

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 834

(Senator Carter, *et al.*)

Judicial Proceedings

---

Public Safety - Law Enforcement Accountability - Civilian Oversight

---

This bill expands the list of individuals who may serve as an investigating officer or interrogating officer in an investigation or interrogation of a law enforcement officer under the Law Enforcement Officers' Bill of Rights (LEOBR) to include an investigator of an established civilian review board with jurisdiction over the matter. The bill repeals (1) authorization for a record of a formal complaint against a law enforcement officer to be expunged (instead, expungement of such a record is specifically prohibited) and (2) the requirement that the Civilian Review Board of Baltimore City expunge records of a complaint against a law enforcement officer if the complaint is not sustained or the officer is exonerated. In addition, the bill alters the circumstances under which a formal complaint against a law enforcement officer is not admissible in an administrative or judicial proceeding.

---

Fiscal Summary

**State Effect:** None. The changes are procedural in nature and do not directly affect governmental finances.

**Local Effect:** None. The changes are procedural in nature and do not directly affect governmental finances.

**Small Business Effect:** None.

---

Analysis

**Bill Summary:** Evidence of a formal complaint against a law enforcement officer is not admissible in an administrative or judicial proceeding if:

- 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
- a hearing board acquitted the law enforcement officer, dismissed the action, or made a finding of not guilty.

## **Current Law:**

### *Law Enforcement Officer Bill of Rights*

LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 26 specified State and local agencies. The investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal must be conducted in accordance with LEOBR. The investigating officer or interrogating officer must be a sworn law enforcement officer, or if requested by the Governor, the Attorney General or Attorney General's designee.

Before an interrogation, the law enforcement officer under investigation must be informed in writing of the nature of the investigation. A complete record must be kept of the entire interrogation, including all recess periods, of the law enforcement officer. The record may be written, taped, or transcribed. If the law enforcement agency orders the officer to submit to a test, examination, or interrogation, the results are not admissible or discoverable in a criminal proceeding against the law enforcement officer. On written request, a law enforcement officer may have expunged from any file the record of a formal complaint if at least three years have passed since the final disposition by the law enforcement agency or hearing board and:

- 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
- 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 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 a hearing board acquitted the law enforcement officer, dismissed the action, or made a finding of not guilty.

### *Civilian Oversight Entities*

There are two civilian oversight entities in Maryland with oversight and investigatory authority over law enforcement agencies. The Prince George's County Citizen Complaint Oversight Panel was established in 1990. The panel is authorized to review the complete internal affairs investigations (subject to provisions of State law) of complaints made against Prince George's County law enforcement officers. The panel makes conclusions regarding the investigation. The panel also has subpoena powers, with authorization from the Prince George's County Council, to facilitate its investigations.

Chapter 197 of 1999 established the Civilian Review Board of Baltimore City. It is authorized to process complaints lodged by members of the public who allege abusive language, false arrest, false imprisonment, harassment, or excessive force by members of the Baltimore Police Department. The board may also review police department's policies and make recommendations to the police commissioner. The board may issue subpoenas to compel the production of records. If a complaint is not sustained or the police officer is exonerated, on written request by the police officer sent to the board, the board must expunge all records of the complaint.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery and Prince George's counties; City of Takoma Park; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2019  
an/lgc

---

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510