

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**

**2001 Legislative Session**

Bill No. CB-59-2001

Chapter No. 51

Proposed and Presented by Council Members Estepp, Bailey and Russell

Introduced by Council Members Estepp, Bailey and Russell

Co-Sponsors \_\_\_\_\_

Date of Introduction October 16, 2001

**BILL**

1 AN ACT concerning

2 Citizen Complaint Oversight Panel

3 For the purpose of amending the responsibilities of the Chief of Police, the Human Relations  
4 Commission, and the Citizen Complaint Oversight Panel in the investigation of complaints  
5 against County law enforcement officers; and generally relating to the Citizen Complaint  
6 Oversight Panel.

7 BY repealing and reenacting with amendments:

8 SUBTITLE 2. ADMINISTRATION.

9 Sections 2-229 and 2-231,

10 The Prince George's County Code

11 (1999 Edition, 2000 Supplement).

12 SUBTITLE 18. POLICE.

13 Sections 18-186.01, 18-186.02, 18-186.05,

14 18-186.06, 18-186.07, and 18-186.08,

15 The Prince George's County Code

16 (1999 Edition, 2000 Supplement).

17 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
18 Maryland, that Sections 2-229, 2-231, 18-186.01, 18-186.02, 18-186.05, 18-186.06, 18-186.07,  
19 and 18-186.08, of the Prince George's County Code be and the same are hereby repealed and  
20 reenacted with the following amendments:

**SUBTITLE 2. ADMINISTRATION.**

**DIVISION 12. HUMAN RELATIONS COMMISSION.**

**Subdivision 8. Discrimination by Law Enforcement Officers.**

**Sec. 2-229. Prohibited acts by law enforcement officers.**

(a) The Human Relations Commission shall have the authority to investigate, and hold a formal hearing, on any sworn complaint against any law enforcement officer operating within the County, except a complaint against a member of the Prince George's County Police Department, which alleges any of the following categories of complaints that are defined and prohibited by law or regulation:

- (1) Police harassment;
- (2) The excessive use of force in the performance of his duties;
- (3) The use of language which would demean the inherent dignity of any person.

(b) The Commission's staff shall upon receipt of a sworn complaint, transmit a copy of any such complaints to the Chief of any Law Enforcement Agency involved, and the State's Attorney promptly after filing.

\* \* \* \* \*

**Sec. 2-231. Complaints against members of the Prince George's County Police Department.**

Notwithstanding the provisions of [Section 2-230, if a complaint pursuant to] Section 2-229 if a complaint filed with the Commission involves a member of the Prince George's County Police Department, the [Human Relations] Commission shall [complete its investigation, conduct a public hearing before three members of the Law Enforcement Panel of the Commission, in accordance with Sections 2-205 and 2-206 of this Code, and shall report in writing its comments and recommendations] forward a copy of the complaint and all related documents to the Chief of Police and to the Citizen Complaint Oversight Panel, within [twenty (20)] one working day[s] after the receipt of the complaint by the Commission [completion of the investigation by the Internal Affairs Division, in accordance with the provisions of Sections 18-186.01 through 18-186.08 of this Code].

**SUBTITLE 18. POLICE.**

**DIVISION 5. POLICE DEPARTMENT.**

**Subdivision 3. Citizen Complaint Oversight Panel.**

**Sec. 18-186.01. Legislative Findings.**

(a) The procedures to be used when any law enforcement officer is subject to investigation or interrogation for any reason which could lead to disciplinary action, demotion, or dismissal are established under Article 27, Sections 727-734D of the Annotated Code of Maryland ("Law Enforcement Officers' Bill of Rights"), and are in no way supplanted by the procedures set forth in this Subdivision.

(b) It is found and declared that when a complaint is filed or an incident [is reported] occurs in which a Prince George's County Police Officer is alleged to have [used excessive force, abusive language, or harassment involving a citizen] discharged a firearm in an attempt to strike or control another person regardless of whether injury occurs, accidentally discharged a firearm, a person dies during a law enforcement officer's use of force or while in the custody of a law enforcement officer, or a law enforcement officer or other person has filed a complaint with the Prince George's County Police Department or the Citizen Complaint Oversight Panel regarding the conduct of a law enforcement officer, the public needs assurance that the investigation is complete, thorough, and impartial, and that the report and recommendations of the investigating unit are reasonable and appropriate under the circumstances.

(c) It is declared that the purpose of the Citizen Complaint Oversight Panel is to review the report of the investigation and to advise the Chief of the Prince George's County Police Department if the investigation was complete, thorough, and impartial.

(d) It is a further declared purpose of the Citizen Complaint Oversight Panel to review the processing of complaints [of excessive force, abusive language, or harassment] by law enforcement officers or other persons and to comment on the action taken on such complaints, to report its comments and [recommendations] conclusions to the Chief Administrative Officer upon the final disposition of each case, and to issue an annual report to the public.

(e) It is a further declared purpose of the Citizen Complaint Oversight Panel, that, if in the judgment of the Citizen Complaint Oversight Panel, substantive issues have not been adequately or impartially addressed by the investigation of complaints by the Internal Affairs Division, the Citizen Complaint Oversight Panel may conduct its own investigation.

**Sec. 18-186.02. Definitions.**

(a) As used herein, the following words shall have the following meanings:

1           [(1) **Abusive language** means harsh, violent, profane, or derogatory language which  
2 would demean the dignity of any person. "Abusive language" includes, but is not limited to,  
3 profanity and racial, ethnic, or sexist slurs.]

4           [(2)] (1) **Chief of Police** means the Chief of the Prince George's County Police  
5 Department.

6           (2) **Complaint** means any written allegation, signed by the complainant, that the  
7 conduct of a law enforcement officer violated standards imposed by law or departmental  
8 procedures.

9           [(3) **Excessive force** means the use of greater physical force than reasonably  
10 necessary to repel an attacker or terminate resistance and shall not include that force which is  
11 reasonably necessary to effect a lawful purpose.]

12           [(4) **Harassment** means repeated, unwarranted verbal or physical annoyances, threats,  
13 or demands.]

14           [(5)] (3) **Hearing Board** means the Police Hearing Board as defined in Article 27,  
15 Section 727 of the Annotated Code of Maryland.

16           [(6) **Human Relations Commission** means the Prince George's County Human  
17 Relations Commission.]

18           [(7)] (4) **Law enforcement officer** means a sworn officer of the Prince George's  
19 County Police Department.

20           [(8)] (5) **Panel** means the Citizen Complaint Oversight Panel.

21           (6) **Police Department** means the Prince George's County Police Department.

22           (7) **Use of force means** but is not limited to, any action taken by a law enforcement  
23 officer to strike or control another person including the use of firearms, canine dogs, impact  
24 weapons, electrical stun devices, chemical or natural agents, physical contact and restraint  
25 devices.

26           \*           \*           \*           \*           \*           \*           \*           \*

## 27 **Sec. 18-186.05. Investigation of Complaints.**

28           (a) The [Internal Affairs Division of the] Police Department, [upon receipt of any citizen  
29 complaint form which alleges that] in all cases where a law enforcement officer [used excessive  
30 force, abusive language, or harassment] discharged a firearm in an attempt to strike or control  
31 another person regardless of whether injury occurs, accidentally discharged a firearm,

1 a person dies during a law enforcement officer's use of force or while in the custody of a law  
 2 enforcement officer, or a law enforcement officer or other person has filed a complaint with the  
 3 Prince George's County Police Department or the Citizen Complaint Oversight Panel regarding  
 4 the conduct of a law enforcement officer, shall commence an investigation within a reasonable  
 5 amount of time, ordinarily within thirty (30) calendar days from the date of receipt of such  
 6 complaint. The purpose of such investigation shall be to evaluate the merits of the complaint in  
 7 an objective manner. [Before taking the duress statement from the law enforcement officer  
 8 under investigation, the Internal Affairs Division shall provide the officer and his representative  
 9 the opportunity to read the complaint.]

10 (b) Upon the completion of [its complaint] the investigation, the [Internal Affairs Division  
 11 shall immediately forward to the] Chief of Police shall receive a full report of [its] the  
 12 investigation including comments and recommendations, if any, either that the complaint should  
 13 be sustained, not sustained or dismissed, or for exoneration.

14 **Sec. 18-186.06. Duties of Chief of Police.**

15 (a) The Chief of Police shall notify the Panel within twenty-four (24) hours or the next  
 16 business day after a law enforcement officer discharged a firearm in an attempt to strike or  
 17 control another person regardless of whether injury occurs, accidentally discharged a firearm, a  
 18 person dies during a law enforcement officer's use of force or while in the custody of a law  
 19 enforcement officer, or a law enforcement officer or other person has filed a complaint with the  
 20 Prince George's County Police Department or the Citizen Complaint Oversight Panel regarding  
 21 the conduct of a law enforcement officer.

22 [(a)] (b) The Chief of Police shall promptly send to the [Human Relations Commission]  
 23 Panel a copy of every signed [and sworn] complaint [alleging use of excessive force, abusive  
 24 language, or harassment by a law enforcement officer] against a law enforcement officer. The  
 25 copy of the complaint [shall be sent within twenty-four (24) hours after the initial evaluation by  
 26 the Police Department, and] shall be accompanied by a statement indicating whether the Internal  
 27 Affairs Division will conduct a full investigation of the alleged incident. [The Chief of Police  
 28 shall send the law enforcement officer under investigation a written notice that the complaint has  
 29 been received. The notice shall include the time, date and place of the conduct which is the  
 30 subject of the complainant as well as a brief description of the nature of the complaint and shall  
 31 be sent within twenty-four (24) hours after the initial evaluation by the Police Department.]

1        [(b)] (c) Within twenty-four (24) hours or the next business day after receipt, subject to the  
 2 provisions of State law, the Chief of Police shall send to the Panel a complete copy of the  
 3 [Internal Affairs Division] report of the internal affairs investigation of every case [alleging use  
 4 of excessive force, abusive language, or harassment by a law enforcement officer] that a law  
 5 enforcement officer discharged a firearm in an attempt to strike or control another person  
 6 regardless of whether injury occurs, accidentally discharged a firearm, a person dies during a law  
 7 enforcement officer's use of force or while in the custody of a law enforcement officer, or a law  
 8 enforcement officer or other person has filed a complaint with the Prince George's County Police  
 9 Department or the Citizen Complaint Oversight Panel regarding the conduct of a law  
 10 enforcement officer, and shall notify the [Human Relations Commission] Panel that the  
 11 investigation has been completed.

12        (d). If the Chief of Police determines that the disclosure of information to the Panel  
 13 mandated under subsections (a) through (c) would reasonably be expected to compromise or  
 14 impede a pending criminal or internal affairs investigation, within twenty-four (24) hours or the  
 15 next business day after receipt of the information, the Chief of Police may petition the County  
 16 Executive or his designee for a temporary exemption. Such a petition shall be in writing, must  
 17 contain all information that subsections (a) through (c) requires to be disclosed to the Panel and  
 18 shall provide specific facts demonstrating that the disclosure would reasonably be expected to  
 19 compromise or impede the pending investigation. The County Executive or his designee shall  
 20 respond in writing and may grant a temporary exemption from the mandated disclosures of no  
 21 longer than thirty (30) days. At the expiration of a temporary exemption, the Chief of Police  
 22 may renew his petition and the County Executive or his designee may grant additional temporary  
 23 exemptions of no longer than thirty (30) days every time the petition is renewed.

24        [(c)] (e) The Chief of Police shall direct [a member of the Internal Affairs Division] the  
 25 internal affairs investigator to attend, upon request of the Panel, the meeting of the Panel for the  
 26 purpose of providing clarification of any information in the report.

27        [(d)] (f) The Chief of Police shall give due consideration to the comments and  
 28 [recommendations] conclusions of the Panel, and shall instruct the Internal Affairs Division to  
 29 continue the investigation if, in the judgment of the Chief of Police, substantive issues have not  
 30 been adequately or impartially addressed.

1        [(e)] (g) After the Chief of Police has reviewed the comments and [recommendations]  
 2        conclusions of the Panel, the Chief of Police may proceed to act upon the recommendations of  
 3        the Internal Affairs Division in accordance with the provisions of Article 27, Sections 727  
 4        through 734D of the Annotated Code of Maryland.

5        (h) The Chief of Police shall provide copies of the following to the Panel concurrent with  
 6        service, transmittal, or notice to a law enforcement officer:

7                (1) All administrative charges served upon a law enforcement officer;

8                (2) All notices of hearing boards or suspension hearings served upon a law  
 9        enforcement officer;

10              (3) All notices of suspension of police powers and/or pay served upon a law  
 11        enforcement officer;

12              (4) All reports of the hearing board transmitted to the Chief of Police; and

13              (5) All notices of disciplinary action issued by the Chief of Police.

14        [(f)] (i) The Chief of Police shall notify the Panel within two (2) [working] business days  
 15        of the final disposition of the case.

16        **Sec. 18-186.07. [Duties of the Human Relations Commission] Reserved.**

17        [(a) The Human Relations Commission shall investigate every case alleging use of  
 18        excessive force, abusive language, or harassment by a law enforcement officer in accordance  
 19        with the provisions of the Human Relations Code. If the allegation is also being investigated by  
 20        the Internal Affairs Division, the Human Relations Commission shall conduct its investigation  
 21        simultaneously, shall conduct a public hearing before three members of the Law Enforcement  
 22        Panel of the Commission in accordance with Sections 2-205 and 2-206 of this Code, and shall  
 23        report in writing its comments and recommendations to the Chief of Police and to the Panel  
 24        within twenty (20) working days after the completion of the investigation by the Internal Affairs  
 25        Division.

26        (b) If requested by the Panel, the Human Relations Commission shall direct the person  
 27        who conducted the investigation to attend the meeting of the Panel for the purpose of providing  
 28        clarification, if needed, of any information in the report.

29        (c) The investigation and hearing by the Human Relations Commission shall not be  
 30        construed to constitute an investigation or hearing that could lead to disciplinary action,  
 31        demotion, or dismissal of a law enforcement officer. The comments and recommendations may

1 be used by the Panel to assist the Panel in its evaluation of the completeness and impartiality of  
2 the investigation by the Internal Affairs Division.]

3 **Sec. 18-186.08. Duties of the Panel.**

4 (a) For every investigation [into alleged use of excessive force, abusive language, or  
5 harassment by a law enforcement officer] alleging that a law enforcement officer discharged a  
6 firearm in an attempt to strike or control another person regardless of whether injury occurs,  
7 accidentally discharged a firearm, a person dies during a law enforcement officer's use of force  
8 or while in the custody of a law enforcement officer, or a law enforcement officer or other person  
9 has filed a complaint with the Prince George's County Police Department or the Citizen  
10 Complaint Oversight Panel regarding the conduct of a law enforcement officer, the Panel,  
11 subject to the provisions of State law, shall review the complete internal affairs investigation  
12 [report of the Internal Affairs Division and the report of investigation and hearing by the Human  
13 Relations Commission, if provided by the Human Relations Commission within the time set  
14 forth in Sections 2-231 and 18-186.07(a) of this Code].

15 (b). All testimony, information or material obtained or created by the Panel shall be  
16 considered confidential and shall not be disclosed except in the performance of its functions.

17 [(b)] (c) [Within ten (10) working days after receiving the report of the investigation and  
18 hearing by the Human Relations Commission, but no] No later than thirty (30) working days  
19 after the completion of the internal affairs investigation report [of the Internal Affairs Division],  
20 the Panel shall review the reports received and shall issue to the Chief of Police a written report  
21 as to the completeness and impartiality of the reports together with any of the following  
22 [recommendations] conclusions for each allegation in a complaint:

- 23 [(1) Sustain the complaint;
- 24 (2) Approve, disapprove, or modify the recommendations of the Internal Affairs
- 25 Division;
- 26 (3) Dismiss the complaint because of lack or insufficiency of evidence;
- 27 (4) Exonerate the police officer because of the absence of clear and convincing
- 28 evidence;
- 29 (5) Remand the complaint for further investigation to the Internal Affairs Division.]

30 (1) Sustained. A preponderance of the evidence proves that the alleged act or acts  
31 occurred and that the act or acts violated Department policy or procedure;



1           (2) Not Sustained. The evidence fails to prove or disprove that the alleged act or acts  
 2 occurred.

3           (3) Proper Conduct. The evidence proves that the alleged act or acts occurred;  
 4 however, the act or acts were justified, lawful, and proper.

5           (4) Unfounded. The evidence proves that the alleged act or acts did not occur or that  
 6 the accused law enforcement officer was not involved.

7           (5) Panel Investigation . If, in the judgment of the Panel, substantive issues have not  
 8 been adequately or impartially addressed by the investigation of complaints by the Internal  
 9 Affairs Division, the Panel may conduct its own investigation.

10          (6) Remand to Chief of Police. The Panel may defer disposition to remand a  
 11 complaint back to the Chief of Police for further investigation and/or additional reports.

12          [(c)] (d) Upon written application to the Chief of Police and for good cause shown, the  
 13 Chief of Police may grant an extension of time, not to exceed ten (10) additional working days,  
 14 to the Panel to complete [their] its review and report. If the Panel is unable to complete [their] its  
 15 review and report within the time allowed, including any extension granted by the Chief of  
 16 Police, then the internal affairs investigation report [of the Internal Affairs Division and the  
 17 report of investigation and hearing by the Human Relations Commission, if available,] shall be  
 18 forwarded to the Chief of Police without comment for action as provided in Section 18-  
 19 186.06(e).

20          [(d)] (e) The Panel shall base its comments and [recommendations solely] conclusions on  
 21 the investigative reports. [It shall not conduct its own investigation, nor hear from witnesses.]  
 22 The Panel may request the internal affairs investigator [a member of the Internal Affairs Division  
 23 and an investigator from the Human Relations Commission] to attend the Panel meetings to  
 24 provide clarification, if needed, of any material in the respective reports of investigation.

25          [(e)] (f) The Panel may conduct its own investigation independently from, but  
 26 concurrently with, the internal affairs investigation.

27          [(f)] (g) The Panel may, upon a majority vote of the members present, apply to the County  
 28 Council for the issuance of subpoenas upon any person to require such person to attend, testify  
 29 under oath, and produce documents and records regarding the subject of any investigation by the  
 30 Panel in accordance with the Annotated Code of Maryland. A complete record, either written,  
 31 taped, or transcribed, shall be kept of a person's testimony. All testimony, information and

1 material obtained or created by the Panel during its investigation will be sent to the Chief of  
 2 Police for consideration.

3 [(e)] (h) The Administrator of the Panel shall advise the Panel on all legal issues,  
 4 including, but not limited to, rules of evidence and confidentiality of information. The Panel  
 5 shall protect confidentiality but may otherwise make public its comments and  
 6 [recommendations] conclusions no sooner than one (1) [working] business day after submitting  
 7 its report to the Chief of Police.

8 [(f)] (i) Upon direction of the Chairperson of the Panel, a member or staff of the Panel  
 9 shall observe the proceedings of a hearing board, if one is convened.

10 [(g)] (j) The Panel shall report its comments and [recommendations] conclusions in  
 11 writing to the Chief Administrative Officer in each case[upon the closing of the case by the Chief  
 12 of Police] in a timely manner.

13 [(h)] (k) The Panel shall make public an annual report of its activities. The annual report  
 14 shall contain summary reports of case conclusions, a statistical analysis of cases by type and  
 15 disposition, including discipline imposed, any recommendations for policy changes, recruitment,  
 16 supervision, operational procedures and training, and any other information that the Panel deems  
 17 appropriate.

18 (l) The Panel shall inform the complainant of the following in a timely manner:

19 (1) Notice of the time and location of any hearing board; and

20 (2) Final disposition of a complaint.

21 SECTION 2. BE IT FURTHER ENACTED that this Act shall take forty-five (45) calendar  
 22 days after it becomes law.

Adopted this 6th day of November, 2001.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Ronald V. Russell  
Chairman

ATTEST:

\_\_\_\_\_  
Joyce T. Sweeney  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Wayne K. Curry  
County Executive

KEY:  
Underscoring indicates language added to existing law.  
[Brackets] indicate language deleted from existing law.  
Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.