

Councilmember Applys introduced the following:

LOCAL LAW D (MC) - 2018

A LOCAL LAW AMENDING PART 33 (CITIZENS' POLICE REVIEW BOARD) OF ARTICLE XLIV(GENERAL PROVISIONS) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO A CHANGE IN THE NAME OF THE CPRB

BE IT ENACTED by the Common Council of the City of Albany as follows:

Section 1. The title and sections 42-332, 42-333, 42-334, 42-339, 42-340, 42-342, 42-346, 42-349 of Part 33 (Citizens' Police Review Board) of Article XLIV (General Provisions) of Chapter 42 (Departments and Commissions) of the code of the City Of Albany is hereby amended to read as follows:

Part 33. ~~Citizens'~~ Community Police Review Board

Article XLIV. General Provisions

§ 42-332. Legislative findings; purpose.

A. The Common Council hereby finds and declares that abuse of authority, incivility, rudeness, prejudice or discrimination based upon race, gender, color, national origin, economic status, religion, age, sexual orientation, marital or domestic partner status, mental or physical ability has no place in the actions, customs, practices, policies or procedures of the City of Albany Police Department.

B. The Common Council further finds and declares that it is in the public interest of the ~~citizens~~ ~~of the~~ City of Albany to have an independent mechanism to fairly review the conduct of law enforcement officials.

C. The Common Council further finds and declares that the conduct of law enforcement officials is subject to public, departmental and executive scrutiny and accountability.

D. The Common Council further finds and declares that an effective program to improve the relationship between the community and the Albany Police Department requires certain independent authority and power to review the handling of ~~citizen~~ complaints of police misconduct.

E. The purpose of this Part 33 is to create an independent review body with respect to complaints of misconduct by officers of the Albany Police Department. The remedies created by this Part 33 are in addition to any others provided by common law or statute. Its goals are to improve communication between the Police Department and the community, to increase police accountability and credibility with the public and to create a complaint review process that is free from bias and informed of actual police practices.

§ 42-333. Definitions.

For purposes of this Part, the following words and phrases shall have the meaning described in this section:

CHIEF

The Chief of Police of the Albany Police Department.

COMPLAINT

A written statement concerning police conduct which is either submitted to the ~~Citizens'~~ Community Police Review Board for filing with the Albany Police Department or filed directly with the Albany Police Department.

CPRB

The ~~Citizens'~~ Community Police Review Board.

GOVERNMENT LAW CENTER

The Government Law Center of Albany Law School.

MEDIATION

A structured dispute resolution process in which a neutral third party assists the disputants by facilitating a nonbinding intervention.

OFFICER

Any sworn police officer of the City of Albany Police Department affected by an ~~citizens'~~ individual's complaint.

PROFESSIONAL STANDARDS

The Professional Standards Unit of the City of Albany Police Department.

§ 42-334. CPRB establishment; appointment of members.

A. There is hereby established a ~~Citizens'~~ Community Police Review Board (CPRB) comprised of nine members, five of whom shall be appointed by the Common Council and four of whom shall be appointed by the Mayor.

B. Members shall be appointed for three-year terms; provided, however, that:

(1) Of members initially appointed by the Common Council: one shall be for a term of one year; two shall be for a term of two years; and two shall be for a term of three years.

(2) Of members initially appointed by the Mayor: one shall be for a term of one year; one shall be for a term of two years; and two shall be for a term of three years.

C. No member of the CPRB shall serve for a period which exceeds two full consecutive terms; provided, however, that a member may be considered for reappointment to the CPRB after one year of nonmembership.

D. Members shall continue to serve on the CPRB until their successors have been appointed.

E. Annually, the members of the CPRB shall elect from their membership a member to serve as chair.

§ 42-339. Training and orientation of members.

The Government Law Center shall coordinate and conduct training and orientation of CPRB members, and recommend for adoption by the Common Council written standards for orientation of appointees and continuing training of all CPRB members. Completion of the orientation program concerning the goals, powers and procedures of the CPRB is required before a member may participate as a voting member. In addition, graduation from the Albany Police Department's Citizens' Community Police Academy (the curriculum of which shall include training in the laws applicable to public record concerns, internal affairs investigations, confidentiality issues and liability statutes; training in police procedures; participation in ride-alongs; defensive tactics training; firearms familiarization; and emergency vehicle operations) within six months of the start of the member's term is required. Further, the Government Law Center shall provide to CPRB members and the members shall undergo, continuing education on issues related to the interaction between civilians and police officers from the perspectives of both the ~~citizen~~ complainant and the police officer. Further, at least one member of the CPRB shall be designated to become a member of the National Association of Civilian Oversight of Law Enforcement, and at least one member shall attend its annual conference.

§ 42-340. Recommendations, reports, data collection and analysis.

A. The CPRB may make recommendations to the Common Council and the Mayor regarding police policies and practices relevant to the goals of community policing and the exercise of discretionary authority by police officers.

B. The Government Law Center shall submit an initial evaluation of the process provided for in this Part 33, one year after the establishment of the CPRB.

C. The Government Law Center, on behalf of the CPRB, shall file quarterly and annual reports with the Common Council and the Mayor which contain statistics and summaries of ~~citizen~~ complaints, including a comparison of the CPRB's findings with the final determinations of the Department. The Government Law Center shall contract with one or more local colleges, universities or research institutions to conduct surveys of complainants concerning the level of their satisfaction with the process and to conduct surveys of the community to get feedback concerning the CPRB and the Police Department. The results of those surveys shall be reported to the CPRB, the Chief and the Common Council. In addition, the Government Law Center shall collect data concerning alleged offenses and offenders and report this data to the Chief. The Chief shall analyze and use the data concerning repeat alleged offenses and offenders to implement an "early warning system" to track repeat alleged offenses and offenders reported to CPRB and the Police Department.

§ 42-342. Filing of complaints.

Complaints concerning police conduct shall be filed with the Police Department or submitted to the CPRB for filing with the Police Department as provided in this section. The CPRB may designate one or more locations for the submission of complaints for filing with the Police Department.

A. Complaints shall be lodged in writing using the City of Albany Police Department ~~Citizen~~ Complaint Form as approved by the CPRB for that purpose and shall be signed by the complainant. Complaint forms shall be printed in English and Spanish and shall be available at any City of Albany Police Department facility, the City Department of Administrative Services, the City Clerk's office and any other location designated by the CPRB.

B. A copy of each complaint submitted to the CPRB for filing with the Police Department shall be forwarded to the Police Department within two working days of its receipt; additionally, a copy of each complaint submitted to the Police Department (other than those submitted by the CPRB) shall be provided to the CPRB within two working days of receipt by the Department. Upon receiving a complaint, the CPRB shall notify the complainant of the City's mediation program established in accordance with § 42-346 of this Part 33.

C. Complaints shall be filed within six months of the date of the incident giving rise to the complaint. Complaints filed after six months of the alleged misconduct shall, however, be returned, or accepted and reviewed by the CPRB upon a majority vote of its members to do so. The complainant shall be notified by the Board of the decision as to whether the complaint be returned, or accepted and reviewed.

§ 42-346. Mediation process.

A. A mediation process shall be established and coordinated by the Government Law Center in accordance with this section.

B. Mediation shall be conducted at no cost to the complainant or officer by highly trained and experienced mediators selected from a list compiled by the Government Law Center and approved by the Common Council and the Mayor. The Government Law Center, the Common Council and the Mayor shall endeavor to reflect community diversity in this list of mediators. The Government Law Center shall develop an appropriate training curriculum which each mediator shall be required to complete. Each mediator shall be a graduate of the Albany Police Department's ~~Citizens'~~ Community Police Academy. In addition, the Government Law Center shall provide to the mediators, and the mediators shall undergo, continuing education on issues related to the interaction between civilians and police officers from the perspectives of both the ~~citizen~~ complainant and the police officer.

C. Upon receipt of a ~~citizen~~ complaint, unless the case involves an allegation of excessive force, an alleged violation of civil rights or an allegation of criminal conduct against an officer, or the complaint is a result of an incident that involves an arrest, or if there was an injury to either party, or if there was property damage by an officer, the complaint will be considered appropriate for mediation.

D. An eligible complaint shall be reviewed for potential recommendation for mediation by the Board and by the Chief or his designee. Five members of the Board will be contacted by the Government Law Center and a decision made as to appropriateness for mediation by a majority of those five members. A decision regarding mediation shall be made within two business days by both the Board and the Chief. If either the Board or the Chief finds a complaint inappropriate

for mediation, then the matter shall be referred to OPS for investigation consistent with this article.

E. If the Board and the Chief recommend a complaint for mediation, both the complainant and the officer will have the option of electing to continue with the mediation process. If either party declines mediation then the matter shall be referred to OPS for investigation consistent with this article.

F. If the parties agree to mediate, then the complaint will not be investigated by the Police Department regardless of the outcome of the mediation.

G. If the parties agree to mediate, the process shall follow the Mediation Protocols adopted by the Board.

H. Every reasonable effort shall be made to schedule mediation during an officer's normal working hours.

I. Mediators shall conduct mediation sessions with officers and complainants at times and places agreed upon by the parties.

J. In conducting the mediation, the mediators may not impose an outcome on the parties.

K. Mediation sessions shall be closed to the public. Matters discussed shall be confidential.

L. Statements and records disclosed during mediation may not be disclosed or introduced in evidence during any judicial or administrative proceeding, and mediators may not be compelled by a subpoena to give testimony or produce anything related to the mediation.

M. Upon the completion of the mediation process, the CPRB shall issue a finding of "Mediated," and the allegations shall be deleted from the officer's CPRB history.

§ 42-349. Information sharing.

The CPRB shall forward in writing to the Chief any new case-specific information it obtains during the course of an investigation concerning an incident or practice subject to a ~~citizen~~ complaint. Similarly, during the course of a CPRB review, the Chief shall forward to the CPRB in writing any new case-specific information the Chief obtains after the conclusion of the Professional Standards investigation and the submission of the Department's preliminary report to the CPRB referenced in § 42-343 of this Part concerning an incident or police practice subject to a ~~citizen~~ complaint.

§2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

Approved as to form this 25 day of May, 2018.
