



**BALTIMORE CITY COUNCIL  
PUBLIC SAFETY AND  
GOVERNMENT OPERATIONS  
COMMITTEE**

**Mission Statement**

*On behalf of the Citizens of Baltimore City, the Public Safety and Government Operations will be responsible for matters concerning public safety, including, but not limited to; emergency preparedness, police services, fire/EMS, and the executive, administrative, and operational functions of the city government and libraries.*

**The Honorable Mark Conway  
Chairman**

**PUBLIC HEARING**

**Wednesday, September 1, 2021  
1:00 PM**

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



**BILL SYNOPSIS**

**Committee: Public Safety and Government Operations**

**Bill 21-0107**

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**Study and Report – Oversight of the Baltimore City Fire Department**

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*Sponsor: Councilman Kris Burnett*

*Introduced: July 19, 2021*

**Purpose:**

For the purpose of requiring that the Baltimore City Fire Department, in consultation with certain other agencies, submit a report to the Mayor and City Council evaluating the 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; and providing for a special effective date.

**Effective:** Date of enactment.

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**Agency Reports**

Law Department	
Fire Department	
Dept. of Human Resources	
Baltimore City Administrator	
Department of Finance	
Labor Commissioner	
Office of Equity and Civil Rights	

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## Analysis

### Background

Prior to 1990, the Baltimore City Charter read as follows, “there shall be a Fire Department, the head of which shall be the Board of Fire Commissioners... The Board shall have control, regulation and supervision of the Department, the personnel and properties thereof and all matters relating to the same, and shall perform such other duties as may be required by ordinances not inconsistent with the Charter.” Under this arrangement, the Chief of the Fire Department managed day-to-day operations of the fire department, and reported directly to the Board of Fire Commissioners.

When Herman Williams, Jr. became the Fire Chief he lobbied Mayor Kurt Schmoke and other elected officials to revise the City Charter to make the Board of Fire Commissioners an advisory panel, and to transfer all of the power and duties that they had over to the Fire Chief.

Today, the current City Charter gives the Board of Fire Commissioners the below listed powers and duties:

Article VII, Section 51. Fire Department: Board of Fire Commissioners – Powers and Duties.

a. Advise Chief.

The Board generally shall advise the Chief.

b. Review disciplinary policies.

The Board shall review the disciplinary policies and practices of the Department and make appropriate recommendations to the Chief.

c. Investigations of Department conduct.

In giving advice, the Board may investigate all matters affecting the conduct of the Department.

d. Appeal panels.

The Board may sit in panels of not less than two to hear appeals under the Fire Prevention Code.

### Comparable Oversight and Investigative Body

In 2009, the City of Los Angeles amended its Charter to create the position of Independent Assessor. The Independent Assessor reports directly to the Board of Fire Commissioners, and assists the Fire Commission in providing independent civilian oversight of the Los Angeles Fire Department. The Office of the Independent Assessor has the power and duty to: a.) audit, assess and review the Fire Department’s handling of complaints of misconduct committed by employees; b.) conduct any audit or assessment requested by majority vote of the Board of Fire Commissioners; and c.) initiate any assessment or audit of the Fire Department or any portion of the Fire Department.

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## Additional Information

### Information Source(s):

Analysis by: Samuel Johnson  
Analysis Date: August 31, 2021

Direct Inquiries to: (410) 396-1091

**CITY OF BALTIMORE  
COUNCIL BILL 21-0106  
(First Reader)**

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Introduced by: Councilmembers Burnett, Cohen, Dorsey, Bullock, Porter, Torrence

Introduced and read first time: July 19, 2021

Assigned to: Public Safety and Government Operations Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Office of Equity and Civil Rights, City Administrator, Baltimore City Fire Department, Department of Human Resources, Labor Commissioner

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Study and Report – Oversight of the Baltimore City Fire Department**

3 FOR the purpose of requiring that the Baltimore City Fire Department, in consultation with  
4 certain other agencies, submit a report to the Mayor and City Council evaluating the policies,  
5 practices, and internal control systems of the Department and evaluating the potential  
6 establishment of an office dedicated to compliance and investigations within the Fire  
7 Department; and providing for a special effective date.

8 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That:**

9 (a) No later than 120 days from the enactment of this Ordinance, the Baltimore City Fire  
10 Department (“Department”), in consultation with the City Board of Fire  
11 Commissioners (“Board”), the City Administrator or the Administrator’s designee,  
12 the Law Department, the Department of Finance, the Labor Commissioner, the Office  
13 of the Inspector General, and the Office of Equity and Civil Rights shall submit a  
14 report, as fully described in subsection (b) of this Section, to the Mayor and City  
15 Council setting forth a comprehensive evaluation of the cost and feasibility of  
16 establishing a compliance and investigations office within the Department.

17 (b) The report required by this section shall include:

18 (1) an analysis of the legal parameters regarding the authority that Board of Fire  
19 Commissioners has as an oversight body to investigate the conduct of the  
20 Department as outlined in Article VII, § 51(c) of the Baltimore City Charter;

21 (2) an assessment of the Board’s capacity to conduct investigations and if there is  
22 a need to equip it with support staff to carry out this duty;

23 (3) an analysis of the current internal disciplinary process used by the Department,  
24 including the who is responsible for conducting disciplinary investigations;  
25 who is responsible for conducting Equal Employment Opportunity  
26 investigations; and an evaluation of the composition of the Department’s  
27 disciplinary hearing boards;

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

**Council Bill 21-0106**

- 1 (4) an attached copy of the Department’s policies on how internal disciplinary  
2 complaints against employees are submitted and investigated; how complaints  
3 regarding employees are submitted by members of the public and investigated;  
4 and the Department’s disciplinary matrix and point system;
- 5 (5) a comparative analysis of the strengths and weaknesses of at least 5 fire  
6 departments of comparable size that currently have an “independent assessor”  
7 or other similar model of an internal investigations unit;
- 8 (6) the amount of formal complaints submitted to the Office of Equity and Civil  
9 Rights by Department employees in the previous 7 years, disaggregated by the  
10 complaint type (if applicable), and the amount of complaints submitted to the  
11 Office of Equity and Civil Rights that were determined by the Office to be  
12 outside the scope of its authority;
- 13 (7) the amount of formal complaints submitted to the Office of the Inspector  
14 General by Department employees in the previous 7 years, disaggregated by  
15 the complaint type (if applicable), and the amount of complaints submitted to  
16 the Office of the Inspector General that were determined by the Office to be  
17 outside the scope of its authority; and
- 18 (8) an evaluation of the Department’s full-time data and performance  
19 management program; how it is being used to monitor internal accountability;  
20 alternative programs that might be used by fire departments in other  
21 jurisdictions; and, if a more modern system exists, a comprehensive plan on  
22 the timeline and steps that will be taken to implement one.

23 **SECTION 2. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is  
24 enacted.

**PUBLIC SAFETY AND  
GOVERNMENT OPERATIONS  
COMMITTEE**

**AGENCY REPORTS**

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CITY OF BALTIMORE

BRANDON M. SCOTT  
Mayor



DEPARTMENT OF LAW  
JAMES L. SHEA, CITY SOLICITOR  
100 N. HOLLIDAY STREET  
SUITE 101, CITY HALL  
BALTIMORE, MD 21202

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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,

A handwritten signature in blue ink, appearing to read 'Ashlea Brown', with a stylized flourish at the end.

Ashlea Brown  
Assistant Solicitor

cc:

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





OFFICE OF THE INSPECTOR GENERAL  
Isabel Mercedes Cumming, Inspector General  
City Hall, Suite 635  
100 N. Holliday Street  
Baltimore, MD 21202



August 30, 2021

To the Honorable City Council Members of the Baltimore City Council  
Public Safety and Government Operations Committee  
City Hall, 100 N. Holliday Street, Room 409  
Baltimore, Maryland 21202

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

The Office of the Inspector General (OIG) has reviewed City Council Bill 21-0106, which proposes requiring that the Baltimore City Fire Department, in consultation with certain other agencies, submit a report to the Mayor and City Council evaluating departmental operations, fire suppression and Emergency Medical Services staffing, community risk reduction programs, and performance management programs; and providing for a special effective date. Specifically, in accordance to Section 1 (b)(7) on page 2, the report shall include:

*the amount of formal complaints submitted to the Office of the Inspector General by Department employees in the previous 7 years, disaggregated by the complaint type (if applicable), and the amount of complaints submitted to the Office of the Inspector General that were determined by the Office to be outside the scope of its authority;*

The OIG's responsibilities include "investigating complaints fraud, financial waste, and abuse in City government." City Charter, Art. X, § 3(b)(1). In the previous seven years, the OIG has received 40 complaints. Of those 40 complaints, 34 complaints fell outside the OIG's jurisdictional purview.

The OIG takes no position on the legislation and defers all other subsections of Section 1 (b) to the Baltimore City Fire Department and the Department of Law.

Sincerely yours,

Isabel M. Cumming  
Inspector General

**REPORT FRAUD, WASTE AND ABUSE**

HOTLINE: 443-984-3476/800-417-0430 EMAIL: [OIG@BALTIMORECITY.GOV](mailto:OIG@BALTIMORECITY.GOV)

WEBSITE: [OIG.BALTIMORECITY.GOV](http://OIG.BALTIMORECITY.GOV)



August 20, 2021

To the Honorable City Council President, Nick Mosby  
and Members of the Baltimore City Council  
City Hall, 100 N. Holliday Street, Room 409  
Baltimore, Maryland 21202

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

Dear President and City Council Members,

The Department of Human Resources (DHR) has reviewed City Council Bill 21-0106 – Study and Report - Oversight of the Baltimore City Fire Department (BCFD). For the purpose of requiring that BCFD, in consultation with certain other agencies, submit a report to the Mayor and City Council evaluating the 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.

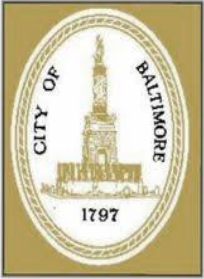
DHR has reviewed the above-referenced bill and takes **no position** on the legislation.

DHR works to ensure that the policies and practices of agencies are aligned to attract and retain a high quality and diverse workforce. To that end, we support fair and transparent processes concerning internal disciplinary issues. DHR looks forward to being a supportive partner of BCFD while respecting the decision-making authority of the Agency. We defer to the Baltimore City Department of Law regarding the legal sufficiency of the proposal.

For additional questions or concerns, contact me at [Quinton.Herbert@baltimorecity.gov](mailto:Quinton.Herbert@baltimorecity.gov) or by phone at (410) 396-1563.

Sincerely,

Quinton M. Herbert, JD

<b>FROM</b>	<b>NAME &amp; TITLE</b>	Deborah F. Moore-Carter, Labor Commissioner <b>(Approved 8/20/2021)</b>	<b>CITY of BALTIMORE</b>  <b>MEMO</b>  <b>(410) 396-4365</b>	
	<b>AGENCY NAME &amp; ADDRESS</b>	Office of the Labor Commissioner 417 East Fayette Street, Suite 1203		
	<b>SUBJECT</b>	<b>Council Bill 21-0106: Study and Report – Oversight of the Baltimore City Fire Department</b>		

The Honorable President  
 Nick J. Mosby and  
 Members of the Baltimore City Council  
 City Hall  
 100 N. Holiday Street, Room 406  
 Baltimore, Maryland 21202

August 20, 2021

***Recommended Position***

The Office of the Labor Commissioner (OLC) has reviewed City Council Bill 21-0106, which proposes requiring that the Baltimore City Fire Department, in consultation with certain other agencies, submit a report to the Mayor and City Council evaluating departmental operations, fire suppression and Emergency Medical Services staffing, community risk reduction programs, and performance management programs; and providing for a special effective date.

The OLC takes no position City Council Bill No. 21-0106.

***Comments and Analysis***

The OLC defers to the Fire Department.

DFMC:yb