

ORDINANCE NO. 13458

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,
PART II, CHAPTER 16, SECTIONS 16-59 – 16-66, TO CREATE
THE POLICE ADVISORY AND REVIEW COMMITTEE.

WHEREAS, the Council of the City of Chattanooga believes that a strong and close relationship between the Chattanooga Police Department and the citizens of the City of Chattanooga is an integral part of a progressive, responsive and responsible city government; and

WHEREAS, essential to such a relationship is the community's respect for and trust in the Chattanooga Police Department; and

WHEREAS, recognizing the need to allow the citizens of the City of Chattanooga to assume a greater role in guiding the Chattanooga Police Department in matters of public concern, including the examination of citizen complaints and complaint review procedures in other cities, the Chattanooga City Council desires to establish this Police Advisory and Review Committee.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE:

SECTION 1: The Chattanooga City Code, Chapter 16, is hereby amended by adding the following as new sections 16-59 through 16-66:

ARTICLE X. POLICE ADVISORY AND REVIEW COMMITTEE

Sec. 16-59. Title and Authority.

(a) There is hereby created the Police Advisory and Review Committee for the City of Chattanooga.

(b) The Police Advisory and Review Committee is established pursuant to Council's authority under Sections 13.44 and 13.49 of the Charter of the City of Chattanooga and Section 16-43 of the Chattanooga City Code. This Committee shall further have all powers of a Community Oversight Board consistent with Tennessee state law.

Sec. 16-60. Purpose.

The purpose of the Police Advisory and Review Committee is to strengthen the relationship between the citizens of the City of Chattanooga and the Chattanooga Police Department, to assure timely, fair and objective review of citizen complaints while protecting the individual rights of police officers, and to make recommendations concerning citizen complaints to the Chief of Police, the Mayor and to the Council.

Sec. 16-61. Members of the Committee.

(a) The Committee shall consist of nine (9) members, who shall meet all requirements set forth under Tennessee law for members of a Community Oversight Board and shall:

1. Have a background indicating fairness, integrity and responsibility including an active interest in public affairs and service for the citizens of Chattanooga for at least ten (10) years;
2. Must be a registered voter as defined by Tenn. Code Ann. § 2-1-104 (a) (24), in Chattanooga, Tennessee; and
3. Be qualified for membership as set forth under Tennessee law for members of a Community Oversight Board.

(b) All Committee members shall be appointed in the discretion of each City Council member within or outside each council district and committee members shall be confirmed by a majority vote of the City Council. Initial appointments to the Committee shall be made for the following terms:

1. Three (3) members of the Committee shall be appointed for one (1) year terms;
2. Three (3) members of the Committee shall be appointed for two (2) year terms; and
3. Three (3) members of the Committee shall be appointed for three (3) year terms.

All subsequent appointments, except to fill vacancies, shall be for three (3) year terms. Vacancies occurring other than through the expiration of terms shall be filled for the remainder of the term of the member being replaced. No member appointed pursuant to this Article may serve more than two (2) consecutive terms. Upon making the initial appointments to the Committee, the Council shall designate one member of the Committee to convene the first regular meeting of the Committee. At its first regular meeting, the Committee shall elect one of its members to serve as Chair. The Chair shall serve a term of one (1) year or until a successor is elected. The members shall elect any other officers as deemed appropriate pursuant to Robert Rules of Order for terms of one (1) year.

(c) Upon the recommendation of the majority of the Committee or upon its own volition at any time, the City Council may remove any member of the Committee for official misconduct or neglect of duty, including but not limited to, neglect of any duty or violation of confidentiality specifically enumerated in subsection (f) below. In addition, members who fail to attend three (3) consecutive regular meetings or exhibit a pattern of failing to attend 75% of all meetings within a twelve (12) month period may be considered to have vacated their positions and may be replaced at the request of the police chief and approval of the Council member, as provided for herein. Members who cease to have the qualifications provided in subsection (a) of this Section shall be deemed to have forfeited their positions.

(d) No member of the Committee shall receive compensation for services performed.

(e) The Police Chief shall provide an opportunity for each member to complete the Citizen's Police Academy course offered by the Chattanooga Police Department or an equivalent course approved by the Police Chief and such other training as may be deemed appropriate by the Chief of Police as soon as possible after appointment.

(f) Members of the Committee shall at all times:

1. Obey all laws regarding an individual's right to privacy and confidentiality of records;
2. Maintain the integrity of Internal Affairs Unit files, personnel files or other files, records or tapes received as a result of the work of the Committee;
3. Excuse themselves from participating in a review of any complaint in which they have a personal, professional or financial conflict of interest;
4. Conduct themselves at all times in a manner that will maintain public confidence in the fairness, impartiality and integrity of the Committee, and refrain from making any inappropriate or prejudicial comments regarding any matter being reviewed by the Committee or which may be reasonably be expected to be reviewed by the Committee; and
5. Comply with all rules and regulations applicable to other employees and volunteer board or committee members of the City of Chattanooga, including the Ethics Ordinance.

Sec. 16-62. Committee Staff.

(a) The Committee shall be served by the Chair after the Chair is elected by the Committee pursuant to Section 16-61.

(b) The Chair shall at all times:

1. Obey all laws regarding an individual's right to privacy and confidentiality of records;
2. Maintain the integrity of Internal Affairs Unit files, personnel files or other files, records or tapes received as a result of the work of the Committee;
3. Excuse himself or herself from participating in the review of any complaint in which he or she has a personal, professional or financial conflict of interest;
4. Conduct himself or herself at all times in a manner that will maintain public confidence in the fairness, impartiality and integrity of the Committee, and refrain from making any inappropriate or prejudicial comments regarding any matter being reviewed by the Committee or which may be reasonably expected to be reviewed by the Committee; and

Sec. 16-63. Powers and Duties of the Chair.

(a) The Chair shall accept written, sworn complaints from members of the public regarding misconduct of police officers and shall forward these complaints to the commander of the Internal Affairs Unit of the Chattanooga Police Department (“IA”) within three (3) working days. Upon receipt of any such complaint, IA shall immediately undertake an investigation of major allegations as defined by the Manual Orders of the Chattanooga Police Department. The Chair may also accept unsworn or anonymous complaints and shall either attempt to resolve such complaints or, if warranted, refer the complaints to IA for investigation if possible.

(b) Upon notification by the commander of IA that an investigation of an allegation of police misconduct is closed, whether such investigation was prompted by a complaint received by the Chair or otherwise, the Chair shall review the IA file or the Referral Action Form and determine whether the investigation is complete.

1. If the Chair finds that the investigation is complete, he or she shall so report to the Committee at its next regularly scheduled meeting, attaching a copy to his or her report a copy of the IA case summary or the Referral Action Form and any documentation of disciplinary action pertaining thereto.
2. If the Chair finds that the investigation is not complete, he or she shall so report to the Committee at its next regularly scheduled meeting and shall include in his or her report an explanation of the specific information needed in his or her opinion for the investigation to be complete.

(c) At each of the regularly scheduled meetings of the Committee, the Chair shall provide a report to the Committee that details the resolution of any unsworn or anonymous complaints that the Chair is able to resolve without any investigation by IA.

(d) The Chair, in his or her discretion, may request legal services and advice from the City Attorney’s Office. Where, in the judgment of the City Attorney, the provisions of the legal services and advice would constitute a conflict of interest with the City Attorney’s duties to the

City of Chattanooga or any department thereof, the City Attorney shall so advise the Chair, who may then request the City Attorney to contract with outside counsel to the Chair for a specific incident based on funding designated annually by the City Council.

(e) The Chair shall ensure the proper recording of the minutes of the Committee, shall be responsible for the maintenance of proper records and files pertaining to Committee business, and shall receive and record all exhibits, petitions, documents, or other materials presented to the Committee in support of or in opposition to any question before the Committee to the extent required by Tennessee law. All files shall be stored as Open Records, onsite or offsite, as a part of the annual budget of the City and the Records Retention Policies of the City to the extent required by Tennessee law. All Committee members shall maintain confidentiality of records as required under the Ethics Code adopted by the City Council and for any document that is determined to be confidential under Tennessee law or Federal law by the City Attorney.

(f) The Chair shall be responsible for complying with all statutes of the State of Tennessee and City of Chattanooga ordinances to the extent required by Tennessee law at the conclusion of process by the Committee. The Chair shall be responsible for providing complainants with information regarding the complaint process.

(g) The Chair shall compile information concerning complaints of police misconduct and any information relevant thereto, whether such complaints are received by IA or by the Chair, and shall include such information in an annual report to the Mayor, the Police Chief and the City Council or any other agency or official as required by Tennessee law of the Committee's activities.

Sec. 16-64. Powers and Duties of the Committee.

(a) The Committee shall review all reports of the Chair submitted in accordance with the provisions of Sec. 16-63(b) above; and

(b) As it deems necessary to conduct its affairs in furtherance of its mandate, the Committee shall have access to all public records of the City of Chattanooga, which are not determined to be confidential under Tennessee law, including those of the Chattanooga Police Department. Such records may include, but are not necessarily limited to, complaints and supporting documents provided by complainants, offense, incident and arrest reports, incident-related documents such as schedules, dispatch notes, dispatch tapes and transcriptions (CAD tapes and reports), citations, photographs, body-worn cameras, ICVAR, and records of interviews with complainants, employees, and witnesses. The Committee shall not have access to any non-public or confidential records of the City of Chattanooga, including employee medical records, or any records that are otherwise exempt from disclosure, including records of open pending criminal investigations which are determined to be confidential under Tennessee law and all committee members shall comply with confidentiality requirements of all records as required by the Ethics Code adopted by the City Council and Tennessee law for any documents that are determined to be confidential by the City Attorney.

(c) The Committee may make recommendations for enhanced training for police department, committee members, and Council member to include training on racial equity, implicit bias, gender identity and mental health challenges. All committee members shall complete necessary training before voting on police discipline recommendations. The Committee may notify complainants when a case they have filed will be heard by the Police Advisory and Review Committee and allow them to provide testimony and answer questions from the Police Advisory and Review Committee. The Committee may recommend policy changes for consideration by the police chief.

(d) Based upon any specific findings and conclusions of the Committee, the Committee shall have the authority to make recommendations to the Police Chief designed to

improve police policies and activities and to benefit the community. The Committee shall meet with the Police Chief annually to discuss recommendations on policy review and potential policy changes. The Police Chief or his or her designee shall attend all requested meetings of the Committee to provide information and advice to the Committee and to accept the recommendations of the Committee, if any.

(e) The Committee shall, at least annually, compile a comprehensive report on its activities. The report shall contain statistics and summaries of citizen complaints, including a comparison of the Committee's findings and conclusions with those of IA, along with the actions taken by the Police Chief. The Committee's annual report shall be submitted to the Chair for inclusion in his or her annual report to the Police Chief, Mayor and City Council, and any other locations required under Tennessee law.

(f) The Committee, in its discretion, may request legal services and advice from the City Attorney's Office. Where, in the judgment of the City Attorney, the provisions of legal services and advice would constitute a conflict of interest with the City Attorney's duties to the City of Chattanooga or any department thereof, the City Attorney shall so advise the Committee. The Committee may then request the City Attorney to provide outside counsel to the Committee on a case by case incident based upon funding designated annually by the City Council. In addition, where the Chair excuses himself or herself from participating in the review of a complaint pursuant to Sec. 16-62(f)(3) above, the Committee may petition the City Council to appoint a temporary assistant to perform the duties of the Chair.

(g) The Committee, will review complaints after Internal Affairs findings have been completed and sent to it by the police chief and by a majority vote of its members, may:

1. Request the Police Chief to conduct a further investigation of the incident specifying additional information needed if the Committee determines that an investigation is not complete; or

2. In the event the Police Chief fails to conduct a further investigation as requested by the Committee, direct the Chair to further investigate the incident.
3. After review, the Committee will, by majority vote, recommend a final disposition and disciplinary action, when warranted within departmental policies, to the Police Chief.
4. Upon receiving the recommendations from the Committee, the Police Chief will consider the recommendations by the Committee and make a final decision on officer discipline in any case.
5. If discipline is imposed, the officer(s) has the option to appeal as provided in the Employee Information Guide adopted by the City.

Sec. 16-65. Procedure.

(a) The Committee shall adopt written rules of procedure for the transaction of Committee business not inconsistent with the letter and intent of this Article.

(b) Five members of the Committee shall constitute a quorum. No meeting of the Committee shall commence or continue in the absence of a quorum, and a majority vote of the members of the Committee (five votes) shall be required for any action by the Committee except where otherwise specified in this Article.

(c) Regular meetings of the Committee shall be held no less than monthly on the first Thursday of each month, or as the Committee may otherwise elect. Any scheduled meeting may be rescheduled at the preceding regular meeting. The Chair and/or any three (3) members of the Committee may call a special meeting of the Committee upon at least seven (7) days' notice subject to availability of a quorum.

(d) Committee meetings and records shall be confidential to the public to the full extent required by Tennessee law as determined by the City Attorney. The Committee shall adopt rules regarding public comment as to any investigation being reviewed by the Committee.

(e) The City Council shall subpoena witnesses, if necessary, pursuant to its Charter and to the extent authorized by Tennessee law, to IA, or to the Police Advisory and Review

Committee and may utilize such power only when necessary to compel witnesses to provide statements in furtherance of an investigation as authorized by Tennessee law.

(f) Each case reviewed by the Police Advisory and Review Committee can have multiple allegations (ex: improper conduct, improper procedure, and public relations). It can also have multiple officers listed in the case. Each officer who is listed could be considered for one allegation listed in the complaint, or multiple allegations. The data should be broken out by the number of allegations listed in complaints (Allegations) and the number of allegations assigned to officers (Total Allegations) as set forth in the example form below. Firearms cases shall be separated from other allegations.

For an example, this type of form can be provided:

| | | | | |
|-----------------------|------------------|--------------------|--------------------------|-----------------------|
| Cases Reviewed | Officers* | Allegations | Total Allegations | Firearms Cases |
| 29 | 54 | 35 | 63 | 3 (6 Officers) |

| | | | | | |
|--|------------------------|-----------------------|---------------------------|-------------------------|------------------------------|
| Allegation Type | Excessive Force | Discrimination | Improper Procedure | Improper Conduct | Poor Public Relations |
| Total | 3 | 0 | 19 | 9 | 4 |
| Total # of Officers Subject to Each | 5 | 0 | 34 | 16 | 8 |

Allegation

| | | | | | | |
|--------------------------------|------------------|----------------------|-------------------|------------------|-----------------------|------------------|
| Recommended Disposition | Sustained | Not Sustained | Exonerated | Unfounded | Policy Failure | No Action |
|--------------------------------|------------------|----------------------|-------------------|------------------|-----------------------|------------------|

Sec. 16-66. Limitations.

- (a) The Committee shall not review any investigation:
1. Concerning any incident occurring prior to the effective date of this Ordinance;
 2. Prior to the closure of any pending IA or criminal investigation;

3. Where the complainant has initiated, threatened or given notice of the intent to initiate civil litigation against the City of Chattanooga or any of its employees.

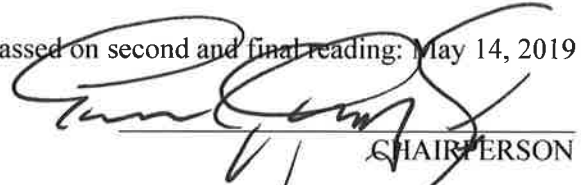
(b) Four (4) possible recommendations by the Committee for consideration by the Chief:

1. Unfounded: Allegation is false or not factual.
2. Exonerated: Incident complained of occurred, but was lawful and proper.
3. Not Sustained: Insufficient evidence either to prove or disprove the allegation.
4. Sustained: The allegation is supported by sufficient evidence.

(c) The Committee shall have no authority to direct the Police Chief to alter or to impose any disciplinary action against any employee of the Chattanooga Police Department. In all cases, the Police Chief will be the final authority on case dispositions and discipline of police officers.

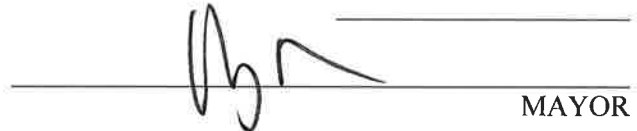
SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect after training has been provided to at least a quorum of all members of the Committee as approved by the Police Chief on or before September 30, 2019.

Passed on second and final reading: May 14, 2019



CHAIRPERSON

APPROVED: DISAPPROVED:



MAYOR

PAN/kap/mem/2019.05.02/v10