TALBOT COUNTY
POLICE ACCOUNTABILITY BOARD

MITCHELL S. ETTINGER, Chairman
MICHAEL BIBB, Commissioner
JOHN GILBERT, Commissioner
JO ANN MURRAY, Commissioner
CHRIS RICE, Commissioner
CONNIE A. WEBSTER, Commissioner
GUGY IRVING, Commissioner

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December 20, 2023

The Honorable County Council of Talbot County
Talbot County Courthouse
11 North Washington Street
Easton, Maryland 21601

Re: Police Accountability Board Annual Report

Dear Council Members:

With the conclusion of our first year as a fully constituted Police Accountability Board ("PAB"), I am pleased to submit the required annual report. When appointed as Chairperson of the PAB in August 2022, I requested an introductory meeting with the leadership of each Law Enforcement Agency ("LEA") within the PAB's jurisdiction. At those meetings, the respective law enforcement leadership expressed concerns regarding the substance of the newly enacted legislation giving rise to the PAB and the Administrative Charging Committee ("ACC") and doubt as to whether the PAB and ACC would be able to provide meaningful service to the residents of Talbot County. The principal stated concerns centered on the ACC. Specifically, the LEAs questioned the wisdom of citizen oversight of complaints alleging police misconduct and the ACC's determination of whether administrative charges and discipline are appropriate. The LEAs also expressed concern that the demands placed on them by the PAB and the ACC may prove to be extensive and disruptive to their other assigned responsibilities. This latter concern was expressed both in terms of labor-hour commitments and attendant cost.

My colleagues and I worked hard during 2023 to allay the concerns expressed by the LEAs and form a constructive and collegial working relationship. With respect to the PAB, we met with the LEAs on a quarterly basis. The first two meetings provided a forum for the participants to express their perspectives regarding subject matters that each would like to address either on a regular or ad hoc basis. For example, the PAB made clear one of its principal interests is "use of force" reports, which the LEAs now submit on a quarterly basis. The PAB appreciated the LEAs concern regarding the demands placed on the agencies through document and statistical requests. As a result, the PAB issues a proposed agenda at least two weeks in advance of the quarterly meeting,

providing time for the LEAs to compile the requested materials. By the fourth quarter of 2023, a good cadence was established between the PAB and LEAs, and our meetings have been productive.

With respect to the ACC, the LEAs most certainly will maintain that they did not (and do not) need citizen oversight to exercise proper review and disposition of citizen complaints. That said, we do believe that the ACC has established credibility with the public and the LEAs through the issuance of fifteen (15) well-reasoned and supported opinions. As you will see from the enclosed report, the ACC often agreed with the LEA's recommendations but, at times, elected to proceed on a different path. Specifically, on two (2) occasions, the ACC elected to administratively charge the officer for policy violations not contemplated by the LEAs and, on another, the ACC elected not to charge an officer even though the LEA recommended administrative charges. We are pleased to report that no police officer requested a trial board in 2023.

The PAB has included in its report recommendations for the Council to consider, which are based on our own analysis and observations as well as input provided by the LEAs. The PAB continues to grapple with its mandate in an effort to determine how best it can serve this community. We would welcome suggestions from the Council in this regard. I would be happy to appear before the Council to answer any questions or receive any feedback it may have with respect to the PAB or the ACC.

With warm regards for a happy and healthy holiday season,

Mitchell S. Ettinger
Chair, Talbot County Police Accountability Board

cc: Chief Allan Lowry
Chief Jeffrey A. Oswald
Chief Eric Kellner
Sheriff Joseph J. Gamble

POLICE ACCOUNTABILITY BOARD
ANNUAL REPORT-2023

PAB Members

The County Council of Talbot County appointed a Chair and six Commissioners to serve on the Police Accountability Board, which is supported by the Talbot County Office of Law. Listed below are the bios of the PAB members and the legal staff that assists it:

Mitchell S. Ettinger-Chair (2022-2027)

Mr. Ettinger is a retired attorney, having worked as an Air Force prosecutor and then as a white-collar criminal defense attorney. Mitch and his wife, Carrie, live in St. Michaels, where he is active in the community. Mitch is an assistant coach for the men's varsity basketball team at St. Michaels High School; leads walking tours of St. Michaels for the benefit of the St. Michaels Museum; and heads the St. Michaels Dog Park Committee.

Michael Bibb-Commissioner (2022-2025)

Mr. Bibb was born and raised in Maryland. He had an early career as a firefighter/ paramedic and worked in Prince George's County as a community development officer/inspector for HUD. He moved to the Eastern Shore in 2006, when work brought him to St. Michaels. He came to know and love the community as his new home. He met his wife here and they bought and rehabbed their forever home in 2011. During two terms as a Commissioner for the Town of St. Michaels, he accomplished many personal goals that have translated into advanced knowledge, skills and networking that impacted his quest for positive change for the future of St. Michaels. Mr. Bibb is now retired and serving his community through volunteer activities.

John Gilbert-Commissioner (2022-2026)

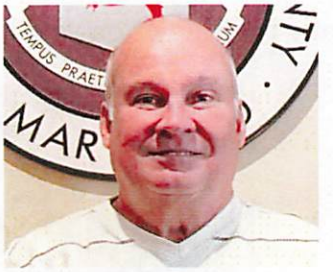
Mr. Gilbert is a service-oriented leader who has dedicated himself to being a change agent, improving processes, motivating his colleagues, developing people and cultivating relationships. In both the private and public sectors, he has implemented or been a part of the implementation of mediation and discipline reviews for personnel. John holds Bachelor of Science degrees in Engineering and Engineering Technology and is a graduate of the Executive Program for Government Leaders. Prior to his commitment to Federal Service, he worked in the fast-track architectural/engineering industry where he cultivated his leadership skills. He has been a leader at several firms that support the municipal and the public sector in the United States and abroad including forward areas. John is a Professional Coach in the Treasury's Executive Institute where he advises senior leaders. In his spare time, John is an audio sound engineer, youth mentor, and long-distance cyclist. He currently lives in Easton with his wife.

Gugy Irving III-Commissioner (2022-2025)

Mr. Irving is a native of Talbot County. He graduated from elementary school in Easton before attending prep school in Virginia and undergraduate college in upstate New York. He served in the United States Air Force for 20 years before retiring as a Lieutenant Colonel. His many roles as an Air Force officer included service as a squadron commander and director of human resources. He is a law school graduate and member of the Maryland and District of Columbia bars and has worked as a court-appointed federal defender in criminal matters. His volunteer activities include service to the Red Cross, school boards, Habitat for Humanity, local food banks, the Historical Society, the Navy League, and the Talbot Ethics Commission.

Jo Ann Murray-Commissioner (2022-2024)

Ms. Murray, a native of the Eastern Shore, is a retired Family Law Magistrate. She received her Bachelor's Degree from Lincoln University, a Master's of Social Work from the University of Pittsburgh, and a Juris Doctorate from Duquesne University. Prior to becoming a Magistrate, she worked for Legal Aid, Caroline County's Office of the State's Attorney, and Caroline County's Office of the Public Defender, and she practiced privately for a number of years in Caroline and Talbot Counties. She resides in the Bay Hundred with her husband who is retired from the Maryland State Police and has more than 40 years' experience in law enforcement related employment.



Chris Rice-Commissioner (2022-2024)

Mr. Rice retired from the U.S. Customs and Border Protection ("CBP") in 2020 after more than 20 years of service as a U.S. Customs Inspector and CBP Officer. The latter part of his career was spent in Washington, D.C. at CBP Headquarters as a Firearms and Use of Force Program Manager. As part of these responsibilities, he was assigned to workgroups tasked to address a variety of issues, including the development of agency use of force policy and procedures and the establishment of a use of force review board. Prior to Mr. Rice's service to the CBP, he served as an infantry officer in the United States Marine Corps.

Connie Webster-Commissioner (2022-2026)

Mrs. Webster is a longtime resident of Talbot County who has spent more than 40 years as a teacher and administrator in education. She earned a Bachelor degree from William Paterson University and a graduate degree from Wilmington University and has taught at schools in New Jersey, Rhode Island and Maryland throughout her career. The bulk of her career was at Saints Peter and Paul Elementary School in Easton where she spent 32 years as a teacher and longtime administrator aiding the school as it grew throughout the years. She has been active in other organizations where her administrative expertise has been beneficial. She resides in Easton with her husband who is on the faculty of the University of Maryland.

Legal Counsel and PAB Secretary

Since May 4, 2021, the County has contracted with MacLeod Law Group, LLC to provide County Attorney services. Patrick Thomas serves as the County Attorney, and Rebecca Guay serves as an Assistant County Attorney. The County's Office of Law Manager, Victoria Bradley, is a county employee and serves as Secretary to the PAB.

Patrick W. Thomas

Mr. Thomas, a native of Talbot County, is a 1997 graduate of Easton High School, a 2001 graduate of the University of Maryland – College Park (B.A., Criminal Justice), and a 2004 graduate of the University of Baltimore School of Law. Mr. Thomas' practice specializes in local government law. Mr. Thomas resides in Easton with his family.

Rebecca M. Guay

Ms. Guay grew up in St. Michaels and returned to the Eastern Shore in 2007 following her college and graduate educations, as well as several moves as a military family. Ms. Guay is a 1996 graduate of the University of South Carolina, a 2001 graduate of the American University School of Public Affairs earning a Master of Public Policy, and a 2022 Magna Cum Laude graduate of the University of Baltimore School of Law.

Victoria Bradley

Ms. Bradley is the Law Office Manager for Talbot County. Her primary duties include managing the receipt of and response to PIA requests and serving as Secretary to the Liquor Control Board, the Police Accountability Board, and the Administrative Charging Committee. Ms. Bradley is a native of Dorchester County and a 2014 graduate of Chesapeake College with an Associate's Degree in Paralegal Studies.

2023 PAB Activities

As the PAB is a new legislative creation, it was necessary to adopt rules of procedures and processes. At its first meeting on January 10, 2023, the PAB considered and adopted Rules of Procedure which govern the Board's actions. (Exhibit A). At that meeting, the Board also adopted a process for handling citizen allegations of police misconduct. (Exhibit B).

A special meeting of the PAB convened on January 24, 2023, to interview prospective candidates for the two remaining Administrative Charging Committee ("ACC") positions. The PAB interviewed six candidates and at its meeting on February 14, 2023, appointed Wala-Neh Labala and Gregory Wilson to the ACC.

Another preliminary obligation of the PAB was to select Trial Board members and to ensure each person so designated received the required training. The PAB selected three of its members to serve in this capacity – Mr. Bibb, Ms. Murray and Mr. Gilbert. In July, they attended Trial Board Training offered through The Maryland Police Training and Standards Commission. The training focused on the analysis required to determine whether the alleged police conduct violated the law or an existing Law Enforcement Agency ("LEA") policy or regulation. The training underscored the importance of having clear and unambiguous policies.

Meetings with Law Enforcement Agencies

As required by the enacting legislation, the PAB met with the LEAs quarterly during 2023. The four meetings were well attended and typically lasted more than 90 minutes. Representatives from the Talbot County Sheriff's Office, the Easton Police Department, the St. Michaels Police Department and the Oxford Police Department participated in these meetings. The PAB published its agenda in advance of each meeting, identifying the issues it wished to address, and the documents it requested to see in advance of the meeting. At the outset, the PAB advised the LEAs of its desire to be constructive in its role and, where possible, to assist law enforcement. There is

sincere skepticism by both the members of the PAB and the LEAs whether this objective is attainable. Recognizing that challenge, the PAB has worked hard this year to develop a collegial working relationship with the LEAs and to explore ways to provide meaningful and constructive feedback.

The LEAs have cooperated fully with the PAB and worked to implement an organizational cadence that provides adequate time to submit and review materials requested from the LEAs. Such coordination has resulted in more meaningful exchanges during the quarterly meetings. To provide the Council with a sense of the breadth of the issues discussed at the PAB meetings, the minutes from each of the four meetings held with the LEAs are attached hereto as Exhibit C.

As may be expected given the nascent nature of the enacting legislation, early meetings were focused on the roles of the PAB and the ACC. One of the key topics for the PAB is use of force by Talbot County LEAs. The PAB has requested all use of force reports to determine if there are practices that require review or reconsideration. As explained below, the PAB has no current concern regarding the use of force by the LEAs under its purview.

Much discussion also centered on the breadth of the ACC's role. We have addressed such topics as whether the ACC is in a position to discern whether a traffic stop, search and seizure, or arrest was made with adequate probable cause. The concern expressed by the LEAs is that the ACC would supplant the court's role in making these determinations. The ACC did resolve citizen complaints raising such issues this year without need to address the underlying legal issues, which were left for the courts to decide.

The LEAs expressed concern that the enacting legislation requires ACC disposition with a year and a day of the filing of a citizen's complaint and that, in the face of a concurrent criminal investigation, may preclude administration action. This is an issue that should be addressed by the legislature to ensure that LEAs preserve their ability to discipline officers in the context of a criminal investigation.

The LEAs also expressed concern that the ACC is not experienced in law enforcement and therefore may not appreciate the difficult tasks and competing interests its officers face on a daily basis. Although the PAB agrees that laypersons may not have the same perspective as law enforcement officers, the breadth of the ACC's members' life experiences across many disciplines makes them an effective safeguard for the oversight of police-citizen interactions. The PAB received a briefing by Mr. Ettinger on the ACC dispositions and is confident that the ACC is well positioned to perform as the legislature intended. We also believe that there is a growing confidence, albeit reluctant, on the part of the LEAs that the ACC is serving in a fair and impartial manner.

Administrative Charging Committee

The Council appointed Jennifer Williams and Constance Hope to the Administrative Charging Committee ("ACC"). Mr. Ettinger, as Chair of the PAB, elected to participate as a member of the ACC. As noted above, the PAB interviewed six candidates to fill the final two positions on the ACC and ultimately selected Wala-Neh Labala and Gregory Wilson. Mr. Labala is a licensed clinical social worker and currently works as a mental health therapist. He earned a Bachelors and Master's degree in social work and is pursuing his Doctoral degree. Mr. Wilson is a Navy veteran and currently is a federal civil servant. While in the Navy, Mr. Wilson served on numerous disciplinary boards charged with responsibility for investigating both criminal and civil allegations. The expertise and life experiences that Messrs. Labala and Wilson bring to the ACC has proven to be insightful.

Between April 3-7, 2023, all members of the ACC attended the State-mandated training course offered through the Maryland Police Training and Standards Commission. During this five-day course, the ACC members learned about the origin of the Maryland law creating the ACC, the statutory framework provided by the Maryland legislature, and the processes through which qualified complaints are to be fielded, deliberated and resolved. The training also included in-depth analysis of the particular findings the ACC is authorized to make and the discipline it may impose under the Statewide Police Disciplinary Matrix Resource Guide. The group worked together on hypothetical fact scenarios and complaints, providing each participant the opportunity to express his or her opinions and to discuss any differences in perspectives. Finally, the training concluded with virtual shoot/no shoot scenarios that are designed to assist ACC members in appreciating the many variables and unknown risks facing law enforcement every day. The ACC used the training sessions to form a cohesive group that respects one another's views and, as a result, works constructively to arrive at well-reasoned outcomes.

The ACC's first meeting was held on April 29, 2023. At that meeting, the ACC elected Mr. Ettinger to serve as its Chairperson and Ms. Williams to serve as the Vice-Chairperson. It also approved Procedural Guidelines to govern its processes going-forward (Exhibit D). The ACC adopted protocols for Law Enforcement's submission of complaint investigations. In order to satisfy the 30-day disposition requirement established by Md. Code Ann., Pub. Safety §3-113, the ACC established a cut-off date of two weeks in advance of the next scheduled ACC meeting for submission of investigative files. In addition, the ACC limited the number of complaints to be addressed in any month to three. This limitation was adopted after the LEAs submitted six investigative files in one month, requiring in excess of 40 hours of review (e.g., investigative report, witness statements, and body-worn camera film), and the additional time required to draft the ACC's decisions. Exceptions to each of these guidelines was established for cases that have the potential to exceed the year and one-day jurisdictional limit. The LEAs agreed with this structure, and it has worked well throughout the year.

During 2023, fifteen (15) complaints and accompanying investigative files were submitted to the ACC for review and disposition. The Sheriff's office submitted ten (10) cases and the remaining five (5) complaints were submitted by the Easton Police Department. The allegations in the complaints generally centered on claims of unprofessional conduct in the course of a traffic stop or arrest. Twelve (12) of the complaints resulted in findings of either officer exoneration or

unfounded charges. Three (3) complaints resulted in the imposition of discipline, one of which was a letter of reprimand for an officer who acknowledged that he had driven his patrol vehicle in excess of the posted speed limit. In both of the other cases involving the imposition of discipline, the ACC disagreed with the recommended dispositions of the LEAs. The officers ultimately accepted the discipline recommended by the ACC and, as a result, there were no requests for a trial board during 2023. Finally, we note that in one case the LEA recommended that the officer be disciplined, but the ACC determined otherwise. The PAB tracks the ACC's dispositions. A chart summarizing the complaints submitted to the ACC in 2023 and the corresponding dispositions is attached hereto as Exhibit E.

The ACC's greatest challenge this year has been to gain the confidence of the LEAs. Although it is not an obstacle to fulfilling its statutory purpose, the ACC feels it important that the public *and the LEAs* have trust and confidence in the ability of the ACC to perform its duties in a fair and impartial manner. The PAB remains hopeful that this fundamental objective can be achieved through decisions that are well-reasoned, supported by evidence, and metered in disposition.

Discernable Trends in Law Enforcement

Call Volume

Talbot County LEAs track call volume but utilize different categorizations. For this reason, the data is not uniform across all agencies. Common categories include the following core police activities: responding to alarms, assisting other entities, handling emergency petitions, domestic calls, canine dispatches and execution of warrants. The LEAs also track in one form or another neighborhood checks, foot/bike patrols, traffic stops, citations issued, management of the County's sex offender registry, criminal complaints, Circuit Court security, and School Resource Officer deployment. The majority of the activity, as expected, emanates from the Talbot County Sheriff's Office and the Easton Police Department. For example, through November of this year, the Easton Police Department fielded approximately 24,000 calls for service, including more than 450 dispatches to assist first responders.

Arrests

Arrests in the County stem principally from allegations of theft, second degree assault, possession or distribution of a controlled dangerous substance, fraud and malicious destruction of property. The Sheriff's Office reports having made 287 arrests during this calendar year. Nearly half of those arrests pertain to drug offenses while violent crimes accounted for approximately 10% of the arrests. Through November, the Easton Police Department reports having made 458 arrests. Violent crimes, including two murders, and property thefts accounted for the vast majority of those arrests. Year-to-date, the St. Michaels Police Department reports a total of 47 arrests with nearly half of those offenses arising from the operation of a motor vehicle. Only two arrests in St. Michaels pertained to a crime of violence. The PAB will compare the arrest statistics submitted by the LEAs on a year-to-year basis to determine if there are any discernable trends in crimes committed in Talbot County.

LEA Recruitment and Retention

The LEAs report that recruitment and retention remain challenges across all agencies. The smaller departments in St. Michaels and Oxford face different challenges than the Sheriff's Office and the Easton Police Department. The smaller police departments are located in relatively low crime areas, have fewer personnel requirements and therefore a corresponding lack of on-the-job training and promotion opportunities. As a result, attracting and keeping younger officers is a continuing challenge. Both the Sheriff's Office and the Easton Police Department report that, although each has numerous applicants, few ultimately meet the qualifications and/or graduate from the academy. Notwithstanding these challenges, the LEAs appear to be able to maintain sufficient staffing levels to support effective operations.

Notably, all four agencies maintain websites with current recruiting and hiring information readily accessible to potential candidates. The Oxford Police Department currently has a staff of two officers and its Chief. Oxford has one open officer vacancy, which it is seeking to fill. The St. Michaels Police Department currently has seven full-time officers, including its Chief, and has two open officer positions that it hopes to fill in the near term. The Easton Police Department has an authorized strength of 48, with five current vacancies. Eight of its officers are in non-operational status (recruits/restricted duty), resulting in a genuine challenge to meet the community's needs. The Sheriff's Office reports challenges with recruiting as neighboring state and county agencies have increased starting salaries and thereby creating a "bidding war" for personnel across our region. The Sheriff's Office currently employs 43 sworn deputies.

Use of Force Reports

Use of force by law enforcement officers has been a focus of this PAB. Each LEA within the County has a policy setting forth when and what force may be utilized by officers and the considerations that they must consider when electing to use force. *See e.g.*, Talbot County Sheriff's Office Policy Manual §300. We are pleased to report that there have been relatively few instances during 2023 when law enforcement officers in the County determined that use of force was required to perform their duty effectively. Given the extensive interaction between the police and the public, it is remarkable that on only ten (10) occasions officers resorted to use of force (Sheriff's Office – six (6), Easton Police Department three (3) and St. Michaels Police Department one (1).)

The PAB is aware of only one instance where the use of force was unreasonable. The ACC reviewed a Sheriff Deputy's decision to deploy pepper spray in an attempt to stop a juvenile who was improperly operating a mini-bike on a roadway. The ACC determined that it was unreasonable for the deputy to do so and imposed administrative charges, including recommended discipline of two days loss of pay. *See* ACC 23-002. The deputy accepted the recommended discipline and the Sheriff's Office revised its policy to make clear that deploying pepper spray on a moving motorist is inappropriate.

LEA Community Relations Activities

All four LEAs have active community relations programs, which can be seen on their respective websites. The PAB believes that these community interactions create trust and foster goodwill with County residents. Indeed, we understand that the LEAs plan to expand these

activities in the future. Each agency has developed a unique pathway to community relations. For example, the Oxford Police Department offers a Citizen's Police Academy and publishes a Quarterly Newsletter. The St. Michaels Police Department attends school giveaway events, hosts "Coffee with a Cop" community question and answer sessions, and speaks at various local events. The Easton Police Department is active in Special Olympics, job fairs and the Community Fun Day. The Sheriff's Office participates in the Drug Abuse Resistance Education ("DARE") program, provides resource officers to all Talbot County schools, offers a safety course for hunters as well as Narcan training, and is active in Talbot Goes Purple events. We note that these are only a few of the many activities sponsored by the LEAs. A full accounting of the breadth of community relations activities is readily accessible on their respective websites and in their annual reports.

Recommendations to Improve Police Accountability in Talbot County

The PAB offers the following recommendations for consideration by the County Council:

1. Public Safety Article §3-113 of the Maryland Annotated Code requires the ACC to dispose of cases within one year and one day after filing of the citizen complaint. In rare circumstances, there can be a concurrent criminal investigation into the conduct that is the subject of the complaint. The criminal justice system often requires more time than a year to bring a matter to disposition. In those instances, administrative discipline proceedings must give way to the criminal process. As a result, where the criminal process is protracted, the potential arises for the LEA to lose its authority to administratively discipline an officer. We recommend that the Council raise this issue with the state legislators and request a tolling of the time requirements in §3-113 during the pendency of a concurrent criminal investigation.

2. The creation of the PAB and ACC has resulted in additional administrative burdens being placed on the LEAs. Specifically, the PAB requires quarterly meetings with senior LEA officials, which are typically accompanied by document requests. In addition, the investigative reports submitted to the ACC are perhaps more detailed and time consuming to prepare than would otherwise be the case without ACC oversight. For these reasons, we recommend that the Council consider funding for an administrative person to address these additional demands placed on the LEAs. We note that the greatest burden is placed on the larger agencies.

3. The Juvenile Justice Reform Act, effective June 1, 2022, is perceived by the LEAs as counterproductive in that juveniles under the age of thirteen (13) committing a non-violent offense, as well as a child under ten (10) years of age, cannot be charged with criminal offenses in the juvenile justice system. The LEAs report that the law creates incentive for older offenders to employ young children in criminal activity, and results in young offenders not receiving the benefits available through the juvenile justice system. The PAB is not in position to confirm or adopt the perspectives presented by the LEAs, but recommends that the Council take steps to study this issue and make appropriate recommendations to the State legislators to address any perceived shortcomings created by the law.

4. The Town of Trappe currently has no police force and is patrolled by the Sheriff's Office. With the Lakeside development under construction, there will be a corresponding increase in residents. The PAB recommends that the Council consider different pathways to ensure adequate law enforcement coverage for this area, including potential additional funding to the Sheriff's Office if it is to continue to provide protective services to this township.

5. The PAB did not receive any citizen complaints during calendar year 2023. All such complaints were submitted directly to the LEAs which, in turn, advised the ACC of their existence. The PAB is considering how best to inform the public of its mission and duties, including service as a conduit for citizen complaints of police misconduct. We recommend that the Council also consider whether it can play a role in educating the public regarding the PAB mandate and its function.

6. The PAB members are interested in participating in training that will assist them in the performance of their duties. In this regard, the members have expressed interest in attending the ACC training and taking law enforcement education related classes offered on line. We would welcome efforts by the Council to assist the PAB members in gaining access to such training.

7. The PAB believes that Talbot County residents benefit from excellent law enforcement services, much of which likely goes unnoticed by its residents. Our law enforcement officers are asked to assist residents in all types of situations, some of which are dangerous and even life threatening. Although the ACC fields complaints of police misconduct, it simultaneously sees the difficult challenges facing the officers. In an effort to increase public awareness of the excellent service provided by the County's law enforcement officers, the PAB recommends that the Council consider adopting a periodic recognition program for excellent service (e.g., "Officer of the Quarter"). Such a program should foster goodwill with the community and educate the public regarding the benefit of having a professional police force.

8. The PAB provided courtesy copies of its report to the respective law enforcement agencies and leaves to the discretion of the Council whether to disseminate the report to other agencies or individuals.

Exhibit A

PAB Rules of Procedure

TALBOT COUNTY
POLICE ACCOUNTABILITY BOARD
RULES OF PROCEDURE

Pursuant to the Maryland Police Accountability Act of 2021 and Chapter 24 (Boards, Committees and Commissions), Article V of the Talbot County Code, the County Council of Talbot County (the "County Council") has established the Talbot County Police Accountability Board (the "PAB"). One stated purpose of the PAB is to receive complaints of police misconduct made by the public and process those complaints in accordance with State and County law. Specifically, the law mandates that the PAB shall (1) hold quarterly meetings with heads of law enforcement agencies ("LEAs") and otherwise work with LEAs and the county government to improve matters of policing; (2) appoint civilian members to the Talbot County Administrative Charging Committee (the "ACC") and trial boards; (3) receive complaints of police misconduct involving members of the public; (4) review outcomes of disciplinary matters considered by the ACC on a quarterly basis; and (5) submit an annual report to the County Council that identifies any trends in the disciplinary process of police officers in Talbot County and makes recommendations on changes to policy that would improve police accountability therein.

These Rules of Procedure ("Rules") are supplementary to those requirements set forth in Md. Code Ann., Public Safety § 3-101, *et seq.*, Code of Maryland Regulations ("COMAR") Title 12, Subtitle 4, Chapter 9, and Chapter 24, Article V of the Talbot County Code, each as may be amended from time to time.

I. Basis of Authority

1. Md. Code Ann., Pub. Safety § 3-101, *et. seq*
2. COMAR 12.04.09.01, *et seq.*
3. Chapter 24, Article V of the Talbot County Code

II. Meetings

1. Meetings of the PAB shall be conducted in accordance with these Rules. Additionally, Robert's Rules of Order shall serve as a guide for the efficient and professional conduct of PAB meetings; provided, however, that in the event of a conflict between these Rules and Robert's Rules of Order, these Rules shall control.

2. Meetings shall be conducted on the second Tuesday of each month at 8:30 a.m. in the Bradley Meeting Room, Talbot County Courthouse, South Wing, 11 North Washington Street, Easton, Maryland 21601, and/or remotely via secure video connection, as determined by the Chairperson. Additional meetings may be added at the discretion of the Chairperson. Agenda items requested by members shall be submitted to the Chairperson at least seven (7) days prior to the meeting, but may be considered for inclusion on the agenda by the Chairperson, at the Chairperson's discretion, if submitted less than seven (7) days before the meeting.

3. Quarterly meetings shall include the items set forth in (a) through (d) below; provided, however, that other items may be added as set forth in II (2) above.

   (a) Call to Order;

   (b) Approval of the Minutes from previous meeting(s);

   (c) Roundtable with Heads of Law Enforcement Agencies; and

   (d) Review Outcomes of Disciplinary Matters Considered by the ACC

III. Membership

1. The PAB shall consist of seven (7) voting members, including the Chairperson, the Vice Chairperson, and five (5) regular members. Changes in residency by any member shall be reported to the Chairperson as soon as practicable.

2. Chairperson. The Chairperson is appointed by the County Council and shall serve a term of five (5) years. The Chairperson shall preside over PAB meetings and shall have the following duties:

   i. Establish a written meeting agenda;

   ii. Call each meeting to order;

   iii. Invite discussion among members before voting;

   iv. Invite motions, seconds, and votes from members;

   v. Ensure that a record is kept of all PAB business; and

   vi. Serve as the PAB member of the ACC or select a designee thereto from the PAB's membership.

3. Vice Chairperson. The Vice Chairperson is appointed by the PAB. The Vice Chairperson acts and has the authority of the Chairperson during the Chairperson's absence; provided, however, that the Vice Chairperson is not authorized to serve as the PAB member of the ACC or select a designee thereto from the PAB's membership.

4. Regular Members. Regular PAB members may vote on any matter for which they reviewed the relevant evidence and were present, either in person or virtually, during discussion of the matter.

5. Quorum. A quorum shall consist of at least four (4) PAB members. No PAB business, to include consensus or voting, may be made without the presence of a quorum. When a quorum is present, a majority of those PAB members present may make a decision on any motion. A tie vote for or against a motion means that the motion fails.

IV. Responsibilities and Duties

1. Compliance with State and Local Laws.

   (a) Ethics Code. All PAB members are subject to, and shall comply with, Chapter 60 (Ethics) of the Talbot County Code. PAB members shall recuse themselves from participating in a matter in which they may have a conflict of interest or an appearance of a conflict of interest. Additionally, the Ethics Code requires annual submission of a Financial Disclosure Statement.

   (b) Open Meetings Act. Open and closed PAB meetings shall comply with the Maryland Open Meetings Act. All PAB members are encouraged to receive training on the Open Meetings Act and provide a copy of the certificate of completion to the Secretary.

V. Staff

The PAB shall have administrative and legal staff assigned to assist the PAB in carrying out its duties, as follows:

1. PAB Secretary. The Secretary provides administrative support to the PAB, including, but not limited to:

   a. Attending all meetings and hearings;

   b. Scheduling meetings per the direction of the Chairperson;

   c. Tracking agenda items;

   d. Preparing the agenda for any meeting after approval thereof by the Chairperson;

   e. Posting of public meeting notices;

f. Drafting minutes of meetings for adoption by the PAB;

g. Creating and maintaining the official record of all proceedings, to include attendance of PAB members; and

h. Taking custody of, handling, and storing all decisions, orders, exhibits, evidence, notes, and recordings;

2. Legal Counsel. The County Attorney shall serve as legal counsel to the PAB. The duties of the PAB's legal counsel include:

   a. Attending all meetings of the PAB;

   b. Providing legal advice to the PAB ;

   c. Assisting with drafting the annual report; and

   d. Reviewing all official responses of complaints to or about the PAB.

VI. Public Participation

The public is entitled to observe the open session portions of PAB meetings. Public notice of the time, place, and date of PAB meetings shall be provided in accordance with the Open Meetings Act. Open session portions of PAB meetings shall be audio recorded. Public comments may only be permitted during a portion of the meeting designated to receive public comments. The public is not entitled to observe the closed session portions of PAB meetings, which are not recorded. Minutes of closed sessions shall be prepared; however, they shall not be released except upon:

1. A request from the Maryland Open Meetings Compliance Board when investigating a complaint regarding a closed session;.

2. A valid court order or subpoena; or

3. A vote in support of releasing the closed session minutes by no less than a majority of the entire PAB. This vote must be held in an open meeting.

VII. Approval and Amendment of Rules of Procedure

These Rules shall be approved, and may be amended from time to time, by a majority of the entire PAB.

VIII. Severability

If any provision of these Rules are held to be illegal or unenforceable in a judicial proceeding, such provision shall be severed and become inoperative. The remainder of the Rules shall remain in effect.

ADOPTED by the Talbot County Police Accountability Board this 10th day of January, 2023.

Mitchell Bittinger, Chair

Exhibit B

PAB Complaint Form

TALBOT COUNTY POLICE ACCOUNTABILITY COMPLAINT FORM

Pursuant to Talbot County Code §§ 24-16 (D&E), within three days of receiving a complaint alleging police misconduct, the Police Accountability Board (PAB) will forward the same to the appropriate law enforcement agency for investigation and recommended disposition. Complaints submitted to the PAB must be signed, but do not need to be notarized.

Below is the form to be used when submitting a complaint to the PAB. Informational fields marked with an * are *required* to be completed in order for the PAB to process the complaint.

Complainant's Name *	
Complainant's Residential Address *	
Complainant's Mailing Address *(if different than residential address)*	
Complainant's Contact Information *(Telephone number and/or e-mail address)**	
Date of Incident *	
Approximate Time of Incident	
Location of Incident *	
Law Enforcement Agency Involved*	
Name of Officer(s) *(if known)*	
Traffic Citation Number *(if applicable)*	
List any witness(es) *(name, address and contact information)*	

Are you filing this form on behalf of someone? ☐ **YES** ☐ **NO**

If yes, provide the name and address of the individual on whose behalf you are submitting this form*

Please provide as much detailed information as possible of the incident *:

Complainant's Signature[1]	
Date *	

[1]This request form may be signed electronically. Electronic signatures are deemed original signatures.

Submit completed request form to Office of Law, Courthouse, South Wing, 11 North Washington Street, Easton, MD 21601 or by email to VBradley@talbotcountymd.gov .

FOR OFFICE USE ONLY:

Date complaint received: _____

Date of Final Disposition: _____

Exhibit C

Minutes from PAB & LEA Meetings

TALBOT COUNTY, MARYLAND
POLICE ACCOUNTABILITY BOARD

Minutes of Public Meeting
February 14, 2023

The meeting of the Talbot County Police Accountability Board was called to order at 8:30 a.m. on Tuesday, February 14, 2023. Present were Chairman Mitchell Ettinger, Members Michael Bibb, John Gilbert, Jo Ann Murray, Chris Rice, Connie Webster, County Attorney Patrick Thomas, and Board Secretary Victoria Bradley.

I. Call to Order – Chairman Ettinger called the meeting to order and gave opening statements.

II. Minutes – Upon motion made by Mr. Bibb, seconded by Ms. Webster the minutes of the Tuesday, January 24, 2023 meeting were unanimously approved with corrections.

III. Appointment of Administrative Charging Committee ("ACC") – A motion was made by Mr. Bibb and seconded by Ms. Webster to appoint Wala-Neh Labala and Gregory Wilson to the Administrative Charging Committee for Talbot County. The motion passed unanimously.

IV. Introductions – Chairman Ettinger asked the Local Law Enforcement Agencies and Administrative Charging Committee members to introduce themselves.

V. Quarterly Exchange with Law Enforcement Agencies ("LEAs"):

1. Sheriff Gamble discussed Md. Code Ann., Pub. Safety ("PS") § 3-106, establishing a trial board process. The LEAs are waiting for the Maryland Police Training Commission to make training available for the hearing board process. There has been no trial boards for a long period, and the LEAs believe that a single consistent process adopted by all would result in best practices. The Maryland Police Training Commission is developing a model process and best practice policy that will serve as the template for Talbot County LEAs.

2. Sheriff Gamble and Captain Bollinger advised that their offices are in compliance with PS § 3-108, requiring the appointment of a victims' rights advocate to serve as the LEA contact with the public on matters related to alleged police misconduct. The complaint process is online and the complainant can access case materials when the LEA completes the investigation and makes it available. Captain Bollinger is their office's victim rights advocate. Chief Smith, head of the St.

Michaels Police Department, plans to adopt the same process and on-line system as the Sheriff's Office, but currently uses it own system. Captain Oswald serves as the St. Michaels victims' rights advocate. Chief Lowrey, Easton Police Department, utilizes its own complaint system. The status of each case is posted on-line, which can be accessed by the complainant. Deputy Chief Greg Wright is the Easton Police Department's victims' rights advocate.

3. Sheriff Gamble discussed trends in complaints for his office. In 2021, they had 9 complaints, 7 were command staff complaints and 2 were citizen complaints. In 2022, they had 10 complaints, 2 were command staff complaints and 8 were citizen complaints. Command staff complaints pertain principally to in-house policy complaints – for example not getting your police cars oil changed on time, being late for work, not using the correct form, and not completing a road report. He has noticed a rise in citizen complaints since passage of the new law . Chief Smith has not seen a change in the number of complaints for St. Michaels PD. Chief Lowrey stated it is about half-and-half for command staff complaints and citizen complaints. Easton Police Department has removed only one officer from service during Chief Lowrey's tenure.

4. The LEAs expressed concern with the requirement that citizen complaints be investigated and processed through the Administrative Charging Committee within 1 year and a day of its filing. They noted that if there is a parallel criminal case, it is likely that that process will prolong the investigation and disposition beyond the contemplated time line. The Chairman expressed his understanding of the stated concern, noted that the PAB would work with the State's Attorney Office should that scenario arise and will be sensitive to the issue raised by the LEAs, namely that the prolonged process could result in the inability of the LEA to impose any administrative discipline for conduct ultimately deemed non-criminal but nevertheless a violation of Agency policy.

5. Chief Lowrey also expressed concern with complaint process affecting an officer's eligibility for promotion. Policy provides that if an officer is the subject of an internal investigation, he or she is not eligible for a promotion. If resolution of a complaint involves a protracted process, it is conceivable that an unfounded complaint could interfere with an officer's promotion cycle and therefore his or her career. The Chairman confirmed the Administrative Charging Committee will meet regularly and will be sensitive to a pending promotion cycle.

6. The Chairman asked LEAs how the PAB could best work together. Everyone agreed it is in the public's and LEAs' best interest to work collegially and

transparently to foster confidence in the work conducted by the PAB and the ACC. The Chairman encouraged the LEAs to include their recommendations as to disposition with when they submit their completed investigations to the ACC.

7. The Chairman asked if there was any information the LEAs would like conveyed to the County Council of Talbot County by the Board in its annual report or by interim correspondence. Chief Lowrey spoke on the staffing struggle all the LEAs are facing and how it affects morale. He also noted that he would appreciate if the PAB's annual report highlighted the positive accomplishments achieved by the LEAs.

8. The Chairman asked for the next quarterly meeting with LEAs that they address training that has been concluded planned for this calendar year. The PAB also requested that the LEAs report on awards to or achievements by the agencies or individual officers. Finally, the PAB also made clear its expectation that the LEAs would raise any concerns or issues they perceive with the citizen complaint process or the PAB functions.

9. The Chairman asked the LEAs to identify the policies and regulations they would recommend that the PAB and ACC study in order to best be positioned to perform their designated functions. Sheriff Gamble, Chief Lowery and Chief Smith confirmed that all the relevant policies are available on-line. They noted that Lexipol is the company the LEAs use to provide templates for their policies and procedures, which are updated regularly to address changes in the law. As a result, the regulations and policies of Talbot County LEAs are very similar if not identical. The LEAs recommended that the PAB and the ACC review in detail Chapters 3 and 10 of the on-line policies. When the LEAs submit their completed investigation to the ACC, they will include a reference to the regulation, policy and/or procedure that are relevant to the complaint.

VI. Public Comments – Members of the public were afforded an opportunity to comment on matters of interest to them.

VII. Announcement of next meeting – Upon an Agenda

VIII. Adjournment - There being no further business to discuss, a motion was made by Ms. Webster and seconded by Mr. Bibb to adjourn the meeting. The meeting adjourned at 9:03 a.m.

TALBOT COUNTY, MARYLAND
POLICE ACCOUNTABILITY BOARD

Minutes of Public Meeting
May 9, 2023

The meeting of the Talbot County Police Accountability Board ("PAB") was called to order at 8:30 a.m. on Tuesday, May 9, 2023. Present were Chairman Mitchell Ettinger, Members Michael Bibb, John Gilbert, Jo Ann Murray, Chris Rice, Connie Webster, Gugy Irving, Assistant County Attorney Rebecca Guay, and Board Secretary Victoria Bradley.

I. **Call to Order** – Chairman Ettinger called the meeting to order and gave opening statements.

II. **Minutes** – Upon motion made by Mr. Bibb, seconded by Mr. Gilbert, the minutes of the Tuesday, February 14, 2023 PAB meeting were unanimously approved with corrections.

III. **Discussion with Law Enforcement Agencies ("LEA")**

Use of Force Reports – The LEAs explained that, pursuant to policy, Use of Force is defined as the application of force or a physical compliance technique necessary to render a non-cooperative person compliant. The Chairman asked the LEAs to provide Use of Force Reports on a quarterly basis to enable the PAB to discern if there are any trends to note. The LEAs agreed to provide the requested reports on a quarterly basis.

Scope of Complaints submitted pursuant to MD.CODE ANN. PUB. SAFETY ARTICLE § 3-104(d) ("PSA") – The LEAs confirmed the PAB understanding that all instances of alleged police misconduct, irrespective of whether a citizen complaint was lodged, must be submitted to the Administrative Charging Committee ("ACC") for disposition.

Suggested contents of investigative reports submitted to the ACC – The Chairman noted that the investigative files submitted to the ACC by the Talbot County Sheriff's Office were complete, well written and exemplary. The LEAs were encouraged to submit all relevant information with the investigative report, including all video and audio recordings, witness statements, interviews, relevant policy and procedures and any disciplinary records of the officer(s) involved or indicate if there is no disciplinary record. The LEAs also were encouraged to submit their recommendation as to disposition. The ACC would like to see the LEAs recommendations of disposition. Upon request, the LEAs will have the investigating officer available by phone or in person on the date the ACC meets to resolve any pending complaints.

Status of Investigations of Alleged Misconduct within the purview of PSA 3-104(d)

Easton Police Department indicated that it has three (3) complaints under review.

The Sheriff's Office has submitted two investigative files and intends to submit a third in the near term.

St. Michaels and Oxford Police Departments have no complaints at this time.

Mediation process for citizen complaints – The LEAs agreed to report on the use of the mediation process contemplated by PSA § 3-208.06(A)(1), but expressed concern regarding the cost associated with that process. None of the LEAs have yet to establish a procedure or protocol for mediation.

Trial Board Procedures – The LEAs have received the training and guidance on Trial Board procedures and are currently working on training their officers. The LEAs and PAB agree the trial board policy and procedure should be the same for all LEAs in the County.

Field Training Officer Daily Reports – The Chairman inquired of the value and effort required to submit FTO reports. The PAB would use those reports to try to discern whether there are any systemic training deficiencies. After discussion, it was agreed that the LEAs would make a FTO officer from each agency available to the PAB to discuss trends and any perceived deficiencies.

Issues Raised by LEAs – The LEAs discussed the challenge to hire and retain officers, especially with the different retirement systems. Easton PD noted its desire to hire additional Spanish speaking officers. One recruiting tool that could prove beneficial would be a pathway to citizenship for public service akin to military service. The LEAs also noted that the new marijuana law may affect hiring and retention.

IV. **Discussion regarding Trial Board member appointed by PAB** – A motion was made by Mr. Gilbert, seconded by Ms. Webster for the Board to move into closed session to discuss the Board's appointments to the Trial Board. The motion was passed unanimously.

V. **Summary of Closed Session**

The closed session, which was held in the Bradley Room, began at approximately 10:05 am and concluded at approximately 10:15 a.m. The appropriate form was completed by the Chairman justifying the closed session. During the closed session, the PAB discussed the appointment of individuals to serve as Trial Board Members.

By unanimous vote, the following PAB members were selected to serve as Trial Board Members: Michael Bibb, John Gilbert and Jo Ann Murray.

Mr. Bibb moved, seconded by Ms. Murray, to reconvene in open session. The motion was passed unanimously and the Board reconvened in open session at 10:17 a.m.

VI. **Next PAB Meeting** – The Board tentatively set a date for the third quarter meeting for August 8, 2023.

VII. **Adjournment** - There being no further business to discuss, a motion was made by Ms. Webster and seconded by Mr. Rice to adjourn the meeting. The motion was passed unanimously and the meeting adjourned at 10:29 a.m.

TALBOT COUNTY, MARYLAND
POLICE ACCOUNTABILITY BOARD

Minutes of Public Meeting
August 8, 2023

The meeting of the Talbot County Police Accountability Board ("PAB") was called to order at 8:30 a.m. on Tuesday, August 8, 2023. Present were Chairman Mitchell Ettinger, Members Michael Bibb, John Gilbert, Chris Rice, Connie Webster, Gugy Irving, and Board Secretary Victoria Bradley.

I. **Call to Order** – Chairman Ettinger called the meeting to order and gave opening statements.

II. **Minutes** – Upon motion made by Mr. Gilbert, seconded by Mr. Bibb, the minutes of the Tuesday, May 9, 2023 PAB meeting were unanimously approved with corrections.

III. **Discussion with Law Enforcement Agencies ("LEA")**

Labor force trends and issues (recruiting/retention/attrition) – The LEAs explained some of their concerns with retention and staffing. The Sheriff's office explained that certain of the benefits offered through the Sheriff's Office have aided in recruiting and retention, including the Law Enforcement Officer's Pension System (LEOPS) and take-home patrol vehicles. The LEAs also explained the desire for a salary increase to help retain officers and recruit new officers.

Citizen engagement activities – The LEAs discussed some of their programs and events that relate to citizen engagement, including (i) coffee with cops, (ii) Juneteenth celebration, (iii) citizen police academy, (iv) Citizen Response Training (CRT), (v) educational classes and workshops for the public, (vi) bike and foot patrols and (vii) attending public events where they are able to engage with the public.

Submission of quarterly Use of Force Reports – The LEAs submitted summaries of their Use of Force Reports. The Chairman also requested submission of the underlying reports.

Submission of select Field Officer Reports – LEAs submitted samples of field officer reports. The Chairman requested that a Field Training Officer from each LEA attend the November 14th meeting to assist the PAB in understanding the challenges associated with newly hired officers.

Policies regarding training of new hires with prior experience – The Chairman asked the LEAs to explain how lateral hires become acquainted with the local rules and regulations. The LEAs explained that the Code of Maryland Regulations (COMAR)

provides that lateral hires complete eighty (80) hours of field training. If they are an out of state lateral hire, they must also successfully complete an eight (8) week course and demonstrate that their prior training satisfies Maryland requirements. Lateral hires also are polygraphed, drug tested, and complete a psychological evaluation before providing service in their new agency.

The Chairman explained the topic was included on the agenda because in a recent ACC matter, the officer indicated that he had not received use of force training since his lateral hire some years ago. The LEAs explained that that is not possible as every officer is required to complete annual use of force training.

Trainee grading criteria – The PAB members asked for the LEAs to clarify the grading criteria for trainees. Mr. Gilbert noticed one box on the grading sheet was not checked and wanted to understand the process. The Sheriff explained the grading sheet in question pertained to a weekly report, during which some or even many of the listed activities will not be relevant (e.g., arrest procedure). The LEAs emphasized that with field training the objective is to see improvement week over week until the officer is ready to patrol on his or her own.

Potential for Emotional Intelligence training – The Chairman inquired about adding emotional intelligence to the LEAs current training curriculum. The LEAs explained that emotional intelligence training currently is available, and goes hand-in-glove with other de-escalation training. One focus of emotional intelligence training is to recognize and appreciate conduct that triggers the officer's emotions — a valuable skill set in dealing with difficult citizens. The LEAs agreed to explore the potential for adding this training to their core curriculum.

Mediation process for citizen complaints §3-207(D) of MD. Code Ann., Public Safety Article – The LEAs have yet to implement the mediation process contemplated by the legislature. They noted that the training commission recently issued guidance on July 23, 2023. The LEAs met with Mid-Shore Mediation, which has offered to assist with establishing this process. This item will be placed on the November agenda for a status update.

Status of the establishment of Trial Board procedures pursuant to §3-106 of MD. Code Ann., Public Safety Article – The LEAs are working on a draft set of procedures that they hope to adopt in the near term. It is anticipated that they will be prepared to present those procedures at the November meeting.

Topics LEAs would like the PAB to address in its annual report – The LEAs requested that the PAB consider including a recommendation in its annual report to provide funding to the LEAs to retain an officer to handle the investigation and processing of complaints submitted to the ACC. The LEAs also requested that its annual report be circulated to the town councils or commissioners and the relevant members of the legislature. Finally, the LEAs requested that the PAB's annual report address the

dilemma created by the year and a day rule in the context of a parallel criminal investigation.

Timing of LEA investigation submissions to the ACC – The Chairman stated the ACC meets monthly, and it takes an average of 8-10 hours to review the investigative materials and compose a draft decision. The Chairman asked the LEAs to submit their completed investigations no later than two (2) weeks prior to the scheduled ACC meeting, which is calendared on the second Thursday of every month. The ACC will accept four (4) complaints each month, unless the year and a day deadline is implicated.

Collateral effects of ACC findings – The Sheriff submitted a letter to the ACC referencing the potential collateral effects of an ACC outcome that results in an unfounded finding but not exoneration of the officer. The Chairman asked for clarification on how such a finding could be used in any collateral proceeding or administratively. To date, there are no concrete examples of anyone using an ACC finding of "unfounded," in a subsequent court proceeding or as a means to deny an officer promotion. The LEAs requested that the ACC be mindful of the difference between an "unfounded" finding and one that results in the exoneration of the officer. The Chairman noted that the ACC will respond to the Sheriff's letter in writing and will place this topic on the November calendar for possible further discussion.

IV. **Discussion regarding Trial Board members training** – PAB members who completed the Trail Board training addressed the curriculum. Mr. Bibb noted that the training focused on determining whether the LEA policies or regulations had been met or violated. The training underscored the importance of having clear and unambiguous policies. The Trial Board members were encouraged during the training to participate in a ride-along session with the LEAs. Mr. Gilbert agreed with Mr. Bibb's assessment, noting that each case will turn on its separate facts, as there is no "one size fits all" in this context.

V. **Discussion regarding ACC Dispositions** – A motion was made by Mr. Bibb, seconded by Ms. Webster for the Board to move into closed session to discuss ACC decisions to date. The motion passed unanimously.

VI. **Summary of Closed Session**

The closed session, which was held in the Bradley Room, began at approximately 10:33 a.m. and concluded at approximately 10:56 a.m. The appropriate form was completed by the Chairman justifying the closed session. During the closed session, the PAB discussed the ACC Dispositions.

A motion was made by Ms. Webster, seconded by Mr. Bibb, to reconvene in open session. The motion was passed unanimously and the Board reconvened in open session at 10:56 a.m.

VII. **Next PAB Meeting** – The Board set a date for the fourth quarter meeting with the LEAs for November 14, 2023.

VIII. **Adjournment** - There being no further business to discuss, a motion was made by Ms. Webster and seconded by Mr. Bibb to adjourn the meeting. The motion was passed unanimously and the meeting adjourned at 10:57 a.m.

TALBOT COUNTY, MARYLAND
POLICE ACCOUNTABILITY BOARD

Minutes of Public Meeting
November 14, 2023

The meeting of the Talbot County Police Accountability Board ("PAB") was called to order at 8:30 a.m. on Tuesday, November 14, 2023. Present were Chairman Mitchell Ettinger, Members Michael Bibb, John Gilbert, Jo Ann Murray, Chris Rice, Connie Webster, Gugy Irving, and Board Secretary Victoria Bradley, and Board Attorney Rebecca Guay

I. **Call to Order** – Chairman Ettinger called the meeting to order and made welcoming remarks.

II. **Minutes** – Upon motion made by Ms. Webster, seconded by Mr. Gilbert, the minutes of the Tuesday, August 8, 2023, PAB meeting were unanimously approved without modification.

III. **Discussion with Law Enforcement Agencies ("LEA")**

Use of Force Reports (Submission of Underlying Reports) – The LEAs submitted summaries of their Use of Force Reports. The Chairman also requested submission of the underlying reports.

Identifiable Trends or Increase in Criminal Activity – The LEAs discussed some of the recent increased criminal activity, but reported that there are no identifiable trends. Easton PD reported two recent homicides, some drug related activity and a number of homeless sex offenders struggling to find shelters able or willing to provide shelter. The Sheriff's Office too has seen an increase in homeless sex offenders. The LEAs noted that this is a problem experienced nationwide.

Easton PD is assigning more officers in the areas where violent offenses have been reported and is working to resume officers on bicycle patrol.

The Sheriff's Officer also noted an increase in elder fraud and, as a result, is reaching out to senior centers to educate and inform them of the identified scams.

St. Michaels PD has seen an uptick in theft this past year and expect it to rise with the upcoming holiday season.

Labor or Staffing Issues –

St. Michaels PD explained how a salary increase has helped retain officers and recruit new officers. Oxford PD reported their commissioners have increased their staffing to four (4) full-time officers. Easton PD reported hiring one lateral officer and two are scheduled to attend academy training, but currently remain five officers below full staffing.

The Sheriff's Office reported that it will be changing to a 12-hour shift. It has three recruits in attendance at the police academy. The Sheriff's Office currently provides patrol service to Trappe and has asked the town to begin exploration of forming its own police force. Resources may prevent this from occurring in the near term.

Citizen Engagement Activities – The LEAs discussed some of their programs and events that relate to citizen engagement, including but not limited to (i) coffee with cops, (ii) citizen police academy, (iii) educational classes and workshops for the public, (iv) bike and foot patrols and (v) attending public events where they are able to engage with the public, (vi) hunter safety course, (vii) Shop with a Cop Toy Drive.

Mediation Process for citizen complaints §3-207(D) of MD. Code Ann., Public Safety Article – The LEAs are close to being able to implement the mediation process contemplated by the Maryland legislature. Mid-Shore Mediation has offered their services free of charge.

Status of the establishment of Trial Board procedures pursuant to §3-106 of MD. Code Ann., Public Safety Article – The LEAs report that the process should be completed and ready by year end.

Discussion regarding school resource officers and identifiable trends relating to school incidents – The LEAs have seen an increase in school related issues with juveniles. The LEAs are finding challenges with the new juvenile justice reform law, which precludes formally processing an offender under the age of 13. The Sheriff said 40 of the 113 school incidents this year have involved students that are under 13 years. The law, he opined, is preventing these juveniles from receiving services that may otherwise correct their behavior or assist them to address the underlying issues.

Talbot County Council has provided funding to have one resource officer in each public school. The resource officer is there to enforce the law and engage with the kids. The officers work with the principal, students, teachers and staff to keep the schools safe.

Topics LEAs would like the PAB to address in its annual report – The LEAs requested that the PAB reference in its annual report the time and effort required to satisfy the new ACC process. The LEAs also requested that the PAB's annual report address the dilemma created by the year and a day rule in the context of a parallel criminal investigation.

General discussion regarding the Administrative Charging Committee dispositions –

The Chairman stated the ACC has had 14 complaints this year.

The LEAs asked if the ACC would accept a short form investigation process and report in instances where the complainant is not responding to the LEAs or the Officer in question admits to any wrongdoing. The Chairman noted that this may be appropriate depending on the particular case and that the LEAs should use their discretion in making such submissions. If the ACC feels it needs additional data, it will request it.

The LEAs expressed concern about the ACC's reference to a communication between the officer in question and a fellow officer beyond the hearing of the complainant. Specifically, such references, they asserted, may result in officers turning off their body worn camera recording devices. The Chairman explained that, where the complainant questions the professionalism and intent of the officer, the ACC will consider all information relevant to those issues. In the case referenced by the LEA, the ACC considered the interaction between the two officers, otherwise unknown to the complainant, to be relevant and therefore included in the final disposition. The Chairman committed to raising the issue with the full ACC.

IV. **Discuss Annual Report Content and Assignments** – The PAB reviewed the outline for the 2023 Annual Report and assigned each member a section to complete.

V. **Next PAB Meeting** – The Board set a date for the next PAB meeting to discuss the draft annual report for December 19, 2023, at 8:30 am.

VI. **Adjournment** - There being no further business to discuss, a motion was made by Mr. Bibb and seconded by Ms. Webster to adjourn the meeting. The motion was passed unanimously, and the meeting adjourned at 10:57 a.m.

Exhibit D

ACC Rules of Procedure

TALBOT COUNTY
ADMINISTRATIVE CHARGING COMMITTEE
RULES OF PROCEDURE

Pursuant to the Maryland Police Accountability Act of 2021 and Chapter 24 (Boards, Committees and Commissions), Article V of the Talbot County Code, the County Council of Talbot County (the "County Council") has established the Talbot County Administrative Charging Committee (the "ACC"). One stated purpose of the ACC is to review the findings of law enforcement agency ("LEA") investigation of alleged police officer misconduct in accordance with State and County law. Specifically, the law mandates that the ACC shall: (1) review the findings of a LEA's investigation conducted and forwarded in accordance with State and County law; (2) determine whether the police officer who is subject to investigation shall be administratively charged or not administratively charged, subject to certain conditions; (3) if the police officer is charged, recommend discipline in accordance with the 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 the ACC 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 LEA or the Sheriff, as applicable, the police officer, and the complainant within five business days.

These Rules of Procedure ("Rules") are supplementary to those requirements set forth in Md. Code Ann,. Public Safety § 3-101, *et seq*., Code of Maryland Regulations ("COMAR") Title 12, Subtitle 4, Chapter 9, and Chapter 24, Article V of the Talbot County Code, each as may be amended from time to time.

I. Basis of Authority

1. Md. Code Ann., Pub. Safety § 3-101, *et. seq*

2. COMAR 12.04.09.01, *et seq.*

3. Chapter 24, Article V of the Talbot County Code

II. Membership

1. The ACC shall consist of five voting members, including the Chairperson, the Vice Chairperson, and three (3) regular members. Changes in residency by any member shall be reported to the Chairperson as soon as practicable.

2. *Chairperson*. The Chairperson shall be appointed annually by a majority vote of the ACC members at the first ACC meeting of the calendar year. The Chairperson shall preside over ACC meetings and shall have the duties set forth in § 24-17(G)(1) of the Talbot County Code, as may be amended from time to time.

3. *Vice Chairperson*. The Vice Chairperson also shall be appointed by a majority vote of the ACC members. The Vice Chairperson acts and has the authority of the Chairperson during the Chairperson's absence.

III. Meetings

The ACC shall meet at least once per month to consider the LEA investigatory files submitted for review. Meetings, which may be held in person, virtually or a combination of the two, will be conducted in accordance with the following:

1. *Maryland Open Meetings Act*. ACC meetings shall be held in accordance with the Maryland Open Meetings Act (the "OMA"). As personnel issues and other confidential information will be reviewed at ACC meetings, the ACC may deem it necessary to conduct its review and deliberations of investigative files in closed session or as an administrative function, which shall be documented in accordance with the OMA, see Md. Ann. Code, General Provisions Art., §§3-101, et seq., as may be amended from time to time.

2. *Quorum*. A quorum shall consist of at least three (3) ACC members. No ACC business, to include consensus or voting, may be made without the presence of a quorum. When a quorum is present, a majority of those ACC members present may make a decision on any motion. A tie vote for or against a motion means that the motion fails.

3. *Governing Rules*. Unless inconsistent with these ACC Procedural Guidelines, ACC meetings shall be conducted in accordance with the Roberts Rules of Order, Newly Revised.

4. *Location*. ACC meetings generally will be convened once a month in the Bradley Meeting Room, Talbot County Courthouse, South Wing, 11 North Washington Street, Easton, Maryland 21601, and/or remotely via secure video connection, as determined by the Chairperson. Additional meetings may be added at the discretion of the Chairperson. Agenda items requested by members shall be submitted to the Chairperson at least seven (7) days prior to the meeting, but may be considered for inclusion on the agenda by the Chairperson, at the Chairperson's discretion, if submitted less than seven (7) days before the meeting.

5. *Timely Disposition of LEA Investigations*. The ACC shall establish a schedule for making final dispositions of LEA investigations within thirty (30) days of submission to the ACC, taking into account the need for additional information and any delays created by such requests. The thirty (30) day review period shall be tolled during the time required for the LEA to respond to requests for additional information or investigation by the ACC. In establishing its schedule to review investigation results, the ACC must issue a final determination and disposition of every matter within one (1) year and a day following the initial filing of the complaint.

6. *Confidentiality*. In order to maintain confidentiality, the ACC shall utilize secure methods to electronically transmit documents, files, notes, and any other materials related to a complaint and subsequent investigation.

7. *Minutes*. ACC meetings shall be documented through minutes, which shall be reviewed and approved by the ACC. Minutes may reflect the disposition of matters considered by the ACC, but shall not reveal the deliberations resulting in such deliberations.

8. *Actual and Potential Conflicts*. All ACC members are subject to, and shall comply with, Chapter 60 (Ethics) of the Talbot County Code. ACC members shall recuse themselves from participating in a matter in which they may have a conflict of interest or an appearance of a conflict of interest. Additionally, the Ethics Code requires annual submission of a Financial Disclosure Statement. In the event an actual or potential conflict of interest, the ACC member shall disclose to the ACC Chairperson the existence thereof at the earliest possible time. The other ACC members shall discuss the details of the actual or potential conflict of interest, and if the majority determines that the conflict is such that the affected member should not be involved, then 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.

IV. Staffing Assistance

The ACC shall have administrative and legal staff assigned to assist it in carrying out its duties, as follows:

1. *ACC Administrative Assistant*. The Administrative Assistant shall provide administrative support to the ACC, including, but not limited to:

   a. Attending all meetings and hearings;

   b. Scheduling meetings per the direction of the Chairperson;

   c. Tracking agenda items;

   d. Preparing the agenda for any meeting after approval thereof by the Chairperson;

   e. Posting of public meeting notices;

   f. Reviewing Reports of Investigation submitted by LEA to ensure completeness;

   g. Communicating with LEA to request additional information relating to Reports of Investigation or their attendance at ACC meetings;

   h. Tracking submission dates and time requirements to ensure compliance with legal requirements and maintaining a log of the same;

i. Creating and maintaining the official record of all proceedings, to include attendance of ACC members;

j. Drafting minutes of meetings for adoption by the ACC; and

k. Taking custody of, handling, and storing all decisions, orders, exhibits, evidence, notes, and recordings;

2. *Legal Counsel to the ACC.* The County Attorney shall serve as legal counsel to the ACC. The duties of ACC Legal Counsel shall include:

   a. Providing legal advice to the ACC;

   b. Reviewing Reports of Investigation submitted by LEA to ensure completeness;

   c. Attending ACC meetings;

   d. Communicating with the LEA to request additional information relating to Reports of Investigation or their attendance at ACC meetings; and

   e. Assisting with drafting disposition reports reflecting decisions reached by the ACC.

V. ACC Responsibilities and Duties

1. When a LEA forwards its Report of Investigation to the ACC, Legal Counsel to the ACC or the ACC Administrative Assistant shall review the file to ensure its completeness for review by the ACC. As a general guideline, the LEA investigative file should include the following information: (i) the original complaint or document containing the allegations under review; (ii) the LEA's Report of Investigation or its equivalent; (iii) the relevant law, regulations, or policies governing the conduct at issue, including the corresponding training provided by the LEA; (iv) any written or recorded statement of the complainant, respondent, and witnesses; (v) body worn camera and/or other video footage or audio recording that captured the incident; (vi) any relevant photographs, maps, diagrams, or other demonstrative evidence related to the allegations; (vii) the recommendation(s), if any, of the LEA head; and (viii) any other documents or materials that are deemed necessary to the determination of whether to administratively charge the officer.

2. Legal Counsel to the ACC or the Administrative Assistant may request the LEA to supplement its Report of Investigation prior to dissemination to the ACC or before the ACC begins its deliberations regarding the same.

3. Whenever practicable, the Administrative Assistant shall ensure that the Report of Investigation and all its attachments shall be available for review by the ACC members at least three business (3) days prior to the next scheduled ACC meeting.

4. Legal Counsel to the ACC or the Administrative Assistant may request that the LEA send a representative to the ACC meeting to respond to questions that may arise during the ACC's deliberations.

5. In accordance with State laws and regulations and the Talbot County Code, the duties and responsibilities of the ACC include the following:

   (a) Review LEA findings of investigation conducted and forwarded in accordance with Md. Code Ann., Public Safety § 3-104(d).

   (b) Determine whether a police officer who is subject to investigation shall be administratively charged. In making its determination, the ACC may (a) review any body camera footage that may be relevant to the matters covered in the complaint of misconduct; (b) call a police officer to appear before the ACC and be accompanied by a representative; and/or (c) request additional investigation or information from the LEA, including the issuance of subpoenas.

   (c) The ACC shall engage in open and frank deliberations, with each member being given the opportunity to voice their perspective and opinions. Upon completion of deliberations and a motion to vote on disposition, properly seconded and approved, the ACC shall vote regarding whether to administratively charge the police officer. Each ACC member shall have one vote and, unless excused from participation because of a conflict or inability to attend, each member shall vote on the disposition of each complaint.

   (d) If the police officer is charged, the ACC shall recommend discipline in accordance with the Disciplinary Matrix. The ACC shall consider all facts in mitigation and aggravation when determining the appropriate disposition under the Disciplinary Matrix. The same deliberation process outlined in paragraph (c) above shall be used in determining what, if any, discipline to impose on the police officer.

   (e) If the police officer is not administratively charged, using the same deliberation process outlined in paragraph (c) above, the ACC shall make a determination that the allegations against the police officer are unfounded; the police officer is exonerated; OR the allegation(s) is/are not sustained.

   (f) Issue a written opinion using the format adopted for ACC reports that describes its findings, determinations, and recommendations. (*See* Exhibit A)

   (g) Record, in writing, any failure of supervision that caused or contributed to a police officer's misconduct.

5. Forward the ACC's written opinion to the head of the LEA, the police officer, and the complainant with a cover letter signed by the ACC Chairperson.

6. If the ACC determines that the police officer should be administratively charged, it should review all available evidence in aggravation and mitigation. Accordingly, the ACC should work with the LEA to ensure that if the LEA determines that a police officer violated a law, policy or regulation, it include the officer's disciplinary and training records when forwarding its Report of Investigation.

VI. Approval and Amendment of Rules of Procedure

These Rules shall be approved, and may be amended from time to time, by a majority of the entire ACC.

VII. Severability

If any provision of these Rules are held to be illegal or unenforceable in a judicial proceeding, such provision shall be severed and become inoperative. The remainder of the Rules shall remain in effect.

ADOPTED by the Talbot County Administrative Charging Committee this 27th day of April, 2023.

Mitchell S. Ettinger

Constance M. Hope

Jennifer L. Williams

Wala-Neh Labala

Gregory A. Wilson

Exhibit E

ACC Disposition Chart

Administrative Charging Committee Dispositions (Calendar Year 2023)

ACC Case	Law Enforcement Agencies	Allegations	Disposition
23-001	Talbot County Sheriff	Improper issuance of a peace order during a narcotics anonymous meeting; failure to provide name/badge number when asked; discourteous conduct; failure to perform police duties by failing to investigate a potential driving under the influence allegation and claim of threatening behavior	The allegations are unfounded and the officer was not administratively charged.
23-002	Talbot County Sheriff	Reckless driving, discourteous behavior, improper use of force (pepper spray)	Unfounded as to reckless driving and discourteous behavior. Administratively charged with respect to undue use of force. Category C Recommendation: 2 days loss of pay or leave
23-003	Talbot County Sheriff	Speeding	Sustained. Letter of reprimand
23-004	Talbot County Sheriff	Use of excessive force; discourteous behavior; use of profanity and inappropriate threats	Officer 1, all allegations are unfounded and no administrative charges. Officer 2, all allegations are unfounded, no administrative charges and they are exonerated.
23-005	Talbot County Sheriff	Inappropriate threats; discourteous unprofessional conduct	Officer 1, all allegations are unfounded and no administrative charges. Officer 2, the allegations are unfounded and they are exonerated.
23-006	Talbot County Sheriff	Improper search and seizure	The allegations are unfounded and the officer is exonerated.
23-007	Talbot County Sheriff	Reckless driving	The allegations are unfounded and no administrative charges.
23-008	Talbot County Sheriff	Unprofessional conduct during late night escort for a couple to retrieve property from an estranged family member	The allegations are unfounded and no administrative charges. Both officers are exonerated.
23-009	Easton PD	Falsification of report Conduct Unbecoming	The allegations are unfounded and no administrative charges. The officer is exonerated.

ACC Case	Law Enforcement Agencies	Allegations	Disposition
23-010	Easton PD	Falsification of report Conduct Unbecoming	The allegations are unfounded.
23-011	Easton PD	Conduct Unbecoming and administrative failures to report conduct and subpoena to testify	The allegations are sustained. Category B Recommendation: 2 days loss of pay or leave and a letter of reprimand.
23-012	Talbot County Sheriff	Improper issuance of traffic citations; discourteous behavior	The allegations are unfounded.
23-013	Easton PD	Improper U-turns; Harassment	No administrative charges and the officer is exonerated.
23-014	Easton PD	Harassment	The allegations are unfounded.
23-015	Talbot County Sheriff	Unprofessional behavior during traffic stop	No administrative charges and the officer is exonerated.