

#12

07-0-0141

(Do Not Write Above This Line)

AN ORDINANCE BY COUNCILMEMBERS H. TAMAR WILLS, C.T. MARTIN AND IVORY LEE YOUNG, JR. *Wills, Martin, Lee Young, Jr.* AN ORDINANCE AMENDING CHAPTER 2, ARTICLE XVI OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA, BY ADDING A NEW DIVISION 11, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD ("BOARD"); TO CONSIDER GRIEVANCES OF CITIZENS WHO HAVE COMPLAINTS AGAINST ANY MEMBER OF THE BUREAU OF POLICE SERVICES; TO PROVIDE FOR HEARINGS BEFORE THE BOARD FOR POLICE OFFICERS; TO PROVIDE FOR RECOMMENDATIONS FOR DISPOSITIONS OF THE BOARD; AND FOR OTHER PURPOSES.

*Subject: Police Board*  
*by Roll Call Vote*  
*9 Amendments Adopted by Roll Call*  
*Adopted as Amended*  
**AS AMENDED** **ADOPTED BY**  
MAR 05 2007

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred *January 17, 2007*  
Referred To: *PS & A*  
Date Referred \_\_\_\_\_  
Referred To: \_\_\_\_\_  
Date Referred \_\_\_\_\_  
Referred To: \_\_\_\_\_

First Reading  
Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred To \_\_\_\_\_

Committee *PSA*  
Date *Hold*  
Chair *Hold*  
Action *2/27/07*  
Fav, Adv, Hold (see rev. side)  
Other \_\_\_\_\_  
Members *4 Y. ...*

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action \_\_\_\_\_  
Fav, Adv, Hold (see rev. side)  
Other \_\_\_\_\_  
Members \_\_\_\_\_

Refer To \_\_\_\_\_  
Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action \_\_\_\_\_  
Fav, Adv, Hold (see rev. side)  
Other \_\_\_\_\_  
Members \_\_\_\_\_

Refer To \_\_\_\_\_  
Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action \_\_\_\_\_  
Fav, Adv, Hold (see rev. side)  
Other \_\_\_\_\_  
Members \_\_\_\_\_

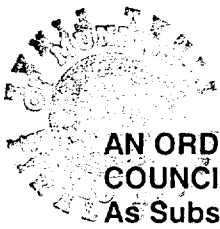
FINAL COUNCIL ACTION  
 2nd  
 1st & 2nd  
 3rd  
Readings  
 Consent  
 V Vote  
 RC Vote

CERTIFIED  
APPROVED  
MAR 05 2007  
ATLANTA CITY COUNCIL PRESIDENT  
*Steph...*

CERTIFIED  
APPROVED  
MAR 05 2007  
MUNICIPAL CLERK  
*R...*

MAYOR'S ACTION

APPROVED  
*[Signature]*  
MAYOR



**AN ORDINANCE BY  
COUNCILMEMBERS H. LAMAR WILLIS, C.T. MARTIN AND IVORY LEE YOUNG, JR.  
As Substituted and Amended(2) by Full Council**

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE XVI OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA, BY ADDING A NEW DIVISION 11, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD ("BOARD"); TO CONSIDER GRIEVANCES OF CITIZENS WHO HAVE COMPLAINTS AGAINST ANY MEMBER OF THE POLICE AND/OR CORRECTIONS DEPARTMENTS ("DEPARTMENTS"); TO PROVIDE FOR HEARINGS BEFORE THE BOARD FOR POLICE AND/OR CORRECTIONS OFFICERS; TO PROVIDE FOR RECOMMENDATIONS FOR DISPOSITIONS OF THE BOARD; AND FOR OTHER PURPOSES.**

**WHEREAS**, issues relating to public safety are of primary concern to all citizens of the City of Atlanta; and

**WHEREAS**, it is incumbent upon the government of the City of Atlanta to ensure that agencies directly responsible for public safety, particularly the Police Department ("Department") and the Department of Corrections ("Corrections"), have the proper support from the government and its various agencies; and

**WHEREAS**, it is important that police or corrections officers who have been accused of misconduct be reviewed by a credible, independent review Board; and

**WHEREAS**, it is similarly incumbent upon the government of the City of Atlanta to instill confidence in its citizenry to redress grievances against the government and its employees; and

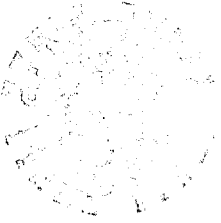
**WHEREAS**, the codified establishment of a civilian advisory board known as the Citizen Review Board in the City of Atlanta will help to prevent future incidents of police or corrections misconduct and abuses of civil rights, reduce the amount of money needed to satisfy judgments and settlements based upon allegations of police or corrections misconduct, promote public confidence in law enforcement, and lessen the possibility that future incidents of urban unrest will occur.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA as follows:**

Section 1: That a new Division 11 be added to Chapter 2, Article XVI of the Code of Ordinances of the city of Atlanta, Georgia to provide as follows:

**Sec. 2-2201: Establishment of the Atlanta Citizen Review Board.**

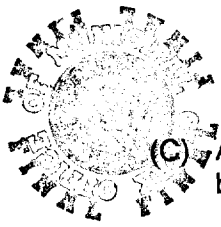
- (A) The Atlanta Citizen Review Board (the "Board") is established to provide a permanent agency in the city of Atlanta through which:
1. complaints lodged by members of the public regarding alleged abusive language, false arrest, false imprisonment, harassment, use of excessive force, serious bodily injury, death which is alleged to be the result of the actions of a sworn employee of the Police Department or Corrections, shall be processed, investigated under section 2-2211 of this chapter, and evaluated; and policies of a law enforcement unit may be reviewed.



2. The board shall have the jurisdiction to entertain citizen's complaints with regard to the above described matters.
  3. Complaints shall be filed in writing and under oath with the Board no later than one hundred eighty (180) days following the date of the alleged infraction. All complaints filed with the Board will be submitted to OPS by the Board for their review. There shall be no filing fee and complainants shall be provided any necessary assistance in completing a complaint form.
- (B) Jurisdiction of the Board shall extend only to complaints against police and/or corrections officers with respect to abusive language, false arrest, false imprisonment, harassment, use of excessive force, serious bodily injury, or death which is alleged to be the result of the actions of an employee of the Departments and use of excessive force as defined in section 2-2213 of this chapter and by the law enforcement unit's rules and regulations.
- (C) An explanation of the Board's complaint procedures shall be made to all police and corrections officers in a general order to be included in the manual of rules and procedures of a law enforcement unit, and shall be included in the training program for new corrections and police officers.
- (D) Each member of the Board shall receive training on the issues of abusive language, false arrest, false imprisonment, harassment, use of excessive force, serious bodily injury, death which is alleged to be the result of the actions of an employee of the Department of Corrections or Police.
- (E) The Atlanta Citizen Review Board ("Board") shall be composed of ) eleven (11) members who represent the diversity of this community, and who reside within the City of Atlanta and who shall be appointed as follows:

**Sec. 2-2202: Appointment of members.**

- (A) The eleven (11) members of the Atlanta Citizen Review Board shall be appointed as follows and said appointments shall be confirmed by the city council:
1. One (1) member shall be appointed by the Mayor
  2. One (1) member shall be appointed by the City Council
  3. One (1) member shall be appointed by the President of Council with previous experience as a law enforcement professional.
  4. One (1) member shall be appointed by Neighborhood Planning Unit ("NPU") Group A-F
  5. One (1) member shall be appointed by NPU Group G-L
  6. One (1) member shall be appointed by NPU Group M-R
  7. One (1) member shall be appointed by NPU Group S-Z
  8. One (1) member shall be appointed from the Gate City Bar Association
  9. One (1) member shall be appointed from the Atlanta Bar Association
  10. One (1) member shall be appointed by the League of women Voters
  11. One (1) member shall be appointed by the Atlanta Business League
- (B) "NPU groups", for this purpose, are recognized by alphabetically arranged groups of six (6) or seven (7). The Atlanta Planning and Advisory Board ("APAB") shall be responsible for developing a process and coordinating the appointment of said Board members.



(C) All initial appointments shall be confirmed by the Council. Such appointments should be confirmed within ninety (90) days of the effective date of this ordinance.

(D) All confirmed appointees should be inaugurated no more than thirty (30) days after council confirmation.

(E) Upon inauguration the board will have up to sixty (60) days to recommend standard operating procedures and recommended budgetary requirements to be approved by council.

(F) The members of the Atlanta Citizen Review Board may make recommendations to the mayor, president of council, and Council members of prospective members to be appointed to the Board.

**(G) nominees for the Citizen Review Board and the Citizens Review Board Officer, if applicable, shall be subject to an employment background check as well as a criminal history check. Nominees shall execute all releases necessary for the Department of Personnel and Human Resources and the Department of Police to accomplish the same. If the nominee is determined to have committed a felony, the nomination will be withdrawn.**

#### **Sec. 2-2203. Composition of Board.**

(A) For the purposes of section 2-2202(A)(4), experience as a law enforcement professional shall include experience as a police officer, criminal investigator, special agent, or a managerial or supervisory employee who exercised substantial policy discretion on law enforcement matters, in a federal, state, or local law enforcement agency, other than experience as an attorney in a prosecutorial agency.

(B) Others selected shall have skills and experience in areas relevant to the work of the Board. Areas that should be represented are: civil rights work and litigation; community and business leadership; and relevant academic expertise.

(C) No member of the Board shall hold any other public office or hold employment with the City of Atlanta.

(D) The chair of the Board will be elected by the Board from among its members. At the first meeting of the Board it shall, by majority vote of all of its members, adopt rules governing the conduct of its meetings, proceedings, and other procedural matters.

(E) To enable the Board to conduct its work, the Board is hereby authorized to hire its own Director and appropriate investigative and clerical staff. Additional staff support to the Board shall be provided by the Office of the Mayor, the City Attorney, the Department and Corrections upon the request of the Board.

#### **Sec. 2-2204. Time limit on appointments.**

For all appointments of members to the Board, the appropriate appointing party shall submit, in writing, names of those individuals to be considered for membership to the Atlanta City Council within 60 days prior to the expiration of the term of any member.

#### **Sec. 2-2205. Terms of office.**

Initial terms stagger as follows



Appointment by the Mayor will be one (1) year  
by NPU A-F will be one (1) year  
by NPU S-Z will be one (1) year  
by League of Women Voters will be one (1) year  
Appointment by the City Council will be two (2) years  
by NPU G-L will be two (2) years  
by Gate City Bar will be (2) years  
by Atlanta Business League will be two (2) years  
Appointment by City Council president will be three (3) years  
by NPU M-R will be three (3) years  
by Atlanta Bar Association will be three (3) years

Thereafter all terms will be three (3) years.

**Sec. 2-2206. Vacancies.**

Any membership vacancies created on the Board by any reason whatsoever shall be filled in accordance with the procedure outlined in section 2-2202.

**Sec. 2-2207. Organization; rules; consultations.**

The Board shall hold an organizational meeting in February of each year to elect officers and transact any other authorized business. At such meeting and thereafter from time to time on the call of the chair of the Board, the Board shall adopt and promulgate or amend such bylaws, rules and regulations as are deemed necessary or convenient to conduct the affairs of the Board. The Board and its members may consult with city officials, department heads in the performance of the business and duties of the Board.

**Sec. 2-2208. Officers.**

(A) The membership of the Board shall elect the following officers:

1. the chair;
2. the vice-chair; and
3. the secretary.

(B) Elected officers shall serve one-year terms from the time of their election at the organizational meeting.

**Sec. 2-2209. Compensation; conflict of interest.**

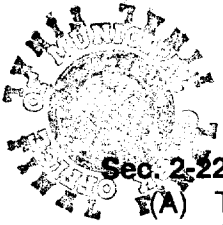
(A) Members of the Board shall serve without compensation from the city but shall be eligible for reimbursement for actual and necessary expenses incurred in the performance of their duties.

(B) A member of the Board may not contract to provide goods and services to the city in the ordinary course of the business or profession of such member. No member shall participate as a member in the review and recommendations of the Board on any proposed work or work done by any such member or any corporation, partnership or other legal entity in which such member has any financial interest.

**Sec. 2-2210. Quorum; voting**

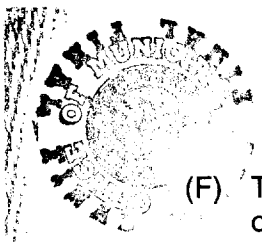
(A) Five members of the Board shall constitute a quorum for each Board meeting. Three members shall constitute a quorum for each hearing.

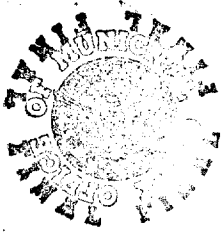
(B) Decisions of the Board or of a hearing panel shall be made by vote of a majority of the members.



**Sec. 2-2211. Powers and Duties of the Board.**

- (A) The Board shall advise the Mayor, the President of Council, Council members and the Chief of Police and the Chief of Corrections on policies and actions of the Police and Corrections Department with the purpose of improving the ability of police personnel to carry out their duties, and to improve the relationship between the Department, Corrections and the community.
- (B) The Board shall have the power to conduct investigations and public hearings.
- (C) The Board shall have full discretion to select appropriate individual incidents to review and broader issues to study which may be of concern to the community, the Police and Corrections Department, or the Chiefs of Police and Corrections; provided, however, that the Board shall, to the best extent possible, minimize duplication of effort between the Board and any other existing agencies which have jurisdiction over the same matter. The Mayor, the President of Council, Council members and the Chiefs of Police and Corrections, and other responsible officials shall ensure that all such agencies cooperate to the greatest extent possible in the performance of their respective activities, studies, and operations.
- (D) The Board may initiate studies upon request to the Board by any member of the public or the Police Department and the Department of Corrections, or at the Board's own discretion. The Board may review specific complaints or incidents of misconduct against individual police officers; including those involving language related to race, ethnicity, religion, gender, sexual orientation or disability.
- (E) In order to accomplish its goals as set forth above, the Board shall, have full access to relevant Police Department and Corrections personnel for interview and to relevant documents, including, but not limited to, the following:
1. OPS files, citizen complaints, and determinations made pursuant thereto; Department and Corrections Review files; Ethics and Accountability files, and the files of any other internal investigative agency charged with investigating police misconduct incidents;
  2. Police paperwork (e.g., police documents and other paperwork produced by the Department and Corrections for the purpose of investigating suspects or to aid in their prosecution);
  3. Information related to past assignments and disciplinary action;
  4. Police and Corrections Directives, and other police documents that the Board deems relevant to the issue under review;
  5. All general summaries, statistical compilations, and other internal reports on shootings, injuries, and complaints of abuse, training, and any other issues related to the work of the Board.
  6. The Board, at its discretion, may make specific recommendations at any time, and shall issue a public report summarizing its activities and recommendations not less than once a year to the Mayor, the President of Council, Council members, the Chiefs of Police and Corrections, and the city Ethics Officer, and shall make copies of the report available to the public in the office of the Municipal Clerk of the City of Atlanta.
  7. No Board finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded, or withdrawn complaints be the sole basis for any such finding or recommendation.

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- (F) The Board shall acknowledge receipt of complaints filed by individuals alleging police or corrections misconduct within ten (10) business days of receiving any such complaint. Such response shall indicate whether, in the exercise of its discretion, the Board shall study the allegations made, not study them, or request additional information to enable it to make a decision on its options.
- (G) The Board shall have the responsibility of informing the public about the Board and its duties, and shall develop and administer an ongoing program for the education of the public regarding the provisions of this Code Section. In addition, the Chiefs of Police and Corrections or a designee shall meet with the Board periodically to aid in its fact-gathering function and pursuant to the provisions of the Atlanta Code of Ordinances.
- (H) All employees of Atlanta City government are hereby directed to fully cooperate with the Board by promptly producing documents, records, files, and any other information that the Board may request. In addition employees, on request of the Board, shall be available to meet with and be interviewed by, the Board or its representatives, and/or to testify before the Board.
- (I) The chair may request that the Committee on Council exercise its subpoena power to compel access to, or production of such materials or the appearance of such person as may be requested.
- (J) Failure to comply with a subpoena pursuant to section 2-2211 shall be punishable in accordance with Section 1-8 of this code.
- (K) Corrections or Police personnel who are designated the subject of a related criminal investigation by a local law enforcement agency may elect not to appear until the conclusion of that investigation. Hearings shall be informal and strict rules of evidence shall not be applied. Testimony under oath shall be received from all persons who appear and purport to have information which is material to the complaint. A record shall be kept and shall be made available, upon payment of costs, to any person requesting same.
- (L) All hearings shall be open to the public, except when, in the opinion of the Board, executive sessions are required.
- (M) The Board shall have the power to recommend that the Chief of Police and the Chief of Corrections take certain actions.
1. The Board may recommend general reforms (such as changes in training, changes in the preservation of records, changes in counseling available to officers) or specific actions directed at individual officers (including, but not limited to, hiring, firing, promotion, demotion, punishment, or commendation);
  2. provided, however, that the Chiefs of Police and Corrections shall retain full and ultimate authority, power, discretion, management prerogatives, and responsibility to set disciplinary policies or take other lawful actions they deem appropriate relative to the Police Department and Corrections under the provisions of the Atlanta Code of Ordinances;
  3. provided, further, that nothing in this section shall be construed to limit the rights of members of the Police Department and Corrections with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be



established by any provision of law or otherwise. The provisions of this section shall not be construed to prevent or hinder the investigation or prosecution of members of the department for violations of law by any court of competent jurisdiction, a federal or state grand jury, the United States Attorney for the State of Georgia, the Fulton County District Attorney, or other authorized officer, agency, or body.

4. The Chief may not accept a recommendation from the board that shall punish the same officer more than once for the same act or omission that constitutes misconduct for which the officer has already been punished by the city.

(N) The Board shall report a summary of findings semi-annually to the Public Safety Committee.

(O) Within thirty (30) days of the submission of a recommendation for action by the Board to the Chief of Police or Corrections shall respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications.

#### **Sec. 2-2212. Finding of Necessity.**

- (A) It shall be the duty of the Departments to provide such assistance as the Board may reasonably request, to cooperate fully with studies by the Board, and to provide to the Board upon request records, personnel, and other materials which are necessary for the work of the Board. It shall be unlawful for any document or information obtained through this process, or created by the Board or any member of its staff, to be released to the public unless such document is deemed by the Board (following consultation with the City Attorney) to be a public record under the Georgia Open Records Act.
- (B) The Board and its members shall not make public any confidential police document, or information derived from any such confidential police document. The findings of the Board as they may relate to conclusions drawn from interviews, study, and review of documents, shall remain confidential until the Board officially releases such findings; provided, however, that the Board shall not publicly release any of its findings until such findings have been provided to the Mayor, the President of Council, Council members and the Chief of Police or Corrections, and a period of three (3) working days has elapsed.

#### **Sec. 2-2213. Definitions.**

The following words and phrases as used in this chapter shall have or include the following meanings.

- (A) "Board" shall mean the Citizen Review Board as established in sec. 2-2201 of this chapter.
- (B) "Chief" or "Chief of Police" shall mean the head of the Department of Police of the City of Atlanta.
- (C) "Civilian employees" shall mean all members of the department other than police officers.
- (D) "Corrections" shall mean the Department of Corrections of Atlanta.





- (E) "Department" shall mean the Police Department of Atlanta.
- (F) "Hearing" shall mean a preliminary examination of the basic evidence and charges by the "Board" of an accused person at which testimony is taken from a witness.
- (G) "Investigation" shall mean the act or process of investigating or the condition of being investigated; also a detailed inquiry or systematic examination.
- (H) "OPS Report" shall mean the official file of an investigation conducted by OPS as the result of a complaint against a police officer.
- (I) "Police officers" shall mean all those members of the department having and exercising the powers of police officers, and shall specifically include the Chief of Police, the Assistant Chief, and all deputy police chiefs.
- (J) In this chapter the following words have the meanings indicated:
1. "Abusive Language" means harsh, violent, profane, or derogatory language which would demean the dignity of an individual and which shall also include profanity and racial, ethnic, or sexist slurs.
  2. "Excessive Force" means the use of greater physical force than reasonably necessary to repel an attacker or terminate resistance.
  3. "False Arrest" means arrest by a police officer of the wrong person without probable cause to believe a crime has been committed and/or without a warrant and/or when the arresting party knowingly holds someone who has not committed a crime.
  4. "False Imprisonment" means intentionally restraining another person without having the legal right to do so; physically detaining someone without the legal right to do so.
  5. "Harassment" means the act of tormenting by continued persistent verbal or physical attacks.
- (K) "Police or Corrections Misconduct" shall include, but not be limited to, abusive language, false arrest, false imprisonment, harassment, use of excessive force, serious bodily injury, or death which is alleged to be the result of actions of an employee of the Police or Corrections Department.

Section 2: All ordinances or parts of ordinances in conflict herewith are hereby waived to the extent of any conflict.

A true copy,

*Rhonda Daughin Johnson*  
Municipal Clerk, CMC

ADOPTED as amended by the Council  
APPROVED by the Mayor

MAR 05, 2007  
MAR 13, 2007

RCS# 997  
3/05/07  
5:32 PM

Atlanta City Council

REGULAR SESSION

07-O-0141

AMEND CHAPT.2 ART.XVI OF THE CODE BY ADD  
NEW DIVISION 11 "CITIZENS REVIEW BOARD"  
ADOPT/SUB/AMEND

YEAS: 14  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 0  
ABSENT 1

Y Smith	B Archibong	Y Moore	Y Mitchell
Y Hall	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

07-O-0141