

V2 with Tolbert's amendments

..Title

Amending Chapter 102 of the Administrative Code to implement certain recommendations of the audit of the Police Civilian Internal Affairs Review Commission.

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## THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

### Section 1

Section 102.01 of the Saint Paul Administrative code is hereby amended to read as follows:

#### **Sec. 102.01. - Purpose and scope of commission review.**

- (a) In order to assure the public that police services are delivered in a lawful and nondiscriminatory manner, and build upon the 2001 agreement entered into between the City and the NAACP, the public should be accorded participatory oversight of the police and their interaction with the citizenry. To this end, the mayor and council wish to structure citizen involvement as set forth in this chapter so that in the event complaints are received regarding police activities such complaints are reviewed and processed with the participation of citizen representatives. Citizen review, in conjunction with the police, of complaints against officers will assure that complaints are dealt with fairly and with due regard for officers and citizens equally.
- (b) The commission shall review all complaint investigations concerning members of the police department who are certified by the Minnesota Board of Peace Officers Standards and Training, completed by the internal affairs unit of the police department and subsequent investigations thereof related to alleged acts of excessive force, inappropriate use of firearms, discrimination, as defined in [Chapter 183.02](#) of this Code, racial profiling, poor public relations and such other complaints as may be referred to it by the mayor, ~~and/or~~ the chief of police, or the City Attorney. The commission shall also collect and review summary data on complaints received and report to the mayor and council any patterns which may merit further examination.

### Section 2

Section 102.2 of the Saint Paul Administrative Code is hereby amended to read as follows:

#### Sec. 102.02. - Commission composition.

- (a) ~~There is hereby created a police-civilian internal affairs review commission~~ shall consisting of ~~seven (7)~~ nine (9) voting members ~~to be~~ appointed by the mayor and approved by the council. All members shall be residents of the city. ~~Five (5) members shall be citizen members and two (2) shall be members of the Saint Paul Police Federation as shall be recommended by the police chief to the mayor for appointment.~~ Members shall, to the extent possible, be representative of the city's diversity of neighborhoods, races and cultures, abilities, incomes and sexual orientations. All members of the commission shall be appointed to three-year terms. No member shall serve more than two terms. A member's

term may be extended to allow a new member to meet the criteria to become a voting member.

- (b) ~~The original appointments to Seven (7) members of the commission by the mayor of the five (5) citizen members shall be for terms of one (1), two (2) and three (3) years, as designated by the mayor. Thereafter, citizen civilian members as and shall be appointed for a three-year term recommended by the Saint Paul Police Chief to the mayor for appointment. No members shall serve more than two (2) terms.~~
- (c) ~~The original appointments Two members of to the commission by the mayor shall be members of the police federation representatives shall be as Saint Paul Police Federation and shall be recommended by the police chief and for terms of one (1) and two (2) years, as designated by the mayor. Thereafter these members shall be appointed for a three-year term. No members shall serve more than two (2) terms. to the mayor for appointment. No member of the police federation Saint Paul Police Federation nor his or her immediate family nor any current member of the Mayor's Task Force on Police Priorities for the 90's shall be eligible to serve as a citizen member. civilian member.~~
- (d) The commission shall meet a minimum of quarterly and up to twice a month as determined by a majority of the commission. The commission shall elect a chair and vice-chair to preside over its proceedings and ~~shall also elect a secretary who will be responsible for the minutes of commission meetings.~~ The commission chair shall be elected from among the ~~citizen members. civilian members.~~ Members of the commission shall receive fifty dollars (\$50.00) per meeting attended.
- (e) The City Attorney shall, in consultation with the chief of police and the chair, appoint a review coordinator to serve as staff to the commission, manage the complaint process, and prepare minutes of commission meetings. The review coordinator shall serve at the pleasure of the City Attorney in consultation with the Chief of Police and the chair.
- (f) The commission's review coordinator shall be in attendance at commission meetings to facilitate commission review, serve as custodian of the commission files and record proceeding of the commission on audio tape. Prior to a commissioner's first meeting, the review coordinator will meet with the new commissioner to explain the work of the commission and review the policies and procedures of the commission. Internal affairs staff may be present at all commission meetings. members who attend commission meetings may only be present during deliberations for cases they investigated and as otherwise deemed necessary by the commission. Any person who has been appointed to the commission but has not yet met the criteria to become a voting member may attend commission meetings but may not vote or participate in the discussion.

### Section 3

Section 102.03 of the Saint Paul Administrative Code shall be amended to read as follows:

Sec. 102.03. - Power and duties.

- (a) *Conduct of meetings.* The commission shall conduct all of its meetings consistent with and subject to all city ordinances and published policy directives. Further, the commission shall be subject to statutes regarding government data practices, open meetings, peace officers' bill of rights and related law. The commission shall develop policies and procedures to

guide the work of the commission including policies and procedures related to new member orientation, recusal, data privacy, and media contact.

- (b) *Training required; termination of appointments.* Each member of the commission shall, prior to ~~assuming official duties~~ voting on any matter before the commission, participate in a training program which shall include topics related to police work, investigation, relevant law, cultural competency diversity, racial equity, implicit bias, gender, sexual orientation, gender identity as defined in Chapter 183.02 of this Code, physical disability, mental health challenges, and the emotional impact of abuse. ~~They~~ Civilian members shall also participate in ride-alongs with an officer on actual patrol duties. Failure to complete the training program shall constitute cause to terminate a member's appointment by the mayor as recommended by the ~~chief of police. Additionally, a City Attorney.~~ A violation of law regarding government data practices or nonattendance at more than three (3) meetings in a year by a member shall also constitute cause to terminate a member's appointment by the mayor as recommended by the City Attorney ~~chief of police.~~
- (c) *Review of materials and reports on investigations of complaints.* The commission shall review materials and reports on all investigations of complaints concerning members of the police department who are certified by the Minnesota Board of Peace Officers Standards and Training. The materials and reports shall be completed by internal affairs unit staff or independent investigators under contract to the city against sworn personnel. The commission shall consider reports regarding alleged acts of excessive force, inappropriate use of firearms, discrimination as defined in Chapter 183.02 of this Code, racial profiling, poor public relations and such other complaints as may be referred to it by the mayor, the City Attorney, and/or the chief of police. The materials and reports shall not contain any recommended outcome, but will be limited to the relevant information gathered during the investigation.
- (d) *Nature of investigatory material; meetings to be closed.* The investigatory materials prepared by the internal affairs unit of the police department or independent investigators under contract to the city are considered data collected in furtherance of an active investigation and will be reviewed by the commission. The meetings of the commission on such matters will be closed pursuant to Minnesota Statutes 471.705, ~~subdivision 1d(b)(2)~~ 13D.05, subd. 2 (a) (2), excepting to members of the commission and such other participants as approved by the chair of the commission and the City Attorney in consultation with the police chief and that will facilitate the review process of the commission.
- (e) *Summary Data Released.* Notwithstanding paragraph (d), and consistent with the Minnesota Government Data Practices Act, the Commission will release summarized complaint and case data on an annual basis, which shall be easily accessible on the City of Saint Paul web site. Summary data relating to each complaint shall include but not be limited to:

1. Complainant's ethnicity, gender, income, age and general location;

2. Nature of complaint;

3. The number of officers who are subjects of the complaint;

4. Ethnicity and gender of officers who are investigated;

5. Whether the complaint results in a recommendation to discipline any officer;

6. How many officers are recommended to be disciplined from any complaint;

7. Whether the police chief modifies the recommendation of the commission.

- (e-f) *Requests for appearances, gathering of additional information and hiring of private investigators; power to subpoena witnesses.* The commission may request [that] individuals appear before it to state facts to supplement files. The commission may also request internal affairs staff to gather such additional information as may be needed for a determination by the commission. The commission may, as provided by a city contract, hire a private investigator as approved by the mayor, or the City Attorney, or chief of police. The commission shall have the power to subpoena witnesses to compel their appearance before it.
- ~~(f) *Attendance by review coordinator and internal affairs staff.* The commission's review coordinator shall be in attendance at commission meetings to facilitate commission review, serve as custodian of the commission files and record proceeding of the commission on audio tape. Internal affairs staff may be present at all commission meetings.~~
- (g) *Recommendations.* The commission, after review and deliberation of an investigation, shall, by majority vote, make its recommendation on the case. Such recommendation by the commission shall be upon a finding that the complaint be sustained; or the complaint not be sustained; or that the officer be exonerated; or the complaint is unfounded; or that the matter does not involve guilt or a lack thereof, but rather a failure of a departmental policy to address the situation. The commission shall also, by majority vote, make a recommendation as to any action to be taken concerning an involved officer. Along with its recommendation, the commission may include suggested policy changes for the police department's consideration.
- (h) *Determination and disposition of investigation by chief of police.* Failure of the commission to reach a majority decision shall cause the investigation to proceed directly to the chief of police for determination and disposition.
- (i) ~~*Chair-Review coordinator to inform chief in writing.* If a majority decision is obtained, the chair of the commission-review coordinator shall in writing inform the chief of police of the recommendation along with the rationale therefor.~~
- (j) *Action when chief and commission disagree.* In the event the chief of police disagrees with the action recommended by the commission, the chief shall notify the commission-review coordinator, in writing, of the action he or she intends to impose. The review coordinator shall notify the ~~The commission chair~~ who and chief of police shall have five (5) working days to discuss any concerns ~~they~~ he or she may have with the chief of police before any action is finalized. This provision does not prohibit the chief of police from taking immediate action in any case.
- ~~(k) *Appointment of review coordinator.* The chief of police shall, in consultation with the commission chair, appoint a review coordinator to serve as staff to the commission and manage, as needed, the complaint process. The review coordinator shall serve at the pleasure of the chief of police in consultation with the commission chair.~~
- (k) *Community participation.* No fewer than one (1) time per year, the Commission shall hold an annual summit in order to review the annual report and evaluate the effectiveness of the Commission.

Section 102.04 is hereby deleted in its entirety and replaced as follows:

Sec. 102.04. – Rights of Complainants.

- (a) Filing a complaint. Any person may file a complaint regarding acts of excessive force, inappropriate use of firearms, discrimination as defined in Chapter 183.02 of this Code, racial profiling, poor public relations, and such other complaints as may be referred to the commission by the mayor, the City Attorney, or the chief of police. The complaint may be filed in person, in writing, or by electronic means on a form provided for that purpose. A completed electronic form shall constitute a written complaint and an electronic signature shall constitute a legal signature for purposes of this ordinance. The complaint and signature shall be capable of reproduction into a printed document.
- (b) Complainants shall be notified when a case they have submitted will be heard by the commission and shall be permitted to provide testimony and answer questions from the commissioners about the complaint.

Section 5

Section 102.05 of the Saint Paul Administrative Code is hereby deleted and replaced as follows:

Section 102.05 – Existing Commission Members

Any member of the commission holding office on September 1, 2016 may serve out his or her current term regardless of whether that person meets any amended criteria for appointment.

Section 6

This Ordinance shall take effect and be in force thirty (30) days following passage, approval and publication.