

**CHAPTER 2.52
CIVILIAN LAW ENFORCEMENT REVIEW BOARD**

Table of Contents

Preface2

**Sec. 2-52-1. Purpose, Powers, and
Duties**.....3

**Sec. 2-52-2.
Establishment**.....7

**Sec. 2-52-3. Filing, Investigation Hearing, and Disposition of
Complaints**.....10

**Sec. 2-52-4. Board Meetings, Officers, and
Bylaws**.....14

**Sec. 2-52-5. Public Information, Periodic Reports and
Analysis**.....16

Preface

Public safety is a top priority for Memphis and Shelby County, and public safety depends on the community trusting and cooperating with the law enforcement agencies. For decades, civilian oversight boards have been implemented around the country to achieve this end, and research and analysis of these boards have created identifiable best practices.

Fundamentally, oversight boards must be rooted in serving the community and their success depends on the board's legitimacy in formation, mayoral and police department support, and structure.¹ This ordinance has adopted best practices from around the nation and adapted them to the unique needs of Memphis. Local needs were identified in a report issued by the Mid-South Peace and Justice Center, which is based on a comprehensive audit of the current complaint process and input from citizens of Memphis that was gathered during a comprehensive outreach program which included surveys and town hall meetings in every council district.²

Fundamentally, this ordinance focuses on legitimizing the process for investigating complaints against officers and ensuring civilian input on police disciplinary and policy decisions. The Board is required to provide for an easily accessible complaint process and then has the power to fully investigate complaints independently of Internal Affairs. This includes the power to compel the production of documents and the appearance of individuals by exercising subpoena power with a majority vote. At the conclusion of the Board's investigation, they must issue a letter that contains a summary of the complaint, investigation, factual findings, and recommendations of the Board to the Chief of Police. The Chief, who retains full authority and autonomy over disciplinary and policy decisions, must respond to the Board's letter explaining his or her decision. Both the Board's recommendation and the Chief's response must be published on a website.

¹ Kevin King, *Effectively Implementing Civilian Oversight Boards to Ensure Police Accountability and Strengthen Police-Community Relations*, 12 *Hastings Race and Poverty L.J.* 91, at 96

² *Increasing the Effectiveness of the Civilian Law Review Board*, published by the Mid-South Peace and Justice Center in February 2015

The idea for the publishing of letters was borrowed from the Atlanta Citizen Review Board. The ACRB maintains a website where anyone can learn about the board and their procedures, file a complaint, view meeting minutes, and review recommendations.³ This ordinance has adopted and codified many of these decisions because they create transparency, help foster a dialogue between law enforcement and the community, make the complaint process accessible, and encourage law enforcement to cooperate with the board, all of which are important factors in evaluating a board's effectiveness.⁴

Ultimately, law enforcement agencies are more likely to obtain civilian support and cooperation when they are sensitive to civilian input.⁵ This ordinance empowers civilians to make their voices heard, but reserves decision making power to the Chief. In this way, it strikes an effective balance for improving police-community relationships and public safety.

³ ACRBgov.org, see "Complaints Reviewed" section for examples of published recommendations and responses

⁴ King, at 107

⁵ Gary Corder, *The Oxford Handbook of Police and Policing*, "Ch 7: Community Policing", page 154

Section 2-52-1. Purpose, Powers, and Duties

A. **Purpose.** The Board is established as a permanent agency in the City of Memphis and Shelby County to provide oversight and ensure the public accountability of law enforcement agencies. The Board shall:

1. Process and investigate complaints lodged by members of the public regarding, but not limited to the following: ~~grievances including but not limited to~~
 - a. excessive or deadly force, incidents resulting in the death or injury of persons in police custody, other physical abuse, verbal abuse, harassment, improper procedure, arrest, search, and/or entry, inadequate response to investigation, intimidation or threat, improper firearm or vehicle use,
 - b. the policies of a law enforcement generally, OR
 - c. incidents of misconduct against individual police officers including those involving profiling or language related to race, ethnicity, religion, gender, sexual orientation, gender identity, or disability.
2. Investigate all incidents in which a law enforcement officer discharges a weapon while on duty.
3. Investigate all incidents where an individual dies while in police custody.
4. Investigate the policies, procedures, and practices of law enforcement agencies and their personnel on an ongoing basis in order to make broad recommendations based on analysis of whatever statistical, historical, or otherwise useful information the Board has available to it.
5. Advise the City and County Mayor, President of the Council, Council Members and the Chief of Police/Sheriffs on policies and actions of law enforcement personnel and policies with the purpose of improving the ability of police personnel to carry out their duties and to improve the relationship between law enforcement and the community.

B. **Powers.** The Board shall have the jurisdiction to entertain civilian complaints with regard to the matters described in 2-52-1(A)(1), to conduct investigations, to conduct public hearings, and to initiate studies upon request

to the board by any member of the public or the Memphis Police Department or Shelby County Sheriff's Department.

1. ***Intergovernmental cooperation.*** The Board shall have full discretion to select appropriate individual incidents to review and broader issues to study which may be of concern to the community or law enforcement. The Board shall, at its discretion, to the best extent possible, cooperate with and minimize duplication of effort between the board and any other existing agencies which have jurisdiction over the same matter. The City and County Mayor, the City Council, the Shelby County Commission, the Memphis Police Department, the Shelby County Sheriff's Department, and all other responsible officials shall ensure that all such agencies cooperate to the greatest extent possible in the performance of their respective activities, studies, and operations.
2. ***Access to Records.*** In order to accomplish the goals set forth in this Chapter, The Board shall have full access to relevant police department and corrections personnel for interview and to relevant documents, including, but not limited to, the following:
 - a. officer personnel files/disciplinary resumes, citizen complaints, and determinations made pursuant thereto; department and corrections review files; ethics and accountability files, and the files of any other internal investigative agency charged with investigating police misconduct incidents;
 - b. Law enforcement paperwork (e.g., documents and other paperwork produced for the purpose of investigating suspects or to aid in their prosecution);
 - c. Information related to past assignments and disciplinary action;
 - d. Law enforcement directives, and other documents that the board deems relevant to the issue under review;
 - e. All general summaries, statistical compilations, and other internal reports on shootings, injuries, and complaints of abuse, training, and any other issues related to the work of the board;
3. ***Power to compel documents.*** All employees of the Memphis City Government and Shelby County Government have an affirmative duty to fully cooperate with the board by providing complete, unrestricted, and

prompt access to inspect and/or photo-copy all department records including an reports, audits, reviews, plans, projections, documents, files, contracts, memoranda, correspondence, data or information on audio/video computer tape/disc or other materials of the Department, including ongoing and in-progress matters that The Board requests.

- a. In addition, employees on request of the board, shall be available to meet with and be interviewed by the board or its representatives, and/or to testify before the board.
- b. No Department protocols restricting access to Department records or information shall be applied to the Board.
- c. When inspecting or photocopying Departmental records or evidence maintained by the Department, the Board shall follow the same protocols pertaining to chain-of-custody, preservation of the integrity of physical evidence, and confidentiality applicable to Department personnel.
- d. Upon notification that an employee has not cooperated as requested, the police chief and/or the employee's departmental supervisor shall cause appropriate disciplinary action to be instituted against the employee within their department, and shall notify The Board of the outcome of such action.

4. ***Subpoena power.*** The Board may exercise subpoena power by a vote of three or more members, and compel access to or production of such materials or the appearance of such persons as may be relevant to investigate or study or review matters within The Board's authority and discretion.

- a. Failure to comply with a subpoena shall be punishable by any or all of the following:
 - i. Public censure;
 - ii. Prejudice for hearing purposes, with the Board making all inferences in favor of the opposing party;
 - iii. A fine of at least \$50, but no more than \$5,000.
- b. The findings of fact in any civil or criminal case are in no way binding on the Civilian Law Enforcement Review Board and in no

way limits The Board's discretion to investigate complaints whose allegations were the subject of such proceedings.

5. **Recommendations.** The board shall have the power to recommend that the police director/county sheriff take certain actions.

- a. The board may recommend general reforms (such as changes in training, changes in the preservation of records, changes in counseling available to officers) or specific actions directed at individual officers (including, but not limited to, hiring, firing, promotion, demotion, punishment, or commendation);
- b. provided, however, that the Law Enforcement Chiefs shall retain full and ultimate authority, power, discretion, management prerogatives, and responsibility to set disciplinary policies or take other lawful actions they deem appropriate relative to the police department and corrections under the provisions of the Memphis and Shelby County Codes of Ordinances.
- c. Provided, further, that nothing in this section shall be construed to limit the rights of members of law enforcement with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise. The provisions of this section shall not be construed to prevent or hinder the investigation or prosecution of members of the department for violations of law by any court of competent jurisdiction, a Federal or state Grand Jury, the United States Attorney for the State of Tennessee, the Shelby County District Attorney, or other authorized officer, agency, or body.

C. **Duties.** The Board shall have the responsibility for implementing all aspects of this section, except where duties are explicitly imposed on other agencies by this section. The Board shall have the responsibility of informing the public about The Board and its duties. The Board shall publish all information relevant to these duties on the Website. Additional Duties of the Board include, but are not limited to:

1. **Outreach.** The Board shall develop and administer an ongoing program for the education of the public regarding the provisions of this Code Section. In addition, the chiefs of police and corrections or a designee shall meet with the board periodically to aid in its fact-gathering function.
2. **Recommendations.** The Board, at its discretion, may make specific recommendations at any time, and shall issue a public report summarizing its activities and recommendations not less than twice a year to the Mayor, City Council, County Commission, Chief of Police, Shelby County Sheriff's Department, and city ethics officer, and shall make copies of the report available to the public in the Clerk's office, and by publishing on The Website.
3. **Jurisdiction.** Jurisdiction of the board shall extend only to complaints against all law enforcement personnel with respect to the incidents listed in 2-52-4(A)(a)(i) and (ii) and defined in 2-52-8(B) of this Chapter. However, once an investigation into a complaint has begun, The Board is authorized to investigate both the incident prompting the complaint as well as the surrounding circumstances, including, but not limited to the officer's disciplinary history, any similar complaints, and any relevant police procedures. No board finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded, or withdrawn complaints be the sole basis for any such finding or recommendation.
4. **Publication of findings.** An explanation of the board's complaint procedures shall be made to all police and corrections officers in a general order to be included in the manual of rules and procedures of a law enforcement unit and shall be included in the training program for new corrections and police officers. This explanation shall also be published on the Website.
5. **Confidentiality and privacy.** The Board shall at all times maintain the confidentiality and anonymity of complainants, victims, witnesses, and their personal identifying information, in the investigation of complaints and the publication of its decisions. Any civilian member of the public coming before the Board shall have a right to privacy in all proceedings and may request that any and all information pertinent to a complaint be

kept confidential. The Board will take into account the anonymity of a complainant and circumstances of a complaint when deciding how much weight to give to it.

Sec. 2-52-2. Establishment

A. **Designation:** There is established a board to be known as the Civilian Law Enforcement Review Board [“the Board”], a joint board for oversight of law enforcement as provided by the city police department and the Shelby County Sheriff’s Department. The Board shall become effective in the City of Memphis upon passage by the City of Memphis. The Board shall become effective in Shelby County upon passage by Shelby County.

B. Members. Appointment; Terms; Transition; Qualifications; Training and Attendance

1. **Appointment.** The Board shall consist of 11 members. The 11 members of The Board shall be appointed as described below. If only the City or County should adopt this ordinance, that entity’s Mayor shall be responsible for all appointments until the second entity passes the ordinance. If and when the second entity adopts this ordinance, the next vacancy shall be appointed jointly. Thereafter, the later-adopting entity shall appoint members to fill all vacancies until there is an even number from each entity, afterwhich appointments shall be made on an alternating basis.
 - a. 5 members shall be appointed by the City Mayor and approved by the City Council.
 - b. 5 member shall be appointed by the County Mayor and approved by the County Commission.
 - c. 1 member shall be appointed jointly by the City and County Mayors and approved by the City Council and County Commission.
 - d. Appointments to the The Board may be made by general petition to the City Council, City Mayor, County Commission, or County Mayor

upon collection of 150 signatures of Shelby County residents, provided that the board remain at a maximum of 11 members.

2. **Terms.** All initial appointments to fill any vacancies shall be submitted to the City Council and/or County Commission within 30 days of the enactment of this chapter. In order to stagger appointments and improve continuity, of the newly appointed board members, no more than four shall serve an initial term of two years, no more than four shall serve an initial term of three years, and no more than three shall serve an initial term of four years. Thereafter, terms in office shall be four years. Initial vacancies shall be filled in the order in which they are listed in 2-52-1(B)(1)(a)-(k), and shall be filled in the same manner as the initial appointment thereafter. In all cases, vacancies shall be filled within 180 days.
3. **Transition.** Any hold-over appointments from the previous CLERB shall remain on the board until the expiration of their current term, at which point the vacancy shall be appointed in accordance with this section.
4. **Qualifications and Training.** The Board and Staff shall reflect the diversity of the city and county communities, as to race, gender, ethnicity, economic status, and sexual orientation.
 - a. All appointees of officials or organizations of the City of Memphis shall reside in the City of Memphis.
 - b. All appointees of officials or organizations of Shelby County shall reside in Shelby County
 - c. All Board Members shall:
 - i. Complete a ride-along
 - ii. Civilian/police training course
 - iii. Familiarize themselves with Police Policy/Procedure Manual
 - d. No Board Member shall:
 - i. Hold any other public office or hold employment with the City of Memphis nor Shelby County, with exception to employees of the Public Defenders office being allowed to serve.
 - ii. participate in any investigation in which any of the parties involved are a family member or friend of the Board Member.

5. **Compensation.** All members of The Board shall serve without compensation or consideration of any kind for the execution of their duties.
6. **Oath of office.** Members of The Board shall qualify and take the following oath:

“I _____, hereby solemnly swear to uphold the Constitution of the United States and the state of Tennessee, and the laws and ordinances of the City of Memphis and Shelby County while discharging my duties as a member of the Civilian Law Enforcement Review Board. I recognize that my unique role as a public servant overseeing law enforcement agencies requires me to earn the the trust of both the community and law enforcement agencies. I promise to conduct myself in a professional, fair, and impartial manner to earn that trust. I promise to demonstrate the highest standards of personal integrity, commitment, truthfulness and fortitude to inspire trust among all stakeholders and to set an example for others. I promise to avoid conflicts of interest and to conduct investigations, audits, evaluations and reviews with diligence, objectivity, and fairness and to rigorously test the accuracy and reliability of information from all sources. At all times, I will place my primary obligation to the community. I will conduct oversight activities openly and transparently and ensure that community input is thoughtfully considered.”

7. **Attendance.** The board shall establish rules and regulations to insure attendance. The board shall have the power to enforce those rules by sanctioning members up to and including removal from the board with a majority vote.
8. **Vacancies.** Whenever vacancies arise on the Board, the Mayor responsible for that seat shall hold a 90-day open application process, whereby applicants may submit general petitions in writing to the Mayor for consideration of appointment, pursuant to subsection 1(d) of this section.

C. **Staffing and Administration.** Passage of this chapter will cause to be implemented the hiring of staff. The Board shall be responsible for announcing openings, selecting candidates, and making the ultimate decision to hire. The Board shall strive to achieve diversity in the staff and shall avoid conflicts of interests. Not staff member shall simultaneously hold another position in the City or County government.

1. **Administrator** (\$60,000 salary)--The Administrator shall be responsible for receiving initial complaints, investigating complaints, keeping records, processing information regarding complaints, reporting to The Board, and the timely posting all required information to The Website described in 2-52-1(D). The Board is responsible for hiring the Administrator.
2. **At Least Two Support Persons** (\$40,000 salary each)--The support staff shall be directly managed by the Administrator and shall be responsible for aiding the Administrator in carrying out the functions outlined in 2-52-1(C)(1).
 - a. **Investigator**—Of the two support persons, at least one shall be a licensed investigator in the state of Tennessee.
3. **Additional Staff**--The Administrator shall be responsible for recommending the hiring or training of new staff in an employment or volunteer capacity. Such recommendations must be approved by a majority of The Board and any increase in funding must be approved by the City Council.
4. **Office Space**--The Board shall be allocated adequate funding to maintain an office separate and distinct from the facilities of the Memphis Police and Shelby Sheriff Departments.

D. **Website.** The Board and The Administrator shall be jointly responsible for the creation and maintenance of a mobile friendly website. The website shall be independent from the main web portals of the City of Memphis and of Shelby County. The Administrator shall have a budget of \$5,000 for the establishment of the Website, and an annual budget of at least \$500 to

maintain the Website. The Website shall be updated at least monthly and shall include the following:

1. An “About Us” page describing the Board’s mission. This page shall also contain a link to this ordinance and any other applicable law.
2. A “Process” page describing, in detail, the options for filing a Complaint, the process by which Complaints are reviewed, all relevant timing requirements and deadlines, and a description of all possible outcomes.
3. A “Board Members and Staff” page listing office location, hours, and phone number as well as the names, photos, and contact information for all board members and staff.
4. A “File a Complaint” page containing an online form which can be used to file a formal Complaint.
5. A “Complaints Reviewed” page that lists all Complaints received, and posts the following information for each Complaint:
 - a. the current stage in proceedings of each Complaint and the time and place of any hearings or meetings concerning the investigation
 - b. no more than 45 days after the complaint is filed, the completed investigation, finding, and recommendation of The Board
 - c. no more than 30 days after the board makes a recommendation, the finding and explanation of action taken by the Chief of Police or County.
6. A “Board Meetings” page that posts all approved minutes from meetings of The Board and lists the time and location of future Board meetings.
7. Any other pages or information that The Board finds necessary to carrying out its mission.

Sec. 2-52-3. Filing, Investigation Hearing, and Disposition of Complaints

A. Subject Matter of Complaints.

1. The Board will investigate citizen complaints of alleged misconduct by the Memphis Police Department and Shelby County Sheriff's Department in which alleged misconduct has not taken place more than 5 years prior to the complaint. The Board may investigate all complaints filed on or after the effective date of enactment of this Chapter and all complaints filed under the previous versions of CLERB.

2. Citizen complaints alleging police misconduct will be placed into one of the following categories for administrative processing:

1.	Force:	The use or threatened use of improper, unnecessary or excessive force by a member of the Memphis Police Department or the Shelby County Sheriff's Department.
2.	Arrest:	The restraint of a person's liberty was improper or unjustified.
3.	Entry:	Entry into building or onto property was improper, to include excessive force being used against property in order to gain entry.
4.	Search:	The search of a person or their property was improper, in violation of established police procedures or unjustified.
5.	Harassment:	The taking of police action which was predicated upon factors which are irrelevant, under the circumstance, to good law enforcement decision making.
6.	Demeanor:	Improper actions regarding an officer's bearing, gestures, language or other action which allegedly is offensive or of doubtful social propriety.
7.	Other Procedures:	Allegation of other actions which are in violation of departmental rules, procedures, or policies.
8.	Service:	The lack or inadequacy of police service.

9.	Property:	Property lost or damaged while in police custody or confiscated through police action.
10	Policy:	Allegation of inadequate or improper department policy.

3. The board, on its own motion, will investigate cases involving use of deadly force and incidents resulting in the death or serious bodily injury of persons in police custody.

B. *Filing Complaints.* Complaints shall be filed on an authorized complaint form no later than 5 2 years following the date of the alleged infraction or the conclusion of a criminal or civil proceeding regarding the same incident, whichever is later.

1. The Board shall insure that the procedures for all methods of filing a complaint are clear and easy to follow and that an initial complaint can be filed at any time by phone or online. The Board shall provide assistance to anyone seeking guidance on the filing of a complaint.
2. Complaints may be made to the officer's precinct, Internal Affairs office, CLERB offices, or at any other authorized CLERB complaint center. Complaints may be made over the phone, through an online form, or on a paper form.
3. All complaints, from whatever source, will be immediately forwarded to the CLERB offices. The complaint and hard copies of all information relevant to the investigation shall be maintained in a single master file. Internal Affairs shall provide CLERB with copies of all their investigative documents, and CLERB shall incorporate these into the master file. The complainant shall have access to copies of the master file.
4. The Board shall cause a full and complete investigation to be made of each complaint, but may delay investigation for incidents currently the subject of criminal proceedings. There shall be no charge or fee associated with filing a complaint.

C. *Complaint Procedure.* Once a Complaint has been made:

1. **Preliminary review.** The staff of The Board shall forward a copy of the complaint to the Internal Affairs Departments of MPD and SCSO and conduct a preliminary review of the complaint within 7 days of the receipt of the complaint. Internal Affairs shall provide CLERB with regular updates regarding their investigation of a complaint.
2. **Receipt of complaint.** Within 14 days of receipt of the complaint, and after a preliminary review, the staff of the Board shall acknowledge receipt of the complaint by publishing the following information on The Website, and providing same information by written letter to the complainant. The staff of the board shall promptly notify the complainant of such publishing. The following information must be included in the publication:
 - a. the date(s) that the complaint was received and reviewed;
 - b. the unique complaint number associated with the matter;
 - c. the date, time, and location of The Board meeting where the staff will make a preliminary recommendation, and an invitation to the complainant to be present during that meeting.
3. **Notice of investigation.** Within 45 days of receipt of the complaint, but no less than one week after publication in accordance with 2-52-5(B)(2), The Board shall vote as to whether or not to investigate the allegations. By majority vote, the board may decide to investigate the complaint, to dismiss the complaint as unfounded, or to postpone investigation. The Board will not take action on a complaint whose allegations are the subject of an ongoing criminal or civil proceeding until the those proceedings are finished. The complainant shall be informed of their right to be present and make a statement before The Board votes. The Board's decision should be accompanied by a brief explanation and published to the Website. If the board votes to postpone investigation, they shall keep the complainant updated on a regular basis concerning the timeline of relevant proceedings.
4. **Investigations by Staff.** If a majority of The Board votes in favor of investigation, then the staff of The Board shall cause a full and complete investigation to be made. At the complainants request or The Board's

discretion the investigation shall include a hearing in accordance with 2-52-5(C). The board shall have 90 days to complete their investigation.

5. **Recommendations.** Within 30 days of after the conclusion of an investigation, The Board shall issue a final recommendation letter to the Chief of Police/Sheriff, and shall publish this letter on the Website. Recommendations shall be made in accordance with 2-52-5(F). The Board shall inform the complainant and the Chief of Police of the publication and shall provide each with a copy of the recommendation. The final recommendation letter shall include:

- a. A summary of the factual circumstances surrounding the complaint.
- b. A summary of the process The Board and their staff used to initiate the investigation, including the dates of any meetings of The Board in which the matter was discussed or voted on.
- c. A summary of the investigation.
- d. A formal finding and explanation of how this finding was reached.
- e. A formal recommendation and explanation of why this recommended course of action is appropriate.

6. Within 30 days of receiving The Board's final recommendation letter, the Chief of Police or Sheriff (as appropriate) shall respond to The Board's recommendation letter. The board shall promptly publish the Chief's response on The Website, with redactions appropriate to protect complainant's privacy. The response shall include:

- a. An explanation of the action, if any, taken by the Chief.
- b. An explanation of the basis for The Chief's alternative finding of fact, if different than the Board's.
- c. An explanation of the basis for the Chief's alternative action, if different than the Board's recommendation.

D. **Hearings.** If The Board decides a hearing is required to reach a proper outcome in an individual case, notification of such hearing to all interested parties shall be made at least two weeks prior.

- a. By appointment of the Chair or by concurrence of three or more members, three-member panels may be established by the Board for purposes of conducting hearings and investigations. Recommendations and findings by three-member panels may be appealed to special meetings of the full Board.
- b. Hearings shall be informal and strict rules of evidence shall not be applied. Findings of fact shall be supported by a preponderance of the evidence. Testimony under oath shall be received from all persons who are called by complainant or accused.
- c. At The Board's discretion, they may also require that any person with knowledge of the incident appear at a Board Hearing; the complainant and the accused may also request that the Board subpoena any witness to be heard on their behalf. The board may compel such appearance by exercising their subpoena power in accordance with 2-52-1(B)(5).
- d. A record shall be kept of the meeting minutes and shall be made available on the Website, except when confidential matters require that the published record be redacted. A full, non-redacted record of all meetings must be maintained in the CLERB office.
- e. All hearings shall be open to the public, except when, in the opinion of the board, Executive Sessions or matters required to be confidential by law, necessitate closure.
- f. Detailed meeting minutes shall be maintained and made available to the public by publication on the Website.
- g. At the conclusion of the public hearing, The Board will adjourn and meet in executive session. At the conclusion of this session, decisions reached during this meeting may be made public. In any event, decisions reached during this session will be reported in the meeting minutes distributed during the next public meeting.

E. **Dispositions.** The Board should place all complaints into one of the following categories:

1. **Not Sustained**--When the alleged conduct is not supported by sufficient evidence.

2. **Unfounded**--When the alleged conduct is found likely not to have occurred.
3. **Exonerated**--When the alleged conduct likely occurred but violated no rule or law.
4. **Sustained**--When the alleged conduct likely occurred, violated a rule or law, and warrants disciplinary action.

F. **Recommendations.** The board may recommend that no action be taken on a complaint, recommend rule changes, or recommend to the police director, the Mayor, City Council and sheriff that specific disciplinary or other remedial action be taken. All recommendations shall be published on The Website.

1. **Policy Changes.** In the event that the Board decides the complaint or an underlying factor should be resolved by amendment of rules and/or policy, the board shall submit its recommendations to the police director or sheriff and notify the complainant of the disposition of his or her case. Within 30 days of receipt of the Board's recommendation, the Chief of Police/Sheriff shall notify the Board in writing of the actions he or she proposes to take in response to the recommendations.
2. **Disciplinary Action.** In the event that the Board determines that disciplinary action should be taken, the board shall submit its recommendations to the police director or sheriff. Within 30 days after receipt of the Board's recommendation, the Chief of Police/Sheriff will notify the board in writing of the disciplinary actions he or she proposes to take in response to its recommendations.

G. **Relationship with Internal Affairs.** The Board may conduct investigations and hearings concurrently with Internal Affairs processes. Internal Affairs shall provide The Board and the Complainant with any and all information requested by The Board or its staff or the Complainant within a reasonable time following the request. Additionally, Internal Affairs shall keep The Board and the Complainant informed of their own investigations. Internal Affairs shall provide the Board and the Complainant with reasonable notice of and

access to all interviews, hearings, and any other procedural events that relate to any officer who is the subject of a complaint.

H. ***Finality of Boards Findings***. All of the Board's recommendations shall be considered final. However, if new facts come to light or conditions otherwise change that are likely to materially change the outcome of an investigation, the board may, at its discretion, allow a complainant to file an amended complaint and may investigate the matter anew. Complaints whose review was delayed because of an ongoing criminal or civil proceeding will be reviewed and afforded a disposition at the conclusion of that proceeding.

Sec. 2-52-4. Board Meetings, Officers, and Bylaws

A. **Meetings.** Meetings of the Board shall be held at the call of the chairperson at such time and place the Board shall decide. Alternatively and in the absence of the chairperson, meetings may be called by a quorum of The Board. Attendance by board members is mandatory at every meeting. Any board member who misses three consecutive meetings or four meetings in a calendar year shall be deemed to have resigned, and their position shall become vacant.

1. **Frequency.** The Board shall meet at least once per month during the first year after enactment and at least once per quarter thereafter. Meeting frequency and duration will be determined by the caseload.
2. **Open meetings.** Meetings and hearings will be open to the public with proper public notification, including publication on the Website of the date, time, and location of the meeting at least one week prior. The Board may, however, meet in Except for Executive Sessions to protect confidential information or sensitive testimony, matters required to be confidential by law, or in order to preserve hearings detailed meeting minutes shall be maintained and made available to the public by publication on The Website.
3. **Special meetings and three-member panels.** On the concurrence by three members of the board and/or the Chairperson, special meetings may be called. Such meetings shall be open to the public, and proper notification shall be issued at least one week prior by publishing the date, time and location of the meeting on the Website.
4. **Majority Requirement.** All rulings, recommendations, decisions, modifications, or revisions must be approved by at least a majority of the members of the board. All references to “majority” in this chapter mean the majority of board members present at a meeting.
5. **Quorum.** At least 5 members of the entire board shall constitute a quorum for the transaction of business.
6. **Records.** The board shall cause a proper record to be kept of its proceedings. Meeting minutes shall be published to The Website no more than 45 days after the meeting is adjourned and shall include the

presence or absence of all members, the topics covered during the meeting, the final disposition of each case, and the vote or failure to vote of each member.

7. **Agenda.** Members of the Board will be provided with an agenda which identifies matters before the board the week prior to the public hearing date. All meetings shall follow a routine agenda which includes the following components:

- a. Call to order, roll call;
- b. Acceptance of agenda;
- c. Approval of previous meeting minutes;
- d. Approval of administrative matters;
- e. Deliberation of individual cases, including hearings where necessary;
 - i. Following each case, The Board may meet in executive session to reach decisions regarding the case;
- f. Announcement of decisions, if any;
- g. Executive session to review cases and set the agenda for the following meeting.

B. **Officers.** The membership of The Board shall meet once each year for an organizational meeting to elect officers. Officers shall be published on the Website. The first organizational meeting shall take place as soon as practicable after the enactment of this Chapter, and shall take place annually thereafter. Elected officers shall serve one-year terms from the time of their election at the organizational meeting. The membership of The Board shall elect the following officers:

1. **Chairperson.** The Board shall designate one of its members as Chairperson. The Chairperson may succeed himself or herself in office for no more than one term. The Chairperson shall have the following duties:

- a. The Chairperson shall be responsible for calling meetings to order, setting agendas, and generally ensuring the efficient functioning of The Board.

- b. The Chairperson shall be primarily responsible for keeping the Mayor, the Council, the Commission, and the public informed about activities of The Board.
- c. The Chairperson may administer oaths to all those giving testimony.
- d. All persons wishing to be heard in any matter before the board must first be recognized by a board member.
- e. With the approval of the board the chairperson may place an investigation on pending/active or pending/inactive status and may grant continuances.
- f. With a majority vote of the board, the chairperson may declare a recess of board proceedings at any time.
- g. In the event that the chairperson is absent from a board meeting, the Vice- Chairperson shall have full powers of the Chairperson.
- h. In the event that the Secretary is absent, the Chairperson shall appoint another board member to act as Secretary for that meeting.

2. Vice-Chairperson. The Board shall designate one of its members as Vice-Chairperson. The Vice-Chairperson shall have the following duties:

- a. The Vice-Chairperson shall aid the Chairperson in all of their duties and shall have full powers of the Chairperson in the event that the Chairperson is absent from a board meeting.

3. Secretary. The Board shall designate one of its members as Secretary. The Secretary shall have the following duties:

- a. Taking roll call at the start of each meeting;
- b. Recording the votes of members for each decision of The Board;
- c. Recording meeting minutes and sharing them with the Staff for publication on The Website.
- d. The Secretary shall aide the Chairperson and Vice-Chairperson in all of their duties and shall have full powers of the Chairperson in the event that both the Chairperson or Vice-Chairperson are absent from a board meeting.

C. **Bylaws.** The Board may, as it deems necessary, adopt and implement bylaws for the execution and enforcement of these provisions. Bylaws may be adopted and amended by $\frac{2}{3}$ majority vote of Board meetings. Bylaws shall be published on the Website.

Sec. 2-52-5. Public Information, Periodic Reports and Analysis

A. **Information Requests.** All requests for information shall be referred to the Board for review and appropriate response.

B. **Confidentiality of Information.** Subject to the requirements of law, all Board information, files, computer files, and related data are to be considered confidential in nature and not released to any individual or agency without the expressed consent of the Board. Any person aggrieved by a determination of the Board concerning the release of information may request that the Board review and reconsider the decision. All such requests shall be in writing and must identify with specificity the information sought.

C. **Reports.** The Board shall produce quarterly and annual reports and statistical analysis to be forwarded to the City and County Mayors, the City Council, the County Commission, and the Chiefs of Police/Sheriff. These reports shall include a statistical and narrative analysis of all cases heard by the board. These reports shall also be published on the Website.

D. **Operational Reports.** Upon request of the City or County Mayors, City Council, County Commission, or the Chiefs of Police/Sheriff, special reports may be produced regarding any facet of the Board's operations. These requests and the reports produced in response shall be published on the Website.