



## Legislation Details (With Text)

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**Title:** Ordinance amending and supplementing the Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board, by making various changes to clarify the process.

**Sponsors:** Douglas Shields

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Date	Ver.	Action By	Action	Result
9/1/2010	1	Standing Committee	TABLED	Pass
7/28/2010	1	Standing Committee		
7/21/2010	1	Standing Committee	Held in Committee	Pass
7/19/2010	1	Committee on Hearings	Public Hearing Held	
7/14/2010	1	Standing Committee		
7/6/2010	1	City Council	Read and referred	

Ordinance amending and supplementing the Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board, by making various changes to clarify the process.

**The Council of the City of Pittsburgh hereby enacts as follows:**

**Section 1.** The Pittsburgh City Code, Title Six: Conduct, Article VI: Citizen Police Review Board by is hereby amended and supplemented, as follows:

### ARTICLE VI: CITIZEN POLICE REVIEW BOARD

#### CHAPTER 661: FINDING AND POLICY

[§ 661.01 Definitions](#)

[§ 661.02 Legislative findings](#)

§ 661.03 Declaration of policy

**§ 661.01 DEFINITIONS.**

(a) **MISCONDUCT.** As used in this Article is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a natural person by reason of:

- (1) A violation of any general, standing or special orders or guidelines of the Police Bureau or the Department of Public Safety; or
- (2) A violation of any federal law, state law or the Pittsburgh Code;
- (3) Any act otherwise evidencing improper or unbecoming conduct by a police officer employed by the City of Pittsburgh.

(b) **BOARD.** As used in this Article is defined to mean the Citizen Police Review Board established pursuant to sections 228230 of the City of Pittsburgh Home Rule Charter.

**(c) DAY(s).** As used in this Article means calendar day(s).

~~(e)~~ **(d) DIVERSITY.** As used in this Article is defined to mean the rich mixture of people who inhabit the City of Pittsburgh in terms of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, age, handicap, disability, and economic status.

(Ord. 29-1997, eff. 8-15-97)

~~(d)~~ **(e) LAW ENFORCEMENT PROFESSIONAL.** As used in this Article shall include, but not be limited to, police officers employed by any local, state or federal governmental entity, including municipal authorities, sheriffs or sheriffs deputies, agents of the Federal Bureau of Investigation, Central Intelligence Agency, U.S. Marshals, employees of the U.S. Attorney's office, employees of a state attorney general's office, employees of a county District Attorney's office, corrections officers, detention officers, jailguards or other prison employees.

~~(e)~~ **(f) LAW ENFORCEMENT OFFICER.** As used in this Article shall include, but not be limited to, police officers employed by any local, state, or federal governmental entity, including municipal authorities, sheriffs or sheriffs deputies, agents of the Federal Bureau of Investigation, Central Intelligence Agency, U.S. Marshals, employees of the U.S. Attorney's office, employees of a state attorney general's office, and employees of a county District Attorney's office. For purposes of this Article, however, **LAW ENFORCEMENT OFFICER** shall not be construed to include corrections officers, detention officers, jailguards or other prison employees.

~~(f)~~ **(g) BAD FAITH.** As used in this Article refers to when an individual acts fraudulently, dishonestly, or in a corrupt manner in initiating and/or pursuing a complaint of misconduct.

~~(g)~~ **(h) OMI.** As used in this Article refers to the Office of Municipal Investigations or its successor administrative unit, which is the unit of the executive branch directed to investigate police misconduct.

**(i) Vacancy: As used in this Article refers to the status of an appointed member's seat and is deemed upon written resignation, death, disqualification of residency, criminal conviction of a felony or misdemeanor, conviction of any domestic violence crime, medically declared incapacity, unexcused absence of 3 consecutive meetings or an absence of 5 meetings in a calendar year except those absences due to illness, or removal with consent of Council. A term expiration does not constitute a vacancy.**

## **§ 661.02 LEGISLATIVE FINDINGS.**

(a) The residents of the City of Pittsburgh expressed their desire to change the system for the investigation and disposition of complaints alleging police misconduct by voting to create an Independent Citizen Police Review Board during a referendum election conducted on May 20, 1997.

(b) The amendments to Article two (2) of the City of Pittsburgh Home Rule Charter approved by the residents of the City of Pittsburgh, vest an Independent Citizen Review Board with certain powers and provide for Council to adopt legislation to implement the Citizen Review Board.

## **§ 661.03 DECLARATION OF POLICY.**

(a) It is hereby declared to be the policy of the City that it is paramount to the maintenance of public safety and public confidence in law enforcement that allegations of police misconduct be thoroughly investigated and evaluated by an independent board which shall reflect to the greatest extent possible the City's diversity.

(b) It is equally important that falsely accused police officers be evaluated by a credible, independent investigative board as it is that those properly accused be investigated by a credible, independent, investigative board.

(c) The Citizen Police Review Board shall strive to prevent future incidents of police misconduct and abuses of civil rights, and strive to promote public confidence in law enforcement through its capacity to investigate, hold public hearings regarding and evaluate allegations of police misconduct and its capacity to hold hearings regarding and make recommendations concerning patterns of police misconduct if such are found.

(d) It is not the intention of this legislation to undermine the disciplinary authority of the Chief of Police in the exercise of his or her duties or to alter the executive authority of the Mayor, but to mandate independent, equitable procedures for both citizens and police personnel for investigating citizens' complaints of police misconduct.

(e) This legislation is not intended to violate the right against self-incrimination of any individual, in particular police, nor is this legislation intended to violate any other rights of individuals protected under the Constitutions and laws of the Commonwealth of Pennsylvania and the United States of America. This legislation shall be interpreted consistent with this principle.

(f) This legislation is not intended to eliminate the executive authority and obligation of the City to thoroughly investigate all citizen complaints of police misconduct.

## **CHAPTER 662: CITIZEN POLICE REVIEW BOARD**

[§ 662.01 Establishment of Board. <http://library4.municode.com/default-test/DocView/13525/1/47/51>](http://library4.municode.com/default-test/DocView/13525/1/47/51)

[§ 662.02 \[Reserved.\] <http://library4.municode.com/default-test/DocView/13525/1/47/51>](http://library4.municode.com/default-test/DocView/13525/1/47/51)

[§ 662.03 Budget and staff. <http://library4.municode.com/default-test/DocView/13525/1/47/51>](http://library4.municode.com/default-test/DocView/13525/1/47/51)

[§ 662.04 Board members. <http://library4.municode.com/default-test/DocView/13525/1/47/51>](http://library4.municode.com/default-test/DocView/13525/1/47/51)

[§ 662.05 Powers, duties and limitations of Board. <http://library4.municode.com/default-test/DocView/13525/1/47/51>](http://library4.municode.com/default-test/DocView/13525/1/47/51)

[§ 662.06 Hearings. <http://library4.municode.com/default-test/DocView/13525/1/47/51>](http://library4.municode.com/default-test/DocView/13525/1/47/51)

[§ 662.07 Finding of necessity. <http://library4.municode.com/default-test/DocView/13525/1/47/51>](http://library4.municode.com/default-test/DocView/13525/1/47/51)

[§ 662.08 Form of advice and recommendations. <http://library4.municode.com/default-test/DocView/13525/1/47/51>](http://library4.municode.com/default-test/DocView/13525/1/47/51)

§ 662.09 Response to Board recommendations. <<http://library4.municode.com/default-test/DocView/13525/1/47/51>>

§ 662.10 Annual report. <<http://library4.municode.com/default-test/DocView/13525/1/47/51>>

§ 662.11 Review. <<http://library4.municode.com/default-test/DocView/13525/1/47/51>>

§ 662.12 Severability. <<http://library4.municode.com/default-test/DocView/13525/1/47/51>>

§ 662.13 Effective date. <<http://library4.municode.com/default-test/DocView/13525/1/47/51>>

## § 662.01 ESTABLISHMENT OF BOARD.

The Independent Citizen Police Review Board (**ICPRB**) is hereby established pursuant to Article Two, Section 228 of the Pittsburgh Home Rule Charter.

## § 662.02 [RESERVED.]

## § 662.03 BUDGET AND STAFF.

The Board's expenses, arising from the obligations imposed hereunder, including the training required by § 662.04(f) and the maintenance of an office which must **not** be located in the same building as any Police Bureau offices, shall be evaluated during the budget process provided by the Charter and this Code of Ordinances. The Board shall supervise a staff and solicitor as necessary to carry out its duties. The hiring salary levels and supervision of Board staff shall be subject to Civil Service Rules and Regulations.

## § 662.04 BOARD MEMBERS.

- (a) The Board shall consist of seven (7) members reflecting Pittsburgh's diversity, who shall be appointed by the Mayor. Four (4) of the *original* members shall be appointed to four (4) year terms and three (3) shall be appointed to two (2) year terms, and *all shall serve until the appointment of their successors*. Persons appointed to fill vacancies shall serve for the balance of the terms for which their predecessors were appointed. All other appointments shall be for terms of four (4) years.[inserted at (b)]

All appointees shall be residents of the City of Pittsburgh, shall not be employed by the City or any of its authorities **[INSERTED AT (d)]**, shall not hold any other public office and shall serve without compensation. Board members may, however, be reimbursed for expenses incurred in the direct implementation of the Board's responsibilities. No resident who has been convicted of a felony or a misdemeanor, excluding summary offenses, shall serve as a Board member. Persons appointed to the Board shall be fair minded and committed to the efficient and effective operation of the Board. **[INSERTED AT (e) (f) (g)]**

- (c) The Mayor shall make appointments in the following manner:

(1) Four (4) appointments, of which two (2) shall be for initial four (4) year terms and two (2) for initial two (2) year terms, shall be made from a list of nine (9) nominations submitted to the Mayor by the City Council. Council will forward such nominations to the Mayor by resolution and shall do so no later than thirty (30) days prior to the effective date of this Chapter.

(2) In appointing Board members to fill vacancies, if the vacancy has been created by the departure, for whatever reason, of one (1) of the four (4) Board members appointed from City Council's nominations, the Mayor shall fill such vacancy by appointing the Board member from a new list of three (3) nominations submitted by Council. Nominations must be forwarded to the Mayor no later than thirty (30) days notification to Council by the Board that a vacancy exists. If the Mayor fails to appoint Board members within sixty (60)

days of being forwarded nominations, Council shall appoint Board members for any existing Council nominated vacancies. ~~[INSERTED AT (h), et seq.)~~

***(b) Persons appointed to fill vacancies shall serve for the balance of the terms for which their predecessors were appointed. All other appointments shall be for terms of four (4) years.***

**(c) Seats and term cycles shall be designated as follows:**

**(1) Seat 1: City Council nominee, expiry in odd year**

**(a) Nominee selected by City Council Members representing Districts 5-8-9**

**(2) Seat 2: City Council nominee, Law Enforcement Professional, expiry in even year**

**(a) Nominee selected by all City Council Members**

**(3) Seat 3: City Council nominee, expiry in odd year**

**(a) Nominee selected by City Council Members representing Districts 1-6-7**

**(4) Seat 4: City Council nominee, expiry in even year**

**(a) Nominee selected by City Council Members representing Districts 2-3-4**

**(5) Seat 5: Mayoral nominee, expiry in odd year**

**(6) Seat 6: Mayoral nominee, expiry in even year**

**(7) Seat 7: Mayoral nominee, Law Enforcement Professional, expiry in odd year**

**(d) All appointees shall be residents of the City of Pittsburgh.**

**(1) In the event an appointee is confirmed to be a member of the Board they shall maintain their city residency in order to maintain the ability to serve as a member of the ICPRB board.**

**(2) In the event that a member of the board should no longer be a city resident, that member shall immediately convey written notice of their non-residency status and their ensuing inability to serve to the Chair and Vice Chair of the Independent Citizen Police Review (ICPRB). Such notice shall be deemed a resignation from the Board. If the Member sends notice in advance of their actual non-residency status they may serve until the date the actual non-residency status takes effect.**

**(3) In the event that the member fails to disclose a change in residency which would disqualify the member from serving as a member of the Independent Citizen Police Review Board and that disqualification is alleged by anyone, discovered or otherwise comes to the attention of the executive director or Chair of the ICPRB, the residency shall be verified by the executive director and conveyed to the Chair of the ICPRB. If the subject residency is found to disqualify the member, the seat will be deemed vacant.**

**(4) Upon receipt of said notice, the Chair shall take appropriate action to notice all other**

**ICPRB members, the Mayor, City Council, the City Clerk, and the City Solicitor that a vacancy exists on the Board.**

**(e) All appointees:**

1. *shall not be employed by the City or any of its authorities*
2. *shall not hold any other public office and*
3. *shall serve without compensation.*

*a. Board members may, however, be reimbursed for expenses incurred in the direct implementation of the Board's responsibilities.*

**(f) No resident person** who has been convicted of a felony or a misdemeanor **or any crime of domestic violence**, excluding summary offenses, shall serve as a Board member.

**(g)** Persons appointed to the Board shall be fair minded and committed to the efficient and effective operation of the Board.

**(h)** The Mayor shall make appointments in the following manner:

- (1) Four (4) appointments, of which two (2) shall be for initial four (4) year terms and two (2) for initial two (2) year terms, shall be made from a list of nine (9) nominations submitted to the Mayor by the City Council. Council will forward such nominations to the Mayor by resolution and shall do so no later than thirty (30) days prior to the effective date of this Chapter.

**(i) After the initial construction of the Board, successive members shall be selected in the following manner.**

**(a) One hundred and eighty (180) days prior to any member's term expiration the ICPRB Chair shall cause the public to be notified of the pending expiration of the term of the member (s).**

1. **Public notice shall identify the Seat occupied as defined at §662.04(c), the name of the member whose term is to expire, the date they were appointed and the date their term expires, identify if the member is a mayoral appointment, a City Council appointment, and/or if the member has had experience in law enforcement.**

**(b) One hundred and fifty (150) days prior to any member's term expiration the ICPRB Chair shall send notice of the pending expiration of the term of the member(s) to all members of the ICPRB, the Board's executive director, the Mayor, City Council, the City Clerk, and the City Solicitor.**

1. **The notice shall identify the Seat occupied as defined at §662.04(c), name of the member whose term is to expire, the date they were appointed and the date their term expires, declare if the member is a designated**

mayoral appointment, a designated City Council appointment, and/or if the member has had experience in law enforcement.

- (c) Upon receipt of the notice from the Chair of the ICPRB of the impending expiration of a term or terms in Seats 1, 3 or 4, as defined at §662.04(c), the three (3) members of City Council representing the Districts associated to the subject Seat(s) shall convene and select two (2) nominees as successor(s) to the Seat(s). The nominees shall be approved by City Council and submitted to the Mayor in accordance with this chapter.
- (d) Upon receipt of the notice from the ICPRB of the impending term expiration of Seat 2, Law Enforcement Professional, as defined at §662.04(c), City Council shall select two (2) nominees for a successor to Seat 2, LEP. The nominees shall be approved by City Council and submitted to the Mayor in accordance with this chapter.
- (e) Ninety (90) days prior to the term expiration of a City Council appointment, City Council shall provide notice to the mayor of the impending term expiration date, the identified incumbent(s), the occupied Seat as defined at §662.04(c), the date of original appointment(s), whether the incumbent(s) served as a Law Enforcement Professional (LEP) and shall provide the name(s) of the nominated successor(s), LEP status and validation of qualification to serve as a Board member.
- (f) Sixty (60) days prior to the term expiration of a mayoral appointment in Seat 5, 6, or 7, the Mayor shall provide notice to City Council of the impending term expiration date, the identified incumbent, the occupied Seat as defined at §662.04(c), the date of original appointment, whether the incumbent served as a Law Enforcement Professional (LEP) and shall provide the nominated successor's name, LEP status and validation of qualification to serve as a Board member.
- (g) Sixty (60) days prior to the term expiration of a City Council nominated appointee in Seats 1, 2, 3 or 4, the Mayor shall provide notice to City Council of the impending term expiration date, the identified incumbent, the occupied Seat as defined at §662.04(c), the date of original appointment, whether the incumbent served as a Law Enforcement Professional (LEP) and shall provide the nominated successor's name, term period, LEP status and validation of qualification to serve as a Board member.
- (h) City Council shall initiate the confirmation process for the nominated successor appointee (s) upon receipt of the Mayor's notice of nomination(s) of successor appointee(s) for mayoral and City Council seats.
  - 1. City Council shall provide notice by resolution to the Mayor of the approval or disapproval of the appointment(s) no later than fifteen (15) days prior to the expiration of the subject term.
- (i) The Mayor shall execute the appointment of approved nominees no later than five (5) days prior to the expiration of the subject term.

- (j) The appointee(s) shall be sworn into the office and serve until their appointed term expires, they are reappointed, the appointee becomes disqualified or no more than 30 days after their term expires and a successor is appointed or the appointing authority fails to act.

**(2) Failure to Act**

- a) If the nominating authority fails to act as specified in this chapter and a member has served 30 days beyond the expiration of the current term, the incumbent is deemed reappointed and shall serve the successive term.

(2) In appointing Board members to fill vacancies if the vacancy has been created by the departure, for whatever reason, of one (1) of the four (4) Board members appointed from City Council's nominations, the Mayor shall fill such vacancy by appointing the Board member from a new list of three (3) nominations submitted by Council. Nominations must be forwarded to the Mayor no later than thirty (30) days notification to Council by the Board that a vacancy exists. If the Mayor fails to appoint Board members within sixty (60) days of being forwarded nominations, Council shall appoint Board members for any existing Council nominated vacancies.

**(3) Vacancy**

- a) When a vacancy occurs the Chair of the ICPRB shall provide written notice of the vacancy to all members of the ICPRB, the Board's executive director, the Mayor, City Council, the City Clerk, and the City Solicitor.

(i) The notice shall contain

- a. the name of the member whose seat has been vacated
- b. the Seat as defined at §662.04(c) held by the member
- c. the date the member was appointed and the date the term expires,
- d. the reason for the vacancy
- e. if the member has had experience in law enforcement
- f. if the member was appointed as a designated Law Enforcement Professional (LEP).

- b) Within 30 days of notice from the Chair of the ICPRB that a vacancy exists in Seats 1, 2, 3 or 4, as defined at §662.04(c), the members of City Council representing the Districts associated with the subject seat shall nominate a successor for Council approval and City Council shall provide written notice to the mayor that shall include:



- i. the name of the member whose seat has been vacated,
  - ii. the date the member was appointed and the date the term expires,
  - iii. the Seat as defined at §662.04(c) held by the member
  - iv. the reason for the vacancy
  - v. the name of the successor nominee
  - vi. the duration of the term to which the successor is nominated
  - vii. if the member has had experience in law enforcement
  - viii. if the member was appointed as a designated Law Enforcement Professional (LEP).
- c) Within 30 days of receipt of notice that a successor has been nominated by City Council to complete a term that has been vacated the Mayor shall execute the appointment.
- d) If the Mayor fails to act within 30 days of notice that a successor has been nominated by City Council, that successor shall be deemed as appointed to complete the designated term.
- e) Within 30 days of notice from the Chair of the ICPRB that a vacancy exists in a term appointed by the Mayor, the Mayor shall provide written notice to City Council that shall include:
- i. the name of the member whose seat has been vacated
  - ii. the date the member was appointed and the date the term expires
  - iii. the Seat as defined at §662.04(c) held by the member
  - iv. the reason for the vacancy
  - v. the name of the successor appointee

- vi. the duration of the term to which the successor is nominated
- vii. if the nominee has had experience in law enforcement
- viii. if the nominee is nominated as a designated Law Enforcement Professional (LEP).

f) Within 30 days of receipt of notice that a successor has been designated by the Mayor to complete a term that has been vacated City Council shall complete the confirmation process and notify the Mayor of the approval or disapproval of the appointment.

g) If City Council fails to act within 30 days of notice that a successor has been designated by the Mayor, that successor shall be deemed appointed to complete the designated term.

~~(d)~~ **(k) Composition** In making such nominations and appointments to the Board, the Mayor and Council shall use their best efforts to create and maintain a Board reflecting the diversity in the population of the City.

A. **Law Enforcement Professional** ~~The Board shall be comprised of no more than two (2) persons who are experienced as law enforcement professionals. The ICPRB shall include two (2) and no more than two (2) members who are qualified Law Enforcement Professionals as defined in this Article. A Law Enforcement Professional shall be nominated and appointed by the respective authority to Seat Two (2) and Seat Five (5).~~ However, no Board member shall be a sworn, currently employed, law enforcement officer **professional**. ~~When a vacancy seated by a law enforcement professional occurs, Council and the Mayor shall select a replacement member with a law enforcement background.~~

~~(e)~~ **(l)** Within three (3) months of its first meeting, the Board shall elect a chair and vice-chair. New elections for officers shall be held every two (2) years after the election of the Board's initial officers, and at such other times as the Board may determine in its rules. Before receiving any complaint alleging police misconduct, the Board shall adopt rules governing its activities, including the conduct of its meetings, proceedings, other operations and the manner by which members of the general public are to submit complaints and the manner by which members of the general public and the Police Bureau and OMI may be informed of the current and final status of complaints. Before adopting these rules, the Board shall publish draft rules and shall hold at least one (1) public hearing to receive comments from the public on the draft rules. The Board shall make the adopted rules available at no expense to any individual requesting them and shall promptly inform all complainants, witnesses and other interested individuals of their existence.

~~(f)~~ **(m)** All Board members shall be required to receive training sufficient to become familiar with Police policies, procedures and training which shall include but not be limited to the Police Citizen's Academy. Board members shall also receive training in citizen rights with regard to the police, including civil, constitutional and human rights, as well as information regarding the history and operation of other Citizen Police Review Boards. Such training shall be provided in a timely fashion by qualified experts in each area.

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#### § 662.05 POWERS, DUTIES AND LIMITATIONS OF BOARD.

(a) The Board shall provide advice and recommendations to the Mayor and the Chief of Police on policies and actions of the Police

Bureau with the purpose of improving the ability of police personnel to carry out their duties, and to improve the relationship between the Police Bureau and the community.

(b) The Board shall receive all complaints alleging police misconduct and shall have full discretion to select appropriate individual incidents to investigate and broader issues to study regarding community and police relations. Non-uniformed OMI personnel, who are not police officers, may observe and participate during the initial filing of a citizen complaint with the Board. However, OMI's role during the complaint intake by the Board shall be secondary to that of the Board. Subject to applicable law, OMI shall allow the Board access to all evidence obtained during the course of its investigations of incident(s) which are the subject of citizen complaint(s) filed with the Board. The Board and its staff shall keep all such evidence confidential. Subject to applicable law, the Board will allow OMI access to all evidence obtained during the course of its preliminary inquiries, investigations and hearings, subject to an agreement that such evidence will be kept confidential. The Board shall, to the extent possible, minimize any duplication of effort between the Board and any other existing agencies, City offices or City departments which have jurisdiction over the same matter. However, the Board may carry on investigatory and other proceedings on a matter being examined at the same time by OMI.

(c) The Board shall meet regularly to receive, review, evaluate and make recommendations concerning individual citizen allegations of police misconduct.

(d) No Board finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the sole basis for any such finding or recommendation.

(e) The Board shall establish a mediation program pursuant to which a complainant and officer(s) may voluntarily choose to resolve a complaint by means of informal conciliation.

(f) The Board shall respond in writing to all complaints filed by individuals alleging police misconduct within ten (10) working days of receiving any such complaint. Such response shall indicate whether, in the exercise of its discretion, the Board will conduct a preliminary inquiry into the allegations made, not take any action, or request additional information to enable it to make a decision on its options.

(g) If the District Attorney, Attorney General or U.S. Attorney has initiated criminal proceedings against any police officer or officers who are the subject(s) of a citizen complaint filed with the Board, the Board shall defer its preliminary inquiry and investigation until said criminal proceedings have been withdrawn or concluded.

(h) (1) Upon the filing of a complaint, signed under penalty of perjury, by any individual, the Board may choose to conduct a preliminary inquiry into the allegations contained in the complaint. During the preliminary inquiry, the Board shall keep all information, records and proceedings confidential. No statements or records disclosed during the preliminary inquiry may be disclosed or introduced into evidence during any judicial proceeding. The complaints selected for preliminary inquiry shall only be those where the Board reasonably believes the ultimate result will improve the relationship between the police department and the community.

(2) The Board shall complete its preliminary inquiry within ten (10) working days of its initiation.

(3) If the preliminary inquiry fails to establish reason to believe that any misconduct occurred, the Board will terminate its inquiry and so notify the complainant and the officer(s) who were the subject of the complaint and the Chief of Police.

(4) If the Board determines that the preliminary inquiry has established evidence of misconduct, it shall attempt to resolve the complaint through mediation, if the complainant and officer(s) voluntarily choose(s) said resolution.

(i) Mediators shall conduct mediation sessions with officers and complainants at times and places agreed upon by the parties. Where these mediation sessions result in resolution of the dispute, the mediator shall inform the Board and Chief of Police in writing within fifteen (15) working days.

(ii) In conducting the mediation, the mediator may suggest avenues toward resolution but may not impose an outcome on the parties;

(iii) Mediation sessions shall be closed to the public. Matters discussed shall be confidential unless both parties agree otherwise as part of a written mediation settlement;

(iv) Statements and records disclosed during mediation may not be disclosed or introduced into evidence during any judicial proceeding.

(i) (1) If the Board determines that the preliminary inquiry has established evidence of misconduct and either the complainant or the officer is not agreeable to participating in mediation or if no resolution can be reached through reasonable mediation efforts, it shall

conduct an investigation into the complaint in preparation for a public hearing. The Board shall keep all information, records and proceedings relating to the investigation confidential.

(2) The Board shall complete its investigation within thirty (30) working days of its initiation. However, upon good cause, the Board may extend its investigation for an additional thirty (30) working days upon written notice to the parties.

(3) If the Board determines upon completion of its investigation that it disagrees with the results of the preliminary inquiry and that it does not believe that any misconduct occurred, the Board will terminate its investigation and so notify the complainant and the officer(s) who were the subject of the complaint and the Chief of Police.

(4) If the Board determines upon completion of its preliminary inquiry that misconduct has occurred, it shall schedule a public hearing on the complaint providing the parties and the Chief of Police with ten (10) working days written notice.

(j) The Board needs and expects the cooperation of police officers in order to fulfill its responsibilities mandated by the Charter. Therefore, the Board shall not forward any statements or testimony provided by Pittsburgh Police Officers, either under oath or otherwise, to any law enforcement agency, without the express written consent of the officer providing the statement. However, if any person subpoenaed by the Board refuses to testify without legal basis, the Board may apply to the Allegheny County Court of Common Pleas for an Order enforcing the subpoena.

(k) The Board shall have the responsibility of informing the public about the Board and its duties, and shall develop and administer an ongoing program for the education of the public regarding the provisions of this Chapter.

(l) The Board shall direct and supervise the operations of the staff with regard to receiving, investigating, and disposing of all citizens' complaints against a police officer, in accordance with the procedures set forth herein and the best available investigatory practices, and complainants shall be notified in writing of the action taken, if any, by the Chief of Police.

(m) In order to accomplish its goals as set forth above, and consistent with the limitations of § 661.03 above, the Board shall have full power to request the Police Bureau to produce appropriate personnel or subpoena such personnel for interviews, which the Police Bureau shall cooperate with and make a good faith effort to accommodate, and to request or subpoena relevant documents which it agrees to keep confidential, including, but not limited to the following, for review:

(1) OMI files, department management files, ethics and accountability files, and the files of any other internal investigative agency charged with investigating police misconduct incidents;

(2) Police paperwork produced by the Police Bureau for the purpose of investigating suspects or to aid in their prosecution;

(3) Personnel files of officers including annual performance evaluations, records documenting training or records documenting mandatory counseling;

(4) Police Directives;

(5) All general summaries, statistical compilations and other internal reports on shootings, injuries, complaints of abuse, training and any other issues related to the work of the Board;

(6) Relevant information and data contained in the automated early warning system specified in the Consent Decree between the City and the U.S. Department of Justice;

(7) Written reports required to be filed by police officers pursuant to the Consent Decree between the City and the U.S. Department of Justice concerning use of force, warrantless searches, body cavity searches or strip searches and warrantless seizures of property (excluding towing of vehicles) and traffic stops;

(8) Written reports, records and data maintained by the independent auditor appointed pursuant to the Consent Decree between the City and the U.S. Department of Justice;

(9) Status reports filed by the City with the independent auditor and the U.S. District Court for the Western District of Pennsylvania pursuant to the Consent Decree between the City and the U.S. Department of Justice;

(n) If the Board finds that the complaint was brought in bad faith and if the Board finds that the subject officer(s) did not engage in misconduct, as defined in this Article, the Board shall assess the complainant attorney fees and costs expended on behalf of the subject officer(s).

- (o) The Board, upon motion receiving an affirmative vote of at least four (4) members, may:
  - (1) Initiate investigations of incidents of Police Misconduct for which no complaint has been filed;
  - (2) Initiate studies, investigations, hold public hearings and make recommendations on policy matters, including improvement of the relationship between the police department and the community, police training, hiring and discipline.
- (p) If at any time the Board or its staff determines that a complainant has issued a false accusation against any police personnel as manifested in his/her citizen complaint, the Board shall immediately forward a complete copy of the complaint together with a written directive to the District Attorney of Allegheny County to investigate the complainant for violation of applicable criminal statutes relating to sworn statements.
- (q) The Board shall not receive complaints containing allegations nor initiate investigations on its own motion pertaining to incidents which occurred over six (6) months prior to the date of receipt of such complaint.

#### **§ 662.06 HEARINGS.**

- (a) To aid its fact-gathering function, the Board shall have the power to conduct public hearings.
- (b) The Police Bureau shall cooperate with and make a good faith effort to accommodate the Board's request for police personnel to testify at such hearings regarding any specified matter under review. If such police personnel are the subject of a related criminal investigation, they may elect not to appear until the termination of such proceedings. If such police personnel are the subject of a related investigation by a specially designated Police Bureau Unit, they may elect not to appear until the termination of those proceedings or until the Board determines, by majority vote, that the related proceedings have been subjected to undue delay or are being conducted in an unacceptable manner. Except when excused from testifying pursuant to this section of the Code, all police personnel of the Department shall remain subject to the provisions of §§ 228, 229, and 230 of the Pittsburgh Home Rule Charter. Failure to comply with a validly issued subpoena should be considered by the Bureau as misconduct.
- (c) In order to fulfill the Board's responsibility for the accurate collection of truthful testimony in official proceedings, it shall have the power to record testimony by videotape, audiotape and/or stenographic transcription.
- (d) All testimony given before the Board shall be given under oath.

#### **§ 662.07 FINDING OF NECESSITY.**

Subject to applicable law, it shall be the duty of the Police Bureau to provide such assistance as the Board may reasonably request, to cooperate fully with investigations by the Board, and to provide to the Board upon request records, personnel and other materials which are necessary for the investigation of complaints submitted pursuant to this Chapter. Upon finding by the Board that documents or personnel requested have not been forthcoming or that necessity requires the production of witnesses and/or documents, the Board may issue subpoenas for such witnesses or documents as it may deem appropriate. However, no document or information obtained through formal or informal process or any member of its staff shall be released to the public unless such document is deemed by the Board to be a public record under the Pennsylvania Right to Know Act, 65 P.S. 66.1, *et seq.*

#### **§ 662.08 FORM OF ADVICE AND RECOMMENDATIONS.**

The Board shall have the power to recommend that the Mayor and the Chief of Police take certain actions. The Board may recommend general reforms or specific actions directed at individual officers; provided, however that the Mayor and the Chief of Police shall retain full and ultimate authority to set disciplinary policies or take other lawful actions they deem appropriate relative to the Police Bureau under the provisions of the Pittsburgh Home Rule Charter. Nothing in this section shall be construed to limit the rights of members of the Police Bureau with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise.

**§ 662.09 RESPONSE TO BOARD RECOMMENDATIONS.**

Within thirty (30) working days of submission of a recommendation for action by the Board to the Mayor and the Chief of Police, they shall respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications. If the Board's recommendations are rejected or modified, the Mayor and/or Chief of Police shall include a written explanation for their decision.

**§ 662.10 ANNUAL REPORT.**

The Board shall prepare an annual report for Council, making sufficient numbers of copies available to the public, summarizing the activities and recommendations of the Board, including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period.

**§ 662.11 REVIEW.**

A committee comprised of a representative of the Mayor, the Director of the Human Relations Commission and a representative of Council, appointed by the Council President, shall review the implementation and efficacy of this Chapter. The committee will gather statistics, public reaction and comments regarding the Citizen Police Review Board. After a period of nine (9) months from the effective date of this legislation, the committee will submit the findings to Council at which time Council will determine if this Chapter is effective or needs to be modified

**§ 662.12 SEVERABILITY.**

The provisions of this Chapter shall be deemed severable. If any portion, paragraph, sentence, or phrase of such Chapter shall be held by a Court of competent jurisdiction to be illegal or unenforceable for any reason, all other provisions shall continue to be deemed valid and effective.

**§ 662.13 EFFECTIVE DATE.**

This Chapter shall take effect November 1, 1997. Initial appointments to the Board shall be made within thirty (30) days prior to the effective date, so that they may assume their duties immediately upon the effective date.