
By: **Delegates Marriott, Branch, C. Davis, Goodwin, Haynes, Kirk, and Paige**

Introduced and read first time: February 8, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

Baltimore City Civilian Review Board - Additional Powers

FOR the purpose of expanding the authority of the Baltimore City Civilian Review Board to process, investigate, review, and evaluate certain allegations; defining certain terms; and generally relating to the Baltimore City Civilian Review Board.

BY repealing and reenacting, without amendments,
The Public Local Laws of Baltimore City
Section 16-1 and 16-46
Article 4 - Public Local Laws of Maryland
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

BY repealing and reenacting, with amendments,
The Public Local Laws of Baltimore City
Section 16-41, 16-42, and 16-44
Article 4 - Public Local Laws of Maryland
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 4 - Baltimore City

16-1.

The following words and phrases as used in this subtitle shall have or include the following meanings.

(1) "Board" shall mean the Civilian Review Board established in § 16-42 of this subtitle.

(2) "Department" shall mean the Police Department of Baltimore City as constituted and established by this subtitle.

(3) "Commissioner" or "Commissioner of Police" shall mean the Police Commissioner of Baltimore City.

(4) "Internal Investigative Division" shall mean an official internal investigative unit under the organizational structure of the Department or other law enforcement unit.

(5) "Internal Investigative Division Report" shall mean the official file of an investigation conducted by the Internal Investigative Division as the result of a complaint against a police officer.

(6) "Members of the department" shall mean and include all persons and personnel employed by the department, whether civilian employees or police officers.

(7) "Police officers" shall mean all those members of the department having and exercising the powers of police officers, as provided in this subtitle, and shall specifically include the Police Commissioner of Baltimore City, all deputy police commissioners, and such other ranks or positions which the Commissioner may determine require experience as a police officer as a prerequisite.

(8) "Civilian employees" shall mean all members of the department other than police officers.

(9) "Examining authority" shall mean the Civil Service Commission of Baltimore.

16-41.

(a) In this subheading the following words have the meanings indicated.

(b) (1) "Abusive language" means harsh, violent, profane, or derogatory language which would demean the dignity of an individual.

(2) "Abusive language" includes profanity and racial, ethnic, or sexist slurs.

(c) (1) "Excessive force" means the use of greater physical force than reasonably necessary to repel an attacker or terminate resistance.

(2) "Excessive force" does not include force that is reasonably necessary to effect a lawful purpose.

(D) "FALSE ARREST" MEANS:

(1) THE ASSERTION OF AN AUTHORITY TO DETAIN A PERSON THAT IS:

(I) BASED ON INFORMATION THE PERSON ASSERTING AUTHORITY EITHER KNOWS OR SHOULD KNOW IS ERRONEOUS; OR

(II) WITHOUT LEGAL AUTHORITY;

(2) THE UNLAWFUL RESTRAINT OF ANOTHER PERSON'S LIBERTY OR FREEDOM OF LOCOMOTION WITHOUT THAT PERSON'S CONSENT; OR

(3) THE INSTIGATION OR PARTICIPATION BY A PERSON IN THE FALSE ARREST OF ANOTHER PERSON.

(E) "FALSE IMPRISONMENT" MEANS:

(1) THE DETENTION OF A PERSON THAT EXCEEDS MERE STOPPING, OR OBSTRUCTION WITHOUT THAT PERSON'S CONSENT, THAT IS:

(I) BASED ON INFORMATION THAT THE DETAINDER KNOWS OR SHOULD KNOW IS ERRONEOUS; OR

(II) WITHOUT LEGAL AUTHORITY; OR

(2) THE INSTIGATION OR PARTICIPATION BY A PERSON IN THE FALSE IMPRISONMENT OF ANOTHER PERSON.

[(d)] (F) "Harassment" means:

(1) repeated, unwarranted verbal or physical annoyances; or

(2) unwarranted threats or unwarranted demands.

[(e)] (G) "Law enforcement unit" means

the Police Department of Baltimore City,

the Baltimore City School Police,

the Housing Authority of Baltimore City Police, and

the Baltimore City Sheriff's Department.

[(f)] (H) "Police officer" means a member of a law enforcement unit authorized to make arrests.

16-42.

(a) The Civilian Review Board of Baltimore City is established to provide a permanent, statutory agency in Baltimore City through which:

(1) complaints lodged by members of the public regarding abusive language, FALSE ARREST, FALSE IMPRISONMENT, harassment, or excessive force by police officers of a law enforcement unit shall be processed, investigated under § 16-46 of this subheading, and evaluated; and

(2) policies of a law enforcement unit may be reviewed.

(b) Jurisdiction of the Board shall extend only to complaints against police officers with respect to abusive language, FALSE ARREST, FALSE IMPRISONMENT, harassment, and use of excessive force[,] as defined in § 16-41 of this subheading and by the law enforcement unit's rules and regulations.

(c) A law enforcement unit shall place posters in all law enforcement unit stations and elsewhere throughout the City to explain the procedure for filing a complaint.

(d) An explanation of the Board's complaint procedures shall be made to all police officers in a general order to be included in the manual of rules and procedures of a law enforcement unit, and shall be included in the training program for new police officers.

16-44.

(a) An individual who claims to have been subjected to or witnessed an act of abusive language, FALSE ARREST, FALSE IMPRISONMENT, harassment, or excessive force, or injury allegedly resulting from excessive force caused by a police officer, may file a complaint at

the Office of the Internal Investigative Division,

the Legal Aid Bureau,

the Maryland Human Relations Commission,

the Baltimore Community Relations Commission, or

at any of the police district stations.

(b) (1) Except as provided in paragraph (2) of this subsection, a complaint shall be made within 1 year of the action giving rise to the complaint.

(2) A complaint for excessive force shall be made within 90 days of the alleged act of excessive force.

(c) (1) (i) The complaint shall be reduced to writing on a form authorized by the Board, signed by the complainant, and witnessed by a notary public.

(ii) In addition to the requirements of subparagraph (i) of this paragraph, a complaint for excessive force shall be sworn to by the complainant.

(2) The complaint shall include:

(i) the name of the complainant;

(ii) if known, the name of the police officer allegedly involved;

(iii) the date, time, and place of the alleged misconduct;

- (iv) the circumstances of the alleged misconduct; and
- (v) an explanation of the alleged misconduct that is deemed to be

wrongful.

(d) One copy of the completed form shall be retained by the recipient of the complaint and a copy given to the complainant. A copy shall be sent within 48 hours to the Internal Investigative Division and the Secretary of the Board.

(e) The Secretary of the Board shall assign a consecutive number to each complaint, and within 48 hours, shall send a copy to each member of the Board. The Secretary shall also maintain on file a record of each complaint.

16-46.

(a) (1) The Board shall review all complaints alleging police misconduct described in § 16-42(a)(1) of this subheading.

(2) The Board may investigate, simultaneously with the Internal Investigative Division, each complaint it deems appropriate and report its findings to the Internal Investigative Division.

(b) (1) The Board may issue a subpoena, signed by the Chairman of the Board, to compel:

(i) the attendance and testimony of a witness other than the accused officer; and

(ii) the production of any book, record or other document.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Board, a court of competent jurisdiction may compel compliance with the subpoena.

(3) A police officer may submit a witness list to the Board 10 days or more before the Board takes testimony.

(4) The Chairman or the Secretary of the Board may administer oaths in connection with any proceeding of the Board.

(5) The police officer or the police officer's representative shall have the right to question witnesses who testify about the complaint.

(6) All witness testimony shall be recorded.

(c) (1) The Board shall review the Internal Investigative Division's Report.

(2) On review of the Internal Investigative Division Report and the Board's investigative report, if any, of each case, the Board shall recommend to the head of the appropriate law enforcement unit one of the following actions:

- (i) sustain the complaint and may recommend the appropriate disciplinary action against the police officer;
- (ii) not sustain the complaint;
- (iii) exonerate the police officer; or
- (iv) further investigation by the Internal Investigation Division.

(d) The Board shall submit a statement of its findings and recommendations to the head of the appropriate law enforcement unit within 30 days of receipt of the Internal Investigative Division Report.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005.