

## PROPOSED

## 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)

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

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

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

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

WHEREAS, the Board of County Commissioners of Broward County, Florida (the "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 phases, 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

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. The Review Board shall comprise  
6 twenty-four (24) voting members appointed by the County Commission  
7 after nomination in the following manner:

- 8 a. Nine (9) members nominated by County Commissioners, with each  
9 County Commissioner nominating one (1) member;
- 10 b. One (1) member nominated by the president of the Broward County  
11 Bar Association;
- 12 c. One (1) member nominated by the president of the Broward County  
13 Hispanic Bar Association;
- 14 d. One (1) member nominated by the president of the T.J. Reddick Bar  
15 Association;
- 16 e. One (1) member nominated by the president of the Caribbean Bar  
17 Association;
- 18 f. One (1) member nominated by the Broward County Public Defender;
- 19 g. One (1) member nominated by the Broward County State Attorney;
- 20 h. One (1) member nominated by the Broward County branch of the  
21 National Association for the Advancement of Colored People  
22 ("NAACP");

- i. One (1) member of the clergy nominated by a clergy organization or organization(s) representing a broad range of denominations and faith groups;
- j. One (1) member nominated by New Florida Majority;
- k. One (1) member nominated by a Black Lives Matter group;
- l. One (1) member who must be a Florida-licensed mental health professional, nominated by the chief executive officer of the Broward Behavioral Health Coalition, Inc.;
- m. One (1) member nominated by the Gay & Lesbian Community Center of Greater Fort Lauderdale, Inc., better known as the Pride Center at Equality Park;
- n. One (1) member nominated by the Broward Chapter of the American Civil Liberties Union ("ACLU");
- o. One (1) member who must be a sworn law enforcement officer of a municipal police agency, nominated by the Broward County Chiefs of Police Association; and
- p. One (1) member nominated by the Sheriff of Broward County.

(2) Qualifications. Members must be residents of Broward County. In selecting persons for nomination, County Commissioners shall consider, in addition to any other criteria they deem appropriate, the prospective nominee's personal experience with, or professional or academic study of, criminal justice, police misconduct, use of force, or over-policing. In addition, County Commissioners shall make an effort to ensure that the Review Board includes one or more social or data scientists, and representatives of the

1 following groups: persons with disabilities; working-class persons; and  
2 religious minority groups.

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

8 (4) Terms of appointment.

9 a. Review Board members shall serve in accordance with  
10 Section 1-233, Broward County Code of Ordinances ("Code"),  
11 except as otherwise provided in this section.

12 b. Members shall not be compensated for their service on the Review  
13 Board.

14 c. Service as a member of the Review Board is specifically exempt from  
15 the requirements set forth in Section 1-233(b)(2) of the Code.

16 d. The term for each member nominated by a County Commissioner  
17 shall be four (4) years from the date of appointment, subject to the  
18 conditions stated below. The term for all other members shall be two  
19 (2) years from the date of appointment.

20 e. Any member may be removed from the Review Board pursuant to  
21 Section 1-234 of the Code. Any member nominated by a County  
22 Commissioner may be removed from the Review Board by the  
23 nominating County Commissioner or the successor of that County  
24 Commissioner at any time with or without cause, and such member's

1 nomination or appointment is specifically exempt from  
2 Section 1-233(a)(1) of the Code. Additionally, by majority vote of the  
3 County Commission, any member may be removed from the Review  
4 Board for misconduct, incompetence, neglect of duty, at the request  
5 of a County Commissioner, or upon recommendation of the Review  
6 Board.

7 f. Upon the expiration of a member's term, the Review Board member  
8 shall continue to serve until a successor is appointed.

9 g. Any member who no longer satisfies the requirements of the  
10 appointed position, including the residency requirement, shall  
11 automatically cease to be a member, and the position shall be  
12 declared vacant.

13 (d) *Review Board organization.*

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

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

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

22 (4) The Review Board shall establish a meeting schedule, and shall meet no  
23 fewer than four (4) times per year.  
24

1 (5) To facilitate public attendance, the Review Board shall hold its regular  
2 meetings on weekdays after 6 p.m. unless, for good cause which shall be  
3 stated in the meeting notice, the Review Board determines that an earlier  
4 time is appropriate under the circumstances.

5 (e) *Staff support.* The County Administrator or designee shall appoint a staff  
6 member of the Human Service Department as the Review Board Administrator to serve  
7 as the Review Board's primary staff support, and to supervise such other staff from the  
8 Human Services Department as the County Administrator may provide. The Review  
9 Board Administrator shall report to the Director of the Human Services Department or  
10 such other person as designated by the County Administrator. The Review Board may  
11 request that the County Commission provide such other fact-finding and research  
12 personnel as the Review Board may determine are necessary from time to time.

13 (f) *Functions.* The Review Board shall publish data compilations and reports  
14 and make recommendations regarding policy to the County Commission on the subjects  
15 of police use of force, police misconduct, and such other matters pertaining to bias in the  
16 criminal justice system as the Review Board determines appropriate and its resources  
17 permit. The Review Board Administrator and appropriate staff as designated by the  
18 County Administrator shall be tasked with providing research, statistical, and other  
19 administrative support for the Review Board. The Review Board Administrator shall bear  
20 primary responsibility for gathering and analyzing data, drafting reports, and providing  
21 general administrative support for the Review Board. Subject to any express  
22 requirements below, the Review Board shall be responsible for determining what policy  
23 recommendations, if any, to make to the County Commission, including based upon the  
24 data obtained and analyses conducted by the Review Board Administrator.

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

11 (2) The Review Board Administrator shall make publicly available, including by  
12 publication on the County website, statistical data compiled from the police  
13 agencies and other sources. At least once per month, such statistical data  
14 shall be sent to the police agencies.

15 (3) At least once every six months, the Review Board shall publish a report  
16 summarizing the preceding six months' data and analyzing any trends or  
17 patterns observed. These reports may describe specific incidents for the  
18 purpose of illustrating systemic problems.

19 (4) The Review Board shall study and report on any specific topics within the  
20 fields of policing and criminal justice as the County Commission shall from  
21 time to time direct.

22 (g) *Objectives.* The objectives of the Review Board are to:

23 (1) Identify and report on systemic issues related to policing and the criminal  
24 justice system, including but not limited to:

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



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

5 b. Repeated incidents of misconduct or improper use of force within the  
6 same police agency, agency subunit, or geographical area.

7 (2) Develop best practices and community standards for policing and criminal  
8 justice, including but not limited to de-escalation tactics and techniques, use  
9 of force, and the integration of mental health and crisis teams with law  
10 enforcement, that can be submitted to the County Commission as possible  
11 recommendations to police and criminal justice agencies.

12 The Review Board is not tasked with investigation of specific incidents of alleged police  
13 misconduct or misuse of force. Notwithstanding any other provision in this Section 18-7,  
14 the Review Board shall refrain from investigating any specific incident that is also the  
15 subject of an open internal police agency, criminal, or prosecutorial investigation. The  
16 Office of the County Attorney shall advise the Review Board, and its members, on other  
17 limitations and restrictions on the Review Board's legal authority to exercise powers and  
18 perform functions stated in this Section 18-7.

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

21 (1) Make recommendations regarding current and proposed police agency  
22 policies, procedures, and practices on matters including, but not limited to  
23 training, recruitment, and disciplinary procedures.  
24

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

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

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

9 (5) Issue subpoenas for witnesses, documents, and other potential evidence  
10 for all matters within the Review Board's jurisdiction, except as may be  
11 prohibited by applicable law.

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

18 (j) *Sunset.* Section 18-7 shall automatically sunset on December 31, 2030,  
19 unless reauthorized by the County Commission.

20 Section 2. Severability.

21 If any portion of this Ordinance is determined by any court to be invalid, the invalid  
22 portion will be stricken, and such striking will not affect the validity of the remainder of this  
23 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be  
24 legally applied to any individual, group, entity, property, or circumstance, such

determination will not affect the applicability of this Ordinance to any other individual, group, entity, property, or circumstance.

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

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

Section 4. Effective Date.

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

ENACTED

**PROPOSED**

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

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

By /s/ Scott Andron 10/07/2020  
Scott Andron (date)  
Assistant County Attorney

By /s/ Adam M. Katzman 10/07/2020  
Adam M. Katzman (date)  
Senior Assistant County Attorney

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Police and Criminal Justice Review Board  
10/07/2020  
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