

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. Law 3-158

"District of Columbia Civilian Complaint Review Board Act of 1980".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 3-247 on first and second readings, October 14, 1980 and October 28, 1980, respectively. Following the signature of the Mayor on November 10, 1980, this legislation was assigned Act No. 3-285, published in the November 21, 1980 edition of the D.C. Register, (Vol. 27 page 5127). This act was originally transmitted to Congress on November 19, 1980, and resubmitted on January 14, 1981 for a 30-day review, in accordance with Section 602 (e)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 3-158, effective March 5, 1981.


ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30
February 2, 3, 4, 5, 6, 17, 18, 19, 20, 23, 24, 25, 26, 27,

D.C. LAW 3-158

EFFECTIVE
DATE MAR 05 1981

AN ACT

D.C. ACT 3-285

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOV 10 1980

To establish the District of Columbia Civilian Complaint Review Board for the purpose of resolving citizen allegations of misconduct by officers of the Metropolitan Police Department and Special Police employed by the District of Columbia government.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA.

That this act may be cited as the "District of Columbia Civilian Complaint Review Board Act of 1980".

Sec. 2. Creation and Purpose.

(a) There is established a District of Columbia Civilian Complaint Review Board (hereafter referred to as the "Board").

(b) The purpose of the Board shall be to make findings and recommendations with respect to citizen complaints concerning misconduct by officers of the Metropolitan Police Department and the Special Police employed by the District of

CODIFICATION
D.C. Code,
sec. 2-2701

Columbia government, when such misconduct is directed toward any person who is not a member of the Metropolitan Police Department or Special Police employed by the District of Columbia government.

(c) The Board shall have authority to act with respect to a citizen complaint alleging one (1) or more of the following:

- (1) Police harassment;
- (2) Excessive use of force; or
- (3) Use of language likely to demean the inherent dignity of any person to whom it was directed and to trigger disrespect for law enforcement officers.

Sec. 3. Board Recommendations.

(a) Except as provided in section 4(d), the Board shall find whether each allegation in a complaint filed against an officer should be sustained, dismissed, or found to evidence misconduct not directly related to the immediate complaint but within the authority of the Board. The Board shall be empowered to recommend

D.C. Code,
sec. 2-2702

personnel actions against officers involved in misconduct. Each finding shall be in writing.

(b) The Board shall recommend actions to be taken by the Chief of the Metropolitan Police Department.

(c) Except as hereafter provided, the Chief of the Metropolitan Police Department shall be the final authority in regard to findings about and discipline of officers of the Metropolitan Police Department and Special Police officers employed by the District of Columbia government: PROVIDED, That, all rights provided by the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-331.1 et seq.) as amended by this act, including the right to appeal before the Office of Employee Appeals and the right to a trial board hearing prior to dismissal are maintained. It is further provided that if the Chief of the Metropolitan Police Department determines to take any action other than that recommended by the Board, he shall indicate in writing his recommended action and the reasons therefor. The findings and recommendations of the

Board, together with the recommendation by the Chief of Police, shall be transmitted to the Mayor of the District of Columbia who shall have thirty (30) days from the date of the transmittal by the Chief of the Metropolitan Police Department to either uphold the recommendation of the Chief of the Metropolitan Police Department, impose the recommended actions of the Board, or order a compromise between these recommendations. If the Mayor fails to act within the prescribed thirty (30) days, the recommended action of the Chief of the Metropolitan Police Department shall be deemed final.

Sec. 4. Complaint Procedure.

D.C. Code,
sec. 2-2703

(a) Except as provided in subsection (d), all citizen complaints of alleged misconduct by officers shall be adjudicated by the Board.

(b) The Board shall be responsible for promulgating rules and procedures in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1958 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.) which ensure at a minimum:

(1) General public access to required forms and information concerning the submission, review, and disposition of complaints;

(2) The adjudication of complaints and forwarding of findings to the Chief of the Metropolitan Police Department in an expeditious manner;

(3) That complainants and accused officers have access to all Board proceedings and receive copies of the Board's investigative reports, findings, and recommendations simultaneously with their transmittal of any such materials to the Chief of the Metropolitan Police Department or the United States Attorney for the District of Columbia, as the case may be;

(4) That all Board meetings where testimony is presented or findings and recommendations are announced be open to the public;

(5) That adequate records for the conduct of hearings, presentation of evidence and

witnesses, and deliberation of findings are developed;

(6) That adequate records are maintained on the receipt, review, and recommendations concerning alleged misconduct cases to allow regular monitoring of the nature and disposition of such cases; and

(7) That the grounds and procedures for good cause removal from membership on the Board are specified.

(c) Within thirty (30) calendar days of the receipt of recommendations by the Board, the Chief of the Metropolitan Police Department shall (1) implement or otherwise issue a final order with respect to such recommendations or (2) refer the matter to a police trial board. Failure to act within thirty (30) days shall be deemed final action by the Chief of the Metropolitan Police Department ratifying the findings and recommendations of the Board, after which an aggrieved officer may exercise any right of review provided by law. The decision of the Chief of Metropolitan Police Department to refer the matter to a police trial board is final and non-

reviewable, notwithstanding the provisions of Title VI and Title XVI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-336.1 - 1-336.4 & sec. 1-346.1 - 1-346.3).

(d) When, in the determination of the Board, the record indicates any probability that the alleged misconduct was criminal in nature, the Board shall refer the complaint to the United States Attorney for the District of Columbia. Records of such transfer shall be maintained and the disposition of action determined and recorded. In cases where referral for possible criminal prosecution has occurred but the United States Attorney for the District of Columbia has elected not to prosecute, the Board may continue its adjudication of the non-criminal aspects of the complaint. If the United States Attorney for the District of Columbia elects to prosecute, the Board may resume its adjudication of the non-criminal aspects of the complaint following resolution of the criminal prosecution.

(e) The Board shall maintain an official record of all complaint proceedings which shall be available to the public. All or any part of Board records may be sealed to prevent public disclosure only for good cause shown by order of the Mayor or a court of competent jurisdiction. Such order shall be a public record and state reasons for the sealing.

Sec. 5. Board Composition.

D.C. Code,
sec. 2-2704

(a) The Board shall be composed of a chairperson and six (6) other members.

(b) The members shall be representative of the population of the District of Columbia and each shall be a resident of the District of Columbia.

(c) The Mayor shall appoint the chairperson of the Board who shall be a resident of the District of Columbia and a member in good standing of the District of Columbia Bar.

(d) The recognized bargaining agent for the majority of uniformed Metropolitan Police Department employees shall appoint a representative, and the Chief of the Metropolitan Police Department shall appoint a member of the Metropolitan Police Department.

(e) The Board shall have four (4) citizen members, two (2) of whom shall be appointed by the Mayor and two (2) appointed by the Council of the District of Columbia. No citizen member appointed by the Mayor of the District of Columbia or the Council of the District of Columbia may be or become a member of the Metropolitan Police Department during such member's tenure on the Board.

(f)(1) The terms of the Board members shall be three (3) years, except that the first terms of appointment shall be as follows:

(A) The chairperson, one (1) citizen member appointed by the Mayor, and one (1) citizen member appointed by the Council of the District of Columbia shall be appointed for three (3) years;

(B) The member of the Metropolitan Police Department and one (1) citizen member appointed by the Mayor shall be appointed for two (2) years; and

(C) The representative of the recognized bargaining agent for the majority of uniformed Metropolitan Police Department employees and

one (1) citizen member appointed by the Council shall be appointed for one (1) year.

(2) Any member appointed to fill an unexpired term shall be appointed only for the unexpired portion of that term. No member shall serve more than two (2) consecutive terms. For purposes of this subsection, any member appointed to any term which exceeds twelve (12) months shall be considered to have served a full term.

(q) A majority of the seven (7) members of the Board shall constitute a quorum.

(h) Any Board member may be removed for good cause shown by the Mayor with the concurrence of a majority-vote of the Board or by a majority vote of the Board-with the concurrence of the Mayor. In such event, a new Board member shall be appointed promptly in the same manner as the predecessor to fill the unexpired term.

Sec. 6. Civilian Complaint Review Board
Functions and Hearings.

(a) The Board shall convene and receive from the Executive Director complaints against a police officer involved in instances of alleged misconduct occurring within the District of

D.C. Code,
sec. 2-2705

Columbia. Every accused officer shall be given sufficient opportunity to respond to allegations in any complaint. Within thirty (30) days of the filing of a complaint the Board shall fix a time and place for a hearing on the complaint unless the Board determines on the basis of the face of a complaint that the complaint is frivolous. The Executive Director of the Board shall, at the direction of the Board, conduct an investigation of any complaint, including the interviewing of witnesses and police personnel. The results of any investigation by the Executive Director shall be written in an investigative report, filed with the Board, and served on every party before the Board's hearing on the complaint.

(b) The Board shall decide by a preponderance of the evidence whether to sustain or dismiss the complaint against the accused officer.

(c) Any testimony and other evidence, together with all papers and requests filed in the proceedings, and all material facts not appearing in the evidence but with respect to which official notice is taken, shall constitute the exclusive record for decision. A tape recording of all

testimony and exhibits shall be made available to any party to the proceedings upon request.

(d) Upon the reasonable request of any party to its proceedings or on its own motion the Board may direct by subpoena the attendance of any person before the Board to give testimony under oath or affirmation and to produce all relevant books, records, or other documents before the Board.

(e) In case of contumacy by, or refusal to obey a subpoena issued to any person, the Board may by resolution refer the matter to the Superior Court of the District of Columbia which may by order require such person to appear and give or produce testimony or books, papers, or other evidence bearing upon the matter under investigation. Any failure to obey such order may be punished by the Superior Court of the District of Columbia as a contempt thereof as in the case of failure to obey a subpoena issued, or to testify, in a case pending before such court.

(f) Once a hearing has been scheduled, every party, including the complainant or counsel, shall have the right to testify, call, and examine

witnesses, to introduce other evidence, and to cross-examine adverse witnesses. Any oral and documentary evidence may be received, but the chairperson of the Board shall exclude irrelevant, immaterial, or unduly repetitious evidence. Rulings of the chairperson on all questions at issue in the taking of testimony or submitting of evidence shall be binding, but exceptions to rulings of the chairperson shall be placed in the record. The Mayor is authorized to provide compensation for witnesses who are subpoenaed to testify before the Board, except those in the employ of the District of Columbia government or the United States government.

(q) Any willful false swearing on the part of any witness before the Board as to any material fact shall be deemed perjury and shall be punished in the manner prescribed by law for such offense.

Sec. 7. Liability of Board Members.

D.C. Code,
sec. 2-2706

(a) No member of the Board shall be liable to any person for damages or equitable relief by reason of any action taken or recommendation made by the member or by the Board, if the action taken was within the scope of the functions of the Board

and if the Board member acted in the reasonable belief that such member's action was warranted by the facts known to such member after reasonable effort to obtain the facts of the matter.

Sec. 8. Staff and Support Services.

D.C. Code,
sec. 2-2707

(a) The Board shall employ an Executive Director and such professional and investigative staff as is authorized through appropriations. The Executive Director and staff shall be considered employees of the District of Columbia government, hired in accordance with the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-331.1 et seq.) and be entitled to all rights enjoyed by District of Columbia employees.

(b) The Executive Director shall be a resident of the District of Columbia.

(c) The Executive Director shall have full responsibility for the supervision and direction of employees of the Civilian Complaint Review Board and shall ensure that all rules, regulations, records, and orders of the Board are maintained and properly executed.

(d) The Executive Director shall receive and administratively process all complaints authorized to be resolved under this act against an accused officer.

(e) The Executive Director shall file with the Mayor and the Council of the District of Columbia, once every six (6) months, a report of all activities encompassed within the complaint processing and disposition procedures, together with such recommendations as the Board deems appropriate with respect to police practices, procedures, and other matters within the concern of the police complaint system.

Sec. 9. Funding.

D.C. Code,
sec. 2-2708

(a) There are authorized such funds as may be necessary to support the Board, its staff, and support services.

(b) Board members who are not otherwise employed by the District of Columbia government shall be compensated pursuant to section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-331.8).

Sec. 10. Miscellaneous Provisions.

D.C. Code,
sec. 2-2709

(a) If any section or provision of this act is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining sections or provisions of this act.

(b) The Board shall prepare an informational pamphlet on, and regularly publicize the police complaint procedure established by this act.

(c) Anyone who wishes to file a complaint against a police officer must be provided with a complaint form. The Metropolitan Police Department and the Mayor are prohibited from maintaining any system other than that set forth in this act for the processing of section 2(c) civilian complaints against officers of the Metropolitan Police Department and Special Police employed by the District of Columbia where the alleged misconduct is directed towards any person not an officer of the Metropolitan Police Department or Special Police employed by the District of Columbia government. The Metropolitan Police Department shall establish an intensive human relations training program for police officers at every level of command.

(d) No complaint may be filed more than six (6) months after a complainant using reasonable diligence, became or should have become aware of the matter giving rise to the complaint.

(e) The remedies created by this act are cumulative of any others provided by statute or at common law.

(f) The Regulation Enacting the Police Manual for the District of Columbia, effective January 14, 1972 (Reg. No. 72-2) is amended as follows:

D.C.M.R.

(1) by striking section 10.1:3 and inserting the following section:

"10.1:3 Complaints alleging police harassment, excessive use of force, or use of language likely to demean the inherent dignity of any person to whom it was directed and to trigger disrespect for law enforcement officers initiated by any person other than the Mayor or a member of the force, shall be resolved pursuant to the District of Columbia Civilian Complaint Review Board Act of 1980." in lieu thereof; and

(2) by striking the last sentence of section 10.1:19.

(g) Reorganization Order No. 48, effective June 26, 1953 (except as it relates to a "Complaint Review Board" which is superseded by the Civilian Complaint Review Board created under this act) shall continue to apply to officers of the Metropolitan Police Department and the Special Police employed by the Government of the District of Columbia hired after January 1, 1980, for the purposes of this act, notwithstanding the provisions of section 3203(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective January 1, 1980 (D.C. Law 2-139; D.C. Code, sec. 1-352.3).

D.C.M.R.

(h) - In any case where a complaint is adjudicated by the Board and referred by the Chief of Police to a police trial board, review by the police trial board as provided in Reorganization Order No. 48, effective June 26, 1953, shall be the exclusive administrative procedure available to an officer of the Metropolitan Police Department and Special Police employed by the District of Columbia government, notwithstanding the provisions of Titles XVI and XVII of the District of Columbia Comprehensive Government

D.C.Code,
sec. 2-2709(f)

Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-345.1 - 1-347.16).

(i) Section 1405 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective January 1, 1980 (D.C. Law 2-139; D.C. Code, sec. 1-344.4) is amended by adding the following sentence at the end thereof: "The findings and recommendations of the District of Columbia Civilian Complaint Review Board may be used in evaluating the performance of an officer of the Metropolitan Police Department and Special Police employed by the District of Columbia government."

D.C. Code,
sec. 1-344.4

Sec. 11. Statutory Construction.

D.C. Code,
sec. 2-2710

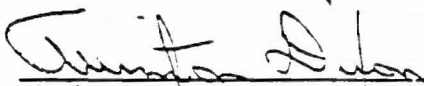
The purposes of this act favor resolution of ambiguity by an administrator, hearing officer, or court toward the goal of promoting public participation and openness in the resolution of citizen complaints of misconduct by police officers. This act shall be deemed to supercede and repeal any and all provisions of law or administrative orders enacted or promulgated prior

to October 1, 1981, which are inconsistent or conflict with any provision of this act.

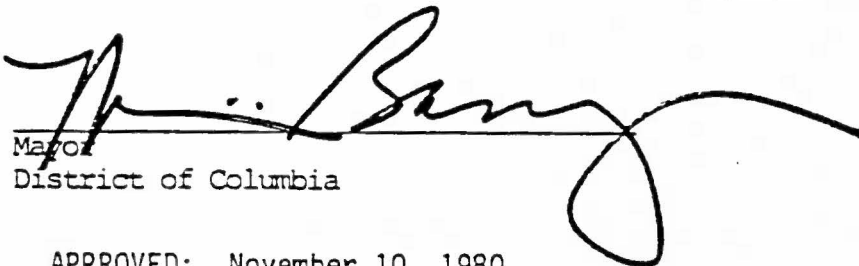
Sec. 12. Effective Date.

This act shall take effect after a thirty (30) day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor action by the Council of the District of Columbia to override the veto as provided in section 602(2)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-147(c)(1)): PROVIDED, That this act shall not take effect prior to October 1, 1981, at which time complaints may be made to the Board.

D.C. Code,
sec. 2-2711



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: November 10, 1980

COUNCIL OF THE DISTRICT OF COLUMBIA

RECORD OF OFFICIAL COUNCIL ACTION

DOCKET NO: B 3-247

ACTION: Adopted First Reading, 10-14-80

VOICE VOTE: Unanimous

Absent: Hardy

ROLL CALL VOTE:

COUNCIL MEMBER	PRESENT	ABSENT	NO	COUNCIL MEMBER	PRESENT	ABSENT	NO	COUNCIL MEMBER	PRESENT	ABSENT	NO
DIXON				KANE				SHACKLETON			
MINTNER				MASON				SPAUDING			
CLARKE				MOORE				WILSON			
HARDY				RAY							
ADAMS				ROTHMAN							

CERTIFICATION OF RECORD

John P. Ryan
Secretary to the Council

ACTION: Adopted Final Reading, Consent Calendar, 10-28-80

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	PRESENT	ABSENT	NO	COUNCIL MEMBER	PRESENT	ABSENT	NO	COUNCIL MEMBER	PRESENT	ABSENT	NO
DIXON				KANE				SHACKLETON			
MINTNER				MASON				SPAUDING			
CLARKE				MOORE				WILSON			
HARDY				RAY							
ADAMS				ROTHMAN							

CERTIFICATION OF RECORD

John P. Ryan
Secretary to the Council

ACTION: _____

VOICE VOTE: _____

Absent: _____

ROLL CALL VOTE:

COUNCIL MEMBER	PRESENT	ABSENT	NO	COUNCIL MEMBER	PRESENT	ABSENT	NO	COUNCIL MEMBER	PRESENT	ABSENT	NO
DIXON				KANE				SHACKLETON			
MINTNER				MASON				SPAUDING			
CLARKE				MOORE				WILSON			
HARDY				RAY							
ADAMS				ROTHMAN							

CERTIFICATION OF RECORD

Secretary to the Council