
M E M O R A N D U M

DATE: August 19, 2008
TO: City Council Members
FROM: Karen Halladay, Budget and Public Policy Analyst
RE: Civilian Review Board Ordinance

The above ordinance was originally transmitted to the City Council on October 15, 2007. Upon taking office in January of 2008, the Becker Administration formed a work team to study boards and commissions, including a review of ordinances. The Civilian Review Board ordinance was held by the Administration during the study. It was resubmitted on June 30, 2008.

BACKGROUND

The Salt Lake City Police Department (SLCPD) is committed to maintaining the highest professionalism of its officers. To ensure the City's citizens are treated in a professional and courteous manner, the Police Department established several methods of addressing citizen complaints.

Citizens with concerns or complaints about police officers are encouraged to contact and talk to a SLCPD supervisor or the Internal Affairs Unit. The complaint is investigated by the SLCPD, a determination is made, and the disposition of the investigation is communicated to the complainant. If the complainant is not satisfied with the outcome of the investigation, a written request to have the case reviewed by the Civilian Review Board (CRB) must be filed with the Office of the Mayor within thirty days after receipt of the SLCPD's written determination.

The Civilian Review Board, created by City Ordinance in 2003, audits and reviews citizen complaints regarding police conduct and provides periodic reports and recommendations. In addition, claims of excessive force are automatically forwarded to the CRB for a separate, independent review and the CRB has the discretion to review any complaints filed with SLCPD Internal Affairs. According to a Salt Lake City Tribune Article dated April 21, 2007, Chief Burbank stated the following: "In short, the board serves the interests of the public and of our police force. In providing civilian oversight of internal police investigations, the board helps to ensure accountability and protect the rights of all involved."

In the Fall of 2006, a citizen was detained in Liberty Park by SLCPD officers. The citizen requested a CRB review to address an excessive use of force complaint. The citizen Civilian Review Board, which investigates allegations of misconduct separately from the SLCPD Internal Affairs Unit, sustained the findings. Under the current City policy, these findings are not made available to the public; unless, the Salt Lake City Police Chief agrees with the report's conclusions.

However, in this particular case, protected police department file information was leaked to the media while the investigation was ongoing and prior to the Police Chief's review. Per the ordinance, the Salt Lake City Police Chief has an opportunity to do a final review and make a determination about the cases reviewed by the CRB. Information is made public if the Police Chief agrees with the Civilian Review Board's findings. The release of police department file

information contained in the CRB findings prior to the Police Chief's determination in this case was in violation of Salt Lake City Code 2.72.150, which states that a breach of this confidentiality obligation by the administrator or related staff shall be grounds for removal from office, as well as civil and criminal liability pursuant to any applicable city, state or federal law. In addition, under Utah State Statute 63-2-801(1)(a) disclosure of this information is considered a Class B Misdemeanor. The language is as follows: 63-2-801 (1) (a) *A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses, provides a copy of, or improperly uses a private, controlled, or protected record knowing that the disclosure or use is prohibited under this chapter, is guilty of a class B misdemeanor.* The proposed ordinance provides clarification that the release of any information related to a case being investigated is in violation of the above Utah statute.

As a result of these events, an outside investigator was hired to determine the source of the CRB findings leak of information to the media and the Salt Lake City Attorney's Office has proposed amendments to the Civilian Review Board Ordinance. The Mayor and his Chief of Staff, the City's Chief Administrative Officer, the Civilian Review Board Chair, Salt Lake City Police Department, and Salt Lake Police Association were all consulted on the issues raised and the proposed amendments to Ordinance 2.72.010. Council staff recently reviewed the proposed ordinance with the City's Police Civilian Review Board Administrator, Police Chief, and City Attorney's Office to see if the ordinance changes reflected how the Civilian Review Board operates in actuality. Comments received were positive and the parties noted that the process was working effectively.

DISCUSSION OF PROPOSED CHANGES

- **Police Civilian Review Board - Composition**

- Board Chair - In the past, the board chair was selected by the board. One of the proposed changes to the ordinance is that the Mayor will appoint the board chair, who will serve for a two (2) year term, limited to two (2) consecutive full terms. The board will select the Vice Chair.
- Board Members - This board is comprised of fourteen (14) civilians, two members from each Council District. Board members serve for a three (3) year term, limited to two (2) consecutive full terms. Terms are staggered so no more than seven (7) board members terms expire in any one year. Board members are appointed with the advice and consent of the Council. The Mayor may remove any board member with or without cause prior to the normal expiration of their appointment. The prior ordinance allowed the Mayor to remove a board member for cause. Members are subject and bound by the provisions of the City's existing or future conflict of interest ordinances. In addition, new language was added to section 2.72.110 which states "Members shall not disclose any confidential information they receive while serving on the board." Board members are required to complete a defined training course, and, if they fail to complete the training program within a six (6) month time period the Mayor has the ability to revoke a board appointment.
- Board Advisor - The Mayor appoints a person with prior police experience, who is not at the time employed by the police department or any other law enforcement agency, to provide input and advice to the board. The terms of office are the same as for board members. The board advisor is not a member of the board and does not have a vote on the board. The Mayor may remove the board advisor with or without cause prior to the normal expiration of their appointment. The prior ordinance allowed the Mayor to remove the board advisor for cause.
- Board Administrator - The Mayor appoints a full-time independent administrator for the board. The position, under the Chief Administrative Office, serves at the

will of the Mayor and can be removed from office with or without cause. A change to the ordinance states the following with termination of a Board Administrator **“Unless extenuating circumstances require immediate action, the mayor will consider any recommendations of the board before removing the administrator.”**

The Council may wish to consider the following with regard to the proposed ordinance:

- *The Council may wish to consider the independence or appearance of independence of the Civilian Review Board. Under the revised ordinance, the Chair is appointed by the Mayor and the Mayor has the ability to remove board members with or without cause.*
- *The prior and proposed ordinances qualify the qualifications of board members by stating that “No person may be appointed as a member of the board who has: a) a felony conviction or pending indictment or information; b) a misdemeanor conviction or pending misdemeanor indictment or information in a case involving violence or moral turpitude. A felony conviction, or a conviction for a misdemeanor involving violence or moral turpitude, after appointment to the board, shall be a basis for removal of the person from the board.” The Council may wish to include a statement in the ordinance that board members and Board Administrator candidates being considered for an appointment to the Police Civilian Review Board will be subject to a background check.*
- *Required and desired Administrator qualifications are included in the existing and proposed ordinance. Minimum education or years of experience are not listed as either required or desired qualifications.*
 - *The Council may wish to consider whether or not a minimum education or experience standard be included as a required or desired qualification for the Board Administrator position.*
 - *The Council may wish to discuss the desire to have qualifications for City positions to be included in Human Resource job descriptions rather than included in an ordinance.*
- **Police Civilian Review Board - Responsibilities**
 - **As per the purpose, Section 2.72.010, of the Police Civilian Review Board, “The best interests of the city and its residents will be served by civilian oversight of certain complaints and internal police investigations regarding conduct of police officers. As such, the police civilian review board will audit and review all cases in which it is claimed that a police officer used excessive force and such other cases as the board in its discretion may request. Such audit and review are intended to foster trust between the community and law enforcement personnel and to assure fair treatment to police officers.”** Per the ordinance the Board Administrator has access to any Internal Affairs unit investigations involving claims that a police officer used excessive force. In addition, the Civilian Review Board can at its discretion investigate other cases and Citizens can request an investigation of a complaint provided they have filed a complaint with Internal Affairs within four (4) days of their Civilian Review Board request. The citizen’s board request may be granted or denied at the board’s discretion. In discussion with the City’s Board Administrator, all Internal Affairs cases are reviewed by the Board Administrator to insure fair treatment of the complainants and police officers involved. According to the Administrator, one-third of the cases involve traffic situations and one-third relate to rudeness complaints. Quarterly, the Administrator prepares a summary of the cases and presents the report to the Police Civilian Review Board. This report is also available on the Police Civilian Review Board’s website. In addition to

ensuring the fair treatment of cases, other benefits of the Civilian Review Board include identification of policy, procedure, and training opportunities.

- A proposed ordinance change is to have the board as a whole meet at least once every six (6) months. The prior ordinance required the board as a whole to meet at least every three (3) months. The Board Administrator did not see a problem changing the required meeting period for the board as a whole.
- Board panels made up of three (3) to five (5) board members are randomly selected to investigate and make a determination with regard to individual cases.

ADDITIONAL MATTERS AT ISSUE

- *See previous matters at issue in the above memorandum. Items for the Council to consider are identified by the formatted boxed area and italicized questions.*
- *Does the Council wish to consider adding a Civilian Review Board annual reporting/briefing component to the proposed ordinance?*
- *The airport, a City agency, has its own police department to handle on-site security problems and issues. According to both Police and Airport Department personnel, there are many factors that differ in serving in their policing roles, including the functions performed, labor issues, organizational structure, and other agencies involvement ie the Federal Aviation Administration (FAA) . The proposed Civilian Review Board does not address oversight of the Salt Lake City Airport Police Department, but due to the factors mentioned above, further study of the need for the Airport Police Department oversight and the best method to provide the oversight would require further study of the issues. Does the Council wish to consider studying the Airport Police Department's need for civilian oversight? Does the Council wish to specifically exclude the Airport from this ordinance?*
- *Currently, the quorum is defined as at least seven (7) members of the board. In speaking with the Board Administrator, the Civilian Review Board has not been fully appointed. In addition, the required board member training must be completed before board members can fully participate on the Board. Does the Council wish to consider revising the definition of a quorum?*
- *Former Mayor Anderson and members of his administration, including his Chief of Staff, Chief Administrative Officer, Chair of the Civilian Review Board, Police Department and Association were consulted in the development of changes to the Civilian Review Board ordinance. Their expertise, perspective and input were considered in the development of this ordinance. Council Staff has conferred with the current administration in the review of this ordinance and in preparation of this memorandum.*

ADDITIONAL INFORMATION

This section describes the current and proposed Civilian Review Board process and how information, including CRB findings and confidential information, is handled and communicated.

- **Police Civilian Review Board – Process**
 - Upon notification of an Internal Affairs complaint or when the Civilian Review Board agrees to investigate a citizen request for an investigation, information and data is collected and entered into a secure and confidential computer database. The Board Administrator has access to: 1) Internal Affairs database and all evidence related to the case, including but not limited to written, oral, photo, and audio evidence (Access to files that are deemed confidential by law may not be accessed

- by the Board Administrator.), 2) “unfettered” access to the internal affairs unit investigation process related to a case under review and the Administrator may inquire of the commander of the internal affairs unit or the applicable assistant police chief about the status of any open case, 3) access, the ability to participate (when disclosed to a witness being interviewed) in Internal Affairs interviews, or the ability to independently interview a witness. The proposed ordinance clarifies the process when the Board Administrator chooses to independently interview a witness, including what to do when new information comes to light in an open case. In addition, the Mayor and the Police Chief may be asked to compel a witness to be interviewed by the Board Administrator when that witness had previously declined to be interviewed. The proposed ordinance clarifies who the Board Administrator is allowed to discuss and release case details to and defines the consequences should the Board Administrator violate this section – Section 11 – 2.72.150, including immediate removal from office, a Class C misdemeanor, and subject to civil or criminal liability pursuant to any other applicable city, state, or federal law.
- The Board Administrator has two days to complete his or her investigation of each case within two days after the completion date of the internal affairs unit’s investigation.
 - Within five (5) business days, longer if approved by the City’s Chief Administrative Officer after consultation with the Police Chief or his or her designee, of receipt of the case file from internal affairs unit, the Board Administrator shall provide to the board review panel a written report that summarizes the case and the Administrator’s investigation. The proposed ordinance in section 2.72.150 - I describes how the board members can access the report, the responsibility of the Administrator and board members in protecting the confidentiality of the information, regardless of the information source, who the information can be shared with, and the consequences of breaching the confidentiality obligation. The proposed ordinance eliminates the ability for the board to request the Board Administrator’s records.
 - Under the proposed ordinance, the Board Administrator shall be invited to attend the pre-disciplinary hearing of a police officer who is the subject of the Administrator’s report. The Administrator has the option to prepare a second report which would address additional factual information learned at the pre-disciplinary hearing. This report would be submitted to the board review panel not less than five (5) business days after the end of the pre-disciplinary hearing.
 - Cases where it is claimed that excessive force was used, cases selected at the board’s discretion, and citizen request cases that the board agrees to review are investigated by the Administrator and presented to a Civilian Review Board Panel. Upon completion of the board panel’s review of a case, the panel prepares a report and immediately forwards a copy of the report to the police chief. The report shall contain, at a minimum, recommendations concerning the case disposition: 1) unfounded – the reported incident did not occur, 2) exonerated – police officer’s actions were reasonable under the circumstances, 3) no determination is possible – there is insufficient evidence to support a conclusion as to whether or not the police officer violated policy, and 4) sustained – the police officers action(s) are in violation of policy or procedure of the police department, and any other recommendations to the police chief in terms of the individual case or general practices or policies. The existing and proposed ordinance details the process and timelines for filing of the report, and the filing of a second report, if needed. In addition, details for filing of a minority report, a report filed by a panel member when not in agreement of the review panel’s report, are included in the ordinance.

- Absent exigent circumstances in which the police chief, in his or her sole discretion, determines that a discipline decision must be made before he or she receives the Board Panel's Majority or Minority reports, the police chief shall review and consider the Civilian Review Board's reports and recommendations prior to making a discipline decision. The decision to discipline a police officer and the appropriate discipline is the sole responsibility of the police chief. The police chief submits to the board and the Administrator a report outlining the case disposition. If the board is not in agreement, the board may provide written communicate to the police chief. The proposed ordinance added that the board may request the police chief meet with the board to discuss or explain any disagreement.
 - At least every six months, the Civilian Review Board shall audit and review the reports of the board review panels with respect to all internal police investigations completed. "The board shall prepare an advisory report highlighting trends in police performance and stating its findings, conclusions, and recommendations regarding changes in police policy and procedures. Patterns of behavior, unclear procedures, policy issues, and training needs may be identified for review." Board members not in agreement with the majority report may file with the Mayor a minority report stating their conclusions. Audit Advisory Reports, which can not contain identifying information, are provided to the Mayor, each Council Member, and the Police Chief.
- **Police Civilian Review Board – Communication Issues**
 - Board and Board Panel meeting notices and records are subject to the Open and Public Meetings Act, Utah Code Annotated, Chapter 4, Title 52. Closed meetings can be held provided: 1) a quorum is present and 2/3 of the members present vote to close the meeting and 2) a discussion involving the character, professional competence, or physical or mental health of an individual – privacy rights. The prior ordinance gave the board or a board panel the option to recommend closing the meeting. The proposed ordinance removes the recommendation to close a meeting when privacy rights are involved. Board actions and minutes are GRAMAable, but names of the involved parties are removed before release of the information.
 - The proposed ordinance includes the following language with regard to confidential information, including physical, oral, and written evidence, presented or obtained during closed meetings. **"In addition, the board members, the administrator, the board advisor and any person attending a closed meeting shall keep confidential any information, materials, or packets provided to them or notes kept or minutes taken in connection with their review of particular cases. Any person who intentionally discloses confidential information obtained in connection with his or her review of a case shall be guilty of a Class C misdemeanor"**. Board Panels are closed meetings.
 - The proposed ordinance also adds language with regard to Internal Affairs unit information obtained by the Board Administrator. It is as follows: **"The administrator shall not have access to any internal affairs unit information that is not directly related to an ongoing investigation involving a police officer. The administrator shall not disclose or discuss any information obtained from, or originating from, the internal affairs unit except to board members who are participating in the review of an ongoing investigation, the board chair, the mayor or his or her designee, the police chief or his her designee, the city attorney, or the internal affairs unit."**

SALT LAKE CITY CORPORATION

EDWIN P. RUTAN, II
CITY ATTORNEY


LAW DEPARTMENT

RALPH BECKER
MAYOR

CITY COUNCIL TRANSMITTAL



Ralph Becker, Mayor

Date Received: 8/14/08 

Date sent to Council: 8/15/08 

TO: Salt Lake City Council
Jill Remington-Love, Chair

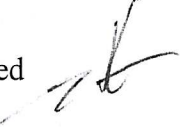
DATE: August 14, 2008

FROM: Ed Rutan 

SUBJECT: Civilian Review Board Ordinance

STAFF CONTACT: Ralph E. Chamness, Senior City Attorney

DOCUMENT TYPE: Ordinance

RECOMMENDATION: The City Attorney recommends the City Council adopt the attached revisions to Section 2.72. 

BUDGET IMPACT: None

BACKGROUND/DISCUSSION: In the Spring of 2007, the Salt Lake City Attorney's Office conducted an inquiry related to the disclosure of information to the *Salt Lake Tribune* which appeared to compromise the Police Civilian Review Board ("CRB") process. As a result of that inquiry, the Salt Lake City Attorney's Office, after consulting with the Mayor, the Mayor's Chief of Staff, the City's Chief Administrative Officer, the CRB's Chair, the Salt Lake City Police Department and the Salt Lake Police Association, proposed amendments to the ordinance establishing the CRB. The suggested changes were initially submitted to the Council in the Fall of 2007. The suggested changes are designed to address the concerns brought to light by the

investigation into the disclosure of information to the *Salt Lake Tribune*. The changes also reflect the suggestions made by each individual or group participating in this process. However, the suggested changes do not adopt all of the suggested changes made by any one person or group.

The revisions are designed to ensure that everyone participating in the review process understands the confidential nature of the information. Criminal penalties for the disclosure of confidential information should encourage compliance with the confidentiality provisions. Further, the suggested changes are designed to clarify the responsibilities of the Board members and the Board's Administrator.

The attached changes reflect additional comments which the administration has received since the initial transmittal.

PUBLIC PROCESS: Key stakeholders were involved in the creation of these recommendations. The City Council may wish to request the Administration to add additional public process such as an open house.

SALT LAKE CITY ORDINANCE
No. _____ of 2008
(Police Civilian Review Board)

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER
2.72 OF THE SALT LAKE CITY CODE RELATING TO THE POLICE
CIVILIAN REVIEW BOARD.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Section 2.72.010, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.010 Purpose:

The best interests of the city and its residents will be served by civilian oversight of certain complaints and internal police investigations regarding conduct of police officers. As such, the police civilian review board will audit and review all cases in which it is claimed that a police officer used excessive force and such other cases as the board in its discretion may request. Such audit and review are intended to foster trust between the community and law enforcement personnel and to assure fair treatment to police officers.

SECTION 2. That Section 2.72.020, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.020 Definitions:

For the purpose of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

- A. "Administrator" means the independent board administrator appointed pursuant to section 2.72.060 of this chapter.
- B. "Board" means the police civilian review board created under this chapter.

- C. “Board advisor” means the board advisor appointed pursuant to subsection 2.72.030D of this chapter.
- D. “Board chair” means the board chair appointed pursuant to subsection 2.72.030B of this chapter.
- E. “City” means Salt Lake City Corporation, a Utah municipal corporation.
- F. “City Attorney” means the city’s appointed city attorney or his/her designee.
- G. “Confidential Information” means information described in this chapter as confidential or information that may not be disclosed except as allowed under this chapter.
- H. “Council” means the city council of the city.
- I. “Internal affairs unit” means the internal affairs unit of the police department.
- J. “Mayor” means the duly elected or appointed and qualified mayor of the city.
- K. “Member” or “member of the board” means a person appointed by the mayor who is duly qualified and acting as a member of the board.
- L. “Panel” or “board review panel” means a panel of board members described in section 2.72.180 of this chapter.
- M. “Person” means an individual.
- N. “Police chief” means the chief of police of the city.
- O. “Police department” means the police department of the city.
- P. “Quorum” means at least seven (7) members of the board.

SECTION 3. That Section 2.72.030, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.030 Board Appointments; Term Of Office; Board Advisor:

- A. Creation: The board is hereby created.
- B. Appointments By Mayor: The mayor, with the advice and consent of the council, shall appoint fourteen (14) civilians as members of the board. The mayor shall appoint one (1) person from the board to serve as the board chair. Each council district shall be represented by two board members. The mayor shall make such appointments with a goal of providing geographical, professional, neighborhood, racial, gender, and ethnic diversity to the board so that balanced community representation is achieved. Officers or employees of the city shall not be appointed to the board.
- C. Term Of Office: All members of the board shall serve for a three (3) year term, provided that the terms of the initial appointees shall be staggered so that not more than seven (7) terms shall expire in any one year. Each member's term of office shall expire on the first Monday in September. A member shall not serve more than two (2) consecutive full terms. The board chair shall serve for a two (2) year term. The board chair shall not serve as board chair more than two (2) consecutive full terms.
- D. Board Advisor: The mayor shall appoint, as board advisor, a person with prior police experience, who is not at the time employed by the police department or any other law enforcement agency, to provide input and advice to the board. The board advisor shall have the same term of office as members of the board and shall not serve for more than two (2) consecutive terms. The board advisor is not a member of the board and does not have a vote on the board.

SECTION 4. That Section 2.72.050, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.050 Organization:

A. Officers: The board shall annually select from its members a vice chair.

B. Staff: The mayor shall appoint a full time administrator for the board, as provided in section 2.72.060 of this chapter. The city shall additionally provide staff to create written minutes from any board and panel meeting recordings.

C. Attorney: The city attorney shall be the attorney for the board. In the event of a conflict of interest, any legal advice or assistance shall be obtained, as directed by the office of the city attorney.

SECTION 5. That Section 2.72.060, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.060 Independent Board Administrator:

A. Appointment; Removal: In the interest of legitimate civilian oversight, the mayor shall appoint a full time independent administrator for the board. In making such appointment, the mayor shall consider any recommendations of the board regarding who should be appointed. The administrator shall report to the city's Chief Administrative Officer. The administrator shall be an at-will employee and shall be subject to removal by the mayor, with or without cause. Unless extenuating circumstances require immediate action, the mayor will consider any recommendations of the board before removing the administrator.

B. Required Qualifications: The administrator shall have the following qualifications:

1. Experience in public sector labor and employment law (preferably relating to police), Utah civil service law, and civil rights law, or the ability to quickly learn applicable legal principles.
2. Strong interpersonal and supervisory skills.
3. Objectivity toward police and community interests.

4. No felony convictions or misdemeanor criminal convictions in cases involving violence or moral turpitude. The administrator shall not be under a pending felony indictment or information when appointed. A felony conviction or indictment or information, or a conviction of a misdemeanor involving violence or moral turpitude after appointment, shall be a basis for removal.

5. Strong writing skills.

6. Verbally articulate.

7. Strong interviewing skills.

8. Strong investigative skills.

C. Desired Administrator Qualifications: If possible, the administrator shall have the following qualifications:

1. Mediation training and mediation experience.

2. History of community involvement and public service.

3. Administrative and management skills.

4. Ability to positively interact with citizens, police officers, and the community.

5. Trial or appellate experience.

6. Formal education in law enforcement and/or law enforcement practices.

SECTION 6. That Section 2.72.070, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.070 Criminal Conviction Or Pending Indictment:

No person may be appointed as a member of the board who has: a) a felony conviction or pending indictment or information; or b) a

misdemeanor conviction or pending misdemeanor indictment or information in a case involving violence or moral turpitude. A felony conviction, or a conviction for a misdemeanor involving violence or moral turpitude, after appointment to the board, shall be a basis for removal of the person from the board.

SECTION 7. That Section 2.72.090, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.090 Removal From Office:

Any member of the board or the board advisor may be removed from office by the mayor, with or without cause, prior to the normal expiration of the term for which such member or advisor was appointed.

SECTION 8. That Section 2.72.110, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.110 Members' Ethics:

Members shall be subject to and bound by the provisions of the city's conflict of interest ordinance, chapter 2.44 of this title, or any successor ordinance. Any violations of the provisions of said chapter shall be grounds for removal from office. Members shall not disclose any confidential information they receive while serving on the board.

SECTION 9. That Section 2.72.120, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.120 Eligibility For Membership; Training:

A. Eligibility: To be eligible to be appointed as a member of the board, a person shall be at least twenty one (21) years of age and shall be a resident of the city.

B. Training: After being appointed to the board, but prior to functioning as a member, each member of the board shall receive the following training regarding the duties of the board and regarding police practices and procedures:

1. A specific training course, as determined by the police chief and the mayor, regarding police practices and procedures, duties of the board, and cultural diversity.
2. At least one 3-hour ride along in each of the city's police sectors.
3. Meetings with selected community groups and persons who have an interest in police oversight, as determined by the police chief and the mayor.
4. Two (2) hours of training provided by the internal affairs unit.
5. A supplemental training course containing elements from subsections B1 through B4 of this section, as determined by the police chief and the mayor, within thirty (30) days after commencing the second year of the three (3) year term.

The mayor shall revoke the appointment to the board of any member who fails to complete such training within six (6) months after such member's appointment to the board; provided that the mayor may extend such training deadline if, in the mayor's judgment, such an extension is appropriate.

SECTION 10. That Section 2.72.130, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.130 Meetings Of Board:

- A. Regular Meetings: The board as a whole shall hold regular meetings at least once every six (6) months.
- B. Panel Meetings: Board review panels may meet as necessary to review cases.
- C. Open Meeting Law Compliance: Notice of meetings of the board and panels shall be provided, and records of board and panel meetings shall be kept, as required by the open and public meetings act, title 52, chapter 4, Utah Code Annotated, as amended, or any successor statute. The board and panels may close a meeting if

allowed under section 52-4-5, Utah Code Annotated, as amended, upon the affirmative vote of two-thirds (2/3) of the members of the board or panel present in an open meeting for which notice is given, provided a quorum is present. When a meeting of the board or a panel involves the discussion of the character, professional competence, or physical or mental health of an individual (including any police officer), privacy rights are involved and the board or panel shall close any such meeting under the open and public meetings act. In addition, the board members, the administrator, the board advisor and any person attending a closed meeting shall keep confidential any information, materials, or packets provided to them or notes kept or minutes taken in connection with their review of particular cases. Any person who intentionally discloses confidential information obtained in connection with his or her review of a case shall be guilty of a Class C misdemeanor. Subject to the open and public meetings act, the board and panels shall keep written minutes of their meetings and records of all of their official actions.

D. Special Meetings; Notice: Special meetings of the board or panels may be ordered by the chairperson of the board, a majority of the members of the board, a majority of the members of the council, or the mayor. The order for a special meeting must be signed by the person or persons calling such meeting and, unless waived in writing, each board member not joining in the order must be given not less than three (3) business days prior notice of the meeting. Such notice shall be served personally or left at the board member's residence or business office.

E. Location Of Meetings; Record Of Proceedings: Meetings shall be held at such public place as may be designated by the board. The board and panels shall cause any written minutes of their proceedings to be available for inspection in the office of the city recorder, except with respect to matters not subject to public disclosure under the Utah government records access and management act, title 63, chapter 2, Utah Code Annotated, as amended, or any successor statute or this chapter. The board and panels shall record the yea and nay votes of the board or panel members on any action taken by them. The board and panels may suspend the rules of procedure for their meetings by unanimous vote of the members of the board or panel, as applicable, who are present at the meeting. The board or panel shall not suspend

the rules of procedure beyond the duration of the meeting at which the suspension of rules occurs.

SECTION 11. That Section 2.72.150, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.150 Investigations By The Board:

A. In General; Notice: The administrator shall have access to all internal affairs unit investigations in which it is claimed that a police officer used excessive force, together with such other investigations of police officers as the board in its discretion may request. The police department shall notify the board through the administrator when cases are initiated by the internal affairs unit. The administrator shall not have access to any internal affairs unit information that is not directly related to an ongoing investigation involving a police officer. The administrator shall not disclose or discuss any information obtained from, or originating from, the internal affairs unit except to board members who are participating in the review of an ongoing investigation, the board chair, the mayor or his or her designee, the police chief or his or her designee, the city attorney, or the internal affairs unit.

B. Citizen Requested Investigations: Any person who files with the police department a complaint about a police officer, whether or not claiming that the police officer used excessive force, may, within four (4) business days after filing such complaint, file with the board a request that the board investigate the complaint. At the time a person files such a complaint with the police department, the police department shall notify such person orally or in writing of the person's right, within four (4) business days after such filing, to request a board investigation of the complaint. The board, in its discretion, may grant or deny such request, and the board shall promptly notify the person making the request of the board's decision to grant or deny the request. If the board grants the request, it shall promptly notify the internal affairs unit thereof, and the administrator shall have access to the internal affairs unit's investigation of such complaint.

Any person who files a complaint against a police officer under this section, knowing that such complaint is frivolous, malicious, or false, shall be guilty of a class C misdemeanor and shall be civilly liable for all costs and expenses incurred in investigating and otherwise responding to the complaint. A complaint is frivolous if it has no reasonable basis in fact. The board may adopt rules that allow it to dismiss any claim that it deems frivolous, malicious, or false.

C. Administrator's Database: When the administrator is notified that a complaint is filed with the internal affairs unit, or when the board agrees to investigate a complaint at the request of a person pursuant to subsection B of this section, the administrator shall ensure that all pertinent data concerning the complaint is collected and entered into a confidential computer database for future analysis.

D. Administrator's Access To Files: The administrator shall have access, via a secure computer database network, to the police department files on its network, necessary to review a particular case, except those files that are confidential by law. Except as specifically allowed or required in this chapter, the administrator shall not discuss with or release any transcripts, photographs, exhibits, or any other information contained in those files to any person other than members of the board, the board advisor, the police chief or his or her designee, the internal affairs unit, the mayor or his or her designee, or the city attorney. A breach of this confidentiality obligation by the administrator or any related staff shall be grounds for immediate removal from office. Additionally, any person violating this provision shall be guilty of a Class C misdemeanor and subject to civil or criminal liability pursuant to any other applicable city, state, or federal law.

E. Administrator's Access To Internal Affairs Investigation: The administrator shall have unfettered access to the internal affairs unit investigation process related to a case under review. The administrator may inquire of the commander of the internal affairs unit or the applicable assistant police chief about the status of any open case.

F. Administrator; Interviews:

1. Access To Internal Affairs Interviews: The administrator shall have access to all interviews scheduled by the internal affairs unit. The police department shall notify the administrator when interviews related to: a) investigations in which it is claimed that a police officer used excessive force or b) investigations that the board in its discretion has requested to review are scheduled so that the administrator may be present, at his or her discretion. The administrator may participate in questioning the witnesses. The administrator may request that the internal affairs unit interview witnesses or collect evidence, as he or she deems appropriate. If the administrator requests that the internal affairs unit interview a witness and the internal affairs unit denies that request, the administrator may independently interview that witness. In that event the administrator shall invite internal affairs unit personnel to be present at the interview and such personnel, if they choose to attend, may participate in questioning the witness. The administrator shall make an audio recording of any such interview and shall provide a copy of that recording to the internal affairs unit. Any such recording shall become part of the internal affairs unit's file. The administrator shall maintain the confidentiality of all information obtained as a result of any interview and may disclose such information only to members of the board panel reviewing the case, the police chief or his or her designee, the internal affairs unit, the mayor or his or her designee, or the city attorney. A breach of this confidentiality obligation by the administrator or any related staff shall be grounds for immediate removal from office. Additionally, any person violating this provision shall be guilty of a Class C misdemeanor and subject to civil or criminal liability pursuant to any other applicable city, state, or federal law.

2. Disclosure To Witnesses: If the administrator participates in any portion of the interview process, he or she must clearly communicate to all participating witnesses that he or she is an independent investigator/administrator affiliated with the board and not with the police department.

3. Compelling Attendance Of Witnesses And Police Officers: If the administrator desires to interview a witness who is not a

police officer in connection with an open internal affairs unit investigation that the administrator is investigating or reviewing pursuant to this chapter, and if such person declines to be interviewed, the administrator may ask the mayor to compel the witness to meet with and be interviewed by the administrator pursuant to chapter 2.59 of this title. The administrator shall promptly notify the internal affairs unit of any proposed interview and the internal affairs unit may attend any such interview. If the administrator desires to interview a police officer in connection with an open internal affairs unit investigation that the administrator is investigating or reviewing pursuant to this chapter, the administrator may ask the police chief to compel the police officer to meet with and be interviewed by the administrator. The administrator shall maintain the confidentiality of all information obtained as a result of any interview and may disclose such information only to members of the board's panel reviewing the case, the police chief or his or her designee, the internal affairs unit, the mayor or his or her designee, or the city attorney. A breach of this confidentiality obligation by the administrator or any related staff shall be grounds for immediate removal from office. Additionally, any person violating this provision shall be guilty of a Class C misdemeanor and subject to civil or criminal liability pursuant to any other applicable city, state, or federal law.

4. Presence Of Internal Affairs Unit Investigator: Except as provided in subsection F1 of this section, the administrator shall have no contact with any witness or accused police officer, except when an internal affairs unit investigator is present or invited to be present.

5. Forwarding Of Information To Internal Affairs Unit: If the administrator becomes aware of any information of any type relevant to internal affairs unit investigations, the administrator shall immediately forward such information to the commander of the internal affairs unit.

6. Protection Of Constitutional Rights: The administrator is bound to the same extent as the police department and the city

to protect the rights of officers and witnesses under the Utah constitution and the United States constitution.

G. No Interviews By Board: The board and panels shall not call or interview witnesses.

H. Completion Of Administrator's Investigation: The administrator shall complete his or her investigation of each case within two (2) days after the completion date of the internal affairs unit's investigation.

I. Report Of Administrator: Within five (5) business days (or such longer period of time approved by the city's chief administrative officer after consultation with the police chief or his or her designee) after his or her receipt of the case file from the internal affairs unit, the administrator shall provide to the board review panel a written report that summarizes the case and the administrator's investigation. Board members shall have access to the written report via a secure method to be provided by the City. The administrator shall be responsible for recovering and destroying all non-electronic copies of the written report upon completion of a panel's review. The administrator and board members shall maintain the confidentiality of the written report and may disclose any information in the written report only to members of the board panel reviewing the case, the police chief or his or her designee, the internal affairs unit, the mayor or his or her designee, or the city attorney. A breach of this confidentiality obligation by the administrator or any board member shall be grounds for immediate removal from office. Additionally, any person violating this provision shall be guilty of a Class C misdemeanor and subject to civil or criminal liability pursuant to any other applicable city, state, or federal law.

J. Administrator's Attendance At Predisciplinary Hearings: The administrator shall be invited to attend the predisciplinary hearing of a police officer who is the subject of the administrator's report under subsection I of this section. If, after attending the predisciplinary hearing, the administrator decides to prepare a second report addressing additional factual information regarding the police officer, the administrator shall submit that second report to the board

review panel not less than five (5) business days after the end of the predisciplinary hearing.

K. Board's Access To Files: Except as required by law, members of the board shall not discuss with or release the contents of police department files whether obtained from the administrative database, the internal affairs database, the administrator's written report, or the administrator, to any person other than members of the board, the board advisor, the administrator, the police chief or his or her designee, the internal affairs unit, the mayor or his or her designee, or the city attorney. A breach of this confidentiality obligation by a member of the board shall be grounds for immediate removal from office. Additionally, any person violating this provision shall be guilty of a Class C misdemeanor and subject to civil or criminal liability pursuant to any other applicable city, state, or federal law.

L. Discussion or Disclosure of Information: Except as required by law, members of the board, the board advisor, and the administrator shall not discuss with or disclose to any person other than members of the board, the board advisor, the administrator, the police chief or his or her designee, the internal affairs unit, the mayor or his or her designee, or the city attorney, any recommendation of the board or a panel, or any information regarding a case it has reviewed prior to the decision of the police chief. A breach of this confidentiality obligation, unless required by law, shall be grounds for immediate removal from office. Additionally, any person violating this provision shall be guilty of a Class C misdemeanor and subject to civil or criminal liability pursuant to any other applicable city, state, or federal law.

SECTION 12. That Section 2.72.170, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.170 Internal Affairs Unit Case File:

At the completion of an internal affairs unit investigation: a) in cases in which it is claimed that a police officer used excessive force, b) in other cases that the board in its discretion has requested to review, or c) in cases in which the board agrees to investigate a complaint at the request of a person pursuant to subsection 2.72.150B of this chapter, a copy of the internal

affairs unit case file shall be forwarded immediately to the administrator. Members of the board, the board advisor, and the administrator shall not discuss with or disclose to any person other than members of the board, the board advisor, the administrator, the police chief or his or her designee, the internal affairs unit, the mayor or his or her designee, or the city attorney, any information contained in the internal affairs unit case file. A breach of this confidentiality obligation shall be grounds for immediate removal from office. Additionally, any person violating this provision shall be guilty of a Class C misdemeanor and subject to civil or criminal liability pursuant to any other applicable city, state, or federal law.

SECTION 13. That Section 2.72.190, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.190 Board Review Panel Reports:

A. Majority Report: At the completion of a panel's review of a case pursuant to section 2.72.180 of this chapter, the panel shall prepare a report and immediately forward a copy of that report to the police chief. The panel's report shall contain, at a minimum, recommendations concerning case disposition and any other recommendations to the police chief in terms of the individual case or general practices or policies. The report shall be filed as promptly as possible, considering the time needed for the filing of minority reports and the police department's deadline for completing its final determination regarding complaints, after the administrator receives the internal affairs unit's case file on the case pursuant to section 2.72.170 of this chapter, but in all cases at least ten (10) business days before the police officer's predisciplinary hearing. After attending the predisciplinary hearing, the administrator may submit to the panel a second report containing additional factual information not contained in the administrator's initial report. If, after reviewing the administrator's second report, the panel decides to prepare a second majority report, the panel shall submit that second majority report to the police chief not less than five (5) business days after receiving the administrator's second report.

B. Minority Report: If less than all of the panel members join in either an initial or a second majority report described in subsection A of this section, any member not joining in the majority report may file

with the police chief a minority report, setting forth such person's conclusions regarding the case. Any minority report must be filed within five (5) business days after the filing of the majority report.

SECTION 14. That Section 2.72.200, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.200 Communication Of Case Disposition:

All reports containing a case disposition or recommended case disposition shall contain the classifications consistent with police department policy: "unfounded," "exonerated," "no determination is possible," and "sustained." In addition to the classification, a definition of each term shall be included in the report. The definitions are as follows: a) "unfounded:" the reported incident did not occur; b) "exonerated:" the police officer's actions were reasonable under the circumstances; c) "no determination is possible:" there is insufficient evidence to support a conclusion as to whether or not the police officer violated policy; d) "sustained:" the police officer's action(s) are in violation of policy or procedure of the police department. Members of the board, the board advisor, and the administrator shall not discuss with or disclose to any person other than members of the board, the board advisor, the administrator, the police chief or his or her designee, the internal affairs unit, the mayor or his or her designee, or the city attorney, the case disposition or recommended case disposition except as specifically allowed in this chapter. A breach of this confidentiality obligation shall be grounds for immediate removal from office. Additionally, any person violating this provision shall be guilty of a Class C misdemeanor and subject to civil or criminal liability pursuant to any other applicable city, state, or federal law.

SECTION 15. That Section 2.72.210, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.210 Police Department Response To Case:

Absent exigent circumstances in which the police chief, in his or her sole discretion, determines that a discipline decision must be made before he or she receives a majority and any minority reports pursuant to section 2.72.190 of this chapter, the police chief shall review and consider such majority and minority reports prior to making a discipline decision in the related case. However, the decision to discipline or not to discipline a police

officer, as well as the appropriate discipline, is within the sole discretion of the police chief. Immediately following a decision of the police chief to discipline or not to discipline a police officer for the alleged use of excessive force and in any other case that the board has designated for review or investigation pursuant to section 2.72.150 of this chapter, the police chief shall submit to the board and the administrator a report outlining the case disposition. If the board disagrees with the case disposition, the board may communicate the disagreement to the police chief in written format, with a copy to the mayor. Upon the board's request, the police chief shall meet with the board to discuss or explain any disagreement with the board's advisory opinion.

SECTION 16. That Section 2.72.220, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.220 Audits By Board:

A. Semiannual Audits: Not less than once every six (6) months, the board shall audit and review the reports of the board review panels with respect to all internal police investigations completed since the completion of the next preceding audit involving cases in which it is claimed that a police officer used excessive force, together with such other cases as the board in its discretion may request. The board may also obtain and review any records or reports of the administrator .

B. Audit Reports:

1. Majority Report: After it finishes each audit, the board shall prepare an advisory report highlighting the trends in police performance and stating its findings, conclusions and recommendations regarding changes in police policy and procedures. Patterns of behavior, unclear procedures, policy issues, and training needs may be identified for review. A report shall be completed and filed with the mayor, the council, and the police chief within thirty (30) days after each of the board's audits.

2. Minority Report: If less than all of the members of the board join in the majority report of the board, any member not joining in the majority report may file with the mayor, the council, and

the police chief a minority report, setting forth such persons' conclusions regarding the audit. Any minority report must be filed within seven (7) business days after the filing of the majority report.

3. Confidentiality Of Reports: No audit advisory reports shall contain the names, or any other identifying information, of any individual persons. Except during a closed session of the board, no individuals shall be mentioned by name in any verbal or written statements by the board or the members thereof.

4. Copies Of Audit Advisory Reports: Copies of such reports shall be provided to the mayor, each member of the council, and the police chief.

5. Staff Support: The police department and the mayor's office shall cooperate with the administrator to ensure that the board obtains all information and resources necessary to gather information for its audit reports.

SECTION 17. That Section 2.72.240, Salt Lake City Code, be, and the same hereby is amended to read as follows:

2.72.240 Confidentiality Of Records:

Records and reports under this chapter shall be kept confidential to the maximum extent allowed by law.

Section 18. EFFECTIVE DATE. That this Ordinance shall take effect on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2008.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to the Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

ATTEST:

CITY RECORDER

(SEAL)

Bill No. _____ of 2008

Published: _____.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 3/14/08
By [Signature]