

ORDINANCE NO. 2021-_____

AN ORDINANCE OF THE CITY OF SOUTH SALT LAKE CITY COUNCIL ENACTING CHAPTER 70 OF TITLE 2 OF THE SOUTH SALT LAKE CITY MUNICIPAL CODE TO CREATE A CIVILIAN REVIEW BOARD TO REVIEW CERTAIN POLICE DEPARTMENT ACTIONS, PROVIDE FOR A MEDIATION PROGRAM AND ENCOURAGE COMMUNITY ENGAGEMENT INVOLVING POLICING EFFORTS OF THE CITY OF SOUTH SALT LAKE

WHEREAS, the City Council of the City of South Salt Lake (the “City Council”) finds that civilian oversight is essential to ensuring the continuation of a professional and effective police force; and

WHEREAS, citizen participation and engagement will help further the efforts of the City to promote transparency and accountability in the City’s policing efforts; and

WHEREAS, the City of South Salt Lake does not currently have a civilian oversight board and desires to create a board referred to as the “Civilian Review Board;” and

WHEREAS, the Civilian Review Board is designed to improve communication between the Police Department and the community, to help ensure police accountability and credibility with the public, and to create a review process that is free from bias and informed of actual police practice to provide independent civilian oversight of the City of South Salt Lake Police Department;

WHEREAS, The City of South Salt Lake desires the Civilian Review Board to reflect community diversity, including income level, race, ethnicity, age, gender, sexual orientation, and experience;

WHEREAS, The City of South Salt Lake desires the Civilian Review Board to encompass and represent residents of the City as well as the business community within the City;

WHEREAS, the City Council hereby determines that enacting Chapter 70 of Title 2 of the South Salt Lake Municipal Code to create a Civilian Review Board which will review certain police department actions, provide for a mediation program, and encourage community engagement in the policing efforts of the City is in the best interest of the health, safety, and welfare of the citizens of South Salt Lake City;

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of South Salt Lake as follows:

SECTION 1. Enactment. Chapter 70 of Title 2 of the South Salt Lake Municipal Code is hereby enacted as attached hereto and incorporated by reference in “Exhibit A.”

SECTION 2. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. Conflict with Existing Ordinances, Resolutions, or Policies. To the extent that any ordinances, resolutions, or policies of the City of South Salt Lake conflict with the provisions of this ordinance, this ordinance shall prevail.

SECTION 4. Effective Date. This ordinance shall become effective upon Mayor's signature and publication, or after fifteen days of transmission to the office of the Mayor if neither approved nor disapproved by the Mayor, and thereafter, publication.

(signatures appear on separate page)

DRAFT

DATED this _____ day of _____, 2021.

BY THE CITY COUNCIL:

Sharla Bynum, Council Chair

ATTEST:

Craig D. Burton, City Recorder

City Council Vote as Recorded:

Bynum	_____
deWolfe	_____
Huff	_____
Mila	_____
Pinkney	_____
Thomas	_____
Siwik	_____

Transmitted to the Mayor's office on this _____ day of _____ 2021.

Craig D. Burton, City Recorder

MAYOR'S ACTION: _____

Dated this _____ day of _____, 2021.

Cherie Wood, Mayor

ATTEST:

Craig D. Burton, City Recorder

EXHIBIT A

Chapter 2.70 – Civilian Review Board

2.70.010 – Establishment of the Board.

This Chapter hereby establishes the Civilian Review Board and sets forth the duties and procedures of the Board.

2.70.020- Definitions

The following definitions apply for purposes of Chapter 2.70.

“Alternate Member” means a Qualified Individual appointed by the Mayor, with advice and consent of the City Council, to serve as an Alternate Member of the Board.

“Board” means the Civilian Review Board

“Chairperson of the Board” means a Member of the Board who is designated by the Board annually at the first meeting in the calendar year.

“Law Enforcement Officer” has the same meaning as in Utah Code Ann §53-13-103.

“Member of the Board” means collectively or individually all Regular Members, Alternate Members, and the Non-Voting Advisory Member.

“Non-voting Advisory Member” means a Qualified Individual appointed by the Mayor, with advice and consent of the City Council, to serve as a Non-voting Advisory Member.

“Police Department” means the City of South Salt Lake Police Department.

“Qualified Individual” means an individual who undergoes a background screening and at all times maintains clearance from the State of Utah Bureau of Criminal Identification.

“Regular Member” means a Qualified Individual who is appointed by the Mayor, with advice and consent of the City Council, to serve as a Regular Member of the Board.

“Use of Force” means:

- a. the application of an arrest control tactic which causes bodily harm or injury or which the individual complains of bodily harm or injury;
- b. use of a firearm to gain compliance of an individual;
- c. discharge of a firearm;
- d. deployment of a taser;

- e. use of a chemical agent;
- f. Use or Deployment of a Canine; or
- g. intentional damage to property of another in an apparent show of force to effect an arrest.

Use of Force does not mean compliant use of handcuffs, unless the use of the handcuffs causes bodily harm or injury.

“Use or Deployment of a Canine” means when a Police Department canine is used to effect an arrest and the canine (a) causes injury to an individual under arrest, or (b) acts in a manner that would cause a reasonable person would fear injury.

“Vehicle Pursuit” means the active attempt by a Law Enforcement Officer of the Police Department in an authorized emergency vehicle to apprehend a fleeing suspect who is attempting to avoid apprehension through evasive and unlawful tactics.

“Voting Member” means an individual who is authorized to vote at a particular Board meeting. A Regular Member shall be a Voting Member. An Alternate Member may be a Voting Member in the absence of a Regular Member at a Board meeting if the Chairperson designates the Alternate member as a Voting Member.

2.70.030- Membership of the Board

- A. The Board shall consist of seven Voting Members and one Non-Voting Advisory Member. The Mayor shall appoint seven Regular Members and two Alternate Members who may vote in the place of any absent Regular Member at any meeting of the Board.
 - 1. If a Regular Member is unable to attend a scheduled meeting of the Board, the member shall inform the Chairperson as soon as possible to help ensure the attendance of as many Voting Members as is permitted.
 - 2. In the event a Regular Member is unable to attend a meeting of the Board, the Chairperson shall designate an Alternate Member as a Voting Member.
 - 3. If an Alternate Member is in attendance of a Board meeting with all seven Regular Members present, the Alternate Member may not participate in or vote during the meeting.
- B. Each Regular Member and Alternate Member shall be a Qualified Individual who is either a resident of the City or a representative of a business located in the City, and who is not a current Law Enforcement Officer.
- C. The Mayor shall appoint, with advice and consent of the City Council, a Non-voting Advisory Member with law enforcement experience and who is not currently

employed by the City or related to an employee of the Police Department. The Non-voting Advisory Member may attend all meetings of the Board but shall not cast a vote.

- D. Members of the Board must be Qualified Individuals.
- E. At any given time, there shall be no more than one Voting Member who has previously been employed as a Law Enforcement Officer.
- F. The term for Members of the Board shall be two years in lengths, except that the initial term of four Members of the Board first appointed to the Board shall be for three years so half of the Voting Members terms expire every other year. Members of the Board may be reappointed to the Board and may be removed with or without cause by the Mayor.
- G. Members of the Board shall be compensated at a rate of \$70 for each meeting attended. Costs of travel, training, and per diem may be approved by the City.

2.70.040 – Training for Members of the Board.

- A. All Members of the Board shall receive training, at least annually, either administered or facilitated by City staff or by an outside trainer approved by City staff. Training shall cover topics suggested by the National Association for Civilian Oversight of Law Enforcement, as well as any other topics deemed appropriate by the City Attorney's Office or Mayor.
- B. Members of the Board are required to participate annually in a minimum of two ride-alongs with law enforcement agencies in the state of Utah, one of which must be with the South Salt Lake Police Department.

2.70.050- Initial Review

- A. The Police Department shall have one or more policies that require the reporting and investigation of all activities which constitute a Use of Force or Vehicle Pursuit by any member of the Police Department.
- B. Following the conclusion of investigations conducted in accordance with Subsection A, the Police Department shall give the Chairperson access to all reports, records, and other documents relevant to the investigation unless such records are protected under UCA §63G-2-305(10) or (11).
- C. The Chairperson shall review all reports, records, and other documents received pursuant to Subsection B.
 - 1. Following a review, the Chairperson shall distribute to all Members of the Board all reports, records, and other documents related to a Use of Force or

Vehicle Pursuit incident if the Chairperson finds a possibility that the Board could find:

- a. A law, rule, policy, or procedure applicable to the Use of Force or Vehicle Pursuit was not complied with;
 - b. The Use of Force or Vehicle Pursuit incident was not responded to properly;
 - c. The investigation by the Police Department of the Use of Force or Vehicle Pursuit was not conducted properly; or
2. Following a review, the Chairperson shall distribute to all Members of the Board all reports, records, and other documents related to a Use of Force or Vehicle Pursuit incident that the Chairperson believes warrants a discussion with the Board regarding:
- a. Recommendations of Police Department Policies applicable to Use of Force or Vehicle Pursuit incidents, or
 - b. Recommendation of Police Department Training applicable to Use of Force or Vehicle Pursuit incidents.

2.70.060- Review by The Board

- A. The Board shall review all Use of Force and Vehicle Pursuits received pursuant to Subsection 2.70.040(C).
 1. In addition to reviewing the records received pursuant to Subsection 2.70.040(C), the Board may discuss or ask questions regarding the Use of Force or Vehicle Pursuit with one or more members of the Police Department as designated by the Chief.
 - a. Special requests regarding the attendance of a particular member of the Police Department shall be made by the Chairperson to the Chief of Police no less than 14 days in advance of a Board meeting and notice shall be given regarding the topics of discussion.
- B. Upon review, which shall be conducted in accordance with UCA Chapter 52-4 or its successor provisions, the Board shall discuss and render a written advisory opinion, signed by the Chairperson, of whether or not an applicable law, policy, or procedure was violated.
- C. All written advisory opinions shall be forwarded to the Mayor and the City Council.

2.70.070- Meetings of the Board

- A. The Board shall meet monthly at a time and place or manner to be determined by the Chairperson, or the Mayor in the absence of a Board Chairperson.
- B. The Board shall comply with the Open Public Meetings Act.
- C. At the opening of each meeting, the Board shall allow the public to comment and voice any opinions or concerns regarding policing issues in the City of South Salt Lake, which shall not exceed thirty minutes.

- D. At the conclusion of the public comment period, the meeting shall be closed in accordance with the Utah Open Public Meetings Act to discuss specific personnel matters before the Board.

2.70.080- Additional Authority of the Board

- A. In addition to the review required in Subsection 2.70.050, the Board may make suggestions regarding Police Department Policies to the Mayor or City Council.
- B. The Board Chairperson may raise any other concern regarding the Police Department with the Mayor.
- C. The Board, in conjunction with the Mayor, shall recommend a dispute resolution process to resolve citizen complaints regarding policing efforts of the Police Department by July 1, 2022.

2.70.090- Quarterly and Annual Reports

- A. The Board Chairperson shall provide quarterly and annual reports concerning the operations of the Board. These reports shall be presented to the City Council and shall be made public.
- B. Quarterly reports shall include the following information for reviews conducted during the quarter:
 - 1. The total number of Use of Force incidents given to the Chairperson in accordance with 2.70.040 (B).
 - 2. The total number of Use of Force incidents given to all Members of the Board in accordance with 2.70.040(C)
 - 3. The total number of Use of Force incidents where the Board issued an advisory opinion finding a violation of a law, policy, or procedure.
 - 4. The total number of Vehicle Pursuit incidents given to the Chairperson in accordance with 2.70.040 (B).
 - 5. The total number of Vehicle Pursuit incidents given to all Members of the Board in accordance with 2.70.040(C)
 - 6. The total number of Vehicle Pursuit incidents where the Board issued an advisory opinion finding a violation of a law, policy, or procedure.
- C. Annual reports shall include a compilation of the data required in Subsection B and any other suggestions made by the Board to the Mayor or the City Council concerning Police Department Policies.