


**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**1350 Pennsylvania Avenue, N.W.**  
**Washington D.C. 20004**

Memorandum

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To : Members of the Council  
From :   
Nyasha Smith, Secretary to the Council  
Date : Wednesday, September 16, 2020  
Subject : Re-Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Tuesday, September 08, 2020. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Washington Metropolitan Area Transit Authority Police Accountability Amendment Act of 2020", B23-0886


INTRODUCED BY: Councilmembers R. White, Allen, and Chairman Mendelson

The Chairman is re-referring this legislation to Committee of the Whole with comments from the Committee on Facilities and Procurement and the Committee on Judiciary and Public Safety.

Attachment

cc: General Counsel  
Budget Director  
Legislative Services

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4 Chairman Phil Mendelson  
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Councilmember Robert C. White, Jr.



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Councilmember Charles Allen

12 A BILL

17 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

21 To amend the Washington Metropolitan Area Transit Authority Regulation Compact to prohibit  
22 the use of enforcement quotas for the Metro Transit Police Department and to create a  
23 multijurisdictional Civilian Complaint Board to review complaints against Metro Transit  
24 Police Department members.

26 BE IT ENACTED BY THE COUCIL OF THE DISTRICT OF COLUMBIA, That this  
27 act may be cited as the "Washington Metropolitan Area Transit Authority Police Accountability  
28 Amendment Act of 2020".

29 Sec. 2. Section 76 of Article XVI of Title III of the Washington Metropolitan Area  
30 Transit Authority Regulation Compact, approved November 6, 1996 (80 Stat. 1324; D.C.  
31 Official Code § 9-1107.01(76)), is amended as follows:

32 (a) Subsection (f) is amended by adding a new paragraph (1A) to read as follows:

33 "(1A) prohibit the use of enforcement quotas to evaluate, incentivize, or discipline  
34 members, including with regard to the number of arrests made or citations or warnings issued;"

35 (b) A new subsection (i) is added to read as follows:

36 “(i)(1) The Authority shall establish a Police Complaints Board to review complaints  
37 filed against the Metro Transit Police.

38 “(2) The Police Complaints Board shall comprise eight members, two civilian  
39 members appointed by each Signatory, and two civilian members appointed by the federal  
40 government.

41 “(3) Members of the Police Complaints Board shall not be Authority employees  
42 and shall have no current affiliation with law enforcement.

43 “(4) Members of the Police Complaints Board shall serve without compensation  
44 but may be reimbursed for necessary expenses incurred as incident to the performance of their  
45 duties.

46 “(5) The Police Complaints Board shall appoint a Chairperson and Vice-  
47 Chairperson from among its members.

48 “(6) Four members of the Police Complaints Board shall constitute a quorum, and  
49 no action by the Police Complaints Board shall be effective unless a majority of the Police  
50 Complaints Board present and voting, which majority shall include at least one member from  
51 each Signatory, concur therein.

52 “(7) The Police Complaints Board shall meet at least monthly and keep minutes  
53 of its meetings.

54 “(8) The Police Complaints Board, through its Chairperson, may employ qualified  
55 persons or utilize the services of qualified volunteers, as necessary, to perform its work,  
56 including the investigation of complaints.

57 “(9) The duties of the Police Complaints Board shall include:

58                   “(A) Adopting rules and regulations governing its meetings, minutes, and  
59 internal processes; and

60                   “(B) With respect to the Metro Transit Police, reviewing:

61                           “(i) The number, type, and disposition of citizen complaints  
62 received, investigated, sustained, or otherwise resolved;

63                           “(ii) The race, national origin, gender, and age of the complainant  
64 and the subject officer or officers;

65                           “(iii) The proposed and actual discipline imposed on an officer as a  
66 result of any sustained citizen complaint;

67                           “(iv) All use of force incidents, serious use of force incidents, and  
68 serious physical injury incidents; and

69                           “(v) Any in-custody death.

70                   “(10) The Police Complaints Board shall have the authority to receive complaints  
71 against members of the Metro Transit Police, which shall be reduced to writing and signed by the  
72 complainant, that allege abuse or misuse of police powers by such members, including:

73                           “(A) Harassment;

74                           “(B) Use of force;

75                           “(C) Use of language or conduct that is insulting, demeaning, or  
76 humiliating;

77                           “(D) Discriminatory treatment based upon a person’s race, color, religion,  
78 national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity  
79 or expression, family responsibilities, physical disability, matriculation, political affiliation,  
80 source of income, or place of residence or business;

81                   “(E) Retaliation against a person for filing a complaint; and  
82                   “(F) Failure to wear or display required identification or to identify oneself  
83 by name and badge number when requested to do so by a member of the public.

84                   “(11) If the Metro Transit Police receives a complaint containing subject matter  
85 that is covered by paragraph (10) of this subsection, the Metro Transit Police shall transmit the  
86 complaint to the Police Complaints Board within 3 business days after receipt.

87                   “(12) The Police Complaints Board shall have timely and complete access to  
88 information and supporting documentation specifically related to the Police Complaints Board’s  
89 duties and authority under paragraphs (9) and (10) of this subsection; provided that:

90                   “(A) The Police Complaints Board shall keep confidential the identity of  
91 persons other than the subject or subjects of a complaint named in any documents transferred  
92 from the Metro Transit Police.

93                   “(B) The disclosure or transfer of any public record, document, or  
94 information from the Metro Transit Police to the Police Complaints Board shall not constitute a  
95 waiver of any privilege or exemption that otherwise could be asserted by the Metro Transit  
96 Police to prevent disclosure to the general public or in a judicial or administrative proceeding.

97                   “(13) The Police Complaints Board shall have the authority to dismiss, conciliate,  
98 mediate, investigate, adjudicate, or refer for further action to the Metro Transit Police a  
99 complaint received under paragraph (10) of this subsection.

100                   “(14)(A) If deemed appropriate by the Police Complaints Board, and if the parties  
101 agree to participate in a conciliation process, the Police Complaints Board may attempt to  
102 resolve a complaint by conciliation.



103                   “(B) The conciliation of a complaint shall be evidenced by a written  
104 agreement signed by the parties which may provide for oral apologies or assurances, written  
105 undertakings, or any other terms satisfactory to the parties. No oral or written statements made in  
106 conciliation proceedings may be used as a basis for any discipline or recommended discipline  
107 against a subject police officer or officers or in any civil or criminal litigation.

108                   “(15) If the Police Complaints Board refers the complaint to mediation, the Board  
109 shall schedule an initial mediation session with a mediator. The mediation process may continue  
110 as long as the mediator believes it may result in the resolution of the complaint. No oral or  
111 written statement made during the mediation process may be used as a basis for any discipline or  
112 recommended discipline of the subject police officer or officers, nor in any civil or criminal  
113 litigation, except as otherwise provided by the rules of the court or the rules of evidence.

114                   “(16) If the Police Complaints Board refers a complaint for investigation, the  
115 Board shall assign an investigator to investigate the complaint. When the investigator completes  
116 the investigation, the investigator shall summarize the results of the investigation in an  
117 investigative report which, along with the investigative file, shall be transmitted to the Board,  
118 which may order an evidentiary hearing.

119                   “(17) The Police Complaints Board may, after an investigation, assign a  
120 complaint to a complaint examiner, who shall make written findings of fact regarding all  
121 material issues of fact, and shall determine whether the facts found sustain or do not sustain each  
122 allegation of misconduct. If the complaint examiner determines that one or more allegations in  
123 the complaint is sustained, the Police Complaints Board shall transmit the entire complaint file,  
124 including the merits determination of the complaint examiner, to the Metro Transit Police for  
125 appropriate action.

126                   “(18) Employees of the Metro Transit Police shall cooperate fully with the Police  
127   Complaints Board in the investigation and adjudication of a complaint. An employee of the  
128   Metro Transit Police shall not retaliate, directly or indirectly, against a person who files a  
129   complaint under this subsection.

130                   “(19) When, in the determination of the Police Complaints Board, there is reason  
131   to believe that the misconduct alleged in a complaint or disclosed by an investigation of a  
132   complaint may be criminal in nature, the Police Complaints Board shall refer the matter to the  
133   appropriate authorities for possible criminal prosecution, along with a copy of all of the Police  
134   Complaints Board’s files relevant to the matter being referred; provided, that the Police  
135   Complaints Board shall make a record of each referral, and ascertain and record the disposition  
136   of each matter referred and, if the appropriate authorities decline in writing to prosecute, the  
137   Police Complaints Board shall resume its processing of the complaint.

138                   “(20) Within 60 days before the end of each fiscal year, the Police Complaints  
139   Board shall transmit to the Board and the Signatories an annual report of its operations, including  
140   any policy recommendations.”.

141                   Sec. 3. Applicability.

142                   This act shall apply after the enactment of concurring legislation by the State of  
143   Maryland and the Commonwealth of Virginia, the signing and execution of the legislation by the  
144   Mayor of the District of Columbia and the Governors of Maryland and Virginia, and approval by  
145   the United States Congress.

146                   Sec. 4. Fiscal impact statement.

147           The Council adopts the fiscal impact statement in the committee report as the fiscal  
148 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
149 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

150           Sec. 5. Effective date.

151           This act shall take effect following approval by the Mayor (or in the event of veto by the  
152 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
153 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
154 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
155 Columbia Register.