Legislation Details (With Text)

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Title:	Amendment of Municipal Code Chapter 2-78 to further regulate powers and duties of Civilian Office of Police Accountability and its chief administrator		
Sponsors:	Lopez, Raymond A.		
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Attachments:	1. O2021-5290.pdf		

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5/24/2023	1	City Council	Failed to Pass	
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Committee on Public Safety Chicago City Council Meeting
November 17, 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 2-78 ofthe Municipal Code of Chicago is hereby amended by inserting the language underscored, and by deleting the language struck through, as follows:

2-78-110 Purpose.

The mission of the Civilian Office of Police Accountability, using standards as prescribed in 50 ILCS 727/1-10. commonly referred to as the Police and Community Relations Improvement Act, is to provide a just and efficient means to fairly and timely conduct investigations within its jurisdiction, including investigations of alleged police misconduct and to determine whether those allegations are well-founded, applying a preponderance ofthe evidence standard; to identify and address patterns of police misconduct; and, based on information obtained through such investigations, to make policy recommendations to improve the Chicago Police Department and reduce incidents of police misconduct.

(Omitted text unaffected by this ordinance)

2-78-120 Office and Chief Administrator - Powers and duties.

The Office and Chief Administrator shall have the following powers and duties:

a) To receive and register all complaints filed against members of the Police Department;

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b) To conduct all investigations using standards as prescribed in 50 ILCS 727/1-10. commonly referred to as the Police and Community Relations Improvement Act:

(be) To conduct investigations into complaints against members of the Police Department alleging domestic violence, excessive, force, coercion, or verbal abuse;

(edj To conduct investigations into all incidents, including those in which no allegation of misconduct is made, in which, a Police Department member discharges: (i) a firearm in a manner that potentially could strike another individual, (ii) a stun gun or taser in a manner that results in death or serious bodily injury, or (iii) in the Chief Administrator's discretion, other weapons discharges and other use of Police Department- issued equipment as a weapon that results in death or serious bodily injury;

(d-e) To conduct investigations into incidents, including those in which no allegation of misconduct is made, where a person dies or sustains a serious bodily injury while detained or in Police Department custody, or as a result of police actions, such as during attempts to apprehend a suspect;

(efj To conduct investigations into all incidents of an "officer-involved death," as that term is defined in 50 ILCS 727/1-5;

(fg) To conduct investigations into complaints against members of the Police Department alleging improper search or seizure of either individuals or property, or unlawful denial of access to counsel;

(gh) To forward all complaints filed against members of the Police Department, other than those set forth in paragraphs (be) - (fg) of this section, to the Police Department's Bureau of Internal Affairs;

(hi) In the Chief Administrator's discretion, to review lawsuits or claims against the Police Department, or one or more of its members, or against the City alleging police misconduct that falls within the Office's jurisdiction, where such lawsuit or claim was subsequently settled or resulted in a judgment against such member, the Police Department or the City, for the purpose of reopening a prior investigation or opening a new investigation of alleged police misconduct;

(+i) To refer a complaint against a member of the Police Department within the Office's jurisdiction to mediation or such other methods of alternative dispute resolution that may be adopted in the Chief Administrator's discretion, except for complaints alleging the use of excessive force that results in death or serious bodily injury and cases of domestic violence involving physical abuse or threats of physical abuse. The Office shall promulgate rules governing such mediations and other dispute resolution methods, which shall provide that participation shall be voluntary for all parties, and that the complainant, if any, shall be provided an opportunity to participate in the mediation process or other alternative dispute resolution process;

Qk) To conduct investigations within its jurisdiction in a manner consistent with Article IV of Chapter 2-84 of this Code, the rules established by the Police Board, and any other applicable laws and rules;

(kl) Subject to applicable law, to review the complaint history of a member of the Police Department in order to inform a current investigation;

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(Im) To recommend to the Superintendent, with respect to incidents within its jurisdiction, appropriate disciplinary or other remedial action against members of the Police Department found to be in violation of any applicable Police Department rules, including rules related to the duty to provide truthful information regarding the officer's own conduct and the conduct of others, and the duty to report the misconduct of others. Such remedial action may include, but is not limited to, reassignment, additional training, or counseling;

(fnn) Based on information obtained through investigations conducted pursuant to this section, to recommend to the Superintendent, the Chairman of the City Council Committee on Public Safety, the Police Board, and the Commission revisions to the Police Department's policies, practices, collective bargaining agreements, programs, and training in order to improve the accountability, effectiveness, integrity, and transparency ofthe Police Department;

(fl-o) To conduct investigations to determine whether members ofthe Police Department are engaging in patterns or practices of misconduct, and, where a pattern or practice of misconduct is found, recommend revisions to the Police Department's policies, practices, programs, and training in order to address and eliminate such patterns or practices;

(ep_) Subject to applicable law, to have full access to all information in the possession or control of the Police Department, the Police Board, and any other City department or agency in order to conduct investigations within the Chief Administrator's jurisdiction;

(pci) To issue subpoenas to compel the attendance and testimony of witnesses and the production of documents and other items relevant to an investigation within its jurisdiction. Issuance of subpoenas shall be subject to Section 2-78-125;

(qr) To retain counsel to enforce and defend against subpoenas and to advise and represent the Office with respect to its investigations, provided:

i) such counsel are selected from a pool of no fewer than five firms previously approved by the Corporation Counsel after consultation with the Office;

ii) such counsel are retained pursuant to the standard terms of engagement then used by the Corporation Counsel, including any limitations on fees or costs;

iii) the costs of such representation are paid from the appropriations of the Office; and

iv) the Office provides the Corporation Counsel with notice of the engagement, including the firm selected and a copy of the engagement agreement.

Nothing in this provision shall be construed to alter the exclusive authority of the Corporation Counsel to either defend and supervise the defense of claims against the City and/or individual City defendants, or to provide the Office or the Chief Administrator with the authority to settle monetary or other claims against the City and/or individual City defendants.

(fs) To promulgate rules and procedures for the conduct of the Office and its investigations consistent with due process of law, equal protection under the law, and all other applicable local, state and federal laws, and in accordance with Section 2-78-170;

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(st) To set minimum qualifications and appropriate screening procedures for all persons to be considered for employment by the Office, and to set appropriate staffing levels to carry out the powers and duties set forth herein, provided, however, that no investigator employed by the Office shall be a current or former sworn member of the Police Department within the last five years;

(tu) To address Police Department personnel and community groups, and inform the public, on the mission, policies and ongoing operations of the Office;

(«v) To develop and implement a process for allowing citizens to file complaints by various means, including submission of complaints using the Internet, by telephone, and in person at locations or meetings in the community;

(vw) In the Chief Administrator's discretion, to review and investigate the facts of individual civil lawsuits and criminal proceedings involving alleged police misconduct, in order to identify and investigate incidents of police misconduct or to make recommendations to improve Police Department policies and practices within the Office's jurisdiction;

(wx) To appear before the Committee on Finance at public hearings at which proposed settlements of lawsuits and controverted claims against the Police Department or its members are submitted for approval, and, subject to any applicable legal constraints regarding confidentiality, reply to questions related to Office or Independent Police Review Authority investigations involving Police Department members who are named parties to said lawsuits or controverted claims; and

(xy_) Subject to applicable law and in the Chief Administrator's discretion, to reopen any closed Office or Independent Police Review Authority investigations if:

i) The Chief Administrator becomes aware of evidence not available at the time the investigation was closed that could materially affect the results of that investigation;

ii) The Chief Administrator determines that the manner in which the investigation was concluded has resulted in a gross miscarriage of justice; or

(iii) Following a review or audit of an investigation by the Deputy Inspector General for Public Safety, the Deputy Inspector General for Public Safety recommends that the investigation be reopened. If the Chief Administrator declines to reopen a closed investigation pursuant to this subparagraph (iii), the Chief Administrator shall provide a written explanation of its reasons to the Deputy Inspector General for Public Safety.

(z) The Chief Administrator shall refrain from posthumously sustaining and issuing any decisions against any officer killed in the line of duty.

Nothing in this chapter shall preclude the Chief Administrator from referring a complaint or information concerning a member ofthe Police Department to the Office of the Inspector General, or to appropriate federal, state or local law enforcement authorities. Nor shall anything in this chapter preclude the Office from conducting an investigation within its jurisdiction concurrently with an active criminal investigation.

SECTION 2. This ordinance shall be in full force and effect upon passage and publication.

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