

ORDINANCE NO. 9324

AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, REPEALING EXISTING CHAPTER 1, ARTICLE 25, AND ENACTING, IN ITS PLACE, CHAPTER 1, ARTICLE 25 OF THE CODE OF THE CITY OF LAWRENCE, KANSAS, 2018 EDITION, AND AMENDMENTS THERETO, PERTAINING TO THE COMMUNITY POLICE REVIEW BOARD.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

SECTION 1: Chapter 1, Article 25 of the Code of the City of Lawrence, 2018 Edition and amendments thereto, is hereby repealed in its entirety, it being the intent of the Governing Body that Section 2 of this Ordinance supersede it.

SECTION 2: The Code of the City of Lawrence, Kansas, 2018 Edition, and amendments thereto, is hereby amended by adding Chapter 1, Article 25, which reads as follows:

ARTICLE 25: COMMUNITY POLICE REVIEW BOARD

1-2501 **ESTABLISHMENT OF THE COMMUNITY POLICE REVIEW BOARD.**

There is hereby established the Community Police Review Board, hereinafter referred to as the "Board." The Board shall serve at the pleasure of the City Commission and its duties may be suspended by the City Commission for cause at any time.

1-2502 **PURPOSE OF THE BOARD.**

The purpose of the Board is limited first to advising and assisting the City of Lawrence and its police department in policy development, education, community outreach and communications related to racial or other bias-based policing. Second, the Board members may provide an independent, accessible, and efficient means for which the public may submit a complaint of alleged police misconduct in a confidential manner. The Board may also assist in reviewing completed Racial or Other Bias-Based Policing investigations conducted by the police department, when appropriately appealed by a complainant.

1-2503 **DEFINITIONS.**

(a) **Racial or Other Bias-Based Policing** – The unreasonable use of race, color, age, ancestry, sexual orientation, disability, ethnicity, national origin, gender, gender identity, or religion by a law enforcement officer in deciding to initiate a law enforcement action. It is not racial or other bias-based policing when race, color, age, ancestry, sexual orientation, disability, ethnicity, national origin, gender, gender identity, or religion is used in combination with other identifying factors as part of a specific individual description to initiate a law enforcement action.

(b) **Complaint** – An expression of dissatisfaction that contains an allegation that, if proved to be true, would be a violation of department policy.

1-2504 **SPECIFIC DUTIES OF THE BOARD.**

(a) The Board shall:

- (1) Review Lawrence Police Department policies regarding Racial or Other Bias-Based Policing and make recommendations to the Police Chief for the amendment of those policies or the adoption of additional policies on that subject as it deems necessary.
 - (2) Review the police department's annual training on Racial or Other Bias-Based Policing, and if necessary suggest substitute or additional training to prevent Racial or Other Bias-Based Policing.
 - (3) Assist the police department with community outreach opportunities involving Racial or Other Bias-Based Policing prevention.
 - (4) Advise the police department about community concerns related to Racial or Other Bias-Based Policing.
 - (5) Receive annual reports regarding Racial or Other Bias-Based Policing from the police department no later than July 31st of each year. Such report should be presented to the Board prior to its submission to the Kansas Attorney General. At a minimum, the report shall contain the information required by K.S.A. 22-4610(d)(2), as amended.
 - (6) Report to the City Commission from time to time regarding its activities, including an annual report to be presented to the City Commission at the first regularly scheduled Lawrence City Commission meeting following July 31st of each year.
 - (7) Review and render advice on such other matters related to Racial or Other Bias-Based Policing as are assigned to the Board by the Chief of Police, City Manager, or City Commission.
 - (8) Have the authority to receive Complaints of alleged police misconduct from the public. Such Complaints shall be forwarded to the police department for investigation in the manner in which any other such allegation of misconduct is normally investigated. Board members shall receive the Complaint in a confidential manner and shall not make specific inquiries of the Complaint beyond the scope of information necessary to ensure that the Complaint form is properly processed. Board members shall not conduct their own investigation into allegations of misconduct. In any case in which a Board member receives a Complaint authorized under this Article, such member shall, within three (3) business days of receiving the Complaint, forward it to the Police Department's Office of Professional Accountability Sergeant for investigation.
- (b) ~~(4)~~ In any case in which a Complaint related to racial or other bias-based policing is submitted to either the Police Department or the Board, and the complainant is unsatisfied with the Police Department's findings, the complainant may appeal the findings to the Board, in writing, within 14 days of receipt of notification of the department's findings. Unless prohibited by federal, state, or local

laws or state or federal law enforcement regulations, the Board shall, upon written request of the complainant, review the Police Department's investigation to determine if further investigation is needed. Such review shall take place in executive session, in accordance with K.S.A. 75-4319. If offered, the Board shall accept a written statement from the complainant before it recesses into executive session.

~~(2)(c)~~ (1) During its review of an appeal in executive session, the Board shall be provided a copy of the Office of Professional Accountability file, in its entirety, except that such file may be redacted to protect confidential information as determined on a case-by-case basis to protect private information regarding the complainant, witness, or police officer, or to protect the integrity of any on-going criminal investigation, if applicable.

(2) Effort shall be made to provide as much information as possible to the Board in its review of an appeal under this subsection. Only that information that would subject the City to civil or criminal liability, that would otherwise adversely affect an on-going criminal investigation, on-going criminal prosecution, on-going civil action, or that is otherwise prohibited by law or policy, may be redacted. Audio and video recordings shall be provided unless redaction is necessary and cannot be accomplished, in which case the City Attorney, or his or her designee, shall cause a summary of the recording to be made.

(3) Redactions that are permitted under subsection (c)(2) above include, but are not limited to: criminal history record information; criminal investigation records, as identified by K.S.A. 45-221(a)(10); information pertaining to juveniles; information pertaining to victims of domestic violence or any sexual crime; information protected by the Health Insurance Portability and Accountability Act (HIPAA); treatment records, including medical, psychiatric, psychological, alcoholism or drug dependency treatment records; unexecuted search warrants or arrest warrants; expunged criminal records; certain portions of presentence reports; grand jury proceeding records; certain child in need of care records; personally identifiable records of students pursuant to state and federal law; Social Security numbers; phone numbers; email addresses; home addresses; dates of birth; driver's license numbers; records that are privileged under the Rules of Evidence, such as the attorney/client privilege; information pertaining to Homeland Security or national security; information related to arrests with completed diversions.

(4) Redactions shall be made by the Office of Professional Accountability Sergeant, or his or her designee, and shall be approved in advance by the City Attorney or his or her designee. If an item requires redactions but may not be redacted due to the form in which it is kept, then such item shall not be provided to the Board. Such file shall not be copied, photographed, or otherwise duplicated

during the Board's review, and shall be returned to the Office of Professional Accountability Sergeant, or his or her designee, immediately upon the conclusion of the executive session. Upon conclusion of its review, the Board shall deliberate in executive session.

(3d) The Board shall review the Police Department's findings to determine whether they are supported by substantial competent evidence. Substantial competent evidence exists when a reasonable person, when reviewing the evidence, would accept the Police Department's findings as being sufficient to support its underlying conclusion. In its review of the Police Department's factual findings, the Board will review the evidence but will not reweigh it, and it will not make witness credibility determinations. If the Board concludes that the evidence is sufficient to support the Police Department's findings, then such findings shall be based upon substantial competent evidence in the record and the Board shall affirm the Police Department's finding.

(4e) Based upon its confidential review and deliberations of a Complaint under Sub-Section (b)(1) of this Section, the Board shall make a written recommendation to the City Manager, affirming or disputing the Police Department's findings and making a recommendation on whether further investigation is needed, but shall not make a recommendation for disciplinary action. The City Manager shall consider the Board's recommendation and affirm or deny the Police Department's investigation. The City Manager shall then render a decision concerning discipline, if appropriate, in accordance with the City's employee handbook.

1-2505

MEMBERSHIP.

The Board shall consist of seven members. Membership is voluntary and no voting member shall receive payment for service on the Board. Members will be appointed by the City Commission upon the recommendation of the Mayor. In making the appointments, the City Commission shall include participants who reflect the racial and ethnic makeup of the community. The Chief of Police may designate an employee of the City to be his liaison to the Board, and such designee shall serve as a nonvoting, *ex officio* member of the Board.

1-2506

QUALIFICATIONS.

- (a) Individuals must possess the following qualifications to be appointed to the Board:
 - (1) Be at least eighteen (18) years of age;
 - (2) Be a resident of the City of Lawrence, Kansas or own a business within the City of Lawrence, Kansas;
 - (3) Not be employed by the City of Lawrence or be the immediate family member of an employee of the Lawrence Police Department;

- (4) Not be a member of or the immediate family member of any member of the Lawrence City Commission;
 - (5) Have no pending criminal charges in any local, state, or federal jurisdiction or court of law;
 - (6) Have never been convicted of, and not currently on probation, parole, or participating in a diversion or deferred judgment agreement for any conviction of the following offenses:
 - (A) Battery on, resisting, obstructing, or interfering with a law enforcement officer;
 - (B) Crimes of dishonesty or false statements; or
 - (C) Crimes of moral turpitude, which include charges of prostitution, patronizing a prostitute, promoting prostitution, sale of sexual relations, buying sexual relations, soliciting for immoral purposes, lewd and lascivious behavior, sodomy, promoting sodomy for hire, patronizing a person offering sodomy for hire, sexual battery, loitering for the purposes of solicitation, indecent liberties with a child, incest, adultery, bigamy, promoting obscenity, promoting obscenity to minors, displaying material harmful to minors, and sale or distribution of any illegal drug;

Have never been convicted of, within the previous five (5) years, and not currently on probation, parole, or participating in a diversion or deferred judgment agreement for the following offenses:

 - (D) Possession of controlled substances;
 - (7) Is not registered as a sex offender with any state, county, or local government;
 - (8) Have not been convicted of a felony or a domestic violence offense as defined by the statutes of the State of Kansas.
 - (9) Is not an elected local, state, or federal public official or a candidate for any such office;
 - (10) Is not a current or past party or representative of a party making a claim against the City of Lawrence for any action or inaction of an employee of the City of Lawrence within the previous 10 years;
 - (11) Is not in arrears on any payment plan for any fines, fees, court costs, taxes, or other delinquent penalties to the City of Lawrence.
- (b) In addition to the above qualifications, all applicants for appointment to the Board must:

- (1) Submit to a criminal background check;
- (2) Sign a confidentiality agreement, agreeing that all information reviewed and discussed regarding the receipt of a Complaint or post discipline review of an Office of Professional Accountability investigation will be kept confidential and not disclosed to any person outside the City Manager's Office, City Attorney's Office, or Office of the Chief of Police, or any other person whom those offices deem necessary to receive such information.
- (3) Complete racial or other bias-based policing training within six (6) months of appointment;
- (4) Complete KOMA (Kansas Open Meetings Act) and KORA (Kansas Open Records Act) training within ninety (90) days of appointment.
 - (i) In addition to the required training set out in this Section, the Board shall receive additional training, as designated by the City Manager or his or her designee, to assist the Board in its duties. Such training may include, but is not limited to, police use of force and training to ensure the Board's understanding of the police department's current investigation processes. Any training that the Board receives shall be provided by a trained professional in the fields of law, Racial or Other Bias-Based Policing, law enforcement, and other such professionals as the City Manager, in consultation with the Chief of Police, deems appropriate. The City Manager or his or her designee shall report annually to the City Commission regarding the Board's training. Such report shall include all topics of training the Board has received during the last calendar year along with the length and provider of each.
- (c) The City Clerk, or his or her designee, shall review each application for a Board Member to ensure that such applicant has properly completed the application. If the Mayor selects an applicant for nomination to the Board, such applicant will receive a conditional offer of appointment, at which time a thorough background check will commence to ensure the applicant meets the qualifications set out in this section.
- (d) If at any time after a Board Member is formally appointed to the Board it is determined that any portion of his or her application is fraudulent, to include a material misrepresentation or a false statement, such Board Member shall be immediately removed from the Board.

1-2507

CONFIDENTIALITY

Board Members participating in the appeal of a Complaint related to racial or other bias-based policing or any other complaint they receive from a citizen shall sign a confidentiality agreement indicating such member's agreement to protect the privacy of officers and others involved and the confidentiality of the Board's proceedings. A confidentiality agreement must be signed by the Board member

before such member may serve on the Board. A breach of confidentiality or violation of the confidentiality agreement shall result in immediate removal from the Board.

1-2508

BREACH OF PRIVACY

- (a) Breach of privacy is knowingly and without lawful authority disclosing to any person confidential information received during an executive session of the Governing Body or a board established by the Governing Body.
- (b) Breach of privacy is a class A nonperson misdemeanor.

1-2509

TERMS.

Voting members of the Board shall serve no more than two (2) consecutive three (3) year terms, except that a member appointed to fill an unexpired term shall be entitled to serve two (2) three (3) year terms in addition to the partial term. Upon the resignation of any such member, the City Commission shall, upon recommendation of the Mayor, appoint a new member to serve the unexpired portion of the resigning member's term. The Mayor, with majority consent of the City Commission, shall have the ability to remove a Board member for reasons of just cause, including but not limited to, poor attendance, violation of the confidentiality requirements under this Article, or personal conduct inconsistent with the expectations of the City of Lawrence. The Chief of Police's designee shall serve at the pleasure of the Chief of Police.

1-2510

MEETINGS.

- (a) Each year, one member shall be elected by the members of the Board to serve as the Board Chairperson, who shall preside at meetings. The initial meeting shall be at a time and date specified by the Mayor. All subsequent meetings shall be as called by the Board Chairperson, the Chief of Police, or by a majority of the members of the Board, and at least one meeting shall be held quarterly, provided there are agenda items to be discussed. The meetings shall be subject to all applicable provisions of the Kansas Open Meetings Act. The Board shall prepare and approve minutes of each of their meetings, which shall be forwarded to the City Commission.
- (b) The Board Chairperson may allow public comment during open meetings, but such public comment shall not include comments regarding individual officer misconduct. The Board Chairperson, or his or her designee in the event the Chairperson is not present, shall immediately direct any person making such comments to the method designated under this Article for the submission of Complaints.

1-2511

DECISIONS AND PROCEDURES OF THE BOARD.

All regular meetings and special meetings of the Board shall be open to the public. Four Board members shall constitute a quorum of the Board for the purpose of transacting official business, regardless of the number of vacancies on the Board. Recommendations of the Board shall be approved by a majority vote of the members present and voting. The Board shall adopt any lawful rules, regulations and by-laws it deems necessary for its operation. Such rules, regulations and by-laws shall be submitted to the City Commission and shall become effective upon approval by the City Commission.

1-2512

RETALIATION PROHIBITED.

- (a) No person shall retaliate against another who:
 - 1. Files a Complaint or an appeal under this Article;
 - 2. Cooperates in the investigation of a Complaint or appeal under this Article.
 - 3. Is the subject of a Complaint or appeal under this Article.

- (b) Retaliate, as used in this Section, shall mean engaging in any conduct that is adverse to another person because of such other person's filing of a Complaint under this Article, cooperation in the investigation of such Complaint, or because such other person is the subject of a Complaint under this Article. Retaliation is prohibited in any form, including but not limited to making unwanted personal contact with such other person either directly or indirectly through a third person or via electronic format, when such contact is intended to harass or disturb such other person.

SECTION 3: If any section, sentence, clause, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction it shall not affect the validity of any remaining parts of this ordinance.

SECTION 4: This ordinance shall take effect and be in force from and after its adoption and publication as provided by law.

PASSED by the Governing Body of the City of Lawrence, Kansas, this 45¹⁹th day of May-June 2018.

APPROVED:

Stuart Boley
Mayor

ATTEST:

Sherri Riedemann
City Clerk

APPROVED AS TO FORM:

Toni R. Wheeler
City Attorney

NOTICE TO PUBLISHER

Publish once and return one Proof of Publication to the City Clerk and one to the City Attorney.