

COUNTY COUNCIL

OF

DORCHESTER COUNTY, MARYLAND

BILL NO. 2022 - 11

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND ACTING PURSUANT TO TITLE 3, LAW ENFORCEMENT, SUBTITLE 1, POLICE ACCOUNTABILITY AND DISCIPLINE, OF THE PUBLIC SAFETY ARTICLE OF THE ANNOTATED CODE OF MARYLAND TO ESTABLISH A POLICE ACCOUNTABILITY BOARD AND AN ADMINISTRATIVE CHARGING COMMITTEE; SETTING FORTH THE QUALIFICATIONS FOR MEMBERS AND METHOD OF APPOINTMENT; PROVIDING FOR A PROCESS TO RECEIVE AND REVIEW CERTAIN COMPLAINTS ALLEGING POLICE MISCONDUCT; SETTING FORTH THE DUTIES OF THE BOARD AND THE COMMITTEE; DEFINING CERTAIN TERMS; PROVIDING FOR THE STAGGERING OF INITIAL APPOINTMENTS TO THE BOARD AND THE COMMITTEE; PROVIDING FOR THE APPLICATION OF THIS ACT; AND GENERALLY RELATING TO POLICE ACCOUNTABILITY IN DORCHESTER COUNTY, MARYLAND.

SECTION ONE: Acting under Title 3, Law Enforcement, Subtitle 1, Police Accountability and Discipline, Section 3-101 through Section 3-114 of the Public Safety Article (the "Act") be it ENACTED and ORDAINED by the County Council of Dorchester County, Maryland, that new Chapter 122 entitled "Police Accountability Board and Administrative Charging Committee" be added to the Code of Dorchester County, Maryland to read as follows:

CHAPTER 122

**POLICE ACCOUNTABILITY BOARD AND
ADMINISTRATIVE CHARGING COMMITTEE**

§ 122-1. Definitions.

As used in this article, the following words have the meanings indicated:

- (A) "Administratively charged" – a formal accusation of misconduct against a police officer in an administrative proceeding.
- (B) "County Council" – the County Council of Dorchester County, Maryland.
- (C) "Disciplinary Matrix" – a Statewide disciplinary matrix developed, approved, and published by the Maryland Police Training and Standards Commission pursuant to Md. Code Ann., Public Safety § 3-105, as amended from time to time.

(D) “Exonerated” – a determination that a police officer acted in accordance with the law and agency policy.

(E) “Law Enforcement Agency (“LEA”)” – an organizational unit or subunit of the State government or its counties or municipalities with the principal functions of prevention, detection, and investigation of crime and apprehension of alleged offenders. Examples of LEAs include: Maryland State Police; Maryland Department of Public Safety and Correctional Services; Maryland Police and Correctional Training Commissions; Maryland Transportation Authority Police; Maryland Department of General Services Police; Maryland Department of Natural Resources Police; Maryland State Fire Marshal; Maryland Transit Administration Police; Maryland Office of the Comptroller, Field Enforcement Unit; a municipal or county police force; and a County Sheriff or deputy, regardless whether merit or contract, with the principal functions of training/certification, prevention.

(F) “Not administratively charged” – a determination not to administratively charge a police officer in connection with alleged misconduct.

(G) “Police misconduct” – a pattern, a practice, or conduct by a police officer or LEA that includes:

1. Depriving persons of rights protected by the Constitution or laws of the State or the United States;
2. A violation of a criminal statute; or
3. A violation of LEA standards and policies.

(H) “Police officer” – Police officer shall have the same meaning as set forth in Md. Code Ann., Public Safety § 3-201(f), as amended from time to time.

(I) “Serious physical injury” – Serious physical injury shall have the same meaning as set forth in Md. Code Ann., Criminal Law § 3-201(d), as amended from time to time.

(J) “Superior governmental authority” – the governing body that oversees an LEA.

(K) “The County” – Dorchester County, Maryland.

(L) “Unfounded” – allegations against a police officer that are not supported by fact.

§ 122-2. Police Accountability Board.

(A) There shall be a Dorchester County Police Accountability Board (the “PAB”) to serve local and countywide law enforcement agencies within the County.

(B) The PAB shall:

1. Hold quarterly meetings with the heads of LEAs, and otherwise work with LEAs and the County government to improve matters of policing;

2. Appoint two (2) civilian members to the Dorchester County Administrative Charging Committee and one (1) civilian member to a trial board convened pursuant to Md. Code Ann., Public Safety § 3-106, as amended from time to time. The civilians appointed to the Administrative Charging Committee may not also be on the trial board;

3. Receive complaints of police misconduct filed by members of the public with the PAB directly or the Law Enforcement Agency;

4. On a quarterly basis, review outcomes of disciplinary matters considered by the Dorchester County Administrative Charging Committee;

5. Work with LEAs and the County Council to:

(a) Improve matters of policing by receiving complaints of police misconduct filed by the public; and

(b) On or before December 31st of each year, submit a report to the County Council that identifies any trends in the disciplinary process of police officers in the County and makes recommendations on changes to policy that would improve police accountability in the County; and

6. Maintain confidentiality of all PAB matters related to individual complaints until final disposition and all appeals have been exhausted with all members executing a written confidentiality agreement.

(C) The County Council shall:

1. Establish the membership of the PAB, subject to the following criteria:

(a) Members shall be at least twenty-one (21) years of age and a citizen of the United States;

(b) Members shall maintain their principal residence in the County;

(c) Members shall not be an active police officer; and

(d) To the extent practicable, the membership of the PAB shall reflect the racial, gender, and cultural diversity of the County.

2. Establish the PAB's budget and staff;

3. Appoint a Chairperson of the PAB who shall have relevant experience to the position and shall, to the extent practicable:

(a) Be a retired sworn law enforcement officer who retired in good standing with at least twenty (20) years of service in an LEA and was either the head of an LEA or in a command or supervisory position within an LEA; or

(b) Be a retired attorney or judge; and

4. Appoint six (6) additional members, consisting of, to the extent possible:

(a) Five (5) members, one appointed from each of the County's five councilmanic districts. A member appointed from a councilmanic district shall be a resident of the district. A member appointed from a councilmanic district who no longer resides in the district may not continue as a member of the PAB; and

(b) One (1) at-large member who shall be an African American.

(D) A complaint of police misconduct filed with the PAB need not be notarized, but shall include:

1. The name of the police officer accused of misconduct;

2. A description of the facts on which the complaint is based; and

3. Contact information of the complainant or a person filing on behalf of the complainant for investigative follow-up.

(E) A complaint of police misconduct filed with the PAB shall be forwarded to the appropriate LEA within three (3) days after receipt by the PAB.

(F) An individual may file a complaint of police misconduct with the LEA that employs the police officer who is the subject of the complaint. Such complaint shall include the information set forth in subsection (D) above.

§ 122-3. Administrative Charging Committee.

(A) There shall be a Dorchester County Administrative Charging Committee (the "ACC") to serve countywide law enforcement agencies and local law enforcement agencies within Dorchester County.

(B) The ACC shall be composed of:

1. The Chairperson of the PAB or another member thereof designated by the Chairperson;

2. Two (2) civilian members selected by the PAB; and

3. Two (2) civilian members selected by the County Council who shall be African American upon consideration of applications received in response to a public notice

issued at least thirty (30) days in advance of such selection. Such public notice shall be required for initial and renewal terms as well as for filling a vacancy.

(C) Membership of the ACC is subject to the following criteria:

1. Members shall be at least twenty-one (21) years of age and a citizen of the United States;

2. Members shall maintain their principal residence in the County;

3. Members must be of good moral character and free from bias that would negatively impact the integrity of the ACC;

4. To the extent practicable, the membership of the ACC shall reflect the racial, gender, and cultural diversity of the County;

5. At the time of their appointment and for the duration of their term, members shall not:

(a) Have an actual conflict of interest, as determined by the County Council;

(b) Be under criminal investigation by any LEA;

(c) Be currently charged with a crime that is pending before any court; or

(d) Have been convicted of, or have received probation before judgment for, a felony or misdemeanor for which a sentence of imprisonment of one (1) year or more could have been imposed; and

6. ACC members have an ongoing and continuous obligation to immediately report to the Chairperson of the ACC any event that may harm the public trust of the ACC, including, but not limited to, the following:

(a) Conflicts of interest;

(b) Criminal charges;

(c) Criminal investigations; and

(d) Criminal convictions.

(D) Before serving as a member of the ACC, an individual shall complete training on matters relating to police procedures from the Maryland Police Training and Standards Commission and submit to a background investigation by the Dorchester County Sheriff's Office or an independent investigative firm authorized by the County Council. Such

background investigation shall include, but not be limited to, a review of the prospective member's social media presence. Background investigations shall be provided to the County Council.

(E) Members of the ACC are encouraged, but not required, to participate in a ride-along with a police officer from an LEA outside of the member's jurisdiction of residence on an annual basis.

(F) On completion of an investigation of a complaint made by a member of the public against a police officer, the LEA shall forward to the ACC the investigatory files for the matter. The Chief of the LEA or the Sheriff, as applicable, may include a written recommendation, which the ACC shall consider before making a final decision. Such written recommendation shall be noted in the ACC's written decision issued pursuant to subsection (G)(7) below.

(G) The ACC shall:

1. Appoint a Chairperson from among their membership, who shall perform the following duties:

- (a) Follow Robert's Rules of Order;
- (b) Establish a meeting schedule, with a minimum of one (1) meeting per month, with meetings to be held in person or virtually via secure video connection;
- (c) Establish a written agenda for each meeting and send it to each member in advance thereof;
- (d) Call each meeting to order;
- (e) Coordinate the meeting in accord with the agenda;
- (f) Invite discussion among members before voting;
- (g) Invite motions, seconds, and votes from members;
- (h) Ensure that a record is kept of all ACC business; and
- (i) Promptly report to the County Council any concern or event involving an ACC member that may harm the public trust of the ACC, including, but not limited to, the following:
 - (i) Conflicts of interest;
 - (ii) Criminal charges;

(iii) Criminal investigations; and

(iv) Criminal convictions.

2. Review the findings of an LEA's investigation conducted and forwarded in accordance with subsection (F) above;

3. Determine whether the police officer who is subject to investigation shall be administratively charged or not administratively charged; provided, however, that no officer may be administratively charged for conduct arising from an incident for which the officer had been previously disciplined or sanctioned;

4. If the police officer is charge recommend discipline in accordance with the Disciplinary Matrix;

5. Review any body camera footage that may be relevant to the matters covered in the complaint of misconduct;

6. Authorize a police officer called to appear before the ACC to be accompanied by a representative;

7. Issue a written opinion that describes in detail its findings, determinations, and recommendations; and

8. Forward the written opinion to the Chief of the LEA or the Sheriff, as applicable, the police officer, and the complainant within five (5) business days.

(H) Decisions of the ACC shall be made by a majority vote of the members in attendance. At least three (3) members are required to establish a quorum. Each member shall cast one (1) vote and shall not abstain unless that member has a potential conflict of interest, subject to the following:

1. The member with the potential conflict of interest shall proactively announce the existence of the potential conflict of interest prior to any discussion of the matter.

2. The other members shall discuss the details of the potential conflict of interest, and if the majority determines that the potential conflict is such that the subject member shall not be involved, then the subject member shall be excused from the meeting prior to any consideration of the matter and shall return only after voting on the matter has concluded.

(I) In executing its duties in accordance with subsection (G) above, the ACC may:

1. Request information or action from the LEA that conducted the investigation, including requiring additional investigation and the issuance of subpoenas;

2. If the police officer is not administratively charged, make a determination that:

- (a) The allegations against the police officer are unfounded; or
- (b) The police officer is exonerated; and

3. Record, in writing, any failure of supervision that caused or contributed to a police officer's misconduct.

(J) The ACC shall establish a schedule so that it can make a determination or ask for further review in all pending matters within thirty (30) days after a LEA completes its investigation. The ACC shall issue a final determination and disposition of every matter within one (1) year and one (1) day after the initial filing of a complaint.

(K) ACC members shall maintain confidentiality relating to any matter being considered by the ACC until final disposition and all appeals have been exhausted, with all members executing a written confidentiality agreement. The County shall assist the ACC in establishing secure methods generally accepted and utilized by the County to electronically transmit documents, files, notes, and other records pertaining to an investigation.

(L) Within fifteen (15) days after the ACC issues an administrative charge against a police officer, the Chief of the LEA or the Sheriff, as applicable, shall offer discipline to the police officer who has been administratively charged in accordance with the Disciplinary Matrix.

(M) The Chief or Sheriff may 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.

(N) If the police officer accepts the Chief's or Sheriff's offer of discipline, then the offered discipline shall be imposed.

(O) If the police officer does not accept the Chief's or Sheriff's offer of discipline, then the matter shall be referred to a trial board established pursuant to Md. Code Ann., Public Safety, § 3-106, as amended from time to time.

(P) The Chief of the LEA or the Sheriff, as applicable, is authorized, in their sole discretion, to engage in settlement negotiations with a police officer or the police officer's representative, subject to the following:

1. Tentative settlements must be completed within ten (10) business days from the date the officer received the written recommendation issued by the ACC.

2. If a tentative settlement is reached that proposes discipline below that set forth in the ACC's written opinion, the Chief of the LEA or the Sheriff, as applicable, shall

forward the tentative settlement to the ACC for review within five (5) business days of reaching the same.

3. Upon receipt of a tentative settlement agreement between the LEA and a police officer or the police officer's representative, the ACC may:

(a) Endorse the tentative settlement agreement and authorize the Chief of the LEA or the Sheriff; as applicable, to impose the discipline agreed upon; or

(b) Reject the tentative settlement agreement and inform the agency head that the ACC's determination set forth in its written opinion stands.

4. If the ACC endorses the tentative settlement, the Chief of the LEA or the Sheriff, as applicable, shall impose the agreed upon discipline.

5. If the ACC rejects the tentative settlement, the Chief of the LEA or the Sheriff, as applicable, shall offer the ACC's discipline as set forth in its written opinion to the police officer. If the police officer accepts the offered discipline, then it shall be imposed. If the police officer does not accept the offered discipline, then the matter shall be referred to a trial board as set forth in subsection (O) above.

§ 122-4. Terms and Conditions of Service.

(A) Member(s) of the PAB and ACC shall hold their position until their successor(s) are selected and qualified.

(B) Members of the PAB and ACC shall be subject to the provisions of Chapter 88 (Ethics) of the Dorchester County Code, as amended from time to time, applicable to nonelected officials.

(C) Meetings of the PAB shall comply with the Maryland Open Meetings Act, Md. Code Ann., General Provisions § 3-101, et seq., as amended hereafter from time to time (the "OMA").

(D) With regard to the PAB:

1. Except for the Chairperson and subject to subsection (3) below, members shall serve a term of four (4) years. No member may serve more than two (2) consecutive terms, including the Chairperson.

2. The Chairperson shall serve a term of four (4) years and may serve consecutive terms.

3. Initial terms of members other than the Chairperson shall be staggered as follows:

- (a) Two (2) members shall serve an initial term of four (4) years;
 - (b) Two (2) members shall serve an initial term of three (3) years;
- and
- (c) Two (2) members shall serve an initial term of two (2) years.

(E) With regard to the ACC:

1. Subject to subsection (2) below, members shall serve a term of two (2) years and shall not be eligible for reappointment after three (3) consecutive terms of service on the ACC.

2. Initial terms of members shall be staggered as follows:

(a) One (1) civilian appointed by the PAB and one (1) civilian selected by the County Council shall serve an initial term of one (1) year; and

(b) The three (3) remaining members shall serve an initial term of two (2) years.

§ 122-5. Resignation and Removal.

(A) Any member of the PAB or ACC may resign at any time by providing written notice to the County Council.

(B) In addition to the grounds set forth above, a member of the PAB or ACC may be removed upon written notice in accordance with the following provisions:

1. The County Council may remove any member on its own initiative or based on recommendation of a majority vote of the PAB, when in its discretion, the best interest of the community or the County Council would not be served by continued membership.

2. The Chairperson shall notify the County Council if a member of the PAB or ACC misses three (3) scheduled meetings in any twelve (12) month period without an excused absence. The County Council shall then remove such member and replace that member with another duly qualified individual.

3. Any member of the PAB or ACC shown to have violated the confidentiality provisions of §§ 24-16(B)(6) or 24-17(K), respectively, of this article shall be immediately removed by the County Council and replaced with another duly qualified individual.

4. With respect to the ACC, any member that is under criminal investigation by any LEA, currently charged with a crime that is pending before any court, or convicted of or receives probation before judgment for a felony or misdemeanor for which a

sentence of one (1) year or more could have been imposed shall report such conviction to the County Council along with that member's resignation. The County Council shall remove such member if that member fails to promptly resign and, in either event, replace such member with another duly qualified individual.

§ 122-6. Meeting and Reporting.

(A) The PAB shall meet no less than quarterly with heads of LEAs operating in the County to:

1. Discuss improvements that can be made to policing;
2. Appoint civilian members to charging committees and trial boards;
3. Receive complaints of police misconduct from the public in accordance with § 24-16(E) of this article; and
4. On a quarterly basis, review outcomes of disciplinary matters considered by the ACC.

(B) The PAB and the ACC may meet in special meetings at the call of the Chairperson, or in the absence of the Chairperson, at the request of two-thirds of the members.

(C) Matters considered at a special meeting are limited to the purpose and agenda contained in the notice of the meeting.

(D) Adequate notice of all regular and special meetings shall be provided to all PAB/ACC members, as applicable, and to the public in accordance with the OMA.

(E) Any meeting of the PAB may be conducted by telephone or video conference call provided that PAB members and the public are given at least three (3) days' notice prior to the meeting and a telephone system is used with provisions for the public who may wish to observe the meeting to listen to the entirety of the meeting as it is occurring.

§ 122-7. Budget.

(A) The County Council shall prepare a budget for the PAB that shall include:

1. An annual appropriation for studies and contracted services relevant to the mission of the PAB supported by grant assistance from the Governor's Office of Crime Prevention, Youth, and Victim Services; and
2. A stipend for members per meeting with a per annum maximum amount per member, as the County Council may deem appropriate by resolution;

(B) The County Council shall approve a budget for the ACC that shall include:

1. An annual appropriation for studies and contracted services relevant to the mission of the ACC supported by grant assistance from the Governor's Office of Crime Prevention, Youth, and Victim Services; and

2. A stipend for members per meeting with a per annum maximum amount per member, as the County Council may deem appropriate by resolution.

§ 122-8. Rules, Record Keeping, and Support.

(A) Rules.

1. The PAB and the ACC shall each adopt rules of procedure not inconsistent with this article or applicable State law.

2. A quorum shall consist of a majority of the voting members of the PAB or the ACC, as applicable.

3. Each member of the PAB and ACC shall have one (1) vote. Any members serving on both the PAB and the ACC shall have one (1) vote in each body. The Chairperson is entitled to vote on any item unless precluded by operation of Chapter 88 (Ethics) of the Dorchester County Code.

4. A tie vote for or against a motion means that a motion fails.

(B) Record Keeping.

1. The Custodian of Records for the PAB and the ACC shall be the respective Chairpersons of each.

2. Records pertaining to any administrative investigation shall be deposited with and secured by the County Attorney.

3. Records pertaining to any criminal investigation shall be deposited with and secured by the Office of the State's Attorney for Dorchester County.

(C) Support.

1. The Dorchester County Department of Human Resources and the Dorchester County Office of Law shall provide support personnel as may be required by the PAB and ACC, subject to consultation with, and approval from, the County Council.

2. The County Attorney shall provide legal support to the PAB, as may be authorized by the County Council. The ACC may appoint its own attorney, within budgetary limitations and subject to approval by the County Council.

3. The County Council shall provide such meeting space, supplies, equipment, and support, including, without limitation, technology support and secure storage, as may be required by the PAB and ACC to perform their respective duties.

SECTION TWO: And be it further ENACTED, that if any provision of this Bill or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Bill which can be given effect without the invalid provision or application, and for this purpose the provisions of this Bill are declared severable.

SECTION THREE: Be it further ENACTED and ORDAINED by the County Council of Dorchester County, Maryland, that General Code Publishers is directed to codify new Chapter 122 entitled "Police Accountability Board and Administrative Charging Committee" in the Code of Dorchester County, Maryland.

SECTION FOUR: Be it further ENACTED and ORDAINED by the County Council of Dorchester County, Maryland that this Bill shall be given retroactive application and shall apply to eligible complaints based on an incident occurring on or after July 1, 2022.

SECTION FIVE: Be it further ENACTED, pursuant to Section 308 of the Charter of Dorchester County, Maryland, that promptly after enactment of this Act, the County Manager shall cause a fair summary of this Act to be published at least once in a newspaper of general circulation in Dorchester County, Maryland.

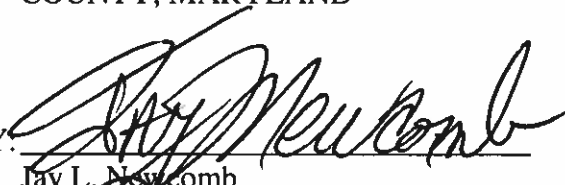
SECTION SIX: Be it further ENACTED and ORDAINED by the County Council of Dorchester County, Maryland, that this Bill shall be known as Bill No. 2022-6 of Dorchester County, Maryland and shall take effect sixty (60) days after its final passage.

PASSED this 4th day of October, 2022.

ATTEST:

COUNTY COUNCIL OF DORCHESTER
COUNTY, MARYLAND

BY: 
Donna F. Lane
Acting County Manager


BY: 
Jay L. Newcomb
President

APPROVED this 4th day of October, 2022.

ATTEST:

COUNTY COUNCIL OF DORCHESTER
COUNTY, MARYLAND

BY: 
Donna F. Lane
Acting County Manager

BY: 
Jay L. Newcomb
President

Nichols - aye
Nagel - aye
Newcomb - aye
Pfeffer - aye
Travers - aye

August.22
DorCo.PoliceAcctBdBill/mlh