

ORDINANCE NO. 2009-04-036

**AN ORDINANCE REAUTHORIZING ESTABLISHING
A CIVILIAN POLICE REVIEW BOARD**

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

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 police review board will enhance public safety by providing an independent means to review citizen complaints regarding police officer conduct and the operations of the City of Urbana Police Department; and

WHEREAS, the Mayor and the City Council hereby establish a Civilian police 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 POLICE REVIEW BOARD

Sec. 19-20. Establishment and Purpose

A Civilian Police Review Board (CPRB) 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 CPRB 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 CPRB 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 CPRB 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 CPRB.
- (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 CPRB members. The written standards shall be subject to the approval of the Mayor and Council. 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 CPRB in consultation with the Legal Division and HRO shall establish rules and procedures for the transaction of CPRB 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 CPRB. 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 with respect to confidential or privileged information in perpetuity. CPRB members shall not disclose, in whole or in part or by way of summary, any information made available pursuant to Sec. 19-26(a). This provision is not intended to prohibit CPRB members from expressing opinions regarding (1) general patterns and trends, (2) procedural matters, (3) any information that has been previously released as a public record, and (4) any other non-confidential or non-privileged information discussed in the course of CPRB proceedings and/or deliberations.
- (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 (c) of this section shall constitute grounds for immediate dismissal.

Sec. 19-26. Record and Information Access

- (a) The CPRB 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. To the extent that the following items were not gathered in the course of the Police Department's investigation, the CPRB, by a majority vote shall have access to police reports, incident-related documents such as schedules, dispatch tapes and transcriptions, citations, video recordings, and photographs; records of interviews with complainants, employees, and witnesses; and external documents such as medical records as provided for under the HIPAA Privacy Rule, expert opinions, and receipts. Information released under this subsection 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 compromise an ongoing law enforcement investigation. 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 CPRB.

- (b) In the event that any medical records of an officer are disclosed to the CPRB 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 CPRB 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, location of the incident(s) giving rise to the complaints, disposition of the complaints, the discipline imposed, if any, and complainants' demographic information. The report shall contain a comparison of the CPRB'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 CPRB 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 statement that anyone making willfully or intentionally false allegations within the sworn complaint may be subject to prosecution. An explanatory statement shall state that a finding that the complaint is unfounded or not sustained shall not necessarily be construed as a false statement.
- (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 may opt to dictate complaints to HRO. Dictated complaints must be read back to the complainant, verified by the complainant and signed by the complainant.
- (f) Complainants shall receive a copy of the submitted complaint at the time of filing.
- (g) Complaints shall be filed within 45 working 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.
- (h) The CPRB shall be notified within seven (7) working days of the filing of the complaint.
- (i) Complaints filed at the Urbana Human Relations Office shall be forwarded to the Police Department within (7) working days.
- (j) All complaints shall be submitted to the CPRB within (7) working days of the filing date.
- (k) Upon receipt of a complaint, the Police Department shall conduct a timely investigation of the complaint and shall report the findings to the complainant and to the CPRB. The Police Department shall send all notices regarding the complaint via certified letter. Complainants shall receive confirmation that their complaint has been received within fourteen (14) days. Every reasonable effort shall be made to resolve the complaint within forty-five (45) working days. In the event that it is not resolved in forty-five (45) working days, a status report shall be mailed to the

complainant every thirty (30) working days until the complaint is resolved. The department shall conclude its investigation prior to consideration by the CPRB.

- (l) The CPRB shall provide the Mayor and Council with a quarterly report of all open or pending internal investigations.
- (m) Once the Police Department has reported its findings to the complainant and to the CPRB, the complainant shall have the option of appealing those findings to the CPRB in accordance with the procedures set forth in Sec. 19-32.
- (n) The CPRB shall not have jurisdiction over allegations about non-sworn officers such as the animal control officer, parking enforcement personnel or police service representatives.
- (o) Complaints concerning incidents pre-dating the first convening of the Board will not be accepted.
- (p) Harassment, retaliation, or retribution for filing a complaint or testifying on behalf of a complainant will not be tolerated. Such allegations shall be reported to the Human Relations Officer for appropriate investigation and follow-up.

Sec. 19-29. Mediation Notice.

Upon receiving a complaint, the CPRB 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 CPRB 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 CPRB and Chief of Police in writing within five (5) working days. Terms of the resolution may be reported to the CPRB 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 CPRB

- (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 CPRB within thirty (30) 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 CPRB shall keep confidential all matters disclosed during hearings.
- (e) A non-union member of the Police Department Command Staff shall be appointed by the Chief of Police to participate as an advisor to the Board during all hearings of complaints. This officer must not have been involved in the incident(s) giving rise to the complaint under review. At the complainant's request, the Chief of Police shall select another officer to advise the CPRB during the review process.
- (f) The complainant shall be provided the opportunity to make a statement to the CPRB 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 CPRB shall weigh the facts and reach a conclusion based on the preponderance of the evidence.
- (i) The CPRB 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 CPRB 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 there exists new, relevant evidence that was not presented to, or investigated by, the Chief of Police or his/her designee and that it is in the community's best interests to do so, it may remand a matter back to the Chief for further investigation or consideration.
- (d) **No Finding:** Where the complainant failed to produce information to further the investigation; the complainant withdrew the complaint; or the complainant is unavailable to clarify the complaint.
- (e) **Mediated:** Where the complaint was successfully mediated pursuant to Sec. 19-30.

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

- (a) At the conclusion of its review, the CPRB 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. To the extent permitted by law, the written findings and conclusions shall be a public record. Such records shall not identify subject officers. If the findings of the CPRB 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 CPRB shall have no authority over police disciplinary matters.

Sec. 19-35. Quarterly Meetings

- (a) The CPRB 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 CPRB shall hold its first quarterly meeting within thirty (30) days after a quorum of its members has completed the orientation program.
- (c) CPRB 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 CPRB 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;
 - (4) Have the power to:
 - (i) Subpoena witnesses, and case-specific records and tangible evidence, subject to the limitations set forth in Sec. 19-26;
 - (ii) Administer oaths;
 - (iii) Take testimony; and
 - (iv) Exclude witnesses;
- (b) No Police Officer who shall be required to appear or be subpoenaed to testify before the Board.
- (c) Witnesses shall be questioned only by members of the CPRB;
- (d) The entire review on a single complaint shall be concluded on a single occasion unless the CPRB determines otherwise based on good cause. The Board may discontinue its review of a complaint for lack of interest if the complainant fails to attend the hearing without good cause;
- (e) No fewer than ten (10) business days before a scheduled hearing, the CPRB shall provide notice to all interested parties via certified mail.

Sec. 19-37. Suspension of Proceedings

CPRB 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 CPRB may resume or undertake its review if the complainant still wishes to

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

Sec. 19-39. Community Outreach

- (a) The CPRB shall work with the Police Department, Human Relations Office and Human Relations Commission to anticipate and prevent problems, including analyzing data and making recommendations to the Police Department about issues requiring special attention.
- (b) The CPRB is empowered to periodically study and issue reports to the corporate authorities about police/community relations, racial profiling, and other issues which relate to community climate.
- (c) The CPRB and HRO shall develop a brochure explaining CPRB procedures and the rights of complainants. The brochures shall be prepared and distributed to the public according to a plan developed by the CPRB and approved by the Mayor and the City Council. Appropriate information on the CPRB 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.
- (d) The CPRB and HRO shall develop a brochure a "Know Your Rights" poster to be displayed prominently within the Police Department. The poster shall provide information on (1) the right of citizens to make complaints, and (2) the right of citizens to have a complaint reviewed by the CPRB.
- (e) The CPRB and HRO shall 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.
- (f) All materials distributed to the public under subsections (c) and (d) of this section shall contain, in a prominent typeface, the following statement: "Harassment, retaliation, or retribution for filing a complaint or testifying on behalf of a complainant will not be tolerated. If you believe that you are the subject of harassment, retaliation or retribution as a result of the complaint process, please contact the Human Relations Officer for appropriate investigation and follow-up."

- (g) The CPRB 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 April 30, 2011. 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 CPRB, 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 CPRB, 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 20th day of April,
2009 .

AYES: Barnes, Bowersox, Gennip, Lewis, Roberts

NAYS: Stevenson

ABSTAINS:



APPROVED by the Mayor this 24th day of April,
2009 .

Phyllis D. Clark
Phyllis D. Clark, City Clerk
Laurel Lunt Prussing
Laurel Lunt Prussing, Mayor