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BEAVER COUNTY CITIZEN-POLICE ADVISORY REVIEW BOARD
OPERATING PROCEDURES
October 19, 2016

PURPOSE

1. The purpose of these Rules is to set forth operating procedures for the Beaver County Citizen-Police Advisory Review Board. It is paramount to the maintenance of public safety and public confidence in law enforcement that allegations of serious police misconduct are able to be brought before an independent board, reflecting to the greatest extent possible the county's diversity, to be assessed and evaluated. This Advisory Review Board is created under sole auspices of the Beaver County District Attorney.

2. The Advisory Review Board shall strive to fairly and impartially assess incidents of misconduct and abuses of civil rights with the intent to prevent incidents in the future, and to promote public confidence in law enforcement. The Advisory Review Board will hold private hearings, evaluate allegations of misconduct, and make recommendations to the District Attorney on whether criminal charges or other sanctions may be appropriate.

3. Nothing in these Rules shall be interpreted to undermine due process or the disciplinary authority of the respective Chief of Police, to alter the executive authority of the employing municipality or the District Attorney's authority to make criminal referrals or indictments.

4. The Board believes that a private hearing, in which a citizen complaint is seriously addressed, with a recommendation made to the citizen and to the District Attorney, will aid the complainant and the community after a serious event.

AUTHORITY AND POWER

The Advisory Review Board shall receive and in the exercise of its discretion, may consider, investigate and make a determination regarding Citizen Complaints. These Rules provide for the impartial, independent and prompt investigation and disposition of Citizen Complaints in a manner which protects the public and the Subject Officer.

ADVISORY REVIEW BOARD CREATED

The Advisory Review Board has been established by the sole discretion of the Beaver County District Attorney and no approval by or authority from the Beaver County Commissioners shall be implied.

UNBIASED ADVISORY REVIEW BOARD MEMBERS

The Advisory Review Board shall consider Citizen Complaints in a fair and impartial manner. A Member, who has a personal bias, prejudice, or the appearance thereof, in the resolution of any Citizen Complaint, shall not participate in consideration of the Citizen Complaint. Personal interest in the outcome of any Citizen Complaint does not include holding or manifesting any political or social attitude or belief, so long as such belief or attitude does not preclude objective consideration of a Citizen Complaint on its merits.

ADVISORY REVIEW BOARD MEMBERS

The Advisory Review Board shall consist of at least 20 members including an approximately equal number of current or former law enforcement personnel and citizens. Advisory Review Board vacancies shall be filled by the District Attorney with the advice of Members of the Advisory Review Board.

The Advisory Review Board shall elect a Chair and a Vice Chair. The Chair shall NOT be an active or retired police officer. Elections for said offices shall be held upon adoption of these Rules and then every two years thereafter. Either the Chair or the Vice Chair or any designated Member may administer oaths to all those giving testimony, execute documents on behalf of the Advisory Review Board and invite attendance of witnesses and the production of documents for the Advisory Review Board to review at the time of hearing. If a member has 3 unexcused absences in a row, the District Attorney will contact the member to determine whether they should continue to participate and replace the member if necessary.

PUBLIC ACCESS

All meetings and hearings of the Advisory Review Board shall be CLOSED to the public.

Copies of these Rules shall be available to the public on line through the District Attorney's Office at no expense.

NO RECORDING TRANSCRIPT OF MEETINGS OR HEARINGS

The Advisory Review Board is founded only to provide a private, non-judicial forum for exploring serious complaints of police misconduct. The Advisory Review Board has no enforcement power and no power of subpoena. The Advisory Review Board hearings are informal and non-binding in nature and therefore no transcript or recording of the hearing shall be taken or maintained. There shall be agendas for each meeting but no minutes or reports shall be created or maintained.

DUTIES, LIMITATIONS AND OPERATIONS OF THE ADVISORY REVIEW BOARD

In the interest of maintaining a healthy relationship between the Police and the public, the Advisory Review Board shall provide advice and recommendations to the District Attorney and the respective Chief of Police for the purpose of improving the ability of the Police to carry out their duties.

ANNUAL MEETINGS

The Advisory Review Board shall meet at least annually to reaffirm its membership, review these Rules, and conduct whatever business it deems appropriate.

NOTICE PRIOR TO MEETINGS OR HEARINGS

The time and place of such meetings or hearings shall be announced in writing and e-mail to the members no less than 72 hours in advance of the meeting. Notice of a meeting or hearing shall include the proposed agenda items as approved by the Chair or Vice Chair.

CONDUCT OF MEETINGS

All Meetings will be conducted in accordance with Roberts Rules of Order and shall follow a routine agenda which includes at least the following components:

1. Call to order and roll call;
2. Discussion of administrative matters;
3. Report of the Chair.
4. Report of the Vice Chair.
5. Report of District Attorney including discussion of Complaints received, found to be not well founded, or found to be well founded, and any action taken if appropriate with the rules or state law.
6. Deliberation of individual Citizen Complaints which have not yet resulted in a decision by the Advisory Review Board.
7. Hearings on Formal Complaints or such other matters as a Quorum of the Advisory Review Board shall deem appropriate; and
8. Deliberation and approval or recommendation to the District Attorney.

QUORUM

The quorum for meetings and hearings shall be 11 members in recognition that some members may recuse themselves if a hearing is in regard to a citizen, officer or department with which they have a relationship.

HEARINGS

Upon receipt of a well-founded formal complaint of police misconduct, the District Attorney shall convene the Advisory Review Board, as follows:

CONVENIENING THE ADVISORY REVIEW BOARD. The Advisory Review Board shall meet and upon the vote of a majority of those present may schedule a hearing and thereafter make recommendations on whether criminal charges should result, including improvement of the relationship between the Police and the community.

TWO FORMS OF COMPLAINTS. An individual who has personal knowledge of alleged Misconduct on the part of any Officer may file a complaint in one of two forms: an Informal Complaint or a Formal Complaint. The two forms are handled differently but either may end in the filing or referral of criminal charges if deemed appropriate by the District Attorney.

CRIMINAL COMPLAINT FILED. Should the Advisory Review Board or its staff learn at any time that the District Attorney, the State Attorney General's office or the

Department of Justice has initiated criminal proceedings against a Subject Officer, the Advisory Review Board shall defer any preliminary inquiry and/or investigation until such criminal proceedings have been withdrawn or concluded. For purposes of this paragraph, "criminal proceedings" shall include formal criminal charges, information, indictments, the issuance of a Grand Jury subpoena, hearings, inquests or other investigative procedures initiated by any sworn law enforcement officers acting in conjunction with or at the behest of the District Attorney, the State Attorney General's office, the Department of Justice and/or the coroner.

CONTENT OF ADVISORY REVIEW BOARD COMPLAINT

The Complainant must provide, at a minimum, the following information within an Advisory Review Board Complaint:

1. The Complainant's name, address, telephone number and date of birth;
2. Alternate means of contacting the Complainant;
3. A written statement setting forth the allegations, including date, time and location of the alleged Misconduct, and any other pertinent details, including the names of witnesses;
4. Identification of Subject Officer (badge and/or name and/or description).
5. Confirmation that the complaint has been brought to the attention of the police department and municipality and the result of that process.
6. The solution or outcome sought by the Complainant.

ADVISORY REVIEW BOARD INFORMAL COMPLAINT

An Informal Complaint may be filed through the web-site, in writing, by facsimile or in person at the District Attorney's Office. An Informal Complaint shall include the name and contact information for the person filing the Informal Complaint. The source of the Informal Complaint shall remain confidential throughout the investigation process. An Informal Complaint shall be handled confidentially. The District Attorney may investigate the Informal Complaint, may discuss the matter with the officer or respective Chief of Police, or may refer the subject matter to another agency for criminal or civil prosecution. Because an Informal Complaint must be treated as being anonymous there shall be no public acknowledgement of the filing of an Informal Complaint and no public announcement of any result. If the District Attorney determines that the Informal Complaint may be appropriately referred as Formal Complaint and hearing, the Complainant shall be provided with a copy of these Rules and the District Attorney shall explain that he or she must prepare and sign a Citizen Complaint under penalty of perjury. The procedures for filing a Citizen Complaint shall be explained to the Complainant and any necessary assistance shall be provided.

ADVISORY REVIEW BOARD FORMAL COMPLAINT

A Formal Complaint may be filed through the web-site, in writing, by facsimile or in person at the District Attorney's Office. A Formal Complaint shall include the name and contact information for the person filing the Formal Complaint. The attached form is preferred. A Formal Complaint will only be acted upon if the person filing the Formal Complaint includes a Notarized Affidavit as to its truth or a statement that it is being executed under penalty of perjury. The District Attorney shall conduct a preliminary investigation to determine if it is well founded and capable of proof. If not well-founded, the District Attorney shall advise the members of the Advisory Review Board that a Formal Complaint was filed, the nature of the Formal Complaint, and why it was not well founded or not capable of proof. A member of Advisory Review Board may disagree with the District Attorney and may convene the Advisory Review Board for a determination that the Formal Complaint shall be accepted. If well founded, the District Attorney shall refer the Formal Complaint to the Advisory Review Board for hearing. The District Attorney may also fully investigate the Formal Complaint, may discuss the matter with the officer or respective Chief of Police, and/or may refer the subject matter to another agency for criminal or civil prosecution. The District Attorney and the Advisory Review Board shall inform the person submitting the Formal Complaint what action was taken.

PRIOR TO PUBLIC HEARINGS

1. The Advisory Review Board shall inform all Complainants and the Police of the option of formal or informal mediation as an alternative to a public hearing before the Advisory Review Board.

2. Upon initial consideration of a Formal Complaint, a quorum of the Advisory Review Board shall determine whether: 1) the allegations shall be the subject of a hearing; 2) the allegations are not well founded; or 3) the Advisory Review Board requires additional information in order to make its initial determination on whether or not to proceed with a public hearing.

SCHEDULING A HEARING

When a quorum of the Advisory Review Board shall determine that the allegations set forth in a Formal Complaint are well founded and shall be the subject of a hearing:

1. DENIED COMPLAINT. When a quorum of the Advisory Review Board shall determine that the allegations set forth in a Formal Complaint are not well founded and shall not be the subject of a hearing the District Attorney shall advise the Complainant in writing that the Advisory Review Board determined it was not well founded or not capable of proof.

2. MORE INFORMATION NEEDED. When a quorum of the Advisory Review Board shall determine that it requires additional information in order to determine whether the allegations set forth in a Formal Complaint are well founded, the Advisory Review Board shall provide to the Complainant with a request for additional as well as the opportunity to provide such additional information to the Advisory Review Board. Upon receipt of such information, and a deadline for submission.

3. WITHDRAWN COMPLAINT. A Complainant may withdraw from the Citizen Complaint process at any point in the proceedings by submitting to the Advisory Review Board a written, dated and signed notice of the Complainant's intention to withdraw. The signed withdrawal statement must include an affirmation that the Complainant has not been coerced or intimidated into withdrawing the Citizen Complaint.

POLICE DEPARTMENT PARTICIPATION

The Police Department employing an officer who is the subject of an investigation, or the FOP of which the officer is a member, may elect in writing: 1) not to participate in a hearing; 2) to participate in the hearing; 3) to represent the officer in a hearing; or 4) to request formal or informal mediation. Should the Police Department employing an officer who is the subject of an investigation, or the FOP of which the officer is a member, elects to participate in the hearing or to represent the officer in the hearing, it shall be permitted to offer testimony but may not examine or cross examine witnesses.

POLICE OFFICER PARTICIPATION

Prior to any Complainant or Officer participating in a hearing in any capacity, the Chair shall read the following statement to the Complainant and Officer:

> *You are participating in a hearing to determine whether misconduct occurred. Following a hearing the Advisory Review Board may recommend that the police department take disciplinary action, that criminal charges be filed, or that no action be taken. You may be questioned as part of this hearing. You will be asked questions specifically directed and narrowly related to the performance of your duties. You are entitled to all rights and privileges guaranteed by the laws of the Commonwealth of Pennsylvania, the Constitution of this state and the Constitution of the United States. You have the right not to be compelled to incriminate yourself, and the right to have your own retained legal counsel and union representative present at each and any stage of your investigation. Counsel will not be provided to you by the Advisory Review Board. If you refuse to testify or to answer questions relating to the performance of your official duties, your refusal will be reported to the Chief of Police. The hearing will be in private with witnesses sequestered. There will be no written or recorded transcript or record of*

the hearing. This being done so that any evidence or testimony will not be used for or against you in another hearing or in court.

FINDINGS FOLLOWING THE HEARING

1. No finding with respect to a Citizen Complaint shall be sustained unless it is proven by a preponderance of the evidence in accord with the procedure set forth in these Rules. "Preponderance of the evidence" means evidence that has more convincing force than the evidence which is offered in opposition to it.

2. No Advisory Review Board finding or recommendation shall be based solely upon a Formal Complaint nor shall prior unsubstantiated, unfounded or withdrawn Citizen Complaints be the sole basis for any Advisory Review Board finding or recommendation.

3. At any time following the receipt of a Formal Complaint, the Complainant and the Subject Officer may choose to resolve the Formal Complaint through formal or informal mediation.

Recommended by: _____ Date: 10/26/16

David J. Lozier
District Attorney

Approved by: _____ Date: 10/27/16

Joseph C. West
Chairman