

ARTICLE III.

COMMUNITY POLICE OVERSIGHT BOARD.

SEC. 37-31. BOARD CREATED; APPOINTMENT; TERM; MEETINGS.

(a) There is hereby created the community police oversight board (the "board") to be composed of 15 members. Each city council member shall appoint one member to the board. It is the intent of the city council that the membership of the board be representative of the diversity of the city.

(b) The mayor shall appoint the board chair, and the full city council shall appoint the vice-chair.

(c) Each member shall be appointed for a two-year term beginning on October 1 of each odd-numbered year. Members shall serve until their successors are appointed and qualified.

(d) The following persons shall be disqualified for appointment to and service on the board:

(1) persons who are in violation of Chapter 12A, "Code of Ethics" of the city code and persons disqualified from appointment pursuant to Section 8-1.4 of the city code;

(2) persons who are currently employed by the department, or have an immediate family member, as defined in Section 34-4(26) of the Dallas City Code, who is an employee of the Dallas Police Department; and

(3) persons who are employees or business associates of either an adversary party or a representative of an adversary party, and persons who have a pecuniary interest, in any pending litigation or claim against the city relating to the board or the police department or against any individual officer or employee of the police department (unless unrelated to such individual's office or employment).

(e) Any board member who is disqualified for appointment to and service on the board under Subsection (d) shall forfeit membership on the board. Upon determination by the board chair that a board member is so disqualified, the chair will notify that board member and the city secretary. The city secretary will then notify the city council that there is a vacancy on the board. A board member required to forfeit board membership will be entitled to a public hearing in accordance with Section 17, Chapter XXIV of the city charter.

(f) Under no circumstances may the city council or the board chair be authorized to waive the requirements for appointment to and service on the board referenced in Subsection (d).

(g) Each board member must attend training necessary to execute the board's duties including training on police procedures.

(h) The board must meet at least once each month and at other times at the call of the chair.

(i) The office of community police oversight provides support services to the board.

(j) For purposes of Section 8-1.4(a)(4) of this code, the police department is deemed a department providing support services to the board. (Ord. Nos. 19818; 19983; 21153; 21514; 22259; 29645; [31192](#), eff. 10/1/19)

SEC. 37-31.1. DEFINITIONS.

In this article:

(1) BOARD means the community police oversight board.

(2) CHIEF means the chief of police, as described in Section 37-20, or the chief's representative.

(3) CONFIDENTIAL INFORMATION means any information that may not be obtained by the public under the Texas Public Information Act. When submitting information to the board, the police department shall place identifying marks on any confidential information.

(4) CRITICAL INCIDENT means an officer-involved shooting or a use of force incident that results in serious bodily injury or death.

(5) DEPARTMENT means the Dallas police department.

(6) DIRECTOR means the director/monitor of the office of community police oversight or the director/monitor's representative, unless otherwise stated.

(7) DIVISION REFERRAL means an investigation into an external administrative complaint that is conducted by the supervisor of an officer.

(8) EXTERNAL ADMINISTRATIVE COMPLAINT means a written complaint submitted to either the office of community police oversight, the board, or the department by a person, who is not a city employee, that alleges a complaint of police procedures, treatment of residents, abuse, harassment, or violation of civil rights against a city police officer that results in mediation, a division referral, or an investigation conducted by the internal affairs division of the department.

(9) INTERNAL AFFAIRS DIVISION means a staff unit of the department.

(10) MEDIATION means a voluntary, informal process of communication and conciliation of minor external administrative complaints of police misconduct, conducted by an independent, certified mediator.

(11) OFFICE means the office of community police oversight.

(12) SERIOUS BODILY INJURY means bodily injury that creates a risk of death or that causes serious permanent or temporary disfigurement or loss or impairment of the function of any bodily member or organ, including, but not limited to, a broken long bone, rib, or fracture of the skull; mechanical injury of the neck and upper airways; multiple severe bruises wherever located; a sharp or blunt injury requiring sutures or clips; or a wound leading to blood loss requiring volume replacement. (Ord. [31192](#), eff. 10/1/19)

SEC. 37-31.2. DUTIES.

The board shall perform the following duties to provide residents fair and thorough oversight of the department:

- (1) provide an accessible process that ensures fair acceptance and processing of external administrative complaints;
- (2) direct the director to initiate an independent administrative investigation into a complaint by a member of the public investigated by the internal affairs division, as set forth in Sections 37-32.3 and 37-33;
- (3) provide a report at least annually to the appropriate council committee in addition to any reports required under Chapter 8; and
- (4) engage in community outreach. (Ord. [31192](#), eff. 10/1/19)

SEC. 37-31.3. COMMUNITY ENGAGEMENT.

The board shall conduct community outreach to create awareness about the board, the office, and the complaint process. The board may also provide outreach to promote transparency and accountability and to foster community relationships with the police department. (Ord. [31192](#), eff. 10/1/19)

SEC. 37-32. FUNCTIONS.

(a) Subject to the procedural requirements set forth in Sections 37-32.3 and 37-33, the board shall have authority to:

- (1) Review the facts and evidence pertaining to a critical incident or external administrative complaint against a city police officer following:
 - (A) completion of all findings and recommendations of the internal affairs division of the department;
 - (B) the final decision within the department determining what, if any, disciplinary action will be taken; and
 - (C) if grand jury proceedings are anticipated, the conclusion of all grand jury proceedings relating to a city police officer's conduct in the incident or complaint.
- (2) Accept from members of the public written complaints, on a paper or online form provided by the director with input by the department, of police procedures, treatment of members of the public, abuse, harassment, violation of civil rights, serious injury, or fatality and refer the complaints to the office and the internal affairs division of the department for investigation.
- (3) When the board is not satisfied with the findings of the police department internal affairs division's investigation of a critical incident or external administrative complaint which is properly before the board, the board may direct the director to initiate an independent investigation into the internal affairs division investigation of a critical incident or an external administrative complaint.
- (4) Take sworn testimony from witnesses relating to the internal affairs division investigation of a critical incident or external administrative complaint pursuant to Section 37-35.
- (5) Subpoena witnesses in accordance with Section 37-35.
- (6) Request the city manager to review disciplinary action by the chief in a case when the board considers it appropriate.
- (7) Recommend to the chief and the city manager improvements in department procedures, practices, training, and the early warning system.

(b) The board shall act as an advisory board to the chief, the city manager, and the city council.

(c) Notwithstanding any provision of this article to the contrary, the board shall not:

- (1) take any action, nor recommend to or request the city council or any other city authority to take any action, which interferes in any manner with the appointment, removal, or discipline of any person by the city manager or any of his subordinates;
- (2) review the facts and evidence of a complaint nor accept a complaint from a police officer which pertains to another police officer for which the city personnel rules or police general orders provide a grievance or appeal procedure.
- (3) review the facts and evidence of a complaint nor accept a complaint from a person concerning a matter which is the subject of pending civil litigation to which the city or a city employee is a party. (Ord. Nos. 19818; 19983; 21131; [31192](#), eff. 10/1/19)

SEC. 37-32.1. DIVISION REFERRALS.

The department shall take appropriate action on division referrals, provide the director with confirmation that the matter has been addressed, and provide the director access to relevant information. (Ord. [31192](#), eff. 10/1/19)

SEC. 37-32.2. MEDIATION PROCEDURES.

(a) In general. Except as provided in this section, a complainant may request to mediate an external administrative complaint for minor allegations of misconduct at any time during the external administrative complaint process. Mediation does not include negotiation of demands for monetary or equitable relief.

(b) Notice. The director shall inform a complainant that mediation may be available as an alternative to the review processes upon receiving notice of a complaint.

(c) Eligibility. For an external administrative complaint to be eligible for mediation, the following requirements must be met:

- (1) Both the complainant and officer must agree to participate;
- (2) The officer has not resolved a prior complaint through mediation in the last six months;
- (3) The director must determine that mediation is appropriate for the alleged complaint;
- (4) The officer must be deemed eligible for mediation by the internal affairs division or the chief; and
- (5) There must not be any pending claims, civil litigation, or criminal investigations involving the alleged incident.

(d) Form. The director shall provide an eligible complainant a form to request mediation.

(e) Administration. The director will oversee administration of the mediation process including:

- (1) providing a forum for the mediation; and
- (2) scheduling the mediation within a reasonable time.

(f) Procedure.

(1) After confirmation that the complaint and the parties are eligible for mediation the director shall contact the internal affairs division to advise the city police officer's chain of command of the complaint and the complainant's decision to pursue mediation.

(2) After receiving notification from the city police officer's chain of command, the officer shall contact the internal affairs division to accept or decline the opportunity to mediate the complaint.

(3) If the officer declines the mediation, the complainant may choose to pursue the complaint through the external administrative process.

(g) Informational requests. The director and the department must comply with the mediator's requests for information during the mediation process.

(h) Final administrative remedy. Mediation constitutes the final administrative remedy.

(i) Confidentiality required. Participants in the mediation process shall sign a confidentiality agreement that provides:

- (1) That participation in mediation and any statements made during mediation are not admissible in court.
- (2) That documents or information created or retained pursuant to mediation cannot be subpoenaed.

(3) That the mediator and participating staff may not be called as witnesses regarding incidents discussed during mediation. (Ord. [31192](#), eff. 10/1/19)

SEC. 37-32.3. PROCEDURES FOR EXTERNAL ADMINISTRATIVE COMPLAINT REVIEW.

(a) Internal affairs division investigation.

(1) Monitoring. During the pendency of an internal affairs division investigation into an external administrative complaint, the director may monitor the investigation including observing witness interviews, submitting recommendations of interview inquiries, and issuing evidentiary retention requests. Additionally, the internal affairs division must provide the director with timely and free access to investigative evidence and relevant police data. At any time during the internal affairs division investigation, the director may discuss the investigation with the chief or ask questions regarding the investigation.

(2) Notification. When the internal affairs division notifies a complainant of its findings, it shall:

(A) provide a form to the complainant which can be submitted to the board or the director if the complainant desires to request review of the findings; and

(B) notify the board and director of those findings and any recommendations.

(3) Director-initiated independent investigations. At the close of the internal affairs division investigation, if the director disagrees with the findings of the investigation, the director may initiate an independent investigation.

(A) When the independent investigation is complete, the director shall present the findings of the investigation to the board.

(B) The board shall forward those findings and any recommendations to the chief.

(C) The chief shall provide the board written acknowledgement of receipt of the recommendations.

(D) The chief retains final decision-making authority regarding disciplinary matters and the disposition of administrative and criminal investigations.

(b) Complainant requests for review process.

(1) Within 30 days after notification of the results of the internal affairs division investigation, a complainant may request a review of the internal affairs division findings to the office on a form provided by the office.

(2) For requests for review filed by a complainant, the director shall review the internal affairs division investigation and present those findings to the board.

(3) After the director presents the review of the internal affairs division investigation to the board, the board may, by majority vote, direct the director to initiate an independent investigation or may choose to take no further action.

(A) When the independent investigation is complete, the director shall present the findings of the investigation to the board and make recommendations to the board for further action, if any.

(B) The board shall review the director's findings and make recommendations as the board deems appropriate.

(C) When requested, the director shall forward the results of the investigation and the recommendations of the board to the chief, the city manager, or the appropriate city council committee.

(D) The chief shall provide the board written acknowledgement of receipt of the recommendations.

(E) The chief retains final decision-making authority regarding disciplinary matters and the disposition of administrative and criminal investigations.

(4) Complainant request for review to the board constitutes the final administrative remedy.

(c) Postponement. Board review or independent investigation of any incident, complaint, or request for review, whether received by the board or director, shall be postponed pending:

(1) completion of all findings and recommendations of the internal affairs division;

(2) the final decision within the department regarding disciplinary action, if any;

(3) the conclusion of any claim or civil litigation involving the incident or complaint; and

(4) if grand jury proceedings are anticipated, the conclusion of all grand jury proceedings relating to a city police officer's conduct in the incident or complaint.

(d) Department monitoring. The department may monitor investigations conducted by the office subject to the same restrictions and requirements imposed on the director when monitoring internal affairs division investigations. (Ord. [31192](#), eff. 10/1/19)

SEC. 37-33. PROCEDURES FOR CRITICAL INCIDENT REVIEW.

(a) The chief shall provide the board and the director with timely notification of all critical incidents. The director may participate in preliminary briefings related to the critical incident.

(b) The director may monitor the investigation of all critical incidents. The purpose of monitoring critical incidents is to ensure that the investigation is comprehensive, objective, impartial, and consistent with appropriate investigative protocols.

(1) If the director is unavailable, a person approved by the city manager may serve in this capacity during the director's absence.

(2) In this subsection DIRECTOR does not include the director's representative.

(c) Board review or independent investigation of any incident, complaint, or request for review, whether received by the board or director, shall be postponed pending:

(1) completion of all findings and recommendations of the internal affairs division;

(2) the final decision within the department determining what, if any, disciplinary action will be taken;

(3) the conclusion of any claim or civil litigation involving the incident or complaint; and

(4) if grand jury proceedings are anticipated, the conclusion of all grand jury proceedings relating to the incident or complaint.

(d) The director may monitor the investigation including observing witness interviews, submitting recommendations of interview inquiries, reviewing documentary and physical evidence, and accessing relevant police data. The director may meet with the chief throughout the investigation to ask questions and discuss any areas of concern identified while monitoring.

(e) Before the conclusion of the criminal investigation, the director may meet with the chief to hear preliminary findings and provide feedback about the investigatory process. The director may provide the chief with a recommendation on the outcome of the investigation.

(f) The chief shall review all information and determine what actions, if any, are warranted.

(g) Throughout the investigation, per confidentiality requirements, the director shall not update the board or anyone else on the status of the investigation. The director may provide a report to the board at the conclusion of both the criminal and the administrative investigations to attest whether the criminal investigation was comprehensive, objective, impartial, and consistent with appropriate investigative protocols.

(h) The director shall provide a report to the board, after the internal affairs division investigation of the critical incident is complete, regarding department compliance with Subsection (b) above.

(i) The board and the director may engage in community outreach as needed after the occurrence of a critical incident.

(j) The chief retains final decision-making authority regarding disciplinary matters and the disposition of administrative and criminal

investigations. (Ord. Nos. 19818; 19983; [31192](#), eff. 10/1/19)

SEC. 37-34. CONFIDENTIALITY.

(a) Community police oversight board. The board in reviewing a personnel matter shall hold closed meetings in compliance with the Texas Open Meetings Act, acting in a nonjudicial capacity. The confidentiality of any file, record, or other data received by the board in its review of an incident or a complaint shall be strictly maintained by every member of the board.

(1) Board members commit an offense if they disclose to another person confidential information obtained in the course of their board duties.

(2) It is a defense to prosecution under Paragraph (1) that the disclosure was made:

- (A) to another board member or to city staff assigned to the board; or
- (B) as compelled testimony in a court proceeding.

(3) An offense under this section is punishable by a fine not to exceed \$500.

(4) Any board member who discloses confidential information to anyone other than another board member or city staff member assigned to the board or as compelled testimony in a court proceeding shall forfeit membership on the board. Upon determination by the chairman of the board that a board member has disclosed confidential information, the chairman shall notify that board member and the city secretary. The city secretary shall then notify the city council that there is a vacancy on the board. A board member required to forfeit board membership under this section will be entitled to a public hearing in accordance with Section 17, Chapter XXIV of the city charter. If requested by the board member, the city council will immediately schedule a hearing to be held at the next regularly scheduled city council meeting. The board member may designate either a public or closed hearing.

(b) Office of community police oversight. The confidentiality of any investigative file, record, or other data received by the director or the director's staff during the briefing, review, or monitoring of an incident or a complaint shall be strictly maintained. The director shall not share any confidential information with the board that is obtained during the monitoring of a critical incident. Any staff member of the office who discloses confidential information to another person may be subjected to disciplinary action, up to and including termination of employment.

(1) The director or any member of the office commits an offense if they disclose to another person confidential information obtained in the course or performance of his duties.

(2) An offense under this section is punishable by a fine not to exceed \$500.

(3) It is a defense to prosecution under Paragraph (1) that the disclosure was made:

(A) to the city manager, an assistant city manager, the director or a staff member of the office, the chief, or employees of the department authorized to receive the information;

(B) as compelled testimony in a court proceeding; or

(C) pursuant to a valid request from the district attorney's office. (Ord. Nos. 19818; 19903; 19983; [31192](#), eff. 10/1/19)

SEC. 37-35. WITNESSES.

(a) Except as provided in this section, the board shall have authority to issue subpoenas upon a majority vote of the board.

(b) The board may not subpoena a city employee or police officer.

(c) The board may request statements from city employees or police officers through the office. These statements must be provided to the office in a non-public setting.

(d) Before a city employee or police officer is required to make a statement to the office a *Garrity* warning must be issued to the employee. The *Garrity* protections available to a city employee or police officer during an administrative investigation apply to testimony or a statement made in connection with an investigation of the director.

(e) Every person appearing before the board to testify concerning an incident or a complaint being reviewed shall have the right to counsel. All statements and testimony before the board must be given under oath. Nothing in this article shall be construed to deprive any individual of rights given under constitutional, statutory or common law.

(f) If a city police officer appears before the board, pursuant to a board request, the officer shall be entitled to:

(1) payment by the city of reasonable fees for private legal counsel of the city police officer's choice as provided for in Chapter 12A and Chapter 31A; and

(2) all rights afforded an individual under constitutional, statutory, or common law to the full extent as would be afforded to that officer as a defendant in a criminal proceeding.

(g) A city police officer shall not be subjected to departmental or other administrative disciplinary action:

(1) for refusing to appear voluntarily before the board;

(2) for refusing to answer any question on constitutional grounds or otherwise upon recommendation of legal counsel; or

(3) based upon the subject matter of that officer's testimony provided to the board or to any investigator of the board.

(Ord. Nos. 19818; 19903; 19983; [31192](#), eff. 10/1/19)

SEC. 37-36. TECHNICAL RESOURCE PANEL.

(a) There is hereby created the technical resource panel to be composed of three members appointed by the city manager.

(1) The technical resource panel is not a board or commission subject to Chapter 8 of this code or Chapter XXIV, Section 13 of the city charter.

(2) The director shall assist the city manager in the recruitment of qualified members.

(b) Each member of the technical resource panel shall be an individual with at least 10 years of law enforcement experience in a recognized local, county, state, or federal law enforcement agency and, to the extent possible, appointments to the technical resource panel will be representative of the ethnic diversity of the city and will include individuals with substantial patrol officer experience.

(c) Active law enforcement professionals employed in Dallas County by the state, the county, or any local government may not be members of the technical resource panel. In addition, former city of Dallas police officers may not be members of the technical resource panel. Members of the technical resource panel are not required to be residents of the city nor qualified voters in the city.

(d) Members of the technical resource panel shall serve three-year terms, shall be subject to the same conflict of interest and confidentiality restrictions as are applicable to members of the board, and shall be subject to forfeiture of membership on the same basis as members of the board.

(e) Members of the technical resource panel shall attend and participate fully in all meetings and deliberations of the board, and at the board's discretion, attend and participate in closed sessions, but shall not be entitled to vote as members of the board.

(f) The technical resource panel shall use its expertise and experience in law enforcement matters and procedures to assist the board to the fullest extent possible in the review and investigation of all incidents and complaints coming before the board.

(g) The technical resource panel shall not have any oversight responsibility or oversight authority with respect to the board.

(h) Nothing in this section prohibits the director or the board acting through the director from seeking additional outside technical expertise and advice as necessary. (Ord. Nos. 19818; 19983; [31192](#), eff. 10/1/19)

SEC. 37-37. ADMINISTRATIVE ASSISTANCE.

The director shall designate staff to receive and log complaints for referral to the office or the department. The log of complaints must be centrally located and accessible by the office and the department. Staff shall monitor external administrative investigations conducted by the internal affairs division; oversee mediations; independently investigate administrative investigations upon the conclusion of an internal affairs investigation (case disposition and discipline); monitor critical incidents investigated by the department, and further aid the board and the technical resource panel in their work. Additionally, the director shall assist the board with preparing the annual report required under Section 8-1.1 and any other reports as necessary. (Ord. Nos. 19983; [31192](#), eff. 10/1/19)

SEC. 37-38. FUNDING.

No funding for the board, the office, or the technical resource panel, including expenses of the board, the office, and the committee and of persons appearing before the board, shall be included in the budget for the department, all such funding to be provided by the city from separate sources. (Ord. Nos. 19983; [31192](#), eff. 10/1/19)

SEC. 37-38.1. TRANSPARENCY.

The board shall work with the office and the chief to establish metrics for transparency related to the board's activities and performance, including providing an annual report and an engagement calendar. (Ord. [31192](#), eff. 10/1/19)

SEC. 37-38.2. CHIEF OF POLICE.

(a) The chief shall provide a report to the board briefly describing all complaints filed by members of the public with the internal affairs division when requested to do so by the board.

(b) The chief shall promulgate general orders and standard operating procedures in compliance with this article. The chief has discretion in how and whether to implement changes recommended by the board.

(c) Nothing in this article should be construed as removing or limiting the chief's authority to issue final disciplinary actions or to oversee the administration of the department in accordance with the city charter. (Ord. [31192](#), eff. 10/1/19)