

EXHIBIT 5

Commissioner Bogen amendment
(previously Additional Material 59(2)
to October 6, 2020, meeting)

ORDINANCE NO. 2020-

AN ORDINANCE OF THE BOARD OF COUNTY
COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
CREATING A POLICE AND CRIMINAL JUSTICE REVIEW
BOARD; CREATING SECTION 18-7 OF THE
BROWARD COUNTY CODE OF ORDINANCES ("CODE");
AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE
CODE, AND AN EFFECTIVE DATE.

(Sponsored by Mayor Dale V.C. Holness)

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

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

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

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

23 WHEREAS, the Board of County Commissioners of Broward County, Florida (the
24 "Board"), finds that creation of an independent Police and Criminal Justice Review Board

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

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 Broward
18 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
underlined type are additions.

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

(c) *Review Board membership.*

(1) Composition and selection.

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

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

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

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

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

5. One (1) member nominated by the Broward County Public Defender;

6. One (1) member nominated by the Broward County State Attorney;

7. One (1) member, who must be a member in good standing of The Florida Bar, nominated by the Broward County branch of the National Association for the Advancement of Colored People (“NAACP”); and

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

1 8. One (1) member of the clergy nominated by a clergy
2 organization or organization(s) representing a broad range of
3 denominations and faith groups and selected by majority vote
4 of the County Commission; from a religious institution or
5 house of worship whose membership is substantially
6 comprised of individuals disproportionately impacted by
7 improper police tactics and the criminal justice system,
8 nominated by the Mayor of Broward County.

9 b. In addition, the following persons shall serve as *ex officio* nonvoting
10 members and may participate in the Review Board's discussions:
11 1. The president of the Broward County Chiefs of Police
12 Association, or a designee thereof; and
13 2. The Sheriff of Broward County, or a designee thereof.

14 (2) Qualifications. Voting members must be residents of Broward County. In
15 selecting persons for nomination as voting members, County
16 Commissioners shall consider, in addition to any other criteria they deem
17 appropriate, the prospective nominee's personal experience with, or
18 professional or academic study of, criminal justice, police misconduct, use
19 of force, or over-policing.

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

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

(4) **Terms of appointment.**

- a. Review Board members shall serve in accordance with Section 1-233, Broward County Code of Ordinances (“Code”), except as otherwise provided in this section.
- b. Members shall not be compensated for their service on the Review Board.
- c. The term for each voting member shall be four (1) (4)-years from the date of appointment.
- d. Upon the expiration of a term, a Review Board member shall continue to serve until a successor is appointed.
- e. Any member may be removed from the Review Board pursuant to Sections 1-233 or 1-234 of the Code. Additionally, by majority vote of the County Commission, any member may be removed from the Review Board for misconduct, incompetence, neglect of duty, at the request of a County Commissioner, or upon recommendation of the Review Board.
- f. Any member who no longer satisfies the requirements of the appointed position, including the residency requirement, shall automatically cease to be a member, and the position shall be declared vacant.

(d) **Review Board organization.**

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

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

- (2) The Review Board shall elect a chair and such other officers as it deems necessary for purposes of managing its activities. Each officer shall serve for one (1) year or until their successor is chosen, whichever occurs later.
- (3) The Review Board may establish procedural rules as needed to carry out its business in an orderly manner.
- (4) The Review Board shall establish a meeting schedule, and shall meet no fewer than four (4) times per year.
- (e) *Staff support.* The County Administrator or designee shall appoint a Review Administrator to serve as the Review Board's primary staff support, and to advise such other staff as the County Administrator may provide. The Review Board Administrator shall report to the County Administrator or designee.
- (f) *Functions.* The Review Board shall publish data compilations and reports, make recommendations regarding policy to the County Commission on the subjects of use of force, police misconduct, and such other matters pertaining to bias in the criminal justice system as the Review Board determines appropriate and its resources permit. The Review Board Administrator and appropriate staff as designated by the County Administrator shall be tasked with providing research, statistical, and other administrative support for the Review Board. The Review Board Administrator shall bear primary responsibility for gathering and analyzing data, drafting reports, and providing general administrative support for the Review Board. The Review Board shall be responsible for determining what policy recommendations, if any, to make to the County Commission, including based upon the data obtained and analyses conducted by the Review Board Administrator.

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

- (1) The Review Board Administrator and staff shall compile data as requested by the Review Board. Such data shall include information contained in databases and reports from police agencies concerning police use of force and allegations of police misconduct, including but not limited to completed internal investigations. Such data may also include information regarding arrests from each police agency and data regarding bail and sentencing from Florida's 17th Judicial Circuit or other applicable sources, to the extent data is available. At the Review Board's direction, the Review Board Administrator may compile additional data relevant to the Review Board's objectives.
- (2) The Review Board Administrator shall make publicly available, including by publication on the County website, statistical data compiled from the police agencies and other sources.
- (3) At least once per year, the Review Board shall publish a report summarizing the preceding year's data and analyzing any trends or patterns observed. These reports may describe specific incidents for the purpose of illustrating systemic problems.

(g) *Objectives.* The objectives of the Review Board are to identify and report systemic issues of policing, including but not limited to:

- (1) Patterns of police misconduct, use of force, misuse of position, over-policing, arrest rates, bail terms, or sentencing that may indicate disparities based on race or other factors; and
- (2) Repeated incidents of misconduct or improper use of force within the same police agency, agency subunit, or geographical area.

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

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

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

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

11 Section 2. Severability.

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

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

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

24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

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 08/27/2020

Scott Andron (date)
Assistant County Attorney

By /s/ Adam M. Katzman 08/27/2020

Adam M. Katzman (date)
Senior Assistant County Attorney

SA/jc
Police and Criminal Justice Review Board
08/27/2020
528211_2

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