

# **Citizen Police Review Ordinance Draft**

Ordinance Establishing a Citizen Police Review Board for the City of Urbana

## **ARTICLE I. CITIZEN POLICE REVIEW BOARD**

### **Section 1. Establishment and Purpose**

The Citizen Police Review Board (CPRB) is hereby established to:

- (a) Ensure the Police Department is responsive to community needs
- (b) Review claims of inappropriate conduct by sworn police officers
- (c) Provide an independent process for responding to citizen complaints
- (d) Add a citizen perspective to the evaluation of these complaints, and
- (e) Contribute to timely, fair and objective review of citizen complaints.

CPRB is established with the recognition that all people in the City of Urbana deserve protection of their human and civil rights and respect for their fundamental dignity as human beings. Further, the CPRB shall provide fair treatment to and protect the rights of police officers.

### **Section 2. Appointment of the CPRB**

- (a) The CPRB shall consist of seven (7) members.
- (b) The mayor shall appoint the members with the advice and consent of the city council.

### **Section 3. Term of Service**

- (a) The term of each member of the CPRB shall be three (3) years, except that at the inception of the Board, terms shall be 1, 2 or 3 years so that terms will be staggered.
- (b) Members shall continue to serve until their successors have been appointed and completed a program of orientation.

### **Section 4. Qualification of Members \***

Members of the CPRB shall:

- (a) Be residents of the City of Urbana.
- (b) Not be employees of the City of Urbana.
- (c) Possess a reputation for fairness, integrity and responsibility and have demonstrated an active interest in public affairs and service.

The City Council shall endeavor to reflect community diversity in its appointments including neighborhood, income level, ethnicity, age, gender, and experience.

### **Section 5. Training and Orientation of Citizen Police Review Board Members**

The City Council shall adopt written standards for orientation of appointees and continuing training of all CPRB members. Completion of the orientation program is required before a member is seated.

## Section 6. Member Responsibilities.

Members shall:

- (a) Maintain absolute confidentiality with respect to confidential or privileged information they receive and maintain a thorough knowledge of the legal protection accorded to police records, including penalties imposed for violations.
- (b) Obey all laws respecting individuals' rights of privacy, and confidentiality of records.
- (c) Excuse themselves from participating in the review of any complaint in which they have a personal, professional, or financial conflict of interest.
- (d) Conduct themselves at all times in a manner that will maintain public confidence in the fairness, impartiality and integrity of the CPRB, and refrain from making any prejudicial comments with respect to complainants or police officers.
- (e) Participate in orientation and training programs referred to in Section 9 5.
- (f) Keep confidential all information referenced in Section 8(b).

Violation of these responsibilities by a member may be considered grounds for immediate removal of that member by a majority vote of the city council.

## Section 7. Quorum

A majority of the currently appointed CPRB members shall constitute a quorum.

## Section 8. Bylaws, Rules, Records

- (a) The CPRB shall adopt rules and bylaws for the transaction of CPRB affairs.
- (b) The CPRB shall have access to case-specific records and files as it deems necessary to conduct its affairs. Such documents include, but may not be limited to, complaints and supporting documents provided by complainants, 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, expert opinions, and receipts.

## Section 9. Reports

- (a) The CPRB may review and make recommendations to the Police Chief, Mayor and City Council regarding Police Department policies and practices.
- (b) The CPRB shall, at least annually, report to the City Council. The report shall contain statistics and summaries of citizen complaints, including a comparison of the CPRB's findings and conclusions with the actions taken by the Chief of Police.

## ARTICLE II. COMPLAINT PROCEDURES, INVESTIGATION AND MEDIATION.

### Section 10. Filing Complaints.

Complaints concerning police conduct may be filed at the Police Department or the Urbana Human Relations Office.

- (a) Complaints shall be lodged in writing using a Citizen Complaint Form created by the CPRB in cooperation with the Chief of Police.
- (b) A valid complaint shall include the notarized signature of the complainant.
- (c) The CPRB shall be notified within seven working days each time a complaint is filed.
- (d) Complaints must 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 which case, the complaint must be filed within 15 calendar days of the date the person becomes physically able to file.
- (e) A valid complaint must be a first-hand account either by a person involved in an incident or a witness to an incident.
- (f) Complaints concerning incidents pre-dating the creation of the Board will not be accepted.
- (g) Complaints about the conduct of sworn police officers will be accepted and no complaint will be accepted about front desk personnel, animal control or parking enforcement officers.
- (h) A pamphlet explaining the complaint process and the rights of complainants, including the right to have an advocate assist with filing the complaint, will be provided to each person who files a complaint.
- (i) The Police Department will conduct an internal investigation of the complaint and will report the findings to the complainant and to the CPRB.

#### Section 11. 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. Any person who chooses mediation will be informed of his or her right to an advocate during the process. Complainants who choose mediation are encouraged to avail themselves of this resource. Any police officer who is subject of a complaint and agrees to mediation will also have the right to an advocate during the mediation process.

#### Section 12. 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 promptly as possible;
- (b) Mediation may 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 retained by the City;
- (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 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) Either the complainant or the police officer may bring an attorney or other advocate to the mediation but neither shall be permitted to observe or participate in the mediation session. Either party may, at any time, stop the mediation session to consult with an attorney or advocate outside the room where the mediation takes place. 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.
- (h) Witnesses may participate in the mediation session only if the mediator considers the witness participation necessary.

### Section 13. Advocates

- (a) The CPRB will recruit community members to serve as advocates for complainants and will provide training to all people whose names will be maintained on a roster of potential advocates.
- (b) Every person who inquires about filing a complaint will be offered an advocate by the CPRB. Every person who requests mediation will be encouraged to be assisted by an advocate. An advocate may be any person selected by the complainant to serve as his or her advocate, including but not limited to an advocate trained by the CPRB.

### Section 14. Review of Complaints

- (a) If the complainant is not satisfied with the outcome of mediation or 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 10 calendar days from the date of receipt of the notice of the findings or within 10 calendar days from the date that mediation ends.
- (b) Upon receipt of an appeal, the Board shall hold an initial hearing to set dates to hear the case within 45 working days.
- (c) The complainant may choose mediation as an alternative to a hearing before the Board. If said mediation is not successful in resolving the matter, the complainant may appeal to the Board within 10 calendar days the date that he or she withdraws from mediation.
- (d) The Board may hire an investigator to conduct an independent investigation of the complaint if, after reviewing the Police Chief's report of the internal investigation, the Board determines that additional investigation is warranted.
- (e) Internal investigation reports shall not be subject to public disclosure or use in other legal proceedings.
- (f) Hearings shall be conducted in closed session and members of the CPRB shall keep confidential all matters disclosed during hearings.
- (g) The CPRB will weigh the facts and reach a conclusion based on the preponderance of the evidence.
- (h) An Urbana Police Officer, appointed by the Chief of Police, shall participate as an advisor to the Board during all hearings of complaints.

## ARTICLE III. ADMINISTRATION AND ENFORCEMENT

### Section 15. Findings and Conclusions.

At the conclusion of each review, the CPRB shall render one of the following findings based on the preponderance of the evidence.

- (a) Unfounded: Where the review shows that the act or acts complained of did not occur or were misconstrued.
- (b) Exonerated: Where the acts which provide the basis for the complaint occurred, but the review shows such acts were proper.
- (c) Not Sustained: Where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
- (d) Sustained: Where the review discloses sufficient facts to prove the allegations made in the complaint.
- (e) 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.
- (f) Mediated: Where the complaint is resolved by mediation.

#### Section 16. Report to the Chief of Police.

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. If the findings of the CPRB and of the Chief of Police differ, the Board and the Chief will meet to attempt to reconcile the differences. If the CPRB and the Chief of Police cannot reconcile differences, the matter will be referred to the Mayor and Chief Administrative Officer.

#### Section 17. Meetings.

- (a) The CPRB shall hold its first meeting within thirty (30) days after a quorum of its members has completed the orientation program. At that meeting, the CPRB shall fix the time and place for its regularly scheduled meetings;
- (b) CPRB meetings shall be open to the public except when closed as provided in section (d);
- (c) The CPRB may conduct both public and closed meetings as allowed or required by law;
- (d) A meeting shall be closed when the CPRB discusses any case-specific confidential information which may not lawfully be disclosed.
- (e) The Chief of Police shall designate a representative from the Police Department to attend meetings of the CPRB and to provide information to the CPRB.

#### Section 18. Conduct of Hearings.

- (a) In conducting a hearing, the CPRB shall have the power to:
  - 1. Subpoena witnesses, and case-specific records and tangible evidence;
  - 2. Administer oaths;
  - 3. Take testimony;
  - 4. Exclude witnesses;
- (b) Witnesses shall be questioned only by members of the CPRB;
- (c) At the commencement and conclusion of the evidentiary phase of the hearing the complainant and officer(s) may make statements;

- (d) The entire hearing 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 investigation into a complaint for lack of interest if the complainant fails to attend the hearing;
- (e) At least five (5) days' advance written notice of a hearing shall be provided by certified mail to all interested parties.

#### Section 19. Suspension of Proceedings.

CPRB review of any complaint may be suspended if a separate criminal investigation is underway or if a civil action against the City is threatened, underway or pending. Upon the conclusion of such separate proceedings, the CPRB may resume or undertake its review. The CPRB will honor all requests from the Police Department, Mayor or City Council, or from the complainant to suspend proceedings until the conclusion of any pending criminal case related to the complaint.

#### Section 20. Information Sharing.

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

#### Section 21. Community Outreach

- (a) A brochure explaining the Citizen Police Review procedures and rights of complainants shall be developed by the Citizen Police Review Board and widely distributed throughout the community, including but not limited to, at the Police Department, Human Relations Office, City Clerk's Office and the Urbana Free Library. Brochures shall also be provided to community organizations for distribution to their members.
- (b) The content of the brochure shall also be available on the City of Urbana web site.
- (c) The Citizen Police Review Board shall hold meetings at least annually, and additionally as needed, with community leaders and representatives of neighborhood groups and civic organizations to discuss their concerns about police procedures.
- (d) The Citizen Police Review Board shall organize public forums to discuss the community climate and to develop an action agenda to improve local conditions.
- (e) The Citizen Police Review Board 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 matters that may require special attention. For this work, the Board shall be provided with information, upon request including detailed demographic information.

(f) The Citizen Police Review Board may periodically study and issue reports about police/community relations, racial profiling, and other concerns that relate to community climate.

## Section 22. Severability.

If any provision or part thereof of this article, 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.

### \*NOTE TO MAYOR PRUSSING AND CITY COUNCIL MEMBERS

A majority of the Task Force members felt that among the qualifications for service on the Board should be (included as item (d) in Article I, Section 4):

**Not be an employee of, contracted by, or have any official affiliation with any law enforcement agency.**

The law enforcement members of the Task Force felt that for rank-and-file officers to support this effort, it would be essential to add to the description of the composition of the Board:

**A person with law enforcement experience who would not have a conflict of interest such as a retired Urbana Police officer.**

Discussion included the suggestion, which is incorporated into this draft, that an Urbana Police Officer be present as an advisor during all hearings of complaints but that the Officer not be a voting member of the Board. The counter argument is that one of seven persons actually representing the perspective of a police officer is a reasonable measure to assure that police officers are a constituency that is properly represented in the Board's composition.