



**Committee:** PS  
**Committee Review:** Completed  
**Staff:** Christine Wellons, Senior Legislative Attorney  
**Purpose:** Final action – vote expected  
**Keywords:** #PoliceAccountabilityBoard

AGENDA ITEM #5  
April 5, 2022  
**Action**

## SUBJECT

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

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

## EXPECTED ATTENDEES

To be determined.

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- The Public Safety Committee recommended the enactment of Bill 49-21 with amendments.
- The full Council adopted additional amendments.
- The Council is expected to adopt final amendments and have a roll call vote on the bill.

## DESCRIPTION/ISSUE

- The Public Safety Committee recommended enactment of the bill with amendments to:
  1. increase the PAB membership to 9 voting members with at least 1 member residing in a municipality covered by the PAB and permit the Executive to appoint one or more non-voting members;
  2. clarify that all complaints from the public must be investigated and reported to the ACC;
  3. require funding for training of PAB and ACC members from the police and outside organizations; and
  4. authorize the Council to remove a member for failure to complete required training.
- Over the course of 4 worksessions, the Council:
  1. approved the PS Committee amendments;
  2. deleted a “violation of law” as one of the reasons for removal of a member;
  3. replaced the professional experience required for a member with a member must “be able to demonstrate through professional or lived experience the ability to balance effective oversight, perform objective analysis of an investigation report, and practice procedural fairness”;
  4. removed the prohibition on compensation for PAB members in paragraph 35-24(e)(3) to permit the Council to provide for compensation in the budget;
  5. added a requirement for full-time dedicated staff for both the PAB and the ACC and required the County Attorney to retain special legal counsel to provide legal support for both the PAB and the ACC;
  6. amended the effective date to apply the new system to incidents occurring on or after July 1, 2023 for a complaint against a police officer covered by a collective bargaining agreement with a different disciplinary system and to incidents occurring on or after July 1, 2022 for complaints against all other police officers; and

7. required each law enforcement agency to provide a monthly report to the ACC detailing the number of complaints received and the status of each investigation.

## SUMMARY OF KEY DISCUSSION POINTS

Consider changes to state law and potential amendments to Bill 49-21 regarding:

1. The scope of complaints subject to ACC review, to align with anticipated changes to state law;
2. The transition clause of the bill, to align with anticipated changes to state law; and
3. Compensation of PAC members.

### **This report contains:**

Staff Report	Pages 1-11
Expedited Bill 49-21	© 1
Jawando PAB Salary Amendment	© 12
Senate Bill 389 (Third Reader)	© 13

Prior Staff Report for March 22 Worksession: available at [Bill template \(montgomerycountymd.gov\)](http://montgomerycountymd.gov/bill-template)

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**MEMORANDUM**

March 31, 2022

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

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

PURPOSE: **Action** – roll call vote expected

Bill 49-21, Police - Police Accountability Board – Administrative Charging Committee – Established, with Lead Sponsor Council President Albornoz on behalf of the County Executive, was introduced on December 14, 2021. Two public hearings were held for this Bill, the first on January 11 with 5 speakers and the second on January 18 with 30 speakers. Public Safety Committee worksessions were held on January 24, February 11, and February 16.<sup>1</sup> Full Council worksessions were held on March 1, March 8, March 15, and March 22. Action is scheduled for April 5.

**Three issues remain for the Council’s consideration:** (1) whether to amend the scope of complaints subject to PAB/ACC review to align with anticipated changes to state law; (2) whether to amend the transition clause to align with anticipated changes to state law; and (3) whether to amend the bill regarding PAB compensation. *See* page 7 of this memorandum for a discussion of these outstanding issues.

**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. 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.

House Bill 670 of 2021 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

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<sup>1</sup>#PoliceAccountabilityBoard

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 agreement between the Executive and the Fraternal Order of Police expires on June 30, 2023. Although deputy sheriffs are represented by MCGEO and also covered by this law, the Sheriff is the employer for the purpose of negotiating provisions concerning discipline with the union. According to the Sheriff, the current agreement covering discipline for deputy sheriff's expired on June 30, 2021 and is currently being negotiated. Therefore, the current disciplinary system continues, unless modified, until July 1, 2023 for police officers represented by FOP Lodge 35. However, the new law takes effect for the unrepresented police management and sheriff's management on July 1, 2022.<sup>2</sup> 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 sworn officer employed by the County Police Department or the County Sheriff's Department.<sup>3</sup> This State law expressly preempts the County from altering the new disciplinary system.<sup>4</sup>

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 appointed by the County Executive, a civilian selected by the PAB, and a police officer of equal rank to the officer being charged selected by the police chief. 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, as amended by the Council, would create a 9-member PAB

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<sup>2</sup> 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.

<sup>3</sup> HB670 does not apply to a Police Chief, Assistant Police Chief, Sheriff, or the equivalent to an Assistant Chief in the Sheriff's Office.

<sup>4</sup> HB 670 includes other significant provisions concerning police officers that is not directly relevant to the new State-wide disciplinary system.

nominated by the Executive and confirmed by the Council. The Executive may appoint one or more non-voting members. At least one voting member must reside in a municipality that operates a police department within the jurisdiction of the PAB. All of the members of the PAB and the ACC must be County residents. The Bill, as amended by the Council, would require each member to “be able to demonstrate through professional or lived experience the ability to balance effective oversight, perform objective analysis of an investigation report, and practice procedural fairness.”

Bill 49-21 would require the CAO to provide appropriate full-time dedicated staff for both the PAB and the ACC. The County Attorney must retain special legal counsel approved by the Council to provide legal services for both the PAB and the ACC. The Bill, as amended, is silent on compensation for the PAB members. 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 adjusted for changes in the consumer price index.<sup>5</sup> 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. The Committee amended the Bill to require both the PAB and the ACC to meet at least one time each month and to require County funding for training of members from both police department personnel and outside organizations. The Council also approved an amendment to authorize the removal of an ACC member, including the removal of a member who fails to complete the required training, and deleted a “violation of law” as one of the reasons for removal.

OLO concluded that Bill 49-21 would have an insignificant impact on economic conditions in the County. OLO concluded that the Bill would have little to no impact on racial and social inequities because it does not follow “the best practices for advancing civilian oversight for police accountability.”

### **January 11 Public Hearing**

All 5 speakers either suggested amendments to the Bill or opposed it in its current form. Mayor Jud Ashman of Gaithersburg requested amendments to require at least one member of the PAB to reside in one of the 4 municipalities in the County with a police department. Seth Grimes, representing Takoma Park Mobilization, requested amendments to the qualifications for members of the PAB and ACC. Rudy Logan, representing IMPACT Silver Spring, Heidi Rhodes, representing Jews United for Justice, and Ilhan Cagri, representing Muslim Voices Coalition, each opposed the Bill because they believe the Bill would require all of the civilian members of the PAB and the ACC would have to have policing experience.<sup>6</sup> Ms. Rhodes and Ms. Cagri also argued that the County Attorney would have a conflict of interest in representing both the County Police Department and the PAB and ACC.

### **January 18 Public Hearing**

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<sup>5</sup> These salaries are consistent with the salaries provided for members of the County Board of Appeals.

<sup>6</sup> The Bill, as introduced, would not require each PAB and ACC member to have policing experience. The Bill would require each member to have experience in managing a law enforcement agency, evaluating citizen complaints against a police officer **or** experience in personnel disciplinary proceedings as a manager, employee representative, mediator, or arbitrator.

Each of the 30 speakers opposed the Bill as introduced and requested amendments. Almost all of the speakers objected to the qualifications for members of the PAB and the ACC arguing that it would result in all members being former police department personnel.<sup>7</sup> Many of the speakers also suggested amendments to require independent staff and counsel for the PAB and ACC, expansion of the scope of complaints that would be handled through the ACC, compensation for PAB members, additional members for the PAB and mandatory geographical representation of members. Many of the speakers also complained about the lack of community input before the Executive submitted the Bill to the Council, the provision permitting the removal of a member for violating the law, and the lack of a defined budget for the staff of the PAB and the ACC. Finally, one or more speakers complained that the ACC would review the investigation done by the police department instead of investigating the incident<sup>8</sup> and the use of retired judges on the trial board.<sup>9</sup>

### **PS Worksession 1**

County Police Chief Marcus Jones, Dr. Earl Stoddard, ACAO, Elaine Bonner-Tomkins, OLO, Lee Holland, FOP Lodge 35 President, Chevy Chase Village Police Chief, John Fitzgerald, and Haley Roberts, OCA, and Senior Legislative Attorney Robert Drummer participated in the discussion.

The Committee discussed the Racial Equity and Social Justice Impact Statement for the Bill and the qualifications for members of the PAB and ACC without making any decisions. Chief Fitzgerald told the Committee that the Maryland Police Training and Standards Commission plans to propose regulations permitting settlements of disciplinary charges subject to ACC approval. The Committee agreed that the Bill should not be amended to increase the jurisdiction of the PAB/ACC to cover internal complaints. The Committee also approved an amendment to clarify that all external complaints must be investigated and reported to the ACC. Finally, the Committee agreed that the PAB membership should be increased from 5 members but did not agree on the final number.

The Committee requested information on how other Counties are handling these issues and committee to meeting as frequently as necessary to complete review of the Bill. The Committee also agreed to send staff the names and contact information for additional stakeholders they might want invited to the next worksession.

### **PS Worksession 2**

Councilmember Will Jawando participated in the worksession. County Police Chief Marcus Jones, Dr. Earl Stoddard, ACAO, Assistant Chief Darren Francke, Chevy Chase Village Police Chief, John Fitzgerald, Joanna Silver, SSJC, Eric Sterling, PAC, Ashanti Martinez, CASA, and Senior Legislative Attorney Robert Drummer participated in the discussion.

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<sup>7</sup> The qualifications in the Bill, as introduced, are in the alternative. Although experience in police management or experience reviewing citizen complaints of police misconduct are listed as qualifications, the Bill would also permit a member to qualify with experience in “personnel disciplinary proceedings as a manager, employee representative, mediator, or arbitrator” outside of law enforcement.

<sup>8</sup> This system was established by HB670. The Council does not have the authority to change it.

<sup>9</sup> The use of a retired judge or an administrative law judge is required by HB670 and is not part of Bill 49-21.

The Committee discussed the qualifications for members of the PAB and ACC without making any final decisions. Chief Fitzgerald told the Committee that the Maryland Police Training and Standards Commission plans to propose regulations that may include minimum qualifications. The Committee approved an amendment to increase the size of the PAB to 9 members with at least 1 member residing in a municipality covered by the PAB. The Committee also approved an amendment requiring the PAB and the ACC to meet at least once a month.

The Committee discussed a possible amendment to prohibit a former police officer from being appointed to the PAB or the ACC and an amendment that would welcome applicants without regard to prior criminal record or immigration status. The Committee also discussed the possibility of adding one or more non-voting members to the PAB who are former police officers.

Council President Albornoz indicated that he would propose some language to prohibit disqualification of an applicant due to immigration status. Ashanti Martinez offered to provide an answer to the question of whether or not an undocumented member could be paid by the County.

### **PS Worksession 3**

Councilmember Will Jawando participated in the worksession. Dr. Earl Stoddard, ACAO, Assistant Chief Darren Francke, Takoma Park Police Chief Tony DeVaul, Joanna Silver, SSJC, Alicia Hudson, PAC, and Senior Legislative Attorney Robert Drummer participated in the discussion.

The Committee discussed the qualifications for members of the PAB. AC Francke told the Committee that the Maryland Police Training and Standards Commission is meeting today to finalize proposed regulations that will include minimum qualifications. The Committee decided (3-0) not to prohibit the appointment of a former police officer to the PAB or the ACC. Councilmember Jawando and Ms. Silver argued that it is important to ensure that the PAB and ACC are civilian boards independent from police control and that a former police officer on the Board may dominate the discussion and give the appearance to community members that the Board is still run by the police department. The Committee approved an amendment to permit the Executive to appoint one or more non-voting members to the PAB.

The Committee also discussed an amendment outlining general desired qualifications for ACC members and asked staff to draft proposed language melding the ability to demonstrate the ability to perform the job with the language suggested by the SSJC.

The Committee also discussed training for PAB and ACC members in addition to the mandated State training. The Committee approved an amendment to require the County to provide funding for training for members provided by the Police Department in cooperation with the Municipal Police Departments and the Sheriff's Office as well as training by outside organizations. The Committee also approved an amendment to authorize the removal of an ACC member who fails to complete required training.

### **Council Worksession 1**

The Council approved the Committee amendments to:

1. increase the PAB membership to 9 voting members with at least 1 member residing in a municipality covered by the PAB and permit the Executive to appoint one or more non-voting members;
2. clarify that all complaints from the public must be investigated and reported to the ACC;
3. require funding for training of PAB and ACC members from the police and outside organizations; and
4. authorize the Executive and the Council to remove a member for failure to complete required training in addition to the reasons established in the Bill.

The Council also amended the Bill to:

1. delete a violation of law as one of the reasons listed for removal of a member; and
2. amend the minimum qualifications for a member by deleting the experience requirements in the Bill as introduced and replace it with a requirement that a member “be able to demonstrate through professional or lived experience the ability to balance effective oversight, perform objective analysis of an investigation report, and practice procedural fairness.”

### **Council Worksession 2**

The Council discussed whether PAB members should receive compensation for their work without deciding the issue. The Council also discussed staffing for PAB and ACC members. Councilmember Jawando suggested requiring “dedicated full-time” staff but did not make the motion at that time. The Council also discussed the issue of requiring the County Attorney to retain independent counsel for both the PAB and the ACC. Both of these issues were left to be decided at a future Council worksession.

The Council requested additional information on what type of compensation is provided for other County Boards, Committees, and Commissions and additional information on how the County Attorney’s Office would handle the retention of outside counsel.

### **Council Worksession 3**

The Council approved the following 2 additional amendments during the worksession:

1. remove the prohibition on compensation for PAB members in paragraph 35-24(e)(3) to permit the Council to provide for compensation in the budget; and
2. add a requirement for full-time dedicated staff for both the PAB and the ACC and require the County Attorney to retain special legal counsel to provide legal support for both the PAB and the ACC.

### **Council Worksession 4**



The Council approved the following 2 additional amendments during the worksession:

1. amended the effective date to apply the new system to incidents occurring on or after July 1, 2023 for a complaint against a police officer covered by a collective bargaining agreement with a different disciplinary system and to incidents occurring on or after July 1, 2022 for complaints against all other police officers; and
2. require each law enforcement agency to provide a monthly report to the ACC detailing the number of complaints received and the status of each investigation.

### **Issues**

For a thorough discussion of all issues previously considered by the Council, please see the staff report of Mr. Drummer dated March 22, 2022 (available at [Bill template \(montgomerycountymd.gov\)](http://montgomerycountymd.gov)).

The following three issues remain for the Council's consideration.

1. **Alignment with 2022 State Legislation - Potential Amendment to Make Internal Complaints Subject to ACC Review**

The General Assembly is expected to amend the scope of ACC/PAB complaints through Senate Bill 389. Assuming that Senate Bill 389 becomes law, the following amendment should be adopted to Bill 49-21:

*Amend lines 11-12 as follows:*

Complaint means an allegation of police misconduct [[filed by]] involving a member of the public and a police officer, regardless of whether the allegation originated from within the law enforcement agency or from an external source.

**Decision Point:** whether to adopt the amendment above regarding the nature of complaints subject to the PAB/ACC process.

2. **Alignment with 2022 State Legislation – Potential Amendment Regarding Transition Dates**

The Bill, as amended by the Council in a prior worksession, currently has the following transition clause:

**Sec. 3. Expedited Effective Date, Transition.**

The Council declares that this legislation is necessary for the immediate protection of the

public interest. This Act takes effect on the date on which it becomes law and must apply to eligible complaints based on an incident occurring on or after:

- (a) July 1, ~~[[2022]]~~ 2023 against a police officer who is covered by a collective bargaining agreement entered into before June 30, 2022, that includes a different disciplinary system; and
- (b) July 1, 2022, against any other police officer.

If Senate Bill 389 is enacted by the 2022 General Assembly, then the following amendment to Bill 49-21 should be adopted in order to align with the new state law:

**Sec. 3. Expedited Effective Date, Transition.**

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

- (a) July 1, ~~[[2022]]~~ 2023 against a police officer who is covered by a collective bargaining agreement entered into before September 30, 2022, that includes a different disciplinary system; and
- (b) October 1, 2022, against any other police officer.

**Decision Point:** whether to adopt the amendment above to the transition clause.

**3. Potential Amendments Regarding PAB Compensation**

Under the Bill, the Chair of the ACC would receive a \$22,000 annual salary and the other 4 members would receive a \$16,000 annual salary. Each salary would be adjusted by the appropriate consumer price index each year. The Bill, as amended, is silent as to compensation for PAB members.

**Constitutional Restrictions.** Article 35 of the Declaration of Rights in the Maryland Constitution states:

That no person shall hold, at the same time, more than one office of profit, created by the Constitution or Laws of this State;

The courts have generally held that an office of profit is one that is created by law, requires continuing duties, requires the performance of important public duty, has a definite term of office, and includes compensation. See *Moser v. Board of County Commissioners*, 235 Md. 279, 281 (1964). In *Moser*, the Court held that accepting an appointment and qualifying as a notary public

acted as a resignation of a position as a member of the Howard County Metropolitan Commission because it was an office of profit under Article 35 of the Declaration of Rights.

HB670 and Bill 49-21 require the Chair of the PAB or another Board member designated by the Chair to also serve as a member of the ACC. If both positions receive a salary and are considered an office of profit, a person cannot hold both offices at the same time. One could argue that since the law requires the PAB Chair to also serve on the ACC that it is actually only one office of profit. However, in order to avoid this issue, the Council could provide a salary for all members of the PAB except the Chair or a Board member designated by the Chair to serve on the ACC. That would avoid double payment and the potential Article 35 issue.

Article III, § 35 of the Maryland Constitution prohibits an increase or decrease in the salary for a “public officer” during the term of office for a public officer unless the term exceeds 4 years. A position is a “public office” if it has been created by law and requires the incumbent to exercise some portion of the sovereignty of the State. See, *Pressman v. D’Alessandro*, 211 Md. 50 (1956); *Marshall v. Director of Fin.*, 294 Md. 435 (1982). The position of PAB member is created by both HB670 and Bill 49-21 and has the authority to appoint members to the ACC and the trial boards. Council staff believes this would make it a public office and since it has a set 3-year term of office, compensation cannot be increased or decreased for a member during the member’s term of office. In addition, the Attorney General has opined that establishing compensation during the term of office for a public officer where none was provided at the beginning of the term would also violate Article III, § 35. See 64 Md. Op. Att’y Gen. 267 (1979). Therefore, if the Council wants to add compensation for the first PAB members in the budget, it must be done before the initial PAB members begin serving their terms of office.

**Additional Information on compensation.** Article XI, Boards, Committees, and Commissions, Code §§ 2-141 to 2-149 provides a “uniform system for classifying all groups of the county government and for prescribing procedures for their operation.” Code § 2-145 provides:

- (a) Unless a law expressly precludes compensation, the Council may establish compensation for members of a particular group by an appropriation that funds a line item in the budget. An appropriation may establish levels of compensation by categories or subcategories or groups.
- (b) Unless another method of compensation is established, a group member is compensated for each day that the member works on group business after the member is authorized to do the work by the group or the presiding officer of the group.
- (c) Whether or not a group member is compensated for serving on the group, the member may request reimbursement for travel and dependent care. The rate of reimbursement is established in an appropriation.
- (d) A group member must not be compensated or reimbursed for travel or childcare expenses if appropriated funds are not available.

The most recent report from the Committee Evaluation and Review Board (CERB), dated September 2013, identified 87 County Boards, Committees, and Commissions (BCC). The number has undoubtedly gone up in the last 9 years. Bill 3-20, Compensation, Reimbursements, and Stipends, introduced in January 2020 but now expired, would have provided a \$1200 stipend

for all public members of a County BCC who requested it instead of the standard reimbursement for expenses. The OMB Fiscal Impact Report estimated that there are 900 public members who would be eligible for the \$1200 stipend. The cost of the stipend at \$1200 per member would be \$1,080,000 each year. OMB also estimated that the current reimbursement for expenses totals \$22,500. Therefore, the net fiscal impact would be \$1,057,500 annually.

Very few BCC public members receive compensation for their service. Notable exceptions are the Board of Appeals (\$16,000 or \$20,000 for the Chair, the Merit System Protection Board (\$8,275 for a member and \$10,613 for the Chair), and the Racial Equity and Social Justice Advisory Committee (\$2,000 stipend).<sup>10</sup> Although the PAB would be responsible for selecting 2 civilian members of the ACC and 1 civilian member of each trial board, the remainder of the PAB's duties under HB670 align with the other advisory BCCs whose members do not receive compensation. There are some notable examples of County BCCs who perform quasi-judicial adjudicatory hearings for the County without compensation. Public members of the Human Rights Commission, the Landlord-Tenant Commission, the Ethics Commission, and the Commission for Common Ownership Communities all serve without compensation. The Policing Advisory Committee public members also serve without compensation.

**Additional Considerations Noted by Council Staff.** The Council plans to continue the discussion of compensation for PAB members at the April 5 session. If the Council wants to add compensation in the Bill for PAB members, there are several factors to consider.

1. The \$16,000 annual salary in the Bill for ACC members (\$22,000 for the Chair) would be consistent with the highest paid BCC in the County system (the Board of Appeals) and would be higher than the salary for members of the Merit System Protection Board. For example, the Board of Appeals generally conducts evidentiary hearings every Wednesday and must prepare a written decision for each case.
2. The PAB members would not be directly involved in the disciplinary system like the ACC members. Although the PAB would select members of the ACC and the civilian member of each trial board, the majority of their duties are advisory.
3. The only advisory board with statutory compensation is the Racial Equity and Social Justice Advisory Committee with a \$2000 annual stipend. Unless the Council wants to reconsider the compensation for the public members of all the County BCCs, compensation for the PAB should be close to the \$2000 stipend for the Racial Equity and Social Justice Advisory Committee.
4. A statutory salary for PAB members would be inconsistent with the unpaid public members of several other boards that handle quasi-judicial contested case hearings like the Board of Appeals, such as the Human Rights Commission, the Landlord Tenant Commission, the Commission on Common Ownership Communities, and the Ethics Commission.

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<sup>10</sup> M-NCPPC and WSSC are State agencies with salaries for members mandated by the State law creating each agency.

5. Compensation for PAB members would likely eliminate non-citizen legal residents who do not possess a valid Employment Authorization Document from the Federal government.
6. Would compensation for PAB members be necessary to attract qualified candidates? The County has been fortunate over the years to have many qualified residents volunteer without compensation to join a County BCC.
7. The Council may want to consider a consistent system of compensation for all public members of BCCs in separate legislation instead of adding compensation just for the PAB members in this Bill.

**The Council has at least 4 options:**

1. provide no compensation for PAB members consistent with almost all advisory BCCs in the County (all public members who serve without compensation are eligible to receive reimbursement for expenses, including child care);
2. provide a stipend similar to the \$2000 stipend for public members of the Racial Equity and Social Justice Advisory Committee;
3. do not provide compensation for PAB members in Bill 49-21 and establish a uniform system of determining compensation for all public members of BCCs in separate legislation; or
4. provide compensation for PAB members at any level between \$2000 and the \$16,000 provided for ACC members.

Councilmember Jawando may introduce an amendment to pay the PAB members (except the Chair or a different member designated to serve on the ACC) \$16,000 per year. See the Jawando salary amendment at ©12.

**NEXT STEP:** Roll call vote on Council Bill 49-21.

This packet contains:

	<u>Circle #</u>
Expedited Bill 49-21	1
Jawando PAB Salary Amendment	12
Senate Bill 389 (Third Reader)	13

Prior Staff Report for March 22 Worksession: available at [Bill template \(montgomerycountymd.gov\)](http://billtemplate.montgomerycountymd.gov)

Expedited Bill No. 49-21  
Concerning: Police – Police  
Accountability Board – Administrative  
Charging Committee - Established  
Revised: 3-22-22 Draft No. 10  
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

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

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**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

<b>Boldface</b>	<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. 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]]~~ nine voting members of the  
 48 Board, including the Chair, subject to confirmation by the Council. The  
 49 Executive may appoint one or more non-voting members to the Board.  
 50 At least one voting member must reside in a municipality operating a  
 51 police department that is within the jurisdiction of the Board.  
 52 (b) Composition and qualifications of members. The members of the Board  
 53 must reflect the racial, gender, gender-identity, sexual orientation, and



54 cultural diversity of the County. Each member must reside in the County  
 55 and [[have experience:

- 56 (1) managing or evaluating the management of a law enforcement  
 57 agency;  
 58 (2) evaluating citizen complaints against a police officer; or  
 59 (3) in personnel disciplinary proceedings as a manager, employee  
 60 representative, mediator, or arbitrator]] be able to demonstrate  
 61 through professional or lived experience the ability to balance  
 62 effective oversight, perform objective analysis of an investigation  
 63 report, and practice procedural fairness.

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

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

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

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

74 (1) The Board meets at the call of the Chair. The Board must meet as  
 75 often as necessary to perform its duties, but not less than [[4 times  
 76 each year]] than one time each month.

77 (2) The Executive must recommend, and the Council must appropriate  
 78 funds necessary for the Board and the Administrative Charging  
 79 Committee to operate in the County's annual operating budget.  
 80 The annual appropriation for the Board and the Administrative

81 Charging Committee must include funding for training of  
 82 members provided by:

83 (A) the County Police Department in cooperation with the  
 84 Sheriff and each municipal police department within the  
 85 jurisdiction of the Board; and

86 (B) appropriate outside organizations.

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

91 (f) Staff. The Chief Administrative Officer must provide appropriate  
 92 dedicated full-time staff to the Board and make available to the Board  
 93 services and facilities that are necessary or appropriate for the proper  
 94 performance of its duties. The County Attorney must retain special legal  
 95 counsel approved by the Council to serve as counsel to the Board.

96 (g) Duties. The Board must:

97 (1) hold quarterly meetings with the directors of one or more law  
 98 enforcement agencies operating in the County who employ one or  
 99 more police officers;

100 (2) appoint civilian members to the Administrative Charging  
 101 Committee and trial boards;

102 (3) receive complaints of police misconduct filed by a member of the  
 103 public;

104 (4) review the outcomes of disciplinary matters considered by the  
 105 Administrative Charging Committee on a quarterly basis;

106 (5) advise the Executive and the Council on policing matters; and

107           (6)   refer each complaint of police misconduct filed with the Board to  
 108                   the appropriate law enforcement agency within 3 days after receipt  
 109                   for investigation.

110       (h)   Removal of a member. The Executive with the approval of at least 6  
 111                   members of the Council may remove a member for:

112           (1)   neglect of duty, including failure to complete mandatory training;

113           (2)   misconduct in office;

114           (3)   a member's inability or unwillingness to perform the duties of the  
 115                   office;

116           (4)   conduct that impairs a member from performing the duties of the  
 117                   office; or

118           (5)   [[violation of law; or

119           (6)]] inability to meet the qualifications for a Board member mandated  
 120                   by State law or implementing regulations.

121       (i)   Reports. The Board must submit an annual report to the Executive and  
 122                   the Council each December 31 that:

123           (1)   identifies any trends in the disciplinary process of police officers  
 124                   in the County;

125           (2)   recommends changes to policy that would improve police  
 126                   accountability in the County; and

127           (3)   describes the activities of the Board and the numbers of complaints  
 128                   received.

129    **35-25. Administrative Charging Committee.**

130           (a)   Establishment. There is an Administrative Charging Committee for the  
 131                   County.

132           (b)   Membership. The Committee has 5 voting members. The members are:

- 133           (1) the Chair of the Police Accountability Board or another member  
 134           of the Board designated by the Chair;
- 135           (2) 2 civilian members appointed by the Police Accountability Board;  
 136           and
- 137           (3) 2 civilian members appointed by the Executive.
- 138       (c) Composition and qualifications of members. The Committee consists of  
 139       a chair and 4 additional members. The members of the Committee must  
 140       reflect the racial, gender, gender-identity, sexual orientation, and cultural  
 141       diversity of the County. Each member must []:
- 142           (1)]] reside in the County []; and have
- 143           (2) experience managing or evaluating the management of a law  
 144           enforcement agency;
- 145           (3) experience evaluating citizen complaints against a police officer;  
 146           or
- 147           (4) experience in personnel disciplinary proceedings as a manager,  
 148           employee representative, mediator, or arbitrator]] and be able to  
 149           demonstrate through professional or lived experience the ability to  
 150           balance effective oversight, perform objective analysis of an  
 151           investigation report, and practice procedural fairness.
- 152       (d) Training. Each member of the Committee must complete training on  
 153       matters relating to police procedures from the Maryland Police Training  
 154       and Standard Commission before serving as a member.
- 155       (e) Staff. The Chief Administrative Officer must provide appropriate  
 156       dedicated full-time staff to the Committee and make available to the  
 157       Committee services and facilities that are necessary or appropriate for the  
 158       proper performance of its duties. The County Attorney must retain special

159 legal counsel approved by the Council to serve as counsel to the  
160 Committee.

161 (f) Compensation. The annual salary for the Chair is \$22,000 and the annual  
162 salary for each member is \$16,000. The salary for the chair and each  
163 member must be adjusted on the first Monday in December by the  
164 Consumer Price Index for All Urban Consumers (CPI-U) for the  
165 Washington-Arlington-Alexandria Core Based Statistical Area (CBSA),  
166 as published by the United States Department of Labor, Bureau of Labor  
167 Statistics, or a successor index.

168 (g) Meetings. The Committee must meet at least one time each month or  
169 [[as]] more frequently if needed.

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

174 (i) Duties. The Committee must:

175 (1) review the findings of each law enforcement agency's  
176 investigation forwarded by the agency to the Committee;

177 (2) review any body camera footage that may be relevant to the  
178 matters covered in the complaint of misconduct;

179 (3) authorize a police officer called before the Committee to be  
180 accompanied by a representative;

181 (4) determine if the police officer who is the subject of the  
182 investigation should be administratively charged or not  
183 administratively charged within 30 days after receipt of the law  
184 enforcement agency's investigatory file unless the Committee  
185 requests further review under subsections (j)(1) or (2);

- 186           (4) if the Committee determines that a police officer should be  
187           administratively charged, recommend discipline pursuant to the  
188           disciplinary matrix;
- 189           (5) if the Committee determines that a police officer should not be  
190           administratively charged, determine if:
- 191               (A) the allegations against the police officer are unfounded,  
192               including situations where existing departmental policy  
193               fails to properly address the situation for which the officer  
194               was charged; or,
- 195               (B) the police officer is exonerated;
- 196           (6) issue a written opinion for each complaint describing in detail the  
197           Committee's findings, determinations, and recommendations; and
- 198           (7) forward the written opinion to the director of the appropriate law  
199           enforcement agency, the accused police officer, and the  
200           complainant.
- 201        (i) Authority of the Committee. The Committee may:
- 202               (1) request information or action from the law enforcement agency  
203               that conducted the investigation, including requiring additional  
204               investigation;
- 205               (2) issue subpoenas for documents or witnesses necessary to execute  
206               the Committee's duties; and
- 207               (3) record, in writing, any failure of supervision that caused or  
208               contributed to a police officer's misconduct.
- 209        (k) Confidentiality. Each member of the Committee must maintain  
210           confidentiality relating to a matter being considered by the Committee  
211           until final disposition of the matter.

212 (l) Duties of the law enforcement agency. The law enforcement agency must  
 213 investigate and submit a written investigation report to the Administrative  
 214 Charging Committee for each complaint received by the agency or  
 215 referred to the agency by the Police Accountability Board. Each law  
 216 enforcement agency must submit a monthly report to the Administrative  
 217 Charging Committee detailing complaints received and the status of each  
 218 investigation.

219 (m) Removal of a member. The Executive with the approval of at least 6  
 220 members of the Council may remove a member for:

221 (1) neglect of duty, including failure to complete mandatory training;

222 (2) misconduct in office;

223 (3) a member's inability or unwillingness to perform the duties of the  
 224 office;

225 (4) conduct that impairs a member from performing the duties of the  
 226 office; or

227 (5) [[violation of law; or

228 (6)]] inability to meet the qualifications for a Board member mandated  
 229 by State law or implementing regulations.

230 **Sec. 2. Transition.** Notwithstanding Sections 35-24(d) and 35-25(h) in Section  
 231 1, the Executive must stagger the initial terms of the members of the Board and the  
 232 Committee so that the terms of approximately one-third of the members expires each  
 233 year.

234 **Sec. 3. Expedited Effective Date, Transition.**

235 The Council declares that this legislation is necessary for the immediate  
 236 protection of the public interest. This Act takes effect on the date on which it becomes  
 237 law and must apply to eligible complaints based on an incident occurring on or after:

238 (a) July 1, [[2022]] 2023 against a police officer who is covered by a

239 collective bargaining agreement entered into before June 30, 2022, that  
240 includes a different disciplinary system; and  
241 (b) July 1, 2022, against any other police officer.  
242

243 *Approved:*

244

---

Gabriel Albornoz, President, County Council

Date

245 *Approved:*

246

---

Marc Elrich, County Executive

Date

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

248

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Selena Mendy Singleton, Esq., Clerk of the Council

Date



## Jawando PAB Salary Amendment

*Amend lines 87-90 as follows:*

- (3) The [[Board members]] Chair or another Board member designated to serve on the Administrative Charging Committee must serve without compensation except for the reimbursement of expenses incurred in attending meetings or carrying out other duties, including travel and dependent care costs at rates established by the County, subject to appropriation. The annual salary for each other Board member is \$16,000. The salary for each member must be adjusted on the first Monday in December by the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or a successor index.

# SENATE BILL 389

E4  
SB 608/21 – JPR

2lr1255

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By: **Senator Jackson**

Introduced and read first time: January 24, 2022

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Safety – Maryland Police ~~Training and Standards Commission~~**  
3 **Accountability Act Revisions and Clarifications**

4 FOR the purpose of ~~altering the membership and duties of the Maryland Police Training~~  
5 ~~and Standards Commission; providing that a law enforcement agency may employ~~  
6 ~~an individual as a police officer for a certain period only if the individual is certified~~  
7 ~~or provisionally certified by the Commission; altering provisions of law relating to~~  
8 ~~the certification and recertification of police officers; and generally relating to the~~  
9 ~~Maryland Police Training and Standards Commission~~ specifying that a certain  
10 disciplinary matrix applies to all complaints of police misconduct; specifying that the  
11 purpose of a certain trial board process is to adjudicate all internal and external  
12 matters for which a police officer is subject to discipline; establishing the composition  
13 of a trial board for a statewide or bi-county law enforcement agency; prohibiting the  
14 use of collective bargaining to establish or alter a process for investigation and  
15 disposition of certain complaints; altering the process for appealing certain  
16 disciplinary matters; altering the effective date of a certain Act of the General  
17 Assembly; and generally relating to the process for disciplining police officers.

18 ~~BY repealing and reenacting, without amendments,~~  
19 ~~Article – Public Safety~~  
20 ~~Section 3–201(a) and (b) and 3–202~~  
21 ~~Annotated Code of Maryland~~  
22 ~~(2018 Replacement Volume and 2021 Supplement)~~

23 ~~BY adding to~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Article – Public Safety~~  
 2 ~~Section 3-201(e)~~  
 3 ~~Annotated Code of Maryland~~  
 4 ~~(2018 Replacement Volume and 2021 Supplement)~~

5 ~~BY repealing and reenacting, with amendments,~~  
 6 ~~Article – Public Safety~~  
 7 ~~Section 3-201(e) through (g), 3-203(e), 3-204, 3-209.1, 3-211, and 3-213 through~~  
 8 ~~3-215~~  
 9 ~~Annotated Code of Maryland~~  
 10 ~~(2018 Replacement Volume and 2021 Supplement)~~

11 ~~BY repealing and reenacting, with amendments,~~  
 12 ~~Article – Public Safety~~  
 13 ~~Section 3-207 and 3-209~~  
 14 ~~Annotated Code of Maryland~~  
 15 ~~(2018 Replacement Volume and 2021 Supplement)~~  
 16 ~~(As enacted by Chapter 59 of the Acts of the General Assembly of 2021)~~

17 ~~BY repealing~~  
 18 ~~Article – Public Safety~~  
 19 ~~Section 3-210 and 3-216~~  
 20 ~~Annotated Code of Maryland~~  
 21 ~~(2018 Replacement Volume and 2021 Supplement)~~

22 BY repealing and reenacting, with amendments,  
 23 Article – Public Safety  
 24 Section 3-104(d), 3-105, 3-106, and 3-111  
 25 Annotated Code of Maryland  
 26 (2018 Replacement Volume and 2021 Supplement)  
 27 (As enacted by Section 3 of Chapter 59 of the Acts of the General Assembly of 2021)

28 BY repealing and reenacting, with amendments,  
 29 Chapter 59 of the Acts of the General Assembly of 2021  
 30 Section 8 and 12

31 BY adding to  
 32 Chapter 59 of the Acts of the General Assembly of 2021  
 33 Section 12

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 35 That the Laws of Maryland read as follows:

36 **Article – Public Safety**

37 ~~3-201.~~

1 ~~(a) In this subtitle the following words have the meanings indicated.~~

2 ~~(b) "Commission" means the Maryland Police Training and Standards~~  
3 ~~Commission.~~

4 ~~(E) "MENTAL HEALTH PROFESSIONAL" MEANS A PERSON CERTIFIED OR~~  
5 ~~LICENSED TO PROVIDE MENTAL HEALTH SERVICES UNDER THE HEALTH~~  
6 ~~OCCUPATIONS ARTICLE.~~

7 ~~[(c)] (F) "Motorcycle profiling" means the arbitrary use of the fact that an~~  
8 ~~individual rides a motorcycle or wears motorcycle related clothing or paraphernalia as a~~  
9 ~~factor in deciding to stop, question, take enforcement action, arrest, or search the individual~~  
10 ~~or vehicle.~~

11 ~~[(f)] (G) (1) "Police officer" means an individual who:~~

12 ~~(i) is authorized to enforce the general criminal laws of the State;~~

13 ~~and~~

14 ~~(ii) is a member of one of the following law enforcement agencies:~~

15 ~~1. the Department of State Police;~~

16 ~~2. the Police Department of Baltimore City;~~

17 ~~3. the police department, bureau, or force of a county;~~

18 ~~4. the police department, bureau, or force of a municipal~~  
19 ~~corporation;~~

20 ~~5. the Maryland Transit Administration police force;~~

21 ~~6. the Maryland Transportation Authority Police;~~

22 ~~7. the police forces of the University System of Maryland;~~

23 ~~8. the police force of Morgan State University;~~

24 ~~9. the office of the sheriff of a county;~~

25 ~~10. the police forces of the Department of Natural Resources;~~

26 ~~11. the police force of the Maryland Capitol Police of the~~  
27 ~~Department of General Services;~~

28 ~~12. the police force of a State, county, or municipal corporation~~  
29 ~~if the special police officers are appointed under Subtitle 3 of this title;~~

~~13. the Housing Authority of Baltimore City Police Force;~~

~~14. the Baltimore City School Police Force;~~

~~15. the Crofton Police Department;~~

~~16. the Washington Suburban Sanitary Commission Police Force;~~

~~17. the Ocean Pines Police Department;~~

~~18. the police force of the Baltimore City Community College;~~

~~19. the police force of the Hagerstown Community College;~~

~~20. the Warrant Apprehension Unit of the Intelligence and Investigative Division in the Department;~~

~~21. the police force of the Anne Arundel Community College;~~

~~22. the police department of the Johns Hopkins University established in accordance with Title 24, Subtitle 12 of the Education Article.~~

~~(2) "Police officer" includes:~~

~~(i) a member of the Field Enforcement Bureau of the Comptroller's Office;~~

~~(ii) a member of the Field Enforcement Division of the Alcohol and Tobacco Commission;~~

~~(iii) the State Fire Marshal or a deputy State fire marshal;~~

~~(iv) an investigator of the Intelligence and Investigative Division of the Department;~~

~~(v) a Montgomery County fire and explosive investigator as defined in § 2-208.1 of the Criminal Procedure Article;~~

~~(vi) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2-208.2 of the Criminal Procedure Article;~~

~~(vii) a Prince George's County fire and explosive investigator as defined in § 2-208.3 of the Criminal Procedure Article;~~

1 ~~(viii) a Worcester County fire and explosive investigator as defined in~~  
 2 ~~§ 2-208.4 of the Criminal Procedure Article;~~

3 ~~(ix) a City of Hagerstown fire and explosive investigator as defined~~  
 4 ~~in § 2-208.5 of the Criminal Procedure Article; and~~

5 ~~(x) a Howard County fire and explosive investigator as defined in §~~  
 6 ~~2-208.6 of the Criminal Procedure Article.~~

7 ~~(3) "Police officer" does not include:~~

8 ~~(i) an individual who serves as a police officer only because the~~  
 9 ~~individual occupies another office or position;~~

10 ~~(ii) a sheriff, the Secretary of State Police, a commissioner of police,~~  
 11 ~~a deputy or assistant commissioner of police, a chief of police, a deputy or assistant chief of~~  
 12 ~~police, or another individual with an equivalent title who is appointed or employed by a~~  
 13 ~~government to exercise equivalent supervisory authority; or~~

14 ~~(iii) a member of the Maryland National Guard who:~~

15 ~~1. is under the control and jurisdiction of the Military~~  
 16 ~~Department;~~

17 ~~2. is assigned to the military property designated as the~~  
 18 ~~Martin State Airport; and~~

19 ~~3. is charged with exercising police powers in and for the~~  
 20 ~~Martin State Airport.~~

21 ~~[(g)] (H) ["SWAT team"] "SPECIAL TACTICAL RESPONSE TEAM" means an~~  
 22 ~~agency designated unit of law enforcement officers who are selected, trained, and equipped~~  
 23 ~~to work as a coordinated team to resolve critical incidents that are so hazardous, complex,~~  
 24 ~~or unusual that they may exceed the capabilities of first responders or investigative units.~~

25 ~~§ 202.~~

26 ~~There is a Maryland Police Training and Standards Commission, which is an~~  
 27 ~~independent commission that functions in the Department.~~

28 ~~§ 203.~~

29 ~~(e) Except for [the appointed members] A MEMBER APPOINTED BY THE~~  
 30 ~~GOVERNOR, a member of the Commission may serve personally at a Commission meeting~~  
 31 ~~or may designate, IN WRITING, a representative from the member's unit, agency, or~~  
 32 ~~association who may act at any meeting to the same effect as if the member were personally~~  
 33 ~~present.~~

1 ~~§ 204.~~

2 ~~(A) THE SECRETARY OF STATE POLICE IS THE CHAIR OF THE COMMISSION.~~

3 ~~(B) The Commission annually shall elect a [chair and] vice chair from among its~~  
4 ~~members.~~

5 ~~§ 207.~~

6 ~~(a) The Commission [has the following powers and duties] SHALL:~~

7 ~~(1) [to] establish standards for the approval and continuation of approval~~  
8 ~~of [schools] EACH SCHOOL that [conduct] CONDUCTS police entrance level and in-service~~  
9 ~~training courses required by the Commission, including EACH State, regional, county, and~~  
10 ~~municipal training [schools] SCHOOL;~~

11 ~~(2) CONDUCT JOB TASK ANALYSES FOR ENTRANCE LEVEL POLICE~~  
12 ~~OFFICERS EVERY 10 YEARS BEGINNING ON OR BEFORE DECEMBER 31, 2022;~~

13 ~~(3) [to] approve and issue certificates of approval to police training schools;~~

14 ~~[(3)] (4) [to] inspect police training schools;~~

15 ~~[(4)] (5) [to] revoke, for cause, the approval or certificate of approval~~  
16 ~~issued to a police training school;~~

17 ~~[(5)] (6) [to] establish the following for police training schools:~~

18 ~~(i) curriculum;~~

19 ~~(ii) minimum courses of study;~~

20 ~~(iii) attendance requirements;~~

21 ~~(iv) eligibility requirements;~~

22 ~~(v) equipment and facilities;~~

23 ~~(vi) standards of operation; and~~

24 ~~(vii) minimum qualifications for instructors;~~

25 ~~[(6) to require, for entrance level police training and at least every 3 years~~  
26 ~~for in-service level police training conducted by the State and each county and municipal~~

1 ~~police training school, that the curriculum and minimum courses of study include special~~  
2 ~~training, attention to, and study of the application and enforcement of:~~

3 ~~(i) the criminal laws concerning rape and sexual offenses, including~~  
4 ~~the sexual abuse and exploitation of children and related evidentiary procedures;~~

5 ~~(ii) the criminal laws concerning human trafficking, including~~  
6 ~~services and support available to victims and the rights and appropriate treatment of~~  
7 ~~victims;~~

8 ~~(iii) the criminal laws concerning hate crimes, including the~~  
9 ~~recognition of, response to, and reporting of incidents required to be reported under §~~  
10 ~~2-307 of this article;~~

11 ~~(iv) the contact with and treatment of victims of crimes and~~  
12 ~~delinquent acts;~~

13 ~~(v) the notices, services, support, and rights available to victims and~~  
14 ~~victims' representatives under State law; and~~

15 ~~(vi) the notification of victims of identity fraud and related crimes of~~  
16 ~~their rights under federal law;]~~

17 ~~(7) [to] certify [and issue appropriate certificates to] qualified instructors~~  
18 ~~for police training schools authorized by the Commission to offer police training programs;~~

19 ~~(8) [to] verify that police officers have satisfactorily completed [training~~  
20 ~~programs and issue diplomas to those police officers] **ENTRANCE-LEVEL TRAINING**~~  
21 ~~**PROGRAMS;**~~

22 ~~(9) [to] conduct and operate police training schools authorized by the~~  
23 ~~Commission to offer police training programs;~~

24 ~~(10) [to] make a continuous study of entrance level and in-service training~~  
25 ~~methods and procedures;~~

26 ~~[(11) to consult with and accept the cooperation of any recognized federal,~~  
27 ~~State, or municipal law enforcement agency or educational institution;~~

28 ~~(12) to consult and cooperate with universities, colleges, and institutions in~~  
29 ~~the State to develop specialized courses of study for police officers in police science and~~  
30 ~~police administration;~~

31 ~~(13) to consult and cooperate with other agencies and units of the State~~  
32 ~~concerned with police training;~~



~~(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008;~~

~~(11) ON OR BEFORE AUGUST 15 EACH YEAR, POST ON THE COMMISSION'S WEBSITE AND NOTIFY EACH LAW ENFORCEMENT AGENCY IN THE STATE OF;~~

~~(I) ALL TRAINING TOPICS DESCRIBED IN ITEMS (14) THROUGH (16) OF THIS SUBSECTION; AND~~

~~(II) ALL TRAINING TOPICS THAT WILL BE REQUIRED IN THE NEXT CALENDAR YEAR;~~

~~(12) VERIFY THAT POLICE OFFICERS CERTIFIED BY THE COMMISSION MAINTAIN A CURRENT CERTIFICATION IN LIFESAVING TECHNIQUES, INCLUDING CPR;~~

~~(13) CONSULT WITH ANY RECOGNIZED FEDERAL, STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY OR EDUCATIONAL INSTITUTION, INSTITUTION THAT SPECIALIZES IN COURSES OF STUDY FOR POLICE OFFICERS, OR AGENCY OR UNIT OF THE STATE INVOLVED IN POLICE TRAINING;~~

~~[(15)] (14) [to] require, for entrance level police training and annually for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, for police officers who are issued an electronic control device by a law enforcement agency, special training in the proper use of electronic control devices, as defined in § 4-109 of the Criminal Law Article, consistent with established law enforcement standards and federal and State constitutional provisions;~~

~~[(16) to require, for entrance level police training and, as determined by the Commission, for in-service level training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, consistent with established law enforcement standards and federal and State constitutional provisions;~~

~~(i) training in lifesaving techniques, including Cardiopulmonary Resuscitation (CPR);~~

~~(ii) training in the proper level and use of force as set forth in the Maryland Use of Force Statute under § 3-524 of this title;~~

~~(iii) training regarding sensitivity to cultural and gender diversity;~~  
and

1 (iv) ~~training regarding individuals with physical, intellectual,~~  
 2 ~~developmental, and psychiatric disabilities;]~~

3 ~~[(17)](15) [to] require, for entrance level police training and at least every~~  
 4 ~~2 years for in-service level police training conducted by the State and each county and~~  
 5 ~~municipal police training school, that the curriculum and minimum courses of study~~  
 6 ~~include special training, attention to, and study of the application of antidiscrimination and~~  
 7 ~~use of force de-escalation training;~~

8 ~~[(18) to develop, with the cooperation of the Office of the Attorney General,~~  
 9 ~~the Governor's Office of Crime Prevention, Youth, and Victim Services, and the Federal~~  
 10 ~~Trade Commission, a uniform identity fraud reporting form that:~~

11 (i) ~~makes transmitted data available on or before October 1, 2011,~~  
 12 ~~for use by each law enforcement agency of State and local government; and~~

13 (ii) ~~may authorize the data to be transmitted to the Consumer~~  
 14 ~~Sentinel program in the Federal Trade Commission;~~

15 (19) ~~to adopt and recommend a set of best practices and standards for use of~~  
 16 ~~force;]~~

17 ~~(16) REQUIRE, FOR ENTRANCE LEVEL POLICE TRAINING AND AT~~  
 18 ~~LEAST EVERY 3 YEARS FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY~~  
 19 ~~THE STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT~~  
 20 ~~THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE SPECIAL TRAINING,~~  
 21 ~~ATTENTION TO, AND STUDY OF:~~

22 ~~(I) THE CRIMINAL LAWS CONCERNING RAPE AND SEXUAL~~  
 23 ~~OFFENSES, INCLUDING THE SEXUAL ABUSE AND EXPLOITATION OF CHILDREN AND~~  
 24 ~~RELATED EVIDENTIARY PROCEDURES;~~

25 ~~(II) THE CRIMINAL LAWS CONCERNING HUMAN TRAFFICKING,~~  
 26 ~~INCLUDING SERVICES AND SUPPORT AVAILABLE TO VICTIMS AND THE RIGHTS OF~~  
 27 ~~AND APPROPRIATE TREATMENT OF VICTIMS;~~

28 ~~(III) THE CONTACT WITH AND TREATMENT OF VICTIMS OF~~  
 29 ~~CRIMES AND DELINQUENT ACTS;~~

30 ~~(IV) THE NOTICES, SERVICES, SUPPORT, AND RIGHTS~~  
 31 ~~AVAILABLE TO VICTIMS AND VICTIMS' REPRESENTATIVES UNDER STATE LAW;~~

32 ~~(V) THE NOTIFICATION OF VICTIMS OF IDENTITY FRAUD AND~~  
 33 ~~RELATED CRIMES OF THEIR RIGHTS UNDER FEDERAL LAW;~~

~~(VI) THE USE OF FORCE, DE-ESCALATION, AND THE DUTY OF A POLICE OFFICER TO INTERVENE WHEN THE POLICE OFFICER OBSERVES ANOTHER OFFICER USING FORCE THAT IS EXCESSIVE AS SET FORTH IN THE MARYLAND USE OF FORCE STATUTE UNDER § 3-524 OF THIS TITLE OR OTHERWISE VIOLATES THE USE OF FORCE POLICIES OF THE STATE OR THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE POLICE OFFICER;~~

~~(VII) THE RECOGNITION AND PREVENTION OF DISCRIMINATION BASED ON:~~

~~1. RACE;~~

~~2. COLOR;~~

~~3. RELIGION OR CREED;~~

~~4. NATIONAL ORIGIN OR ANCESTRY;~~

~~5. SEX;~~

~~6. SEXUAL ORIENTATION;~~

~~7. GENDER IDENTITY;~~

~~8. AGE;~~

~~9. PHYSICAL OR MENTAL DISABILITY;~~

~~10. MARITAL STATUS;~~

~~11. VETERAN STATUS;~~

~~12. GENETIC INFORMATION;~~

~~13. CITIZENSHIP; OR~~

~~14. CULTURE; AND~~

~~(VIII) ALL ASPECTS OF PROFILING, INCLUDING:~~

~~1. PROFILING IN WHICH AN INDIVIDUAL IS IMPROPERLY TARGETED AS A SUSPECT OF A CRIME BECAUSE OF THE PERSON'S RACE, ETHNICITY, RELIGION, OR OTHER IDENTIFYING CHARACTERISTIC;~~

~~2. PROFILING IN WHICH A SUSPECT'S RACE, ETHNICITY, RELIGION, OR OTHER IDENTIFYING CHARACTERISTIC HAS BEEN REPORTED DURING THE COURSE OF AN INVESTIGATION; AND~~

~~3. MOTORCYCLE PROFILING;~~

~~[(20)] (17) [to] evaluate and modernize recruitment standards and practices of law enforcement agencies to increase diversity within those law enforcement agencies and develop strategies for recruiting women and African American, Hispanic or Latino, and other minority candidates;~~

~~[(21)] (18) [to develop] MAINTAIN standards for the mandatory psychological consultation with a law enforcement officer who was actively involved in an incident when another person was seriously injured or killed as a result of an accident or a shooting or has returned from combat deployment;~~

~~[(22)] (19) [to require:~~

~~(i)] REQUIRE, ON OR BEFORE DECEMBER 31, 2022, a statement condemning motorcycle profiling to be included in existing written policies regarding other profiling; [and~~

~~(ii) for entrance level police training and for in service level training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, consistent with established law enforcement standards and federal and State constitutional provisions, training related to motorcycle profiling in conjunction with existing training regarding other profiling;]~~

~~[(23)] (20) [to] perform any other act, including adopting regulations, that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle; and~~

~~[(24)] (21) [to consult and cooperate with commanders of SWAT teams to develop] MAINTAIN standards for training and deployment of [SWAT] SPECIAL TACTICAL RESPONSE teams and of law enforcement officers [who are not members of a SWAT team] who conduct no knock warrant service in the State based on best practices in the State and nationwide.~~

~~(b) (1) The Commission shall [develop] MAINTAIN a system by which law enforcement agencies report to the Commission on the number of serious officer involved incidents each year, the number of officers disciplined each year, and the type of discipline administered to those officers.~~

~~(2) The Commission shall annually summarize the information submitted by law enforcement agencies and:~~

1                   (i) ~~ON OR BEFORE MARCH 31 EACH YEAR, post the summary,~~  
 2 ~~excluding the names of officers and other involved parties, on a website maintained by the~~  
 3 ~~Commission; and~~

4                   (ii) ~~submit the summary to the General Assembly, as provided in §~~  
 5 ~~2-1257 of the State Government Article.~~

6           (e)   (1) ~~[In consultation with the Maryland Department of Health, the] THE~~  
 7 ~~Commission shall establish a confidential hotline that is available for police officers and~~  
 8 ~~other law enforcement personnel to contact and speak with a trained peer law enforcement~~  
 9 ~~officer or a mental health professional who may provide initial counseling advice and~~  
 10 ~~confidential referral to appropriate services.~~

11                   (2) ~~THE COMMISSION SHALL POST ON ITS WEBSITE INFORMATION~~  
 12 ~~REGARDING THE CONFIDENTIAL HOTLINE ESTABLISHED UNDER THIS SUBSECTION.~~

13           (d)   ~~The Commission shall:~~

14                   (1) ~~[establish] MAINTAIN a Police Complaint Mediation Program to which~~  
 15 ~~a law enforcement agency may refer a nonviolent complaint made against a police officer~~  
 16 ~~out of the standard complaint process;~~

17                   (2) ~~refer a complaint referred to the Program to voluntary mediation~~  
 18 ~~conducted by an independent mediation service; and~~

19                   (3) ~~[adopt] MAINTAIN regulations to implement the Program, including~~  
 20 ~~criteria concerning eligibility for referral of complaints.~~

21           (e)   (1)   The Commission shall ~~[develop] ANNUALLY REVIEW AND UPDATE AS~~  
 22 ~~APPROPRIATE best practices for the establishment and implementation of a community~~  
 23 ~~policing program in each jurisdiction.~~

24                   (2)   The Commission shall ~~[develop] MAINTAIN a system by which each~~  
 25 ~~local law enforcement agency annually files a detailed description of the law enforcement~~  
 26 ~~agency's community policing program.~~

27                   (3)   ~~The Commission shall annually:~~

28                           (i) ~~review each community policing program filed in accordance~~  
 29 ~~with § 3-517 of this title; and~~

30                           (ii) ~~provide each agency with any comments that the Commission~~  
 31 ~~has to improve the agency's community policing program.~~

32           (f)   (1)   The Commission shall ~~[develop] MAINTAIN a uniform citizen complaint~~  
 33 ~~process to be followed by each law enforcement agency.~~

- 1           ~~(2) The uniform complaint process shall:~~
- 2                   ~~(i) be simple;~~
- 3                   ~~(ii) require that a complainant be informed of the final disposition of~~  
4 ~~the complainant's complaint and any discipline imposed as a result; and~~
- 5                   ~~(iii) be posted on the websites of the Commission and each law~~  
6 ~~enforcement agency.~~
- 7           ~~(g) The Commission shall [develop] MAINTAIN and administer:~~
- 8                   ~~(1) a training program on matters relating to police procedures for~~  
9 ~~individuals who intend to qualify to participate as a member of a trial board or~~  
10 ~~administrative charging committee under Subtitle 1 of this title; and~~
- 11                   ~~(2) a training program on matters relating to police training and standards~~  
12 ~~for citizens who are appointed to serve as members of the Commission.~~
- 13           ~~(h) The Commission shall distribute the victim's representation notification form~~  
14 ~~developed by the Governor's Office of Crime Prevention, Youth, and Victim Services under~~  
15 ~~§ 12-206.11 of the Transportation Article to each law enforcement agency in the State.~~
- 16           ~~(i) The Commission, in consultation with the Maryland State's Attorneys'~~  
17 ~~Association, shall develop and maintain a uniform, statewide training and certification~~  
18 ~~curriculum to ensure use of best practices in investigating compliance with court orders to~~  
19 ~~surrender regulated firearms, rifles, and shotguns under § 6-234 of the Criminal Procedure~~  
20 ~~Article.~~
- 21           ~~(j) The Commission, in consultation with the Anne Arundel County Police~~  
22 ~~Academy, shall develop and maintain a uniform statewide training and certification~~  
23 ~~curriculum that includes role playing exercises to ensure the use of best practices in the~~  
24 ~~issuance of citations in lieu of arrest.~~
- 25           ~~(k) The Commission shall:~~
- 26                   ~~(1) hold law enforcement agencies accountable for violations of the Use of~~  
27 ~~Force Statute under § 3-524 of this title; and~~
- 28                   ~~(2) work with the Comptroller and the Governor's Office of Crime~~  
29 ~~Prevention, Youth, and Victim Services to ensure that State grant funding is withheld from~~  
30 ~~a law enforcement agency that violates the Use of Force Statute under § 3-524 of this title.~~
- 31           ~~(l) The Commission shall:~~

1 ~~(1) develop a test and training for implicit bias, subject to the availability~~  
 2 ~~of implicit bias testing standards that are generally accepted by experts in the field of police~~  
 3 ~~psychology;~~

4 ~~(2) require all law enforcement agencies to use the implicit bias test in the~~  
 5 ~~hiring process;~~

6 ~~(3) require all new police officers to complete implicit bias testing and~~  
 7 ~~training; and~~

8 ~~(4) require all incumbent police officers to undergo implicit bias testing and~~  
 9 ~~training on an annual basis.~~

10 ~~§ 200.~~

11 ~~(a) (1) A LAW ENFORCEMENT AGENCY MAY EMPLOY AN INDIVIDUAL AS A~~  
 12 ~~POLICE OFFICER FOR A PERIOD EXCEEDING 1 YEAR ONLY IF THE INDIVIDUAL IS~~  
 13 ~~CERTIFIED BY THE COMMISSION.~~

14 ~~(2) A LAW ENFORCEMENT AGENCY MAY EMPLOY AN INDIVIDUAL AS A~~  
 15 ~~POLICE OFFICER FOR A PERIOD NOT EXCEEDING 1 YEAR ONLY IF THE INDIVIDUAL~~  
 16 ~~IS PROVISIONALLY CERTIFIED BY THE COMMISSION.~~

17 ~~(B) The Commission shall certify as a police officer each individual who:~~

18 ~~(1) (i) satisfactorily meets the standards of the Commission; or~~

19 ~~(ii) provides the Commission with sufficient evidence that the~~  
 20 ~~individual has satisfactorily completed a training program in another state of equal quality~~  
 21 ~~and content as required by the Commission;~~

22 ~~(2) submits to a mental health screening by a licensed mental health~~  
 23 ~~professional;~~

24 ~~(3) submits to a physical agility assessment as determined by the~~  
 25 ~~Commission;~~

26 ~~(4) SUBMITS TO A MEDICAL EVALUATION;~~

27 ~~(5) submits to a criminal history records check in accordance with §~~  
 28 ~~200.1 of this subtitle; and~~

29 ~~[(5)] (6) (i) is a United States citizen; or~~

30 ~~(ii) subject to subsection [(b)] (C) of this section, is a permanent legal~~  
 31 ~~resident of the United States and an honorably discharged veteran of the United States~~

1 ~~armed forces, provided that the individual has applied to obtain United States citizenship~~  
 2 ~~and the application is still pending approval.~~

3 ~~[(b)] (C) The certification of a police officer who fails to obtain United States~~  
 4 ~~citizenship as required by subsection [(a)(4)(ii)] (B)(6)(II) of this section shall be~~  
 5 ~~[terminated] REVOKED by the Commission.~~

6 ~~[(e)] (D) The Commission may certify as a police officer an individual who is not~~  
 7 ~~considered a police officer under [§ 3-201(f)(3)] § 3-201(G)(3) of this subtitle if the~~  
 8 ~~individual meets the selection and training standards of the Commission.~~

9 ~~[(d)] (E) Each [certificate] CERTIFICATION CARD issued to a police officer~~  
 10 ~~under this subtitle remains the property of the Commission.~~

11 ~~[(e)] (F) As a condition of certification, a police officer shall submit to a mental~~  
 12 ~~health assessment every 2 years and an annual physical agility assessment to establish~~  
 13 ~~continuing fitness to carry out the officer's assigned duties as a police officer.~~

14 ~~[(f)] (G) Prior marijuana use is not a disqualifier for certification as a police~~  
 15 ~~officer.~~

16 ~~§ 200.1.~~

17 (a) (1) ~~In this section the following words have the meanings indicated.~~

18 (2) ~~“Applicant” means an individual who is seeking certification as a police~~  
 19 ~~officer.~~

20 (3) ~~“Central Repository” means the Criminal Justice Information System~~  
 21 ~~Central Repository of the Department of Public Safety and Correctional Services.~~

22 (b) ~~An applicant for certification as a police officer shall apply to the Central~~  
 23 ~~Repository for a State and national criminal history records check.~~

24 (c) ~~As part of the application for a criminal history records check, an applicant~~  
 25 ~~shall submit to the Central Repository[:~~

26 (1) ~~a complete set of legible fingerprints [taken on forms] IN A MANNER~~  
 27 ~~approved by the Director of the Central Repository and the Director of the Federal Bureau~~  
 28 ~~of Investigation[;] AND IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER §~~  
 29 ~~10-221 OF THE CRIMINAL PROCEDURE ARTICLE PROVIDING FOR THE~~  
 30 ~~ESTABLISHMENT AND COLLECTION OF FEES FOR OBTAINING CRIMINAL HISTORY~~  
 31 ~~RECORD INFORMATION.~~

32 [(2) ~~the fee authorized under § 10-221(b)(7) of the Criminal Procedure~~  
 33 ~~Article for access to Maryland criminal history records; and~~



1           ~~(3) the processing fee required by the Federal Bureau of Investigation for~~  
2 ~~a national criminal history records check.]~~

3           ~~(d) In accordance with §§ 10-201 through 10-229 of the Criminal Procedure~~  
4 ~~Article, the Central Repository shall forward to the Commission and the applicant a printed~~  
5 ~~statement of the applicant's criminal history record information.~~

6           ~~(e) Information obtained from the Central Repository under this section:~~

7           ~~(1) shall be confidential;~~

8           ~~(2) may not be disseminated; and~~

9           ~~(3) may be used only for the [licensing] CERTIFICATION purpose~~  
10 ~~authorized by this title.~~

11           ~~(f) The subject of a criminal history records check under this section may contest~~  
12 ~~the contents of the printed statement issued by the Central Repository as provided in §~~  
13 ~~10-223 of the Criminal Procedure Article.~~

14           ~~(g) If criminal history record information is reported to the Central Repository~~  
15 ~~after the date of the initial criminal history records check, the Central Repository shall~~  
16 ~~provide to the Commission a revised statement of the applicant's or certified police officer's~~  
17 ~~State criminal history record.~~

18 ~~§ 210.~~

19           ~~(a) The certification of a police officer automatically lapses 3 years after the date~~  
20 ~~of the previous certification.~~

21           ~~(b) If the certification of a police officer lapses, the police officer may apply for~~  
22 ~~recertification immediately.~~

23           ~~(c) The Commission may recertify a police officer after the certification of the~~  
24 ~~police officer lapses.]~~

25 ~~§ 211.~~

26           ~~(a) **THE CERTIFICATION OF A POLICE OFFICER SHALL LAPSE ON JUNE 30**~~  
27 ~~**OF THE CALENDAR YEAR FOLLOWING THE MOST RECENT CERTIFICATION UNLESS**~~  
28 ~~**THE OFFICER HAS SATISFIED THE REQUIREMENTS ESTABLISHED UNDER § 3-209 OF**~~  
29 ~~**THIS SUBTITLE.**~~

~~(B) If the certification of a police officer is in danger of lapsing or has lapsed because of the failure of the police officer to meet the standards of the Commission, the police officer may request a hearing before the Commission to present evidence that:~~

~~(1) the police officer's law enforcement agency unreasonably failed to provide the police officer with the required training or assigned the police officer to special duty that prevented the police officer from completing the required training to achieve this certification; and~~

~~(2) this failure is through no fault of the police officer.~~

~~[(b) (1)](C) On request of the police officer for a hearing under this section, the Commission shall hold a hearing **WITHIN 90 DAYS OF THE REQUEST.**~~

~~[(2) For purposes of this subsection, the Commission shall follow the procedures required for a hearing board under the Law Enforcement Officers' Bill of Rights and the police officer is entitled to all of the rights provided under the Law Enforcement Officers' Bill of Rights.]~~

~~[(c)](D) If the Commission concludes that the police officer's law enforcement agency unreasonably failed to provide the police officer with the required training or assigned the police officer to special duty that prevented the police officer from completing the required training to achieve certification:~~

~~(1) the Commission shall stay the lapse of the certification until the police officer and the police officer's law enforcement agency meet the training requirements of the Commission; **AND**~~

~~(2) the police officer shall be retained in the police officer's law enforcement agency at full pay pending the completion of the training; and~~

~~(3) the Commission shall order the police officer's law enforcement agency to pay all reasonable hearing costs and attorney's fees incurred as a result of the action].~~

~~§ 213.~~

~~The Commission may recall the [certificate] **CERTIFICATION CARD** of a police officer if [the certification of the police officer is suspended or revoked for any of the following reasons]:~~

~~(1) the [certificate] **CERTIFICATION CARD** was issued by administrative error;~~

~~(2) the [certificate] **CERTIFICATION CARD** was obtained through misrepresentation or fraud; **OR**~~

1           ~~(3) [the police officer has been convicted of a felony; or~~

2           ~~(4) the police officer has been convicted of a misdemeanor for which a~~  
 3 ~~sentence of imprisonment exceeding 1 year may be imposed] **THE CERTIFICATION OF THE**~~  
 4 ~~**POLICE OFFICER HAS BEEN SUSPENDED OR REVOKED.**~~

5 ~~§ 214.~~

6           ~~(a) If the certification of a police officer is revoked, the police officer may not apply~~  
 7 ~~for recertification until 2 years after the effective date of the revocation order.~~

8           ~~(b) The Commission may recertify an [individual] **APPLICANT FOR**~~  
 9 ~~**RECERTIFICATION** as a police officer **NOT EARLIER THAN 2 YEARS** after the [certification~~  
 10 ~~of the police officer is revoked] **EFFECTIVE DATE OF THE REVOCATION ORDER.**~~

11 ~~§ 215.~~

12           ~~(a) (1) In this section the following words have the meanings indicated.~~

13           ~~(2) [“Permanent appointment” means the appointment of an individual~~  
 14 ~~who has satisfactorily met the minimum standards of the Commission and is certified as a~~  
 15 ~~police officer.~~

16           ~~(3) “Police administrator” means a police officer who has been promoted to~~  
 17 ~~first line administrative duties up to but not exceeding the rank of captain.~~

18           ~~(4) “Police supervisor” means a police officer who has been promoted to~~  
 19 ~~first line supervisory duties.] **“FIRST LINE ADMINISTRATOR” MEANS A POLICE**~~  
 20 ~~**OFFICER WHO HAS BEEN APPOINTED TO FIRST LINE ADMINISTRATIVE DUTIES AS**~~  
 21 ~~**DEFINED BY THE AGENCY THAT EMPLOYS THE POLICE OFFICER.**~~

22           ~~(3) **“FIRST LINE SUPERVISOR” MEANS A POLICE OFFICER WHO HAS**~~  
 23 ~~**BEEN APPOINTED TO FIRST LINE SUPERVISORY DUTIES AS DEFINED BY THE AGENCY**~~  
 24 ~~**THAT EMPLOYS THE POLICE OFFICER.**~~

25           ~~(b) An individual may not be given or accept a probationary appointment or~~  
 26 ~~permanent appointment as a police officer, [police supervisor, or police administrator]~~  
 27 ~~**FIRST LINE SUPERVISOR, OR FIRST LINE ADMINISTRATOR** unless the individual~~  
 28 ~~satisfactorily meets the qualifications established by the Commission.~~

29           ~~(c) A probationary appointment as a police officer, [police supervisor, or police~~  
 30 ~~administrator] **FIRST LINE SUPERVISOR, OR FIRST LINE ADMINISTRATOR** may be made~~  
 31 ~~for a period not exceeding 1 year to enable the individual seeking permanent appointment~~  
 32 ~~to take a training course required by this subtitle.~~

~~(d) A probationary appointee is entitled to a leave of absence with pay during the period of the training program.~~

~~3-216.~~

~~(a) A law enforcement agency may not employ an individual as a police officer for a period not exceeding 1 year unless the individual is certified by the Commission.~~

~~(b) (1) In this subsection, "nonfull-time police officer" means an individual who does not work in the law enforcement field at least 7 months during the calendar year.~~

~~(2) The certification requirements of subsection (a) of this section do not apply to the nonfull-time police officers of a law enforcement agency that:~~

~~(i) employs, during a calendar year, at least 70 full-time sworn police officers; and~~

~~(ii) employs at least 100 nonfull-time police officers.]~~

3-104.

(d) On completion of an investigation of a complaint [made by] OF POLICE MISCONDUCT INVOLVING a member of the public [against] AND a police officer, REGARDLESS OF WHETHER THE COMPLAINT ORIGINATED FROM WITHIN THE LAW ENFORCEMENT AGENCY OR FROM AN EXTERNAL SOURCE, the law enforcement agency shall forward to the appropriate administrative charging committee the investigatory files for the matter.

3-105.

(a) The Maryland Police Training and Standards Commission shall develop and adopt, by regulation, a model uniform disciplinary matrix for use by each law enforcement agency in the State.

(b) Each law enforcement agency shall adopt the uniform State disciplinary matrix FOR ALL MATTERS THAT MAY RESULT IN DISCIPLINE OF A POLICE OFFICER.

(c) (1) Within 15 days after an administrative charging committee issues an administrative charge against a police officer, the chief of the law enforcement agency shall offer discipline to the police officer who has been administratively charged in accordance with the disciplinary matrix.

(2) The chief may offer the same discipline that was recommended by the administrative charging committee or a higher degree of discipline within the applicable range of the disciplinary matrix, but may not deviate below the discipline recommended by the administrative charging committee.

1           (3) If the police officer accepts the chief's offer of discipline, then the offered  
 2 discipline shall be imposed.

3           (4) If the police officer does not accept the chief's offer of discipline, then  
 4 the matter shall be referred to a trial board.

5           (5) At least 30 days before a trial board proceeding begins, the police officer  
 6 shall be:

7                   (i) provided a copy of the investigatory record;

8                   (ii) notified of the charges against the police officer; and

9                   (iii) notified of the disciplinary action being recommended.

10 3-106.

11           (a) (1) Except as provided in paragraph (2) of this subsection, each law  
 12 enforcement agency shall establish a trial board process in accordance with this section to  
 13 adjudicate ALL matters for which a police officer is subject to discipline.

14           (2) A small law enforcement agency may use the trial board process of  
 15 another law enforcement agency by mutual agreement.

16           (b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
 17 SUBSECTION, A trial board shall be composed of:

18                   [(1)] (I) an actively serving or retired administrative law judge or a  
 19 retired judge of the District Court or a circuit court, appointed by the chief executive officer  
 20 of the county;

21                   [(2)] (II) a civilian who is not a member of an administrative charging  
 22 committee, appointed by the county's police accountability board; and

23                   [(3)] (III) a police officer of equal rank to the police officer who is accused  
 24 of misconduct appointed by the head of the law enforcement agency.

25           (2) (I) THIS PARAGRAPH MAY NOT BE CONSTRUED TO APPLY TO  
 26 THE BALTIMORE POLICE DEPARTMENT.

27                   (II) A TRIAL BOARD FOR A STATEWIDE OR BI-COUNTY LAW  
 28 ENFORCEMENT AGENCY SHALL BE COMPOSED OF:

1                    1. AN ACTIVELY SERVING OR RETIRED ADMINISTRATIVE  
2 LAW JUDGE APPOINTED BY THE CHIEF ADMINISTRATIVE LAW JUDGE OF THE  
3 MARYLAND OFFICE OF ADMINISTRATIVE HEARINGS;

4                    2. A CIVILIAN WHO IS NOT A MEMBER OF AN  
5 ADMINISTRATIVE CHARGING COMMITTEE OR THE MARYLAND POLICE TRAINING  
6 AND STANDARDS COMMISSION, APPOINTED BY THE POLICE ACCOUNTABILITY  
7 BOARD FOR THE COUNTY WHERE THE ALLEGED MISCONDUCT OCCURRED; AND

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

11            (c) THE ACTIVELY SERVING OR RETIRED ADMINISTRATIVE LAW JUDGE OR  
12 THE RETIRED JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT SHALL:

13                    (I) BE THE CHAIR OF THE TRIAL BOARD;

14                    (II) BE RESPONSIBLE FOR RULING ON ALL MOTIONS BEFORE THE  
15 TRIAL BOARD; AND

16                    (III) PREPARE THE WRITTEN DECISION OF THE TRIAL BOARD,  
17 INCLUDING THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF THE TRIAL  
18 BOARD.

19            (D) Before serving as a member of a trial board, an individual shall receive  
20 training on matters relating to police procedures from the Maryland Police Training and  
21 Standards Commission.

22            ~~[(d)]~~ (E) Proceedings of a trial board shall be open to the public, except to protect:

23                    (1) a victim's identity;

24                    (2) the personal privacy of an individual;

25                    (3) a child witness;

26                    (4) medical records;

27                    (5) the identity of a confidential source;

28                    (6) an investigative technique or procedure; or

29                    (7) the life or physical safety of an individual.

1 [(e)] (F) A trial board may administer oaths and issue subpoenas as necessary  
 2 to complete its work.

3 [(f)] (G) A complainant has the right to be notified of a trial board hearing and,  
 4 except as provided in subsection [(d)] (E) of this section, the right to attend a trial board  
 5 hearing.

6 [(g)] (H) Except as otherwise provided in this subtitle, a law enforcement agency  
 7 has the burden of proof by a preponderance of the evidence in any proceeding under this  
 8 subtitle.

9 [(h)] (I) A police officer may be disciplined only for cause.

10 (J) WITHIN 45 DAYS AFTER THE FINAL HEARING BY A TRIAL BOARD, THE  
 11 TRIAL BOARD SHALL ISSUE A WRITTEN DECISION REFLECTING THE FINDINGS,  
 12 CONCLUSIONS, AND RECOMMENDATIONS OF A MAJORITY OF THE TRIAL BOARD.

13 [(i)] (K) (1) Within 30 days after the date of issuance of a decision of a trial  
 14 board, the decision may be appealed by the [employee] POLICE OFFICER:

15 (i) if the trial board is from a local law enforcement agency, to the  
 16 circuit court of the county in which the law enforcement agency is located; [and]

17 (ii) IF THE TRIAL BOARD IS FROM A BI-COUNTY LAW  
 18 ENFORCEMENT AGENCY, TO A CIRCUIT COURT IN A COUNTY IN WHICH THE INCIDENT  
 19 THAT GAVE RISE TO THE DISCIPLINARY PROCEEDING OCCURRED; AND

20 (III) if the trial board is from a statewide [or bi-county] law  
 21 enforcement agency, to the Circuit Court for Anne Arundel County.

22 (2) An appeal taken under this subsection shall be on the record.

23 [(j)] (L) A trial board decision [that is not appealed] is final UNLESS  
 24 APPEALED BY A POLICE OFFICER UNDER SUBSECTION (K) OF THIS SECTION.

25 3-111.

26 (A) A law enforcement agency may not negate or alter any of the requirements of  
 27 this subtitle through collective bargaining.

28 (B) COLLECTIVE BARGAINING MAY NOT BE USED TO ESTABLISH OR ALTER  
 29 ANY ASPECT OF THE PROCESS FOR DISCIPLINING A POLICE OFFICER.

30 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July~~  
 31 ~~1, 2022, the effective date of Chapter 59 of the Acts of the General Assembly of 2021. If the~~

1 ~~effective date of Chapter 59 is amended, this Act shall take effect on the taking effect of~~  
2 ~~Chapter 59.~~

3 **SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read**  
4 **as follows:**

5 **Chapter 59 of the Acts of 2021**

6 **SECTION 8. AND BE IT FURTHER ENACTED, That Title 3, Subtitle 1 of the Public**  
7 **Safety Article, as enacted by Section 3 of this Act, shall be construed to apply only**  
8 **prospectively and may not be applied or interpreted to have any effect on or application to:**

9 (1) **any bona fide collective bargaining agreement entered into on or before**  
10 **[June 30, 2022.] SEPTEMBER 30, 2022, for the duration of the contract term, excluding**  
11 **any extensions, options to extend, or renewals of the term of the original contract; or**

12 (2) **a disciplinary matter against a law enforcement officer based on alleged**  
13 **misconduct occurring before [July 1, 2022] OCTOBER 1, 2022.**

14 **SECTION 12. AND BE IT FURTHER ENACTED, THAT SECTION 3 OF THIS**  
15 **ACT SHALL TAKE EFFECT OCTOBER 1, 2022.**

16 **SECTION [12.] 13. AND BE IT FURTHER ENACTED, That, except as provided in**  
17 **[Section] SECTIONS 11 AND 12 of this Act, this Act shall take effect July 1, 2022.**

18 **SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take**  
19 **effect October 1, 2022, contingent on the taking effect of Section 3 of Chapter 59 of the Acts**  
20 **of the General Assembly of 2021, and if Section 3 of Chapter 59 does not take effect, Section**  
21 **1 of this Act, with no further action required by the General Assembly, shall be null and**  
22 **void.**

23 **SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section**  
24 **3 of this Act, this Act shall take effect June 1, 2022.**

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.



**ADDENDUM**

Agenda Item#5  
April 5, 2022  
**Action**

**MEMORANDUM**

April 4, 2022

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

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

PURPOSE: **Action** – roll call vote expected

The staff memorandum dated March 31, 2022 regarding Expedited Bill 49-21 stated that **three issues remained for the Council's consideration**: (1) whether to amend the scope of complaints subject to PAB/ACC review to align with **anticipated changes** to state law; (2) whether to amend the transition clause to align with **anticipated changes** to state law; and (3) whether to amend the bill regarding PAB compensation.

**However**, based upon our most recent information on the General Assembly, the changes that we anticipated to the PAB/ACC's scope of authority and effective dates are uncertain. Senate Bill 389, which would alter the scope of authority and effective dates, is pending in the House Rules Committee at the time of this memorandum. [Legislation - SB0389 \(maryland.gov\)](https://legislation.maryland.gov/SB0389) We might not know the outcome of Senate Bill 389 until *sine die* on April 11.

Given the uncertainty about Maryland Senate Bill 389 and the tight timeline mandated by the current state law for setting up the PAB/ACC, **Council staff recommends that the Council moves forward on April 4 with its vote on Expedited Bill 49-21 (once the Council finishes its consideration of the one remaining issue of potential PAB compensation)**. It is possible that additional changes to County law will be needed in the future in order to align with state law. But in order to appoint members of the PAB/ACC by the state's current deadline of July 1, 2022, it is necessary to enact the Council bill as soon as possible.

A note regarding effective dates: Expedited Bill 49-21, as amended by the Council in a prior worksession, would apply to: (1) complaints against officers whose discipline is covered by a collective bargaining agreement beginning on July 1, 2023; and (2) complaints against all other officers on July 1, 2022. It is possible that the General Assembly will alter effective dates. Specifically, the General Assembly is considering whether to change the July 1, 2022 date (for the officers not covered by collective bargaining related to discipline) to be October 1, 2022.