

CHAPTER 2-52. - CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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Sec. 2-52-1. - Establishment.

- A. *Designation.* There is established a board to be known as the citizens' law enforcement review board, a joint board for oversight of law enforcement as provided by the city police department and the Shelby County Sheriff's Department.
- B. *Members; appointment.* The board shall consist of a minimum of nine members appointed as follows: the chairperson of the city council public safety committee and the chairperson of the Shelby County Commission Law Enforcement Committee: three appointed by the mayor of the city with the approval of the city council: a law enforcement official or person with a background in criminal justice, a member of the clergy, and a citizen at-large; one appointed by the Shelby County mayor with the approval of the county commission: a citizen at large; two appointed by the Shelby County sheriff with the approval of the county commission: a law enforcement official or person with a background in criminal justice and a medical official; and one attorney jointly appointed by the Memphis city mayor and the Shelby County sheriff with the approval of the county commission and the city council, respectively. Members shall be of lawful age and residents of Shelby County. City officials appointing law enforcement review board members according to the criteria above, will appoint residents of the city; officials of Shelby County appointments will be selected according to the criteria above from residents living anywhere within the county. Should the county commission not approve this chapter, all members of the board shall be appointed by the mayor of Memphis with the approval of the Memphis City Council. The board composition shall in such case still include an attorney, a medical official, and additional citizens at large.
- C. *Term of office.* The city mayor, sheriff, and county mayor shall submit their initial appointments to the council and/or commission within 30 days of the enactment of this chapter. Of the initial appointments, two shall be for terms of two years; three shall be for terms of three years; and two shall be appointed for four years. Thereafter, terms of office shall be for four years. Vacancies shall be filled in the same manner as original appointments for the unexpired term.

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- D. *Staffing.* Passage of this chapter will cause to be implemented the hiring of staff; an administrator and a minimum of two support persons who will receive the initial complaint, investigate complaints, keep records, and process the information regarding complaints. Likewise, the establishment of an office for staff to work where files and records are kept and where personal visits by complainants can be made is expressly authorized, and the offices be funded from both city and county budgets in an amount authorized by the Memphis City Council and the Shelby County Commission.

(Code 1985, § 28-151; Ord. No. 4285, § 1, 10-25-1994)

Sec. 2-52-2. - Compensation.

All members of the citizen review board shall serve without compensation.

(Code 1985, § 28-152; Ord. No. 4285, § 1, 10-25-1994)

Sec. 2-52-3. - Oath of office.

Members of the board established by this chapter shall qualify and take an oath to uphold the Constitution of the United States and of the state, laws and ordinances of the city and county and to faithfully discharge the duties of such office.

(Code 1985, § 28-153; Ord. No. 4285, § 1, 10-25-1994)

Sec. 2-52-4. - Purpose, powers and duties.

The citizens' law enforcement review board shall receive, cause investigation of, and recommend resolution of complaints filed with it alleging misconduct by members of the Memphis Police Department and the Shelby County Sheriff's Department, when such misconduct is directed toward any person who is not a member of that police force or sheriff's department. The board will act on complaints filed with it, including but not limited to the use of excessive or deadly force and incidents resulting in the death or injury of persons in police custody; other physical abuse; verbal abuse; harassment; improper procedure, arrest, search, entry; inadequate response or investigation; intimidation or threat; improper firearm or vehicle use; and property issues. The board shall perform such other duties not inconsistent with the provision of this chapter or any Shelby County ordinance that may govern.

In order to carry out its functions, the board is authorized to request through the Memphis City Council or the Shelby County Commission that when necessary the council or the commission would exercise that body's subpoena powers to effectuate an investigation. The council and commission shall provide by ordinance the penalty or penalties for contempt in refusing to obey any such subpoena or to produce such texts, papers, and other evidence.

(Code 1985, § 28-154; Ord. No. 4285, § 1, 10-25-1994)

Sec. 2-52-5. - Rules and regulations.

- A. *Chairperson.* The board established by this chapter shall designate one of its members as chairperson, upon a vote of a majority of the members of the entire board, for a one-year period. The chairperson may succeed himself or herself in office for no more than one term.
- B. *Meetings.* Meetings of the citizens' law enforcement review board shall be held at the call of the chairperson. The established board shall meet at least once per quarter at such time and place the board shall decide. Meeting frequency and duration will be determined by the caseload. Meetings and hearings will be open to the public with proper public notification. Special meetings, open to the public, may be called from time to time on concurrence by three members of the board and/or the

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chairperson. A majority of the members of the entire board shall constitute a quorum for the transaction of business. The board shall cause a proper record to be kept of its proceedings which shall contain the final disposition of each case, the vote of each member, the absence of any member, and the failure of any member to vote. Written notice of any meeting of the board shall be given to members and the public at least 24 hours prior to the date set for meeting.

- C. *Procedures.* The established board may adopt such rules and procedures consistent with existing laws as are necessary for the conduct of its affairs and performance of its functions and responsibilities. All rules and regulations must carry approval by the majority of the entire board. Members of the board shall disqualify themselves from reviewing any case in which they have a personal interest or bias.

(Code 1985, § 28-155; Ord. No. 4285, § 1, 10-25-1994)

State law reference— Open meetings act, T.C.A. § 8-44-101 et seq.

Sec. 2-52-6. - Investigation and disposition of complaints.

- A. The board shall cause a full and complete investigation to be made of each complaint filed with the board, except complaints which related to matters or occurrences that are the subject of pending criminal proceedings. The investigation shall be confined to matters set forth in the complaint. The citizens' law enforcement review board will review and dispose of the matter upon completion of the investigation.
- B. Prior to recommending action on a complaint or to determining that a complaint warrants no action, the board may, in its sole discretion, hold a hearing, pursuant to its rules.
- C. If the board decides that the complaint should be resolved by promulgation or amendment of rules and regulations it has established, the board shall submit its recommendation to the executive head of the police force and shall notify the complainant of its disposition of his or her complaint.
- D. If the board decides that disciplinary action should be taken against any of the officers or employees under the management and control of the police director or sheriff then such action shall be in accordance with prevailing current policy of the Memphis Police Department or the Shelby County Sheriff's Department respectively.
- E. If the board determines that the complaint warrants no action, the board shall so notify the complainant.
- F. The scope of the investigation shall be limited to those matters identified in the complaint.

(Code 1985, § 28-156; Ord. No. 4285, § 1, 10-25-1994)

Sec. 2-52-7. - Citizens' law enforcement board hearing process.

- A. Members of the citizens' law enforcement review board will be provided with an agenda which identifies matters before the board the week prior to the public hearing date.
- B. Public hearings will follow a routine agenda which includes the following components:
 - 1. Call to order, roll call;
 - 2. Acceptance of agenda;
 - 3. Approval of previous meeting minutes;
 - 4. Approval of administrative matters;
 - 5. Deliberation of individual cases.

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- C. At the conclusion of the public hearing, the citizen police review 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 distributed during the next public hearing.
- D. At the conclusion of the public hearing and announcement of decisions, the board will again meet in executive session in order to review cases and set the agenda for the following meeting.

(Code 1985, § 28-157; Ord. No. 4285, § 1, 10-25-1994)

Sec. 2-52-8. - Duties of the chairperson.

- A. After the election of the chairperson by the board an alternate chairperson shall be appointed from the remaining six board members. (Excluded from serving as chairperson would be city council and county commission representatives.)
- B. In the event that the chairperson is absent from a board meeting, the alternate chairperson shall have full powers of the chairperson.
- C. The chairperson may administer oaths to all those giving testimony.
- D. The chairperson can request, with a majority vote of the board, that a subpoena to compel the attendance of witnesses and the production of evidence in order to further an investigation of a complaint before the board be issued by the city council or county commission.
- E. All persons wishing to be heard in any matter before the board must first be recognized by a board member.
- F. With the approval of the board the chairperson may place an investigation on pending/active or pending/inactive status and may grant continuances.
- G. With a majority vote of the board, the chairperson may declare a recess of board proceedings at any time.

(Code 1985, § 28-158; Ord. No. 4285, § 1, 10-25-1994)

Sec. 2-52-9. - Cases to be reviewed by the board.

- A. The citizen police review board will investigate citizen complaints of alleged misconduct that are filed on or after the effective date of enactment of this chapter by the city and county and in which alleged misconduct has not taken place more than 18 months prior.
- B. 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.

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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.

- C. The board, on its own complaint, will investigate cases involving use of deadly force and incidents resulting in the death or injury of persons in police custody. Only those cases which occurred after the effective date of the enactment of this chapter by the City of Memphis and Shelby County will be heard by the board and in which the alleged incident has not taken place more than 18 months prior.
- D. Citizen complaints which allege criminal conduct on the part of the officer shall not be heard by the board. These cases shall be referred to the Memphis Police Department or the Shelby County Sheriff's Department for appropriate disposition. In the event that potential criminal conduct is determined during the course of an investigation, the case will be referred to the Memphis Police Department or the Shelby County Sheriff's Department and attorney general for appropriate disposition. The final disposition of the cases will be forwarded to the board by the police director or sheriff.

(Code 1985, § 28-159; Ord. No. 4285, § 1, 10-25-1994)

Sec. 2-52-10. - Disposition of cases.

- A. The citizens' law enforcement review board will examine complaints against police officers and determine whether such complaints have merit.
- B. The board may recommend that no action be taken on a complaint, recommend rule changes, or recommend to the police director and sheriff that specific disciplinary or other remedial action be taken.
- C. In the event that the citizens' law enforcement board determines that the complainant is without merit and that it warrants no action, a letter of final disposition will be forwarded to the complainant by the board, and the case will be considered closed. This letter will outline circumstances of incident and identify the reason for closure.

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- D. In the event that the board decides the complaint should be resolved by amendment or rules and/or police, the board shall submit its recommendations to the police director or sheriff and notify the complainant of the disposition of his or her case.
- E. In the event that the citizens' law enforcement review board determines that disciplinary action should be taken, the board shall submit its recommendations to the police director or sheriff. Within ten [days] after receipt of the board's recommendation, the police director or sheriff will notify the board in writing of the disciplinary actions he or she proposes to take in response to its recommendations.
- F. All rulings, recommendations, decisions, modifications, or revisions must be approved by at least a majority of the quorum of members of the board.

(Code 1985, § 28-160; Ord. No. 4285, § 1, 10-25-1994)

Sec. 2-52-11. - Public information, periodic reports and analysis.

- A. All requests for information shall be referred to the board for review and appropriate response.
- B. 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. The board shall produce quarterly and annual reports and statistical analysis to be forwarded to the police director, the mayor, the city council, the Shelby County sheriff, the county mayor, and the county commission. These reports shall include a statistical and narrative analysis of all cases heard by the board.
- D. Upon request of the police director, the mayor, the council, county sheriff, county mayor, or county commission, special reports shall be produced regarding any facet of the citizens' law enforcement review board operations.

(Code 1985, § 28-161; Ord. No. 4285, § 1, 10-25-1994)