

## Item A-2

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# SALT LAKE CITY COUNCIL STAFF REPORT

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**DATE:** March 29, 2002

**SUBJECT:** AMENDMENTS TO POLICE CIVILIAN REVIEW BOARD  
ORDINANCE

**STAFF REPORT BY:** Gary Mumford

Document Type	Budget-Related Facts	Policy-Related Facts	Miscellaneous Facts
Ordinance	New investigator position is proposed at an annual cost of approximately \$79,000.	One of the goals of the proposed amendment is to establish and maintain the Police Department's reputation and practice for fairness and firmness in addressing allegations of police misconduct.	The proposal includes concurrent investigations with Internal Affairs so that the Police Chief will have recommendations from both Internal Affairs and the Civilian Review Board when making decisions concerning discipline.

The Administration is proposing that the existing Civilian Review Board ordinance be repealed and replaced with a new ordinance to provide an enhanced method of allowing individuals an effective way to address complaints concerning the Police Department. The current ordinance (that is proposed to be repealed) provides that the Civilian Review Board evaluates trends in complaints of police officer misconduct, but it does not allow the Board to make recommendations regarding specific cases. The Administration indicated that members of the community have complained about the ineffectiveness of the review process. The proposed ordinance allows the Civilian Review Board to make recommendations regarding individual cases and officers. The Administration obtained input regarding the proposed ordinance from individual community members, community groups, and from the Salt Lake Police Association.

### **KEY ELEMENTS**

The following are some of the key changes proposed to the Police Civilian Review Board Ordinance:

- Expand recommendations to not only overall police performance or trends (current ordinance) but also to individual cases and officers.
- Create a full-time investigator position.
- Provide for concurrent investigations in which the Board's investigator would join with Internal Affairs during the interview process. Under the new ordinance, the Board will forward a report to the Police Chief so that the Chief will have recommendations of both Internal Affairs and the Civilian Review Board when making decisions concerning discipline.
- Increase the number of board members from 7 to 14.
- Change the term of board members from 4 years to 2 years.

- Expand the training curriculum for new Board members.
- Add the appointment of a citizen to be a Board Advisor. This person is to have prior police experience but would not be a voting member of the Board.
- Create a concept of board panels wherein a separate panel of five board members is to be appointed to address each case.
- Provide for criminal penalties and civil liability for knowingly filing false complaints.
- Establish an early warning system designed to identify police officer problem behavior in its initial manifestations.

## OPTIONS:

The Council may wish to consider the following options:

1. Approve the ordinance and approve the investigator position in a subsequent budget opening.
2. Request additional information or hold additional work-session discussions.
3. Establish a Council subcommittee to review the proposal in more detail.
4. Hold a public hearing to determine the degree to which there are concerns or acceptance within the community of the proposed ordinance.
5. Defer funding of the investigator position until after the first week in May when the Administration will propose a revised balanced budget for fiscal year 2002-2003.

## ANALYSIS:

Cases in which it is claimed that a police officer used excessive force – The proposed ordinance provides that the Civilian Review Board will audit and review all cases in which it is claimed that a police officer used excessive force. The investigator will become a participant with Internal Affairs in interviewing witnesses and reviewing other information. The Board will appoint a five-member panel to review the findings of the investigator and prepare a report for the Police Chief with a copy to the entire Board. If the panel does not agree, it can also submit a minority report. The Board is to create a new panel for each case.

Full-time investigator position – The investigator is to be an at-will employee operating out of the City's Department of Management Services. This person is to have experience in public sector labor and employment law, Utah civil service law, and civil rights law. The investigator will perform the review concurrently with the Internal Affairs investigation, and the investigator will be able to participate in the Internal Affairs interviewing sessions. After completion of the review, the investigator will forward recommendations to a Board panel. The Board panel will forward a report to the Police Chief and to the full Board. The intent is that the Police Chief has the recommendations of the Civilian Review Board as well as Internal Affairs when making decisions concerning discipline. The Chief makes the final decision. *The Council may wish to inquire whether the Administration has identified an ongoing funding source for the investigator position.*

Cases filed with the Board within four days – A person who files a complaint with the Police Department will be informed that the person can also file the complaint with the Civilian Review Board within four days. The Board has the option of accepting or not accepting the complaint. This decision is to be made promptly so that the investigator can participate with the review made by

Internal Affairs. *The Council may wish to inquire as to how the 14-members of the Board will be polled each time a complaint is filed in order to make a timely decision as to whether to investigate or deny the complaint.*

Cases in which the person making a complaint is dissatisfied with the decision of the Police Chief - The investigator is to make a review of a case when a person (other than the police officer) is dissatisfied with the decision of the Police Chief regarding a complaint. This review is to be made by reviewing records of the Police Department regarding the incident but without questioning witnesses. A panel is appointed to review the investigator's findings and to prepare a report to the Police Chief and to the entire Board. If the panel wishes, it may request that the Police Department reopen the case. The Police Chief is to determine whether or not to reopen the case. The proposed ordinance states that the Board may adopt rules that allow it to dismiss any claim that it deems frivolous, malicious or false. *Since the Board is required to hold a meeting only once every three months, the Council may wish to inquire as to how the Board will make a decision as to whether to investigate a case where the petitioner is dissatisfied and how the panel will be chosen so as to timely respond to the request.*

Term of board members to change from 4 years to 2 years - The Administration proposes that the term of board members will be only 2 years to mitigate the time commitment for each board member and to allow more members of the community to participation. A member cannot serve more than two consecutive full terms. The board will meet at least once every three months, and panels meet as necessary to review cases. An expanded training curriculum over a period not to exceed three months is proposed including: (1) a specific training course as determined by the Police Chief and the Mayor, (2) eight hours of training by the Internal Affairs Division, and (3) four three-hour ride-alongs (one in each of the four police sectors). This training must be completed before a board member can actively participate on the board. *Council Members may wish to discuss with the Administration the appropriateness of a 2-year term in view of the extensive training that will be provided.*

Board Advisor - The Mayor is to appoint a Board Advisor, a person with prior police experience, who is not employed at the current time by any law enforcement agency, to provide advice to the Board. The Board Advisor is to serve no more than two 2-year terms.

Requesting subpoenas - If the Investigator desires to interview a witness or a police officer, and if such person declines to be interviewed, the Investigator may ask the Mayor to compel the witness or police office to meet with and be interviewed by the Investigator. An Internal Affairs Unit investigator is to be present or invited to be present when the Board Investigator has any contact with a witness or accused employee.

Semiannual Trend Report - Every six months the Board is to prepare an advisory report highlighting the trends in police performance and giving recommendations regarding training needs or changes in police policy and procedures.

Early warning system - If a police officer has exhibited a pattern of generating complaints, the Chief of Police is to make a review and where appropriate is to require the officer to receive counseling, testing, or training. The Police Department is to document the pattern of behavior of the police officer, the review by the Chief of Police, and the assigned counseling, testing, or training.

## CHRONOLOGY:

February 1993 - Salt Lake City implemented a police review board that included citizen participation (2 citizens and 3 police offices).

1995 - A third citizen was added to the board.

Summer 1996 - A Council Member suggested inquiring into the review board process after talking to concerned constituents.

October 3, 1996 - A special committee was established to evaluate the effectiveness of the review process and propose further improvements.

August 5, 1997 - The City Council adopted an ordinance providing for a police civilian review board made up entirely of citizens with staff support independent of the Police Department.

March 2, 1999 - The City Council adopted an amendment to the Civilian Review Board Ordinance that (1) increased the number of board members from five to seven, (2) specified that the City Attorney is the attorney for the Civilian Review Board, (3) specified that closure of meetings be governed by the Open and Public Meetings Act, (4) clarified that police officers can be compelled to attend and testify in meetings of the Board, (5) required that requests for reviews be signed and dated by the person making the request, and (6) clarified that recommendations are limited to matters involving overall police performance or policy concerns.

cc: Rocky Fluhart, Jay Magure, Chief Dinse