

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

Legislative Session _____ 1990

Bill No. _____ CB-25-1990

Chapter No. _____

Proposed and Presented by The Chairman (by request -

County Executive)

Introduced by Council Members Bell, Mills, and Pemberton

Co-Sponsors _____

Date of Introduction _____ June 12, 1990

BILL

AN ACT concerning

Citizen Complaint Oversight Panel

FOR the purpose of establishing the Citizen Complaint Oversight Panel; providing for the composition and terms, powers and duties of the Panel; and establishing certain procedures to be followed by the Panel, the Chief of Police and the Human Relations Commission when a complaint of excessive force, abusive language or harassment is filed against a Prince George's County Police Officer.

BY repealing:

SUBTITLE 2. ADMINISTRATION.

Section 2-231,

The Prince George's County Code
(1987 Edition, 1988 Supplement).

BY adding:

SUBTITLE 2. ADMINISTRATION.

Section 2-231,

The Prince George's County Code
(1987 Edition, 1988 Supplement).

BY adding:

SUBTITLE 18. POLICE.

Sections 18-186.01,
18-186.02,
18-186.03,
18-186.04,
18-186.05,
18-186.06,
18-186.07, and
18-186.08,

The Prince George's County Code
(1987 Edition, 1988 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 2-231 of the Prince George's County Code be and the same is hereby repealed.

SUBTITLE 2. ADMINISTRATION.

DIVISION 12. HUMAN RELATIONS COMMISSION.

Subdivision 8. Discrimination by Law Enforcement Officers.

[Sec. 2-231.]

SECTION 2. BE IT FURTHER ENACTED that new Sections 2-231 and 18-186.01 through 18-186.08, inclusive, be and the same are hereby added to the Prince George's County Code to read as follows:

SUBTITLE 2. ADMINISTRATION.

DIVISION 12. HUMAN RELATIONS COMMISSION.

Subdivision 8. Discrimination by Law Enforcement Officers.

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

(a) Notwithstanding the provisions of Section 2-230, if a complaint pursuant to Section 2-229 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 to the Chief of Police and to the Citizen Complaint Oversight Panel, within twenty (20) working days after the 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 in which a Prince George's County Police

Officer is alleged to have used excessive force, abusive language or harassment involving a citizen, 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 and to comment on the action taken on such complaints, to report its comments and recommendations to the Chief Administrative Officer upon the final disposition of each case, and to issue an annual report to the public.

Sec. 18-186.02. Definitions.

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

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

(2) "Chief of Police" means the Chief of the Prince George's County Police Department.

(3) "Excessive force" means the use of greater physical force than reasonably necessary to repel an attacker or terminate

resistance and shall not include that force which is reasonably necessary to effect a lawful purpose.

(4) "Harassment" means repeated, unwarranted verbal or physical annoyances, threats, or demands.

(5) "Hearing Board" means the Police Hearing Board as defined in Article 27, Section 727 of the Annotated Code of Maryland.

(6) "Human Relations Commission" means the Prince George's County Human Relations Commission.

(7) "Law enforcement officer" means a sworn officer of the Prince George's County Police Department.

(8) "Panel" means the Citizen Complaint Oversight Panel.

Sec. 18-186.03. Citizen Complaint Oversight Panel created; composition; appointment; compensation.

(a) There is hereby created a Citizen Complaint Oversight Panel.

(b) The Panel shall consist of seven (7) members who shall be appointed by the County Executive and confirmed by the County Council.

(c) Of the initial appointments, three (3) shall be for a term of one (1) year and four (4) shall be for a term of two (2) years. Thereafter, all appointments shall be for two (2) year terms. In the event that a member does not complete a term, the vacancy shall be filled in the same manner as initial appointments. No member shall be appointed for more than two (2) consecutive full terms.

(d) Members shall be residents of Prince George's County and

broadly representative of the citizens of the County; however, no person may be appointed nor serve as a member who is a municipal, bi-county, County or State employee, or who is a municipal, County or State elected official or candidate for any such elected office, or who is employed by any law enforcement organization.

(e) Members may be reimbursed for reasonable expenses incurred in the performance of their duties and shall be compensated at the rate of Fifty Dollars (\$50) per hour for meetings, but no member shall receive more than Ten Thousand Dollars (\$10,000) in any twelve (12) month period.

(f) The County Executive shall designate a member to serve as Chairperson of the Panel.

(g) The County Executive shall provide appropriate staff, including an Administrator who shall be an attorney admitted to the practice of law in the State of Maryland. The Administrator shall be compensated as provided in the annual budget.

(h) The chairperson shall designate five (5) members of the Panel to review each complaint referred to the Panel pursuant to this Subdivision. A quorum of four (4) members of the Panel shall be required to conduct the business of the Panel.

Sec. 18-186.04. Citizen Complaints.

(a) Whenever an individual believes that he or she has been the object of police misconduct, such individual may file a written complaint with the Chief of Police on a form provided by the Police Department.

(1) The complaint shall include the name of the

complainant, and to the extent known, the name of the law enforcement officer allegedly involved, and the time, place and circumstances involved in the incident. The complaint shall also include an explanation of the conduct that is deemed to be wrongful.

(2) Sufficient supplies of citizen complaint forms shall be readily available at every Prince George's County Police station, every public library branch within the County, and at a designated office in the County Administration Building. These written complaint forms may be submitted in person or sent by mail to any office of the Prince George's County Police Department or to any office of the Panel.

(b) Individuals who present oral complaints by telephone or in person to police headquarters or to individual law enforcement officers shall be instructed to fill out a written citizen complaint form. The law enforcement officers shall advise such individuals of the correct procedures to be followed under this Section. Upon request, a copy of the citizen complaint form will be mailed to the complainant at the address furnished.

(c) The Police Department shall place posters in all police stations, and elsewhere throughout the County to explain the procedure for filing a complaint.

(d) An explanation of the complaint procedure shall be made to all officers of the Prince George's County Police Department in a General Order to be included in the Manual of Rules and Procedures of the Police Department, and shall be included in the training program for all new officers.

Sec. 18-186.05. Investigation of Complaints.

(a) The Internal Affairs Division of the Police Department, upon receipt of any citizen complaint form which alleges that a law enforcement officer used excessive force, abusive language or harassment shall commence an investigation within a reasonable amount of time, ordinarily within thirty (30) calendar days from the date of receipt of such complaint. The purpose of such investigation shall be to evaluate the merits of the complaint in an objective manner. Before taking the duress statement from the law enforcement officer under investigation, the Internal Affairs Division shall provide the officer and his representative the opportunity to read the complaint.

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

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

(a) The Chief of Police shall send to the Human Relations Commission a copy of every signed and sworn complaint alleging use of excessive force, abusive language or harassment by a law enforcement officer. The copy of the complaint shall be sent within twenty-four (24) hours after the initial evaluation by the Police Department, and shall be accompanied by a statement indicating whether the Internal Affairs Division will conduct a full investigation of the alleged incident. The Chief of Police shall

send the law enforcement officer under investigation a written notice that the complaint has been received. The notice shall include the time, date and place of the conduct which is the subject of the complainant as well as a brief description of the nature of the complaint and shall be sent within twenty-four (24) hours after the initial evaluation by the Police Department.

(b) Within twenty-four (24) hours after receipt, the Chief of Police shall send to the Panel a copy of the Internal Affairs Division report of the investigation of every case alleging use of excessive force, abusive language or harassment by a law enforcement officer and shall notify the Human Relations Commission that the investigation has been completed.

(c) The Chief of Police shall direct a member of the Internal Affairs Division to attend, upon request of the Panel, the meeting of the Panel for the purpose of providing clarification of any information in the report.

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

(e) After the Chief of Police has reviewed the comments and recommendations of the Panel, the Chief of Police may proceed to act upon the recommendations of the Internal Affairs Division in accordance with the provisions of Article 27, Sections 727 through

734D of the Annotated Code of Maryland.

(f) The Chief of Police shall notify the Panel within two (2) working days of the final disposition of the case.

Sec. 18-186.07. Duties of the Human Relations Commission.

(a) The Human Relations Commission shall investigate every
case alleging use of excessive force, abusive language or harassment by a law enforcement officer in accordance with the provisions of the Human Relations Code. If the allegation is also being investigated by the Internal Affairs Division, the Human Relations Commission shall conduct its investigation simultaneously, shall 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 to the Chief of Police and to the Panel, within twenty (20) working days after the completion of the investigation by the Internal Affairs Division.

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

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

recommendations may be used by the Panel to assist the Panel in its evaluation of the completeness and impartiality of the investigation by the Internal Affairs Division.

Sec. 18-186.08. Duties of the Panel.

(a) For every investigation into alleged use of excessive force, abusive language or harassment by a law enforcement officer, the Panel shall review the report of the Internal Affairs Division and the report of investigation and hearing by the Human Relations Commission, if provided by the Human Relations Commission within the time set forth in Sections 2-231 and 18-186.07 (a) of this Code.

(b) Within ten (10) working days after receiving the report of the investigation and hearing by the Human Relations Commission, but no later than thirty (30) working days after the completion of the report of the Internal Affairs Division, the Panel shall review the reports received and shall issue to the Chief of Police a written report as to the completeness and impartiality of the reports together with any of the following recommendations:

- (1) Sustain the complaint;
- (2) Approve, disapprove or modify the recommendations of the Internal Affairs Division;
- (3) Dismiss the complaint because of lack or insufficiency of evidence;
- (4) Exonerate the police officer because of the absence of clear and convincing evidence;
- (5) Remand the complaint for further investigation to the

Internal Affairs Division.

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

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

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

(f) Upon direction of the Chairperson of the Panel, a member

or staff of the Panel shall observe the proceedings of a hearing board, if one is convened.

(g) The Panel shall report its comments and recommendations in writing to the Chief Administrative Officer in each case upon the closing of the case by the Chief of Police.

(h) The Panel shall make public an annual report of its activities.

SECTION 3. BE IT FURTHER ENACTED that if any section, subsection, paragraph, sentence, clause, or phrase of this Act should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Act, which shall remain in full force and effect, and for this purpose, the provisions of this Act are hereby declared to be severable.

SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after the date it becomes law.

Adopted this 3rd day of July, 1990.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Jo Ann T. Bell
Chairman

ATTEST:

Jean M. Schmuhl, CMC
Clerk of the Council

APPROVED:

DATE: July 12, 1990

BY: Parris N. Glendening
County Executive

EFFECTIVE: AUGUST 27, 1990

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.