

# ENROLLED

## COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

2022 Legislative Session

Legislative Day No. 05

### Legislative Bill 2022- 04

Introduced: March 15, 2022

Introduced by: The Council President at the Request of the Acting County Executive

AN ACT TO ESTABLISH CHAPTER 46 LAW ENFORCEMENT REVIEW BOARD OF THE WICOMICO COUNTY CODE.

WHEREAS, Chapter 59 Laws of Maryland 2021, Maryland Police Accountability Act of 2021- Police Discipline and Law Enforcement Programs and Procedures, (the “Act”), made various changes which repealed vast portions of Title 3 of the Public Safety Article of the Maryland Code and replaced the repealed portions with requirements that Baltimore City and the counties of Maryland to create three police oversight boards, each of which serves a different function; and

WHEREAS, the three police oversight boards consist of a Police Accountability Board, an Administrative Charging Committee, and a Trial Board; and,

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; and,

WHEREAS, the “Act” further requires each County to: (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; and

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; and,

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 detail 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; and,

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 "Act" requires each county to have one Trial Board to serve law enforcement officers who wish to have a trial on administrative charges brought by the administrative charging committee of the county; and,

WHEREAS, the "Act" requires each county's Trial Board to be composed of: (1) 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; (2) a civilian who is not a member of an administrative charging committee, appointed by the county's police accountability board; 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; and,

WHEREAS, the "Act" 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; and,

WHEREAS, the "Act" requires each County's Trial Board proceedings 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; and,

WHEREAS, the Acting County Executive and the Wicomico County Council desires to conform to the requirements of the “Act,” which becomes effective July 1, 2022;

NOW, THEREFORE, BE IT RESOLVED by the Wicomico County Council that there shall be a Wicomico County Police Accountability Board, a Wicomico County Administrative Charging Committee, and a Trial Board.

Section I. BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that Chapter 46 of the Wicomico County Code, shall be titled “Law Enforcement Review Board”, to read as follows:

## **Article I General Provisions**

**Section 1 Authority-**Under and by virtue of the authority contained in Title 3, of the Public Safety Article of the Annotated Code of Maryland, the following rules, regulations and provisions are enacted, adopted and established.

**Section 2 Definitions-** As used in this chapter, the following terms shall have the meanings indicated:

A. Agency review- A thorough evaluation of the entire completed investigative file by the agency head. The agency review is not complete until the agency head determines that the investigative file is ready to be forwarded to the Administrative Charging Committee.

B. Agency Head- A police chief, sheriff, administrator, department head, an individual in an equivalent position, or designee; or an individual appointed, employed, or elected to manage, administer, or supervise a law enforcement agency, or

a designee. An agency head includes an officer designated by the head of a law enforcement agency, or to act on behalf of the agency head.

C. Body Camera Footage-Any law enforcement agency audio/visual recording.

D. Conflict of interest. A real or seeming incompatibility between one's private interests and one's official responsibilities in a position of trust.

E. County Law Enforcement Agency- ~~means~~ a governmental police force, sheriff's office, security force or law enforcement organization of Wicomico County or a municipal corporation within Wicomico County that by statute, ordinance, or common law is authorized to enforce the general criminal laws of the State.

F. Good Moral Character- Good moral character and reputation means the possession of honesty and truthfulness, trustworthiness and reliability, and a professional commitment to the legal process and the administration of justice, as well as the condition of being regarded as possessing such qualities.

G. Officer-~~means~~ any employee of a county law enforcement agency who is authorized to enforce the general criminal laws of the State, County or a municipal corporation.

H. 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.

I. TERMS NOT SPECIFICALLY DEFINED ABOVE THAT ARE EXPRESSLY DEFINED IN THE ANNOTATED CODE OF MARYLAND, PUBLIC SAFETY ARTICLE § 3-101 ET SEQ. AND ANY COMAR REGULATIONS PROMULGATED UNDER IT SHALL HAVE THE SAME MEANING GIVEN TO THEM BY THOSE PROVISIONS.

### **Section 3 Standing.**

- A. Persons eligible to file a complaint of police misconduct. Unless otherwise authorized by State law, only a person, or the designee of such person, who experienced the alleged police misconduct may file a complaint of police misconduct.
- B. A complaint of police misconduct, by an officer of a county law enforcement agency, must file a complaint in accordance with the officer's internal agency policy. A complaint of police misconduct may be filed publicly by an officer of a county law enforcement agency if an internal agency policy does not exist.
- C. A complaint of police misconduct may only be filed, pursuant to this Chapter, when the officer is acting or making the representation of acting on behalf of a law enforcement agency.

### **Section 4 Filing a Complaint; Statute of Limitations.**

- A. A complaint of misconduct must be submitted utilizing the complaint form.
- B. A complaint of misconduct must be submitted to the headquarters of the law enforcement agency where the police officer, against whom the misconduct is alleged, is employed

or, if being submitted to the Police Accountability Board, to the County Executive Office's.

C. A complaint of police misconduct may not be filed, under this Chapter, for events preceding July 1, 2022. A claim of a pattern or practice of police misconduct may rely on events which occurred prior to July 1, 2022, upon the claim of the continuation of the pattern or practice on or after July 1, 2022.

D. A complaint of police misconduct must be filed within 45 days of the event unless otherwise provided for by Maryland law. A claim of a pattern or practice of police misconduct may rely on events up to 3 years prior.

## **Section 5 Ethics.**

Any member of the Wicomico County Police Accountability Board, Wicomico County Administrative Charging Committee, or the Trial Board shall abide by and fully comply with the Wicomico County Code of Ethics, Chapter 37 of the Wicomico County Code.

## **SECTION 6 ADVERTISEMENTS.**

THE COUNTY EXECUTIVE SHALL ADVERTISE A VACANCY ON THE POLICE ACCOUNTABILITY BOARD, ADMINISTRATIVE CHARGING COMMITTEE, OR TRIAL BOARD ON THE WICOMICO COUNTY WEBSITE. AN APPLICATION TO SERVE ON A BOARD CAN BE MADE THROUGH EITHER THE ONLINE PORTAL OR THE COUNTY EXECUTIVE'S OFFICE. FURTHER, IF THERE IS MORE THAN ONE VACANCY ON MORE THAN ONE BOARD, THE COUNTY COUNCIL, AT THE REGULAR COUNCIL MEETINGS, SHALL NOTIFY THE PUBLIC OF THE VACANCIES UNTIL THE VACANCY IS FILLED PURSUANT TO THE CODE.

## **Article II Police Accountability Board**

**Section 6 7** There shall be a Wicomico County Police Accountability Board to serve law enforcement agencies within Wicomico County consistent with state law.

### **Section 7 8 Duties.**

A. The Wicomico County Police Accountability Board shall:

- (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 committee 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) On or before December 31 of each year, submit a report to the Wicomico County Council and the Wicomico County Executive.

### **Section 8 9 Membership.**

A. The Wicomico County Police Accountability Board shall consist of nine (9) members, one of whom shall serve as Chair.

B. The County Executive shall appoint each member and the Chair of the Wicomico County Police Accountability Board. The County Council shall confirm the appointments by a majority vote

C. Terms.



- (1) Subject to paragraph (3) below, the term for each member of the Wicomico County Police Accountability Board shall be two years.
- (2) Members terms shall be staggered such that the terms of four (4) members end in one (1) year, and the terms of five (5) members end the following year.
- (3) For the initial term following the establishment of the Wicomico County Police Accountability Board, the County Executive shall delineate the four (4) members, at the time of the appointment, who shall serve a one (1) year term.
- (4) Members may serve for no more than three (3) consecutive terms.

D. Removal; resignation.

(1) ~~Members serve at the pleasure of the County Executive. If the County Executive decides to remove a member prior to the end of the member's term, the County Executive must inform the member, in writing, of the date of termination from the Wicomico County Police Accountability Board. IF THE COUNTY EXECUTIVE DECIDES THAT THE REMOVAL OF A MEMBER IS NECESSARY PRIOR TO THE END OF THE MEMBER'S TERM, THE COUNTY EXECUTIVE MAY IMMEDIATELY SUSPEND THE MEMBER UNTIL THE COUNTY COUNCIL CONFIRMS OR DENIES TERMINATION WITH A SIMPLE MAJORITY VOTE. UPON SUSPENSION, THE COUNTY EXECUTIVE MUST IMMEDIATELY INFORM BOTH THE MEMBER AND THE COUNTY COUNCIL, IN WRITING, AS TO THE REASON FOR SUSPENSION AND TERMINATION, AND THE COUNCIL HAS THIRTY~~

(30) DAYS TO CONFIRM OR DENY THE  
TERMINATION. IF THE COUNTY COUNCIL DOES  
NOT ACT WITHIN THIRTY (30) DAYS THE  
TERMINATION BECOMES EFFECTIVE.

(2) A member who fails to maintain confidentiality, as required herein, of all Wicomico Police Accountability Board matters shall be removed from the Wicomico County Police Accountability Board immediately by the County Executive.

(3) Members may resign from the Wicomico County Police Accountability Board at any time by notifying the County Executive and the Chair of the Wicomico County Police Accountability Board in writing.

E. Eligibility criteria.

(1) Each member must be 21 years of age, or older.

(2) Each member must be a legal resident or citizen of the United States and provide proof of residency or citizenship.

(3) Each member must sign an agreement to maintain confidentiality of all Wicomico County Police Accountability Board matters related to individual complaints until final disposition and all appeals have been exhausted.

(4) Members must SUCCESSFULLY complete required training before serving on a Wicomico County Police Accountability Board. The required training shall be set by the County Executive IN CONSULTATION WITH THE EASTERN SHORE CRIMINAL JUSTICE ACADEMY BASED ON STANDARDS FOR PROPER POLICING INCLUDING USE OF FORCE. TRAINING

SHALL INCLUDE PARTICIPATING IN A  
SHOOT/DON'T SHOOT SIMULATOR.

(5) Each member's principal residence must be in Wicomico County and provide proof of residency.

(6) Members must be of good moral character.

(7) Prospective members must submit to a background investigation by the Wicomico County Sheriff's Department. A background investigation shall include, but not limited to, a review the applicant's social media presence. The results of the background investigation shall be submitted to County Executive.

(8) To the extent practicable, the membership shall reflect the racial, gender, and cultural diversity of Wicomico County.

(9) A person is not eligible to serve on the Wicomico County Police Accountability Board if that person:

- i. Has an actual conflict of interest or an appearance of a conflict of interest, as determined by the County Executive;
- ii. Is under criminal investigation by any law enforcement agency;
- iii. Is currently charged with a crime that is pending before any court; or
- iv. Has been convicted of, or has received Probation Before Judgment for a felony or IN THE PAST FIVE (5) YEARS, HAS BEEN CONVICTED OF, OR HAS RECEIVED A PROBATION BEFORE JUDGMENT, FOR A misdemeanor for which a sentence of imprisonment for 1 year or more could have been imposed.

- v. An active police officer may not be a member of the Wicomico County Police Accountability Board.
- vi. An active employee of THE STATE OF MARYLAND, Wicomico County or a municipal government within Wicomico County may not be a member of the Wicomico County Police Accountability Board.
- vii. A Wicomico County Police Accountability Board member may not be reappointed before the eligibility criteria has been confirmed.

(10) To the extent practicable, the Chair of the Wicomico County Police Accountability Board shall HAVE RELEVANT EXPERIENCE TO THE POSITION, SUCH AS

I. BE A RETIRED PUBLIC DEFENDER, RETIRED STATE'S ATTORNEY, OR RETIRED JUDGE, OR

i. II. Be a retired sworn law enforcement officer who retired in good standing with at least twenty (20) years of service in a Maryland Law Enforcement Agency or Federal Law Enforcement Agency; OR SIMILAR EXPERIENCE, AND

ii-III. Shall have been the head of a law enforcement agency, or in a command position within a law enforcement agency; and

a. Shall have academic credentials that include a degree from an accredited college or university with a major in either pre-law, police administration, or criminal justice; or

b. Completion of the FBI National Academy, The Northwestern School of Police Staffing and Command, or The Johns Hopkins University Police Executive Leadership Program OR SIMILAR EXPERIENCE.

(11) Members have an ongoing and continuous obligation to immediately report to the Chair of the Wicomico County Police Accountability Board any event that may harm the public trust of the Wicomico County Police Accountability Board. Such events include but are not limited to:

- (i) Conflicts of interest;
- (ii) Criminal charges;
- (iii) Criminal investigations; and
- (iv) Criminal convictions.

**Section 910 Administration.**

- A. The County Executive shall submit a budget and oversee any staff for the Board.
- B. A complaint of police misconduct filed with the Wicomico County Police Accountability Board or with a law enforcement agency that employs the officer who is subject to the complaint shall include:
  - (1) The name of the police officer accused of misconduct.
  - (2) A description of the facts on which the complaint is based.
  - (3) Contact information of the complainant or a person filing on behalf of the complainant for investigative follow-up.
  - (4) A complaint does not need to be notarized.

C. A complaint of police misconduct filed with the Board shall be forwarded to the appropriate law enforcement agency within 3 days after receipt by the Board.

D. The County Executive shall establish the procedures for record keeping by the Wicomico County Police Accountability Board.

E. The Chair shall follow Robert's Rules of Order, and:

- (1) Establish the meeting schedule;
- (2) Establish a written agenda for each meeting and send it to each member in advance of each meeting;
- (3) Call each meeting to order;
- (4) Coordinate the meeting in accord with the agenda;
- (5) Invite discussion among members before voting;
- (6) Invite motions, seconds and votes from members;
- (7) Ensure that a record is kept of all business of the Wicomico County Police Accountability Board;
- (8) Promptly report to the County Executive any concern or event involving a member that may harm the public trust of the Wicomico County Police Accountability Board. Such events include but are not limited to:
  - a. Conflicts of interest;
  - b. Criminal charges;
  - c. Criminal investigations;
  - d. Criminal convictions.

F. Quorum; manner of attendance.

- (1) At least five members must be in attendance before the Wicomico County Police Accountability Board may conduct business. Meetings shall be conducted either in person or remotely via secure video connection, which shall be determined by the Chair.

(2) The Board may not adopt any rules and regulations outside of perfunctory clerical matters.

**G. Appointing Members to the Wicomico County Administrative Charging Committee and the Trial Board.**

(1) Wicomico County shall make a public announcement at least 30 days in advance of making any selection or appointment in order to apply for an appointment to either the Wicomico County Administrative Charging Committee or the Trial Board.

(2) A majority vote is required to appoint a member to either the Wicomico County Administrative Charging Committee or the Trial Board.

**Section 1011 Conflict with State Law.**

In the event that there is a conflict with State law, the State law shall control. In the event that the State law no longer requires a Police Accountability Board, this Article is no longer applicable.

**Article III Administrative Charging Committee**

**Section 1112 There shall be a Wicomico County Administrative Charging Committee to serve ~~county~~ law enforcement agencies.**

**Section 1213 Composition of the Administrative Charging Committee.**

A. The committee will be composed of:

- (1) The Chair of Wicomico County's Police Accountability Board, or another member of the Wicomico County Accountability Board designated by the Chair.
- (2) Two civilian members selected by the Wicomico County Police Accountability Board.
- (3) Two civilian members selected by the County Executive and confirmed by the County Council.

**B. Eligibility criteria.**

- (1) Each member must be 21 years of age, or older.
- (2) Each member must be a legal resident or citizen of the United States and provide proof of legal residency or citizenship.
- (3) Each member must sign an agreement to maintain confidentiality of all Wicomico County Administrative Charging Committee matters until final disposition and all appeals have been exhausted.
- (4) Members must successfully complete the Police Training and Standards Commission required training before serving on the Wicomico County Administrative Charging Committee. TRAINING SHALL INCLUDE PARTICIPATING IN A SHOOT/DON'T SHOOT SIMULATOR.
- (5) Each member's principal residence must be in Wicomico County and provide proof of residency.
- (6) Members must be of good moral character and free from bias that would negatively impact the integrity of the Wicomico County Administrative Charging Committee.
- (7) Prospective members must submit to a background investigation by the Wicomico County Sheriff's Department. A background investigation shall include, but not limited to, a review of the applicant's social media presence. The results of the background investigation shall be submitted to the local governing body to share with the selecting or appointing authority.
- (8) A Wicomico County Administrative Charging Committee member may not be reappointed before the eligibility criteria has been confirmed.



C. Neither the local governing body nor a selecting or appointing authority shall select or appoint any person to serve on the Wicomico County Administrative Charging Committee, and such person is not eligible to serve on the Wicomico County Administrative Charging Committee, if that person:

- (1) Has an actual conflict of interest or an appearance of a conflict of interest, as determined by the local governing body;
- (2) Is under criminal investigation by any law enforcement agency;
- (3) Is currently charged with a crime that is pending before any court; or
- (4) Has been convicted of, or has received Probation Before Judgment for a felony or misdemeanor for which a sentence of imprisonment for one (1) year or more could have been imposed.

D. Self-reporting. Members have an ongoing and continuous obligation to immediately report to the Chair of the Wicomico County Administrative Charging Committee any event that may harm the public trust of the Wicomico County Administrative Charging Committee. Such events include but are not limited to:

- (1) Conflicts of interest;
- (2) Criminal charges;
- (3) Criminal investigations; and
- (4) Criminal convictions.

E. Terms.

- (1) Subject to paragraph (3) below, the term for each member of the Wicomico County Administrative Charging Committee shall be two years.
- (2) The term of a Wicomico County Administrative Charging Committee member shall be staggered such that the terms of two (2) members shall end in one year, and the terms of three (3) members end the following year.
- (3) For the initial term following the establishment of the Wicomico County Administrative Charging Committee, one civilian selected by the Wicomico County Police Accountability Board and one civilian selected by the County Executive shall each serve a one (1) year term. The three (3) remaining members shall serve two (2) year terms.
- (4) Members may serve for no more than three (3) consecutive terms.

F. Removal; resignation.

- (1) ~~Members serve at the pleasure of local governing body. If the local governing body decides to remove a member prior to the end of the member's term, the member and the Chair of the Wicomico County Administrative Charging Committee must be notified in writing by the local governing body. The majority of the local governing body is required to remove a member.~~ IF THE COUNTY EXECUTIVE DECIDES THAT THE REMOVAL OF A MEMBER IS NECESSARY PRIOR TO THE END OF THE MEMBER'S TERM, THE COUNTY EXECUTIVE MAY IMMEDIATELY SUSPEND THE MEMBER UNTIL THE COUNTY COUNCIL CONFIRMS OR DENIES TERMINATION WITH A SIMPLE MAJORITY VOTE. UPON SUSPENSION, THE COUNTY EXECUTIVE MUST

IMMEDIATELY INFORM BOTH THE MEMBER AND THE COUNTY COUNCIL, IN WRITING, AS TO THE REASON FOR SUSPENSION AND TERMINATION, AND THE COUNCIL HAS THIRTY (30) DAYS TO CONFIRM OR DENY THE TERMINATION. IF THE COUNTY COUNCIL DOES NOT ACT WITHIN THIRTY (30) DAYS THE TERMINATION BECOMES EFFECTIVE.

(2) A member who fails to maintain confidentiality of all Wicomico County Administrative Charging Committee matters shall be removed from the Wicomico County Administrative Charging Committee immediately by the local governing body.

(3) Members may resign from a Wicomico County Administrative Charging Committee at any time by notifying the local governing body and the Chair of the Wicomico County Administrative Charging Committee in writing.

G. The County Executive shall submit a budget and oversee the staff of the Wicomico County Administrative Charging Committee.

H. The County Executive shall establish the procedures for record keeping by the Wicomico County Administrative Charging Committee.

**Section ~~1314~~ Selection of a Chairperson; responsibilities.**

A. The members of the Wicomico County Administrative Charging Committee shall choose a Chairperson from their membership.

B. The Chair shall follow Robert's Rules of Orders, and:

- (1) Establish the meeting schedule, with a minimum of one meeting per month;
- (2) Establish a written agenda for each meeting and send it to each member in advance of each meeting;
- (3) Call each meeting to order;

- (4) Coordinate the meeting in accord with the agenda;
- (5) Invite discussion among members before voting;
- (6) Invite motions, seconds and votes from members;
- (7) Ensure that a record is kept of all business of the Wicomico County Administrative Charging Committee.
- (8) Promptly report to the County Executive/local governing body any concern or event involving a member that may harm the public trust of the Wicomico County Administrative Charging Committee. Such events include but are not limited to:
  - i. Conflicts of interest;
  - ii. Criminal charges;
  - iii. Criminal investigations; and
  - iv. Criminal convictions.

**Section 1415 Meetings.**

- A. The Open Meetings Act does not apply to meetings of the Wicomico County Administrative Charging Committee, and they are not open to the public.
- B. Subject to item (c) below, each Wicomico County Administrative Charging Committee must establish a schedule so that they can make determinations in all pending matters within 30 days after an agency completes its investigation.
- C. The Wicomico County Administrative Charging Committee must issue a determination and disposition of every matter within one (1) year and one (1) day after the initial filing of a complaint by a citizen.
- D. In order to maintain confidentiality, Wicomico County shall ensure that the Wicomico County Administrative Charging Committee utilizes secure methods to electronically transmit files, notes, and all other documents pertaining to an investigation.
- E. Quorum; manner of attendance.

- (1) Three members must be in attendance before the Wicomico County Administrative Charging Committee may conduct business.
- (2) Meetings shall be conducted either in person or remotely via secure video connection which shall be determined by the Chair.
- (3) The Wicomico County Administrative Charging Committee may not adopt any rules or regulations outside of perfunctory clerical matters.

F. Law Enforcement Agency Investigation.

(1) Complaints from the public that meet the eligibility requirements for a mediation program, under state law, may, subject to the agreement of the complainant, be handled outside of the complaint process articulated in this Chapter.

(2) Complaints from the public handled through mediation will be tracked with other citizen complaints for accountability.

(3) Upon receipt of a complaint of alleged police misconduct from the Wicomico County Police Accountability Board or member of the public, the law enforcement agency shall complete a thorough investigation.

(4) The agency head may include a written recommendation for the Wicomico County Administrative Charging Committee to consider regarding the matter.

(i) The recommendation may include the agency head's opinion regarding:

- (a) whether or not the law enforcement officer should be disciplined;
- (b) aggravating or mitigating facts or circumstances;

- (c) if appropriate, any recommended alternatives to discipline; and
- (d) if the agency head feels that discipline is warranted, a specific recommendation for discipline in accordance with the Statewide Disciplinary Matrix, approved by the Police Training and Standards Commission.

(5) Upon completion of an investigation, the investigating agency shall forward the investigative files of the completed investigation to the Wicomico County Administrative Charging Committee within three (3) business days after the later of:

- (i) the completed agency review, or
- (ii) the agency head issuing a written recommendation for the Wicomico County Administrative Charging Committee to consider regarding the matter.

#### **Section 1516 Deliberations and Recommendation.**

A. Deliberations. Upon receipt of the completed investigation from the investigating agency, the committee then:

- (1) Reviews the findings of a law enforcement agency's investigation.
- (2) Reviews body camera footage or other audio/visual footage submitted with the investigative file that may be relevant to the matters covered in the complaint of misconduct.
- (3) Authorizes a police officer called to appear before a charging committee to be accompanied by a representative.

(4) May request information or action from the law enforcement agency that conducted the investigation such as requiring further investigation and the issuance of subpoenas.

(5) Shall review and make a determination or ask for further review within 30 days after completion of the investigating agency's review.

#### B. Voting.

(1) Decisions of the Wicomico County Administrative Charging Committee shall be made by majority vote of the members in attendance.

(2) Each member shall cast one vote and shall not abstain unless the member has a conflict of interest.

(i) The member with the potential conflict of interest must proactively announce the existence of the potential conflict of interest prior to any discussion of the matter.

(ii) The members shall discuss the details of the potential conflict of interest and if the majority determines that the conflict (or the appearance of a conflict) is such that the member with the conflict should not be involved, that member shall be excused from the meeting prior to any consideration of the matter and shall return only after voting on the matter has concluded.

#### C. Recommendations.

(1) The Wicomico County Administrative Charging Committee makes a determination whether to administratively charge the officer. If the determination is that administrative charges should be filed, the discipline recommendation shall be in accordance with the Statewide Disciplinary Matrix.

(2) The Wicomico County Administrative Charging Committee shall not administratively charge an officer for conduct arising from an incident for which the officer has previously been disciplined or sanctioned or the Wicomico County Administrative Charging Committee has already made a determination whether to administratively charge.

(3) The Wicomico County Administrative Charging Committee shall issue a written opinion that describes in detail its findings, determinations, and recommendations. If the agency head submits a written recommendation, the Wicomico County Administrative Charging Committee shall consider the recommendation before making a final decision. The Wicomico County Administrative Charging Committee shall note their consideration of the agency head's written recommendation in the Wicomico County Administrative Charging Committee's written opinion.

(4) The Wicomico County Administrative Charging Committee shall forward the written opinion, within five (5) business days of its completion, to the agency head, the police officer, and complainant.

(5) If the officer is not charged, the Wicomico County Administrative Charging Committee makes a determination that the allegations are "Unfounded" or the officer is "Exonerated."

(6) If an officer is exonerated, the Wicomico County Administrative Charging Committee shall record, in writing, any failure of supervision that caused or contributed to a police officer's misconduct.



(7) Each member must maintain confidentiality relating to a matter being considered until the final disposition of the matter and all appeals have been exhausted.

D. WITHIN 15 DAYS AFTER AN ADMINISTRATIVE CHARGING COMMITTEE ISSUES AN ADMINISTRATIVE CHARGE AGAINST A POLICE OFFICER, THE CHIEF OF THE LAW ENFORCEMENT AGENCY SHALL OFFER DISCIPLINE TO THE POLICE OFFICER WHO HAS BEEN ADMINISTRATIVELY CHARGED IN ACCORDANCE WITH THE DISCIPLINARY MATRIX.

**Section 16-17 Settlement negotiations.**

A. An agency head is authorized, at their sole discretion, to engage in settlement negotiations with a police officer or the officer's representative.

B. Tentative settlements must be completed within 10 business days from the date the officer received the written recommendation issued by the Wicomico County Administrative Charging Committee.

C. If a tentative settlement agreement is reached that proposes discipline below that recommended by the Wicomico County Administrative Charging Committee, the agency head shall forward the tentative agreement to the Wicomico County Administrative Charging Committee for the Wicomico County Administrative Charging Committee's review within 5 days of reaching tentative agreement.

(1) Upon receiving the tentative agreement, the Wicomico County Administrative Charging Committee may:

(i) Endorse the proposed settlement agreement and authorize the agency head to impose the discipline agreed upon, or

(ii) Reject the proposed settlement agreement and inform the agency head that the Wicomico County Administrative Charging Committee's original disciplinary determination stands.

D. If the Wicomico County Administrative Charging Committee endorses the agreement, the agency head shall impose the agreed upon discipline.

E. If the Wicomico County Administrative Charging Committee rejects the proposed agreement, the agency head shall offer the Wicomico County Administrative Charging Committee's original disciplinary determination to the officer.

F. If the officer accepts the discipline, it shall be imposed. If the officer refuses to accept the discipline, the matter shall be referred to a Trial Board.

G. The Wicomico County Administrative Charging Committee's decision (endorsement or rejection) on a proposed settlement must be made within 1 year and 1 day after the filing of a complaint by a citizen.

#### **Section ~~17~~18 Conflict with the State Law.**

In the event that there is a conflict with State law, the State law shall control. In the event that the State law no longer requires an Administrative Charging Committee, this Article is no longer applicable.

#### **Article IV Trial Board**

**Section ~~18~~19** There shall be a Wicomico County Trial Board to hear matters charged by the Wicomico County Administrative Charging Committee on which an officer of a county law enforcement agency elects trial.

#### **Section ~~19~~20 Composition.**

A. A Trial Board will be composed of:

- (1) An actively serving or retired Administrative Law Judge or a retired Judge of the District or a Circuit Court, appointed by the County Executive and confirmed by the County Council.
- (2) A civilian, who is not a member of an Administrative Charging Committee, appointed by the Wicomico County Police Accountability Board.
- (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.

B. A civilian appointee must meet the eligibility criteria for both the Wicomico County Police Accountability Board and the Wicomico County Administrative Charging Committee in order to serve on the Trial Board. No more than five (5) civilian appointees may be appointed by the Wicomico County Police Accountability Board to be eligible to serve as a voting member of a Trial Board.

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. TRAINING SHALL INCLUDE PARTICIPATING IN A SHOOT/DON'T SHOOT SIMULATOR.

C. Removal; resignation.

- (1) Members serve at the pleasure of County Executive. If the County Executive decides to remove a member prior to the end of the member's term, the member must be notified in writing by the County Executive. IF THE COUNTY EXECUTIVE DECIDES THAT THE REMOVAL OF A

MEMBER IS NECESSARY PRIOR TO THE END OF THE MEMBER'S TERM, THE COUNTY EXECUTIVE MAY IMMEDIATELY SUSPEND THE MEMBER UNTIL THE COUNTY COUNCIL CONFIRMS OR DENIES TERMINATION WITH A SIMPLE MAJORITY VOTE. UPON SUSPENSION, THE COUNTY EXECUTIVE MUST IMMEDIATELY INFORM BOTH THE MEMBER AND THE COUNTY COUNCIL, IN WRITING, AS TO THE REASON FOR SUSPENSION AND TERMINATION, AND THE COUNCIL HAS THIRTY (30) DAYS TO CONFIRM OR DENY THE TERMINATION. IF THE COUNTY COUNCIL DOES NOT ACT WITHIN THIRTY (30) DAYS THE TERMINATION BECOMES EFFECTIVE.

(2) Members may resign from the Wicomico County Trial Board at any time by notifying the County Executive.

D. The County Executive shall submit a budget and oversee the staff of the Trial Board.

E. The County Executive shall establish the procedures for record keeping by the Trial Board.

F. The Trial Board may not adopt any rules or regulations outside of perfunctory clerical matters.

G. THE ACTIVELY SERVING OR RETIRED ADMINISTRATIVE LAW JUDGE OR THE RETIRED JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT SHALL:

(1) BE THE CHAIR OF THE TRIAL BOARD;

(2) BE RESPONSIBLE FOR RULING ON ALL MOTIONS BEFORE THE TRIAL BOARD; AND

(3) PREPARE THE WRITTEN DECISION OF THE TRIAL BOARD, INCLUDING THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF THE TRIAL BOARD.

**Section 20-21 Rules of Procedure.**

A. The charges brought by the Wicomico County Administrative Charging Committee are presented by the law enforcement agency from which the charged officer was employed at the time of the alleged event. The law enforcement agency cannot decline to proceed on the charges brought by the Wicomico County Administrative Charging Committee. The law enforcement agency may hire outside counsel to represent and present the charges on behalf of the agency. The individual presenting the case in support of the charges brought by the Administrative Charging Committee has wide discretion in the manner in which the case will be presented to the Trial Board.

B. The law enforcement officer is entitled to representation by counsel, but not at the expense of the County or the Law Enforcement Agency at which the officer worked at the time of the alleged event.

C. ~~The charges shall be provided to the law enforcement officer 30 days before the hearing.~~ AT LEAST 30 DAYS BEFORE A TRIAL BOARD PROCEEDING BEGINS, THE POLICE OFFICER SHALL BE: (I) PROVIDED A COPY OF THE INVESTIGATORY RECORD; (II) NOTIFIED OF THE CHARGES AGAINST THE POLICE OFFICER; AND (III) NOTIFIED OF THE DISCIPLINARY ACTION BEING RECOMMENDED. Along with the charges, the officer shall be notified of the date, time, location of the hearing and the names of the members who shall sit as the Trial Board. Officers can strike Trial Board members for good cause shown. A motion to strike must be submitted, in writing, to the judge of the

Trial Board five (5) days after the notice is sent. The Trial Board members not alleged to have a conflict then shall determine if a conflict exists. That decision must be unanimous and be made five (5) days after the filing of the motion to strike. If a conflict exists, the appropriate appointing authority shall submit a new name ten (10) days after the Trial Board's determination of a conflict.

D. All members of the Trial Board must be present for an adjudicatory hearing.

E. The law enforcement agency has the burden of proof by a preponderance of the evidence. The charged officer need not call any witnesses, INCLUDING THEMSELVES, and the decision to not may not be considered by the Trial Board.

F. The adjudication of a charge is classified as "responsible" when the Trial Board holds that the required burden of proof has been met. The adjudication of a charge is classified as "not responsible" when the Trial Board holds that the required burden of proof has not been met.

G. The Trial Board members must unanimously agree, as to each charge, that the burden of proof was met to find the officer responsible.

H. The Trial Board shall give the law enforcement agency and law enforcement officer ample opportunity to present their respective case concerning the charges.

I. A Trial Board may administer oaths and issue subpoenas as necessary. Witnesses will be sworn under oath and proceedings shall be recorded. Each party has the right to cross-examine witnesses who testify and each party may submit rebuttal evidence.

J. Evidence with probative value that is commonly accepted by reasonable and prudent individuals in the conduct of their affairs is admissible and shall be given probative effect.

K. The Trial Board shall give effect to the rules of privilege recognized by law and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. The Trial Board may not infer an admission of responsibility from a charged police officer who does not testify. The law enforcement agency may not call the charged officer to testify.

L. Each record or document that a party desires to use shall be offered and made a part of the record.

M. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

N. Trial Board proceedings shall be open to the public, except to protect:

- (1) A victim's identity.
- (2) Personal privacy of an individual.
- (3) A child witness.
- (4) Medical records.
- (5) Identity of a confidential source.
- (6) An investigation technique or procedure.
- (7) The life or physical safety of an individual.

O. A complainant has the right to be notified of a Trial Board hearing and, except as provided above, the right to attend the hearing. A complainant is not a party to the hearing, but may be called as a witness by either the litigating agency or the charged officer.

P. Upon the conclusion of each party's case, the Trial Board, in closed session, shall deliberate based solely on the evidence presented. A finding shall be issued before the Trial Board adjourns and, in open session, the judge shall deliver the holding of the Trial Board.

Q. If an officer is found responsible, the Trial Board shall provide the opportunity for the litigating agency, the officer, any character witnesses on behalf of the officer, and the complainant, to comment on what discipline should be imposed. After hearing from the aforementioned persons, the Trial Board shall issue a punishment in accordance with the Statewide Disciplinary Matrix before adjourning. A police officer may only be disciplined for cause.

R. WITHIN 45 DAYS AFTER THE FINAL HEARING BY A TRIAL BOARD, THE TRIAL BOARD SHALL ISSUE A WRITTEN DECISION REFLECTING THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF A MAJORITY OF THE TRIAL BOARD.

#### **Section 21 22 Appeal.**

The police officer found responsible may appeal within 30 days after the date of issuance of a decision to the Circuit Court for Wicomico County.

#### **Section 22 23 Conflict with State Law.**

In the event that there is a conflict with State law, the State law shall control. In the event that the State law no longer requires a Trial Board, this Article is no longer applicable.

#### **Article V Miscellaneous**

**Section 23-24 IF ALLOWED BY STATE LAW,** Wicomico County municipalities which elect to not operate their own law enforcement



review boards, may utilize the county's Trial Board. Any costs associated with the utilization of the Trial Board shall be paid by the municipality from which the agency subject to the review derives.

SECTION II: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION THAT this bill shall be known as Legislative Bill No. 2022-04 and shall take effect sixty (60) days after its enactment, unless a proper Petition for Referendum thereof shall be filed prior to said date; in which event, the Bill shall not take effect until the expiration of thirty (30) days following the approval of this Bill by a majority of the qualified voters of the County voting in any such referendum.

Certified correct as passed and adopted by the County Council of Wicomico County, Maryland this 16<sup>th</sup> day of April, 2022.

WICOMICO COUNTY, MARYLAND

 (SEAL)

By: John Cannon, President

 (SEAL)

By: Laura Hurley, Secretary

I HEREBY CERTIFY that copies of the above Bill are available to the public, the press and other news media at the time of its introduction.

 (SEAL)

By: Laura Hurley, Secretary

Explanation:

~~STRIKE OUT~~ indicates matter stricken from Bill by Amendment.

Underlining indicates Amendments to Bill

COUNTY COUNCIL  
OF  
WICOMICO COUNTY, MARYLAND

2022 Legislative Session

Legislative Day No. 05

**LEGISLATIVE BILL NO. 2022-04**

**INTRODUCED BY:** President of the Council at the Request of the Acting County Executive

**Bill No. 2022-04:** An Act to Establish Chapter 46 Law Enforcement Review Board of the Wicomico County Code.

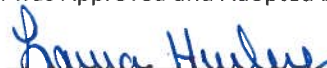
Introduced and read first time on March 15, 2022. Ordered posted and public hearing scheduled for April 5, 2022 at 6:00 p.m. and April 26, 2022 at 5:00 p.m.

  
\_\_\_\_\_  
Laura Hurley, Council Administrator

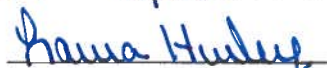
**PUBLIC HEARING:** Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing held on April 5, 2022 and on April 26, 2022.

  
\_\_\_\_\_  
Laura Hurley, Council Administrator


**CERTIFICATION:** The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 26<sup>th</sup> day of April, 2022.

  
\_\_\_\_\_  
Laura Hurley, Council Administrator

Presented to the Acting County Executive for approval this 28<sup>th</sup> day of April at 9:00 a.m. (5 days §411)

  
\_\_\_\_\_  
Laura Hurley, Council Administrator

**BY THE ACTING COUNTY EXECUTIVE:**

  
\_\_\_\_\_  
Acting County Executive

APPROVED

Date: 4/29/2022  
(21 days §411)

VETOED

Date: \_\_\_\_\_

**BY THE COUNCIL:**

Option One: This Bill, having been approved by the Acting County Executive and returned to the Council, becomes law on April 29, 2022 and effective on: June 28, 2022.  
(60 days §311)

Option Two: This Bill, having received neither the approval nor the disapproval of the Acting County Executive with 21 days of its presentation, stands enacted on \_\_\_\_\_ and becomes effective on \_\_\_\_\_.  
(60 days §311)

Option Three: This Bill, being exempt from the Executive Veto stands enacted on \_\_\_\_\_ and becomes effective on \_\_\_\_\_. (Charter Section 305)

**ENROLLMENT:** Legislative Bill No. 2022-04 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.

  
\_\_\_\_\_  
Laura Hurley, Council Administrator