

ORDINANCE NO. ORD-2022-_____

**AN ORDINANCE TO ENACT A NEW ORDINANCE ENTITLED
“WASHINGTON COUNTY, MARYLAND, POLICE ACCOUNTABILITY
ORDINANCE”**

RECITALS

Chapter 59 of the 2021 Acts of the General Assembly—Maryland Police Accountability Act of 2021—Police Discipline and Law Enforcement Programs and Procedures (the “Act”) requires that each county of the State of Maryland, *inter alia*, establish a police accountability board (“PAB”) and take the following actions regarding the PAB: (1) establish the membership of the PAB; (2) establish the budget and staff for the PAB; (3) appoint a chair of the PAB who has relevant experience to the position; and (4) establish the procedures for record keeping by the PAB, all subject to certain requirements and restrictions stated in the Act.

The Act further requires that the PAB do the following: (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, forwarding the same to the appropriate law enforcement agency for investigation; (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.

The Act further requires that each county establish an administrative charging committee which shall review the findings of a law enforcement agency’s investigation and determine whether a police officer who is subject to investigation shall be administratively charged; if a police officer is administratively charged, the administrative charging committee shall recommend discipline in accordance with the law enforcement agency’s disciplinary matrix and issue a written opinion that describes in detail its findings, determinations, and recommendations.

The Board desires to enact a new ordinance entitled "Washington County, Maryland, Police Accountability Ordinance" (*Ordinance*). The new Ordinance includes language which complies with the requirements of the Act.

NOW, THEREFORE, BE IT ENACTED by the Board of County Commissioners of Washington County, Maryland, that the attached ordinance entitled "Washington County, Maryland, Police Accountability Ordinance," is hereby enacted.

Adopted this ____ day of _____, 2022.

Effective July 1, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Krista L. Hart, County Clerk

By: _____
Jeffrey A. Cline, President

Approved as to form and legal
sufficiency:

Kirk C. Downey, County Attorney

WASHINGTON COUNTY, MARYLAND

POLICE ACCOUNTABILITY ORDINANCE

Adopted: _____

Effective: _____

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RECITALS

Chapter 59 Laws of Maryland 2021, Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures (*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, repealing the Law Enforcement Officers’ Bill of Rights, and establishing provisions that relate to a statewide accountability and discipline process for police officers.

The Act requires each county to establish a police accountability board.

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.

The Board of County Commissioners of Washington County, Maryland (*Board*), desires to conform to the requirements of the Act which becomes effective July 1, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Board that there shall be a Washington County Police Accountability Board and a Washington County Administrative Charging Committee applicable to countywide law enforcement agencies and local enforcement agencies within Washington County as further provided herein.

Section 1. Short Title.

This Ordinance may be cited as the “Washington County, Maryland, Police Accountability Ordinance.”

Section 2. Definitions.

In this Ordinance, the following words have the meanings indicated, unless otherwise stated herein:

A. “Administratively Charged” means that a Police Officer has been formally accused of misconduct in an administrative proceeding.

B. “Disciplinary Matrix” means a written, consistent, progressive, and transparent tool or rubric that provides ranges of disciplinary actions for different types of misconduct, and which is prescribed by the Maryland Police Training and Standards Commission.

C. “Exonerated” means that a Police Officer acted in accordance with the law and agency policy.

D. “Law Enforcement Agency(ies)” has the meaning stated in Md. Code Ann., *Pub. Safety* § 3-201, as amended from time to time.

E. “Not Administratively Charged” means that a determination has been made not to administratively charge a Police Officer in connection with alleged misconduct.

F. “Police Misconduct” means 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. “Police Officer(s)” has the meaning stated in Md. Code Ann., *Pub. Safety* § 3-201, as amended from time to time.

H. “Unfounded” means that the allegations against a Police Officer are not supported by fact.

Section 3. Police Accountability Board.

A. *Establishment.* There is a Washington County Police Accountability Board (WCPAB) to serve countywide Law Enforcement Agencies and local Law Enforcement Agencies within Washington County as defined in Md. Code Ann., *Pub. Safety* § 3-201, as amended from time to time.

B. *Composition.*

(1) The WCPAB shall be composed of five (5) members appointed by majority vote of the Board.

(2) The Board shall appoint a chairperson of the WCPAB from the WCPAB's existing membership, said chairperson to be a person who has extensive knowledge of state and/or local police practices and professional experience interacting with the criminal justice system.

C. *Terms of Office.*

(1) Initial Terms: To maintain staggered terms of office, during the initial terms, the initial chairperson shall be appointed for a three (3) year term, two (2) members shall be appointed for a two (2) year term, and two (2) members shall be appointed for a one (1) year term.

(2) Subsequent Terms: All terms of office subsequent to the initial terms shall be three (3) years.

(3) Consecutive Terms: A WCPAB member shall not serve more than two (2) consecutive full terms.

D. *Duties.* The WCPAB shall do the following:

(1) Hold not less than quarterly meetings with heads of Law Enforcement Agencies and otherwise work with Law Enforcement Agencies and the Board to improve matters of policing within Washington County;

(2) Appoint civilian members to charging committees pursuant to MD. Code Ann., *Pub. Safety* § 3-104(a)(2)(ii), as amended from time to time, and trial boards pursuant to Md. Code Ann., *Pub. Safety* § 3-106(b)(2), as amended from time to time;

(3) Receive complaints of Police Misconduct filed by members of the public;

(4) Review outcomes of disciplinary matters considered by charging committees on a quarterly basis; and

(5) Submit a report to the Board by December 31 each year that identifies any trends in the disciplinary processing of Police Officers in Washington County and includes recommendations on policy changes that would improve police accountability in Washington County.

E. *Meetings.* The WCPAB shall meet at the call of the WCPAB chairperson as often as necessary to perform its duties but not less than quarterly on an annual basis.

Section 4. Administrative Charging Committee.

A. *Establishment.* There is a Washington County Administrative Charging Committee (WCACC) to serve countywide Law Enforcement Agencies and local Law Enforcement Agencies within Washington County.

B. *Composition.*

(1) The WCACC shall be composed of five (5) members;

(2) The chairperson of the WCPAB, or a member designated by the WCPAB's chairperson, shall serve as a member of the WCACC;

(3) The Board shall appoint two (2) civilians as members of the WCACC by majority vote;

(4) The WCPAB shall appoint two (2) civilians to the WCACC by majority vote;

(5) The members of the WCACC shall elect a chairperson annually from among the WCACC's members by a majority vote each first meeting occurring on or after July 1.

C. *Terms of Office.*

(1) Initial Terms: To maintain staggered terms of office, during the initial terms, the initial chairperson shall be appointed for a three (3) year term, two (2) members shall be appointed for a two (2) year term, and two (2) members shall be appointed for a one (1) year term.

(2) Subsequent Terms: All terms of office subsequent to the initial terms shall be three (3) years.

(3) Consecutive Terms: A WCACC member shall not serve more than two (2) consecutive full terms.

(3) Chairperson. The chairperson of the WCACC may serve no more than two (2) consecutive full terms as chairperson.

D. *Required Training*. Before serving on the WCACC, each member shall receive training on matters relating to police procedures as prepared and prescribed by the Maryland Police Training and Standards Commission.

E. *Duties*. The WCACC shall do the following:

(1) Meet once per month, or as needed;

(2) Adopt rules of procedure and conduct for hearings that provide procedural and substantive due process and which may be amended from time to time as a majority of the WCACC voting members may deem necessary and appropriate;

(3) Review the findings of a Law Enforcement Agency's investigation conducted and forwarded to the WCACC in accordance with the Act;

(4) Determine whether the Police Officer as defined in Md. Code Ann., *Pub. Safety* § 3-201, as amended from time to time, who is subject to investigation shall be Administratively Charged or Not Administratively Charged;

(5) Recommend discipline in accordance with the Law Enforcement Agency's Disciplinary Matrix established in accordance with Md. Code Ann., *Pub. Safety* § 3-105 and § 3-106, as amended from time to time, if the Police Officer is charged;

(6) Review any body camera footage that may be relevant to the matters covered in the complaint of Police Misconduct;

(7) Authorize a Police Officer called to appear before the WCACC to be accompanied by a representative;

(8) Issue a written opinion that describes in detail the WCACC's findings, determinations, and recommendations; and

(9) Forward a written opinion to the chief of the Law Enforcement Agency, the Police Officer, and the complainant.

F. *Authorized Actions.* In executing its duties, the WCACC may take the following actions:

(1) Request information or action from the Law Enforcement Agency that conducted the initial investigation, including requiring additional investigation, consultation with any member of the Law Enforcement Agency who has or may have information pertinent to the complaint and/or the Police Officer involved, including the Police Officer's supervisor or the chief or sheriff of the Law Enforcement Agency;

(2) Issue subpoenas pursuant to Md. Code Ann., *Pub. Safety* § 3-104(f)(1), as amended from time to time;

(2) If the Police Officer is Not Administratively Charged, determine that the allegations against the Police Officer are Unfounded or that the Police Officer is Exonerated; and

(3) Record, in writing, any failure of supervision that caused or contributed to a Police Officer's Police Misconduct.

G. *Meetings.* The WCACC shall meet at the call of the WCACC chairperson as often as necessary to perform its duties but not less than monthly.

Section 5. Membership

A. *Diversity.* To the extent practicable, the membership of the WCPAB and the WCACC shall reflect the racial, gender, and cultural diversity of Washington County.

B. *Active Police Officer Ineligible.* No active Police Officer may be a member of the WCPAB or the WCACC.

C. *Qualifications.* All applicants for membership on the WCPAB and the WCACC shall meet the following qualifications:

(1) Be adult residents of Washington County for at least one (1) year immediately prior to applying for membership; and

(2) Be registered voters of Washington County; and

(3) Be at least twenty-five (25) years of age as of the date of appointment;
and

(4) Not be an active Police Officer; and

(5) Have a demonstrated commitment to just and fair outcomes, as well as respect for and adherence to established processes and procedures in professional settings.

D. *Criminal History.* All applicants for membership on the WCPAB and the WCACC shall be subject to criminal history background checks performed prior to the date of appointment. Any one or more of the following shall deem an applicant ineligible for appointment:

(1) Conviction of a felony;

(2) Conviction of any of the following misdemeanors within a period of fifteen (15) years prior to applying for membership: (a) a misdemeanor that carries a maximum penalty of greater than one (1) year; (b) crime of violence; (c) any crime involving theft; or (d) perjury;

(3) Subjection to an order of judicial probation, including probation before judgment, whether supervised or unsupervised;

(4) Subjection, as a defendant or respondent, to an order of protection from domestic violence or a peace order, or a similar such order from another in-state or out-of-state jurisdiction.

E. *Felony Conviction During Term of Office.* Any member who becomes convicted of a felony during a term of office as a member of the WCPAB or the WCACC shall report the same to the Board and shall resign or be subject to removal if such member fails to resign.

F. *Membership Duration.* Members shall hold their positions until their successors are selected and qualified.

G. *Applicable Legal Authority.*

(1) Ethics: All members of the WCPAB and the WCACC are subject to the applicable provisions of the Washington County, Maryland, Ethics Ordinance No. ORD-2011-20, as amended from time to time (*Ethics Ordinance*).

(2) Confidentiality: Members of the WCPAB and the WCACC shall maintain confidentiality relating to all matters before them and are subject to Washington County Policy No. PR-35—Confidentiality (*Confidentiality Policy*).

(3) Open Meetings Act: Members of the WCPAB and the WCACC shall comply with the Maryland Open Meetings Act, codified at Md. Code Ann., *Gen. Provisions* § 3-101, *et seq.*, as amended from time to time (*Open Meetings Act*).

Section 6. Resignation, Removal, and Vacancy

A. *Resignation*. Any member of the WCPAB or the WCACC may resign at any time by providing written notice to the Board.

B. *Removal*. Any member of the WCPAB or the WCACC may be removed in accordance with the following provisions:

(1) The Board retains the authority to remove any member when the member (i) no longer meets any of the criteria of the Act or this Ordinance; (ii) violates the Ethics Ordinance; (iii) fails to maintain confidentiality in violation of the Confidentiality Policy; or (iv), upon the recommendation of a majority vote of the WCPAB when, in its discretion, the best interest of the WCPAB would not be served by continued membership.

(2) The chairperson shall notify the Board if a member of the WCPAB or the WCACC misses three (3) scheduled meetings in any twelve (12) month period without an excused absence. The Board shall remove such member by majority vote, and a replacement member will be appointed pursuant to the provisions of the Act and this Ordinance.

C. *Vacancy*. A vacancy arising on the WCPAB or the WCACC shall be filled in accordance with the provisions of this Ordinance with the appointee to any vacancy serving the remainder of the unexpired term.

Section 7. Handling of Complaints.

(1) Each complaint of Police Misconduct received by the WCPAB shall be forwarded within three (3) days of receipt by the WCPAB to the appropriate Law Enforcement Agency. If no meeting of the WCPAB is scheduled within that timeframe, the chairperson of the WCPAB shall ensure that such complaint is forwarded and shall report the transfer of such report to the WCPAB at its next meeting.

(2) The WCPAB chairperson shall make and retain a copy of the complaint before forwarding the complaint to the appropriate Law Enforcement Agency.

(3) The Law Enforcement Agency receiving a complaint from the WCPAB shall promptly investigate the complaint and provide its investigatory files to the Administrative Charging Committee.

(4) Each member of the WCPAB shall maintain confidentiality relating to any complaints of Police Misconduct until final disposition and shall sign a confidentiality agreement agreeing to comply with all applicable confidentiality requirements.

Section 8. Conduct of Administrative Charge.

Any administrative charge issued by the WCACC pursuant to this Ordinance shall be resolved consistently with Md. Code Ann., *Pub. Safety* § 3-105(c), as amended from time to time

Section 9. Conflicts, Quorum, Meeting Rules, Record Keeping, and Support

A. Conflicts.

(1) Conflicted Vote Prohibited. No member of the WCPAB or the WCACC shall cast a vote on any matter where a conflict of interest exists.

(2) Conflict Uncertain. In any instance where the determination of a conflict of interest is uncertain, the Board may request a determination of conflict of interest from the Washington County Ethics Commission, which determination shall not be unreasonably withheld.

B. *Quorum.* Three (3) members present at any meeting of the WCPAB or the WCACC shall constitute a quorum to conduct business; however, passage of any motion

shall require a majority vote of all respective members of the WCPAB or the WCACC, whether or not such respective members are present.

C. *Meeting Rules.*

(1) Rules. Notwithstanding any rules of procedure and conduct for hearings that provide procedural and substantive due process that may be adopted by the WCPAB or the WCACC, all meetings shall be conducted in accordance with the latest edition of Robert's Rules of Order, unless such rules are inconsistent with said adopted rules or this Ordinance.

(2) One Vote Per Member. There shall be one (1) vote per member of each of the WCPAB and the WCACC. Any members serving both the WCPAB and the WCACC shall have one (1) vote in each body. The chairperson of each of the WCPAB and the WCACC is entitled to vote on any item unless precluded by operation of the Ethics Ordinance.

(3) Tie Vote. A tie vote for or against a motion means that a motion fails.

D. *Record Keeping.*

(1) WCPAB Records. The WCPAB chairperson shall be the custodian of all records in any form, including, without limitation, paper, media, and electronic, in possession of the WCPAB; and all records shall be deposited with the Office of the County Attorney where they shall be secured and retained for the minimum time required under Maryland law.

(2) WCACC Records. The WCACC chairperson shall be the custodian of all records in any form, including, without limitation, paper, media, and electronic, in possession of the WCACC; and all records shall be deposited with the Office of the County Attorney where they shall be secured and retained for the minimum time required under Maryland law.

E. *Support.*

(1) The Board shall provide support personnel as may be required by the WCPAB and the WCACC.

(2) The Office of the County Attorney shall provide legal support to the WCPAB and the WCACC unless prohibited by a conflict of interest or other cause.

(3) The Board shall provide such meeting space, supplies, equipment, and support, including, without limitation, technology support and secure storage, as may be required by the WCPAB and the WCACC to perform their respective duties.

Section 10. Budget

A. *WCPAB Budget.* The Board shall approve a budget for the WCPAB that may include the following:

(1) An annual appropriation for office supplies, studies, contracted administrative support as needed, and legal services as needed, relevant to the mission of the WCPAB and potentially supported by grant assistance from the Governor's Office of Crime Control and Prevention (GOCCP); and

(2) A quarterly stipend to members in such amount as the Board may deem appropriate.

B. *WCACC Budget.* The Board shall approve a budget for the WCACC that may include the following:

(1) An annual appropriation for office supplies, studies, contracted administrative support as needed, and legal services as needed, relevant to the mission of the WCACC and potentially supported by grant assistance from the GOCCP; and

(2) A stipend for members per meeting with a per annum maximum amount per member as the Board may deem appropriate.

Section 11. Effective Date.

This Ordinance takes effect on the date on which it is adopted and applies to eligible complaints based on incidents occurring on or after July 1, 2022.

BE IT FURTHER RESOLVED by the Board that, if any portion of this Resolution is found to be unconstitutional, illegal, or null and void, the Board intends that only the invalidated portion or provision be severed from this Resolution and that the remainder of this Resolution shall be enforceable and valid.

BE IT FURTHER RESOLVED by the Board that the foregoing Recitals are adopted as if fully rewritten here.

ADOPTED and **EFFECTIVE** this ____ day of _____, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
WASHINGTON COUNTY, MARYLAND

Krista L. Hart, Clerk

Jeffrey A. Cline, President

Approved as to form
and legal sufficiency:

Kirk C. Downey
County Attorney

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