

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

House Bill 642

(Prince George's County Delegation)

Judiciary

Judicial Proceedings

**Prince George's County - Complaints Against a Law Enforcement Officer -
Subpoena Enforcement
PG 305-02**

This bill authorizes the Prince George's County Citizen Complaint Oversight Panel (CCOP) to petition a court to compel compliance with a subpoena issued by the county council and a court to punish disobedience by contempt of court.

Fiscal Summary

State Effect: None.

Local Effect: Minimal. The bill should have no significant fiscal impact on Prince George's County or the Judiciary. Any potential beneficial operational impact for either the Human Relations Commission or the Citizen Complaint Oversight Panel cannot be reliably predicted.

Small Business Effect: None.

Analysis

Current Law: Before November 2001 the Human Relations Commission had investigatory authority concerning the Prince George's County Police. The Human Relations Commission has subpoena power.

Recent legislation enacted by the county council (CB-59-2001, signed into law November 26, 2001) gives the investigatory authority to CCOP, but does not give CCOP

subpoena power. CCOP must request a subpoena from the county council. If the county council issues a subpoena, this bill will allow CCOP to petition a court to order compliance and punish disobedience as contempt of court.

Until the recent enactment, CCOP had no authority to investigate police misconduct, but rather was to review reports of investigations by the police Internal Affairs Division and the Human Relations Commission to determine whether the investigation was complete and impartial and to make recommendations based on the reports. The new legislation requires CCOP to review the chief's report as to completeness and impartiality, and make conclusions for each allegation. The legislation allows CCOP to conduct an independent investigation and upon a majority vote to apply to the county council for issuance of a subpoena to require a person to attend, testify, and produce documents and records.

The new county legislation does not and cannot supplant the procedures in the Law Enforcement Officers' Bill of Rights (LEOBR). Therefore, if LEOBR prohibits the disclosure of any evidence then CCOP would not be able to obtain it. The new legislation grants CCOP the power "subject to the provisions of State law, (to) review the complete internal affairs investigation." Before this enactment, CCOP had power to review the report of the Internal Affairs Division. There is further a requirement in the new legislation that all evidence obtained by CCOP is "confidential and shall not be disclosed except in the performance of its functions."

In Prince George's County, according to the County Office of Law, the county council is granted broad subpoena powers under the county charter. In addition, the council has granted or authorized specific subpoena powers to the following local entities: the Animal Control Commission, the Personnel Department, the Zoning Hearing Examiner, the Airport Zoning Authority, the Consumer Protection Commission, and the Human Relations Commission when investigating violations of the county's human relations ordinances. In addition, upon direction from a grand jury, the State's Attorney may apply to a court for the issuance of a subpoena. The county police may also ask the State's Attorney to make such a judicial application.

The Baltimore City Citizen Review Board, which the General Assembly enacted in 1999, has both subpoena power and the authority to petition a court to compel compliance with a subpoena.

Background: In various jurisdictions, including Baltimore City and Baltimore, Frederick, Prince George's, Queen Anne's, and Wicomico counties, questions about police tactics and behavior have arisen since the 2001 session.

In Prince George's County, the U.S. Department of Justice is conducting an ongoing civil rights investigation of the Prince George's County Police to determine whether there is

an ingrained pattern of excessive force and racial discrimination. Also, according to press reports, a recent unpublished study financed by a grant from the U.S. Department of Justice found that white police officers in Prince George's County use more physical force than black officers when arresting black suspects. In addition, a Community Task Force on Police Accountability has presented a report and recommendations to the Prince George's County Executive containing 57 specific recommendations regarding: (1) citizens' attitudes toward police and the citizen complaint process; (2) policies and practices concerning use of force; (3) accountability and supervision; (4) human resources management; and (5) community policing. While most of these recommendations involve internal changes within the county police department, a few rely on State legislative action.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's County, Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2002
lc/cer Revised - House Third Reader - March 21, 2002

Analysis by: Guy G. Cherry

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510