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# AGENDA ITEM SUMMARY

Reference No: CB-25-1990

Draft No: 4

Prince George's

Meeting Date: 7/3/90

County Council

Requestor: CO. EXEC.

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**Item Title:** To establish Citizen Complaint Oversight Panel to function when a police brutality complaint is filed against a Prince George's County Police Officer

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**Sponsors** B M P

<b>Date Presented</b>	3/6/90	<b>Executive Action</b>	7/12/90	S
<b>Committee Referral</b>	(1) 3/6/90	C.O.W.	<b>Effective Date</b>	8/27/90
<b>Committee Action</b>	(1) 6/5/90	FAV(A)		
<b>Date Introduced</b>	6/12/90			
<b>Pub. Hearing Date</b>	(1) 7/3/90	11:00 AM		

**Council Action** (1) 7/3/90 Enacted  
**Council Votes** B\_: A\_, CA: A\_, C\_: A\_, CI: --, MC: A\_, M\_: A\_,  
P\_: A\_, W\_: N\_, WI: A\_, \_\_: \_\_, \_\_: \_\_, \_\_: \_\_  
**Pass/Fail** P

**Remarks**

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Barbara Holtz,	<b>Resource</b>
<b>Drafter:</b> Office of Law	<b>Personnel:</b>

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## LEGISLATIVE HISTORY

COMMITTEE OF THE WHOLE REPORT

DATE: 6/5/90

Committee Vote: (DR-2) Favorable 4-1 (In Favor: Council Members Bell, Casula, Castaldi, and Pemberton; opposed: Wineland)

This legislation was in part designed as a response to the recommendations of the Blue Ribbon Commission on Public Safety to involve citizens in a police complaint review process.

With the implementation of CB-25, it will improve the confidence that the citizens of Prince George's County have in the law enforcement officers who protect them as well as in the process by which the conduct of officers is investigated. It will provide assurance to the citizens of this County that their Government intends to resolve any problems that may occur between the County's police officers and the community. The composition of the Oversight Panel shall consist of seven (7)

members appointed by the County Executive and confirmed by the County Council. This seven member panel will review the report and investigation conducted by the Internal Affairs Division (IAD) of the Police Department as well as the independent investigation by the Human Relations Commission (HRC). The Human Relations Commission is required to conduct a public hearing and submit a written report to the Oversight Panel within twenty (20) working days following the completion of the Internal Affairs Division report. To insure the timeliness of this second-opinion report, the HRC's staff will be augmented. An amount of \$200,000 will be requested for this Panel's operation in the Police Department's (Office of the Chief) proposed budget for fiscal year 1990-91.

David Goode, Council Administrator, summarized the events that had taken place since the C.O.W. meeting of March 27, 1990. Shortly after this meeting, the Council received a proposed draft of CB-25-1990 submitted by the F.O.P. The staff held a number of meetings with representatives from the F.O.P., Office of Law and Office of Labor Relations in an attempt to mesh the original draft with the F.O.P. draft. However, the F.O.P.'s draft would require the Panel to review documents subsequent to the hearing board whereas the County Executive's legislation required the Panel to review documents prior to the hearing board. As a result of this difference a Draft-2 of the legislation has been proposed for the Committee of the Whole. Also, the Council and County Executive received proposed amendments from the F.O.P. on April 18, 1990. The Chief Administrative Officer submitted a response to the proposed amendments. The Draft-2 of CB-25 does not include any of the proposed amendments submitted by the F.O.P.

Frank Stegman, Office of Labor Relations, stated that there were philosophical differences between CB-25 submitted by the County Executive and the proposed draft submitted by the F.O.P. The F.O.P. would like for the officer who is the subject of the complaint to be given a copy of the complaint filed against him. The procedures in CB-25 require the officer to be notified that a complaint has been filed against him. After the investigation is completed, the officer is given a copy of the complaint. Also, he suggested that this bill be amended to provide the complainant and the officer an opportunity to appear before the Oversight Panel with a written statement to the Panel but not to answer any questions.

Council Member Pemberton stated that she had problems with the complainant or officer being questioned by the Panel. It was her feeling that the review process would be turned into a hearing.

Leonard Lucchi, attorney for F.O.P. would like for the officer to be questioned by the Panel.

Council Member Pemberton said the Panel was created to remove the present perception of wrongdoing by law enforcement officers and/or cover-up by their administrators.

Darryl Jones, President of the F.O.P., said the issue is the availability of the IAD report to the officer. Also, if the officer appeared before the Panel, he would be unable to address the problem unless he had access to the IAD report. If the officer cannot receive the report, he should not appear but only submit a written statement.

Frank Stegman said that the discovery procedures outlined in the Law Enforcement Officer Bill of Rights (LEOBR) are sufficient.

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Leonard Lucchi stated that under Executive Order #44, an officer has input into the HRC process. But, in CB-25, the officer does not have input into the HRC process.

Council Member Wilson believes that the panel and the review process will not work and that the cost to establish the Panel is too expensive.

Council Member Casula had a problem with the officer not receiving a copy of the HRC investigation report.

Dave Mitchell, Chief of Police, stated that to provide reports to the complainant and officer would cause his office to become deluged with calls and letters before the final report is received. This also removes the confidentiality of the investigatory process. The IAD report is given to the officer 10 days before the hearing board.

Council Member Bell stated that the Council will correct the past problem by restoring HRC as an investigatory body with recommendations to the Chief.

Frank Herrelko, Bowie, stated that if he was an accused officer he would welcome an independent panel to review the process. For eight years he has served as the "Non-Lawyer" member of the Attorney Grievance Commission of Maryland. He hopes Prince George's County will have the best "Oversight Panel" in the state to review alleged misconduct incidents of law enforcement officers.

It was moved and seconded as a favorable report with the following amendments:

- (1) That HRC shall conduct a public hearing and submit a written report within twenty (20) working days after the completion of the Internal Affairs Division report.
- (2) That the Legislative Officer incorporate in the present bill (CB-25) the same protections the officers have from Executive Order #44 of 1975.

Committee Vote: 6-0 to hold in Committee (In favor Council Members Bell, Casula, Castaldi, Pemberton, Wilson & Wineland)

Frank Stegman, Office of Labor Relations, gave an overview of the proposed legislation.

David Mitchell, Chief of Police, discussed the complaint process. William Welch, Director, Office of Human Relations, stated that simultaneous investigations are conducted by his office and IAD and each agency has access to the other's file.

Council Member Casula asked how many HRC investigators are available to investigate police brutality complaints. William Welch said there are two investigators handling these complaints. At the present time, HRC does not have sufficient staff to investigate police complaints. Each investigator has a case load of about 35 cases and completes about eight cases per month. Also, the normal time for processing a case is about 90 days and HRC handles approximately 80 police complaints annually. Council Member Wineland wanted to know how the HRC report differed from the IAD report. William Welch said that about 80 to 90% of the time the reports agree.

Council Member Pemberton asked if the panel was permitted to call witnesses. Frank Stegman responded no. The Panel is only to review the documents as to the completeness and impartiality of the reports.

Council Member Wineland stated that he was concerned about the confidentiality of the police officer. Frank Stegman stated that all members of the Panel will be bound by either an oath or statement of confidentiality and all documents will be reviewed in privacy.

Council Member Wilson wanted to know if there were similar panels operating in other jurisdictions. Frank Stegman stated that he was not aware of any panel similar to the proposed panel operating in other jurisdictions.

Darryl Jones, President of F.O.P. #89 said he was not opposed to a Citizens Oversight Panel, but the F.O.P. is in opposition to some of the legalities included in this bill. He would like to have input into this proposed legislation.

Leonard Lucchi, attorney for F.O.P., stated that he had a legal concern with citizens participating in the process prior to the officer being charged. (See Section 18-186.04(a)). Also, this legislation eliminates the protection provided to law enforcement officers under Executive Order #44 of 1975. He would like to have the protection of police officers included in this bill.

#### **BACKGROUND INFORMATION/FISCAL IMPACT**

**(Includes reason for proposal, as well as any unique statutory requirements)**

The Blue Ribbon Commission on Public Safety recommended amending the existing review process to include citizens in the existing police complaint review process. The five-member, two-alternate Citizen Complaint Oversight Panel would convene on an as-needed basis to review cases of alleged police brutality, excessive force and harassment. The Panel would receive the reports of the Internal Affairs Division of the Prince George's County Police Department and the Human Relations Commission and conduct an independent review to provide the needed assurances that the investigation is complete, thorough and impartial. Panel members would serve staggered two-year terms and receive stipends at \$50 an hour or up to \$10,000 per year.