

RESOLUTION NO. 22-02

A RESOLUTION PERTAINING TO THE CREATION OF THE QUEEN ANNE'S COUNTY POLICE ACCOUNTABILITY BOARD & QUEEN ANNE'S COUNTY ADMINISTRATIVE CHARGING COMMITTEE

WHEREAS, Chapter 59 Laws of Maryland 2021, Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures, (the “Act”), makes various changes that generally relate to law enforcement including altering requirements for police officers during traffic stops, establishing higher education financial assistance programs for police officers, increasing civil liability limits applicable to police misconduct lawsuits, and repealing the Law Enforcement Office’s Bills of Rights (“LEOBR”) and establishing provisions that relate to a statewide accountability and discipline process for police officers;

WHEREAS, the Act further requires each county to have a police accountability board to: (1) 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; (2) appoint civilian members to charging committees and trial boards; (3) receive complaints of police misconduct filed by members of the public; (4) on a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and (5) 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 improve police accountability in the county;

WHEREAS, the Act further requires that the Board of County Commissioners of Queen Anne’s County, Maryland (hereinafter, the “Board of County Commissioners”) must: (1) establish the membership of a police accountability board, establish the budget and staff for a police accountability board, appoint a chair of the police accountability board who has relevant experience to the position; and (2) establish the procedures for record keeping by a police accountability board;

WHEREAS, pursuant to the Act, an active police officer may not be a

member of a police accountability board;

WHEREAS, the Act also establishes requirements for the contents of a complaint of police misconduct filed with a police accountability board and the process after the complaint is filed;

WHEREAS, the Act requires each county to have one administrative charging committee to serve countywide law enforcement agencies and local law enforcement agencies within the county.

WHEREAS, the Act establishes the composition and requirements for the board and committee and requires that before serving as a member of an administrative charging committee, an individual must receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission;

WHEREAS, the Act requires that an administrative charging committee must: (1) review the findings of a law enforcement agency's investigation; (2) make a determination as to whether or not to administratively charge the police officer who is the subject of the investigation; (3) if the police officer is charged, recommend discipline in accordance with the law enforcement agency's disciplinary matrix; (4) review any body camera footage that may be relevant to the matters covered in the complaint of misconduct; (5) authorize a police officer called to appear before an administrative charging committee to be accompanied by a representative; (6) issue a written opinion that describes in details its findings, determinations, and recommendations; and (7) forward the written opinion to the chief of the law enforcement agency, the police officer, and the complainant;

WHEREAS, the Act establishes that, in executing its duties, an administrative charging committee may: (1) request information or action from the law enforcement agency; (2) if the police officer is not administratively charged, make a determination that the allegations against the police officer are unfounded, or the police officer is exonerated; and (3) record, in writing, any failure of supervision that caused or contributed to a police officer's misconduct; and

WHEREAS, the Board of County Commissioners desire to conform to the requirements of the Act, which becomes effective July 1, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that there shall be a Queen Anne's County Police Accountability Board ("QAPAB") and a Queen Anne's County Administrative Charging Committee ("QAACC") in accordance with the following:

I. Definitions.

A. Federal Law Enforcement Agency: A federal law enforcement agency is an organizational unit, or subunit, of the federal government with the principle functions of prevention, detection, and investigation of crime and the apprehension of alleged offenders. Examples of federal law enforcement agencies include: the U.S. Customs and Border Protection; Federal Bureau of Investigation ("FBI"); the Secret Service; and the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF").

B. Law Enforcement Agency ("LEA"): A Law Enforcement Agency ("LEA") is a Federal Law Enforcement Agency or a Maryland Law Enforcement Agency.

C. Maryland Law Enforcement Agency: A Maryland law enforcement agency is an organizational unit, or subunit, of the State government, or its counties or municipalities, with the principle functions of prevention, detection, and investigation of crime, and the apprehension of alleged offenders. Examples of Maryland law enforcement agencies 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; city or county police force; a County Sheriff, or deputy, regardless whether merit or contract, with the principle functions of

training/certification, prevention.

D. Police Officer: Police officer shall have the same meaning as defined at Md. Ann. Code, *Public Safety Art.* §3-201, as amended hereafter from time to time.

E. Not Administratively Charged – a determination has been made not to administratively charge a police officer in connection with alleged misconduct.

F. Police Misconduct – a pattern, a practice, or conduct by a police officer or law enforcement agency 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; and

(3) A violation of law enforcement agency standards and policies.

G. Serious Physical Injury – shall have the same meaning as defined in Md. Code Ann., *Criminal Law Art.*, §3-201(d).

H. Superior Governmental Authority – the governing body that oversees a law enforcement agency.

I. Unfounded – the allegations against a police officer are not supported by fact.

II. Police Accountability Board

A. There shall be a Queen Anne’s County Police Accountability Board (“QAPAB”) to serve local and countywide law enforcement agencies within Queen Anne’s County, Maryland.

B. The QAPAB shall:

- (1) Hold quarterly meetings with the head of law enforcement agencies, and otherwise work with law enforcement agencies and the county government to improve matters of policing;
- (2) Appoint civilian members to charging committees and trial boards;
- (3) Receive complaints of police misconduct filed by members of the public;
- (4) On a quarterly basis, review outcomes of disciplinary matters considered by charging committees;
- (5) Work with law enforcement agencies and the Queen Anne's County Commissioners 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 governing body of the county that identifies any trends in the disciplinary process of police officers in Queen Anne's County and makes recommendations on changes to policy that would improve police accountability in Queen Anne's County, Maryland.

C. Subject to Section 13-19 A. the Queen Anne's County Commissioners shall:

- (1) Establish the membership of a policy accountability board;
- (2) Establish the budget and staff for a police accountability board;
- (3) Appoint a Chairperson of the police accountability board who has relevant experience to the position. To the extent practicable, the Chairperson of the QAPAB shall:

(a) Be a retired sworn law enforcement officer who retired in good standing with at least twenty (20) years of service in a Law Enforcement Agency.

(b) Shall have been the head of a LEA, or in a command or supervisory position within a LEA.

(4) Establish the procedures for record keeping by a police accountability board;

(5) Appoint at least two (2) and up to six (6) additional members.

(6) An active police officer may not be a member of a police accountability board;

(7) To the extent practicable, the membership of a police accountability board shall reflect the racial, gender, and cultural diversity of the county.

(8) All persons appointed to the police accountability board shall be a United States citizen or possess a valid Permanent Resident Card. No person appointed to the said board shall have been previously convicted of a felony.

D. A complaint of police misconduct filed with a police accountability board 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;

(4) A complaint need not be notarized.

E. A complaint of police misconduct filed with a police accountability board shall be forwarded to the appropriate law enforcement agency within three (3) days after receipt by the Board or sooner, when possible.

F. An individual may file a complaint of police misconduct with the law enforcement agency that employs the police officer who is the subject of the complaint.

III. Administrative Charging Committee

- A. There shall be a Queen Anne's County Administrative Charging Committee ("QAACC") to serve countywide law enforcement agencies and local law enforcement agencies within Queen Anne's County.

- B. The QACCC shall be composed of:
 - (1) The Chairperson of the QAPAB or another member of the accountability board designated by the Chairperson of the accountability board;
 - (2) Two (2) civilian members selected by the QAPAB; and
 - (3) Two (2) civilian members selected by the Queen Anne's County Commissioners of Queen Anne's County.

- C. Before serving as a member of an administrative charging committee, an individual shall receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission.

- D. All persons appointed to the QACCC shall be a United States citizen or possess a valid Permanent Resident Card. No person appointed to the QACCC shall have been previously convicted of a felony.

- E. On completion of an investigation of a complaint made by a member of the public against a police officer, the law enforcement agency shall forward to the appropriate administrative charging committee the investigatory files for the matter.

- F. An administrative charging committee shall:
 - (1) Review the findings of a law enforcement agency's investigation conducted and forwarded in accordance with subsection (D) of this section;
 - (2) Make a determination that the police officer who is subject to investigation shall be:

- (a) Administratively charged; or
 - (b) Not administratively charged;
- (3) If the police officer is charged, recommend discipline in accordance with the law enforcement agency's disciplinary matrix established in accordance with Md. Code Ann., Public Safety Art., §3-105;
- (4) Review any body camera footage that may be relevant to the matters covered in the complaint of misconduct;
- (5) Authorize a police officer, called to appear before an administrative charging committee, to be accompanied by a representative;
- (6) Issue a written opinion that describes in detail its findings, determinations, and recommendations; and
- (7) Forward the written opinion to the Chief or Sheriff of the law enforcement agency, the police officer, and the complainant.

G. In executing its duties in accordance with subsection (E) of this section, the QAACC may:

- (1) Request information or action from the law enforcement agency that conducted the investigation, including requiring additional investigation and the issuance of subpoenas;
- (2) If the police officer is not administratively charge, 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.

H. The QAACC shall meet once per month or as needed;

I. A member of the QAACC shall maintain confidentiality relating to any matter being considered by the Committee until final disposition of the matter;

J. Within 15 days after QAACC issues an administrative charge against a police officer, the Chief or Sheriff of the law enforcement agency shall offer discipline to the police officer who has been administratively charged in accordance with the disciplinary matrix;

K. The Chief or Sheriff may offer the same discipline that was recommended by the QAACC or a higher degree of discipline within the applicable range of the disciplinary matrix, but may not deviate below the discipline recommended by the QAACC;

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

M. 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.

N. A chief or Sheriff may make a written recommendation to the QAACC in writing regarding discipline matters.

IV. Trial Board

A. At least 30 days before a trial board proceeding begins, the police officer shall be:

- (1) Provided a copy of the investigatory record;
- (2) Notified of the charges against the police officer; and
- (3) Notified of the disciplinary action being recommended;

B. Each law enforcement agency shall establish a trial board process in accordance with this section to adjudicate matters for which a police officer is subject to discipline;

C. A small law enforcement agency may use the trial board process of another law enforcement agency by mutual agreement;

D. A trial board shall be composed of:

(1) An actively serving or retired administrative law judge or a retired judge of the District Court or Circuit Court, appointed by the Queen Anne's County Commissioners;

(2) A civilian who is not a member of an administrative charging committee, appointed by the county's QAPAB; and

(3) A police officer of equal rank to the police officer who is accused of misconduct appointed by the head of the law enforcement agency;

E. Before serving as a member of a trial board, an individual shall receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission;

F. All persons appointed as a member of a trial board shall be a United States citizen or possess a valid Permanent Resident Card. No person appointed as a member of a trial board shall have been previously convicted of a felony;

G. Proceedings of a trial board shall be open to the public, except to protect:

(1) A victim's identity;

(2) The personal privacy of an individual;

(3) A child witness;

(4) Medical records;

(5) The identity of a confidential source;

(6) An investigative technique or procedure; or

(7) The life or physical safety of an individual;

H. A trial board may administer oaths and issue subpoenas, as necessary, to complete its work;

I. A complainant has the right to be notified of a trial board hearing and, except as provided in subsection F of this section, the right to attend a trial board meeting;

J. Except as otherwise provided in this subtitle, a law enforcement agency has the burden of proof by a preponderance of the evidence in any proceeding under this subtitle;

K. A police officer may be disciplined only for cause;

L. Within 30 days after the date of issuance of a decision of a trial board, the decision may be appealed by the employee:

(1) If the trial board is from a local law enforcement agency, to the Circuit Court of the County in which the law enforcement agency is located; and

(2) If the trial board is from a statewide or bi-county law enforcement agency, to the Circuit Court for Anne Arundel County;

M. An appeal taken under this subsection shall be on the record;

N. A trial board decision that is not appealed is final;

O. Pending an investigation, administrative charging committee, and trial board process, the Chief or Sheriff may impose an emergency suspension with or without pay if the Chief or Sheriff determines that such a suspension is in the best interest of the public;

P. An Emergency suspension without pay under this subsection may not exceed 30 days. A police officer who is suspended without pay under this subsection is entitled to receive back pay if QAACC determines not to administratively charge the police officer in connection with the matter on which the suspension is based;

Q. The Chief or Sheriff or their designee may suspend a police officer without pay and suspend the police officer's police powers on an emergency basis if the police officer is charged with:

(1) A disqualifying crime, as defined in Md. Code Ann., *Public Safety Article*, §5-101(b.1);

(2) A misdemeanor committed in the performance of duties as a police officer; or

(3) A misdemeanor involving dishonesty, fraud, theft, or misrepresentation;

R. A police officer who was suspended without pay under this subsection is entitled to receive back pay if criminal charge or charges against the police officer result in:

(1) A finding of not guilty;

(2) An acquittal;

(3) A dismissal; or

(4) A nolle prosequi;

S. The Chief or Sheriff shall terminate the employment of a police officer who is convicted of a felony;

T. The Chief or Sheriff may terminate the employment of a police officer who:

(1) Receives a probation before judgment for:

(a) A felony; or

(b) Is convicted of:

(i) A misdemeanor committed in the performance of duties as a police officer;

(ii) Misdemeanor second degree assault; or

(iii) Misdemeanor involving dishonesty, fraud, theft, or misrepresentation.

(2) In connection with a disciplinary matter under this subtitle, a police officer may be required to submit to blood alcohol tests; blood, breath, or urine tests for controlled dangerous substances; polygraph examinations; or interrogations that specifically relate to the subject matter of the investigation:

- (a) If a police officer is required to submit to a test, examination, or interrogation under section (2) of this subsection and the police officer refuses to do so, the law enforcement agency may commence an action that may lead to punitive measure as a result of the refusal;
- (b) If a police officer is required to submit to a test, examination, or interrogation under section (2) of this subsection, the results of the test, examination, or interrogation are not admissible or discoverable in a criminal proceeding against the police officer;
- (c) If a police officer is required to submit to a polygraph examination under section (2) of this subsection, the results of the polygraph examination are not admissible or discoverable in a criminal or civil proceeding against the police officer;

U. A law enforcement agency shall designate an employee as a victims' rights advocate to act as the contact for the public within the agency on matters related to police misconduct:

- (1) A victims' rights advocate shall:
 - (a) Explain to complainant:
 - (i) The complaint, investigation, administrative charging committee, and trial board process;
 - (ii) Any decision to terminate an investigation;
 - (iii) The QAACC's decision of administratively charged, not administratively charge, unfounded, or exonerated; and
 - (iv) A trial board's decision;
- (2) Provide a complainant with an opportunity to review a police officer's statement, if any, before completion of an investigation by a law enforcement agency's investigative unit;
- (3) Notify a complainant of the status of the case at every stage of the process;
- (4) Provide a case summary to a complainant within 30 days after final disposition of the case; and

(5) Each law enforcement agency shall create a database that enables a complainant to enter the complainant's case number to follow the status of the case as it proceeds through:

- (a) Investigation;
- (b) Charging;
- (c) Offer of discipline;
- (d) Trial board;
- (e) Ultimate discipline; and
- (f) Appeal.

V. Terms and Conditions of Service

- A. To the extent practicable, the membership of the QAPAB and QAACC shall reflect the racial, gender, and cultural diversity of Queen Anne's County, Maryland.
- B. Member(s) of the QAPAB and QAACC shall hold their position until their successor(s) are selected and qualified;
- C. All members of the QAPAB and QAACC are subject to the applicable provisions of the Queen Anne's County Code of Ethics, Chapter 8 of the Public Local Laws of Queen Anne's County, Maryland, as amended from time to time;
- D. Members of the QAPAB and QAACC shall maintain confidentiality relating to all matters before the respective Board and Queen Anne's County;
- E. Members of the QAPAB and QAACC shall comply with the Maryland Open Meetings Act, Md. Code Ann., *General Provisions Art.*, §3-101, et seq., as amended hereafter from time to time;
- F. With regard to the QAPAB:
 - (1) The QAPAB shall be composed of at least three (3) and no more than seven (7) members selected by the County Commissioners of Queen Anne's County, including a Chairperson;

- (2) Except for the Chairperson, members shall serve a term of four (4) years, Members shall be eligible for reappointment;
- (3) The Chairperson shall serve a term of five (5) years;

VI. Resignation and Removal

A. Any member of the QAPAB or QAACC may resign at any time by providing written notice to the County Commissioners of Queen Anne's County.

B. In addition to the grounds set forth above, a member of the QAPAB or QAACC may be removed in accordance with the following provisions:

- (1) The County Commissioners of Queen Anne's County retains the authority to remove any member on its own initiative or based on recommendation of a majority vote of the QAPAB, when in its discretion, the best interest of the community or County Commissioners, would not be served by continued membership;
- (2) The Chairperson shall notify the Queen Anne's County Commissioners if a member of the QAPAB or QAACC misses three (3) scheduled meetings in any twelve (12) month period without an excused absence. The Queen Anne's County Commissioners may remove and replace such member;
- (3) Any member of the QAPAB or QAACC who violates confidentiality can also be removed and replaced by the Commissioners of Queen Anne's County;
- (4) Any member who is convicted of a felony or misdemeanor with a potential penalty of two (2) years or greater, or a crime of moral turpitude during their term as a member, shall report the same to the Queen Anne's County Commissioners, resign, and will be subject to removal if such member fails to resign.

VII. Meeting and Reporting

A. The QAPAB shall meet no less than quarterly with heads of LEAs operating in Queen Anne's 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; and

(4) On a quarterly basis, review outcomes of disciplinary matters considered by charging committees;

B. Each complaint of misconduct received by the QAPAB shall be forwarded within three (3) days of receipt by the QAPAB to the appropriate LEA. If no meeting of the QAPAB is scheduled within that timeframe, the Chairperson of the QAPAB shall ensure that such complaint is forwarded and report the transfer of such report to the QAPAB at its next meeting;

C. The QAPAB and the QAACC may meet in special meetings at the call of the Chairperson, or the Vice-Chairperson in the absence of the Chairperson, or at the request of two-thirds of the members;

D. Matters considered at a special meeting are limited to the purpose and agenda contained in the notice of the meeting;

E. Adequate notice of all special meetings will be provided to all Board or Commission members;

F. Notice of all meetings of the QAPAB and the QAACC shall be in accordance with the Maryland Open Meetings Act;

G. All meetings are open to the public, except that the QAPAB and the QAACC may meet in closed session or adjourn an open session to meet in a closed session in accordance with the Md. Code Ann., *General Provisions Article*, §3-305, as amended hereafter from time to time;

H. Any meeting of the QAPAB may be conducted by telephone or video conference call provided that QAPAB members and the

public are given at least a three-day notice prior to the meeting and a full duplex telephone system is used with provisions for a location where the public who may wish to observe the meeting may listen to the entirety of the meeting as it is occurring.

VIII. Budget

A. The Queen Anne's County Commissioners of Queen Anne's County shall prepare a budget for the QAPAB that shall include:

- (1) An annual appropriation for studies and contracted services relevant to the mission of the QAPAB; and
- (2) A Quarterly stipend for members in such other amount as the Queen Anne's County Commissioners may deem appropriate;

B. The Queen Anne's County Commissioners of Queen Anne's County shall approve a budget for the QAACC that shall include:

- (1) An annual appropriation for studies and contracted services relevant to the mission of the QAACC; and
- (2) A stipend for members per meeting with a per annum maximum amount per member as the Queen Anne's County Commissioners of Queen Anne's County may deem appropriate.

IX. Ethics, Rules, Record Keeping, and Support

A. Ethics

- (1) QAPAB members shall abide by and fully comply with the Queen Anne's County Code of Ethics, Chapter 8 of the Laws of Queen Anne's County, Maryland, as amended from time to time;
- (2) No member of the QAPAB or QAACC shall cast a vote on any matter where a conflict of interest exists;
- (3) In any instance where the determination of a conflict of interest is uncertain, the Queen Anne's County Commissioners of Queen Anne's County may request a determination of conflict of interest from the Queen Anne's County Ethics Commission, which shall not be unreasonably delayed;

B. Rules

- (1) A quorum shall consist of a majority of the voting members;

(2) Notwithstanding any rules of procedure and conduct for hearings that provide procedural and substantive due process adopted by the QAACC, all meetings shall be conducted in accordance with *Roberts Rules of Order Newly Revised*, unless they are inconsistent with the approved Rules or this Article;

(3) There shall be one vote per member of each of the QAPAB and the QAACC; any members serving both the Board and the Commission shall have one vote in each body. The Chairperson is entitled to vote on any item unless precluded by operation of the Queen Anne's County Ethics Code;

(4) A tie vote for and against a motion means that a motion fails;

C. Record Keeping

(1) The Custodian of all records, of any form, including, without limitation, paper, media, and electronic of the QAPAB, shall be the Chairperson of the QAPAB, with:

(a) Records pertaining to any administrative investigation being deposited and secured by the office of the County Administrator; and

(b) Records pertaining to any criminal investigation being deposited and secured by the office of the State's Attorney;

(2) The Custodian of all records, of any form, including, without limitation, paper, media, and electronic of the QAACC, shall be the Chairperson of the QAACC, with:

(a) Records pertaining to any administrative investigation being deposited and secured by the office of the County Administrator; and

(b) Records pertaining to any criminal investigation being deposited and secured by the office of the State's Attorney;

D. Support

(1) The County Commissioners of Queen Anne's County shall appoint an attorney to provide legal support and support personnel to the QAPAB and QAACC;

(2) The Queen Anne's County Commissioners of Queen Anne's County shall provide such meeting space, supplies, equipment and support, including, without limitation, technology support and secure storage, as may be required by the QAPAB and QAACC to perform their respective duties.

WITNESS the hands and seals of the County Commissioners of Queen Anne's County this ____ day of _____, 2022.

ATTEST:

THE COUNTY COMMISSIONERS
OF QUEEN ANNE'S COUNTY

_____(SEAL)
Christopher M. Corchiarino, President

_____(SEAL)
Jack N. Wilson, Jr.

Margie Houck
Executive Assistant

_____(SEAL)
Stephen Wilson

_____(SEAL)
Philip L. Dumenil

_____(SEAL)
James J. Moran

