

Expedited Bill No. 49-21  
Concerning: Police – Police  
Accountability Board – Administrative  
Charging Committee - Established  
Revised: 4-19-22 Draft No. 12  
Introduced: December 14, 2021  
Enacted: April 19, 2022  
Executive: May 2, 2022  
Effective: May 2, 2022  
Sunset Date: none  
Ch. 12, Laws of Mont. Co. 2022

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Council President at the request of the County Executive

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**AN EXPEDITED ACT** to:

- (1) establish the Police Accountability Board for the County;
- (2) define the membership and duties of the Board;
- (3) establish the Administrative Charging Committee for the County;
- (4) define the membership, duties, and compensation for members of the Committee;  
and
- (5) generally amend the law governing police accountability and discipline.

By adding

Montgomery County Code  
Chapter 35, Police  
Article IV, Police Discipline  
Sections 35-23, 35-24 and 35-25

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Article IV, Sections 35-23, 35-24 and 35-25 are added as follows:**

2                           **ARTICLE IV. POLICE DISCIPLINE**

3           **35-23. Definitions.**

4           *Definitions.* In this Article, the following terms have the meanings indicated.

5           *Administrative Charging Committee or Committee* means the Committee  
6           established in Section 35-25 to serve Countywide law enforcement agencies and  
7           local law enforcement agencies within the County pursuant to Section 3-104 of  
8           the Public Safety Article of the Annotated Code of Maryland, as amended.

9           *Administratively charged* means that a police officer has been formally accused  
10           of misconduct in an administrative proceeding.

11           *Complaint* means an allegation of police misconduct [[filed by]] involving a  
12           member of the public and a police officer, regardless of whether the allegation  
13           originated from within the law enforcement agency or from an external source.

14           *Disciplinary matrix* means a written, consistent, progressive, and transparent  
15           tool or rubric that provides ranges of disciplinary actions for different types of  
16           misconduct prepared by the Maryland Police Training and Standards  
17           Commission.

18           *Exonerated* means that a police officer acted in accordance with the law and  
19           agency policy.

20           *Law enforcement agency* means the County police force, Sheriff's office, or  
21           other security force or law enforcement organization of the County or a  
22           municipal corporation that by statute, ordinance, or common law is authorized  
23           to enforce the general criminal laws of the State.

24           *Not administratively charged* means that a determination has been made not to  
25           administratively charge a police officer in connection with alleged misconduct.

26 Police Accountability Board or Board means the Police Accountability Board  
 27 for the County established in Section 35-24 pursuant to Section 3-102 of the  
 28 Public Safety Article of the Annotated Code of Maryland, as amended.

29 Police misconduct means a pattern, a practice, or conduct by a police officer or  
 30 law enforcement agency that includes:

- 31 (1) depriving persons of rights protected by the Constitution or laws  
 32 of the State or the United States;
- 33 (2) a violation of a criminal statute; and
- 34 (3) a violation of law enforcement agency standards and policies.

35 Police officer means an individual who:

- 36 (1) is authorized to enforce the general criminal laws of the State; and
- 37 (2) is a member of one of the following law enforcement agencies:
  - 38 (a) the County police department;
  - 39 (b) a municipal police department;
  - 40 (c) the office of the County Sheriff; or
  - 41 (d) a County fire and explosive investigator.

42 A police officer does not include the Sheriff, a chief of police, a deputy  
 43 or assistant chief of police, or another individual with an equivalent title  
 44 who is appointed or employed by a government to exercise equivalent  
 45 supervisory authority.

### 46 **35-24. Police Accountability Board.**

- 47 (a) Establishment. There is a Police Accountability Board for the County.  
 48 The Executive must appoint the [[five]] nine voting members of the  
 49 Board, including the Chair, subject to confirmation by the Council. The  
 50 Executive may appoint one or more non-voting members to the Board.  
 51 At least one voting member must reside in a municipality operating a  
 52 police department that is within the jurisdiction of the Board.

53           **(b)**    Composition and qualifications of members. The members of the Board  
 54           must reflect the racial, gender, gender-identity, sexual orientation, and  
 55           cultural diversity of the County. Each member must reside in the County  
 56           and [[have experience:

57                   (1)    managing or evaluating the management of a law enforcement  
 58                   agency;

59                   (2)    evaluating citizen complaints against a police officer; or

60                   (3)    in personnel disciplinary proceedings as a manager, employee  
 61                   representative, mediator, or arbitrator]] be able to demonstrate  
 62                   through professional or lived experience the ability to balance  
 63                   effective oversight, perform objective analysis of an investigation  
 64                   report, and practice procedural fairness.

65           An active police officer must not be a member of the Board. A Board  
 66           member must also meet all qualifications mandated by State law and  
 67           implementing regulations while serving on the Board.

68           **(c)**    Chair. The members of the Board may elect a Vice-Chair to serve as  
 69           Chair in the absence of the Chair.

70           **(d)**    Term of office. Each member serves a 3-year term. A member must not  
 71           serve more than 2 consecutive full terms. A member appointed to fill a  
 72           vacancy serves the rest of the unexpired term. Members continue in office  
 73           until their successors are appointed and qualified.

74           **(e)**    Meetings, budget, and compensation for members.

75                   (1)    The Board meets at the call of the Chair. The Board must meet as  
 76                   often as necessary to perform its duties, but not less than [[4 times  
 77                   each year]] one time each month.

78                   (2)    The Executive must recommend, and the Council must appropriate  
 79                   funds necessary for the Board and the Administrative Charging

80 Committee to operate in the County's annual operating budget.  
81 The annual appropriation for the Board and the Administrative  
82 Charging Committee must include funding for training of  
83 members provided by:

84 (A) the County Police Department in cooperation with the  
85 Sheriff and each municipal police department within the  
86 jurisdiction of the Board; and

87 (B) appropriate outside organizations.

88 (3) The [[Board members]] Chair or another Board member  
89 designated to serve on the Administrative Charging Committee  
90 must serve without compensation except for the reimbursement of  
91 expenses incurred in attending meetings or carrying out other  
92 duties, including travel and dependent care costs at rates  
93 established by the County, subject to appropriation. The annual  
94 salary for each other Board member is \$10,000. The salary for each  
95 member must be adjusted on the first Monday in December by the  
96 Consumer Price Index for All Urban Consumers (CPI-U) for the  
97 Washington-Arlington-Alexandria Core Based Statistical Area  
98 (CBSA), as published by the United States Department of Labor,  
99 Bureau of Labor Statistics, or a successor index.

100 (f) Staff. The Chief Administrative Officer must provide appropriate  
101 dedicated full-time staff to the Board and make available to the Board  
102 services and facilities that are necessary or appropriate for the proper  
103 performance of its duties. The County Attorney must retain special legal  
104 counsel approved by the Council to serve as counsel to the Board.

105 (g) Duties. The Board must:

- 106           (1) hold quarterly meetings with the directors of one or more law  
 107           enforcement agencies operating in the County who employ one or  
 108           more police officers;
- 109           (2) appoint civilian members to the Administrative Charging  
 110           Committee and trial boards;
- 111           (3) receive complaints of police misconduct filed by a member of the  
 112           public;
- 113           (4) review the outcomes of disciplinary matters considered by the  
 114           Administrative Charging Committee on a quarterly basis;
- 115           (5) advise the Executive and the Council on policing matters; and
- 116           (6) refer each complaint of police misconduct filed with the Board to  
 117           the appropriate law enforcement agency within 3 days after receipt  
 118           for investigation.
- 119        (h) Removal of a member. The Executive with the approval of at least 6  
 120        members of the Council may remove a member for:
- 121           (1) neglect of duty, including failure to complete mandatory training;
- 122           (2) misconduct in office;
- 123           (3) a member's inability or unwillingness to perform the duties of the  
 124           office;
- 125           (4) conduct that impairs a member from performing the duties of the  
 126           office; or
- 127           (5) [[violation of law; or
- 128           (6)]] inability to meet the qualifications for a Board member mandated  
 129           by State law or implementing regulations.
- 130        (i) Reports. The Board must submit an annual report to the Executive and  
 131        the Council each December 31 that:

- 132           (1) identifies any trends in the disciplinary process of police officers  
 133           in the County;
- 134           (2) recommends changes to policy that would improve police  
 135           accountability in the County; and
- 136           (3) describes the activities of the Board and the numbers of complaints  
 137           received.

138 **35-25. Administrative Charging Committee.**

- 139           (a) Establishment. There is an Administrative Charging Committee for the  
 140           County.
- 141           (b) Membership. The Committee has 5 voting members. The members are:
- 142           (1) the Chair of the Police Accountability Board or another member  
 143           of the Board designated by the Chair;
- 144           (2) 2 civilian members appointed by the Police Accountability Board;  
 145           and
- 146           (3) 2 civilian members appointed by the Executive.
- 147           (c) Composition and qualifications of members. The Committee consists of  
 148           a chair and 4 additional members. The members of the Committee must  
 149           reflect the racial, gender, gender-identity, sexual orientation, and cultural  
 150           diversity of the County. Each member must [[:
- 151           (1)]] reside in the County [[: and have
- 152           (2) experience managing or evaluating the management of a law  
 153           enforcement agency;
- 154           (3) experience evaluating citizen complaints against a police officer;  
 155           or
- 156           (4) experience in personnel disciplinary proceedings as a manager,  
 157           employee representative, mediator, or arbitrator]] and be able to  
 158           demonstrate through professional or lived experience the ability to

159 balance effective oversight, perform objective analysis of an  
160 investigation report, and practice procedural fairness.

161 (d) Training. Each member of the Committee must complete training on  
162 matters relating to police procedures from the Maryland Police Training  
163 and Standard Commission before serving as a member.

164 (e) Staff. The Chief Administrative Officer must provide appropriate  
165 dedicated full-time staff to the Committee and make available to the  
166 Committee services and facilities that are necessary or appropriate for the  
167 proper performance of its duties. The County Attorney must retain special  
168 legal counsel approved by the Council to serve as counsel to the  
169 Committee.

170 (f) Compensation. The annual salary for the Chair is \$22,000 and the annual  
171 salary for each member is \$16,000. The salary for the Chair and each  
172 member must be adjusted on the first Monday in December by the  
173 Consumer Price Index for All Urban Consumers (CPI-U) for the  
174 Washington-Arlington-Alexandria Core Based Statistical Area (CBSA),  
175 as published by the United States Department of Labor, Bureau of Labor  
176 Statistics, or a successor index.

177 (g) Meetings. The Committee must meet at least one time each month or  
178 [[as]] more frequently if needed.

179 (h) Term of office. Each member serves a 3-year term. A member must not  
180 serve more than 2 consecutive full terms. A member appointed to fill a  
181 vacancy serves the rest of the unexpired term. Members continue in office  
182 until their successors are appointed and qualified.

183 (i) Duties. The Committee must:

184 (1) review the findings of each law enforcement agency's  
185 investigation forwarded by the agency to the Committee;



- 186           (2) review any body camera footage that may be relevant to the  
187           matters covered in the complaint of misconduct;
- 188           (3) authorize a police officer called before the Committee to be  
189           accompanied by a representative;
- 190           (4) determine if the police officer who is the subject of the  
191           investigation should be administratively charged or not  
192           administratively charged within 30 days after receipt of the law  
193           enforcement agency's investigatory file unless the Committee  
194           requests further review under subsections (j)(1) or (2);
- 195           (4) if the Committee determines that a police officer should be  
196           administratively charged, recommend discipline pursuant to the  
197           disciplinary matrix;
- 198           (5) if the Committee determines that a police officer should not be  
199           administratively charged, determine if:
- 200           (A) the allegations against the police officer are unfounded,  
201           including situations where existing departmental policy  
202           fails to properly address the situation for which the officer  
203           was charged; or,
- 204           (B) the police officer is exonerated;
- 205           (6) issue a written opinion for each complaint describing in detail the  
206           Committee's findings, determinations, and recommendations; and
- 207           (7) forward the written opinion to the director of the appropriate law  
208           enforcement agency, the accused police officer, and the  
209           complainant.
- 210           (j) Authority of the Committee. The Committee may:

- 211           (1) request information or action from the law enforcement agency  
 212           that conducted the investigation, including requiring additional  
 213           investigation;
- 214           (2) issue subpoenas for documents or witnesses necessary to execute  
 215           the Committee's duties; and
- 216           (3) record, in writing, any failure of supervision that caused or  
 217           contributed to a police officer's misconduct.
- 218       (k) Confidentiality. Each member of the Committee must maintain  
 219           confidentiality relating to a matter being considered by the Committee  
 220           until final disposition of the matter.
- 221       (1) Duties of the law enforcement agency. The law enforcement agency must  
 222           investigate and submit a written investigation report to the Administrative  
 223           Charging Committee for each complaint received by the agency or  
 224           referred to the agency by the Police Accountability Board. Each law  
 225           enforcement agency must submit a monthly report to the Administrative  
 226           Charging Committee detailing complaints received and the status of each  
 227           investigation.
- 228       (m) Removal of a member. The Executive with the approval of at least 6  
 229           members of the Council may remove a member for:
- 230           (1) neglect of duty, including failure to complete mandatory training;  
 231           (2) misconduct in office;  
 232           (3) a member's inability or unwillingness to perform the duties of the  
 233           office;  
 234           (4) conduct that impairs a member from performing the duties of the  
 235           office; or  
 236           (5) [[violation of law; or

237                    (6)]] inability to meet the qualifications for a Board member mandated  
238                    by State law or implementing regulations.

239            **Sec. 2. Transition.** Notwithstanding Sections 35-24(d) and 35-25(h) in Section  
240 1, the Executive must stagger the initial terms of the members of the Board and the  
241 Committee so that the terms of approximately one-third of the members expires each  
242 year.

243            **Sec. 3. Expedited Effective Date, Transition.**

244            The Council declares that this legislation is necessary for the immediate  
245 protection of the public interest. This Act takes effect on the date on which it becomes  
246 law and must apply to eligible complaints based on an incident occurring on or after:

247            (a) July 1, [[2022]] 2023 against a police officer who is covered by a  
248            collective bargaining agreement entered into before June 30, 2022, that  
249            includes a different disciplinary system; and

250            (b) July 1, 2022, against any other police officer.

*Approved:*



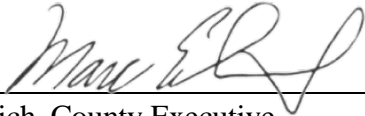
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Gabriel Albornoz, President, County Council

4/21/2022

Date

*Approved:*



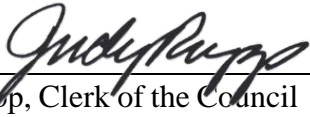
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Marc Elrich, County Executive

5/2/2022

Date

*This is a correct copy of Council action.*



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Judy Rupp, Clerk of the Council

5/6/2022

Date