

ADDITIONAL MATERIAL

**Regular Meeting
SEPTEMBER 10, 2020**

**SUBMITTED AT THE REQUEST OF
OFFICE OF THE COUNTY ATTORNEY**

MEMORANDUM

TO: Board of County Commissioners

FROM:: Scott Andron, Assistant County Attorney /s/ *Scott Andron*

DATE: September 10, 2020

RE: **Police and Criminal Justice Review Board Ordinance (Item No. 55 on the September 10, 2020, County Commission Agenda)**
CAO File: 41018.0001

Our Office was asked late Wednesday to provide the attached document showing changes from the version of the Police and Criminal Justice Review Board ordinance contained in the Board's agenda packet to the substitute version proposed by Mayor Holness. The attached document shows additions underlined and removed language struck through, with all such changes shaded in grey. Please let us know if we can answer any questions.

SA/jc
Attachment

c: Bertha Henry, County Administrator
Bob Melton, County Auditor
Andrew J. Meyers, County Attorney

1 ORDINANCE NO. 2020-

2 AN ORDINANCE OF THE BOARD OF COUNTY
3 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
4 CREATING A POLICE AND CRIMINAL JUSTICE REVIEW
5 BOARD; CREATING SECTION 18-7 OF THE
6 BROWARD COUNTY CODE OF ORDINANCES (“CODE”);
7 AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE
8 CODE, AND AN EFFECTIVE DATE.

9 (Sponsored by Mayor Dale V.C. Holness)

10 WHEREAS, on May 25, 2020, George Perry Floyd, Jr., was killed when a
11 Minneapolis police officer knelt on his neck for approximately eight (8) minutes, despite
12 Mr. Floyd repeatedly informing the officer—more than twenty (20) times—that he was
13 unable to breathe;

14 WHEREAS, the death of George Floyd was witnessed by multiple onlookers who
15 were prevented from intervening, and video of the tragedy was recorded by multiple
16 persons including by police officers on their own body cameras;

17 WHEREAS, the injustice of George Floyd’s death has sparked national and
18 international outrage and fueled demand for better oversight of police use of force and
19 misconduct;

20 WHEREAS, the authority of Broward County (the “County”) to independently
21 investigate specific incidents of police misconduct or use of force for disciplinary purposes
22 is statutorily limited in some respects; however, nothing in State law prohibits the County
23 from investigating general trends, practices, and patterns in policing, including with regard
24 to the use of force; and

25 WHEREAS, the Board of County Commissioners of Broward County, Florida (the
26 “Board”), finds that creation of an independent Police and Criminal Justice Review Board

1 to gather and publish information on trends, practices, and patterns in policing, including
2 regarding the use of force, and to bring forward advice and insights to inform law
3 enforcement policymaking, is appropriate at this time,
4

5 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
6 BROWARD COUNTY, FLORIDA:
7

8 Section 1. Section 18-7 of the Broward County Code of Ordinances is hereby
9 created to read as follows:

10 [Underlining omitted]

11 **Sec. 18-7. Broward County Police and Criminal Justice Review Board**

12 (a) *Definitions.*

13 The following terms and phrases, when used in this article, shall have the meaning
14 ascribed to them in this section, except where the context clearly indicates a different
15 meaning. Words used in the present tense shall include the future, and the singular
16 number includes the plural, and the plural, the singular.

17 *County Commission* means the Board of County Commissioners of
18 Broward County, Florida.

19 *Police agencies* means the Broward Sheriff's Office, including both law
20 enforcement and correctional functions, and municipal police departments, however
21 denominated, within the geographic boundaries of Broward County.

22 *Review Board* means the Broward County Police and Criminal Justice Review
23 Board created by this section.
24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 (b) *Creation of Police and Criminal Justice Review Board.* The County
2 Commission hereby creates and establishes a Broward County Police and Criminal
3 Justice Review Board.

4 (c) *Review Board membership.*

5 (1) Composition and selection.

6 a. The Review Board shall comprise ~~sixteen~~ seventeen (~~16~~17) voting
7 members appointed by the County Commission after nomination in
8 the following manner:

9 1. Nine (9) members nominated by County Commissioners, with
10 each County Commissioner nominating one (1) member;

11 2. One (1) member nominated by the president of the
12 Broward County Bar Association;

13 3. One (1) member nominated by the president of the
14 Broward County Hispanic Bar Association;

15 4. One (1) member nominated by the president of the
16 T.J. Reddick Bar Association;

17 5. One (1) member nominated by the president of the
18 Caribbean Bar Association;

19 ~~5~~ 6. One (1) member nominated by the Broward County
20 Public Defender;

21 ~~6~~ 7. One (1) member nominated by the Broward County
22 State Attorney;

23 ~~7~~ 8. One (1) member, who must be a member in good standing of
24 The Florida Bar, nominated by the Broward County branch of

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1 the National Association for the Advancement of Colored
2 People (“NAACP”); and

3 ~~8~~ 9. One (1) member of the clergy from a religious institution or
4 house of worship whose membership is substantially
5 comprised of individuals disproportionately impacted by
6 improper police tactics and the criminal justice system,
7 nominated by the Mayor of Broward County.

8 b. In addition, the following persons shall serve as *ex officio* nonvoting
9 members and may participate in the Review Board’s discussions:

- 10 1. The president of the Broward County Chiefs of Police
11 Association, or a designee thereof; and
- 12 2. The Sheriff of Broward County, or a designee thereof.

13 (2) Qualifications. Voting members must be residents of Broward County. In
14 selecting persons for nomination as voting members, County
15 Commissioners shall consider, in addition to any other criteria they deem
16 appropriate, the prospective nominee’s personal experience with, or
17 professional or academic study of, criminal justice, police misconduct, use
18 of force, or over-policing. In addition, Commissioners shall make an effort
19 to ensure that the Review Board includes one or more representatives of
20 the lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ)
21 community, and one or more representatives from religious minority groups.

22 (3) Training. Each voting member shall attend training arranged by the County,
23 which will include, at a minimum, an overview of policing and the criminal
24 justice system in Broward County, one (1) ride-along with a local law

1 enforcement agency, and training addressing racial inequity and implicit
2 bias.

3 (4) Terms of appointment.

4 a. Review Board members shall serve in accordance with
5 Section 1-233, Broward County Code of Ordinances (“Code”),
6 except as otherwise provided in this section.

7 b. Members shall not be compensated for their service on the Review
8 Board.

9 c. The term for each ~~voting~~ member nominated by the Mayor or a
10 County Commissioner shall be four (4) years from the date of
11 appointment. The term for other voting members shall be two (2)
12 years from the date of appointment.

13 d. Upon the expiration of a term, a Review Board member shall
14 continue to serve until a successor is appointed.

15 e. Any member may be removed from the Review Board pursuant to
16 Sections 1-233 or 1-234 of the Code. Additionally, by majority vote
17 of the County Commission, any member may be removed from the
18 Review Board for misconduct, incompetence, neglect of duty, at the
19 request of a County Commissioner, or upon recommendation of the
20 Review Board.

21 f. Any member who no longer satisfies the requirements of the
22 appointed position, including the residency requirement, shall
23 automatically cease to be a member, and the position shall be
24 declared vacant.

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1 (d) *Review Board organization.*

2 (1) The meetings, quorum, and attendance requirements of the Review Board
3 shall be as set forth in Section 1-233 of the Code, except as otherwise
4 provided in this section.

5 (2) The Review Board shall elect a chair and such other officers as it deems
6 necessary for purposes of managing its activities. Each officer shall serve
7 for one (1) year or until their successor is chosen, whichever occurs later.

8 (3) The Review Board may establish procedural rules as needed to carry out
9 its business in an orderly manner.

10 (4) The Review Board shall establish a meeting schedule, and shall meet no
11 fewer than four (4) times per year.

12 (e) *Staff support.* The County Administrator or designee shall appoint a Review
13 Board Administrator to serve as the Review Board's primary staff support, and to
14 supervise such other staff as the County Administrator may provide. The Review Board
15 Administrator shall report to the County Administrator or designee. The Review Board
16 may request that the County Commission provide such other fact-finding and research
17 personnel as the Review Board may determine are necessary from time to time.

18 (f) *Functions.* The Review Board shall publish data compilations and reports
19 and make recommendations regarding policy to the County Commission on the subjects
20 of police use of force, police misconduct, and such other matters pertaining to bias in the
21 criminal justice system as the Review Board determines appropriate and its resources
22 permit. The Review Board Administrator and appropriate staff as designated by the
23 County Administrator shall be tasked with providing research, statistical, and other
24 administrative support for the Review Board. The Review Board Administrator shall bear

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1 primary responsibility for gathering and analyzing data, drafting reports, and providing
2 general administrative support for the Review Board. The Review Board shall be
3 responsible for determining what policy recommendations, if any, to make to the County
4 Commission, including based upon the data obtained and analyses conducted by the
5 Review Board Administrator.

6 (1) The Review Board Administrator and staff shall compile data as requested
7 by the Review Board. Such data shall include information contained in
8 databases and reports from police agencies concerning police use of force
9 and allegations of police misconduct, including but not limited to completed
10 internal investigations. Such data may also include information regarding
11 arrests from each police agency and data regarding bail and sentencing
12 from Florida's 17th Judicial Circuit or other applicable sources, to the extent
13 data is available. At the Review Board's direction, the Review Board
14 Administrator may compile additional data relevant to the Review Board's
15 objectives.

16 (2) The Review Board Administrator shall make publicly available, including by
17 publication on the County website, statistical data compiled from the police
18 agencies and other sources.

19 (3) At least once per year, the Review Board shall publish a report summarizing
20 the preceding year's data and analyzing any trends or patterns observed.
21 These reports may describe specific incidents for the purpose of illustrating
22 systemic problems.

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1 (g) *Objectives.* The objectives of the Review Board are to identify and report
2 on systemic issues ~~of-related to policing~~ and the criminal justice system, including but not
3 limited to:

4 (1) Patterns of police misconduct, use of force, misuse of position,
5 over-policing, arrest rates, charging decisions, bail terms, or sentencing that
6 may indicate disparities based on race or other factors; and

7 (2) Repeated incidents of misconduct or improper use of force within the same
8 police agency, agency subunit, or geographical area.

9 The Review Board is not tasked with investigation of specific incidents of alleged police
10 misconduct or misuse of force.

11 (h) *Powers.* In order to achieve its objectives, the Review Board shall have the
12 authority to:

13 (1) Make recommendations regarding current and proposed police agency
14 policies, procedures, and practices on matters including, but not limited to
15 training, recruitment, and disciplinary procedures.

16 (2) Hold public hearings, make factual determinations, draw conclusions,
17 propose recommendations, and prepare interim and final reports on matters
18 relating to the Review Board's objectives and functions.

19 (3) Demand, examine, and duplicate public records and documents in
20 accordance with the provisions of Chapter 119, Florida Statutes.

21 (4) Request any person to give sworn testimony before the Review Board or to
22 produce documentary or other evidence, to the extent permitted by
23 applicable law.

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1 (5) Issue subpoenas for witnesses, documents, and other potential evidence
2 for all matters within the Review Board’s jurisdiction, except as may be
3 prohibited by applicable law.

4 (i) *Complaints.* The Review Board and the Review Board Administrator may
5 assist members of the public in determining how to make a complaint to a specific law
6 enforcement agency and may request a copy of the response from the particular agency.
7 Any complaint received by the Review Board pertaining to a law enforcement or
8 correctional officer shall be provided within five (5) business days after receipt to the
9 employing agency of the officer pursuant to Section 112.533(1)(b), Florida Statutes.

10 ~~(i)~~ (j) *Sunset.* Section 18-7 shall automatically sunset on December 31, 2025~~30~~,
11 unless reauthorized by the County Commission.

12 Section 2. Severability.

13 If any portion of this Ordinance is determined by any court to be invalid, the invalid
14 portion will be stricken, and such striking will not affect the validity of the remainder of this
15 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
16 legally applied to any individual, group, entity, property, or circumstance, such
17 determination will not affect the applicability of this Ordinance to any other individual,
18 group, entity, property, or circumstance.

19 Section 3. Inclusion in the Broward County Code of Ordinances.

20 It is the intention of the Board of County Commissioners that the provisions of this
21 Ordinance become part of the Broward County Code of Ordinances as of the effective
22 date. The sections of this Ordinance may be renumbered or relettered and the word
23 “ordinance” may be changed to “section,” “article,” or such other appropriate word or
24 phrase to the extent necessary in order to accomplish such intention.

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Section 4. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Scott Andron 09/04/2020
Scott Andron (date)
Assistant County Attorney

By /s/ Adam M. Katzman 09/04/2020
Adam M. Katzman (date)
Senior Assistant County Attorney

SA/jl
Police and Criminal Justice Review Board
09/04/2020
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