

ORDINANCE NUMBER O- 20961 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 20 2018

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 6 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 11, SECTIONS 26.1101, 26.1102, 26.1103, 26.1104, 26.1105 AND 26.1106, RELATING TO THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES.

WHEREAS, San Diego Charter section 43(d) gives the Mayor and City Council exclusive authority to establish a Community Review Board on Police Practices to review and evaluate citizens' complaints against members of the San Diego Police Department and the San Diego Police Department's administration of discipline arising from such complaints; and

WHEREAS, a Citizens' Review Board on Police Practices has been established and in existence since 1988; and

WHEREAS, through a ballot measure on the November 2016 ballot, voters amended Charter section 43(d) to: (1) extend authority from the Mayor alone to both the Mayor and City Council to establish a Community Review Board on Police Practices and to promulgate rules and regulations necessary for its operation; (2) change the name of the Citizens' Review Board on Police Practices to the Community Review Board on Police Practices, and (3) require that all police officer-involved shootings and in-custody deaths be reviewed by the Community Review Board on Police Practices; and

WHEREAS, the Mayor and City Council now wish to implement the voters' will by amending the Municipal Code to reflect the changes approved by the voters and to promulgate rules and regulations necessary for the Board to carry out its functions consistent with the laws of the State of California concerning citizens' complaints against peace officers; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. Chapter 2, Article 6 of the San Diego Municipal Code is amended by adding Division 11, sections 26.1101, 26.1102, 26.1103, 26.1104, 26.1105 and 26.1106, to read as follows:

§26.1101 Purpose and Intent

San Diego Charter section 43(d) gives the Mayor and City Council exclusive authority to establish a Community Review Board On Police Practices to review and evaluate citizens' complaints against members of the Police Department and the Police Department's administration of discipline arising from the complaints.

It is the purpose and intent of the Mayor and City Council to establish the Community Review Board on Police Practices, as set forth in section 43(d) as amended, and to create such rules and regulations as are necessary for the Board to carry out its functions consistent with the laws of the State of California concerning citizens' complaints against peace officers.

These rules and regulations shall be known as the Standard Operating Procedures, which must be promulgated by the Mayor and approved by City Council with a resolution.

§26.1102 Community Review Board on Police Practices

The Community Review Board on Police Practices which shall consist of twenty-three members who shall serve without compensation.

§26.1103 Appointment

Members shall be appointed by the Mayor and confirmed by the City Council.

§26.1104 Terms

- (a) Members shall serve two-year terms, and may serve up to four consecutive terms.
- (b) Members shall be limited to serving eight consecutive years in office, and an interval of two years must pass before a member is eligible to be reappointed.
- (c) Members shall serve until a successor is appointed and confirmed.
- (d) Members shall be appointed to staggered terms so that the terms of not more than twelve members shall expire in any year.
- (e) Members seated as of the effective date of this ordinance shall be entitled to complete their existing terms in office.

§26.1105 Resignation and Removal of Board Members

- (a) A member may resign prior to the expiration of their term with written notification to the Chair of the Board and the Mayor. Upon receipt of such notification, the position shall be considered vacant and eligible for the Mayor to appoint and the City Council to confirm a new member to fill the remainder of the term.
- (b) If a member is convicted of a felony or a crime of moral turpitude, the member will automatically be suspended from participating in any capacity on the Board, pending a vote by the City Council upon recommendation of the Mayor to formally remove the member from the Board or to reinstate the member. The hearing by the City Council shall occur within 30 days of the suspension.

- (c) The Board may recommend to the Mayor that a member be removed for reasons including, but not limited to:
1. misuse of position as a Board member;
 2. misuse of police-issued documents;
 3. misconduct that impedes the member's ability to serve as an effective and impartial Board member;
 4. unexcused absences from at least two consecutive meetings or by failure to conduct case review as assigned by the Executive Director;
 5. violation of the Code of Ethics of the National Association for Civilian Oversight of Law Enforcement (NACOLE); or
 6. a conflict of interest.

Upon recommendation of the Mayor to remove a member, a hearing by the City Council shall occur within 60 days of receipt of the recommendation.

§26.1106 Duties and Functions

The Board:

- (a) shall review all deaths occurring while a person is in the custody of the San Diego Police Department and all officer-related shootings;
- (b) shall review and evaluate citizens' complaints against members of the Police Department and the Police Department's administration of discipline arising from such complaints;
- (c) shall submit semiannual reports to the Mayor and City Council concerning the Board's evaluation of the Police Department's investigation of

- citizens' complaints; provided, however, that such reports shall not disclose any information required to be kept confidential by law;
- (d) may adopt bylaws consistent with the law for the governance of its business and procedures, provided they do not conflict with this Division or the Standard Operating Procedures;
 - (e) shall conduct all operations of the Board pursuant to bylaws approved by the Board and the Standard Operating Procedures;
 - (f) may maintain a training program for individuals interested in being candidates for appointment to the Community Review Board on Police Practices; and
 - (g) may refer, when it deems appropriate, a completed citizen complaint investigation to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency.

Section 2. A full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By *William Gersten for*
William Gersten
Deputy City Attorney

WG:jvg
04/19/18
06/18/18 Cor. Copy
Or.Dept: Mayor
Doc. No.: 1709545_6

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUL 10 2018.

ELIZABETH S. MALAND
City Clerk

By *[Signature]*
Deputy City Clerk

Approved: 7/20/18
(date)

[Signature]
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

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Division 11: Community Review Board on Police Practices

§26.1101 Purpose and Intent

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- (b) If a member is convicted of a felony or a crime of moral turpitude, the member will automatically be suspended from participating in any capacity on the Board, pending a vote by the City Council upon recommendation of the Mayor to formally remove the member from the Board or to reinstate the member. The hearing by the City Council shall occur within 30 days of the suspension.
- (c) The Board, may recommend to the Mayor that a member be removed for reasons including, but not limited to:
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 - (2) misuse of police-issued documents;
 - (3) misconduct that impedes the member's ability to serve as an effective and impartial Board member;
 - (4) unexcused absences from at least two consecutive meetings or by failure to conduct case review as assigned by the Executive Director;
 - (5) violation of the Code of Ethics of the National Association for Civilian Oversight of Law Enforcement (NACOLE); or
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- (f) may maintain a training program for individuals interested in being candidates for appointment to the Community Review Board on Police Practices; and
- (g) may refer, when it deems appropriate, a completed citizen complaint investigation to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency.

WG:jvg
April 19, 2018
Or.Dept:City Treasurer
Doc. No.: 1724373_5

Passed by the Council of The City of San Diego on JUL 10 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 20 2018

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUN 18 2018

JUL 20 2018

, and on _____

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

20961

Ordinance Number O-_____