

**From:**  
**To:** FW: Testimony on Expedited Bill 49-21, Police Accountability Board and Administrative Charging Committee  
**Subject:** Friday, February 11, 2022 7:37:26 AM  
**Date:** [Police Accountability Act of 2021 Final Version.docx](#)  
**Attachments:**

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**From:** Albornoz's Office, Councilmember <Councilmember.Albornoz@montgomerycountymd.gov>  
**Sent:** Thursday, February 10, 2022 2:10 PM  
**To:** Council President <Council.President@montgomerycountymd.gov>  
**Subject:** FW: Testimony on Expedited Bill 49-21, Police Accountability Board and Administrative Charging Committee

**From:** Robert Brown <  
**Sent:** Tuesday, January 18, 2022 11:03 PM  
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**Subject:** Testimony on Expedited Bill 49-21, Police Accountability Board and Administrative Charging Committee

**[EXTERNAL EMAIL]**

Council President Albornoz and other Councilmembers, I am **Robert W. Brown**, representing The People's Community Baptist Church of Silver Spring, where I chair our Police Action Reform Committee (PARC). I am also a member of Action in Montgomery (AIM).

I am pleased to have this opportunity to express our views on **Expedited Bill 49-21 to create the County's Police Accountability Board and the Administrative Charging Committee**. As I believe you know, we strongly endorsed the **Maryland Police Accountability Act of 2021**. It represents some of the most forward looking police reforms in the nation.

We are in sync with the essence of witness testimony presented to the Council last Tuesday afternoon:

- \* Local citizen groups should be consulted before legislation is drafted.

- \* Membership requirements for the **Administrative Charging Committee** are too police-centric and would by default exclude ordinary citizens and those who work on racial justice and restorative justice matters.
- \* The **Administrative Charging Committee** should have its own independent legal counsel rather than the County Attorney.
- \* The **Police Accountability Board** should have citizens members as well.

We also strongly urge the Council to closely review the analysis of Expedited Bill 49-21 by the **Council's Office of Legislative Oversight**. Its January 10, 2022 Racial Equity and Social Justice Impact Statement concluded that the bill as currently structured, *"sustains racial and social inequities as the police accountability system it proposes neither aligns with best practices nor meaningfully provides citizen oversight for the County's system of police accountability."*

We are further concerned that Expedited Bill 49-21 only addresses Maryland Bill 670 and fails to include other critical components of the Maryland Police Accountability Act of 2021. For example, **Senate Bill 71** covers body-worn cameras, employee programs, and use of force restrictions. **Senate Bill 78** addresses search warrants and access to records relating to police misconduct (Anton's Law). And **Senate Bill 600** places a restriction on use of surplus military equipment, and mandates a protocol for investigating deaths caused by police. [Senate Bill 786 concerns the Baltimore City control of the Police Department of Baltimore City]. **The Council must close this gap.**

Last September we prepared for our AIM members a **synopsis** of the five legislative bills which constitute the Maryland Police Accountability Act. We are submitting a copy of that document to the Council for the record.

We urge the Council to address and adopt the measures set forth in this testimony.

In our citizen capacity, we look forward to further collaboration with the Council on needed amendments to Expedited Bill 49-21, as well as implementation and monitoring progress on this new police reform endeavor. Thank you.

Dr. Robert W. Brown, Chair, Police Action Reform Committee, The People's Community Baptist Church, Silver Spring, and Action in Montgomery

**A Synopsis of the**

**MARYLAND POLICE ACCOUNTABILITY ACT OF 2021**

**Police Discipline and Law Enforcement Programs and**

**Procedures, Chapter 59**

**September 2021**

**\*This synopsis was prepared by the Police Action Reform Committee (PARC), of the Men's Fellowship Ministry, The People's Community Baptist Church, Silver Spring, Maryland, and the Critical Issues Forum of Montgomery County Maryland.**

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# Introduction

## Synopsis of the Maryland Police Accountability Act of 2021

This document on police discipline and law enforcement procedures is a synopsis of the **Maryland Police Accountability Act of 2021, enacted by the Maryland General Assembly on April 7, 2021, which goes into effect July 1, 2022.**

African American George Floyd's murder beneath the knee of a police officer in May 2020 sparked a national reckoning over racial justice and police conduct. In its wake, Maryland legislators enacted this historic police accountability measure, with Maryland becoming the first state to repeal its powerful Law Enforcement Officers' Bill of Rights, and setting new rules for when police may use force and how they are investigated and disciplined.

The legislation imposes some of the strictest police use-of-force standards in the nation and requires police officers to prioritize de-escalation tactics. It also imposes criminal penalties for officers found to have used excessive force.

This synopsis was prepared by the **Police Action Reform Committee (PARC)** of the **Men's Fellowship Ministry, The People's Community Baptist Church, Silver Spring, Maryland**, and the **Critical Issues Forum of Montgomery County, Maryland**. It was distilled from the actual legislation and the "90 Day Report: A Review of the 2021 Legislation," issued by the Department of Legislative Services, Maryland General Assembly.

**PARC** and the **Critical Issues Forum** are affiliates of **Action in Montgomery (AIM)**, and *the purpose of this synopsis is to (1) provide our members and other interested citizens a comprehensive and informative document in an easier to read format than the actual legislation, and (2) to serve as a guide for monitoring the Act's implementation by Montgomery County's elected and appointed leadership officials. The synopsis highlights 24 major provisions of the Act, which we will use to monitor Montgomery County's implementation of the Act.*

The legislative Act comprises the following five bills:

- House Bill 670, Maryland Accountability Act of 2021: Police Discipline and Law Enforcement Programs and Procedures
- Senate Bill 71, Body-Worn Cameras, Employee Programs, and Use of Force
- Senate Bill 178, Search Warrants and Inspection of Records Relating to Police Misconduct (Anton's Law)

- Senate Bill 600, Surplus Military Equipment and Investigation of Deaths Caused by Police Officers
- Senate Bill 786, Baltimore City Control of the Police Department of Baltimore City

Together, these five bills constitute the **Maryland Police Accountability Act of 2021**.

## Maryland Police Accountability Act of 2021

### 1. Repeal of the Law Enforcement Officers' Bill of Rights (LEOBR)

The original **Law Enforcement Officers' Bill of Rights** was enacted in Maryland in 1974 to guarantee police officers of specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of specified State and local agencies but does not extend to any correctional officers in the State. It provides uniform protections to police officers in two major components of the disciplinary process: **(a)** the conduct of internal investigations of complaints that could lead to a recommendation of disciplinary action against a police officer; and **(b)** procedures that must be followed once an investigation results in a recommendation that an officer be disciplined.

The **Act repeals** the Law Enforcement Bill of Rights in its entirety and establishes new provisions relating to the discipline process for police officers. A law enforcement agency may not negate or alter any of the requirements of this Act through collective bargaining.

### 2. Police Accountability Boards

Each **local governing body** must have a **Police Accountability Board** to hold quarterly meetings with heads of law enforcement agencies and work with law enforcement agencies and county government to improve matters of policing. The local governing body must appoint civilian members to charging committees and trial boards.

The Police Accountability Boards must **(a)** receive complaints of police misconduct filed by members of the public; **(b)** on a quarterly basis, review outcomes of disciplinary matters considered by the charging committees; and **(c)** 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 make recommendations on changes to police procedures that would improve police accountability in the county.

The **local governing body** establishes the membership, budget, and staff of the Police Accountability Boards. It appoints the chair and establishes procedures for recordkeeping.

An active police officer **may not** be a member of the Police Accountability Board, and to the extent practicable, **the board membership must reflect the racial, gender, and cultural diversity of the county.**

### **3. Administrative Charging Committee**

Each county must have an Administrative Charging Committee to serve countywide law enforcement agencies and local law enforcement agencies in the county. Also, there must be at least one statewide charging committee to serve statewide and bi-county law enforcement agencies.

An Administrative Charging Committee must **(a)** review the findings of a law enforcement agency's investigation; **(b)** make a determination as to whether or not to administratively charge the police officer who is the subject of the investigation; **(c)** if the police officer is charged, recommend discipline in accordance with the law enforcement agency's **disciplinary matrix**, as specified; **(d)** review any body camera footage that may be relevant to the matters covered in the complaint of misconduct; **(e)** authorize a police officer called to appear before an administrative charging committee to be accompanied by a representative ; and **(f)** issue a written opinion to the chief of the law enforcement agency , the police officer, and the complainant An Administrative Charging Committee is authorized to request specified information and make specified recommendations.

In executing it's duties, the Administrative Charging Committee may request information or action from the law enforcement agency 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 record in writing any failure of supervision that caused or contributed to a police officer's misconduct.

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.**

#### **4. Trial Boards**

Each law enforcement agency must establish a Trial Board process to adjudicate matters for which a police officer is subject to discipline. However, a small agency may use the Trial Board of another law enforcement agency by mutual agreement. The bill requires an individual, before serving as a member of a Trial Board, to receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission.

A Trial Board must be composed of 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. Also, the Trial Board must include a **civilian** who is not a member of an administrative charging committee, appointed by the county's accountability board. And the Trial Board must include an officer of equal rank to the police officer who is accused of misconduct, appointed by the head of the law enforcement agency.

With specified exceptions, proceedings of a Trial Board **must be open to the public**. A Trial Board may administer the oath and issue subpoenas as necessary to complete its work. A complainant has the right to be notified of a Trial Board hearing and, with specified exceptions, the right to attend Trial Board hearings. A police officer may be disciplined only for cause. With specified exceptions, a law enforcement agency has the burden of proof by a preponderance of the evidence.

Within 30 days after the issuance of a decision of a Trial Board, the decision may be appealed by the employee, as specified. An appeal taken from a Trial Board decision must be on the record. A Trial Board decision that is not appealed is final.

#### **5. Suspensions and Terminations**

Pending an investigatory, Administrative Charging Committee, and Trial Board process, the Chief of the law enforcement agency may impose an emergency suspension with or without pay under specified circumstances.

The Chief **must** terminate the employment of a police officer who is convicted of a felony, and **may** terminate the employment of a police officer who is convicted of a misdemeanor, second degree assault, or a misdemeanor involving dishonest, fraud, theft, or misrepresentation.

In connection with a disciplinary matter, a police officer may be required to submit to blood alcohol tests; blood, breath, or urine tests for controlled substances; polygraph examinations; or interrogations that specifically relate to



the subject matter of the investigation. However, the results of the test or examination are not admissible or discoverable in a civil or criminal proceeding against the officer.

If a police officer is required to submit to a test, examination, or interrogation and the police officer refuses to do so, the law enforcement agency may commence an action that may lead to a punitive measure as a result of the refusal.

#### **6. Investigation of Citizen Complaints**

An individual may file a complaint of police misconduct with the Police Accountability Board or the law enforcement agency that employs the police officer who is the subject of the complaint. The complaint must include specified information but need not be notarized. If filed with the **Police Accountability Board**, the complaint must be forwarded to the appropriate law enforcement agency within three days of receipt, and each such complaint by a member of the public must be immediately reviewed by the investigating unit of the law enforcement agency.

On completion of an investigation, the law enforcement agency must forward the investigatory files for the complaint to the appropriate **Administrative Charging Committee**. That committee must review and make a determination or ask for further review within 30 days after completion of the investigating unit's review. The process for the review by the investigating unit through disposition by the Administrative Charging Committee **must be completed within one year and one day after the filing of a complaint by a citizen.**

#### **7. Maryland Police Training and Standards Commission (MPTSC)**

The composition of the **Maryland Police Training and Standards Commission (MPTSC)** is altered and duties are added requiring the commission to conduct the following actions and oversight:

- a. Develop a training program for individuals who will serve as a member of a Trial board, Administrative Charging Committee, or the Commission;
- b. Hold law enforcement agencies accountable for violations of the **Maryland Use of Force Statute** and work with the Comptroller and the Governor's Office of Crime Prevention, Youth, and Victims Services (GOCPYVS) to ensure that **State grant funding is withheld** from a law enforcement agency that violates those provisions; and
- c. Develop and require a test and training for **implicit bias** (subject to the availability of implicit bias testing standards that are generally accepted by experts in the field of police psychology), as specified;

- d. Requirements for certification of a police officer by the MPTSC are expanded to require each individual to submit to a specified **mental health assessment every 2 years, and annual physical agility assessment** to establish continuing fitness to carry out the officer's assigned duties;
- e. The Commission may **suspend or revoke the certification** of a police officer if the police officer violates the **Maryland Use of Force Statute**.
- f. The Commission **must revoke certification** of a police officer if the police officer were convicted of a felony, convicted of perjury or another misdemeanor relating to truthfulness and veracity; **or was previously fired or resigned while being investigated for serious misconduct or use of excessive force**.
- g. The commission must create a **statewide database to track police officer decertification due to improper use of force**.
- h. An individual who applies for a position as police officer **must disclose** to the hiring law enforcement agencies all prior instances of employment as a police officer at other law enforcement agencies, and authorize the hiring law enforcement agency to obtain the police officer's full personnel and disciplinary record from each law enforcement agency that previously employed the police officer. The hiring law enforcement agency **must certify to the commission that the law enforcement agency has reviewed the applicant's disciplinary record**.
- i. By March 1 of each year, each law enforcement agency must submit to the MPTSC, **the number of uses of force complaints made against its police officers during the previous calendar year**, as specified, and by July 15 each year, MPTSC must post on its website and submit to the **General Assembly** a compendium of the information submitted by the law enforcement agencies. If a law enforcement agency has not submitted the report by July 1 for the previous calendar year, the **Governor's Office** may not make any grant funds available to that enforcement agency.
- j. The MPTSC consists of **20** members of which **11** are standing members, and the remaining **9** members are appointed by the Governor, with advice and consent of the Senate, for **3-year staggered terms**, as follows:
  - President of the Maryland Chiefs of Police Association;
  - President of the Maryland Sheriffs Association;
  - Attorney General of the State;
  - Secretary of the State Police;
  - Agent in charge of the Baltimore Office of the Federal Bureau of Investigation;
  - Member representing the Maryland State Lodge of Fraternal Order of Police;

Mary State's Attorney Association;  
Chair of the Maryland Municipal League Police Executive Association;  
Police Commissioner of Baltimore City;  
Civilian representative from the Wor-Wic Program Advisory Committee-  
Criminal Justice;  
Three police officers, representing different geographic areas of the  
State;  
One civilian with expertise in community policing who does not have  
relationships to law enforcement;  
One civilian with expertise in mental health who does not have  
relationships to law enforcement; and  
Three civilians of the State who represent different geographic areas of  
the State and do not have relationships to law enforcement.

### **8. Use of Force Statute**

A law enforcement agency shall have a written **de-escalation of force policy**, and have a written policy requiring supervisory and command-level review of all use of force incidents.

- a. Each police officer must sign an affirmative written **sanctity of life pledge** to respect every human life and act with compassion toward others.
- b. Each police officer **must undergo training** on when a police officer may or may not draw a firearm or point a firearm at a person, and enforcement options that are less likely to cause death or serious physical injury, including scenario-based training, de-escalation tactics and techniques, and reasonable alternatives to decrease physical injury. The officer **must sign a training completion document** stating that the officer understands and shall comply with the Maryland Use-of-Force Statute.
- c. A police officer may not use force against a person unless, under the totality of the circumstances, the force is necessary and proportional to (a) prevent an imminent threat of physical injury to a person or (b) effectuate a legitimate law enforcement objective.
- d. A police officer must cease the use of force as soon as (a) the person on whom the force is used is under the police's control or no longer poses an imminent threat of physical injury or death to the police officer or to another person or (b) the police officer determines that force will no longer accomplish a legitimate enforcement objective.
- e. A police officer shall, when time, circumstances, and safety allow, take steps to gain compliance and **de-escalate** conflict without the use of physical force.

- f. A police officer **shall intervene or terminate the use of force by another officer** beyond what is authorized to prevent an imminent threat of physical injury to a person, or to effectuate a legitimate law enforcement objective.
- g. A police officer who is involved in a use of force incident in the line of duty **must file an incident report** regarding the use of force by the end of the officer's shift unless the officer is disabled.
- h. A police officer must **render basic first aid** to a person injured as a result of police action and promptly request appropriate medical assistance.
- i. In all use of force incidents that the officer observed or was involved in, a **police supervisor must respond to the scene**, and gather and review all known video recordings of a use of force incident.
- j. In conducting their duties, a police officer who intentionally violates the Act's use of force requirements resulting in serious physical injury or death to a person is guilty of a misdemeanor, **punishable by imprisonment for up to 10 years**.

#### **9. Investigation of Deaths Caused By Police Officers**

An **Independent Investigative Unit** is established within the **Office of the Attorney General** to investigate all alleged or potential police-involved deaths of a civilian, and may investigate any other crime related to police misconduct that are discovered during investigation. The Unit may act with the full powers, rights, privileges, and duties of a State's Attorney, including the use of a grand jury in any county.

Within 15 days after completion of an investigation, the Unit must submit a confidential report of its findings to the State's Attorney that has jurisdiction to prosecute the matter. The Governor is required to include funding in the State budget sufficient to provide the full and proper operation of the Unit.

#### **10. Body-Worn Cameras (BWC)**

- a. By **July 1, 2023**, the Maryland Department of State, the Anne Arundel County Police Department, the Howard County Police Department, and the Harford County Sheriff's Office must require the use of a Body-worn camera (BWC) by each law enforcement officer employed by the law enforcement agency who regularly interact with members of the public as part of the law enforcement officer's official duties, subject to the agency's policy on the use of BWCs. A law enforcement agency of the county that is not subject to the **July 1, 2023** deadline must comply with the aforementioned requirement by **July 1, 2025**.

- b. A law enforcement agency subject to the Act's BWC requirements **must develop and maintain a written policy consistent with the policy published by the Maryland Police Training and Standards Commission for the use of BWCs**. The policy must specify which law enforcement officers employed by the law enforcement agency are required to use BWCs. A BWC that possesses the requisite technological capability **must automatically record and save at least 60 seconds of video footage immediately prior to** the officer activating the record button on the device.
- c. A law enforcement agency may not negate or alter any of the requirements or policies established in accordance with the Act through collective bargaining.
- d. The Act extends the termination date of the Law Enforcement Body Camera Task Force from **June 30 2021 to June 30, 2023** and expands the required duties of the Task Force. **The Task Force must report its findings and recommendations to the General Assembly by December 1, 2022.**

### **11. Traffic Stops**

At the commencement of a traffic stop or other stop, absent exigent circumstances, a police officer must:

- a. Display proper identification to the stopped individual.
- b. Provide to the stopped individual the officer's name, the officer's identification number, as specified, and the reason for the traffic stop or another stop.
- c. A police officer's failure to comply with these requirements may be grounds for administrative disciplinary action against the officer, and may not serve as the basis for exclusion of evidence under the exclusionary rule.
- d. A police officer may not prohibit or prevent a citizen from recording the police officer's actions if the citizen is otherwise acting lawfully and safely.

### **12. Prohibited Sexual Activity**

A law enforcement officer may not engage in sexual contact, vaginal intercourse, or a sexual act with a person in the custody of the law enforcement officer. This includes:

- a. a person who is a victim, witness, or suspect in an open investigation that the law enforcement officer is conducting, supervising, or assisting with if the law enforcement officer knew or should have known that the person is a victim, witness, or suspect in the investigation and,

- b. a person requesting assistance from or responding to the law enforcement officer in the course of the officer's official duties.

### **13.No-Knock Search Warrants**

A "no-knock search warrant" means a search warrant that authorizes the executing law enforcement officer to enter a building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority. The **Act repeals** the previous ground for issuance of a no-knock search warrant based on reasonable suspicion to believe that, without the authorization, the property subject to seizure may be destroyed, disposed of, or secreted.

Now, an application for a no-knock search warrant must be approved in writing by a police supervisor and the State's Attorney.

The application for a no-knock warrant must contain a description of the evidence in support of the application, and an explanation of the investigative activities that have been undertaken, and the information that has been gathered to support the request for a no-knock search warrant.

There must also be an explanation of why the affiant is unable to detain the suspect or search the premises using other, less invasive methods.

There must be an acknowledgement that any police officers who will execute the search warrant have successfully completed the same training in breach and call-out entry procedures as SWAT team members.

The request must contain a statement as to whether the search warrant can effectively be executed during daylight hours and, if not, what facts or circumstances preclude effective execution in daylight hours.

A list must be provided of any additional occupants of the premise by age and gender, as well as an indication as to whether any individuals with cognitive or physical disabilities or pets reside at the premise, if known.

A no-knock search warrant can only be executed between 8:00 am and 7:00 pm, absent exigent circumstances.

The Act reduces, from 15 days to 10 days, the time within which a search warrant must be executed after issuance. The Act also sets forth requirements and prohibitions for police officers while executing a search warrant.

As to search warrant **reporting**, a law enforcement agency must report specified information relating to search warrants executed by the law enforcement agency during the prior calendar year to the **Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS)**. The Maryland Police Training and Standards Commission, in consultation with the GOCPYVS, must develop a **standardized format** for each law enforcement agency to use when reporting data.

The GOCPYVS must analyze and summarize the reports submitted by law enforcement agencies by September 1 each year, and the GOCPYVS must submit a report of the analyses and summaries **to the General Assembly and publish the report on its website**. If a law enforcement agency fails to comply with the reporting requirements, after specified notifications, the GOCPYVS and the Maryland Police Training and Standards Commission must jointly report the non-compliance to the Governor and Legislative Policy Committee of the General Assembly.

#### **14. Inspection of Records (Public Information Act)**

- a. Except for a report of a "technical infraction," a record relating to an administrative or criminal investigation of misconduct by a law enforcement officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, **is not a personnel record for purposes of the Maryland Public Information Act (PIA)**. Thus, such records are not subject to mandatory denial of inspection under the PIA. Instead, they are subject to discretionary denial as provided under the PIA.

This provision covers disclosure of unsustained as well as sustained complaints.

- b. However, a custodian must allow inspection of such records by the US Attorney, the Attorney General, the State Prosecutor, or the State's Attorney for the jurisdiction relevant to the record.
- c. In addition, a custodian must redact the portions of such records that reflect medical information of the person of interest, personal contact information of the person of interest or a witness, or information relating to the family of the person of interest.
- d. A custodian may redact the portions of such records to the extent that the record reflects witness information other than personal contact information.
- e. A custodian must notify the person of interest when the record is inspected, but may not disclose the identity of the requestor to the person of interest.

- f. “Technical infraction” means a minor rule violation by an individual solely related to the enforcement of administrative rules that (a) does not involve an interaction between a member of the public and the individual; (b) does not relate to the individual’s investigative, enforcement, training, supervision, or reporting responsibilities; and (c) is not otherwise a matter of public concern.
- g. The Act must be construed to apply prospectively to any PIA request made on or after the bill’s **October 1, 2021** effective date, regardless of when the request record was created.
- h. **The Act requires each law enforcement agency to post in a prominent public location an explanation of the procedures for filing a complaint of police officer misconduct and a request to obtain records relating to an administrative or criminal investigation of misconduct by a police officer under the Public Information Act (PIA).**

#### **15. Definition Police Misconduct**

Police misconduct means a pattern, practice, or conduct by a police officer or law enforcement agency that includes: depriving persons of rights protected by the Constitutional or laws of the United States; a violation of criminal statutes; and a violation of law enforcement agency standards and policies.

#### **16. Disciplinary Matrix**

- a. The Maryland Police Training and Standards Commission must develop and adopt by regulation, a model uniform **disciplinary matrix** for use by each law enforcement agency in the State. Each enforcement agency must adopt the matrix.
- b. A disciplinary matrix is a written, consistent, and transparent tool or rubric that provides ranges of disciplinary actions for different types of police misconduct.
- c. Within 15 days after an administrative charging committee issues an administrative charge against a police officer, the chief of the law enforcement agency must offer discipline to the police officer who has been administratively charged in accordance with the disciplinary matrix. The chief may offer the same discipline that was recommended by the administrative charging committee or a higher degree of discipline within the applicable range of the disciplinary matrix, but may not deviate below the discipline recommended by the administrative charging committee. If the police officer accepts the chief’s offer of discipline, then the offered discipline must be imposed. If the officer does not accept the chief’s offer of discipline, then the matter must be referred to a **trial board**. At least 30 days before a trial board proceeding begins, the police officer must be (a)



provided a copy of the investigative record; (b) notified of the charges against the police officer; and (c) notified of the disciplinary action being recommended.

### **17. Victims' Rights Advocate**

- a. Each law enforcement agency must 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 with specific duties.
- b. Each law enforcement agency must also create a data base that enables a complainant to enter the complainant's case number to follow the status of the case.

### **18. Rights of Police Officers**

Each law enforcement agency must establish a confidential and non-punitive early intervention police for counseling officers who receive three or more citizen complaints within a 12-month period. Officers deemed at-risk of engaging in use of excessive force are to be provided training, behavioral interventions, reassignments, or other appropriate responses to reduce the risk of the use of excessive force.

Such police officers shall be provided access to confidential mental health services, including counseling services, crisis counseling, stress management counseling, resiliency sessions, and peer-support services.

- a. A police officer who is the subject of a complaint of police misconduct may have the assistance of a representative in connection with disciplinary proceedings.
- b. In addition, a police officer may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against or threatened in regard to the police officer's employment because the police officer (a) disclosed information that evidences mismanagement, a waste of government resources, a danger to public health or safety, or a violation of law or policy committed by another officer, (b) lawfully exercised constitutional rights.
- c. A police officer may not be denied the right to bring suit arising out of the officer's official duties. A police officer has the same rights to engage in political activity as a state employee, except when on duty.
- d. A law enforcement agency may not prohibit secondary employment by a police officer.

### **19. Expungement and Destruction of Records**

A record relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, **may not** be expunged or destroyed by a law enforcement agency.

### **20. Surplus Military Equipment Prohibition**

A law enforcement agency is prohibited from receiving certain equipment from a surplus program operated by the federal government, such as weaponized aircrafts, drones, vehicles, destructive devices, firearm silencers, or grenades.

### **21. Counseling for Police Officers**

- a. The Act alters a provision of current law that requires each law enforcement agency to establish a confidential and non-punitive early intervention for counseling officers who receive three or more citizen complaints within a 12-month period, to require the establishment of a confidential and non-punitive early intervention system to identify police officers who are at the risk of the use of excessive force.
- b. Such a system may not prevent the investigation of or imposition of discipline for any particular compliant.
- c. In addition, the Act requires each law enforcement agency to provide access to an employee assistance program for all police officers that the law enforcement agency employs, which must provide access to specified confidential mental health services.

### **22. Educational Assistance for Police Officers**

- a. The Act establishes the **Maryland Loan Assistance Repayment Program for Police Officers** to assist in the repayment of a higher education loan owed by a police officer who meets specified requirements. The **Office of Student Financial Assistance** must adopt regulations to implement the program, which must include a limit on the total amount of assistance provided by the office in repaying the loan of an eligible individual, based on the individual's total income and outstanding higher education loan balance. The Governor must include an annual appropriation of at least **\$15 million** in the State budget for the program.
- b. The Act also establishes the **Maryland Police Officers Scholarship Program** to provide tuition assistance. A recipient of a scholarship must meet specified requirements, including satisfying any additional criteria that the Maryland Higher Education Commission may establish.

A recipient of a scholarship must repay the Commission the funds received if the recipient does not satisfy or fulfill the specified requirements. The Governor must include in the annual budget bill an appropriation of at least **\$85 million** to the Commission to award scholarships, of which **\$60 million** must be used for students intending to become police officers after graduation and **\$25 million** must be used for existing police officers.

### **23.Civil Liability Monetary Limits**

The Act increases the limits on civil liability for claims subject to the **Maryland Tort Claims Act** (MTCA) and the **Local Government Claims Act** (LGTCA). The monetary limit for such situations that arise from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer is **\$890,000** for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award for both economic and noneconomic damages. For the MTCA, the limit is increased from **\$400,000** to a single claimant for injuries that arise from a single incident or occurrence, and for the LGTCA, the limit is increased from **\$400,000** per an individual claim and **\$800,000** per total claims that arise from the same occurrence.

In wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under the section above, regardless of the number of claimants or beneficiaries who share the award.

### **24.Control of the Baltimore City Police Department**

The Act establishes the Baltimore Police Department as an agency and instrumentality of Baltimore City (rather than the State of Maryland, contingent upon the passage of amendment to the Charter of Baltimore City that provides the transfer of control to the Baltimore Police Department to Baltimore City and its ratification by the voters of Baltimore City at either the **2022** or the **2024** general election. In addition, the Act establishes an Advisory Board on the Transfer of Control of the Police Department of Baltimore City to study potential issues to the transfer.

**The End**

#### **Contact Source**

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