

SALT LAKE CITY COUNCIL STAFF REPORT

DATE: July 3, 2003

SUBJECT: **Amendment to Police Civilian Review Board Ordinance to correct some practical problems**

AFFECTED COUNCIL DISTRICTS: Citywide

STAFF REPORT BY: Gary Mumford

ADMINISTRATIVE DEPT. AND CONTACT PERSON: Management Services
Linda Hamilton, Civilian Review Board Investigator

CC: Rocky Fluhart, David Nimkin, Linda Hamilton, Chief Dinse, JD Baxter

On July 1, 2003, the Council received a briefing on proposed amendments to the Civilian Review Board Ordinance. Linda Hamilton explained that the proposed revisions will make some housekeeping corrections and provide some clarification to make the process more practical. Eleven board members have been appointed to the 14-member board with 10 having completed training. The board has met three times and is beginning to review its first case. Each case will be reviewed by a panel of 5 board members to help ensure a balance of perspective.

Council Member Buhler asked about the title for the staff person for the board. Included in the motion options is language to address his suggestion. The Investigator position is required to provide administrative support because the internal audit group, which was originally intended to provide support, is no longer in existence.

RECOMMENDED MOTION:

The Council may wish to consider adopting the proposed ordinance.

["I move that the Council"] **Adopt an ordinance amending Chapter 2.72 of the Salt Lake City Code relating to the Police Civilian Review Board as proposed.**

Or

["I move that the Council"] **Adopt an ordinance amending Chapter 2.72 of the Salt Lake City Code relating to the Police Civilian Review Board with the amendment that the title "investigator / administrator" is replaced with the title "administrator" throughout the ordinance.**

The following information was provided previously.
It is provided again for your reference.

In preparing policies and procedures relating to the Police Civilian Review Board Ordinance, the Investigator/ Administrator for the Board, Linda Hamilton, identified some inconsistencies or items in the ordinance that need clarification. She also recommended a couple changes to make the process more practical. The Administration's transmittal provides a brief summary of the 11 proposed changes. Council members may wish to refer to this concise list on the attached transmittal.

MATTERS AT ISSUE:

The proposed amendment adds the word "Administrator" to the Investigator's title since in addition to investigations, this position provides administrative support for the Board. The amendment will correct two inconsistencies:

- Two-year term for Board members noted in one section should be three years to be consistent with other references to board terms
- Investigator/ Administrator to be added to the list of those with whom Board members can discuss cases.

The proposed amendment clarifies the following:

- Days are *business* days
- 96 hours (four days) is four *business* days
- Internal Affairs "report" is changed to "case file" since reports are not issued
- Investigator's report to be distributed to the Board panel rather than the entire Board
- No one representing a police officer under investigation (such as a union) can request the Board to review the case since the current ordinance doesn't provide that the involved police officer can request a review
- Internal Affairs notifies the Investigator/ Administrator of interviews on cases involving excessive force or on cases on which the Board has directed the Investigator/ Administrator to investigate rather than for all interviews.

The amendment provides the following practical revisions:

- Investigator/ Administrator has five business days to complete a report rather than two business days
- Internal Affairs case file to be distributed to the Board panel rather than the entire Board (file may be more than an inch thick)
- Board panel provides a report to the Police Chief but not to Internal Affairs since it is probably not appropriate for Internal Affairs to receive a report that may be critical of the Chief's decision

The Council may wish to forward this amendment to a future meeting for consideration. Council Members may wish to ask about the status of implementing the ordinance and whether the ordinance and the Board are now fully operational.

BACKGROUND:

The ordinance that was in place prior to June 2002 provided that the Civilian Review Board evaluate trends in complaints of police officer misconduct, but did not allow the Board to make recommendations regarding specific cases. The ordinance that the City Council adopted on June 18, 2002 allows the Civilian Review Board to make recommendations regarding individual cases and officers.

Cases in which it is claimed that a police officer used excessive force – The current ordinance provides that the Civilian Review Board audit and review all cases in which it is claimed that a police officer used excessive force. The investigator becomes a participant with Internal Affairs in interviewing witnesses and reviewing other information. The Board appoints 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 creates a new panel for each case.

Full-time investigator position – The investigator performs the review concurrently with the Internal Affairs investigation, and the investigator is able to participate in the Internal Affairs interviewing sessions. After completion of the review, the investigator forwards recommendations to a Board panel. The Board panel forwards 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.

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 proposed amendment clarifies that the period is four “business” 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.

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. [The proposed ordinance clarifies that no one acting on the police officer’s behalf may request a review.] 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 current ordinance states that the Board may adopt rules that allow it to dismiss any claim that it deems frivolous, malicious or false.

Board Members –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 includes: (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.

Board Advisor - The Mayor appoints 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.

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 officers).

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.

June 18, 2002 - The City Council adopted an ordinance giving significantly more authority to the Police Civilian Review Board than the previous ordinance. It created an Investigator position, gave the Board authority to investigate individual complaints against Police officers and to review the final decision of the Police Chief on complaints already investigated by Internal Affairs.

July 1, 2003 - The Council received a briefing on proposed amendments to the Civilian Review Board Ordinance.
