
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
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August 25, 2021

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 21-0106 – Study and Report – Oversight of the Baltimore City Fire Department

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 21-0106 for form and legal sufficiency. The bill would require that the Baltimore City Fire Department in consultation with certain other agencies, submit a report to the Mayor and City Council evaluating policies, practices, and internal control systems of the Department and evaluating the potential establishment of an office dedicated to compliance and investigations within the Fire Department.

The City Council has an inherent power to investigate “in furtherance of its legislative function.” 4 McQuillin Mun. Corp. § 13:7. The City Council may “exercise within the limits of Baltimore City all the power commonly known as the Police Power to the same extent as the State has or could exercise that power within the limits of Baltimore City,” and may “pass any ordinance, not inconsistent with the provisions of this Charter or the laws of the State, which it may deem proper in the exercise of any of the powers, either express or implied, enumerated in this Charter, as well as any ordinance as it may deem proper in maintaining the peace, good government, health and welfare of Baltimore City.” City Charter, Art. II, §§ (27), (47).

Section 1 (b)(1) on page 1, line 18-20 must be deleted, as it requests that a public report contain privileged legal advice. The Law Department represents the entity of the Mayor and City Council of Baltimore (Charter, Art. VII, § 24). Law Department attorneys cannot give legal advice to anyone else, including the public, as this could lead to a violation of the Maryland Rules of Professional Conduct for Lawyers. Anything that requires legal knowledge and skill can be considered legal advice. *Maryland Attorney Grievance Commission v. Shaw*, 354 Md. 636, 649 (1999); 82 Md. Op. Att'y Gen. 15 (1997) (“the county attorney generally does not have an attorney-client relationship with members of the public, for they are neither the corporate entity that is the client nor agents of the county authorized by law to act on its behalf.”). It could also be a statement used against the City in litigation. Md. Rule 5-803(a)(1). Even a discussion of what rules or

policies might be changed would present a problem. 82 Md. Op. Att'y Gen. 15 (1997); *Gravel v. U.S.*, 408 U.S. 606, 616 (1972)(discussing the wide scope of legislative privilege).

The advice requested could be given to members of the committee outside of the report, in a manner which preserves the privilege of the legal entity of the Mayor and City Council.

Subject to the above amendment, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Ashlea Brown
Assistant Solicitor

cc:

Matt Stegman
Nina Themelis
Nikki Thompson
Elena DiPietro
Hilary Ruley
Victor Tervala