



Committee: PS
Committee Review: At a future date
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #PoliceAccountabilityBoard

AGENDA ITEM #6
January 11, 2022
Public Hearing

SUBJECT

Bill 49-21, Police – Police Accountability Board – Administrative Charging Committee – Established

Lead Sponsor: Council President Albornoz at the request of the County Executive

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To receive testimony – no vote expected

DESCRIPTION/ISSUE

- What is the best way to implement the State-wide police disciplinary system in the County?

SUMMARY OF KEY DISCUSSION POINTS

- How many members should the PAB have, how should they be appointed, what qualifications should the PAB and ACC members have, how should the staff be provided, and what should be the compensation for the PAB and the ACC.

This report contains:

Staff Report	Pages 1-3
Bill 49-21	© 1
LRR	© 10
HB 670 Excerpt	© 11
Economic Impact Statement	© 28

F:\LAW\BILLS\2149 Police Accountability Board\PH Cover Sheet.Docx

Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

MEMORANDUM

January 6, 2022

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Expedited Bill 49-21, Police - Police Accountability Board – Administrative Charging Committee – Established

PURPOSE: To receive testimony – No vote expected

Bill 49-21, Police - Police Accountability Board – Administrative Charging Committee – Established, with Lead Sponsor Council President Alborno on behalf of the County Executive, was introduced on December 14, 2021. A second public hearing is tentatively scheduled for January 18 at 7 pm. A Public Safety Committee worksession is tentatively scheduled for January 24 at 9:30 am.¹

Background

The Maryland General Assembly enacted a series of laws establishing uniform standards for police department operations throughout the State. One of these laws, House Bill 670, created a new uniform procedure for police accountability and discipline. An excerpt from HB 670 concerning police officer discipline is at ©11. This new law requires the governing body of each county to establish a Police Accountability Board (PAB) and an Administrative Charging Committee (ACC) to handle each complaint alleging police misconduct by a police officer employed by the County or a municipal police department located in the County filed by a member of the public.

HB 670 repealed and replaced the Law Enforcement Officers Bill of Rights (LEOBR) with a new State-wide disciplinary system for police officers in Maryland. The new uniform disciplinary system established in HB 670 generally applies to misconduct occurring on or after July 1, 2022. The new law also contains a grandfather clause that delays the effective date of the new disciplinary system until the expiration of any existing collective bargaining agreement for the duration of the agreement, excluding extensions. The current collective bargaining agreements between the Executive and the Fraternal Order of Police and the Executive and MCGEO covering deputy sheriffs expire on June 30, 2023. Therefore, the current disciplinary system continues, unless modified, until then for police officers and deputy sheriffs represented by these unions. However, the new law takes effect for the unrepresented police management and sheriff's

¹#PoliceAccountabilityBoard

management on July 1, 2022.² Beginning on July 1, 2023, the uniform State-wide disciplinary system established in HB 670 will apply to complaints of misconduct filed by a member of the public against any officer employed by the County Police Department or the County Sheriff's Department. This State law expressly preempts the County from altering the new disciplinary system.³

A complaint of police misconduct may be filed with the PAB or the appropriate Police or Sheriff's Department. The PAB must forward a complaint to the Department within 3 days for investigation. The 5-member ACC must include the Chair of the PAB or another member of the PAB designated by the Chair, 2 civilian members selected by the PAB, and 2 civilian members selected by the Executive. The appropriate law enforcement agency must forward the results of a police misconduct complaint to the ACC. The ACC must decide whether to file disciplinary charges against a police officer in a written decision. The ACC may review body camera video, call a police officer to appear before the ACC accompanied by a representative, and may subpoena witnesses and documents to perform its duties. If the ACC determines that disciplinary charges are warranted, it must recommend a penalty based on a disciplinary matrix developed by the Maryland Police Training and Standards Commission. The Police Chief must offer that penalty or a higher penalty to the officer. If the officer does not accept the discipline, the officer has the right to challenge the decision in an adjudicatory hearing before a trial board.

The 3-member trial board must include an active or retired administrative law judge or a retired district court or circuit court judge, a civilian selected by the PAB, and a police officer of equal rank to the officer being charged. The trial board hearing must be open to the public except for certain exceptions. The trial board can administer oaths and issue subpoenas. The trial board decision is appealable to the circuit court on the record.

Summary of the Bill

Expedited Bill 49-21 would establish both the PAB and the ACC for the County. Although HB 670 requires a 5-member ACC and a 3-member trial board, the law is silent as to the number of members of the PAB. Bill 49-21 would create a 5-member PAB nominated by the Executive and confirmed by the Council. The members of the PAB and the ACC must be County residents and have experience:

- (1) managing or evaluating the management of a law enforcement agency;
- (2) evaluating citizen complaints against a police officer; or
- (3) in personnel disciplinary proceedings as a manager, employee representative, mediator, or arbitrator.

Bill 49-21 would require the CAO to provide appropriate staff for both the PAB and the ACC and the County Attorney would provide legal services. The PAB members would serve without compensation other than reimbursement for expenses. The ACC Chair would receive an annual salary of \$22,000 and the other 4 members would receive an annual salary of \$16,000, both

² The new system would also apply to a complaint against a municipal police officer on July 1, 2022 or one year later if a collective bargaining agreement governing discipline procedures extends until that date.

³ HB 670 includes other significant provisions concerning police officers that is not directly relevant to the new State-wide disciplinary system.

adjusted for changes in the consumer price index.⁴ The Bill would require each member of the PAB and the ACC to serve a 3-year term of office with term limits after serving 2 complete terms. The Bill would also require the Executive to stagger the initial terms to ensure that the terms of approximately one-third of the members expire each year.

OLO concluded that Bill 49-21 would have an insignificant impact on economic conditions in the County (©28).

This packet contains:	<u>Circle #</u>
Expedited Bill 49-21	1
Legislative Request Report	10
HB 670 Excerpt	11
Economic Impact Statement	28

F:\LAW\BILLS\2149 Police Accountability Board\PH Memo.Docx

⁴ These salaries are consistent with the salaries provided for members of the County Board of Appeals.

Expedited Bill No. 49-21
Concerning: Police – Police
Accountability Board – Administrative
Charging Committee - Established
Revised: 12-08-21 Draft No. 4
Introduced: December 14, 2021
Expires: June 14, 2023
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the County Executive

AN EXPEDITED ACT to:

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

By adding

Montgomery County Code
Chapter 35, Police
Article IV, Police Discipline
Sections 35-23, 35-24 and 35-25

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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

1 **Sec. 1. Article IV, Sections 35-23, 35-24 and 35-25 are added as follows:**

2 **ARTICLE IV. POLICE DISCIPLINE**

3 **35-23. Definitions.**

4 Definitions. In this Article, the following terms have the meanings indicated.

5 Administrative Charging Committee or Committee means the Committee
6 established in Section 35-25 to serve Countywide law enforcement agencies and
7 local law enforcement agencies within the County pursuant to Section 3-104 of
8 the Public Safety Article of the Annotated Code of Maryland, as amended.

9 Administratively charged means that a police officer has been formally accused
10 of misconduct in an administrative proceeding.

11 Complaint means an allegation of police misconduct filed by a member of the
12 public.

13 Disciplinary matrix means a written, consistent, progressive, and transparent
14 tool or rubric that provides ranges of disciplinary actions for different types of
15 misconduct prepared by the Maryland Police Training and Standards
16 Commission.

17 Exonerated means that a police officer acted in accordance with the law and
18 agency policy.

19 Law enforcement agency means the County police force, sheriff's office, or other
20 security force or law enforcement organization of the county or a municipal
21 corporation that by statute, ordinance, or common law is authorized to enforce
22 the general criminal laws of the State.

23 Not administratively charged means that a determination has been made not to
24 administratively charge a police officer in connection with alleged misconduct.

25 Police Accountability Board or Board means the Police Accountability Board
26 for the County established in Section 35-24 pursuant to Section 3-102 of the
27 Public Safety Article of the Annotated Code of Maryland, as amended.

28 Police misconduct means a pattern, a practice, or conduct by a police officer or
 29 law enforcement agency that includes:

- 30 (1) depriving persons of rights protected by the Constitution or laws
 31 of the State or the United States;
 32 (2) a violation of a criminal statute; and
 33 (3) a violation of law enforcement agency standards and policies.

34 Police officer means an individual who:

- 35 (1) is authorized to enforce the general criminal laws of the State; and
 36 (2) is a member of one of the following law enforcement agencies:
 37 (a) the County police department;
 38 (b) a municipal police department;
 39 (c) the office of the County sheriff; or
 40 (d) a County fire and explosive investigator.

41 A police officer does not include the sheriff, a chief of police, a deputy or
 42 assistant chief of police, or another individual with an equivalent title who
 43 is appointed or employed by a government to exercise equivalent
 44 supervisory authority.

45 **35-24. Police Accountability Board.**

46 (a) Establishment. There is a Police Accountability Board for the County.
 47 The Executive must appoint the five voting members of the Board,
 48 including the Chair, subject to confirmation by the Council.

49 (b) Composition and qualifications of members. The members of the Board
 50 must reflect the racial, gender, and cultural diversity of the County. Each
 51 member must reside in the County and have experience

- 52 (1) managing or evaluating the management of a law enforcement
 53 agency;
 54 (2) evaluating citizen complaints against a police officer; or

55 (3) in personnel disciplinary proceedings as a manager, employee
56 representative, mediator, or arbitrator.

57 An active police officer must not be a member of the Board. A Board
58 member must also meet all qualifications mandated by State law and
59 implementing regulations while serving on the Board.

60 (c) Chair. The members of the Board may elect a Vice-Chair to serve as
61 Chair in the absence of the Chair.

62 (d) Term of office. Each member serves a 3-year term. A member must not
63 serve more than 2 consecutive full terms. A member appointed to fill a
64 vacancy serves the rest of the unexpired term. Members continue in office
65 until their successors are appointed and qualified.

66 (e) Meetings, budget, and compensation for members.

67 (1) The Board meets at the call of the Chair. The Board must meet as
68 often as necessary to perform its duties, but not less than 4 times
69 each year.

70 (2) The Executive must recommend, and the Council must appropriate
71 funds necessary for the Board to operate in the County's annual
72 operating budget.

73 (3) The Board members must serve without compensation except for
74 the reimbursement of expenses incurred in attending meetings or
75 carrying out other duties, including travel and dependent care costs
76 at rates established by the County, subject to appropriation.

77 (f) Staff. The Chief Administrative Officer must provide appropriate staff to
78 the Board and make available to the Board services and facilities that are
79 necessary or appropriate for the proper performance of its duties. The
80 County Attorney must serve as counsel to the Board.

81 (g) Duties. The Board must:

- 82 (1) hold quarterly meetings with the directors of one or more law
83 enforcement agencies operating in the County who employ one or
84 more police officers;
- 85 (2) appoint civilian members to the Administrative Charging
86 Committee and trial boards;
- 87 (3) receive complaints of police misconduct filed by a member of the
88 public;
- 89 (4) review the outcomes of disciplinary matters considered by the
90 Administrative Charging Committee on a quarterly basis;
- 91 (5) advise the Executive and the Council on policing matters; and
- 92 (6) refer each complaint of police misconduct filed with the Board to
93 the appropriate law enforcement agency within 3 days after receipt
94 for investigation.
- 95 (h) Removal of a member. The Executive with the approval of at least 6
96 members of the Council may remove a member for:
- 97 (1) neglect of duty;
- 98 (2) misconduct in office;
- 99 (3) a member's inability or unwillingness to perform the duties of the
100 office;
- 101 (4) conduct that impairs a member from performing the duties of the
102 office;
- 103 (5) violation of law; or
- 104 (6) inability to meet the qualifications for a Board member mandated
105 by State law or implementing regulations.
- 106 (i) Reports. The Board must submit an annual report to the Executive and
107 the Council each December 31 that:

- 108 (1) identifies any trends in the disciplinary process of police officers
109 in the County;
- 110 (2) recommends changes to policy that would improve police
111 accountability in the County; and
- 112 (3) describes the activities of the Board and the numbers of complaints
113 received.

114 **35-25. Administrative Charging Committee.**

- 115 (a) Establishment. There is an Administrative Charging Committee for the
116 County.
- 117 (b) Membership. The Committee has 5 voting members. The members are:
- 118 (1) the Chair of the Police Accountability Board or another member
119 of the Board designated by the Chair;
- 120 (2) 2 civilian members appointed by the Police Accountability Board;
121 and
- 122 (3) 2 civilian members appointed by the Executive.
- 123 (c) Composition and qualifications of members. The Committee consists of
124 a chair and 4 additional members. The members of the Committee must
125 reflect the racial, gender, and cultural diversity of the County. Each
126 member must:
- 127 (1) reside in the County; and have
- 128 (2) experience managing or evaluating the management of a law
129 enforcement agency;
- 130 (3) experience evaluating citizen complaints against a police officer;
131 or
- 132 (4) experience in personnel disciplinary proceedings as a manager,
133 employee representative, mediator, or arbitrator.

- 134 (d) Training. Each member of the Committee must complete training on
135 matters relating to police procedures from the Maryland Police Training
136 and Standard Commission before serving as a member.
- 137 (e) Staff. The Chief Administrative Officer must provide appropriate staff
138 to the Committee and make available to the Committee services and
139 facilities that are necessary or appropriate for the proper performance of
140 its duties. The County Attorney must serve as counsel to the Committee.
- 141 (f) Compensation. The annual salary for the Chair is \$22,000 and the annual
142 salary for each member is \$16,000. The salary for the chair and each
143 member must be adjusted on the first Monday in December by the
144 Consumer Price Index for All Urban Consumers (CPI-U) for the
145 Washington-Arlington-Alexandria Core Based Statistical Area (CBSA),
146 as published by the United States Department of Labor, Bureau of Labor
147 Statistics, or a successor index.
- 148 (g) Meetings. The Committee must meet one time each month or as needed.
- 149 (h) Term of office. Each member serves a 3-year term. A member must not
150 serve more than 2 consecutive full terms. A member appointed to fill a
151 vacancy serves the rest of the unexpired term. Members continue in office
152 until their successors are appointed and qualified.
- 153 (i) Duties. The Committee must:
- 154 (1) review the findings of each law enforcement agency's
155 investigation forwarded by the agency to the Committee;
- 156 (2) review any body camera footage that may be relevant to the
157 matters covered in the complaint of misconduct;
- 158 (3) authorize a police officer called before the Committee to be
159 accompanied by a representative;
- 160

- 161 (4) determine if the police officer who is the subject of the
162 investigation should be administratively charged or not
163 administratively charged within 30 days after receipt of the law
164 enforcement agency's investigatory file unless the Committee
165 requests further review under subsections (j)(1) or (2);
- 166 (4) if the Committee determines that a police officer should be
167 administratively charged, recommend discipline pursuant to the
168 disciplinary matrix;
- 169 (5) if the Committee determines that a police officer should not be
170 administratively charged, determine if:
- 171 (A) the allegations against the police officer are unfounded,
172 including situations where existing departmental policy
173 fails to properly address the situation for which the officer
174 was charged; or,
- 175 (B) the police officer is exonerated;
- 176 (6) issue a written opinion for each complaint describing in detail the
177 Committee's findings, determinations, and recommendations; and
- 178 (7) forward the written opinion to the director of the appropriate law
179 enforcement agency, the accused police officer, and the
180 complainant.
- 181 (j) Authority of the Committee. The Committee may:
- 182 (1) request information or action from the law enforcement agency
183 that conducted the investigation, including requiring additional
184 investigation;
- 185 (2) issue subpoenas for documents or witnesses necessary to execute
186 the Committee's duties; and

187 (3) record, in writing, any failure of supervision that caused or
188 contributed to a police officer’s misconduct.

189 (k) Confidentiality. Each member of the Committee must maintain
190 confidentiality relating to a matter being considered by the Committee
191 until final disposition of the matter.

192 **Sec. 2. Transition.** Notwithstanding Sections 35-24(d) and 35-25(h) in Section
193 1, the Executive must stagger the initial terms of the members of the Board and the
194 Committee so that the terms of approximately one-third of the members expires each
195 year.

196 **Sec. 3. Expedited Effective Date.**

197 The Council declares that this legislation is necessary for the immediate
198 protection of the public interest. This Act takes effect on the date on which it becomes
199 law and must apply to eligible complaints based on an incident occurring on or after
200 July 1, 2022.

201
202 *Approved:*

203

Gabriel Albornoz, President, County Council Date

204 *Approved:*

205

Marc Elrich, County Executive Date

206 *This is a correct copy of Council action.*

207

Selena Mendy Singleton, Esq., Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 49-21

Police – Police Accountability Board – Administrative Charging Committee – Established

DESCRIPTION:	Bill 44-21 would establish a Police Accountability Board (PAB) and an Administrative Charging Committee (ACC) for the County, define the membership and duties of for each, and generally amend the law governing police accountability and discipline.
PROBLEM:	HB 670 requires the County to establish both the PAB and ACC to implement the new Statewide police disciplinary system.
GOALS AND OBJECTIVES:	The goal is to improve police accountability and discipline.
COORDINATION:	Police Department, Sheriff’s Department, Municipal Police Departments, County Attorney
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be researched.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney (240) 777-7895
APPLICATION WITHIN MUNICIPALITIES:	Applies to municipal police departments in Rockville, Gaithersburg, Takoma Park, and Chevy Chase.
PENALTIES:	Disciplinary Matrix adopted by the State.

~~(H) INFORMATION RELATING TO THE FAMILY OF THE PERSON IN INTEREST; OR~~

~~(IV) WITNESS INFORMATION.~~

~~(E) A CUSTODIAN SHALL NOTIFY THE PERSON IN INTEREST OF A RECORD DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION WHEN THE RECORD IS INSPECTED, BUT MAY NOT DISCLOSE THE IDENTITY OF THE REQUESTOR TO THE PERSON IN INTEREST.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

Article – Public Safety

SUBTITLE 1. POLICE ACCOUNTABILITY AND DISCIPLINE.

3-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ADMINISTRATIVELY CHARGED” MEANS THAT A POLICE OFFICER HAS BEEN FORMALLY ACCUSED OF MISCONDUCT IN AN ADMINISTRATIVE PROCEEDING.

(C) “DISCIPLINARY MATRIX” MEANS A WRITTEN, CONSISTENT, PROGRESSIVE, AND TRANSPARENT TOOL OR RUBRIC THAT PROVIDES RANGES OF DISCIPLINARY ACTIONS FOR DIFFERENT TYPES OF MISCONDUCT.

(D) “EXONERATED” MEANS THAT A POLICE OFFICER ACTED IN ACCORDANCE WITH THE LAW AND AGENCY POLICY.

~~(E) “INDEPENDENT INVESTIGATIVE AGENCY” MEANS THE AGENCY ESTABLISHED UNDER § 3-102 OF THIS SUBTITLE.~~

~~(F)~~ (E) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

~~(G)~~ (F) “NOT ADMINISTRATIVELY CHARGED” MEANS THAT A DETERMINATION HAS BEEN MADE NOT TO ADMINISTRATIVELY CHARGE A POLICE OFFICER IN CONNECTION WITH ALLEGED MISCONDUCT.

~~(H)~~ (G) “POLICE MISCONDUCT” MEANS A PATTERN, A PRACTICE, OR CONDUCT BY A POLICE OFFICER OR LAW ENFORCEMENT AGENCY THAT INCLUDES:

1 (1) DEPRIVING PERSONS OF RIGHTS PROTECTED BY THE
 2 CONSTITUTION OR LAWS OF THE STATE OR THE UNITED STATES;

3 (2) A VIOLATION OF A CRIMINAL STATUTE; AND

4 (3) A VIOLATION OF LAW ENFORCEMENT AGENCY STANDARDS AND
 5 POLICIES.

6 ~~(H)~~ (H) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THIS
 7 TITLE.

8 ~~(I)~~ (I) “SERIOUS PHYSICAL INJURY” HAS THE MEANING STATED IN §
 9 3-201 OF THE CRIMINAL LAW ARTICLE.

10 ~~(J)~~ (J) “SUPERIOR GOVERNMENTAL AUTHORITY” MEANS THE
 11 GOVERNING BODY THAT OVERSEES A LAW ENFORCEMENT AGENCY.

12 ~~(K)~~ (K) “UNFOUNDED” MEANS THAT THE ALLEGATIONS AGAINST A
 13 POLICE OFFICER ARE NOT SUPPORTED BY FACT.

14 3-102.

15 ~~(A) THE INDEPENDENT INVESTIGATIVE AGENCY IS ESTABLISHED AS AN~~
 16 ~~INDEPENDENT UNIT OF STATE GOVERNMENT FOR THE PURPOSE OF INVESTIGATING~~
 17 ~~USE OF FORCE INCIDENTS INVOLVING POLICE OFFICERS.~~

18 ~~(B) THE INDEPENDENT INVESTIGATIVE AGENCY MAY EMPLOY SWORN~~
 19 ~~POLICE OFFICERS AND CIVILIANS TO CONDUCT ITS WORK.~~

20 ~~(C) A SHOOTING INVOLVING A POLICE OFFICER OR ANOTHER INCIDENT~~
 21 ~~INVOLVING THE USE OF PHYSICAL FORCE BY A POLICE OFFICER CAUSING DEATH OR~~
 22 ~~SERIOUS PHYSICAL INJURY SHALL BE INVESTIGATED BY THE INDEPENDENT~~
 23 ~~INVESTIGATIVE AGENCY.~~

24 ~~(D) A LAW ENFORCEMENT AGENCY SHALL:~~

25 ~~(1) NOTIFY THE INDEPENDENT INVESTIGATIVE AGENCY OF ANY~~
 26 ~~ALLEGED OR POTENTIAL SHOOTING INVOLVING A POLICE OFFICER OR ANOTHER~~
 27 ~~INCIDENT INVOLVING THE USE OF PHYSICAL FORCE BY A POLICE OFFICER CAUSING~~
 28 ~~DEATH OR SERIOUS PHYSICAL INJURY AS SOON AS THE LAW ENFORCEMENT AGENCY~~
 29 ~~BECOMES AWARE OF THE INCIDENT; AND~~

1 ~~(2) COOPERATE WITH THE INDEPENDENT INVESTIGATIVE AGENCY IN~~
2 ~~THE INVESTIGATION OF THE INCIDENT.~~

3 ~~(E) (1) ON COMPLETION OF AN INVESTIGATION UNDER THIS SECTION,~~
4 ~~THE INDEPENDENT INVESTIGATIVE AGENCY SHALL SUBMIT A REPORT CONTAINING~~
5 ~~THE FINDINGS OF THE INVESTIGATION TO THE STATE'S ATTORNEY WITH~~
6 ~~JURISDICTION OVER THE MATTER.~~

7 ~~(2) AFTER THE STATE'S ATTORNEY MAKES A DECISION WHETHER OR~~
8 ~~NOT TO PROSECUTE, THE INDEPENDENT INVESTIGATIVE AGENCY SHALL PUBLICIZE~~
9 ~~THE REPORT.~~

10 ~~(F) THE GOVERNOR ANNUALLY SHALL INCLUDE FUNDING IN THE STATE~~
11 ~~BUDGET SUFFICIENT TO PROVIDE FOR THE FULL AND PROPER OPERATION OF THE~~
12 ~~INDEPENDENT INVESTIGATIVE AGENCY.~~

13 ~~3-103.~~

14 (A) EACH COUNTY SHALL HAVE A POLICE ACCOUNTABILITY BOARD TO:

15 (1) HOLD QUARTERLY MEETINGS WITH HEADS OF LAW
16 ENFORCEMENT AGENCIES AND OTHERWISE WORK WITH LAW ENFORCEMENT
17 AGENCIES AND THE COUNTY GOVERNMENT TO IMPROVE MATTERS OF POLICING;

18 (2) APPOINT CIVILIAN MEMBERS TO CHARGING COMMITTEES AND
19 TRIAL BOARDS;

20 (3) RECEIVE COMPLAINTS OF POLICE MISCONDUCT FILED BY
21 MEMBERS OF THE PUBLIC; AND

22 (4) (I) ON A QUARTERLY BASIS, REVIEW OUTCOMES OF
23 DISCIPLINARY MATTERS CONSIDERED BY CHARGING COMMITTEES; AND

24 (II) ON OR BEFORE DECEMBER 31 EACH YEAR, SUBMIT A
25 REPORT TO THE GOVERNING BODY OF THE COUNTY THAT:

26 1. IDENTIFIES ANY TRENDS IN THE DISCIPLINARY
27 PROCESS OF POLICE OFFICERS IN THE COUNTY; AND

28 2. MAKES RECOMMENDATIONS ON CHANGES TO POLICY
29 THAT WOULD IMPROVE POLICE ACCOUNTABILITY IN THE COUNTY.

1 **(B) (1) (i) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, ~~THE~~**
 2 **~~MEMBERSHIP OF A POLICE ACCOUNTABILITY BOARD SHALL BE DETERMINED BY THE~~**
 3 **~~LOCAL LEGISLATIVE BODY GOVERNING BODY SHALL:~~**

4 **1. ESTABLISH THE MEMBERSHIP OF A POLICE**
 5 **ACCOUNTABILITY BOARD;**

6 **2. ESTABLISH THE BUDGET AND STAFF FOR A POLICE**
 7 **ACCOUNTABILITY BOARD;**

8 **3. APPOINT A CHAIR OF THE POLICE ACCOUNTABILITY**
 9 **BOARD WHO HAS RELEVANT EXPERIENCE TO THE POSITION; AND**

10 **4. ESTABLISH THE PROCEDURES FOR RECORD KEEPING**
 11 **BY A POLICE ACCOUNTABILITY BOARD.**

12 **(II) AN ACTIVE POLICE OFFICER MAY NOT BE A MEMBER OF A**
 13 **POLICE ACCOUNTABILITY BOARD.**

14 **(2) TO THE EXTENT PRACTICABLE, THE MEMBERSHIP OF A POLICE**
 15 **ACCOUNTABILITY BOARD SHALL REFLECT THE RACIAL, GENDER, AND CULTURAL**
 16 **DIVERSITY OF THE COUNTY.**

17 **(C) (1) A COMPLAINT OF POLICE MISCONDUCT FILED WITH A POLICE**
 18 **ACCOUNTABILITY BOARD SHALL INCLUDE:**

19 **(i) THE NAME OF THE POLICE OFFICER ACCUSED OF**
 20 **MISCONDUCT;**

21 **(ii) A DESCRIPTION OF THE FACTS ON WHICH THE COMPLAINT**
 22 **IS BASED; AND**

23 **(iii) CONTACT INFORMATION OF THE COMPLAINANT OR A**
 24 **PERSON FILING ON BEHALF OF THE COMPLAINANT FOR INVESTIGATIVE**
 25 **FOLLOW-UP.**

26 **(2) A COMPLAINT NEED NOT:**

27 **~~(i) INCLUDE IDENTIFYING INFORMATION OF THE~~**
 28 **~~COMPLAINANT IF THE COMPLAINANT WISHES TO REMAIN ANONYMOUS; OR~~**

29 **~~(ii) BE NOTARIZED OR SWORN TO UNDER THE PENALTY OF~~**
 30 **~~PERJURY.~~**

1 (D) A COMPLAINT OF POLICE MISCONDUCT FILED WITH A POLICE
 2 ACCOUNTABILITY BOARD SHALL BE FORWARDED TO THE APPROPRIATE LAW
 3 ENFORCEMENT AGENCY WITHIN 3 DAYS AFTER RECEIPT BY THE BOARD.

4 ~~3-104.~~ 3-103.

5 (A) AN INDIVIDUAL MAY FILE A COMPLAINT OF POLICE MISCONDUCT WITH
 6 THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE POLICE OFFICER WHO IS THE
 7 SUBJECT OF THE COMPLAINT.

8 (B) (1) A COMPLAINT OF POLICE MISCONDUCT FILED WITH A LAW
 9 ENFORCEMENT AGENCY SHALL INCLUDE:

10 (I) THE NAME OF THE POLICE OFFICER ACCUSED OF
 11 MISCONDUCT;

12 (II) A DESCRIPTION OF THE FACTS ON WHICH THE COMPLAINT
 13 IS BASED; AND

14 (III) CONTACT INFORMATION OF THE COMPLAINANT OR A
 15 PERSON FILING ON BEHALF OF THE COMPLAINANT FOR INVESTIGATIVE
 16 FOLLOW-UP.

17 (2) A COMPLAINT NEED NOT:

18 ~~(I) INCLUDE IDENTIFYING INFORMATION OF THE~~
 19 ~~COMPLAINANT IF THE COMPLAINANT WISHES TO REMAIN ANONYMOUS; OR~~

20 ~~(II) BE NOTARIZED OR SWORN TO UNDER THE PENALTY OF~~
 21 ~~PERJURY.~~

22 ~~3-105.~~ 3-104.

23 (A) (1) EACH COUNTY SHALL HAVE ONE ADMINISTRATIVE CHARGING
 24 COMMITTEE TO SERVE COUNTYWIDE LAW ENFORCEMENT AGENCIES AND LOCAL
 25 LAW ENFORCEMENT AGENCIES WITHIN THE COUNTY.

26 (2) A COUNTY ADMINISTRATIVE CHARGING COMMITTEE SHALL BE
 27 COMPOSED OF:

28 (I) THE CHAIR OF THE COUNTY'S POLICE ACCOUNTABILITY
 29 BOARD, OR ANOTHER MEMBER OF THE ACCOUNTABILITY BOARD DESIGNATED BY
 30 THE CHAIR OF THE ACCOUNTABILITY BOARD;

~~(H) A DESIGNEE OF THE DISTRICT PUBLIC DEFENDER WHO IS:~~

~~1. A RESIDENT OF THE COUNTY;~~

~~2. NOT EMPLOYED BY THE OFFICE OF THE PUBLIC DEFENDER; AND~~

~~3. NOT CURRENTLY REPRESENTING A PARTY AS AN ATTORNEY IN A CRIMINAL MATTER PENDING IN A COURT IN THE COUNTY;~~

~~(H) A DESIGNEE OF THE STATE'S ATTORNEY FOR THE JURISDICTION WHERE THE ALLEGED MISCONDUCT OCCURRED WHO IS:~~

~~1. A RESIDENT OF THE COUNTY;~~

~~2. NOT EMPLOYED BY THE OFFICE OF THE STATE'S ATTORNEY; AND~~

~~3. NOT CURRENTLY REPRESENTING A PARTY AS AN ATTORNEY IN A CRIMINAL MATTER PENDING IN A COURT IN THE COUNTY;~~

~~(IV) (II) ONE CIVILIAN TWO CIVILIAN MEMBERS SELECTED BY THE COUNTY'S POLICE ACCOUNTABILITY BOARD; AND~~

~~(V) (III) THE LEAD ATTORNEY FOR THE SUPERIOR GOVERNMENTAL AUTHORITY OF THE COUNTY TWO CIVILIAN MEMBERS SELECTED BY THE CHIEF EXECUTIVE OFFICER OF THE COUNTY.~~

(B) (1) THERE SHALL BE AT LEAST ONE STATEWIDE ADMINISTRATIVE CHARGING COMMITTEE TO SERVE STATEWIDE AND BI-COUNTY LAW ENFORCEMENT AGENCIES.

(2) A STATEWIDE ADMINISTRATIVE CHARGING COMMITTEE SHALL BE COMPOSED OF:

~~(I) A DESIGNEE OF THE ATTORNEY GENERAL WHO IS NOT EMPLOYED BY THE OFFICE OF THE ATTORNEY GENERAL, THE OFFICE OF THE STATE PROSECUTOR, OR THE OFFICE OF THE UNITED STATES ATTORNEY;~~

~~(H) A DESIGNEE OF THE PUBLIC DEFENDER OF MARYLAND WHO IS NOT EMPLOYED BY THE OFFICE OF THE PUBLIC DEFENDER;~~

(I) THREE CIVILIAN MEMBERS APPOINTED BY THE GOVERNOR;

1 (II) ONE CIVILIAN MEMBER APPOINTED BY THE PRESIDENT OF
 2 THE SENATE; AND

3 (III) ONE CIVILIAN MEMBER APPOINTED BY THE SPEAKER OF THE
 4 HOUSE.

5 ~~(III) A DESIGNEE OF THE GOVERNOR'S LEGAL COUNSEL;~~

6 ~~(IV) ONE CIVILIAN APPOINTED BY THE GOVERNOR; AND~~

7 ~~(V) ONE CIVILIAN JOINTLY APPOINTED BY THE SPEAKER OF~~
 8 ~~THE HOUSE AND THE PRESIDENT OF THE SENATE.~~

9 (C) BEFORE SERVING AS A MEMBER OF AN ADMINISTRATIVE CHARGING
 10 COMMITTEE, AN INDIVIDUAL SHALL RECEIVE TRAINING ON MATTERS RELATING TO
 11 POLICE PROCEDURES FROM THE MARYLAND POLICE TRAINING AND STANDARDS
 12 COMMISSION.

13 (D) ON COMPLETION OF AN INVESTIGATION OF A COMPLAINT MADE BY A
 14 MEMBER OF THE PUBLIC AGAINST A POLICE OFFICER, THE LAW ENFORCEMENT
 15 AGENCY SHALL FORWARD TO THE APPROPRIATE ADMINISTRATIVE CHARGING
 16 COMMITTEE THE INVESTIGATORY FILES FOR THE MATTER.

17 (E) AN ADMINISTRATIVE CHARGING COMMITTEE SHALL:

18 (1) REVIEW THE FINDINGS OF A LAW ENFORCEMENT AGENCY'S
 19 INVESTIGATION CONDUCTED AND FORWARDED IN ACCORDANCE WITH SUBSECTION
 20 (D) OF THIS SECTION;

21 (2) MAKE A DETERMINATION THAT THE POLICE OFFICER WHO IS
 22 SUBJECT TO INVESTIGATION SHALL BE:

23 (I) ADMINISTRATIVELY CHARGED; OR

24 (II) NOT ADMINISTRATIVELY CHARGED;

25 (3) IF THE POLICE OFFICER IS CHARGED, RECOMMEND DISCIPLINE IN
 26 ACCORDANCE WITH THE LAW ENFORCEMENT AGENCY'S DISCIPLINARY MATRIX
 27 ESTABLISHED IN ACCORDANCE WITH § ~~3-106~~ 3-105 OF THIS SUBTITLE;

28 (4) REVIEW ANY BODY CAMERA FOOTAGE THAT MAY BE RELEVANT TO
 29 THE MATTERS COVERED IN THE COMPLAINT OF MISCONDUCT;

1 (5) AUTHORIZE A POLICE OFFICER CALLED TO APPEAR BEFORE AN
 2 ADMINISTRATIVE CHARGING COMMITTEE TO BE ACCOMPANIED BY A
 3 REPRESENTATIVE;

4 (4) (6) ISSUE A WRITTEN OPINION THAT DESCRIBES IN DETAIL ITS
 5 FINDINGS, DETERMINATIONS, AND RECOMMENDATIONS; AND

6 (5) (7) FORWARD THE WRITTEN OPINION TO THE CHIEF OF THE
 7 LAW ENFORCEMENT AGENCY, THE POLICE OFFICER, AND THE COMPLAINANT.

8 (F) IN EXECUTING ITS DUTIES IN ACCORDANCE WITH SUBSECTION (E) OF
 9 THIS SECTION, AN ADMINISTRATIVE CHARGING COMMITTEE MAY:

10 (1) REQUEST INFORMATION OR ACTION FROM THE LAW
 11 ENFORCEMENT AGENCY THAT CONDUCTED THE INVESTIGATION, INCLUDING
 12 REQUIRING ADDITIONAL INVESTIGATION AND THE ISSUANCE OF SUBPOENAS;

13 (2) IF THE POLICE OFFICER IS NOT ADMINISTRATIVELY CHARGED,
 14 MAKE A DETERMINATION THAT:

15 (I) THE ALLEGATIONS AGAINST THE POLICE OFFICER ARE
 16 UNFOUNDED; OR

17 (II) THE POLICE OFFICER IS EXONERATED; AND

18 (3) RECORD, IN WRITING, A ANY FAILURE OF SUPERVISION THAT
 19 CAUSED OR CONTRIBUTED TO A POLICE OFFICER'S MISCONDUCT.

20 (G) AN ADMINISTRATIVE CHARGING COMMITTEE SHALL MEET ONCE PER
 21 MONTH ~~AND ADDITIONALLY~~ OR AS NEEDED.

22 (H) A MEMBER OF AN ADMINISTRATIVE CHARGING COMMITTEE SHALL
 23 MAINTAIN CONFIDENTIALITY RELATING TO A MATTER BEING CONSIDERED BY THE
 24 ADMINISTRATIVE CHARGING COMMITTEE UNTIL FINAL DISPOSITION OF THE
 25 MATTER.

26 ~~3-106.~~ 3-105.

27 (A) THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION
 28 SHALL DEVELOP AND ADOPT, BY REGULATION, A MODEL UNIFORM DISCIPLINARY
 29 MATRIX FOR USE BY EACH LAW ENFORCEMENT AGENCY IN THE STATE.

30 (B) EACH LAW ENFORCEMENT AGENCY SHALL ADOPT THE UNIFORM STATE
 31 DISCIPLINARY MATRIX.

1 **(C) (1) WITHIN 15 DAYS AFTER AN ADMINISTRATIVE CHARGING**
2 **COMMITTEE ISSUES AN ADMINISTRATIVE CHARGE AGAINST A POLICE OFFICER, THE**
3 **CHIEF OF THE LAW ENFORCEMENT AGENCY SHALL OFFER DISCIPLINE TO THE**
4 **POLICE OFFICER WHO HAS BEEN ADMINISTRATIVELY CHARGED IN ACCORDANCE**
5 **WITH THE DISCIPLINARY MATRIX.**

6 **(2) THE CHIEF MAY OFFER THE SAME DISCIPLINE THAT WAS**
7 **RECOMMENDED BY THE ADMINISTRATIVE CHARGING COMMITTEE OR A HIGHER**
8 **DEGREE OF DISCIPLINE WITHIN THE APPLICABLE RANGE OF THE DISCIPLINARY**
9 **MATRIX, BUT MAY NOT DEVIATE BELOW THE DISCIPLINE RECOMMENDED BY THE**
10 **ADMINISTRATIVE CHARGING COMMITTEE.**

11 **(3) IF THE POLICE OFFICER ACCEPTS THE CHIEF'S OFFER OF**
12 **DISCIPLINE, THEN THE OFFERED DISCIPLINE SHALL BE IMPOSED.**

13 **(4) IF THE POLICE OFFICER DOES NOT ACCEPT THE CHIEF'S OFFER**
14 **OF DISCIPLINE, THEN THE MATTER SHALL BE REFERRED TO A TRIAL BOARD.**

15 **(5) AT LEAST 30 DAYS BEFORE A TRIAL BOARD PROCEEDING BEGINS,**
16 **THE POLICE OFFICER SHALL BE:**

17 **(I) PROVIDED A COPY OF THE INVESTIGATORY RECORD;**

18 **(II) NOTIFIED OF THE CHARGES AGAINST THE POLICE OFFICER;**

19 **AND**

20 **(III) NOTIFIED OF THE DISCIPLINARY ACTION BEING**
21 **RECOMMENDED.**

22 **~~3-107.~~ 3-106.**

23 **(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
24 **EACH LAW ENFORCEMENT AGENCY SHALL ESTABLISH A TRIAL BOARD PROCESS IN**
25 **ACCORDANCE WITH THIS SECTION TO ADJUDICATE MATTERS FOR WHICH A POLICE**
26 **OFFICER IS SUBJECT TO DISCIPLINE.**

27 **(2) A SMALL LAW ENFORCEMENT AGENCY MAY USE THE TRIAL BOARD**
28 **PROCESS OF ANOTHER LAW ENFORCEMENT AGENCY BY MUTUAL AGREEMENT.**

29 **(B) A TRIAL BOARD SHALL BE COMPOSED OF:**

1 **(1) AN ACTIVELY SERVING OR RETIRED ADMINISTRATIVE LAW JUDGE**
 2 **OR A RETIRED JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT, APPOINTED**
 3 **BY THE CHIEF EXECUTIVE OFFICER OF THE COUNTY;**

4 **(2) A CIVILIAN WHO IS NOT A MEMBER OF AN ADMINISTRATIVE**
 5 **CHARGING COMMITTEE, APPOINTED BY THE COUNTY'S POLICE ACCOUNTABILITY**
 6 **BOARD; AND**

7 **(3) A POLICE OFFICER OF EQUAL RANK TO THE POLICE OFFICER WHO**
 8 **IS ACCUSED OF MISCONDUCT APPOINTED BY THE HEAD OF THE LAW ENFORCEMENT**
 9 **AGENCY.**

10 **(C) BEFORE SERVING AS A MEMBER OF A TRIAL BOARD, AN INDIVIDUAL**
 11 **SHALL RECEIVE TRAINING ON MATTERS RELATING TO POLICE PROCEDURES FROM**
 12 **THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION.**

13 **(D) PROCEEDINGS OF A TRIAL BOARD SHALL BE OPEN TO THE PUBLIC,**
 14 **EXCEPT TO PROTECT:**

15 **(1) A VICTIM'S IDENTITY;**

16 **(2) THE PERSONAL PRIVACY OF AN INDIVIDUAL;**

17 **(3) A CHILD WITNESS;**

18 **(4) MEDICAL RECORDS;**

19 **(5) THE IDENTITY OF A CONFIDENTIAL SOURCE;**

20 **(6) AN INVESTIGATIVE TECHNIQUE OR PROCEDURE; OR**

21 **(7) THE LIFE OR PHYSICAL SAFETY OF AN INDIVIDUAL.**

22 **(E) A TRIAL BOARD MAY ADMINISTER OATHS AND ISSUE SUBPOENAS AS**
 23 **NECESSARY TO COMPLETE ITS WORK.**

24 **(F) ~~A POLICE OFFICER WHO IS THE SUBJECT OF A TRIAL BOARD MAY BE~~**
 25 **~~COMPELLED TO:~~**

26 **~~(1) TESTIFY;~~**

27 **~~(2) PRODUCE FINANCIAL RECORDS RELATING TO INCOME AND~~**
 28 **~~ASSETS; AND~~**

1 ~~(3)~~ SUBMIT TO A POLYGRAPH EXAMINATION.

2 ~~(G)~~ A COMPLAINANT HAS THE RIGHT TO BE NOTIFIED OF A TRIAL BOARD
 3 HEARING AND, EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE
 4 RIGHT TO ATTEND A TRIAL BOARD HEARING.

5 (G) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LAW
 6 ENFORCEMENT AGENCY HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF THE
 7 EVIDENCE IN ANY PROCEEDING UNDER THIS SUBTITLE.

8 (H) A POLICE OFFICER MAY BE DISCIPLINED ONLY FOR CAUSE.

9 ~~(H)~~ ~~(G)~~ (I) (1) WITHIN 30 DAYS AFTER THE DATE OF ISSUANCE OF A
 10 DECISION OF A TRIAL BOARD, THE DECISION MAY BE APPEALED BY THE EMPLOYEE:

11 (I) IF THE TRIAL BOARD IS FROM A LOCAL LAW ENFORCEMENT
 12 AGENCY, TO THE CIRCUIT COURT OF THE COUNTY IN WHICH THE LAW
 13 ENFORCEMENT AGENCY IS LOCATED; AND

14 (II) IF THE TRIAL BOARD IS FROM A STATEWIDE OR BI-COUNTY
 15 LAW ENFORCEMENT AGENCY, TO THE CIRCUIT COURT FOR ANNE ARUNDEL
 16 COUNTY.

17 (2) AN APPEAL TAKEN UNDER THIS SUBSECTION SHALL BE ON THE
 18 RECORD.

19 ~~(I)~~ ~~(H)~~ (J) A TRIAL BOARD DECISION THAT IS NOT APPEALED IS FINAL.

20 ~~3-108.~~ 3-107.

21 (A) (1) PENDING AN INVESTIGATORY, ADMINISTRATIVE CHARGING
 22 COMMITTEE, AND TRIAL BOARD PROCESS, THE CHIEF MAY IMPOSE AN EMERGENCY
 23 SUSPENSION WITH OR WITHOUT PAY IF THE CHIEF DETERMINES THAT SUCH A
 24 SUSPENSION IS IN THE BEST INTEREST OF THE PUBLIC.

25 (2) AN EMERGENCY SUSPENSION WITHOUT PAY UNDER THIS
 26 SUBSECTION MAY NOT EXCEED 30 DAYS.

27 (3) A POLICE OFFICER WHO IS SUSPENDED WITHOUT PAY UNDER
 28 THIS SUBSECTION IS ENTITLED TO RECEIVE BACK PAY IF AN ADMINISTRATIVE
 29 CHARGING COMMITTEE DETERMINES NOT TO ADMINISTRATIVELY CHARGE THE
 30 POLICE OFFICER IN CONNECTION WITH THE MATTER ON WHICH THE SUSPENSION IS
 31 BASED.

~~(B) (1) PENDING AN INVESTIGATORY, ADMINISTRATIVE CHARGING COMMITTEE, TRIAL BOARD, AND CRIMINAL PROSECUTION PROCESS, THE CHIEF SHALL IMPOSE AN EMERGENCY SUSPENSION WITHOUT PAY IF THE POLICE OFFICER IN QUESTION IS CRIMINALLY CHARGED WITH:~~

~~(I) A FELONY;~~

~~(II) A MISDEMEANOR COMMITTED IN THE PERFORMANCE OF DUTIES AS A POLICE OFFICER;~~

~~(III) A MISDEMEANOR RELATED TO DOMESTIC VIOLENCE; OR~~

~~(IV) A MISDEMEANOR INVOLVING DISHONESTY, FRAUD, THEFT, OR MISREPRESENTATION.~~

(B) (1) A CHIEF OR A CHIEF'S DESIGNEE MAY SUSPEND A POLICE OFFICER WITHOUT PAY AND SUSPEND THE POLICE OFFICER'S POLICE POWERS ON AN EMERGENCY BASIS IF THE POLICE OFFICER IS CHARGED WITH:

(I) A DISQUALIFYING CRIME, AS DEFINED IN § 5-101 OF THIS ARTICLE;

(II) A MISDEMEANOR COMMITTED IN THE PERFORMANCE OF DUTIES AS A POLICE OFFICER; OR

(III) A MISDEMEANOR INVOLVING DISHONESTY, FRAUD, THEFT, OR MISREPRESENTATION.

(2) A POLICE OFFICER WHO WAS SUSPENDED WITHOUT PAY UNDER THIS SUBSECTION IS ENTITLED TO RECEIVE BACK PAY IF THE POLICE OFFICER IS FOUND NOT GUILTY OF THE CRIMINAL CHARGE OR CHARGES ON WHICH THE SUSPENSION WAS BASED CRIMINAL CHARGE OR CHARGES AGAINST THE POLICE OFFICER RESULT IN:

(I) A FINDING OF NOT GUILTY;

(II) AN ACQUITTAL;

(III) A DISMISSAL; OR

(IV) A NOLLE PROSEQUI.

(C) (1) THE CHIEF SHALL TERMINATE THE EMPLOYMENT OF A POLICE OFFICER WHO IS CONVICTED OF ~~OR~~ A FELONY.

1 **(2) THE CHIEF MAY TERMINATE THE EMPLOYMENT OF A POLICE**
 2 **OFFICER WHO:**

3 **(I) RECEIVES A PROBATION BEFORE JUDGMENT ~~FOR:~~ FOR**

4 **(1) A FELONY; OR**

5 **(2) (II) ~~A~~ IS CONVICTED OF:**

6 **1. A MISDEMEANOR COMMITTED IN THE PERFORMANCE**
 7 **OF DUTIES AS A POLICE OFFICER;**

8 **(3) ~~A MISDEMEANOR RELATED TO DOMESTIC VIOLENCE; OR~~**

9 **2. MISDEMEANOR SECOND DEGREE ASSAULT; OR**

10 **(4) 3. A MISDEMEANOR INVOLVING DISHONESTY, FRAUD,**
 11 **THEFT, OR MISREPRESENTATION.**

12 **(D) (1) IN CONNECTION WITH A DISCIPLINARY MATTER UNDER THIS**
 13 **SUBTITLE, A POLICE OFFICER MAY BE REQUIRED TO SUBMIT TO BLOOD ALCOHOL**
 14 **TESTS, BLOOD, BREATH, OR URINE TESTS FOR CONTROLLED DANGEROUS**
 15 **SUBSTANCES, POLYGRAPH EXAMINATIONS, OR INTERROGATIONS THAT**
 16 **SPECIFICALLY RELATE TO THE SUBJECT MATTER OF THE INVESTIGATION.**

17 **(2) IF A POLICE OFFICER IS REQUIRED TO SUBMIT TO A TEST,**
 18 **EXAMINATION, OR INTERROGATION ~~DESCRIBED IN~~ UNDER PARAGRAPH (1) OF THIS**
 19 **SUBSECTION AND THE POLICE OFFICER REFUSES TO DO SO, THE LAW**
 20 **ENFORCEMENT AGENCY MAY COMMENCE AN ACTION THAT MAY LEAD TO A PUNITIVE**
 21 **MEASURE AS A RESULT OF THE REFUSAL.**

22 **(3) (I) IF A POLICE OFFICER IS REQUIRED TO SUBMIT TO A TEST,**
 23 **EXAMINATION, OR INTERROGATION ~~DESCRIBED IN~~ UNDER PARAGRAPH (1) OF THIS**
 24 **SUBSECTION, THE RESULTS OF THE TEST, EXAMINATION, OR INTERROGATION ARE**
 25 **NOT ADMISSIBLE OR DISCOVERABLE IN A CRIMINAL PROCEEDING AGAINST THE**
 26 **POLICE OFFICER.**

27 **(II) IF A POLICE OFFICER IS REQUIRED TO SUBMIT TO A**
 28 **POLYGRAPH EXAMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE**
 29 **RESULTS OF THE POLYGRAPH EXAMINATION ARE NOT ADMISSIBLE OR**
 30 **DISCOVERABLE IN A CRIMINAL OR CIVIL PROCEEDING AGAINST THE POLICE**
 31 **OFFICER.**

~~(E) IN CONNECTION WITH A DISCIPLINARY MATTER UNDER THIS SUBTITLE, FORFEITURE OF A POLICE OFFICER'S PENSION MAY BE IMPOSED AS A DISCIPLINARY ACTION IN ACCORDANCE WITH § 20-210 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

~~3-109. 3-108.~~

(A) (1) A LAW ENFORCEMENT AGENCY SHALL DESIGNATE AN EMPLOYEE AS A VICTIMS' RIGHTS ADVOCATE TO ACT AS THE CONTACT FOR THE PUBLIC WITHIN THE AGENCY ON MATTERS RELATED TO POLICE MISCONDUCT.

(2) A VICTIMS' RIGHTS ADVOCATE SHALL:

(I) EXPLAIN TO A COMPLAINANT:

1. THE COMPLAINT, INVESTIGATION, ADMINISTRATIVE CHARGING COMMITTEE, AND TRIAL BOARD PROCESS;

2. ANY DECISION TO TERMINATE AN INVESTIGATION;

3. AN ADMINISTRATIVE CHARGING COMMITTEE'S DECISION OF ADMINISTRATIVELY CHARGED, NOT ADMINISTRATIVELY CHARGED, UNFOUNDED, OR EXONERATED; AND

4. A TRIAL BOARD'S DECISION;

(II) PROVIDE A COMPLAINANT WITH AN OPPORTUNITY TO REVIEW A POLICE OFFICER'S STATEMENT, IF ANY, BEFORE COMPLETION OF AN INVESTIGATION BY A LAW ENFORCEMENT AGENCY'S INVESTIGATIVE UNIT;

(III) NOTIFY A COMPLAINANT OF THE STATUS OF THE CASE AT EVERY STAGE OF THE PROCESS; AND

(IV) PROVIDE A CASE SUMMARY TO A COMPLAINANT WITHIN 30 DAYS AFTER FINAL DISPOSITION OF THE CASE.

(B) EACH LAW ENFORCEMENT AGENCY SHALL CREATE A DATABASE THAT ENABLES A COMPLAINANT TO ENTER THE COMPLAINANT'S CASE NUMBER TO FOLLOW THE STATUS OF THE CASE AS IT PROCEEDS THROUGH:

(1) INVESTIGATION;

(2) CHARGING;

- 1 **(3) OFFER OF DISCIPLINE;**
 2 **(4) TRIAL BOARD;**
 3 **(5) ULTIMATE DISCIPLINE; AND**
 4 **(6) APPEAL.**

5 ~~**(C) (1) THE INVESTIGATING UNIT OF A LAW ENFORCEMENT AGENCY**~~
 6 ~~**SHALL IMMEDIATELY REVIEW A COMPLAINT BY A MEMBER OF THE PUBLIC**~~
 7 ~~**ALLEGING POLICE OFFICER MISCONDUCT.**~~

8 ~~**(2) AN ADMINISTRATIVE CHARGING COMMITTEE SHALL REVIEW AND**~~
 9 ~~**MAKE A DETERMINATION OR ASK FOR FURTHER REVIEW WITHIN 30 DAYS OF**~~
 10 ~~**COMPLETION OF THE INVESTIGATING UNIT'S REVIEW.**~~

11 ~~**(3) THE PROCESS OF REVIEW BY THE INVESTIGATING UNIT THROUGH**~~
 12 ~~**DISPOSITION BY THE ADMINISTRATIVE CHARGING COMMITTEE SHALL BE**~~
 13 ~~**COMPLETED WITHIN 1 YEAR AND 1 DAY AFTER THE FILING OF A COMPLAINT BY A**~~
 14 ~~**CITIZEN.**~~

15 ~~**3-110, 3-109.**~~

16 **A POLICE OFFICER WHO IS THE SUBJECT OF A COMPLAINT OF POLICE**
 17 ~~**MISCONDUCT AND A COMPLAINANT HAVE THE RIGHT TO REPRESENTATION**~~ **MAY**
 18 ~~**HAVE THE ASSISTANCE OF A REPRESENTATIVE**~~ **IN CONNECTION WITH PROCEEDINGS**
 19 **UNDER THIS SUBTITLE.**

20 ~~**3-111, 3-110.**~~

21 **(A) A POLICE OFFICER MAY NOT BE DISCHARGED, DISCIPLINED, DEMOTED,**
 22 ~~**OR DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR OTHERWISE**~~
 23 ~~**DISCRIMINATED AGAINST OR THREATENED IN REGARD TO THE POLICE OFFICER'S**~~
 24 ~~**EMPLOYMENT BECAUSE THE POLICE OFFICER:**~~

25 **(1) DISCLOSED INFORMATION THAT EVIDENCES:**

26 **(I) MISMANAGEMENT;**

27 **(II) A WASTE OF GOVERNMENT RESOURCES;**

28 **(III) A DANGER TO PUBLIC HEALTH OR SAFETY; OR**

1 (IV) A VIOLATION OF LAW OR POLICY COMMITTED BY ANOTHER
 2 POLICE OFFICER; OR

3 (2) LAWFULLY EXERCISED CONSTITUTIONAL RIGHTS.

4 (B) A POLICE OFFICER MAY NOT BE DENIED THE RIGHT TO BRING SUIT
 5 ARISING OUT OF THE POLICE OFFICER'S OFFICIAL DUTIES.

6 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A POLICE
 7 OFFICER HAS THE SAME RIGHTS TO ENGAGE IN POLITICAL ACTIVITY AS A STATE
 8 EMPLOYEE.

9 (2) THIS RIGHT TO ENGAGE IN POLITICAL ACTIVITY DOES NOT APPLY
 10 WHEN THE POLICE OFFICER IS ON DUTY OR ACTING IN AN OFFICIAL CAPACITY.

11 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW
 12 ENFORCEMENT AGENCY MAY NOT PROHIBIT SECONDARY EMPLOYMENT BY POLICE
 13 OFFICERS.

14 (2) A LAW ENFORCEMENT AGENCY MAY ADOPT REASONABLE
 15 REGULATIONS THAT RELATE TO SECONDARY EMPLOYMENT BY POLICE OFFICERS.

16 ~~3-112.~~ 3-111.

17 A LAW ENFORCEMENT AGENCY MAY NOT NEGATE OR ALTER ANY OF THE
 18 REQUIREMENTS OF THIS SUBTITLE THROUGH COLLECTIVE BARGAINING.

19 ~~3-113.~~ 3-112.

20 ~~A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION~~
 21 ~~OF MISCONDUCT BY A POLICE OFFICER, INCLUDING AN INTERNAL AFFAIRS~~
 22 ~~INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A~~
 23 ~~DISCIPLINARY DECISION, MAY NOT BE:~~

24 ~~(1) EXPUNGED; OR~~

25 ~~(2) DESTROYED BY A LAW ENFORCEMENT AGENCY.~~

26 A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION
 27 OF MISCONDUCT BY A POLICE OFFICER, INCLUDING AN INTERNAL AFFAIRS
 28 INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A
 29 DISCIPLINARY DECISION, MAY NOT BE:

30 (1) EXPUNGED; OR

Economic Impact Statement

Office of Legislative Oversight

Expedited Bill 49-21

Police – Police Accountability Board – Administrative Charging Committee – Established

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Expedited Bill 49-21 would have an insignificant impact on economic conditions in the County.

BACKGROUND

The purpose of Expedited Bill 49-21 is to improve police accountability and discipline. If enacted, the Bill would establish a Police Accountability Board (PAB) and an Administrative Charging Committee (ACC) for the County and define the membership and duties of these Committees. In the case of the ACC, the Bill would also define the compensation for members of the Committee. The Chair of the ACC would receive an annual salary of \$22,000 and the other four members would receive an annual salary of \$16,000. Salaries would be adjusted for changes in the consumer price index.¹

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

By establishing the ACC, Expedited Bill 49-21 could result in a net increase in household earnings for members of the Committee totaling \$86,000 across all members. This net increase in earnings, however, would have insignificant impacts on other residents and private organizations in the County in terms of the Council's priority economic indicators. Moreover, while establishing the PAB and ACC may influence policing practices and policies in ways that economically impact certain residents and private organizations in the future, estimating these potential, secondary impacts of the Bill is beyond the scope of this analysis. For these reasons, OLO concludes that enacting the Bill would have no significant impacts on local economic conditions.

VARIABLES

Not applicable

¹ Montgomery County Council, Expedited Bill 49-21, Police – Police Accountability Board – Administrative Charging Committee – Established, Introduced on December 14, 2021.

Economic Impact Statement

Office of Legislative Oversight

IMPACTS

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

Businesses, Non-Profits, Other Private Organizations

Not applicable

Residents

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

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

Montgomery County Council. Expedited Bill 49-21, Police – Police Accountability Board – Administrative Charging Committee – Established. Introduced on December 14, 2021.

CAVEATS

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

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.