



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William Smith, Jr., Chair and
Members of the Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 14, 2023

RE: **SB 285 – County Police Accountability Boards – Investigation of Complaints of
Police Misconduct**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 285**. This bill would authorize a local governing body to provide its Police Accountability Board (PAB) with investigative and subpoena powers under local law. Granting these powers is premature and doing so would complicate and create uncertainty over the investigative process. Local jurisdictions may elect to provide these powers for well-intentioned reasons without understanding the unintended, negative consequences of those actions.

In 2021, the General Assembly passed the Maryland Police Accountability Act which repealed the Law Enforcement Officer's Bill of Rights (LEOBR) and imposed historic and sweeping police reforms. Provisions in these painstakingly negotiated reforms mandated that counties establish PABs, Administrative Charging Committees (ACCs), and trial boards by July 1, 2022. It's important to keep in mind how these new pieces all interact.

PABs are established under local law and consist of civilian members that are required to work with local governments to improve policing, appoint members of the ACC and trial boards, receive complaints of police misconduct filed by the public, meet at least quarterly to review disciplinary matters considered by the ACC, and report annually on trends and recommendations to improve police accountability. Complaints of police misconduct can either be received by the PAB or the law enforcement agency for investigation. If received by the PAB, complaints are then forwarded to the law enforcement agency to investigate. The ACCs' purpose is to review the law enforcement agencies investigation, recommend whether to file administrative charges, and make disciplinary determinations according to the statewide matrix. Members of the ACC must receive specific training before serving on the committee. The goal of this setup is to have a consistent, equitable process to address police misconduct and accountability statewide.

Under SB 285, a local jurisdiction could choose to provide its PAB with the power to independently investigate a complaint of police misconduct concurrently with the law enforcement agency investigating

the complaint. Jurisdictions that choose to exercise the authority will have two separate entities investigating and issue reports on alleged police misconduct. The ACC will then have two separate investigative reports to review and consider when determining whether to file administrative charges and issue discipline.

Given the distinct roles provided to each of the boards, it was not intended under the Police Accountability Act for multiple entities to perform the investigation. Rather the intent was for the pieces to work together to ensure there was civilian engagement in police oversight and a standardized process for accountability across the state. At best this duplication in duties is poor use of time and resources, at worst it injects uncertainty and confusion into the investigative process.

Giving local jurisdictions the ability to choose whether to give PABs investigative and subpoena authority would result in an unequal playing field for police accountability. There would no longer be a standardized statewide process. Additionally, the ACC could be presented with conflicting investigative reports with no guidance on how to reconcile the two. This would open the door to criticisms and allegations of unfair treatment by the officers being investigated. Parallel investigative authority could wreak havoc on investigations where criminal violations are discovered. Law enforcement must work closely with prosecutors and CID in those cases and the alleged criminal issues must be addressed before the administration investigations proceed. PABs performing a concurrent investigation into a civil/administrative complaint could inadvertently derail a covert criminal investigation – especially considering PAB members are not trained and experienced in performing investigations.

The bottom line is that it would be premature to grant this authority. The proposed authority raises too many unanswered questions. Due to the scale of the reforms and pace of developing regulations, many of jurisdictions were just getting their boards established by the July 1 deadline. Given that the PABs have been in existence for less than a year and are still working out kinks, we are cautious about expanding their responsibilities and authorities. It would fundamentally change the role and responsibilities of certain PABs transforming them from a board that broadly reviews and reports on trends to one that performs substantive investigations. Altering responsibilities at this stage can create more problems than it presumably solves. It is prudent we allow some time for the boards to be in place so that any issues that arise or gaps that need to be filled can thoughtfully be addressed.

The Maryland Police Accountability Act of 2021 was a complex and historic piece of legislation. We do not want to undermine its goals by allowing premature piecemeal changes to cause unintended consequences to arise. For these reasons, MCPA and MSA **OPPOSE SB 285** and request an **UNFAVORABLE** Committee report.