

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY CODE TO CONVERT THE CITIZENS COMPLAINT REVIEW BOARD INTO THE CITY OF WILMINGTON COMMUNITY POLICE ACCOUNTABILITY BOARD

#0502

Sponsor:

Council
Member
Johnson

Co-
Sponsor(s):

Council
Member
Darby
Oliver
Harlee
Cabrera

WHEREAS, the Police Officer Standards and Training Commission, under its authority provided by 11 *Del. C.* § 8404, mandates that all police departments establish, either individually or in combination with other departments, police accountability committees or boards to provide advice to departments on policy, training, and other issues relating to or affecting the department and the communities it serves; and

WHEREAS, 11 *Del. C.* § 8404's mandate requires any municipality police accountability board to be housed in the municipality's police department; and

WHEREAS, the City of Wilmington currently has a Citizens Complaint Review Board to hear complaints and concerns about policing; and

WHEREAS, House Substitute No. 1 for House Bill 205 converted the Law Enforcement Officers' Bill of Rights to the Police Officers' Due Process, Accountability, and Transparency; and

WHEREAS, House Substitute No. 1 for House Bill 205 makes it explicitly clear that citizens do not have the right to prosecute purported police misconduct; and

WHEREAS, converting the Citizens Complaint Review Board into the City of Wilmington Citizens Review Board will provide community members an opportunity to provide input on how communities are policed while maintaining legality under State law. In addition, the Wilmington Police Department will benefit from constructive feedback to reform police policies and practices, improve police-community relations, and enhance public safety; and

WHEREAS, the Commission recommends that the Board include in its membership a religious leader from the community and members of the community who have been impacted directly or are immediate family members or caregivers of those impacted by the juvenile and/or adult criminal justice systems; and

WHEREAS, the Commission requires that non-officers members complete twenty (20) hours of community training with WPD within one (1) year of appointment, which may include ride-alongs or a citizens' police academy; and

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Chapter 2 of the City Code is hereby amended by repealing Sections 2-150.80 through 2-150.87 in their entirety as written.

SECTION 2. Chapter 2 of the City Code is hereby amended by adding in the following underlined language.

**DIVISION 18. – WILMINGTON COMMUNITY POLICE ACCOUNTABILITY
BOARD**

Sec. 2-150.80. – Establishment, composition, qualifications.

(a) **Establishment.** The Wilmington Community Police Accountability Board (the "Board"), an independent board pursuant to section 8-403 of the charter, is hereby established and housed within the Wilmington Police Department.

* (b) **Executive Assistant; Law Department.** ~~There shall be a full-time position supporting the Board, who shall provide clerical, technical, and other services required by the Board in the performance of its official duties.~~ Legal services shall be furnished by the law department to ensure independent counsel.

(c) **Composition.** The Board shall be composed of seven (7) residents of the City of Wilmington, who are voting members. Four (4) members shall be appointed by the Mayor with the advice and consent of City Council, and three (3) shall be appointed by the President of City Council. Additionally, there shall be (2) non-voting, ex-officio members. No voting members shall be current or former members of law-enforcement or affiliated with law-enforcement. Members shall include:

- i. Social service organizations shall submit nominees from which the Mayor shall select one (1) member of the community who have been impacted directly or are immediate family members or caregivers of those impacted by the juvenile and/or adult criminal justice system(s);
- ii. Faith-based organizations shall submit nominees from which the Mayor shall select one (1) religious leader from the community who has experience with justice-involved individuals;
- iii. Civil rights organizations shall submit nominees from which the Mayor shall choose one (1) criminal justice reform advocate;
- iv. Education organizations shall submit nominees from which the President of City Council shall choose one (1) member of the education community;
- v. Mental health organizations shall submit nominees from which the President of City Council shall choose one (1) member from the mental health treatment community as defined by the National Alliance on Mental Illness;
- vi. Two (2) Community Members, one selected by the Mayor and one selected by the President of City Council.
- vii. WPD's Chief of Police or their designee shall be an ex-officio member of the Board without voting powers.
- viii. The Mayor or their designee shall be an ex-officio member of the Board without voting powers.

(d) **Public Notice.** All board member nominations shall be subject to public notice and public hearing laws pursuant to the Delaware Freedom of Information Act. 29 Del. C. §§ 10001, et seq.

(e) **Chairperson.** Each year during or before the month of December, the Board shall elect the chairperson and vice chairperson from among its voting members. The chairperson and vice chairperson shall serve one (1) year from January 1 until December 31.

(f) **Terms of the Members.** Board members shall serve two (2) year terms, which may be renewed no more than three (3) times total.

(g) **Vacancy.** In the event of a vacancy on the Board during the term of office of a member for any reason, a successor shall be chosen in the same manner as the original appointment. A member appointed to fill a vacancy shall serve for the balance of the unexpired term.

(h) **Compensation.** Voting members of the board shall be compensated \$100.00 per meeting attended. Board members shall not be compensated for partial attendance.

* (i) **Budget.** Each year, the board shall be allocated an operating budget which shall be proposed by the mayor in the city's annual budget and adopted by city council. During the first quarter of the year, the board shall submit a proposed annual operating

budget to the mayor and annual financial statements for consideration for the next fiscal year. The Board's appropriations shall be a line item in the office of the mayor's operating budget.*Additionally, the budget shall include a salaried, full-time Executive Assistant, who shall provide clerical, technical, and other services required by the Board in the performance of its official duties.

Sec. 2-150.81. – Duties and Powers of the Board.

(a) **General.** The Board shall advise WPD on policy, training, and other issues relating to or affecting the department and the communities served by the WPD. Additionally, the Board shall:

- i. Conduct community outreach and hold public forums to solicit public feedback;
- ii. Review and provide recommendations regarding police policies and procedures, including police misconduct complaints, discipline, use of force, recruiting practices, and crime prevention strategies. The review of misconduct complaints, discipline, and use of force will only include information permitted by Delaware law.
- iii. Offer constructive criticism to improve police-community relations;
- iv. Review and analyze data and information regarding arrest data and police misconduct; and
- v. Provide recommendations on future police reform.

(b) **Rules.** The Board shall promulgate its own bylaws, subject to administrative board approval required by section 4-200 of the charter.

Sec. 2-150.82. – Meetings of the Board.

(a) The full Board shall meet at least ten (10) times per year, including hosting public forums quarterly. The Board shall also create a feedback form to solicit input from the public.

(b) The Board shall comply with all public meeting laws, including Delaware Freedom of Information Act, 29 Del. C. §§ 10001, et seq.

Sec. 2-150.83. – Public Reporting.

(a) The Board shall publish an annual report including recommendations to the Mayor, City Council, the Wilmington Police Department, and the Delaware Department of Justice. The annual report shall include data published by the Wilmington Police Department and detailed narratives published by the Criminal Justice Council involving Wilmington Police Department Officers, including the number of officers decertified for any reason pursuant to 11 Del. C. § 8404(a)(4). The Board shall present the annual report to City Council at a public Council meeting. The Wilmington Police Department shall respond to the recommendations within ninety

(90) days of receipt and provide an update on the status of any recommendations being implemented with six (6) months of receipt.

(b) The City shall maintain a public website for the Board. The Board shall publish there, on a quarterly basis:

- i. The number of use of force incidents by the WPD, including data disaggregated by the race, gender, ethnicity, and age of the civilian; the type/brief description of force used; the reason for use of force; the civilian injuries that took during incident involving use of force, if any; the employee number of the police officer involved; and the police sector(s) where the use of force took place;
- ii. Any reporting request of and to be provided by WPD's Office of Professional Standards shall be in accordance with all applicable governing laws, rules, and regulations;
- iii. The amount of money the City of Wilmington expended in settlements or judgments to resolve tort, civil rights, or other legal claims filed against the WPD, as well as the basic facts associated with those claims to the extent permitted by law or not otherwise restricted from disclosure.

(c) The board shall publish an annual report, available on its public website, compiling the statistics for each calendar year and identify any significant trends, patterns, areas of concern, or areas of excellence, within the WPD's practices.

(d) WPD shall make Board contact information readily available to the public.

Sec. 2-150.84. – Training.

The Board is empowered to determine how the voting members shall meet their 20 hours of community training requirement, with the advice of the office of the mayor, WPD, and the Law Department. The Board is empowered to seek funding, as needed, for consulting and training expertise as determined by the board.

SECTION 2: Any prior ordinances or parts thereof inconsistent herewith shall be amended and supplemented to conform to the provisions contained herein.

SECTION 3: If any part of this Ordinance is declared unconstitutional or illegal, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 4: This Ordinance shall take effect January 1, 2025.

First Reading.....November 7, 2024
Second Reading.....November 7, 2024
Third Reading.....Dec. 5, 2024

Passed by City Council, Dec. 5, 2024

President of City Council

ATTEST:

Maribel Seijo

City Clerk

Approved this 9 day of Dec, 2024.

[Signature]

Mayor

SYNOPSIS: This Ordinance amends Chapter 2 of the City Code to convert the Citizens Complaint Review Board into a police accountability board to comply with recent state law mandates.

FISCAL IMPACT: ~~*This Ordinance will require a budget amendment to pay for a new liaison position, as well as funding for board member meeting attendance.~~

*This Ordinance's fiscal impact is de minimis.

FLOOR AMENDMENT TO ORDINANCE NO. 24-063

- **Description of Floor Amendment:** This Floor Amendment removes the requirement that the proposed Police Accountability Board hire a full-time liaison, as this requirement violates the Charter.

TEXT OF FLOOR AMENDMENT

- **Motion:** I move to make a floor amendment at this time as such:
 - 1) On Page 2 of Ord. 24-063, delete the following language and add in the underlined language to proposed Section 2-150.80(b) as follows:
 - (b) ~~Executive Assistant; Law Department. There shall be a full-time position supporting the Board, who shall provide clerical, technical, and other services required by the Board in the performance of its official duties.~~ Legal services shall be furnished by the law department to ensure independent counsel.
 - 2) On Page 4 of Ord. 24-063, delete the following language to proposed Section 2-150.80(i) as follows:
 - (i) ~~Budget. Each year, the board shall be allocated an operating budget which shall be proposed by the mayor in the city's annual budget and adopted by city council. During the first quarter of the year, the board shall submit a proposed annual operating budget to the mayor and annual financial statements for consideration for the next fiscal year. The Board's appropriations shall be a line item in the office of the mayor's operating budget. Additionally, the budget shall include a salaried, full-time Executive Assistant, who shall provide clerical, technical, and other services required by the Board in the performance of its official duties.~~
 - 3) On page 6 of Ord. 24-063, delete the Fiscal Impact statement in its entirety and replace it with the following language:

This Ordinance's fiscal impact is *de minimis*.