

**Department of Legislative Services**  
Maryland General Assembly  
2014 Session

**FISCAL AND POLICY NOTE**

Senate Bill 142 (Senator Conway)  
Judicial Proceedings

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**Inspection of Public Records - Internal Investigations Division of the Baltimore  
Police Department**

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This bill requires a custodian of public records to permit inspection of a complaint filed with or investigated by the Internal Investigations Division (IID) of the Baltimore Police Department (BPD) and all documents relating to the complaint, including (1) documents collected or created during the investigation of the complaint and (2) documents reflecting the conclusion of the investigation into the complaint.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** None. BPD can meet the bill's requirements with existing budgeted resources.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Generally, a custodian of a public record must permit inspection of the record at a reasonable time.

A custodian has to deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. Denial of inspection is also mandatory for public records relating to adoption, welfare records, letters of reference, specified information about an individual

maintained by a library, retirement records, certain police records, criminal charging documents, arrest warrants, personnel records, certain hospital and school records, records of certain State agencies, and certain recorded and surveillance images. Denial of inspection is required for information in a public record relating to certain medical, psychological, sociological, and financial information; trade secrets; certain personal information about public employees; information about the security of an information system; and licensing records.

Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. Other permissible denials include information relating to documents that would not be available through discovery in a lawsuit, certain information about publicly administered tests, research projects conducted by an institution of the State or a political subdivision, real estate appraisals of property to be acquired by the State prior to its acquisition, certain information on inventions owned by State public higher educational institutions, and trade secrets or confidential information owned by the Maryland Technology Development Corporation.

“Custodian” means the official custodian (officer or employee of the State or of a political subdivision who is responsible for keeping the public record, whether or not they have physical custody and control of the record) or any other authorized individual who has physical custody and control of a public record.

“Public record” means the original or any copy of any documentary material that is made by a unit or instrumentality of the State government or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business.

The internal investigations of law enforcement officers are governed by the Law Enforcement Officers’ Bill of Rights (LEOBR). Under LEOBR, upon written request, a law enforcement officer may have expunged from any file the record of a formal complaint made against the law enforcement officer if at least three years have passed since the final disposition by the law enforcement agency or hearing board and (1) the law enforcement agency that investigated the complaint exonerated the law enforcement officer of all charges in the complaint or determined that the charges were unsustainable or unfounded or (2) a hearing board acquitted the law enforcement officer, dismissed the action, or made a finding of not guilty. Evidence of a formal complaint against a law enforcement officer is not admissible in an administrative or judicial proceeding if the complaint resulted in one of the actions described above.

**Background:** According to BPD’s website, citizen complaints against police officers may be made in person or by calling a police facility, IID, the Human Relations

Commission, the Community Relations Commission, or the Legal Aid Bureau. Complaints are investigated by the Civilian Review Board, a permanent, independent agency in Baltimore City. The board may also review BPD policies and make the recommendations to the police commissioner.

Complaints of excessive force must be made within 90 days, and all complaints of excessive force, discourtesy, or harassment must be put in writing on a Civilian Review Board form and sworn to before an official authorized to administer an oath. Members of IID are authorized to notarize such complaints. Making a false statement, report, or complaint is punishable by maximum penalties of a fine of \$500 and/or imprisonment for six months.

BPD is the official custodian of records affected under the bill. BPD is required keep the personnel records of its employees confidential. They are not ordinarily subject to public disclosure or inspection.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore City, Department of Legislative Services

**Fiscal Note History:** First Reader - January 27, 2014  
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