

Chair Jeanette Ortiz, Esq.
Executive Director Janssen Evelyn, Esq.

December 2022



Dear County Executive Steuart Pittman and Council Chair Peter Smith,

In accordance with Maryland Police Accountability Act of 2021 and § 3-7A-110 of the Anne Arundel County Code, I hereby submit the 2022 Annual Report of the Anne Arundel Police Accountability Board (PAB).

I want to first acknowledge and extend my gratitude to my colleagues on the PAB for their willingness to generously volunteer their time to serve our community. In accordance with the law, we have been discharging our duties since July 1, 2022. Since that time, the PAB has held several public meetings, completed requisite trainings, completed the Citizens Police Academy, reviewed over 100 applications for the Administrative Charging Committee, and held two quarterly meetings with each of the County's five law enforcement agencies to comply with the law, fulfill the Board's duties and responsibilities, collaborate with the County and the law enforcement agencies, help ensure transparency, and engage the residents of Anne Arundel County as partners in police accountability.

I would also like to thank Janssen Evelyn and Jennifer Rogers for their partnership and work behind the scenes to ensure the PAB fulfills its mission. I appreciate the PAB staff for their dedication, professionalism and service to the community. I would also like to thank all of the staff within the County Government who worked on standing up the PAB, particularly Dr. Jennifer Purcell who helped to guide the Board at the onset.

Again, I appreciate the opportunity to serve the residents of Anne Arundel County, and I commit that the PAB will continue to uphold its charge under the law, continue the work to build trust in the community, and collaborate with County government, law enforcement agencies and community members on the very critical issue of police accountability. In the upcoming year, the first full year, I look forward to continue with this important work as my colleagues and I are committed to making a significant and purposeful impact in Anne Arundel County.

Sincerely,

A handwritten signature in blue ink that reads "Jeanette Ortiz". The signature is written in a cursive, flowing style.

Jeanette Ortiz, Esq.
Chair



To County Executive Stuart Pittman and Council Chair Peter Smith:

Enclosed, please find the inaugural annual report of the Anne Arundel County Police Accountability Board (PAB) for the year 2022, which is submitted pursuant to § 3-7A-110.

In my first three months serving as the Executive Director, the PAB continued efforts to build trust among residents with an enhanced emphasis on initially understanding how the various law enforcement agencies within the County operate and the various perspectives involved. Equally, the PAB has (and will continue) to solicit community stakeholder input in the upcoming year with engagement with County residents through planned listening tours and invited guests. Further, we will endeavor to have contact with law enforcement, with an emphasis on academy recruits.

I am privileged to serve the residents of Anne Arundel County and am proud to staff the PAB, which is made up of committed community-servant leaders. I want to acknowledge and thank Shawn Ashworth, Ed.D., Sharon Elliott, Barney Gomez; Kymberly Jackson, Esq.; Sarah Kivett; Kenneth Moore, Phd.; Daniel Watkins; Anne Williams-Kinard; and Chair Jeanette Ortiz, Esq. Since July 1st, the PAB has held six public meetings, attended over 40 hours of mandated training at the Citizen's Police Academy, and they pored over 115 applicants for the Administrative Charging Committee to select two candidates. We owe them all a debt of gratitude for their commitment to carry out their legally mandated charge while working to find the gaps in the law. They are continuously pushing for change to create greater institutional accountability in order to maintain, and build trust between law enforcement and the community that they serve and protect in order to make Anne Arundel County *The Best Place – For All*.

The information herein reflects PAB's commitment to continue being at the forefront in the state as it comes to improving transparency in accordance with the governing law.

Sincerely,

A handwritten signature in blue ink that reads "Janssen Evelyn". The signature is fluid and cursive, with the first and last names clearly legible.

Janssen E. Evelyn, Esq.
Executive Director



In 2021, the Maryland General Assembly passed a package of police reform bills. The package of police reform bills resulted from months of legislative hearings, briefings, debates, and negotiations among advocacy groups, professional organizations, communities, and elected officials across the State.

One of the bills, HB670 The Maryland Police Accountability Act of 2021, mandates that each county in Maryland establish a police accountability board (PAB). In accordance with the State law, each county PAB is required to:

- provide policy advice through meetings with law enforcement agencies, review of disciplinary matters stemming from public complaints, and annual reporting;
- work with law enforcement agencies and the county government to improve policing and police accountability in the County;
- appoint two civilian members to the administrative charging committee and one to the Trial Board to adjudicate complaints submitted by members of the public; and
- receive complaints of police misconduct filed by members of the public.

HB670 provides for the structure, duties, and responsibilities of the local PABs. In alignment with HB670, the Anne Arundel County Council passed Bill 16-22 in April of this year. The purpose of the local bill was to establish the Anne Arundel County PAB as each county in Maryland was required to have a PAB established and in place by July 1, 2022.

State Law Requirements

This new State law made various changes that generally relate to law enforcement. Among other things, the law:

1. repeals the Law Enforcement Officers' Bill of Rights (LEOBR) and establishes provisions that relate to a statewide accountability and discipline process for police officers;
2. alters requirements for the Maryland Police Training and Standards Commission (MPTSC) regarding training and police certification;
3. establishes two higher education financial assistance programs for police officers, with mandated appropriations;
4. increases civil liability limits applicable to police misconduct lawsuits; and
5. requires reporting on SWAT team activity and use of force complaints.

Provisions in the law relating to the accountability and discipline process apply prospectively and may not be applied or interpreted to have any effect or application to:

- any bona fide collective bargaining agreement entered into by June 30, 2022, for the duration of the contract term, excluding any extensions, options to extend, or renewals of the term of the original contract; or
- a disciplinary matter against a law enforcement officer based on alleged misconduct occurring before July 1, 2022.

Each county PAB must:

- 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;
- appoint civilian members to charging committees and trial boards;

- receive complaints of police misconduct filed by members of the public;
- on a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and
- submit a report to the governing body of the county, by December 31 each year, 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.

The law also requires each local governing body to:

- establish the membership of and the budget and staff for a PAB;
- appoint a chair for the PAB; and
- establish the procedures for record keeping by a PAB.

In addition, the State law prohibits an active police officer from being a member of a PAB and requires, to the extent practicable, the membership of a PAB to reflect the racial, gender, and cultural diversity of the county.

County Law Requirements

On April 29, 2022, Bill 16-22 (codified as 3-7A) was enacted by the Anne Arundel County Council to establish the County's PAB. The law sets forth additional requirements including:

- membership criteria;
- terms of voting members;
- budget and staffing;
- duties; and
- record keeping.

PAB Membership

In 2022, the Anne Arundel County Executive’s Office solicited interested applicants to serve on the Anne Arundel County Police Accountability Board. As a result, the County Executive’s Office received 163 Phase I applications expressing interest. Some applicants were moved to Phase II, and a total of 89 applications from very well-qualified candidates were received. A selection committee comprised of nine County staff who represent constituent services; equity, diversity and inclusion; legislative affairs; law; health and human services; multicultural affairs; and emergency management reviewed the applications and identified 28 candidates for further consideration.

After a second review to ensure all qualifications and areas of expertise specified in the County’s Bill 16-22 were met, 13 candidates were invited for interviews, and an additional six candidates were identified as alternates. The committee’s goal was to recommend a group of citizens to County Executive Pittman with the skills and experiences as set forth in the State and County laws, who complemented one another, reflected and represented the residents of Anne Arundel County, and possessed a broad range of relevant experiences and expertise. As a result of the comprehensive application process, the County Executive nominated the following eight residents:



Shawn Ashworth, Ed.D.
educator and nonprofit leader



Kenneth Moore, Ph.D.
pastor, professor, and retired firefighter



Barney Gomez
retired special agent and Vietnam veteran



Jeanette Ortiz, Esq. (Chair)
law and education policy expert



Kymberly Jackson, Esq.
attorney and law professor



Daniel Watkins
Board-certified Nurse Executive and behavioral health professional



Sarah Kivett
employee conduct investigator and former law enforcement officer



Anne Williams-Kinard
local business owner

The County Council confirmed the nominations on June 21, 2022.

In accordance with the law, the City of Annapolis nominated and confirmed the ninth member of the PAB. Accordingly, Annapolis Mayor Gavin Buckley appointed Sharon Elliott to represent the City. The Annapolis City Council confirmed Ms. Elliott on July 25, 2022.



Sharon Elliott
program manager, housing & community services,
and policy analyst

PAB Staff and Structure

The PAB Staff is currently composed of two civilian personnel, the Executive Director and the Executive Secretary. The Executive Director was appointed by the County Executive and confirmed by the Anne Arundel County Council. The Executive Director oversees PAB program development, data analysis, compliance and community relations. In addition, the Executive Director serves as principal liaison between the County Executive, Chief Administrative Officer, and the PAB, and also manages policy, administrative operations, and information coordination. On August 9, 2022, County Executive Pittman announced the appointment of Janssen Evelyn as the first Executive Director of the State-mandated PAB. The County Council confirmed the appointment on September 19, 2022.

The Executive Secretary works with the Executive Director and supports the PAB, ACC, and Trial Boards by keeping records, establishing and maintaining a retention schedule in accordance with State law, and ensuring requisite confidentiality of records. In addition, the Secretary responds to community requests and helps to serve as a liaison between the PAB and the County law enforcement agencies.

The PAB staff assist the PAB in building relationships with community members through dialogue and information sharing. Going forward, they will also work to increase public awareness of the PAB and the police accountability process.



Janssen Evelyn, Esq.
Executive Director



Jennifer Rogers,
Executive Secretary

The PAB has held public meetings on the following dates:

July 18, 2022

This was the first meeting of the PAB.

The meeting was organizational in nature with discussions about:

- the role of the PAB,
- training requirements,
- Open Meetings Act,
- State and County law background, amongst other topics.

August 15, 2022

In accordance with the law, the PAB invited local law enforcement agencies to provide the Board an overview of their respective structures as well as a status of the implementation of the new law.

At this meeting, Crofton Police Department and the Anne Arundel County Community College Police Department presented.

The PAB also discussed other administrative matters.

August 22, 2022

In accordance with the law, the PAB invited local law enforcement agencies to provide the Board an overview of their respective structures as well as a status of the implementation of the new law.

At this meeting, the Annapolis and Anne Arundel County police departments presented.

The PAB also discussed other administrative matters.

September 26, 2022

The PAB invited representatives from the State and local governments, respectively, to share their perspectives on HB670.

State Perspective - Delegate Debra Davis from Charles County Maryland shared the General Assembly perspective as she was involved in the passage of HB670 in a multi-faceted manner.

Local Perspective - Dave Morris shared the local law enforcement perspective per his former roles as Chief of Police for the Town of Riverdale Park in Prince George's County and involvement with the Maryland Chiefs of Police Association.

The PAB also discussed other administrative matters.



The PAB has held public meetings on the following dates (cont.):

October 24, 2022

The PAB invited community members to discuss their perspective regarding the State and County law.

William Rowel and Pastor Stephen Tillett shared their respective perspectives on police accountability as members of the community and individuals who were actively involved in the discussions surrounding Bill 16-22.

The PAB also discussed other administrative matters.

November 28, 2022

In accordance with the law, the PAB invited local law enforcement agencies to provide the Board an update on the implementation of the new laws, internal processes, and complaints received.

At this meeting, the Anne Arundel County and Anne Arundel Community College police departments presented. Lt. Steve Thomas of the Anne Arundel County Police Department and Jennifer Corbin, Director of the Anne Arundel County Crisis Response, were invited to speak to the Board about the mission and effectiveness of the County's Crisis Intervention Team.

The PAB also discussed other administrative matters.

December 19, 2022

In accordance with the law, the PAB invited local law enforcement agencies to provide the Board an update on the implementation of the new laws, internal processes, and complaints received.

At this meeting, Annapolis Police Department, Crofton Police and the Sheriff's Office presented.

The Board voted to adopt the 2022 Annual Report.

The PAB also discussed other administrative matters.



Selection of the Administrative Charging Committee

As specified by the law, each county must have one administrative charging committee (ACC) to serve countywide law enforcement agencies and local law enforcement agencies in the county. The ACC is composed of the Chair of the PAB or the Chair's designee, two civilian members selected by the PAB, and two civilian members selected by the County Executive.

The ACC 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, as specified;
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.

The law authorizes an ACC to request specified information and make specified determinations. In addition, the law requires an individual to receive training on matters relating to police procedures from MPTSC before serving as a member of the ACC.

The PAB issued a request for applicants to serve on the ACC. Over 110 individuals submitted an application for consideration. After narrowing down the potential applicants and conducting interviews, the PAB selected two members to serve on the ACC. The two civilian members appointed by the PAB are:

Dr. Andrew Miller, an assistant professor of political science; and

Lisa Snead, an attorney and senior staff counsel.

The County Executive also appointed two members:

Charlett Bundy, a retired attorney; and

Curtis Zurcher, a retired intelligence analyst and U.S. Air Force NCO

The Chair of the PAB elected to designate PAB member Sarah Kivett as the designee to participate in the ACC.

Matters will begin being forwarded to the ACC following their training by the MPTSC in January 2023.

Selection of the Trial Board Participants

Each law enforcement agency must establish a trial board process to adjudicate matters for which a police officer is subject to discipline. County trial boards are made up 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 County Executive;
2. a civilian who is not a member of the ACC, appointed by PAB; and
3. a police officer of equal rank to the accused officer, appointed by the Chief of Police.

This body adjudicates matters when a police officer is subject to discipline and the officer does not accept the discipline offered by the head of the law enforcement agency. A new trial board will be convened for each incident.

The PAB has established an efficient and comprehensive manner to identify civilian members of a trial board. Specifically, the Board has elected to create a pool of interviewed and trained individuals that can be called upon to serve when the need for a trial board arises. In accordance with the law, training of trial board participants will be administered by the MPTSC. The PAB has extended the opportunity to be included in the trial board pool to individuals who were interviewed but not selected to serve on the PAB or ACC. Of this group, those individuals who express an interest will be automatically placed in the pool as they have already undergone a screening and interview process. The Board also agreed to put out a call for applications for other interested County residents.

At the writing of this report, there are 15 citizens of the County who have agreed to be included in the trial board pool.



Training and Professional Development

Members of the Board were required to undergo specified training and professional development pursuant to the State and County laws. Such training and professional development included:

- Training on Implicit Bias which was conducted by Anne Arundel County Community College;
- Anne Arundel County Ethics Training;
- 11 week participation in the Anne Arundel County Police Department's Citizens Police Academy The Citizens Police Academy provided the Board an opportunity to learn about laws, police procedures, forensics, crime scene collections, resource management and more. Participants demonstrated what they have learned through some hands-on practical applications that included:
 - » police procedures
 - » police training
 - » crime scene collections
 - » self-defense;
 - » arrest techniques;
 - » vehicle maneuvers; and more.
- Open Meetings Act (OMA) training in which the PAB as a public entity, is subject to the OMA and must designate at least one employee, officer, or member to receive training on the OMA requirements in order to help ensure compliance with the law. Dr. Kenneth Moore participated in the training and is the Board's OMA representative.



Community Outreach Activities

Prior to the introduction of County Council Bill 16-22, members of the Anne Arundel County Executive's Office held meetings with the many stakeholders in the community. These community stakeholders included advocates from Community Actively Seeking Transparency (CAST), NAACP, Anne Arundel Connecting Together (ACT), United Black Clergy (UBC), Caucus of African American Leaders of Anne Arundel County, and leaders in the Hispanic community. In addition, meetings were held with the County law enforcement agencies, police unions, Crofton Board of Directors, and Community College leadership and officers.

Once the PAB was established and began meeting in July, the focus has been on hearing from the County law enforcement agencies, as required by law, as well as inviting community members and stakeholders to also share their perspectives with Board

members. In addition, each meeting of the PAB includes a time for public comment. A web signup has been created to allow community members to sign up on the County website to provide public comments at meetings.

As we enter the first full calendar year, the PAB will begin a listening tour throughout the County. One meeting will be held in each of the four Anne Arundel County Police Department districts to provide Board members the opportunity to directly engage with community members where they reside. This also provides the citizens of the County an opportunity to share their perspective regarding police accountability with the PAB.



A member of the public may submit a complaint of police misconduct to the PAB or directly to the appropriate law enforcement agency. If a complaint is submitted to the PAB, the Board must forward the complaint to the appropriate law enforcement agency within three days of receipt. In accordance with the County law, if a complaint is submitted directly to a law enforcement agency, the agency must share the complaint with the PAB within three days of receipt.

To be considered as police misconduct, the incident must meet the criteria set forth in §3-101 of Public Safety Article, Annotated Code of Maryland:

- “Police misconduct” means a pattern, a practice, or conduct by a police officer or law enforcement agency that includes:
 - depriving persons of rights protected by the constitution or laws of the State or the United States;
 - a violation of a criminal statute; and
 - a violation of law enforcement agency standards and policies.
- Eligible incidents of police misconduct must have taken place on or following July 1, 2022. Incidents that took place prior to July 1, 2022 are not eligible for reporting to the PAB.
- The complaint must involve misconduct by law enforcement officer(s) from one of the following jurisdictions
 - Anne Arundel County Police Department
 - Annapolis Police Department
 - Crofton Police Department
 - Anne Arundel County Community College Public Safety and Police
 - Anne Arundel County Sheriff

Once the law enforcement agency receives a complaint of police misconduct from a member of the public, the law enforcement agency must investigate the complaint. Upon completion of the investigation, the law enforcement agency shall forward the investigatory file to the ACC, which reviews the file and determines whether to charge the officer.

If the officer is not charged (meaning the allegations are unfounded or the officer is exonerated), the ACC must issue a written opinion detailing findings, determinations, and recommendations. If the officer is charged, the ACC must still issue a written opinion detailing findings, determinations, and disciplinary recommendations.

If discipline is recommended by the ACC, the head of the law enforcement agency must offer the discipline recommended by the ACC or discipline at a higher level pursuant to the Statewide Police Disciplinary Matrix. The officer has the option to accept the discipline or have the matter referred to a trial board for a hearing.

The image on the following page represents how a complaint moves through the process and the part each body plays in that process.

Complaint Process

Police Accountability Board

Police Accountability Board (PAB) receives complaint from the public.

→

PAB forwards the complaint to the appropriate Law Enforcement Agency (LEA)

- Additional Responsibilities of the PAB**
- **Quarterly:** Reviews outcomes of disciplinary matters
 - **Annually:** Reports to the County on trends in the disciplinary process and recommendations on changes to policies that would improve police accountability.
 - **Appointments:** Makes appointments to the Administrative Charging Committee and Trial Boards in accordance with Maryland State Law.

Law Enforcement Agency

Law Enforcement Agency (LEA) receives a complaint from the public.

→

Investigates the complaint

Upon completion of the investigation, the investigatory files is forwarded to the Administrative Charging Committee.

Administrative Charging Committee

The Administrative Charging Committee (ACC) reviews the investigatory file and determines whether or not to charge the officer.

→

Officer Not Charged

Determines allegations are unfounded or officer is exonerated

Issues written opinion detailing findings, determinations, and recommendations within 1 year and 1 day of the filing of the complaint. The matter is final.

→

Officer Charged

Issues written opinion of detailing findings, determinations, and recommendations. Recommends discipline according to discipline matrix.

Chief of LEA offers discipline recommended by ACC or increases the punishment based on the discipline matrix.

Officer Accepts Discipline

Discipline is imposed and the matter is final.

Trial Board

Officer does not accept discipline

→

Matter referred to Trial Board for a hearing.

Trial Board hearing and decision is made.

Officer does not appeal the decision

→

Trial Board decision is final.

Officer appeals the decision

→

Matter moved to circuit court for appeal on the record.

The data included in this Report is reflective of the data provided to the PAB at the time of publication. Due to current limitations, the recorded numbers presented in this report are subject to future revision. Likewise, historical data presented here may vary slightly from figures presented in future reports due to changes in processes and reporting.

As we move into 2023, the first full reporting year, the PAB is collaborating with Anne Arundel County law enforcement agencies to ensure they are providing qualitative and quantitative information demonstrating how they fulfill the purpose, duties, and responsibilities outlined by State and County law.

Data for this report moving forward will be directly reported to the PAB using the law enforcement agencies records management database, IAPro, where available and by manual reporting for agencies where this is not available.



Definitions:

Disciplinary matrix means a written, consistent, progressive, and transparent tool or rubric that provides ranges of disciplinary actions for different types of misconduct.

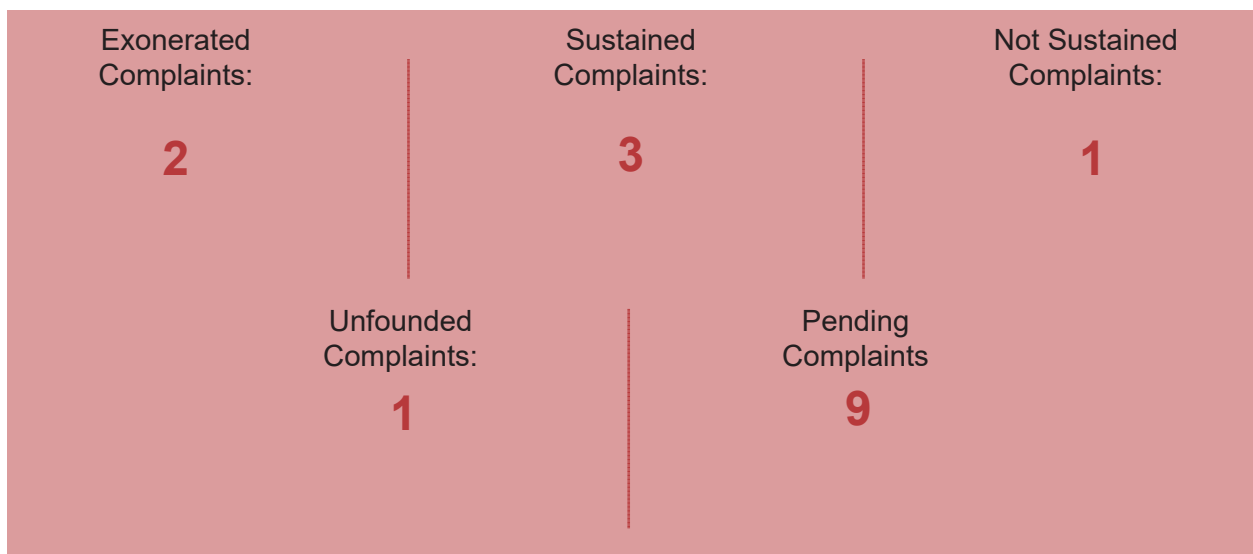
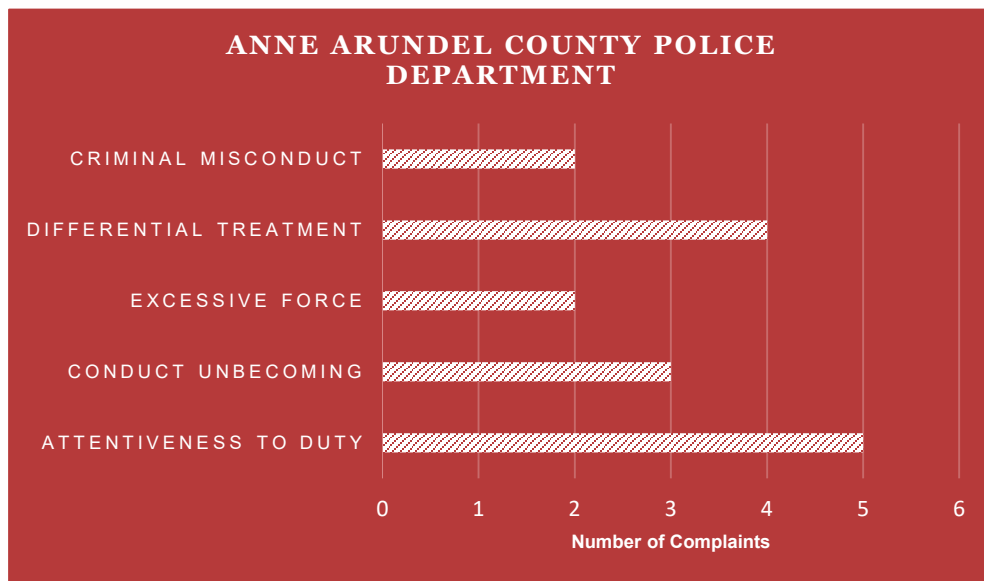
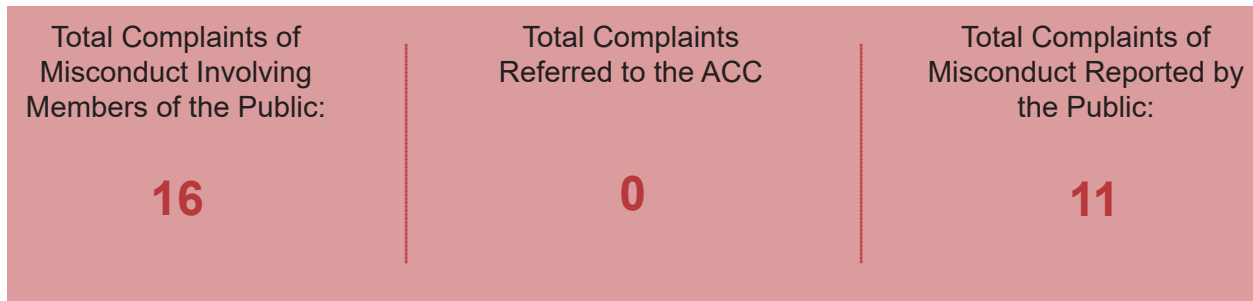
Exonerated means that a police officer acted in accordance with the law and agency policy.

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 Constitution or laws of the State or the United States;
- a violation of a criminal statute; and
- a violation of law enforcement agency standards and policies.

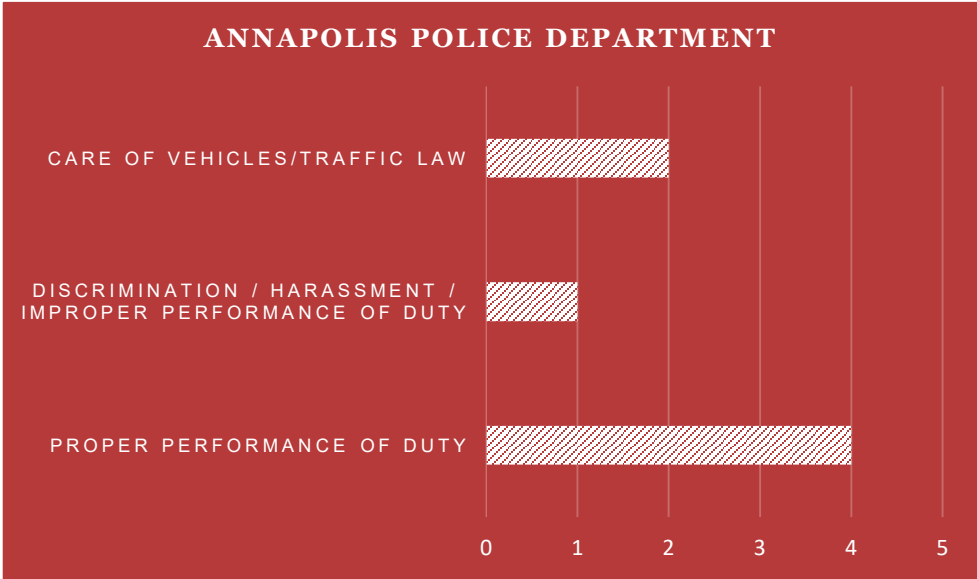
Sustained means all or part of the alleged misconduct, as set forth in a complaint to the law enforcement agency occurred based on a preponderance of the evidence presented.

Unfounded means that the allegations against a police officer are not supported by fact.



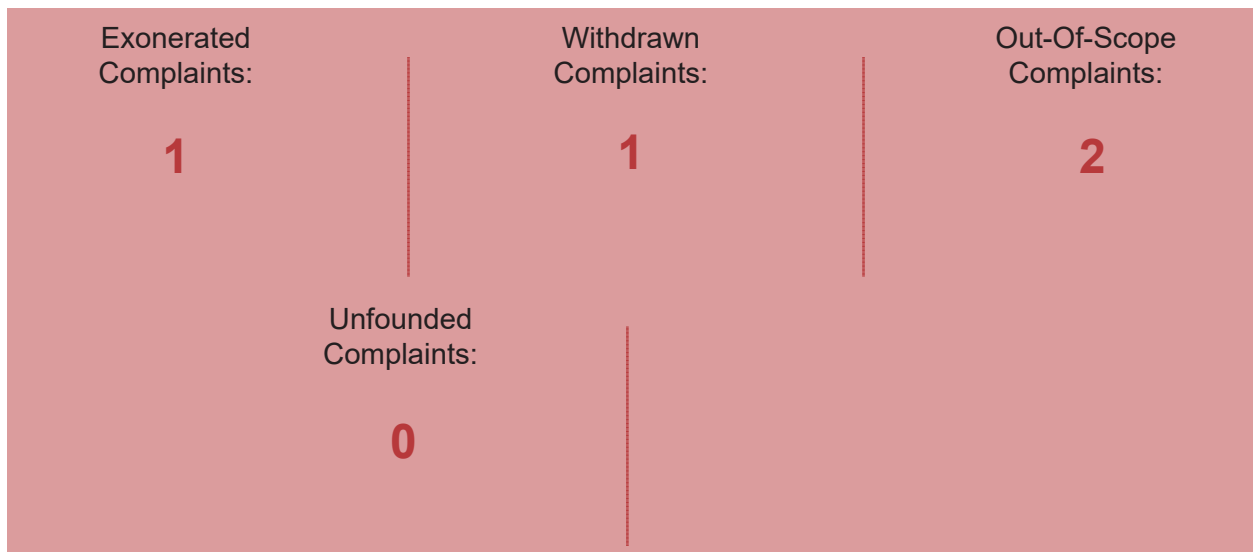
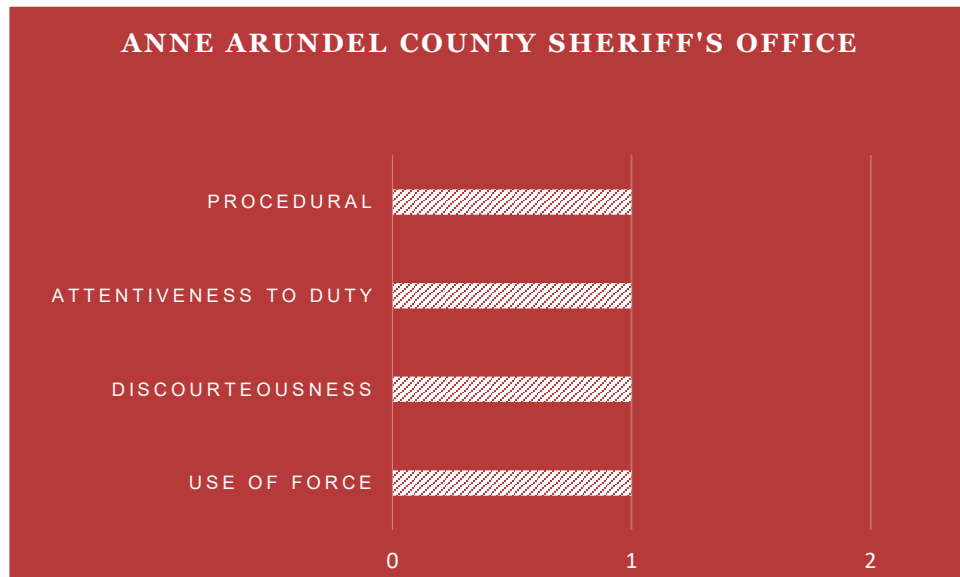
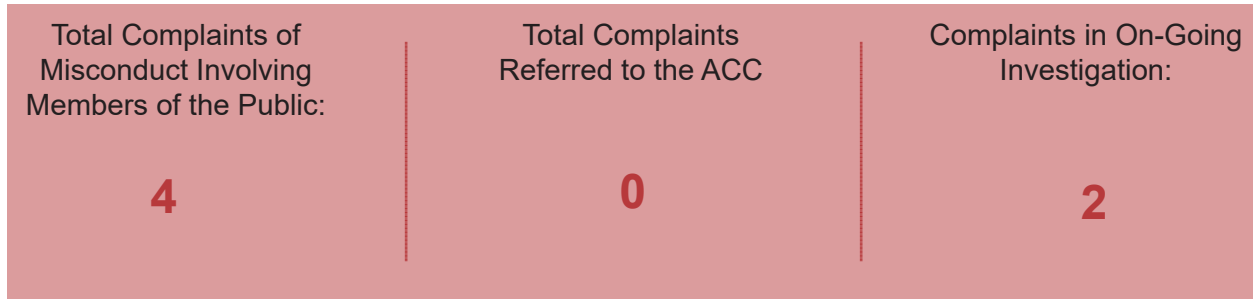
Investigative classifications of allegations of misconduct involving an interaction between a sworn police officer and a member of the public.

Date Range:
July 1, 2022 to November 30, 2022



Investigative classifications of allegations of misconduct involving an interaction between a sworn police officer and a member of the public.

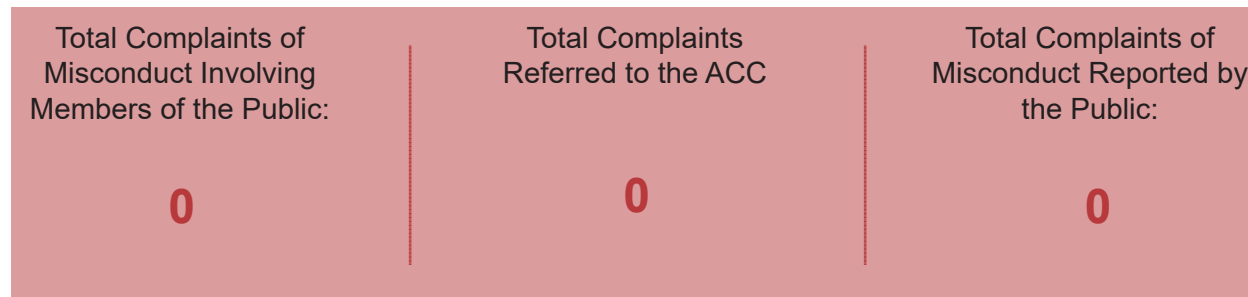
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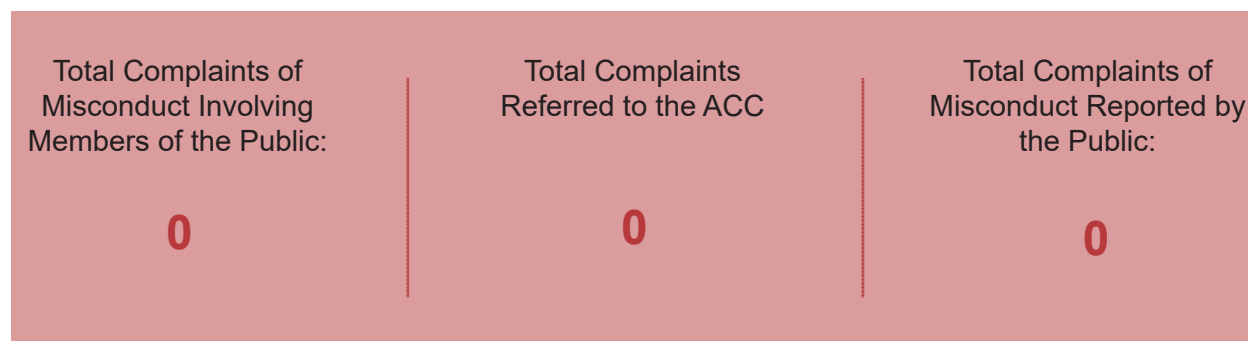
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Date Range:
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Anne Arundel Community College Public Safety and Police



Crofton Police Department



Investigative classifications of allegations of misconduct involving an interaction between a sworn police officer and a member of the public.

Date Range:
July 1, 2022 to November 30, 2022

Disciplinary Process Trends

For future Annual Reports, this section will be used to discuss any trends in disciplinary actions, but at this time there is insufficient information to report any trends. Instead, we want to present the baseline as a new State-wide Police Disciplinary matrix was created to coincide with the new laws.

In order to protect the collective integrity of a law enforcement agency, all matters that may result in discipline shall be imposed pursuant to the Statewide Police Disciplinary Matrix as responsive measures to an officer's sustained violation of an agency's policy or other police misconduct.

Generally, each sustained misconduct violation shall be considered separately for the purpose of recommending and imposing discipline. However, when multiple violations arise from the same incident, a determination may be made that the most effective manner to address discipline in the case is to consolidate violations into one form of discipline.

Discipline is imposed for first violations and may follow a progressive course for repeat or increasingly serious offenses. Furthermore, the imposition of discipline shall not be influenced by the high- or low-profile nature of the incident.

The Statewide Police Disciplinary Matrix includes a breakdown of six different categories of violations, labeled A through F, with A as the lowest level of discipline and F as the highest. Each category is defined, along with example violations. Three penalty levels are included in each category which are based on the number of similar violations in a specified period of time. A disciplinary range is then used for assessing the recommended discipline to the ACC. Based on aggravating and/or mitigating factors, the disciplinary range can increase or decrease upon review of the totality of the circumstances surrounding the sustained violation.

Factors Influencing Discipline

Mitigating and aggravating factors surrounding a violation may increase or decrease the discipline. Those factors will be considered within the disciplinary range for a specific category.

Disciplinary Ranges

The range of disciplinary penalties within the Statewide Police Disciplinary Matrix includes:

A formal written counseling: A form of counseling given to employees who have violated an agency's policy. Formal Written Counseling, the least severe form of disciplinary action, serves as a warning for violations. Further violations of same or similar conduct may result in more severe discipline. A copy of the formal written counseling shall be placed in the officer's disciplinary file.

A letter of reprimand: A formal letter to an officer from the agency which details the officer's wrongful actions and states their actions have been deemed inappropriate or unacceptable. Further violations of same or similar conduct may result in more severe discipline. A copy of this letter shall be placed in the officer's disciplinary file.

Loss of leave: Removal of leave from officer's accrued leave total (vacation, personal). Loss of leave shall be determined in hours.

Suspension and loss of pay: Suspension from duty without pay.

Demotion.

Termination.

No Discipline: No formal discipline is imposed.

Recommendations to Improve Police Accountability in Anne Arundel County

ISSUE: Forwarding Complaints of Police Misconduct to the PAB

The State law allows for members of the public to submit complaints of police misconduct to a county PAB or to the law enforcement agency that employs the police officer alleged to have committed the misconduct. The law requires all PABs to forward complaints of police misconduct received from members of the public to the law enforcement agency that employs the officer alleged to have committed the misconduct within three days for investigation. However, there is no similar requirement for law enforcement agencies to inform PABs when the law enforcement agency receives a complaint alleging misconduct from a member of the public. This results in a PAB being unaware of complaints until it conducts its review of outcomes of matters considered by the ACC subsequent to final disposition of the complaints. In Anne Arundel County, the County Council passed Bill 16-22 which includes language also requiring a law enforcement agency to forward complaints of police misconduct from members of the public to the PAB within three days to help ensure that the PAB can remain apprised of the status of investigations. However, this is not the case in all 24 jurisdictions in the State.

Recommendation #1: Amend the State law to require law enforcement agencies to inform the relevant PAB when complaints alleging police misconduct are received from members of the public, while remaining compliant with relevant Maryland Public Information Act provisions and not compromising the integrity of active investigations.

Recommendation #2: Create a uniform complaint process for the five law enforcement agencies to utilize when submitting complaints to the PAB. Such a process must utilize technology for optimal success as this will allow for tracking and accountability. More specifically, the PAB recommends a technological approach that allows each police department to enter the relevant information into a database, portal, or platform that will allow for instant submission of complaints. Such a process will also allow for disaggregation of data.



Recommendations to Improve Police Accountability in Anne Arundel County

ISSUE: PAB and ACC Eligibility Requirements

The MPTSC's regulations at .03D(1)(b) and .04D(1)(b) allow local jurisdictions to restrict membership on PABs and ACCs to "legal residents or citizens of the United States." Clarity and guidance needs to be provided on how Counties should construe the term "legal resident." Does it mean permanent resident aliens that possess "green cards"? Does it also include individuals seeking asylum protections or individuals here under the Deferred Action for Childhood Arrivals (DACA) program?

Recommendation: Amend COMAR or provide baseline guidance clarifying the reference to "legal resident." In addition, any amendments or additional guidance should not conflict with the Maryland Police Accountability Act of 2021 doesn't encroach on local jurisdictions' appointment practices or discourage consideration of diverse candidates.



Recommendations to Improve Police Accountability in Anne Arundel County

ISSUE: ACC Fitness Requirements

Under the proposed MPTSC regulations at .04D(1)(d), any local jurisdiction may limit its ACC members to persons of “good moral character.” The initial “emergency regulation” defined “good moral character” as “an individual’s behavior, habits, and actions may generally be regarded as being: (a) Honest, ethical, candid, trustworthy, diligent, and fair; (b) Respectful of the law and committed to the administration of justice; and (c) Observant of the rights of other individuals.” At its meeting on September 21, 2022; however, the MPTSC voted to remove the definition of “good moral character” from the regulation. Whether defined or not, a “good moral character” criterion is both vague and dependent on the subjective perspective of the appointing official or officials. It is not difficult to envision scenarios under which terms potential ACC candidates are excluded from applying based on involvement with certain organizations or causes or any life experience deemed not of “good moral character.” Potentially under such criterion, an individual’s criminal history, including a mere arrest without subsequent conviction, social media presence, history of involvement in civil lawsuits, personal or professional associations, or past participation in lawful First Amendment activities could form the basis for preventing someone from joining an ACC. In addition, at .04D(2) of the regulations, local jurisdictions are permitted to exclude an individual from appointment because either the individual “is under criminal investigation by a law enforcement agency,” “charged with a crime pending before a court,” or “has been convicted of, or has received probation before judgment for a felony or misdemeanor for which a sentence for one or more years could have been imposed.” Thus, an individual’s criminal history could bar that person from ACC eligibility even absent any conviction. Likewise, an otherwise eligible applicant could or would be precluded from applying even if there is evidence of rehabilitation after conviction. The “fitness” requirement in the regulations frustrates the very purpose and reason for the PAB and ACC’s creation - to empower civilian oversight of policing in order to investigate and adjudicate civilian complaints of inequities in policing and disparate treatment faced by people of color. This “fitness” requirement could effectively remove from consideration those persons of racial or ethnic groups who historically have experienced disparate treatment by the criminal justice system. The work of an ACC may actually benefit from the insight of those with lived encounters with the criminal justice system, which may be why the legislation creating the ACC does not contain such limiting membership rules. In sum, the referenced eligibility criteria risks undermining the very purposes of the legislative reforms intended to address inequities in policing and law enforcement.

Recommendation: The MPTSC should amend COMAR or promulgate supplemental regulations to allow individuals with a criminal history, under criminal investigation, or charged with a crime to be considered for service on an ACC. It is understandable if the MPTSC sets parameters around such allowances, but a local jurisdiction should not be able to wholly exclude such individuals.

Recommendations to Improve Police Accountability in Anne Arundel County

ISSUE: Tolling for “Garrity Rights” - The 5th and 14th Amendment Privileges and Criminal vs. Administrative Investigations

In *Garrity v. New Jersey*, 385 U.S. 493 (1967), the Supreme Court held that law enforcement officers and other public employees have the right to be free from compulsory self-incrimination. While law enforcement officers can be compelled to make statements in the course of an administrative investigation, any compelled statements cannot be used in a criminal proceeding. In order to prevent a 5th Amendment violation incurred in the course of an administrative investigation from tainting any criminal proceedings, law enforcement agencies bifurcate criminal and administrative misconduct investigations and only take administrative action once all criminal proceedings have concluded. Failing to do so can result in coerced statements obtained in an administrative investigation being used in a criminal case and causing the criminal case to be dismissed, as happened with the Tavel case in Annapolis. The LEOBR contained a tolling provision to account for the necessity of conducting criminal investigations and proceedings first; however, the new State law contains no similar tolling provision and requires that a determination of whether to administratively charge an officer be made within a year and a day of a complaint being made. This may result in instances where an officer is not administratively charged within the statute of limitations, as criminal cases may take more than a year and a day to investigate and resolve through the judicial system if criminal charges are filed.

Recommendation: Amend §3-113 of the Public Safety Article, Annotated Code of Maryland to allow for administrative charges to be recommended beyond 1 year and 1 day when criminal proceedings prevent that deadline from being met.

Recommendations to Improve Police Accountability in Anne Arundel County

ISSUE: Prior Officer Disciplinary History

HB670 contained uncodified language in Section 8, explicitly providing that the investigatory and disciplinary process established by §3-101 et seq of the Public Safety Article, Annotated Code of Maryland “shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to...a disciplinary matter against a law enforcement officer based on alleged misconduct occurring before the effective date of this Act July 1, 2022.” This language is unambiguous in that any alleged misconduct that occurred prior to July 1, 2022, is not subject to investigation and discipline through the new process. HB670 also delegated responsibility for developing a uniform disciplinary matrix to the MPTSC. The Statewide Police Disciplinary Matrix provides a structure “for law enforcement agencies to apply disciplinary standards in a fair, equitable and consistent manner statewide.” It also provides a range of discipline for various types of violations, and each violation permits certain mitigating and aggravating factors to be considered in determining the appropriate discipline for a violation. Such aggravating factors may include “[a] police officer’s prior disciplinary history... [and a] police officer’s prior negative work history, including non-disciplinary corrective action.” Mitigating factors may include “[a] police officer’s lack of disciplinary history...[a] police officer’s complimentary work history...[a] police officer’s prior positive work history...[and a] police officer’s exposure to unusually serious workplace tensions and stressors.” It is unclear from the plain language of the law and the regulations whether work and disciplinary history prior to July 1, 2022 may serve as mitigating or aggravating factors in determining discipline for a violation that constitutes misconduct and occurs after July 1, 2022, especially when the law authorizing the MPTSC to promulgate such regulations did not take effect until July 1, 2022. Furthermore, under Anton’s Law, which changed the provisions of the Maryland Public Information Act MPIA as to what constitutes a personnel record, prior disciplinary history may be a matter of public record, and it would seem illogical that such publicly accessible information could not be factored into a determination of discipline. Finally, the lack of clarity likely increases the probability that an officer accused of misconduct may opt for a trial board or appeal a trial board decision to the circuit court if a disciplinary recommendation from an ACC includes prior disciplinary history, or fails to include positive work history, prior to July 1, 2022 as a factor, thus increasing both the cost to police departments and their superior governmental authorities.

Recommendation: Amend §3–105 of the Public Safety Article, Annotated Code of Maryland to clarify that disciplinary history or lack thereof, complimentary or positive work history, and exposure to unusually serious workplace tensions and stressors, prior to July 1, 2022, may be considered by the ACC.

Recommendations to Improve Police Accountability in Anne Arundel County

ISSUE: Community Education

Community education is important to the work of the PAB and the implementation of the new laws. It is evident that many in the community, including police officers, do not understand the role of the PAB. The PAB will not be successful if the community and stakeholders do not have a clear understanding of the various roles and responsibilities in accordance with the new law. This includes education on the PAB, ACC, and Trial Board process. While the PAB will continue to educate the community, there must be collaboration with the County as it relates to educating County employees.

Recommendation: The County should provide training and professional development to relevant County employees, including law enforcement.

