



Eff. November 15, 2022

## **BEAVER COUNTY CITIZEN-POLICE ADVISORY REVIEW BOARD OPERATING RULES AND BY LAWS**

### **PURPOSE**

1. The purpose of the Beaver County Citizen-Police Advisory Review Board (Advisory Review Board) is the maintenance of public safety and public confidence in law enforcement. Allegations of serious police misconduct are able to be brought before this 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/or abuses of civil rights (Formal Complaint) being brought before the Advisory Review Board, 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/or abuses of civil rights against an identified Police Officer (Subject Officer), and make recommendations to the District Attorney on whether criminal charges or other sanctions may be appropriate.
3. No recommendation of the Advisory Review Board 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 Advisory Review Board believes that a private hearing, in which a citizen complaint is seriously addressed, will aid the complainant and the community after a serious event. At the conclusion of a Hearing, a recommendation of the Advisory Review Board will be made to the citizen and the District Attorney.

### **AUTHORITY AND POWER OF THE ADVISORY REVIEW BOARD**

The Advisory Review Board shall receive and, in the exercise of its discretion, may consider, investigate and make a determination regarding Formal Complaints. An impartial, independent and prompt investigation of Formal Complaints will be conducted and disposed of in a manner which protects the public and the Subject Officer.

## **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.

### **ADVISORY REVIEW BOARD MAKE UP**

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.

### **ADVISORY REVIEW BOARD MEMBERSHIP**

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 the Advisory Review Board Executive Committee.

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 the Operating Rules and By Laws, 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 a Hearing.

### **UNBIASED ADVISORY REVIEW BOARD MEMBERS**

The Advisory Review Board shall consider Formal 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 Formal Complaint. Personal bias in the outcome of any Formal 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 Formal Complaint on its merits.

### **ADVISORY REVIEW BOARD OFFICERS**

The Advisory Review Board Officers shall include the Chairman, Vice Chairman, and Secretary. Each will serve a (2) two-year term. After serving the two-year term, the Advisory Review Board will select a Nominating Committee to elect New Officers.

### **CHAIRMAN**

The Chairman shall preside at all meetings of the Advisory Review Board and of the Executive Committee. The Chairman shall lead the development of the Advisory Review Board policies, represent the Advisory Review Board on ceremonial occasions, and perform any duties incident to the office that may occur during his or her term of office.

## **VICE CHAIRMAN**

The Vice Chairman shall act in all cases for and as the Chairman in the absence or incapacity of the Chairman, shall serve on the Executive Committee, and shall perform such other duties as may be required from time to time.

## **SECRETARY**

The Secretary shall attend all meetings of the members of the Advisory Review Board and shall record all the votes of the members and the minutes of the meetings of the members and of the Board and of the Executive Committee of the Board. The Secretary shall keep a record of the minutes and any other documents of the Board. In general, shall perform all duties incident to the office of the secretary, and such other duties as may from time to time be assigned by the Board or the Chairman.

## **EXECUTIVE COMMITTEE MEETINGS**

The Executive Committee shall consist of the Advisory Review Board Officers (Chairman, Vice Chairman, and Secretary) along with two other Advisory Review Board Members. As a subset of the full Advisory Review Board, the Advisory Review Board members can, when necessary, grant the Executive Committee permission to act on behalf of the full Advisory Review Board between meetings, in the event of an urgent situation.

While the Advisory Review Board meets semi-annually, the Executive Committee is expected to meet more frequently, typically quarterly, to discuss any pressing work. The Executive Committee's power is not absolute and must answer to the Advisory Review Board and are bound by the Advisory Review Board's voting power and provisions of Operating Rules and By Laws. The Executive Committee cannot amend the Operating Rules and By-Laws, elect or remove Advisory Review Board members, or make structural decisions like eliminating programs and/or the agency.

The Executive Committee's main purpose is as a steering committee to address policies, prioritize issues for the full Advisory Review Board, ensure good governance practices, and facilitate decision-making between the semi-annual Advisory Review Board meetings or in urgent and crisis circumstances.

The Executive Committee will meet with the District Attorney concerning all Formal Complaints. If the Formal Complaint contains an allegation of misconduct and/or abuses of civil rights, then the Executive Committee shall present the Formal Complaint to the Advisory Review Board to begin the investigation.

## **ACKNOWLEDGEMENT AND CONFIDENTIALITY**

A member of the Advisory Review Board must agree to comply with the Operating Rules and By Laws adopted by the Advisory Review Board, further agree to treat the content of Formal Complaints with the utmost confidentiality including all information, testimony, argument and deliberations of the Advisory Review Board and execute the attached Acknowledgement and Confidentiality Statement (Attachment A).

## **ADVISORY BOARD MEETINGS**

### **SEMI-ANNUAL MEETINGS**

The Advisory Review Board shall meet at least 2 times annually (January and August) to reaffirm its membership, review the Operating Rules and By Laws, and conduct whatever business it deems appropriate. The meeting shall be held on the third (3rd) Thursday of the month in the Beaver County Board of Commissioners Conference Room, subject to availability.

### **SITE OF THE MEETINGS**

Semi-annual Meetings of the Advisory Review Board shall be held at the Beaver County Courthouse, 810 Third Street, Beaver Pennsylvania or at such other place within Beaver County as the Advisory Review Board members may from time to time appoint, or as may be designated in the notice of the meeting.

### **MEETING NOTICES**

The time and place of semi-annual meetings shall be publicly announced on the District Attorney's web site and in writing and e-mail to the members no less than 72 hours in advance of the meeting. Notice of a meeting shall include the proposed agenda items as approved by the Chairman or Vice Chairman. If a Hearing shall be conducted the Formal Complaint shall be included in the notice to members.

### **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 (Chairman)
2. Roll Call (Secretary)
3. Discussion of Administrative Matters
4. Report of the Executive Committee
5. Report of District Attorney including discussion of Formal Complaints received, (well founded and/or not well founded), and any action taken, if appropriate
6. Deliberation of Individual Formal Complaints
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.

## **RESIGNATIONS.**

Any Advisory Review Board member may resign at any time by giving written notice to the Chairman or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

## **REMOVAL.**

After convincing evidence of Malfeasance, Misfeasance, and/or Nonfeasance, any Advisory Review Board member may be removed by a majority vote of the Advisory Review Board. A member who is so removed shall not be granted any rights to a hearing or the right to appeal the removal. However, an Advisory Review Board member shall not be removed due to Military Obligations, illness or hospitalization.

## **VACANCIES**

If the office of any officer becomes vacant for any reason, the Advisory Review Board may appoint a successor or successors, who shall hold office for the unexpired term in respect of which such vacancy occurred.

## **COMPENSATION**

Advisory Review Board members shall not be compensated for their services. Refreshments for the Advisory Review Board and/or reimbursement for travel expenses to a training workshop shall not constitute compensation.

## **ATTENDANCE**

If an Advisory Review Board member has three (3) unexcused absences in a row, the District Attorney will contact the member to determine if there is interest in continuing to participate. If not, the District Attorney will move to replace said member.

## **PERSONAL LIABILITY**

An Advisory Review Board member shall not be personally liable for monetary damages and shall be indemnified for any action taken, or any failure to take any action,

## **ADVISORY REVIEW BOARD HEARINGS**

Upon receipt of a well-founded Formal Complaint of police misconduct, the District Attorney shall convene the Advisory Review Board, as follows.

The Advisory Review Board shall meet and, upon the vote of a majority of those present, may convene a Hearing and thereafter make recommendations on whether criminal charges should result. Recommendations for improving the relationship between the Police and the community can also be made.

## **COMPLAINTS: TWO FORMS**

An individual who has personal knowledge of alleged Misconduct on the part of any Officer may file one of two Citizens Complaints: Informal Complaint or a Formal Complaint. While the two forms of Citizens Complaints are handled differently, either may end in the referral of criminal charges, if deemed appropriate by the District Attorney.

### **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, the Complainant shall be provided with a copy of these Operating Rules and By Laws and the District Attorney shall explain that he or she must prepare and sign a Formal Complaint under penalty of perjury. The procedures for filing a Formal Complaint shall be explained to the Complainant and any necessary assistance shall be provided.

### **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 (Attachment B) 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. A Formal Complaint shall be available to the public. 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 Review Board may disagree with the District Attorney and may convene the 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 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. Because a Formal Complaint is a public record the District Attorney and the Review Board shall inform the person submitting the Formal Complaint with the actions taken.

## **CONTENT OF FORMAL COMPLAINT**

The Complainant must provide, at a minimum, the following information within the 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.

## **CRIMINAL COMPLAINT FILED**

Should the Advisory Review Board 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.

## **PRIOR TO FORMAL COMPLAINT HEARINGS**

1. The 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 Review Board.
2. Upon initial consideration of a Formal Complaint, a quorum of the 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 Review Board requires additional information in order to make its initial determination on whether or not to proceed with a public hearing.

## **POLICE DEPARTMENT PARTICIPATION**

The Police Department employing an officer who is the subject of a Formal Complaint, 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 a Formal Complaint, 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 Officer participating in a hearing in any capacity, the Chair shall read the following statement to the Officer:

*You are participating in a hearing to determine whether official conduct 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*

*Commonwealth 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 present at each and every stage of this 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 Formal 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.

## **AMENDMENT: OPERATING RULES AND BY-LAWS**

These Operating Rules and By Laws may be amended or repealed, or new bylaws may be adopted by the quorum of the Advisory Review Board Members.

## **PUBLIC ACCESS**

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

Copies of these Operating Rules and By Laws 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.

The adoption of the above Operating Rules and By Laws was witnessed by members voted on at the // // // //, 2022 membership meeting which is recorded in the \_\_\_\_\_ 2022 meeting minutes and are hereby approved:

\_\_\_\_\_  
Joseph C. West, Chairman

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Date

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M. Christine Whipple, Secretary

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Date