

Introduced by: Mr. Street, Mr. Bell,
Ms. Hartley-Nagle
Date of introduction: October 24, 2023

SUBSTITUTE NO. 1 TO ORDINANCE NO. 23-148

CREATING THE NEW CASTLE COUNTY POLICE ACCOUNTABILITY BOARD AND A POSITION TO SUPPORT ITS OPERATION BY AMENDING NEW CASTLE COUNTY CODE CHAPTER 2 (“ADMINISTRATION”), ARTICLE 5 (“DEPARTMENTS AND OFFICES”) AND AMENDING THE FY 2024 APPROVED OPERATING BUDGET TO INCREASE THE AUTHORIZED POSITION COUNT BY ONE GENERAL FUND POSITION WITHIN THE EXECUTIVE OFFICE AND AMENDING PAY PLAN AND RATES OF PAY FOR THE NON-UNION UNCLASSIFIED SERVICE EMPLOYEES OF THE EXECUTIVE OFFICE

WHEREAS, the Police Officer Standards and Training Commission (the “Commission”), under its authority provided by 11 *Del. C.* § 8404, requires that all police departments establish, either individually or in combination with other departments, police accountability committees or boards to provide advice to departments on policy, training, and other issues relating to or affecting the department and the communities served by the department; and

WHEREAS, the creation of the New Castle County Police Accountability Board (the “Board”) will provide community members an opportunity to provide input over how communities are policed. In addition, the New Castle County Division of Police will benefit from constructive feedback to reform police policies and practices, improve police-community relations, and enhance public safety; and

WHEREAS, the Commission recommends that each police accountability committee or board include in its membership a religious leader from the community and members of the community who have been impacted directly or are immediate family members or caregivers of those impacted by the juvenile or adult criminal justice system; and

WHEREAS, the Commission requires that non-officer members, within 1 year of appointment, complete 20 hours of community training with the departments overseen by the applicable board, which may include ride-alongs or a citizen’s police academy; and

WHEREAS, there is a need for one position to support the Board to provide clerical, technical, and other services required by the Board in the performance of its official duties, which shall be independent from the Department of Public Safety; and

WHEREAS, this legislation would authorize one additional general fund Executive Assistant position within the Executive Office to provide such support.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code* Chapter 2 (“Administration”), Article 5 (“Departments and Offices”), Division 2.05.200 (“Department of Public Safety”), is hereby amended by adding the underscored material set forth below:

Sec. 2.05.204 Police Accountability Board.

- A. The Police Accountability Board (“Board”) shall consist of 11 residents of the County, who are voting members appointed by the County Executive with the advice and consent of County Council and 2 non-voting, ex-officio members. The County Executive shall solicit recommendations from non-profit organizations. The Board shall elect the chairperson and vice chairperson from among its members. Board members shall serve two (2) year terms, which may be renewed. No voting members shall be current or former members of law-enforcement or affiliated with law-enforcement. Membership shall include:
1. Social service organizations shall submit nominees from which the County Executive shall choose two (2) members of the community who have been impacted directly or are immediate family members or caregivers of those impacted by the juvenile or adult criminal justice system;
 2. Civil rights organizations shall submit nominees from which the County Executive shall choose two (2) criminal justice reform advocates;
 3. Faith-based organizations shall submit nominees from which the County Executive shall choose one (1) religious leader from the community who has experience with justice-involved individuals;
 4. Education organizations shall submit nominees from which the County Executive shall choose one (1) member of the education community;
 5. Mental health organizations shall submit nominees from which the County Executive shall choose one (1) member from the mental health treatment community as defined by the National Alliance on Mental Illness;
 6. Victims’ rights organizations shall submit nominees from which the County Executive shall choose one (1) member of the victims’ rights community who was a victim or relative of a victim of violent crime; and
 7. Three (3) at-large members.
- B. The New Castle County Public Safety Director or their designee shall be an ex-officio member of the Board without voting powers. The New Castle County Chief of Police or their designee shall be an ex-officio member of the Board without voting powers.
- C. The full-time position supporting the Police Accountability Board, which shall be independent from the Department of Public Safety, shall provide clerical, technical, and other services required by the Board in the performance of its official duties. Legal services shall be furnished by the Office of Law to ensure independent counsel.
- D. All Board members shall submit to a cursory background investigation consisting of a criminal history check.

- E. The Board is empowered to develop its own bylaws and determine how the Board members shall meet their 20 hours of community training requirement, with the advice of the Executive Office, the Department of Public Safety, the Division of Police, and the Office of Law.
- F. The Board generally shall advise the Department of Public Safety and the Division of Police on policy, training, and other issues relating to or affecting the department and the communities served by the department. Additionally, the Board shall:
1. Conduct community outreach and hold public forums to solicit public feedback;
 2. Review and provide recommendation regarding police policies and procedures, including police misconduct complaints, discipline, use of force, recruiting practices, and crime preventions strategies. The review of misconduct complaints, discipline, and use of force will include only information permitted by Delaware law;
 3. Offer constructive criticism to improve police-community relations;
 4. Review and analyze data and information regarding arrest data and police misconduct data; and
 5. Provide recommendations on future police reform.
- G. The Board shall meet at least ten (10) times annually, including hosting public forums quarterly. The Board shall also create a feedback form to solicit input from the public.
- H. The Board shall publish an annual report including recommendations to the County Executive, County Council, Department of Public Safety, Division of Police, and the Delaware Department of Justice. The annual report shall include data published by the Division of Police and detailed narratives published by the Criminal Justice Council involving New Castle County Police Officers. The Board shall present the annual report to County Council at a public County Council meeting. The Department of Public Safety shall respond to the recommendations within 90 days of receipt and provide an update on the status of any recommendations being implemented within 6 months of receipt.
- I. All Board meetings will be held in accordance with all public meeting laws.
- J. Compensation – Voting members of the Police Accountability Board shall be compensated according to Section 26.01.009. Board members shall not be compensated for partial attendance at meetings.

Section 2. The Annual Operating Budget for the fiscal year beginning July 1, 2023, is hereby amended by deleting the material stricken and adding the material underscored on the attached “Exhibit A.”

Section 3. The pay plans and rates of pay for the board members noted on the attached “Exhibit B-E” are hereby amended by deleting the material that is stricken and adding the material that is underscored as reflected on “Exhibit B-E”.

Section 4. The foregoing amendment shall be considered a part of the Annual Operating Budget for the fiscal year beginning July 1, 2023, and shall be effective retroactively, as though incorporated initially in the Annual Operating Budget.

Section 5. This ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* § 1156.

Adopted by County Council of
New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
of New Castle County

SYNOPSIS: Substitute No. 1 includes a New Castle County residency requirement for the 11 voting members of the board. It also clarifies that the \$100 per meeting board compensation will only be received by voting members of the board, and not ex-officio members.

This Ordinance, if approved, creates the Police Accountability Board, consistent with 11 *Del. C.* § 8404 of the Delaware Code. This Ordinance also creates (1) one full-time general funded position (Executive Assistant), independent from the Department of Public Safety, within the Executive Office to support the Police Accountability Board; and provides compensation to the Police Accountability Board members for attendance at meetings.

FISCAL NOTE: This Ordinance, if approved, will amend the FY2024 Approved Operating Budget by authorizing one additional full-time general funded position (Executive Assistant), which is independent from the Department of Public Safety, to support the Police Accountability Board. This Ordinance also provides compensation to the Police Accountability Board members for attendance at meetings.

The authorized position count for the Executive Office will increase from 15 to 16 and the total authorized position count for New Castle County will increase from 1,661 to 1,662. This increase will affect FY2024 and all future fiscal years since the intent of the position is to provide on-going support for the Police Accountability Board.

The FY2024 Approved Operating Budget includes a general fund personnel contingency which is anticipated to cover the increased cost of salaries and benefits, including the compensation for the Police Accountability Board members for FY2024. The fiscal impact for salaries and benefits is estimated to be as follows:

FY2024 \$76,058

FY2025 \$121,189

FY2026 \$123,921