



**ATLANTA CITIZEN REVIEW BOARD
POLICIES & PROCEDURES MANUAL
AND BYLAWS**

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ATLANTA CITIZEN REVIEW BOARD POLICIES & PROCEDURES MANUAL & BYLAWS

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Section 1: PURPOSE

These Policies & Procedures and Bylaws are hereby adopted to facilitate the operations of the Atlanta Citizen Review Board (hereinafter the "Review Board") in reviewing and handling citizen complaints filed against peace officers of the Atlanta Police Department and the Atlanta Department of Corrections. These rules are intended to provide for the fair, impartial, independent and prompt investigation of citizen complaints. The Review Board shall make the procedures for the filing and handling of citizen complaints public. After appropriate consideration, the Board may make recommendations regarding specific complaints.

These Policies & Procedures and Bylaws are intended to supplement Chapter 2, Article XVI, Division 11, Section 2-2201, and et. seq. of the Code of Ordinances of the City of Atlanta, Georgia (the "Ordinance"), attached hereto as an Appendix. In the event of any conflict with the Policies & Procedures and Bylaws, said Ordinance shall supersede only those provisions found in conflict.

Section 2: DEFINITIONS

All words used in these Policies & Procedures and Bylaws shall be given their plainly understood meaning. Words which may be defined within these provisions shall be construed in accordance with the definition. The following terms shall be further understood to mean:

- a. "APD" means the Atlanta Police Department.
- b. "Committee on Council" means the Committee on Council of the Atlanta City Council.
- c. "Council" means the Atlanta City Council.
- d. "Citizen" means a member of the public, regardless of age, legal citizenship or any other matter relating to a characteristic of the complainant.
- e. "City" means the City of Atlanta, Georgia
- f. "Chair" means the chairperson of the Review Board or a panel thereof, the Vice Chair in the Chair's absence, or the designee of the Chair.

- g. "Preponderance of evidence" means the evidence which carries the greater weight in the mind of the deciding party. The preponderance is based on the more convincing evidence and its probable truth and accuracy as opposed to the amount of evidence. Preponderance of evidence is a lower threshold for deciding that a violation has occurred than clear and convincing evidence.
- h. "Complaint" means a written complaint properly filed with the Review Board.
- i. "Complainant" means a person who files a complaint with the Review Board.
- j. "Department(s)" means either the Atlanta Department of Police, Atlanta Department of Corrections or both.
- k. "Director" means the Executive Director of the Review Board or the Director's designee.
- l. "District Attorney" means the District Attorney for Fulton County, Georgia and all deputy and assistant district attorneys with that office.
- m. "DOC" means the Atlanta Department of Corrections.
- n. "Member" means a member of the Review Board.
- o. "Officer" means the officer against whom a complaint is filed.
- p. "Civilian employees" include clerical or other support staff personnel, secretaries, clerks, custodians, receptionists and maintenance or other non-officer personnel.
- q. "Ordinance" means the City ordinance creating the Review Board.
- r. "Person" means those who may file a complaint who shall include an adult, a minor with an adult's assistance, an adult filing on behalf of a minor, or an adult with assistance from a family member, a guardian or other court appointed representative.
- s. "Review Board" or "Board" or "ACRB" means the Atlanta Citizen Review Board.
- t. "Vice Chair" means the vice chairperson of the Review Board.

Section 3.0: THE BOARD

3.1 Review Board Composition, Term of Membership, Compensation and Vacancies

All matters pertaining to the composition and selection of members, term of membership, compensation of members and vacancies which arise on the Review Board shall be governed by law, pursuant to Chapter 2, Article XVI, Division 13, Section 2202, and et. seq., of the Code of Ordinances of the City of Atlanta, Georgia.

Board members shall follow the City of Atlanta policies and procedures regarding expense reimbursement and travel reconciliation.

3.2 Quorum

A quorum for the transaction of business shall be five members of the Board.

3.3. Facilitator for Meetings of the Board

The Director of the Review Board shall be the designated facilitator for all meetings of the full Board and Committees. However, the Director shall not participate in the deliberations or decisions made by the Board or Committees. It shall be the responsibility of the Director to ensure the orderly proceeding of all full Board meetings and hearings and to prepare and present the agenda, in consultation with the Chair. The Director shall ensure that all parliamentary proceedings at said meetings are in accordance with Robert's Rules of Order, and that the rules and policies of the Board are complied with in addition to performing such other tasks necessary for said meetings.

3.4. Records of the Review Board

The office of the Director shall maintain custody of all records, documents and materials of the Review Board. The Director shall be responsible for timely providing all evidentiary materials, including, but not limited to, physical evidence, photographs, diagrams, police reports and witness statements to the Board for their assessment. The Chair shall submit all requests in writing to the Office of the Director for preparation of subpoenas and for production of documents, as well as any other administrative requests for evidence to be forwarded to any person, agency, or to the Committee on Council for action.

3.5 Review Board Meetings

In all meetings of the full Board, Robert's Rules of Order, Newly Revised, shall govern such meetings, unless otherwise provided for by these rules, or by the enabling ordinances of the Atlanta Municipal Code

Board members shall participate in meetings in a professional and courteous manner. Members shall refrain from public statements, which are derogatory towards another person or which are untrue.

3.6 Special Meetings of the Review Board

Upon petition of seven (7) members of the Review Board, Special Meetings may be held at the call of the Chair (or Vice-chair in the absence of the Chair). Board members shall be given at least twenty-four (24) hours' notice prior to any Special Meeting. The notice and agenda for any special meeting will be posted and distributed in accordance with the Georgia Open Meetings Act.

3.7 Review Board Staff

The Director shall supervise the administrative, clerical, investigative, or any other personnel as necessary to discharge the functions of the Review Board. The Director shall promulgate internal office procedures and prepare necessary standardized forms for the intake of Complaints and the conduct of investigations, reviews and hearings by the Board. The daily operations of the Review Board shall be managed by the Director who shall oversee the regular functioning of the staff assigned to help carry out the duties of the Review Board.

3.8 Orientation and Training

The Director is responsible for the establishment of an orientation and training program for new Review Board members. All new Review Board members shall complete the orientation and training program within one hundred eighty (180) days of confirmation as a member of the Review Board by Council.

The Director is responsible for the establishment of an ongoing training program for all Review Board members. Review Board members shall participate in ongoing training during the tenure on the Review Board.

3.9 Duties of Chair

The Chair shall preside at all meetings of the Board. The Chair shall sign other official documents which require the signature of the Chair. The Chair shall

appoint committees as necessary to carry out the business of the Board and shall perform all other duties which may be prescribed by law or by these bylaws or delegated by the Board.

The Chair, along with the Board Director will serve as a spokesperson for the Board, publicly commenting on Board activities to the news media. The Chair and Director may designate another Board member to publicly comment on Board activities to the news media.

3.10 Duties of the Vice Chair

In the absence of the Chair or in the event of the Chair's or inability or failure to act, the Vice Chair of the Board shall perform the duties of the Chair and, when so acting, shall have all the powers of the Chair.

Additional duties of the Vice Chair shall be as follows:

- a. assist, with the Chair and Executive Director, in planning the agenda for the Board General Meetings; and,
- b. assume any other duties delegated by the Chair.

3.11 Duties of Secretary

The Secretary of the Board shall:

- a. oversee the recording of the minutes of each General Meeting;
- b. assume any other duties delegated by the Chair.

3.12 Public Participation in Board Meetings

Public participation at full Board meetings is welcomed. Citizens shall sign up to give comments in advance of each meeting and comments by each citizen may be limited to two minutes. Public comment shall not be permitted as part of case deliberation. Citizens and Officers shall be provided an opportunity to address the Review Board prior to the review of their complaint. Opportunities to address the Review Board shall be limited to two minutes.

3.13 Removal of Board Members

Any Board member who fails to regularly attend three consecutive meetings or Review Board proceedings without good cause or who fails to consistently

perform her/his duties may be recommended for removal from the Board upon a vote of a 2/3 majority of the currently serving members of the Board. Any vacancy which results from removal from the Board shall be filled in accordance with Article XVI, Division 11, Sections 2-2203 and 2-2208 of the Code of Ordinances, City of Atlanta.

3.14 Yearly Report of Attendance at Review Board Meetings

The Executive Director shall report yearly to the appointing authority of each Review Board Member the attendance of that member at all meetings of the Review Board.

3.15 Code of Ethics

All Board members shall be bound by the City of Atlanta Code of Ethics, as set forth in Chapter 2, Article VII, Division 2, Section 2-801, and et. seq., of the Code of Ordinances, City of Atlanta, Georgia.

3.16 Amendment of Bylaws

A proposed alteration, amendment, repeal, enactment of a new provision of the Bylaws must be submitted in writing to the Board at full Board meeting. No proposed alteration, amendment, repeal, or new provision shall be voted upon until a full Board meeting subsequent to the meeting at which the proposal is offered. In order for any proposed alteration, amendment, repeal or new provision to become effective, it must receive the affirmative vote of a minimum of 2/3 of the currently active members of the Board. No such alteration, amendment, repeal, new provision shall be retroactive, but shall become operative at the time such affirmative vote is made or at such time in the future as the Board may designate.

3.17 Transaction of Business

The official address of the Review Board shall be **55 Trinity Avenue SW, City Hall Tower, Suite 9100, Atlanta, GA 30303** or such other location as may be designated by the Board. The Review Board shall establish regular meeting places and times for meetings and hearings of the full Board which shall be made known to all members of the Board and to the public, as required by law. The offices of the Review Board are open during regular weekday business hours. The office phone number is: 404-865-8622 or such other number as may be designated by the Board.

3.18 Payment of Board Members

Board Members who fully attend the full official board meetings or official scheduled trainings will be eligible for the compensation as set forth in Chapter 2, Article XVI, Division 11, Section 2-2211, and et. seq., of the Code of Ordinances, City of Atlanta, Georgia.

Section 4.0: JURISDICTION AND STANDING

4.1 Standing to File a Complaint

An alleged victim, an alleged victim's legal guardian, parent or personal representative or any individual having personal knowledge of alleged officer misconduct shall have standing to file a Complaint.

4.2 Jurisdiction

- a. Jurisdiction of the Board shall extend only to complaints against police and/or corrections officers with respect to abuse of authority, abusive language, appropriate action required, conduct, discrimination, discriminatory reference, failing to provide identification, false arrest, false imprisonment, harassment, retaliation, use of excessive force, serious bodily injury, death and violation of department standard operating procedures which is alleged to be the result of the actions of a sworn employee of the Police Department or Department of Corrections
- b. The Board shall not have jurisdiction regarding conduct of any civilian employees of the APD or DOC.
- c. The Board has jurisdiction to select appropriate individual incidents to review and broader issues to study which may be of concern to the community, the Police and Corrections Department, or the Chief of Police and Corrections. The Board may, by majority vote, direct such a study or incident to review.

4.3 Scope of Review and Recommendations

The Board may make written recommendation, with supporting reasons, to the Police or Corrections Chief regarding an appropriate penalty from the Table of Penalties Guide in the Standard Operating Procedure promulgated by the Police or Corrections Department. This recommendation may include a proposal for any additional action by the Police or Corrections Chief not inconsistent with the intent and purpose of the citizen complaint review process.

Section 5.0: COMPLAINT PROCEDURE

5.1 Filing Complaints

- a. A Complaint must be submitted in writing under oath on a complaint form approved by the Review Board. Complaints must be filed no later than one hundred-eighty (180) days following the date of alleged infraction. This complaint form may be obtained by contacting the executive office of the Review Board or downloading it from the Board's web site on the internet.
- b. All citizen complaints against officers shall be submitted to the Director, who shall thereafter assign a file number to the complaint, conduct an initial review, make an initial assessment concerning the authority of the Board to conduct an investigation, and submit all such complaints to the Board for approval.
- c. Anonymous sources, professing first-hand knowledge of alleged police misconduct, shall be allowed to file complaints anonymously when the complainant requests anonymity based upon a credible belief that the complainant will face prosecution or harassment. The determination of whether the request for anonymity is based upon a credible belief of prosecution or harassment shall be within the reasonable discretion of the Executive Director.

5.2 Acknowledgment of Complaint

The Complainant shall receive written notice of receipt of the Complaint within ten (10) business days of receiving any such sworn and signed complaint, which notice shall be sent by first class mail to the address provided by the Complainant on the complaint form. Notice of the filing of a signed Complaint, shall be forwarded to the officer's department.

5.3 Initial Review

- a. The staff of the Board will conduct an initial Review of the Complaint within sixty (60) days of the receipt of the initial Complaint by the Board. Said initial review may be extended by the Executive Director or the Board for good cause. The parties will be notified in writing of any such extension. The Executive Director may initiate a preliminary investigation in order to assist the Board to make a decision regarding the investigation and adjudication of

the complaint. The Complainant and Officer's Department will be notified of the Board's decision in writing.

- b. All Complaints will be recorded in a data base maintained by the Director.
- c. Complaints must be received in a signed and sworn form in order to be considered by the Board.
- d. The Board shall consider [at its monthly meeting] whether the Review Board has jurisdiction over the matters alleged in the Complaint and, if so, whether the Complaint has sufficient merit to justify further consideration by the Review Board. "Sufficient merit" refers to whether the Review Board has jurisdiction to consider the Complaint and whether the factual assertions in the Complaint establish reasonable cause to believe misconduct by the Officer(s) may have occurred.
- e. The Board shall consider whether the complaint was filed within the time limitation imposed by the Ordinance (180 days).
- f. After consideration, the Board by majority vote may:
 - 1) Dismiss the complaint pursuant to Section 6.0.
 - 2) Refer the complaint to OPS or DOC for an internal investigation;
 - 3) Require further investigation of the complaint.

SECTION 6.0: DISMISSAL

6.1 Reasons for Dismissal

The Board must dismiss the complaint if the complaint does not describe one of the following allegations:

- abuse of authority
- abusive language
- appropriate action required
- conduct
- discrimination
- discriminatory reference
- failing to provide identification
- false arrest
- false imprisonment

- harassment
- retaliation
- use of excessive force
- serious bodily injury, death and violation of department standard operating procedures which is alleged to be the result of the actions of a sworn employee of the Police Department or Department of Corrections.

6.2 Dismissal by The Board

- a. The Board must dismiss the complaint if it is not filed within one hundred eighty days after the incident.
- b. The Board may dismiss the complaint if the complainant could reasonably be expected to use or is using another remedy or channel for the grievance, for example, a judicial determination of guilt. Complaints that are subject to a judicial, administrative or other review which will explicitly or implicitly require a finding or ruling on the conduct that is subject of the complaint may be dismissed.
- c. The Board may dismiss a complaint that is grossly illogical or improbable.
- d. The Director may dismiss the complaint if the complainant refused or fails to cooperate in the investigation. The director will provide notice to the complainant by certified mail and notify the Board of this decision.

Section 7.0: INVESTIGATION OF COMPLAINTS

7.1 Investigation of Complaints

- a. The investigation shall be completed in an expeditious and efficient manner.
- b. The Director may recommend to the Chair that the Board seek a subpoena from the Committee on Council.
- c. At the conclusion of the investigation, the Investigator will forward the case to the Director for approval. The Director will forward the investigative file to the Hearing Board for their consideration and approval.

7.2 Withdrawal of Complaints

A Complainant may withdraw a Complaint in writing at any time. A properly filed withdrawal terminates all proceedings on a Complaint unless the Review Board determines it appropriate to continue the investigation in the interests of justice.

7.3 Scope of Investigation

The Review Board may investigate all matters alleged in the Complaint, or stemming from the allegations of the Complaint, which involve an Officer's actions or departmental policy, procedure, supervision or training. Investigations may be deferred pending APD or DOC internal investigations or criminal proceedings involving the Officer's alleged misconduct. Investigations may continue during the period of any related civil or administrative actions, within the Board's discretion.

Section 8.0: PUBLIC HEARINGS

8.1 Public Hearings

The Board may, in consultation with the Director, determine that a Public Hearing be held in the case or may determine that a decision on the matter can be rendered without a Public Hearing.

The decision to conduct a hearing will require a majority vote of the Board. Notice of the Public Hearing will be made in accordance with the Georgia Open Meetings Law.

8.2 Public Hearing Procedures

- a. A quorum of Board members must be present for a Public Hearing to occur.
- b. Notice of the date, time, and location of the hearing and a brief summary of the alleged misconduct shall be given in advance of the Public Hearing to the Officer, Complainant and Department.
- c. The Chair will either serve as the Hearing Examiner or appoint a member to serve as the Hearing Examiner.
- d. Hearings shall be held in a manner where all witnesses shall be placed under oath prior to offering testimony. Hearings shall be conducted in the following manner unless the Chair orders otherwise:

- 1). The Hearing Examiner may sequester all non-party witnesses throughout the proceedings and shall advise the non-party witnesses of the rule of sequestration. The term non-party witnesses shall not include the Complainant(s) or subject Officer(s) whose conduct is under review.
- 2). All testimony shall be under oath. The Complaint will be presented first and witnesses for the Complainant, if any, will be permitted to make statements to the Board. Witnesses for the accused Officer(s), if any, including said Officer(s), will then be invited to make statements and present testimony and evidence to the Board. The Hearing Examiner shall have the discretion to limit the number of testifying witnesses and the presentation of evidence in order to facilitate the orderly progress of the proceedings. Members of the Board may question the witnesses, subject to the discretion of the Hearing Examiner to control the proceedings. All testimony will be recorded. Cross examination of witnesses by the parties or their representatives will not be permitted.
- 3). Any person who appears before the board shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts in the state. The board shall be fundamentally fair in its administration of evidence.
- 4) The complainant may be represented during the hearing or any phase of the complaint examination process by himself or herself, by an attorney or other representative of his or her own choosing. Subject officers may represent themselves or be represented by an attorney for the police officers' labor organization, or by another representative of their own choosing. The representative shall not be a witness or a person subject to the same investigation.
- 5) The standard of proof in the Public Hearing shall be by preponderance of evidence. No finding with respect to an allegation of a complaint shall be sustained unless it is proven by a preponderance of evidence presented at the Public Hearing or otherwise contained in the investigative record.
- 6) The entire hearing on a given complaint shall be conducted on one occasion, if possible. However, the Board may, in its discretion, continue the hearing to a future date.
- 7) The Board may deliberate in public or closed session. The Board may consider all evidence developed in the course of the investigation and the Public Hearing. After deliberations, the Board may reconvene in open session to take a vote on the matter or take the matter under advisement and render a decision at a later time.

- 8) When either the Complainant or subject Officer(s) fail to appear at the Public Hearing, subject to proof of adequate notice of said hearing, the Board may receive statements from those persons present and relying on the evidence received, continue with the Public Hearing. For good cause shown, the Chair may continue a hearing due to the unavailability of a Complainant, Officer, or witness.
- 9) The Director, as well as counsel for the Board, may be present to advise the Board as to any matters. The rules of evidence applicable in court proceedings shall not apply to Public Hearings.
- 10) An accused Officer may file a written response to the Complaint in which the Complaint's allegations are accepted as true. The response binds the officer to the allegations of the Complaint and eliminates the need for the Board to consider further evidence on the Complaint, unless the Board, in the interest of justice, determines to continue the hearing.
- 11) After consideration of the evidence presented at the Public Hearing and all other evidence developed in the course of the Board's investigation, the Board shall vote upon their decision in open session. The Board's decision may include, without limitation, recommendations for discipline of the Officer, the exoneration of the Officer, and any policy, procedures or training recommendations to the Department for future implementation and use by the Department. The Board's decision, findings and recommendations shall thereafter be reduced to writing and submitted to Council, the Mayor and the Department within three days after the Public Hearing.

Section 9.0: CONFIDENTIALITY

9.1 Confidential Records

Except as otherwise required by the Georgia Open Records Act, all records, proceedings and other matters presented to the Board which have not been disclosed in connection with the Board's decisions or as otherwise required by law are strictly confidential. Information regarding the following shall not be deemed confidential and may be included in the findings of the Board.

- a. The allegations of the Complaint.
- b. The name(s) of the Officer(s) involved.
- c. The name(s) of the Complainant(s) making the allegation(s), and

- d. Any other information that the Board deems it necessary to disclose as part of its findings and recommendations in order to convey or clarify the findings and recommendations of the Board.

9.2 File Accessibility

Except as otherwise required by the Georgia Open Records Act, access to Review Board files and records shall be limited to Review Board members, the Director and Review Board staff. All files and documents shall be maintained by the Director in the offices of the Director and shall be made available for review by Board members upon request. No person shall remove any records from the files or make any copies thereof, absent approval of the Director or the Board.

9.3 Final Findings and Recommendations

- a. The Review Board's findings in each case shall be classified and recorded on a disposition report as follows:
 - 1) *Sustained*: The investigation established by a preponderance of evidence that the Officer committed the alleged acts of misconduct.
 - 2) *Not sustained*: The investigation failed to prove or disprove that the alleged act(s) occurred.
 - 3) *Exonerated*: The investigation established that the alleged acts occurred but were justified, legal or properly within Department policy.
 - 4) *Unfounded*: The investigation established that the Officer did not commit the alleged acts of misconduct.
 - 5) *Policy Failure*: The investigation established that the alleged acts occurred, but were justified by the Department policy or procedures; however, the Citizen Review Board recommends that the policy or procedure be changed.
 - 6) *Supervision Failure*: The investigation established that the alleged acts occurred and were the result of inadequate supervision.
 - 7) *Training Failure*: The investigation established that the alleged acts occurred and were the result of inadequate training.

- 8) *Complainant Not Cooperative*: No Contact could be made with complainant for a proper investigation to take place, or Complainant withdrew Complaint. In some limited circumstances, even when the Complainant is not cooperative and not interviewed, the Board may determine that there is sufficient evidence to reach a disposition.

Section 10: Mediation

The Board's Director may refer a complaint for mediation as an alternative form of dispute resolution in certain cases. For mediation to occur, both the Complainant and subject Officer(s) must agree to mediation to be conducted by a neutral trained mediator unaffiliated with the Review Board or any other Department of the City of Atlanta. Participation and resolution of a Complaint by mediation will result in the complaint being dismissed by the Board.

Complaints involving, but not limited to courtesy, language (excluding race, gender, and sexual orientation), abuse of authority, appropriate action (minor detentions without legal authority), and harassment, shall be eligible for mediation.

Mediation tolls the timelines established for the investigation and subsequent process.

No record will be made of the mediation proceedings. No information discussed will be used in any subsequent investigation or proceedings.

The mediation process shall terminate when either party announces its unwillingness to continue mediation or when the parties resolve the disputed issues. The Board will receive a report of the outcome of mediation.

If mediation is successful, the mediator and the parties shall sign a mediation agreement and the complaint will be closed as mediated.

If mediation is unsuccessful, the complaint shall be referred back to the Director for further investigation if the complainant chooses to move forward under the normal investigative authority procedures.

Section 11: Judicial Interpretation and Savings Clause

If any section, paragraph, sentence, clause or phrase in this Policy and Procedures Manual is held to be invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Policies and Procedures Manual.

Section 12: Amendments to Policies and Procedures

Any amendments to these policies and procedures must be by majority vote of the Review Board.

WHEREAS, there being a quorum present of the Review Board, and the members having voted to approve these provisions, the foregoing Policy and Procedures and Bylaws are hereby adopted as amended by the Review Board this 14th day of July, 2016.

Approved as to form and content



Sherry Williams
Chair
Atlanta Citizen Review Board



Paul Bartels
Secretary
Atlanta Citizen Review Board