the goals of this Commission.

In the larger conversation about criminal justice reform and creating a more progressive model for policing, it is critical to explore programs and initiatives that reduce harassment, profiling and direct police violence against the LGBTQ community. In a nationwide study completed by the LGBTQ legal advocacy organization Lambda Legal, 21 percent of respondents reported that police officers' attitudes towards them had been hostile - 30 percent of that number were transgender individuals. Other issues raised in the survey included significant rates of false accusation and arrest, neglect of complaints, and inadequate response to a range of crimes, from physical and sexual assault to property crime¹.

These reports expose the experiences LGBTQ people face on a regular basis and the mistrust such incidents engender toward police who lack understanding or fail to effectively or appropriately work with us to address our unique needs. Trust must be the cornerstone of all policing practice. We would also like to publicly express alarm and concern over the unarmed police shooting of Silver Spring resident Robert White - the sanctioned state violence against our neighbors impacts LGBTQ people as much as any of our neighbors. The Commission could devise policies, programs and initiatives to counteract biases and ignorance which put LGBTQ people at risk.

¹ Lambda Legal, "Protected and Served?" The full study can be found at https://www.lambdalegal.org/sites/default/files/publications/downloads/ps_executive-summary.pdf.



The legislation in its current form calls for the Commission to appoint “9 public members with an interest in policing matters.” We urge the Council to amend this language to emphasize that the 9 members should reflect the full diversity of Montgomery County - including LGBTQ people and people of color, for whom policing matters often mean life, death and justice in the most literal of terms. Ensuring that the issues that I just laid out are fully integrated into the conversation depends on a range of intentionally diverse perspectives.

Thank you again for your time and for your leadership on this important issue.

On behalf of the LGBTQ Democrats of Montgomery County,

Michael Knaapen, *president*

Michael Rubin
7406 Flower Ave
Takoma Park, MD, 20912
rubinme@gmail.com

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Testimony in Support of Bill 14-19 (with amendments)

Good evening members of the County Council and fellow community members. My name is Michael Rubin, a relatively new resident of Takoma Park and a resident of Montgomery County for about 40 years. I am here tonight in support of Bill 14-19, the establishment of a Police Advisory Commission. This is an important step toward having greater accountability and transparency for a department that clearly needs it. Although I must add that the bill needs some amendments.

From my vantage point, there is something seriously broken in the Montgomery County Police Department. Whether it is the clearly avoidable killing of Robert White in his neighborhood last year, the racial profiling of young men at a McDonalds in White Oak, an MCPD officer freely using the N word or the obvious police brutality last week in Aspen Hill, this is a department that is broken and clearly incapable of investigating itself, let alone fixing itself.

Some may say these are just a few bad apples which are giving the department and the vast majority of responsible police officers a bad name. I wish I could believe that. From my work in a community organization in this county, I hear frequent stories of the profiling, harassment and abuse that my black and brown fellow residents are subjected to by Montgomery County police officers on a daily basis. I am fairly confident that if I were in their shoes, I would do everything in my power to avoid any interaction with the police.

And this is what we get for our investment of \$295.2 million this year.

Establishing a Police Advisory Commission will at least allow for some external independent review of best practices from other jurisdictions and provide the County Council with recommendations for fixing our clearly broken department. It is one small step toward rebuilding the trust that MCPD has lost with much of this community. I urge you to pass an amended bill 14-19, and make sure that there is diverse representation from all segments of our community on the Police Advisory Commission. But more importantly, I urge you to take their work seriously and listen to the collective wisdom that our community members have on how to fix our broken police department. Selecting serious, thoughtful members from all walks of life will ensure that you get the kind of advice that is so needed to address the lack of trust that so many have in the MCPD.

But of course making membership unpaid puts a serious burden on low-income members of our community who are at greatest risk of negative interactions with police and who must have a seat at this table. That should be fixed by amendment. I also do not understand the value of having representatives of MCPD and the union on this Commission, if the goal is to get citizen participation to help fix a broken system. Let's emphasize community voices without potential obstacles of those who are responsible for our current mess. That too can be remedied by amendment.

I also do not understand the stipulation that the Commission is unable to advocate on the State level as changes to the Law Enforcement Officers Bill of Rights and the Maryland Freedom of Information Act are

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both necessary for the transparency needed by this Board to be effective. This stipulation should be removed from the bill.

I close with imploring you to have the courage and humanity to actually take on fixing what is clearly broken and to pass this bill with necessary amendments so that we can work toward building a Montgomery County where all residents feel safe and do not live in fear of an interaction with our police department. I am with you in this effort and offer whatever help I am able to provide. Thank you for the opportunity to express my thoughts on this important issue facing our County.

Bill 14-19 - Police - Policing Advisory Commission - Established

July 9 2019 Testimony of Mike Mage: SUPPORT with amendments.

There still is a lack of meaningful reform in police policies, training, and practice.

Despite the deaths in custody of
Kareem Ali in 2010

Anthony Howard in 2013

Robert White in 2018

Despite the Sharon Faulk-Foster incident in 2016

the first MacDonalDs incident in 2019

the Aspen Hill MacDonalDs incident in 2019

Despite the eight thousand plus obstacles to community policing per year in 2018 and 2019.

The following changes can strengthen the bill:

35-6 (c) (2) The Council should appoint 9 public members, with an interest in policing matters demonstrated public activity or advocacy on behalf of police reform and equity, including persons whose interactions with the police have shown the need for police reform

35-6 (c) (3) The Council should appoint 3 members nominated by the Executive with demonstrated public activity or advocacy on behalf of police reform and equity.

Comment 1. Equity: see MCC resolution No. 18-1095 and OLO report 2019-7

Comment 2 The change to 3 members is to assure that a majority of the commission will be members appointed by the council.

35-6 (e) Duties. The Commission must:

35-6 (e) (7) have access to: police documents, videos, police academy training sessions on topics such as racial profiling, unconscious bias, group-think, peer-pressure, unprofessional behavior, de-escalation, use of force, alternative response teams, and drafts of changes being considered by the police.

Comment 3. The Commission, as a creature of the council, needs access to documents and training in order to support the Council's legislative and oversight functions.

35-6 (e) (8) make public all advice, information, recommendations, and comments that it provides to the Council.

35-6 (f) Annual Report. By July 1 of each year, The Commission must submit to the Executive, and the Council, and the Public an annual report etc.

35-6 (g) The commission ~~must not~~ may engage in advocacy at State or federal levels unless vetoed by the Office of Intergovernmental Relations.

Comment 4. The LEOBR and MPIA need changes to accommodate MoCo reforms.

I thank the council for it's proposed legislation, and look forward to an improved version.

Mike Mage, Testifying as an individual.

Co-chair, Montgomery County Chapter, ACLU of Maryland, Affiliation given for I.D. only.

Mitchell Berger, July 9, 2019, Testimony Re: Bill 14-19, Police - Policing Advisory Commission - Established

Thank you for the opportunity to provide this testimony for the record. My name is Mitchell Berger and I am a resident of the City of Gaithersburg. I want to thank Council Members Hans Riemer and Will Jawando for co-sponsoring this important bill, an important first step in helping our county’s residents and leaders to ensure our police officers are held accountable for their conduct toward others—just as they hold us accountable. I appreciate the opportunity to provide these comments and note that these views are mine alone and should not be imputed to any other person or entity.

The days of the iconic 1958 Norman Rockwell painting showing a runaway youth assisted by a protective officer and community have long passed.¹ Today many police officers, for reasons good and ill, often do not even live in or near the communities that they patrol.² Today, many young people have a much different experience than that portrayed by Rockwell when they encounter an officer on the streets or even, increasingly, in their own schools.³ Today, adults of all backgrounds are subject to being arrested, beaten and shot, without good cause, if they happen to get on the bad side of a given officer, however legal or innocuous their conduct. This happens throughout the nation, including in Montgomery County. While those who are poor or members of racial, ethnic, LGBT, religious or other minority groups are more likely to experience police misconduct, it can happen to anyone-- even police officers themselves.

Being a police officer is a tough job but that does not excuse the behaviors that we hear and read about every day and that too many of us and our family members, neighbors and friends have directly experienced. Too often those sworn to ‘protect and serve’ all of their community’s residents – not just a few people they happen to like – fail to act with honor and integrity and “without partiality or prejudice.” They needlessly escalate routine traffic stops; show favoritism to friends and acquaintances; become ‘unofficially’ involved in disputes and incidents (often when off-duty); repeatedly harass residents engaged in no wrongdoing; and beat and shoot people without good cause. Police misconduct reflects the poor character of individual officers as well as bad leadership and cultural problems⁴ in the departments they serve. Indeed, even many police officers agree that bad officers often are “not held accountable.”⁵ But misconduct flourishes as well because others in the community tolerate it. Prosecuting attorneys and judges excuse in police conduct they are quick to censure in others.⁶ Politicians say the ‘right’ things whenever an incident occurs yet fail to exercise meaningful day-to-day oversight of the departments for which they are responsible. Laws and policies at the local, state and national levels shield officers from any meaningful accountability.⁷ The result is a world in which Rockwell’s image is incongruous with what many of us now experience in interacting with the police. Consider the following: Police abuse has

¹ <https://www.saturdayeveningpost.com/2014/06/the-rockwell-files-protect-and-serve/>
² <https://bethesdamagazine.com/bethesda-beat/government/report-shows-45-of-county-employees-live-outside-montgomery/>;
<https://www.montgomerycountymd.gov/POL/career/faqs.html>; <https://www.washingtonpost.com/news/wonk/wp/2014/08/14/where-minority-communities-still-have-overwhelmingly-white-police/>; <https://fivethirtyeight.com/features/most-police-dont-live-in-the-cities-they-serve/>
³ Interactions between youth and law enforcement, OJJDP, Dept. of Justice, Feb. 2018, <https://www.ojjdp.gov/mpg/litreviews/Interactions-Youth-Law-Enforcement.pdf>; School Resource Officers, Issues for Congress, Congressional Research Service, July 2018, <https://www.everycrsreport.com/reports/R45251.html>; <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors?redirect=copsandnocounselors>; <https://www.aclu.org/issues/lgbt-rights/lgbt-youth>; <https://socialsciences.uchicago.edu/story/young-people-color-mistrust-police-report-finds>
⁴ <https://hbr.org/2016/08/the-organizational-reasons-police-departments-dont-change>
⁵ <https://www.pewsocialtrends.org/2017/01/11/behind-the-badge/>
⁶ See e.g., <https://publicintegrity.org/accountability/misconduct-and-punishment/>
⁷ see e.g., <https://www.cato.org/blog/police-misconduct-law-enforcement-officers-bill-rights>;
<https://www.baltimoresun.com/news/maryland/politics/bs-md-state-damage-cap-20150330-story.html>; <https://centerjd.org/content/fact-sheet-caps-compensatory-damages-state-law-summary>; <https://www.baltimoresun.com/maryland/baltimore-county/bs-md-koryn-gaines-qanda-20190220-story.html>

become so common that several entire databases now exist to track police abuse, including for specific crimes as sexual misconduct.⁸

- Household pets are killed so often by police, there is now a dedicated ‘Puppicide’ database to track just these incidents. The database, based on media reports, citizen accounts and court records, now includes ~2900 incidents, including many in Maryland.⁹
- While quick to denounce any perceived invasion(s) of their own privacy by activists or the media, law enforcement agencies are increasingly developing and using technologies to facilitate unprecedented surveillance of individuals and communities. These tools are explicitly modeled on what is seen in such movies as *Enemy of the State* (1998) or *Minority Report* (2002) and rely on drones and new camera technologies. Surveillance overflights of Baltimore in 2016 were an early example of these new approaches.¹⁰ Police agencies, including in Montgomery County, already routinely use, with little evident oversight, Stingray devices for cell phone surveillance and automated license plate readers.
- Police officers routinely misuse their access to confidential databases intended for specific law enforcement purposes — databases with significant private information about citizens.¹¹
- Police officers’ families are four times more likely than other families to experience domestic violence.¹²
- Police agencies have become increasingly militarized, seemingly incapable at times of managing even the most routine situations without resort to overwhelming force.¹³
- The Plain View Project tracked police officer social media postings in 8 cities¹⁴ and found numerous active and retired police officers expressing (at best) highly unprofessional views of ethnic, racial, sexual and religious minorities and women. Police officers, like others, have a First Amendment right to express themselves off-duty as they wish, provided they do not do so in a way that violates the law or creates a clear nexus with their day-to-day work. However, we should consider that if someone made similar vitriolic statements about police officers as a class instead of women or minority groups, he or she would likely be investigated and possibly arrested.

This bill is an important first step. Beyond this bill, there are opportunities at the county and state level to create a more level playing field for citizens subject to police misconduct, their families, the media, community organizations and others. For instance, too often county residents are coming into contact with police as a result of low-level misdemeanors governing conduct that should not be criminalized in the first place. Policymakers should review how such laws are enforced and adjudicated.¹⁵ The Law Enforcement

⁸ Several organizations have developed are developing databases of police misconduct. See e.g., <https://policecrime.bgsu.edu/Home/Crimes>; <https://www.unlawfulshield.com/>; <https://www.usatoday.com/in-depth/news/investigations/2019/04/24/usa-today-revealing-misconduct-records-police-cops/3223984002/>; <https://s3.amazonaws.com/bncore/projects/abusing-the-law/index.html>. For a local example of police misconduct in Gaithersburg see <https://www.deseretnews.com/article/900013394/provo-officials-heard-about-sexual-misconduct-by-former-chief-john-king-years-before-alleged-rape.html>

⁹ <https://puppicedb.com/>

¹⁰ A group is trying to get the grounded Baltimore police surveillance airplane flying again. The pitch: It can catch corrupt cops, Feb. 20, 2018, <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-police-plane-20180220-story.html>; *Eyes in the Sky: The Secret Rise of Gorgon Stare and How It Will Watch Us All*, Cato Institute, June 25, 2019, <https://www.cato.org/multimedia/events/eyes-sky-secret-rise-gorgon-stare-how-it-will-watch-us-all>; <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/baltimore-police-secretly-running-aerial-mass>; <https://www.aclu-md.org/en/press-releases/aclu-challenges-use-stingray-surveillance-technology-baltimore-police>; <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/stingray-tracking-devices-whos-got-them>; [https://en.wikipedia.org/wiki/Enemy_of_the_State_\(film\)](https://en.wikipedia.org/wiki/Enemy_of_the_State_(film)); <http://www.mcac.maryland.gov/resources/LPR/>; <https://mocoivilrights.wordpress.com/2017/06/27/the-proliferation-of-license-plate-readers/>

¹¹ See e.g., https://madison.com/wsj/news/local/crime-and-courts/across-us-police-officers-abuse-confidential-databases/article_9e73c669-b8f2-5701-9ee1-9b9572adb7e4.html

¹² <http://womenandpolicing.com/violencefs.asp>

¹³ <https://www.themarshallproject.org/2014/12/03/the-pentagon-finally-details-its-weapons-for-cops-giveaway>; https://www.aclu-md.org/sites/default/files/field_documents/sb_705_swat_reporting.pdf; <https://object.cato.org/sites/cato.org/files/pubs/pdf/rb143.pdf>

¹⁴ <https://theappeal.org/spotlight-when-police-spread-racism-and-hate-online-it-says-something-about-how-they-work/>; <https://www.plainviewproject.org/about>

¹⁵ Alexandra Natapoff, *Misdemeanors*, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3019577; *The High Stakes of Low-Level Criminal Justice*, Yale Law Journal, April 2019, <https://www.yalelawjournal.org/review/the-high-stakes-of-low-level-criminal-justice>.

Officer's Bill of Rights, creating a double-standard for the state's police officers in relation to the citizens they serve, should be challenged and changed. The doctrine of qualified immunity should be curbed, both legislatively and judicially. The Maryland Public Information Act should be revised to more clearly covers law enforcement records and enhance penalties for non-compliance and willful delays by record custodians.¹⁶

With respect to the specifics of this bill, I make the following suggestions:

- Remove the prohibition on advocacy at the state and federal level. While these restrictions are consistent with Bill 37-15 which was enacted into law in 2016¹⁷ and requires some commissions to coordinate with the Office of Intergovernmental Relations prior to testifying or advocating at the state and federal levels, other boards and committees have broader authority to advocate without such pre-approval or review.¹⁸ The Policing Advisory Commission should be able to advocate without restriction so long as any materials include an appropriate disclaimer.
- Increase the number of Commission members. With only 13 voting members, the Commission, as proposed, may experience significant problems due to turnover and day-to-day Commission member conflicts. The Commission on People with Disabilities has 25 voting members and 5 non-voting members representing persons with disabilities, parents and family members of persons with disabilities, community organizations and county agencies.¹⁹ The Commission on Aging has 18 members.²⁰ These are among the county's most effective boards because they have broad membership and staff support.
- Clarify that the Commission's scope extends to all law enforcement agencies operating in the County including city police (e.g., Rockville, Gaithersburg), the County Sheriff, Metro Transit, State Police, etc.
- Support the Commission's work by providing for at least one dedicated full-time staff member with subject matter expertise who can help the Commission coordinate its work and research key issues. (While the legislation does mention 'appropriate staffing,' this is undefined and open-ended). The legislation also should provide that the Commission may, like the Commission on Human Rights, "engage the services of volunteer workers and volunteer consultants [...]"²¹
- As proposed, *ex officio* members on the Commission include only the Police Chief/designee and a police union/labor organization (as per Chapter 33, Article 5). The bill should be amended to include *ex officio* representation on the Commission from the Sheriff's Office, Department of Correction and Rehabilitation, State's Attorney's Office, Public Defender, Fire & Rescue Service, Department of Health & Human Services and Montgomery County Public Schools. I recommend that the legislation provide for or the Council encourage participation by liaisons from the County's Mental Health Advisory Committee, Commission on Children and Youth, Criminal Justice Coordinating Commission, Domestic Violence Coordinating Council, Human Rights Commission and Victim Services Advisory Board.

Sincerely,


Mitchell Berger

¹⁶ see e.g., <https://www.aclu-md.org/en/cases/dashiell-v-msp-aclu-seeks-public-information-about-police-racial-slur-complaint>; *Glass v. Anne Arundel County*, <https://caselaw.findlaw.com/md-court-of-appeals/1861914.html>; <https://www.baltimoresun.com/news/opinion/oped/bs-ed-police-accountability-20170329-story.html>; <https://www.nfoic.org/states-failing-foi-responsiveness>.

¹⁷ https://apps.montgomerycountymd.gov/ccllms/bill_details.aspx?doc=987&hl=3132

¹⁸ See, for instance, the Commission on Aging, which mission explicitly includes "To advise and counsel the residents of the county, the county council, the county executive and the various departments of county, state and federal governments on matters involving the needs of the aging [...]" Chapter 27-34 et. seq. Human Rights and Civil Liberties, Montgomery County Code. <http://library.amlegal.com>.

¹⁹ <https://www.montgomerycountymd.gov/HHS-Program/ADS/CPWD/CPWDIndex.html>

²⁰ <https://www.montgomerycountymd.gov/HHS-Program/ADS/COA/COAMembers.html>

²¹ Chapter 27-4 et. seq., Human Rights and Civil Liberties, Montgomery County Code, <http://library.amlegal.com>.

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**SURJ MoCo Testimony
Montgomery County Council
Bill 14-19 Policing Advisory Commission
July 9, 2019**

My name is Gina Cerasani and I am presenting testimony from the Montgomery County chapter of Showing Up for Racial Justice. Our position on this bill is oppose unless amended.

We want members of the commission to be elected, not appointed. Appointed boards such as the ones in Chicago and Sacramento have failed to lead to any meaningful change in policing, and we want this commission to be accountable to the residents of Montgomery County.

We are concerned there is nothing in the bill to ensure that groups most affected by police brutality and misconduct will be represented on this commission, including African Americans, Latinos, Native Americans, young people, and low income people.

The Montgomery County Police Department and the Fraternal Order of Police union should not be given seats on this commission, regardless of voting status. The purpose of such an advisory commission is to allow civilian input into police policies. The presence of police officers on such a commission is counter to its purpose, and even if they are non-voting positions, police officers will undoubtedly influence the direction and recommendations of the commission.

Additionally, we are alarmed at the stipulation that the commission would be forbidden to engage in state or federal level advocacy unless approved. In order for necessary changes to be made to policing at the county level, the commission needs to push for changes at the state level to the Law Enforcement Officers' Bill of Rights and the Maryland Public Information Act. This unacceptable stipulation is counter to the purpose of the commission and should be removed.

According to this bill, the commission would only be empowered to recommend policy, but there is no requirement that MCPD would have to make any changes to their policies and practices. Since the recommendations from the commission could then just be ignored, this commission appears to be merely a pretense at police reform rather than meaningful change. When people's lives are on the line, we can and must do better.

In May, the Rochester City Council approved a Police Accountability Board bill that sets a national precedent for civilian oversight of the police.[1] The board would have broad powers, including subpoena power, investigatory power, disciplinary power, and the power to review, evaluate, and recommend systemic changes to the police department. Fifty years ago Rochester created a Police Advisory Board that was embroiled in legal battles and written out of the budget. They then tried a Complaint Investigation Committee and then a Civilian Review Board that lacked independence, the power to create meaningful change, and community confidence. Let us learn from Rochester's 50 year attempt at getting this right, rather than starting where they failed half a century ago.

[1]

<https://m.rochestercitynewspaper.com/rochester/rochester-city-council-approves-police-accountability-board/Content?oid=10316613&fbclid=IwAR2YZi6hHIOT1B0dRaE83kj-ST6DnR4-7MxgjkBk5qxIDVSPydiupFwU508>

The City of Takoma Park

2

Office of the Mayor

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KateS@takomaparkmd.gov



7500 Maple Avenue
Takoma Park, MD 20912

The Honorable Kate Stewart, Mayor

PUBLIC HEARING TESTIMONY

Kate Stewart, Mayor, City of Takoma Park

Bill 14-19 – Establishment of Policing Advisory Commission

Thank you, Councilmembers Riemer and Jawando, for your leadership on legislation to create a Policing Advisory Commission for Montgomery County.

The City of Takoma Park and our Police Chief support the creation of a County Policing Advisory Commission. The concept is currently in practice in Takoma Park with the Chief's Advisory Board and has effectively allowed residents to have input on police policy and procedures. This has helped in ongoing efforts to build trust and transparency between the police and our community.

I am the granddaughter and sister of police officers. I have a great deal of respect for those who serve our community in this capacity. However, recruiting, training, and, when necessary, holding individual officers accountable is only one piece of the work that needs to be done. To create transparent, trusted, community oriented police departments that shift the paradigm of policing toward the guardian model and away from warrior model necessitates changing systems and policies.

As this Council knows, based on the racial equity initiative being taken under the leadership of Council President Navarro, and given the history and the systemic racism in our institutions, we must do more to change these systems and how we do the day to day work of our government agencies. Creating a Policing Advisory Commission is one step the County can take to forward this work and I urge you to do so.

One recommendation I would put forward for your consideration, if appropriate, is to require representation on the Commission of young people of color and those who work with members of our community who have special needs. As Mayor in Takoma Park, I have held discussions relating to policing with young people of color and parents of children with special needs. These members of our community need to be heard, particularly on policies related to policing, and too often they are not part of these conversations. Their lived experiences need to be part of these discussions and inform policies moving forward.

Thank you again for listening.

A small, hand-drawn circular mark or logo in the bottom right corner of the page, containing some illegible scribbles.

Policing Advisory Commission bill hearing
Montgomery County Council
July 9, 2019

Testimony of Katie Stauss, Takoma Park Mobilization

Thank you for hearing my testimony this evening. I will not repeat what other organizations have said with respect to improvements to the policing advisory commission bill, but Takoma Park Mobilization stands with our Silver Spring justice coalition partners in our desire to strengthen this bill, and my written testimony includes the key elements for strengthening.

In general though, Takoma Park Mobilization believes there is something to be said for a commission that would discuss policy changes openly, but the devil is in the details. After all, we have an elected school board setting policy that the school superintendent implements. I'm sure the superintendent might like more freedom to set policy, but it is beyond me how anyone could object to civilians merely providing advice. Particularly providing advice to a government agency that carries guns to enforce the laws that should represent a community compact in the first place on what we as a society deem is right and wrong.

With that said, we would like the bill to be significantly stronger and again those points are in my written testimony.

What I really want to say today is that we can be creative and be more systematic with reforms. This bill was proposed by one individual yet there are dozens of groups and individuals actively organizing together and asking for changes, for which no bills have been proposed. Let's figure out together why the entire culture and system of policing is not working in for everyone ...

In this incident one officer was more concerned with using his body to block the cell phone camera than to talk with his colleague through de-escalation. In the other viral McDonald's white oak incident, the other officers passively observed.

So we don't really want incremental change when we can see that something is terribly wrong...we want to sit down and develop comprehensive solutions.

For anyone calling my organizations anti-cop activists, you are missing the point completely. There are people who watch that video, and others who themselves may have been harassed and abused, and the fact is that they don't feel protected by police. That's undebatable. And so if you are pro-police you should want that to change. To the FOP, it does not make you "pro police" to defend an officer when they do wrong, it just makes your own police members less safe.

Let's be creative and do things like in Phoenix -in 2017, the city procured a system of early warning and intervention to identify problem officers using internal affairs data. Two weeks ago the City Council realized the data was inadequate for the warning system so now they are going to cull data from training records, officer's notes, and other sources.

If we were using technology and being smart we would have already identified Officer Moris as a problem officer and this would not have happened. Let's not wait for piecemeal solutions while people are being abused. Let's sit down and talk about comprehensive changes that need to happen and set an agenda for change that the community supports and that the police can also live with.

How to strengthen the bill:

Proposed amendments from today (thanks to Sophia for taking notes):

- No FOP representative on the PAC
- Serving on the PAC without compensation will prevent low income people from serving, so a means-tested option for compensation should be included
- Need option for PAC to engage in State level advocacy to effectively impact police policy, since so much is controlled by LEOBOR & MPIA
- The civilian members should be elected instead of appointed
- Need specific language to ensure PAC has representation of the most impacted people, including young people (under 30), and Black, Latinx, and Native American people
- Need language requiring the adoption of recommendations made by the PAC
- Add language that MCPD has to supply data to the PAC subject to state law restrictions
- Meetings of the PAC should be public by law
- PAC should present recommendations to the full Council (not just Public Safety committee) in a public hearing setting
- PAC should be accountable to advocates and community members in some way
- PAC should select its own chair and co-chair
- Legislation should require a public response from the MCPD regarding the recommendations made by the PAC
- Legislation should specify resources and staffing needed for the commission to be effective
- There should be a special appropriation to fund the PAC

Statement of Support with Amendments Bill 14-19: Policing Advisory
Commission

(July 9th, 2019)

Jeron Ruffin
Young People for Progress

Hello, my name is Jeron Ruffin, I am 23 years old and a resident of Aspen Hill, Maryland. I am here on behalf of Young People for Progress to support the passage of bill 14-19 on the condition that one of the seats on the Commission be designated specifically for a youth or young adult under 30 years old. I would like to say thank you to councilmember Riemer and councilmembers Jawondo, Hucker, and Glass for sponsoring and co-sponsoring this bill.

I am here because, like you, I care deeply about my community. I grew up here in Maryland, and now work as a mentor at the Full Circle Brotherhood, a program of the Latin American Youth Center, where I teach, mentor, and build strong relationships with middle school kids. I work really hard to better myself and be a good role model for my peers and students. But no matter how hard I work to do well in my community, I still have to worry about the police. Because if I get stopped by them, they won't see me as a young man who is a role model for others; they'll only see a young black man who they can harass, insult, or worse.

I get frustrated every time I see a person being profiled, harassed, or brutalized by the police. This has happened to people I know and care

about. But as I go to forums and meetings to seek safety and police accountability, I see a huge gap in the experience and perception of policing in our county.

Some people believe policing doesn't need to improve much in Montgomery County. But I have a real life scenario that says otherwise. It's the story of my good friend JB. In 2013, he was only 23 years old, the same age as me now, when he was repeatedly tased in the jaw, arm, and back by a Montgomery County police officer, and as a result, he ended up in the hospital. JB had to scream before the officer finally stopped brutalizing him. Nothing else JB said or did made the officer think about what repeated tazing was doing to the human being in front of him. Screaming was the only thing that finally caused the officer to jump back in fear of what he was actually doing to JB and the pain he was inflicting.

The police do injustice, and people see that. I've seen that. Having my good friend tased in the jaw is particularly bad, my own family and friends have had bad encounters with police. A LOT of black and hispanic people, particularly young people, have had bad experiences with the police. We love our community and this county, but this policing problem must be fixed. For the county to have a real opportunity to be successful, our experiences and voice must be represented on the Police Advisory Commission. That's why Young People for Progress asks that you pass bill 14-19 with the amendment that at least one seat be designated for a young person under 30 years old.

Thank you. I am also available to answer any questions you have for me.

August 14th, 2019

The Honorable Council President Nancy Navarro
Stella Werner Council Office Building
100 Maryland Avenue
Rockville, MD 20850

Dear Council President Navarro:

We are writing to ask that you support our request to amend Bill 14-19, establishing a Policing Advisory Commission, to add two youth and young adult seats to the Commission; one for a person under 25 years of age, and the other for a person under 35 years of age. Both members would be selected and approved by a majority vote of the full County Council. We believe it is a necessary step in rebuilding trust between the community and the Police Department and ensuring those most negatively impacted by police interactions are represented on the Commission.

We are representing members of Young People for Progress (YPP), a nonpartisan civic engagement and social justice organization comprising young people aged under 35 in Montgomery County.

Thank you for your support of Bill 14-19. We appreciate your leadership and thoughtful consideration of this very serious issue.

While the proposed Policing Advisory Commission would provide a much needed outlet for community input on policing policy and is a good start, it is not nearly enough as is because it does not guarantee people who have the most negative interactions with the police are represented. Young adults often interact most with the police and have the most negative experiences. Accordingly, in order to have a chance at truly fixing the problem, this community needs to be fully represented in developing a solution, including representation on the Commission.

Young adults aged 18 to 34 comprise approximately 21% percent of the population of Montgomery County, but they comprised 60% of adults arrested last month from July 6th to August 5th, 2019. They were arrested at a rate three times higher than their share of the population and higher than every other age demographic. Many of those young adults, 24% of those arrested in that time period, were 18 to 24 years of age. However, we do not need data to know that young people have disproportionate contact with the Montgomery County police.

Almost all of the disturbing high profile and public incidents involving profiling or misuse of force have been against civilians younger (often significantly) than 35 years old. The young men detained at a McDonald's in White Oak this past May, where an officer was caught on camera using a racial slur, were all in their twenties. The young man assaulted by an officer at an Aspen Hill McDonald's in early July was nineteen years old.

Many of these incidents in which civilians are stopped and frisked, profiled, or subject to aggressive force or offensive and discriminatory language-- the incidents for which the community is calling for accountability and better policing--are all committed against young people of color. Yet of the county's over 75 already existing boards, committees, and commissions, very few comprise young people of color, few even have any members under 35 years old. Even in looking at those most involved and heard in advocating and negotiating for the creation of this Commission: despite being the most affected, young people have not been the loudest voice. Therefore, there is no reason to believe the voices and experiences of young adults, one of the groups most affected by this issue, will be adequately represented unless they are explicitly included and given a seat at the table.

Everytime we are mistreated by the police and see inadequate action, we begin to feel our lives and personhood are not valued. We lose trust in the police and in our elected officials. When we do not see ourselves included in the solutions, our trust and faith in our government further erodes. Now we have an opportunity to take an important step in rebuilding trust in our community and we hope you will help us in taking this step. Council President Navarro, thank your work and leadership. We hope you will support our healing and rebuilding of trust by giving young people a meaningful seat at the table.

Sincerely,

Young People for Progress, Steering Committee

youngpeopleforprogress@gmail.com

Danielle Blocker

Kevin Perez

Zully Pineda

Annemiek van Panhuis

Jerron Ruffin

AMENDMENT

To Bill 14-19

BY COUNCILMEMBER RIEMER

PURPOSE: To make various amendments to Bill 14-19 to strengthen the bill.

Beginning on page 2, after line 16, add new subparagraph (c)(4) and renumber remaining subparagraphs to read:

- 1 (4) The public members appointed under paragraphs (2) and (3)
- 2 should:
- 3 (i) be broadly representative of the diverse population of the
- 4 County; or
- 5 ((ii)) have an interest or expertise in policing matters.

Beginning on page 3, line 28 change paragraph (d)(2) to read:

- 6 (2) The [[Council]] Commission must [[designate the]] elect a Chair
- 7 and Vice-Chair from among its voting members.

Beginning on page 3, after line 50 add an uncodified section to read:

8 **Sec. 2. Transition.**

9 Notwithstanding paragraph (d)(2), the Council must designate the Chair and
10 Vice-Chair until the Commission elects the Chair and Vice-Chair.

Beginning on page 3, lines 35-42 change paragraph (e) to read:

- 11 (e) Duties. The Commission must:
- 12 (1) advise the Council on policing matters;
- 13 (2) provide information regarding best practices on policing matters;
- 14 (3) recommend policies, programs, legislation, or regulations;
- 15 (4) comment on matters referred to it by the Council;

- 16 (5) conduct at least one public forum each year for community input
17 on policing matters; [[and]]
18 (6) accept correspondence and comments from members of the public;
19 and
20 (7) engage in public education.

Beginning on page 3, after line 42 add new paragraph (f) and renumber remaining paragraphs to read:

- 21 (f) Requests for information. The County, including the Police Department,
22 should respond to Commission requests for information within 30 days
23 after the County receives the request.