

AN ORDINANCE TO AUTHORIZE THE WILMINGTON POLICE DEPARTMENT TO PUBLISH A PUBLIC VERSION OF THE WILMINGTON POLICE OFFICER'S MANUAL WITH ONLY THOSE REDACTIONS REQUIRED BY LAW AND PUBLIC POLICY

#4832

Sponsor:

Council
Member
Johnson

WHEREAS, on May 25, 2020, George Floyd, an African American man in Minneapolis, Minnesota died after Caucasian police officer Derek Chauvin used his knee to pin down a handcuffed Floyd for nearly nine minutes until Floyd was no longer breathing, despite Floyd pleading that he was in pain and couldn't breathe, pleading from bystanders, as well as the presence of other police officers on the scene who could have provided aid to Floyd; and

WHEREAS, peaceful protests and demonstrations are occurring across the United States in response to the unlawful killing of Floyd, the unlawful killing of black men and women at the hands of law enforcement across the United States, and systemic and institutional racism inherent in American life today; and

WHEREAS, peaceful protests and demonstrations pursuant to the First Amendment have occurred in the City of Wilmington in response to the aforementioned events over the past weeks; and

WHEREAS, because of these peaceful protests and demonstrations a vital conversation is occurring regarding the current role of police departments and what improvements can be instituted to better ensure that City residents feel safe in their own communities; and

WHEREAS, it is Standard Police Policy for Law Enforcement Agencies or Departments to have and periodically update their Policies and Procedures Manuals; and

WHEREAS, the Policy and Procedures Manuals of U.S. City Police Departments have been developed and updated to provide to Police Officers and Personnel the Ethics, Mission, Goals, and Objectives of their City Police Departments; and

WHEREAS, the Policy and Procedures Manuals of U.S. City Police Departments identify the functions of Police Officers and Police Personnel and all the duties and operations of Police Officers in both their department responsibilities and functions and interactions with the public they are sworn to serve; and

WHEREAS, the Policy and Procedures Manuals of U.S. City Police Departments are

effective tools that augment and update Police Academy Training and provide police policies with ongoing functional requirements for the safety and professionalism of police officers and their organizations; and

WHEREAS, the Policy and Procedures Manuals of U.S. City Police Departments reflect the departments' missions, the principles behind what the organizations do, procedures and instructions for carrying out particular law enforcement and peace keeping tasks, and understanding the moral and legal obligations of policing; and

WHEREAS, U.S. City Police Departments often include information and policies and procedures for their Police Officers relevant to specific U.S. Constitutional Amendments to ensure proper understanding and compliance of their Police Officers conduct relevant to the Constitutional Rights of U.S. Citizens in their interactions with members of the public; and

WHEREAS, approximately thirty-five (35) U. S. Police Departments have provided the public they serve access to their Policies and Procedures Manuals online beginning in 2007; and

WHEREAS, City Police Policies and Procedures Manuals from U.S. Cities in Seattle, Washington; Craig, Colorado; Fair Lawn, New Jersey; Beaverton, Oregon; Garden Grove, California; Bremerton, Washington; Brunswick, Georgia; Newark, New Jersey; and Lower Marion Township, Pennsylvania, to name a few, provide public access to their Policies and Procedures with only limited and necessary redactions; and

WHEREAS, Mayor Michael S. Purzycki and City Administration, Chief of Police Robert J. Tracy, and City Council agree that a necessary step to ensure greater transparency is for the Wilmington Police Department's Police Officer's Manual to be published on the City's official website; and

WHEREAS, advocacy groups for police reform in Delaware, such as Delaware for Police Oversight, have expressed that providing public access to the Wilmington Police Department's Police Officer's Manual would improve relationships between Wilmington police officers and City residents, as public access to it would permit residents to understand their rights when it comes to police-civilian interactions as well as provide further oversight for such interactions; and

WHEREAS, the Wilmington Police Department's Police Officer's Manual is currently not public because certain provisions contain sensitive information regarding police procedure or information that could be used by those intent on harming men and women currently serving in the Wilmington Police Department, or those intent on avoiding or subverting lawful law

enforcement efforts; and

WHEREAS, pursuant to §1-102 and §2-200 of the Wilmington City Charter related to City Council authority and procedure, and §1-103 and §5-200 regarding the Wilmington Police Department's authority and functions to preserve the public peace, prevent and detect crime, and supervise and discipline Wilmington police officers:

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 2 ("Administration") of the City Code is hereby amended by adding the following to Article V ("Departments & Agencies Created by Ordinance"), Division 1 ("Generally"):

Sec. 2-236. – Online Publication of Police Department's Police Officer's Manual.

- (a) On behalf of the Wilmington Police Department, the Chief of Police, or his or her designee, is authorized to create a public version of the Wilmington Police Department's Police Officer's Manual (the "Manual").
- (b) The Manual will be published on the City of Wilmington's official website, with an additional hyperlink on the frontpage of the Wilmington Police Department's official webpage for public ease of access.
- (c) The Manual will only be redacted in accordance with the Delaware Freedom of Information Act, 29 Del. C. §10001 *et seq.*, and necessary public policy considerations in order to prevent endangering the life and safety of citizens or law enforcement officers as well as to avoid undermining lawful law enforcement efforts by allowing those intent on subverting such efforts the ability to avoid detection and hinder criminal investigations.
- (d) The Wilmington Police Department will work in conjunction with the Law Department and/or other appropriate departments or entities to ensure that the redactions to the Manual are limited to redactions founded in the aforementioned Delaware law or public policy considerations.
- (e) The Wilmington Police Department will submit the final version of the Manual to the Law Department prior to its publication on the City's official website. The City Solicitor, or his or her Law Department designee, must approve the Manual prior to it being placed on the City's official website.
- (f) The first Manual published under this ordinance must be published on the City of Wilmington's official website no later than January 1, 2021. The

Manual shall be updated as necessary, but not less than every four (4) years.

SECTION 2. This Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First Reading.....June 18, 2020

Second Reading.....June 18, 2020

Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____

City Clerk

Approved this _____ day of _____, 2020

Mayor

SYNOPSIS: This ordinance amends Chapter 2 of the City Code with an additional section that authorizes and directs the Wilmington Police Department to provide the residents of Wilmington access to the Wilmington Police Department’s Police Officer’s Manual in an on-line format, which is only redacted pursuant to the requirements of Delaware law and necessary public policy considerations, through the City of Wilmington’s official website.