

LAS VEGAS MUNICIPAL CODE

2.64.010 Created--Purpose.

Pursuant to the authority of Chapter 289 of the Nevada Revised Statutes there is created the Las Vegas Metropolitan Police Department Citizen Review Board. The Review Board may advise the Las Vegas Metropolitan Police Department and its Committee on Fiscal Affairs on issues concerning peace officers employed by the Department, refer to the Department complaints against officers, and review internal investigations by the Department regarding discipline. The purpose of the Review Board is to act as an advisory body to the Department and its Committee on Fiscal Affairs, and to inform the public of the Review Board's recommendations to the extent permitted by law. The Review Board shall perform its functions without regard to race, color religion, sex, age, handicap, sexual orientation, national origin or political affiliation.
(Ord. 5149 § 2, 1999)

2.64.020 Definitions.

"Citizen" means a member of the public.

"City" means the City of Las Vegas.

"Council" means the City Council of the City.

"County" means Clark County, Nevada.

"Department" means the Las Vegas Metropolitan Police Department.

"Director" means the Director of the Citizen Review Board, or the Director's designee.

"District Attorney" means the District Attorney of Clark County, Nevada.

"Duties," as used in Section 2.64.070, are the Review Board's functions of the referral to the Department of complaints against officers, and the review of internal investigations by the Department.

"FAC" means the Department's Committee on Fiscal Affairs.

"Officer" means a peace officer employed by the Department.

"Panel" means a five-member panel of the Review Board.

"Review Board" means the Las Vegas Metropolitan Police Department Citizen Review Board.

(Ord. 5149 § 3, 1999)

2.64.030 Director.

(A) There shall be a Director of the Review Board, who shall be appointed by the County Manager, in consultation with the city manager, with the advice and consent of the Board of County Commissioners and the Council. The term of the Director's service shall be at the pleasure of the County Manager and the City Manager, with the advice and consent of the Board of County Commissioners and the Council.

(B) The County and the City may, upon mutual agreement, provide such funding, staffing, legal counsel and other resources as they determine, according to their sole discretion, to be necessary for the performance of the functions of the Director and the Review Board.

Neither the Director, the Review Board, nor any panel of the Review Board shall incur any expense for which funding has not been approved by the City and the County.

(Ord. 5194 § 1, 2000: Ord. 5149 § 4, 1999)

2.64.040 Board composition--Appointment criteria--Compensation.

(A) The Review Board shall consist of twenty-five members, thirteen of whom shall be appointed by the members of the FAC who are representatives of the County, and twelve of whom shall be appointed by the members of the FAC who are representatives of the City.

(B) A person appointed to the Review Board must:

(1) Be a resident of Clark County, excluding any incorporated cities other than the City of Las Vegas;

(2) Not be currently employed as a peace officer. No more than five members of the Review Board may be former peace officers;

(3) Not be a current employee in any capacity of the Department; a former peace officer employed by the Department; or a spouse, child, sibling or parent of such a person;

(4) Not be a current elected official;

(5) Not be a person convicted of a felony; and

(6) Not be or have been a party in litigation against the Department, or against the County or the City with regard to any detention facility.

(C) The members shall be appointed from a list of names submitted by interested persons. Notice that applications for appointment to the Review Board are being accepted shall be published at least once in a newspaper having general circulation in the County at least thirty days before the list is initially established. Applications for appointment shall be submitted to the Director. Applicants must state whether they meet each of the eligibility criteria set forth in Subsection (B) of this Section. Applicants shall waive confidentiality and privacy as to records of criminal history, employment history, and such other information as is necessary to verify their eligibility and suitability for appointment, and shall authorize disclosure of such information for that purpose. Information about an applicant which is of a confidential nature shall not be disclosed, except:

(1) In the course of administration of this Chapter;

(2) To authorized representatives of the County or City; or

(3) Upon lawful order by a court of competent jurisdiction.

(D) The Director shall prescreen applications and disqualify any applicant who does not meet the minimum requirements set forth in Subsection (B) of this Section. Any applicant who is disqualified shall be so advised by the Director. The Director shall forward all applications, together with any grounds for disqualification, to the members of the FAC who are representatives of the City and the County.

(E) The County and City members of the FAC shall alternately appoint persons to the Review Board from the list of applicants submitted to them, with the County members making the first selection.

(F) The members of the FAC who are representatives of the City may by mutual agreement select and appoint persons to the Review Board from the list of applicants submitted to them. If the City members of the FAC are unable to agree, each will alternately make an appointment until the requisite number of persons has been selected. In such case, the first selection shall be made by the person with the greatest amount of time served as a member of the Council. If the City members of the FAC have equal amounts of service time, the person to make the first selection shall be determined by a toss of a coin.

(G) In order to fill vacancies on the Review Board, the Director shall maintain an updated list of applicants available for appointment. The Director may update the list by adding the names of additional applicants and deleting the names of persons who become disqualified or who notify the Director that they are no longer interested in serving on the Review Board. The Director may accept applications at any time, but may solicit applications only through advertisement as described in Subsection (C) of this Section. Except as otherwise provided herein, applications shall remain active for a period of three years from the date of submittal. All subsequent applicants shall be subject to the same prescreening and background investigation requirements as the initial applicants. Vacancies shall be filled by action of the current representatives of the entity which

originally appointed the position. When openings exist for both County and City members of the Review Board, the members of the FAC who represent the County and the City will appoint Review Board members and fill vacancies for unexpired terms from the most recent list of applicants according to the procedures set forth in Subsection (E) of this Section. The members of the FAC who represent the City will appoint Review Board members and fill vacancies for unexpired terms from the most recent list of applicants according to the procedures set forth in Subsection (F) of this Section.

(H) The Director shall forward to the District Attorney's Office, for background investigation, the application of each person tentatively selected for appointment. The District Attorney's Office will return the results of its investigation, including any areas of concern and any grounds for disqualification it has discovered, to the Director, who shall forward them to the applicable appointing authority. The appointing authority shall then make the appointment final, or select another applicant according to the procedures set forth in this Section. The appointing authority shall advise the Director of any applicant who is disqualified, and the Director shall notify the applicant.

(I) The Director shall maintain a current list of Review Board members, and shall notify the FAC of all appointments to the Review Board.

(J) The initial City appointments to the Review Board shall consist of four members whose terms expire the first Monday in January, 2001; four members whose terms expire the first Monday in January 2002; and four members whose terms expire the first Monday in January, 2003. Thereafter, members shall serve for terms of three years. When a member resigns or otherwise has membership terminated, a new member will be selected to serve for the remainder of the former member's term. No member shall be appointed more than three times, and no member shall be appointed to more than two three-year terms.

(K) City appointees to the Review Board serve at the pleasure of the members of the FAC who represent the City, and may be removed from the Review Board without cause or notice upon mutual agreement of the City members of the FAC. Any member of the Review Board who ceases to meet the qualifications set forth in this Section shall automatically be removed from the Review Board.

(L) Members of the Review Board shall serve without compensation, but may be entitled to reimbursement for expenses upon prior approval by both the Board of County Commissioners and the City Council, or as otherwise provided by agreement between the County and the City.

(Ord. 5281 § 1, 2001; Ord. 5149 § 5, 1999)

2.64.050 Training program--Requirements.

Before serving on any panel, members of the Review Board must attend program of training related to law enforcement, which training shall include, at a minimum, the policies and procedures of the Department; the Department's Civil Service Rules related to conduct; the provisions of NRS 289.010 to 289.120, inclusive; the collective bargaining agreements covering the Department and its officers; and the conduct of proceedings pursuant to this Chapter. Additional training shall, on occasion, be provided to Review Board members to update or supplement the information previously provided.

(Ord. 5149 § 6, 1999)

2.64.060 Jurisdiction.

(A) The Review Board shall have jurisdiction to:

(1) Advise on issues concerning officers, including:

(a) Conducting reviews and making recommendations to the Department concerning Department policies, procedures and programs; and

- (b) Conducting reviews and making recommendations to the Department concerning the provision of police protection and services;
- (2) Refer to the Department citizen complaints against officers; and
- (3) Review internal investigations of officers which have been completed by the Department and make recommendations to the Department regarding any discipline against officers.
- (B) The Review Board shall not have jurisdiction to consider:
- (1) Discipline or actions taken against an officer based upon conduct which did not involve a citizen, including but not limited to tardiness, attendance, insubordination, and productivity;
- (2) Conduct of an officer which is the subject of an ongoing criminal investigation or prosecution, including appeals and other forms of judicial review;
- (3) Conduct which is the subject of an ongoing investigation by the Department, including grievances;
- (4) Conduct which was previously submitted to a screening panel pursuant to this Chapter and which the panel did not refer to the Department or to a hearing panel;
- (5) Conduct previously reviewed by a hearing panel;
- (6) Conduct occurring on or prior to the date of the creation of the Review Board, which shall be deemed to be the latter of the effective dates of the County and City ordinances establishing the Review Board;
- (7) Complaints received more than one year after the date of the incident giving rise to the complaint. An ongoing criminal investigation shall toll the period for submitting complaint to the Review Board; or
- (8) Any other conduct or matter for which jurisdiction is not provided under this Chapter.
- (Ord. 5149 § 7, 1999)

2.64.070 Meetings, generally--Panel members--Selection generally.

- (A) The Review Board shall meet in panels of five to carry out its duties with regard to the referral of complaints to the Department and the review of internal investigations conducted by the Department.
- (B) The Review Board may convene en banc for administrative purposes, including but not limited to the receiving of training and the establishing of internal procedures. The Review Board may also convene en banc to consider issues of general concern regarding officers.
- (C) Panel members will be randomly selected by the Director, who shall notify the members of their selection. No more than one former peace officer may be selected to serve on any particular panel.
- (D) If a panel member is selected but is unavailable to serve, the Director shall randomly select another member until the panel is filled. Eligible Review Board members who decline three successive appointments to serve on a panel for reasons other than personal bias or conflict of interest, or who fail to attend three successive meetings of a panel to which they have been appointed, shall automatically be removed from the Review Board, unless a member of the FAC representing the entity through which the member was selected finds that the member had good cause for declining to serve on a panel or for failing to attend.
- (Ord. 5149 § 8, 1999)

2.64.080 Panel members--Terms--Meetings--Duties.

- (A) Upon the appointment of the initial members of the Review Board, the Director shall randomly select the members of the first panel, hereinafter referred to as the screening panel.

(B) The initial term of the members of the screening panel shall expire the first Monday in January, 2001. Thereafter, the Director shall randomly select screening panel members, who shall serve terms of six months, expiring the first Monday of the following July or January. When a screening panel member resigns or otherwise has membership terminated, the Director shall randomly select a new member, who shall serve the remainder of the former member's term. No screening panel member shall be eligible during that member's term on the screening panel to serve on any other panel. No member of the Review Board shall serve on two consecutive screening panels.

(C) Regular meetings of the screening panel shall be held at least once a month. Special meetings shall be held upon the call of the panel chair or of two members of the panel.

(D) Citizen complaints against officers and requests to review internal investigations regarding officers shall be submitted to the Director, who shall refer all complaints and requests for review to the screening panel. The Director shall have no authority to dismiss or reject a complaint or request for review.

(E) The screening panel shall review complaints and requests for review to determine whether:

(1) The Review Board has jurisdiction to consider the matter; and

(2) The matter has sufficient merit to warrant further consideration by a hearing panel or the Department.

(F) Upon review, the screening panel may:

(1) Determine not to refer a matter to a hearing panel or to the Department;

(2) Refer to the Department a complaint against an officer; or

(3) Refer to a hearing panel a request for review of an internal investigation.

(G) The screening panel must complete its review and make its determination as to any complaint or request for review referred to it within fifteen days after the date the matter is first considered by the screening panel. The fifteen day period shall be tolled during any ongoing investigation or proceeding which interferes with the panel's jurisdiction, as described in Section 2.64.060, or during any litigation concerning the screening panel's jurisdiction.

(H) Review by the screening panel shall be confined to the complaint or request for review, the records of the internal investigation for which review is requested, and such information as may be voluntarily provided by the complainant, the Department, or the officer whose conduct is the subject of a complaint or request for review. The screening panel shall have no authority to take testimony, issue subpoenas or require the production of books, papers and documents.

(Ord. 5281 § 2, 2001: Ord. 5149 § 9, 1999)

2.64.090 Hearing panel, generally.

(A) Upon a determination by the screening panel to refer to a hearing panel a request for review of an internal investigation of an officer, the Director shall randomly select the members of the hearing panel.

(B) The hearing panel may review the internal investigation and make recommendations to the Department regarding any disciplinary action against the officer, including, without limitation:

(1) Increasing or decreasing the recommended level of discipline; or

(2) Exonerating the officer who has been the subject of the internal investigation.

(C) The chair of the hearing panel shall report the findings and recommendations of the panel to the Department, to the officer who is the subject of the investigation under review, and to the person who requested the review. The findings and recommendations of the panel shall be in writing and shall be approved by the panel. In the event that no findings and recommendations are approved by a majority of the panel, or a panel member dissents from the majority's decision, members of the panel may submit individual findings and recommendations to the chair to be reported to the Department, the officer, and the

person who requested the review. All findings and recommendations shall be reported to the Department within the time for making determinations set forth in Subsection (N) of Section 2.64.100.

(D) In the case of an internal investigation into a citizen complaint for which an officer is potentially subject to discipline, the Department may submit its proposed determination and any supporting materials to the Director for review by the screening panel. The screening panel shall make its recommendations to the Department within fifteen days after the date that the proposed determination is received by the Director. The screening panel shall report its findings and recommendations as set forth in Subsection (C) of this Section.

(Ord. 5149 § 10, 1999)

2.64.100 Hearing panel--Members--Quorum--Duties.

(A) The Director shall comply with all legal notice requirements for panel meetings. In addition, the Director shall provide notice of the proceedings to the Department and, if applicable, to the complaining party and the officer whose conduct is under review, which notice shall include:

- (1) The date, time and location of the meeting;
- (2) The names of the members of the panel; and
- (3) A summary of the alleged misconduct or other item to be considered by the panel.

(B) At its first meeting, a panel shall choose one of its members as chair. The panel may also choose a vice chair to act in the chair's absence. Except as otherwise provided in Subsection (H) of Section 2.64.080, the chair shall preside over all meetings of the panel, and shall have the power to regulate all proceedings and take any action necessary for their efficient conduct, including the power to:

- (1) Administer oaths and affirmations;
- (2) Issue subpoenas (within the scope of the panel's jurisdiction) to compel the attendance of witnesses to testify before the panel;
- (3) Require the production of books, papers and documents;
- (4) Determine the admissibility of evidence;
- (5) Limit the scope of testimony; and
- (6) Dispose of procedural motions and requests.

When the chair is not present, the vice chair or designated temporary chair shall be empowered to perform all acts prescribed for the chair.

(C) A majority of the panel members shall constitute a quorum at any meeting, and a majority of those present and eligible to vote may take official action. No member shall be eligible to vote on the findings and recommendations of a panel unless that member attended all meetings at which the panel received evidence on that item.

(D) Subpoenas issued by the chair of a hearing panel shall give reasonable notice of the date, time and place for the taking of testimony. The chair may authorize the payment of reasonable expert witness fees when necessary, subject to the availability of funds. If a witness refuses to attend and testify or produce books, papers or other documents as required by subpoena the panel may petition the district court to order the witness to appear and testify or to produce this requested books, papers or documents.

(E) The Department shall make available to a hearing panel any personnel file or other material necessary for the panel to conduct a review. Upon completion of proceedings before a screening panel or hearing panel, the panel shall return to the Department all materials and copies of materials received from the Department, unless the matter is one which has been referred to a hearing panel by a screening panel.

(F) Panel members shall consider all matters in a fair and impartial manner. A panel member who has a personal bias or prejudice in the outcome of a proceeding shall not sit on a panel hearing that matter. Personal interest in the outcome of a proceeding does not include holding or manifesting a political or social belief where such belief does not

preclude objective consideration of a case on its merits. Examples of personal bias include, but are not limited to:

- (1) A familial relationship or close friendship with persons material to the proceedings;
- (2) Having witnessed events material to the proceedings;
- (3) Being a party to or witness associated with the proceedings;
- (4) Having a financial interest in the outcome of the proceedings; or
- (5) Holding a bias that is sufficient to impair the panel member's impartiality.

Prior to the commencement of any proceeding before the panel, the Department and, if applicable, the complaining party or officer whose conduct is under review, may submit a motion to disqualify a panel member for personal bias, stating with particularity the grounds for such disqualification. After consideration, the panel shall either deny the motion and direct the proceedings to go forward or cause the disqualified member to be removed. A panel member shall abstain from voting on any motion to disqualify that member. A panel member may withdraw from a proceeding where the member deems himself or herself unqualified to participate for any reason. When a member is disqualified, the proceedings shall be continued in order to allow the Director to randomly select another panel member. When the person disqualified is a member of the screening panel, the member shall abstain from voting. Such disqualification shall be effective only as to the matter in which the motion to disqualify was submitted.

(G) The chair of a hearing panel shall determine the order of taking testimony. Questions may be posed by the chair, other panel members, or counsel for the Review Board. The officer whose conduct is under review shall have the right to have counsel or another representative of the officer's choosing present during the questioning of the officer. The chair, at his or her discretion, may permit the Department, an officer whose conduct is under review, or their counsel or representatives to be present during the questioning of any witness. Following questioning by the chair, by other panel members and by counsel for the Review Board, the chair, at his or her discretion, may permit the Department, an officer whose conduct is under review, or their counsel or representatives to question the witness. The scope of questions, as well as any additional questioning, shall be determined by the chair.

(H) The chair of a hearing panel, in his or her discretion, may permit the Department, an officer whose conduct is under review, or their counsel or representatives an opportunity to present testimony and other evidence to the panel. When a hearing panel is reviewing an internal investigation of an officer or a complaint against an officer, the officer shall, at a minimum, have the opportunity to be heard by the panel.

(I) In any proceeding before a hearing panel, the officer who was the subject of the investigation under review may represent himself or herself, or be represented by counsel or by another person of the officer's choosing. The officer is solely responsible for obtaining such representation, as to which the Review Board, the panel, the FAC, the Department, the County and the City have no obligation.

(J) Evidence may be admitted if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Patently unreliable, irrelevant, immaterial or unduly repetitious evidence may be excluded. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts.

(K) At the conclusion of evidentiary proceedings, if any, the panel members shall privately deliberate and vote upon the action to be taken.

(L) The proceedings of a screening panel or hearing panel shall be closed to the public. All records submitted to the panel which contain information declared confidential by law, including by judicial precedent, and all records of proceedings before the panel, except public notices and the panel's findings and recommendations, are deemed confidential. Custody of all records and copies of records which are designated as confidential pursuant to this Subsection shall be maintained by the Director, who shall make the records available to the panel members for review at the office of the Director and during proceedings of the panel. No panel member shall record, copy or remove from the office of the Director or the location of proceedings before the panel any confidential record or copy of any confidential record. It shall be unlawful for any person to disclose records or the

contents of records designated as confidential by this Subsection which that person has obtained through proceedings under this Chapter, except:

- (1) In the course of administration of this Chapter;
- (2) To authorized representatives of the Department; or
- (3) Upon lawful order by a court of competent jurisdiction.

Any person violating the confidentiality provisions of this Subsection (L) shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for a term not to exceed six months, or a fine not to exceed one thousand dollars, or both such fine and imprisonment. Violation of the confidentiality provisions of this Subsection (L) shall also be grounds for removal of a member from the Review Board. The findings and recommendations of a panel or panel member shall not contain information declared confidential by law, including by judicial precedent, unless such information is designated as confidential and is disclosed in accordance with the provisions of this Section that pertain to confidential records.

(M) A panel shall not abridge the rights of an officer which are granted pursuant to any applicable collective bargaining agreement, contract, or law.

(N) A hearing panel must complete its review and make its determination as to any request for review referred to it by the screening panel within ninety days after the date the matter is first considered by the hearing panel. The ninety-day period shall be tolled during any ongoing investigation or proceeding which interferes with the panel's jurisdiction, as described in Section 2.64.060, or during any litigation concerning the panel's jurisdiction or a subpoena issued by the panel. Upon expiration of the ninety-day period, a panel shall have no authority to continue a review or make a recommendation.

(O) Consideration of a citizen complaint against an officer or a request for review of an internal investigation of an officer by a panel shall not stay the imposition of discipline or other action by the Department. The screening panel or the hearing panel to which the matter has been referred, however, may recommend to the Department that discipline be stayed pending investigation or review.

(Ord. 5149 § 11, 1999)

2.64.110 Appeal--Generally.

An officer who is the subject of an internal investigation which has been reviewed by a hearing panel may appeal the panel's recommendation through the procedures established in the applicable collective bargaining agreement. In the absence of such procedures, or in the case of an officer who is not covered by a collective bargaining agreement, appeal shall be through the procedures established in the Department's Civil Service Rules.

(Ord. 5149 § 12, 1999)