



THE PRINCE GEORGE'S COUNTY GOVERNMENT

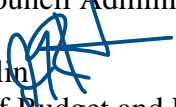
Office of Audits and Investigations


April 22, 2022

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Kassandra Fields 
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-022-2022 Law Enforcement Accountability (DR-2)

CB-022-2022 (*Proposed and presented by:* The Chair of the Council at the request of the County Executive)

Assigned to the Committee of the Whole

AN ACT CONCERNING law enforcement accountability for the purpose of implementing the Maryland Police Accountability Act of 2021 passed by the General Assembly; establishing a Police Accountability Board (PAB), an Administrative Charging Committee (ACC) and Trial Boards for Prince George's County and municipalities within the jurisdiction of Prince George's County; setting forth the qualifications for members of these boards and committee and method of appointment; setting forth the process for selection of the Police Accountability Board chairperson; providing for a process to receive certain complaints alleging police misconduct; setting forth the duties of each board and committee; defining certain terms; providing for the staggering of initial appointments to the Police Accountability Board; providing for the application of this Act; and generally relating to police accountability in Prince George's County.

Fiscal Summary

Direct Impact:

Expenditures: Increased expenditures of approximately \$1,420,500 for compensation and operating costs associated with the PAB (\$499,400) and the ACC (\$921,100).

Revenues: None.

Indirect Impact:

None anticipated.

Legislative Summary:

CB-022-2022, proposed by Chair Hawkins at the request of the County Executive, was presented to the Council on April 5, 2022, and referred to the Committee of the Whole (COW). CB-021-2022 adds a new Division 47 of Subtitle 2 of the County Code, entitled *Law Enforcement Reform Initiatives*.

Current Law/Background:

State Law

During the 2021 Session, the Maryland General Assembly enacted a number of laws which sought to establish uniform standards for police department operations, accountability and transparency throughout the State. One such bill, House Bill 670, the Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures (the Act)¹, eliminated the Law Enforcement Bill of Rights (LEOBR) and required localities to establish uniform police disciplinary systems with civilian oversight, with the ultimate goal being more transparency and higher accountability in matters relating to police misconduct. Among the many provisions of the Act, it specifically establishes that each county shall have Police Accountability Boards (PAB) to hold quarterly meetings with heads of law enforcement agencies and otherwise work with law enforcement agencies and the county government to improve matters of policing; appoint civilian members to charging committees and trial boards; receive complaints of police misconduct filed by members of the public; review outcomes of disciplinary matters considered by charging committees on a quarterly basis; and by December 31 each year, submit a report to the governing body of the county that identifies any trends in the disciplinary process of police officers in the county and makes recommendations on changes to policy that would serve to improve police accountability. Additionally, the Act requires that the local governing body must (1) establish the membership of and the budget and staff for a police accountability board; (2) appoint a chair for a police accountability board, as specified; and (3) establish the procedures for record keeping by a

¹ https://mgaleg.maryland.gov/2021RS/Chapters_noln/CH_59_hb0670e.pdf

police accountability board. An active police officer may not be a member, and to the extent practicable, the membership must reflect the racial, gender, and cultural diversity of the county².

The Act also requires each County to have an Administrative Charging Committee (ACC) to serve countywide law enforcement agencies and local law enforcement agencies within the county. The ACC is to be a five (5) member committee led by the Chair of the PAB, or their designee. The ACC is charged with reviewing findings from agency investigations to determine if an officer should be charged and recommend discipline to the Chief who supervises the charged officer that would align with the Maryland Police Training and Standards Commission (MPTSC) disciplinary matrix. The ACC can review camera footage, subpoena officers and request any additional information necessary to aide in the review. The members are required to receive specialized training from MPTSC³.

The Act further requires the Maryland Police Training and Standards Commission (MPTSC) to develop and adopt by regulation, a model uniform disciplinary matrix for use by each law enforcement agency in the State, and each law enforcement agency must also internally adopt the matrix⁴. The matrix is used as a guide after the ACC issues an administrative charge against a police officer (within 15 days), as the chief of the law enforcement agency must offer discipline to the police officer who has been charged in accordance with the matrix. The chief may either offer the same discipline that was recommended by the ACC or a higher degree of discipline within the applicable range of the disciplinary matrix, but may not deviate below the discipline recommended by the ACC. If the police officer accepts the chief's offer of discipline, the offered discipline must be imposed. However, if the officer does not accept the chief's offer of discipline, the matter must be referred to a trial board.

The Act establishes the aforementioned trial board process to adjudicate matters for which a police officer is subject to discipline; however, it permits a smaller law enforcement agency to use the trial board process of another law enforcement agency by mutual agreement. The bill requires an individual, before serving as a member of a trial board, to receive specific training on matters relating to police procedures from the MPTSC. Pursuant to the bill, a trial board is required to be composed of three (3) members: an actively serving or retired administrative law judge or a retired judge of the District Court or a circuit court, appointed by the chief executive officer of the county; a civilian who is not a member of the ACC, appointed by the county's PAB; and a police officer of equal rank to the police officer who is accused of misconduct, appointed by the head of the law enforcement agency. Similar to the ACC, the trial board has the power to issue subpoenas⁵.

Finally, the Act specifically requires a five (5) member ACC and a three (3) member trial board, however, it is silent to the number of members required for the PAB. It is left to the discretion of the County.

² https://mgaleg.maryland.gov/2021RS/fnotes/bil_0000/hb0670.pdf

³ Id.

⁴ https://mgaleg.maryland.gov/2021RS/Chapters_noln/CH_59_hb0670e.pdf

⁵ Id.

County Law

In 1990, the Council enacted CB-025-1990 in response to the recommendations of the Blue-Ribbon Commission on Public Safety to involve citizens in a police complaint review process. CB-090-2022 created Subtitle 18, Division 5, Subdivision 3 - *Citizen Complaint Oversight Panel*, within the County Code. It served to improve the confidence that the residents of the County had in the law enforcement officers who are charged with protecting them as well as in the process by which the conduct of officers is investigated. It created the Citizen Complaint Oversight Panel (CCOP), provided for the composition and terms of its members, and its powers and duties. The law further established certain procedures to be followed by the CCOP and the Chief of Police when individuals believed that they were victims of police misconduct.

The purpose of the CCOP was to review the report of an investigation and to advise the Chief of the Prince George's County Police Department if an investigation driven by a complaint was complete, thorough, and impartial. In addition, the CCOP was directed to prepare an annual public report containing a summary of case findings, a statistical analysis of cases by type and disposition, including discipline imposed, any recommendation for policy changes, recruitment, supervision, operational procedures and training, and other information that the CCOP deemed appropriate⁶. CB-022-2022, is a companion bill and serves to repeal the Citizen Complaint Oversight Panel (CCOP) Section of the County Code also in accordance with the State of Maryland Police Accountability Act of 2021.

Resource Personnel:

- Barry Stanton, Deputy Chief Administrative Office for Public Safety and Homeland Security
- Rhonda L. Weaver, County Attorney

Discussion/Policy Analysis:

Provisions of CB-021-2022

As noted above, CB-021-2022 adds a new Division 47 to Subtitle 2 of the County Code, containing new Sections 2-528 through 2-542. A summary of the new provisions is as follows:

- Subdivision 1, *General Provisions* (Sections 2-528 through 2-530), outlines the policy, definitions of ‘board’, ‘external complaint’, and ‘internal complaint’, and provides that the County Executive shall propose a budget and staff for the Police Accountability Board (PAB), administrative Charging Committee (ACC) and the Trial Board(s) (*see page 2, lines 1 through 19*). The language is taken almost verbatim from State law.

⁶ [Prince George's County Code, Subtitle 18, Division 5, Subdivision 3](#)

- Subdivision 2, *Police Accountability Board* (Sections 2-531 through 2-534), establishes the Police Accountability Board (PAB), and sets forth the responsibilities, composition and duties of the PAB (*see page 2, line 20 through page 4, line 15*). Key provisions of Subdivision 2 include:
 - The PAB is composed of eleven (11) members nominated by the County Executive, subject to the confirmation by Council. of the County Executive shall nominate for PAB Chair, subject to approval by Council, an individual with relevant experience to the position.
 - Appointments to the Board shall be for four (4) year terms, with the term of the initial Board members to be staggered. No member shall be appointed for more than two (2) consecutive terms.
 - The PAB shall:
 - hold quarterly meetings with the heads of law enforcement agencies within the jurisdiction of Prince George’s County to improve matters of policing;
 - appoint civilian members to charging committee and trial boards in accordance with State law.
 - receive complaints of misconduct filed by **members of the public**;
 - forward misconduct complaints to the appropriate law enforcement agency within three (3) business days of receipt;
 - review disciplinary outcomes resulting from both internal and external complaints on a quarterly basis;
 - and submit an annual report to the County Executive and Council on or before 31 December.
- Subdivision 3, *Administrative Charging Committee* (Sections 2-535 through 2-538), relates to the membership, duties and responsibilities of the Administrative Charging Committee (ACC) (*see page 4, line 16 through page 5, line 6*). Subdivision 3 includes the following provisions:
 - The ACC shall consist of five (5) members: the Chair (or another member) of the PAB, two (2) civilian members not members of the PAB, nominated by the County Executive and confirmed by the Council, and two (2) additional civilians who are not members of the PAB but are appointed by the PAB. Prior to serving, all members of the ACC must complete training as set forth by the Maryland Police

Training and Standards Commission⁷ (MPTSC) and any other training as required.

- The ACC shall review findings of law enforcement agencies' investigations of external complaints and determine if the officer(s) involved shall be or not be administratively charged in the matter. If charged, the ACC shall recommend the appropriate discipline in accordance and conjunction with the agency's disciplinary matrix and the Md. Annotated Code Public Safety Section 3-105. If not charged, the ACC must determine if the allegations are unfounded or if the officer is exonerated. The ACC shall, within 30 day's completion of the investigating unit's review, issue a written opinion that details its findings, determinations and recommendations. The ACC shall meet once per month, or as needed.
- The ACC may request information and/or action from the agency which conducted the investigation, including requiring an additional investigation or issuing subpoenas.
- Subdivision 4, *Trial Boards* (Sections 2-539 through 2-541), includes the requirement, composition and responsibilities of the Trial Boards (*page 5, line 7 through page 7, line 18*):
 - A Trial Board shall consist of three (3) members to include an actively serving or retired administrative law judge or a circuit court judge appointed by the County Executive, a civilian appointed by the PAB, who is not a member of the PAB or ACC, and a police officer of equal rank to the one being accused of misconduct appointed by the chief of the agency to which the accused officer served at the time of the alleged misconduct. The County Executive shall also establish a roster of ten (10) judges who are actively serving or retired administrative law judges, or are a retired judge of the District or Circuit Court.. All members of the trial board must complete the required training as set forth by the MPTSC, in addition to any other identified and required training.

⁷ [The Police Training and Standards Commission](#) is the body established by the Maryland Legislature to govern police certification and training in the State. The original Police Training Commission was established in April 1966. The Commission was abolished September 30, 2016 by the State legislature and the newly created Police Training and Standards Commission was established October 1, 2016. The MPTSC, an independent commission within the Department of Public Safety and Correctional Services (DPSCS), operates approved police training schools and prescribes standards for and certifies schools that offer police and security training. Recently, it has been required to develop and administer a training program on matters relating to police procedures for individuals who intend to qualify and participate as a member of a trial board or ACC.

- Finally, Subdivision 5, *Law Enforcement Agencies*, adds Section 2-542, which requires that each law enforcement agency and/or chief of the agency shall comply with all applicable State laws (*see page 7, lines 19-23*).

Differences from current CCOP model

The CCOP differs from the PAB, ACC and trial board in so much as it served to review the report of an investigation and to advise the Chief of the Prince George's County Police Department if an investigation driven by a complaint was complete, thorough, and impartial. It was not established to meet proactively with heads of law enforcement agencies (on a quarterly basis, as written herein) to discuss improvements to matters of policing. In addition, it is not the responsibility of the CCOP to determine if the officer involved in the alleged misconduct investigation should be charged administratively. The CCOP does not make recommendations regarding the discipline of an officer found to have violated any policy, regulation, order, etc. The CCOP is not the venue to oversee any officer's appeal to the Chief's disciplinary decision.

The CCOP has the authority to petition to the County Council for the issuance of subpoenas in an effort to compel a person to attend, testify under oath, and/or produce documents and records relating to the investigation by the Panel. Similarly, the ACC may request information and/or action from the agency which conducted the investigation, including requiring an additional investigation or issuing subpoenas.

Other Jurisdictions

Review of other Counties' proposed or enacted bills relating to compliance with the Act reveals that most mirror the state language regarding the roles, duties, and responsibilities for the PAB, ACC and trial boards. Where they differ is in the number of members on the PAB, compensation/stipends for board members, and some specified additional requirements for background experience and/or education surrounding extensive knowledge of police practices, the criminal justice system, or human resources.

The following Counties have established these membership levels for their respective PABs:

- Anne Arundel County – 9 members⁸
- Calvert County – 9 members⁹
- Charles County – 9 members¹⁰
- Howard County – 7 members¹¹
- Montgomery County – 9 members¹²

⁸ <https://www.aacounty.org/departments/county-council/legislation/bills-and-resolutions/16-22-3x.pdf>

⁹ <https://www.calvertcountymd.gov/DocumentCenter/View/37482/Resolution07-22>

¹⁰ [https://go.boarddocs.com/md/chrlsco/Board.nsf/files/C7CNTH614F8A/\\$file/PAB.DRAFT%20DETAILS%20\(002\).pdf](https://go.boarddocs.com/md/chrlsco/Board.nsf/files/C7CNTH614F8A/$file/PAB.DRAFT%20DETAILS%20(002).pdf)

¹¹ <https://www.patf-hoco.com/police-accountability-board>

¹² https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220419/20220419_5A.pdf

Fiscal Impact:

Direct Impact:

The FY 2023 proposed budget includes resources and operating expenses necessary to fully fund both the PAB and ACC, which consists of increased expenditures of approximately \$1,420,500 for compensation and operating costs associated with the PAB (\$499,400) and the ACC (\$921,100). This is offset somewhat by the dissolution of the CCOP and its respective budget (\$404,000) under CB-022-2022.

Indirect Impact:

None likely.

Appropriated in the Current Fiscal Year Budget:

Yes.

Effective Date of Proposed Legislation

The proposed Act shall take effect July 1, 2022.

If you require additional information, or have questions about this fiscal impact statement, please call me.