



MEMORANDUM

July 05, 2007

TO: Mayor and City Council

FROM: Todd Rent, Human Relations Officer

RE: Consideration of an Ordinance Establishing a Civilian Review Board

INTRODUCTION

This proposed ordinance establishes a Civilian Review Board (CRB) to provide oversight of internal police investigations and to provide an independent process for review of citizen complaints regarding City of Urbana Police Officers.

BACKGROUND

Mayor Prussing established a task-force to consider creation of a review board for police complaints. The task force consisted of members from a broad spectrum of the community including city staff, concerned citizens, the Fraternal Order of Police (FOP), as well as representatives from community groups. The task force met over a year and issued final written recommendations.

The City and FOP also entered into an agreement concerning the contents of the proposed ordinance with city council approval.

The recommendations of the task force and the FOP have been incorporated into the proposed ordinance.

ANALYSIS

The proposed ordinance provides for a forum for review of the findings of police investigations by a body consisting of citizens from within our community. When a citizen has a complaint against the police department, the ordinance allows that citizen to file a complaint with the Human Relations Office (HRO) or directly with the police department. After a complaint is filed, the police department will conduct an investigation and issue a finding. The proposed ordinance gives the citizen an option for an independent review of the police department's final disposition. The ordinance authorizes the CRB to conduct hearings, during which

it will review documentary evidence and hear statements from the complainant and the police.

Upon conclusion of the hearing, the CRB will issue one of the following findings:

- (a) **Not Sustained:** Where the members determine that the Chief's finding is not supported by the evidence.
- (b) **Sustained:** Where the members determine that the Chief's finding is supported by the evidence.
- (c) **Remanded for Further Investigation:** Where the members find, by a majority vote, that it is in the community's best interests to do so, or that there exists new, relevant evidence that was not presented to, or investigated by, the Chief of Police or his/her designee, it may remand a matter back to the Chief for further investigation or consideration.

In addition to its complaint review function, the CRB will solicit public comment on police/community issues at quarterly meetings. The CRB will also issue an annual report to the Mayor and City Council summarizing the general types and numbers of complaints, dispositions of complaints, discipline imposed and certain demographic information.

FISCAL IMPACT

It is anticipated that the annual costs will include start-up and annual in-service training for each of seven board members, public education costs, office supplies, and postage. We estimate these costs to be approximately \$10,000.

RECOMMENDATION

Move that the Council approve an Ordinance Establishing a Civilian Review Board.

Ordinance No. 2007-07-085

**AN ORDINANCE ESTABLISHING A CIVILIAN REVIEW BOARD WITHIN
THE CITY OF URBANA**

WHEREAS, the Mayor has established a Special Citizens' Task Force to study the desirability and feasibility of creating a Civilian Review Board; and

WHEREAS, this Task Force has studied various proposals, examined data on police complaints from many different cities, and vigorously debated the issues relating to the structure and operation of a Civilian Review Board; and

WHEREAS, the Task Force has submitted a proposal for the consideration of the Mayor and the City Council for the creation of this Civilian Review Board;

WHEREAS, this proposal has been the subject of extensive public debate and consideration through several public hearings before the City Council; and

WHEREAS, the Mayor and the City Council have determined that a Civilian Review Board will enhance public safety by providing an independent means to review citizen complaints regarding police officer conduct; and

WHEREAS, the Mayor and the City Council hereby establish a Civilian Review Board with the recognition that all people in the City deserve protection of their civil rights and respect for their fundamental human dignity;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The Code of Ordinances, City of Urbana, Chapter 19, "Police" is hereby amended by adding the following Article thereto:

ARTICLE III. CIVILIAN REVIEW BOARD

Sec. 19-20. Establishment and Purpose

A Civilian Review Board (CRB) is hereby established to:

- (a) Provide a systematic means by which to achieve continuous improvement in police community interactions;
- (b) Provide oversight of internal police investigations through review of such investigations;
- (c) Provide an independent process for review of citizen complaints;
- (d) Oversee a monitoring system for tracking receipt of complaints lodged against sworn officers;
- (e) Add a citizen perspective to the evaluation of these complaints;
- (f) Contribute to timely, fair and objective review of citizen complaints; and
- (g) Provide fair treatment to and protect the rights of police officers.

Sec. 19-21. Composition

- (a) The CRB shall consist of seven (7) members appointed by the Mayor with the approval of the City Council.
- (b) Members shall serve for a three (3) year term. However, at the inception of the Board, two (2) members shall be appointed for a one (1) year term, two (2) members for a two (2) year term, and three (3) members for a three (3) year term, so that terms are staggered.
- (c) The Mayor shall designate the Chair and a Vice-Chair of the Board.
- (d) A majority of the sitting members of the CRB shall constitute a quorum.
- (e) Members shall serve until their successors are appointed and confirmed, unless removed by the Mayor in accordance with Sec. 19-25(e).

Sec. 19-22. Qualifications for Membership

- (a) Members of the CRB shall reside in the City of Urbana, and shall possess a reputation for fairness, integrity and a sense of public service.
- (b) No City employee may be appointed to the Board, nor shall any member be a current employee of, contracted by or have any official affiliation, whether current or former, with a federal, state, or local law enforcement agency.
- (c) No person with a criminal felony conviction or plea shall be eligible to serve on the CRB.
- (d) In making appointments, the Mayor shall endeavor to reflect community diversity, including different neighborhoods, income levels, ethnicity, age, gender and experience.

Sec. 19-23. Training and Orientation

The Human Relations Office (HRO) shall develop written standards for orientation and continuing education for all CRB members. Completion of the orientation program is required before a member

is seated. Timely completion of continuing education is required for all sitting members.

Sec. 19-24. Rules and Procedures

The CRB in consultation with the Legal Division and HRO shall establish rules and procedures for the transaction of CRB business.

Sec. 19-25. Member Responsibilities

- (a) Members shall conduct themselves at all times in a manner that maintains public confidence in the fairness, impartiality and integrity of the CRB. Further, members shall refrain from prejudging or making any comments, prejudicial or otherwise, regarding any pending complaint, on-going investigation, complainant or police officer.
- (b) Members shall maintain absolute confidentiality of any and all CRB proceedings and deliberations in perpetuity. CRB members shall not disclose, in whole or in part or by way of summary, any information made available pursuant to Sec. 19-26(a).
- (c) No member shall have ex parte communications with any third party regarding any complaint under active review.
- (d) A member shall recuse himself or herself from consideration of any complaint in which the member has a personal, professional, or financial conflict of interest.
- (e) A violation of any of these provisions may constitute grounds for immediate removal of the member at the discretion of the Mayor, except that violation of subsection (d) of this section shall constitute grounds for immediate dismissal.

Sec. 19-26. Record and Information Access

- (a) The CRB shall have access to relevant case-specific records including but not limited to documents and testimony gathered in the course of the Police Department's investigation. Case-specific records and files shall be redacted and/or withheld by the City Attorney or his/her designee to ensure compliance with all federal, state and local privacy laws and regulations. The City Attorney or his/her designee shall also have discretion to redact or withhold any information that may, in his/her judgment, unduly compromise a victim's privacy or a law enforcement objective. In the event that the City Attorney decides to withhold such case-specific records, he/she shall provide a written response which sets forth the nature of the document(s) withheld and the reasons for withholding the document. Such decision may be appealed to the Mayor upon a majority vote of the CRB.
- (b) In the event that any medical records of an officer are disclosed to the CRB in connection with the Board's review of a complaint, the subject officer shall be notified in writing of the disclosure of such records.

Sec. 19-27. Reports

- (a) The CRB shall:
 - (1) Maintain a central registry of complaints.
 - (2) Collect data and provide an annual report to the Mayor and City Council which shall be public and shall set forth the general types and numbers of complaints, disposition of the complaints, the discipline imposed, if any, and complainants' demographic information. The report shall contain a comparison of the CRB's findings and conclusions with the results of investigations and actions taken by the Police Department. Public reports shall not include the names of complainants or police officers.
 - (3) Have authority to make recommendations to the Police Chief, Mayor and City Council regarding Police Department policies and practices, based on its consideration of information received.

COMPLAINT PROCEDURES, INVESTIGATION AND MEDIATION.

Sec. 19-28. Definition of Complaints; Filing of Complaints

For the purposes of this Ordinance, a "complaint" is a written allegation of misconduct lodged against a sworn police officer.

- (a) Complaints concerning police conduct may be filed at the Police Department or the Urbana Human Relations Office.
- (b) Complaints shall be made in writing using a Citizen Complaint Form created by the CRB in cooperation with the Chief of Police. A complainant shall be furnished with information regarding the complaint process and the rights of complainants prior to, or as part of the filing process.
- (c) A complaint shall be a sworn statement attesting to the truthfulness of the allegations made. Complaint forms shall contain a written warning that anyone willfully making false allegations within the complaint process may be subject to prosecution.
- (d) Complaints shall be based upon a first-hand account either by the person involved in the incident or a witness to the incident, except that a minor shall be represented by a parent or guardian in all matters pertaining to the complaint.
- (e) Complainants shall receive a copy of the submitted complaint at the time of filing.
- (f) Complaints shall be filed within 45 calendar days of the date of the incident, giving rise to the complaint, unless the complainant is physically unable to file a complaint because he or she has been hospitalized, incarcerated or called to active military duty. In such a case, the complaint must be filed within 15 calendar days of the date the person becomes physically able to file or no longer incarcerated or in military service.
- (g) The CRB shall be notified within seven (7) working days of the filing of the complaint.

- (h) Complaints filed at the Urbana Human Relations Office shall be forwarded to the Police Department within (7) working days.
- (i) Upon receipt of a complaint, the Police Department shall conduct an investigation of the complaint and shall report the findings to the complainant and to the CRB. The Police Department shall send notice via certified letter. The department shall conclude its investigation prior to consideration by the CRB.
- (j) Once the Police Department has reported its findings to the complainant and to the CRB, the complainant shall have the option of appealing those findings to the CRB in accordance with the procedures set forth in Sec. 19-32.
- (k) The CRB shall not have jurisdiction over allegations about non-sworn officers such as the animal control officer, parking enforcement personnel or police service representatives.
- (l) Complaints concerning incidents pre-dating the creation of the Board will not be accepted.

Sec. 19-29. Mediation Notice.

Upon receiving a complaint, the CRB shall notify the complainant of a mediation option and invite the complainant to submit the complaint to mediation.

Sec. 19-30. Mediation Process.

- (a) Requests for mediation may be submitted in writing to the CRB by the complainant or the police officer(s) at any time in the review process. Mediation shall proceed as soon as reasonably possible.
- (b) Mediation shall proceed only upon agreement of both parties;
- (c) Mediation shall be conducted at no cost to the complainant or officer(s) by trained or experienced mediators from among a list selected by the City or a conflict resolution program approved by the City. The mediator shall have experience dealing with law enforcement related issues.
- (d) Mediators shall conduct mediation sessions with officers and complainants at times and places agreed upon by the parties. Where these mediation sessions result in resolution of the dispute, the mediator shall inform the CRB and Chief of Police in writing within five (5) working days. Terms of the resolution may be reported to the CRB and the Chief of Police only upon the express written approval of the parties;
- (e) In conducting the mediation, the mediator may suggest avenues toward resolution but may not impose an outcome on the parties;
- (f) Mediation sessions shall be closed to the public. Matters discussed shall be confidential unless both parties agree otherwise as part of a written mediation settlement.
- (g) If the complainant is a parent of a child who is the alleged victim of police misconduct, the parent may bring the child to the mediation session. A minor who is the

alleged victim of misconduct must bring a parent or guardian to the mediation session.

Sec. 19-31. [Reserved]

Sec. 19-32. Appeal of Police Department Findings to the CRB

- (a) If the complainant is not satisfied with the determination of the Chief of Police at the conclusion of an internal investigation, he or she may file an appeal to the CRB within 10 calendar days from the date of receipt of the notice of the findings.
- (b) Upon receipt of an appeal, the Board shall hold an initial hearing to set dates to hear the case within 45 working days. If the Board is unable to hear the matter within 45 days, the Board shall provide written basis to the complainant and the Police Department for the extension of time needed for the appeal to be heard.
- (c) Internal investigation reports shall not be subject to public disclosure or use in other legal proceedings.
- (d) Hearings shall be conducted in closed session and members of the CRB shall keep confidential all matters disclosed during hearings.
- (e) An Urbana Police Officer, appointed by the Chief of Police, shall participate as an advisor to the Board during all hearings of complaints.
- (f) The complainant shall be provided the opportunity to make a statement to the CRB which details the basis of the appeal.
- (g) The Chief of Police or his/her designee shall be provided an opportunity to explain the basis for the Police Department's findings and conclusions.
- (h) The CRB shall weigh the facts and reach a conclusion based on the preponderance of the evidence.
- (i) The CRB findings and conclusions may not be used as evidence in any other criminal or civil court proceeding to the extent that the City has the ability to declare such an intention through adoption of this Ordinance. However, this provision shall not constitute a bar to disciplinary action against a police officer based on the Police Department's own investigation of an officer's conduct.

ADMINISTRATION AND ENFORCEMENT

Sec. 19-33. Findings and Conclusions

At the conclusion of each appeal under Sec. 19-32, the CRB shall render one of the following findings based on the preponderance of the evidence;

- (a) **Not Sustained:** Where the members determine that the Chief's finding is not supported by the evidence.
- (b) **Sustained:** Where the members determine that the Chief's finding is supported by the evidence.
- (c) **Remanded for Further Investigation:** Where the members find, by a majority vote, that it is in the community's best interests to do so, or that there exists new, relevant evidence that was not presented to, or investigated by, the

Chief of Police or his/her designee, it may remand a matter back to the Chief for further investigation or consideration.

Sec. 19-34. Report to the Chief of Police

- (a) At the conclusion of its review, the CRB shall forward its written findings and conclusions to the Chief of Police and to affected officers, and, to the extent permitted by law, to the complainants. If the findings of the CRB and of the Chief of Police differ, the Board and the Chief shall discuss their differences and the basis for the different findings. A thorough and objective written summary of this discussion shall be transmitted to the Mayor by HRO within ten (10) working days of the discussion.
- (b) The CRB shall have no authority over police disciplinary matters.

Sec. 19-35. Quarterly Meetings

- (a) The CRB shall conduct quarterly meetings that provide the general public with an opportunity to voice concerns and to provide recommendations for improving interactions between the Police Department and the community
- (b) The CRB shall hold its first quarterly meeting within thirty (30) days after a quorum of its members has completed the orientation program.
- (c) CRB quarterly meetings shall be open to the public except when closed as provided in the Open Meetings Act and all other applicable federal, state and local laws.

Sec. 19-36. Conduct of Complaint Review

- (a) In conducting a review, the CRB shall:
 - 1. Be provided with full access to case-specific records and tangible evidence subject to the limitations of Sec. 19-26;
 - 2. Hear a statement from the Complainant stating the basis for appeal;
 - 3. Hear a statement from the Chief of Police or his/her designee describing the investigation and determinations of the Police Department;
- (b) No Police Officer who is the subject of a complaint shall be required to appear or to testify before the Board.
- (c) Witnesses shall be questioned only by members of the CRB;
- (d) The entire review on a single complaint shall be concluded on a single occasion unless the CRB determines otherwise based on good cause. The Board may discontinue its investigation into a complaint for lack of interest if the complainant fails to attend the hearing;
- (e) The Chief of Police shall designate a representative from the Police Department to attend the review for the purpose of providing information to the CRB;
- (f) No fewer than five (5) business days before a scheduled hearing, the CRB shall provide notice to all interested parties via certified mail.

Sec. 19-37. Suspension of Proceedings

CRB review of any complaint shall be suspended at the request of the Chief of Police or City Attorney where a separate criminal investigation is underway or if a civil action against the City is threatened, underway or pending. Upon the conclusion of the Police Department's investigation of a complaint and the conclusion of any separate legal proceedings, the CRB may resume or undertake its review if the complainant still wishes to proceed. The CRB will honor all requests from the Police Department or from the complainant to suspend proceedings until the conclusion of any pending criminal or civil case related to the complaint.

Sec. 19-38. Information Sharing

The CRB shall forward to the Chief of Police any new case-specific information it obtains, during the course of an investigation, concerning an incident subject to a citizen complaint. Similarly, during the course of a CRB investigation, the Chief of Police shall forward to the CRB in writing any new case-specific information the Chief obtains after the Internal Affairs investigation has been concluded and submitted to the CRB concerning an incident subject to a citizen complaint.

Sec. 19-39. Community Outreach

- (a) The CRB and HRO shall develop a brochure explaining CRB procedures and the rights of complainants. The brochures shall be prepared and distributed to the public according to a plan developed by the CRB and approved by the Mayor and the City Council. Appropriate information on the CRB and its procedures shall also be posted on the City's website and available through the Police Department, the City Clerk's office, and the Urbana Free Library.
- (b) Develop and distribute complaint forms in languages and formats accessible to citizens, educate the community on the complaint process and the importance of reporting complaints.
- (c) The CRB may hold periodic meetings with neighborhood groups, civic organizations, and/or community leaders to discuss community concerns relating to public safety and police procedures.

Sec. 19-40. This Ordinance shall be subject to review and reauthorization by October 30, 2010. The review shall include public hearings and written comment from a broad cross-section of the Urbana community as well as the Police Department, the Human Relations Commission, the City Attorney, and the CRB, itself. The purpose of the review is to evaluate the strengths and weaknesses of the present ordinance, and determine what changes, if any, are appropriate to the ordinance in the interest of strengthening police community relations.

Sec. 19-41. Budget.

The CRB, in conjunction with HRO, shall annually submit a budget to the mayor. Such budget shall show those funds that are deemed necessary by the board to implement its duties under this article.

Section 2. If any provision or part thereof of this Article III, or application thereof to any person or circumstance, is held invalid, the remainder of the Article and the application of the provision, or part thereof, to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 3. All ordinances, resolutions, motions, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 4. This ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the city council of the City of Urbana, Illinois at a regular or special meeting of the council.

PASSED by the City Council this ____ day of _____, 2007.

Ayes:
Nays:
Abstentions:

_____ Phyllis Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, 2007.

Laurel Lunt Prussing, Mayor