



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

TO: The Honorable William Smith Jr., Chair and  
Members of the Senate 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 21, 2024

RE: **SB 621 – County Police Accountability Boards – Investigations of Police Misconduct**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE** SB 621 – County Police Accountability Boards – Investigations of Police Misconduct

SB 621 would allow counties to empower Police Accountability Boards (“PAB”) to “exercise investigatory and subpoena powers” and to conduct investigations of “police misconduct concurrently with a law enforcement agency investigating the complaint.”

Currently, each law enforcement agency is responsible for conducting investigations into alleged police misconduct. If the alleged police misconduct involves a member of the public, an Administrative Charging Committee (“ACC”) made up of five citizens reviews the agency’s investigation. Each ACC has the authority to request further information from an agency. The ACC is also empowered to note any failures of supervision that contributed to the misconduct. MCPA and MSA are not aware of any complaints that agencies have not been conducting thorough and complete investigations.

Allowing concurrent investigations by a PAB is a recipe for disaster and runs a severe risk of compromising not only administrative, discipline investigations but criminal prosecutions as well. Unlike law enforcement internal affairs divisions, PABs are not trained in the interplay between criminal and administrative investigations. Compelled statements and evidence obtained during an administrative hearing cannot be used in a criminal case and can, in fact, taint a criminal prosecution. Witnesses called before the PAB would provide statements that can be exploited by an officer’s criminal defense or employment attorney. Having to answer questions to the PAB in addition to a criminal or administrative investigation will also contribute to witness fatigue; while most citizens are willing to cooperate, the willingness has limits.

There are several unanswered questions presented by SB 621, the most important of which, “Investigate to what end?” Is a PAB investigation forwarded to an ACC for consideration of disciplinary charges? Additionally, what, if any, confidentiality requirements will be imposed on the PAB? Are the investigations open to inspection under the Maryland Public Information Act? What rights to privacy do officers, complainants, and witnesses have?

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There is a certain amount of irony that SB 621 gives the PAB *greater* power to investigate police misconduct than the agencies that employ the officer. Under the Police Accountability Act, law enforcement agencies do not have subpoena power. Subpoenas may be issued by a trial board – *after* an investigation is completed. (An Administrative Charging Committee may “request additional information or action from the law enforcement agency, including requiring additional information and the issuance of subpoenas,” Pub. Safety §3-104(f), but nothing in the Act gives agencies the authority to issue subpoenas.)

For these reasons, MCPA and MSA urge an **UNFAVORABLE** report on **SB 621**.