

INTRODUCED: 9/14/2020

REFERRED TO: Public Safety and Criminal Justice Committee

SPONSOR: Councillors Carlino, Potts, Osili, Robinson, Adamson, Gray, Oliver, Ray, Graves, Barth, Boots, Jones, Brown, McCormick, E. Evans, Larrison, J. Evans

DIGEST: amends Chapter 279, Article II of the Code regarding the organization of the Indianapolis Metropolitan Police Department

SOURCE:

Initiated by: Councillor Carlino

Drafted by: Councillor Carlino

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: 

Date: September 10, 2020

CITY-COUNTY GENERAL ORDINANCE NO. , 2020

A PROPOSAL FOR A GENERAL ORDINANCE to amend Chapter 279, Article II of the Code regarding the organization of the Indianapolis Metropolitan Police Department.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Section 279-101 of the "Revised Code of the Consolidated City and County" hereby is amended by the addition of the definition of "General Orders Board," to read as follows:

General Orders Board and g.o. board mean the general orders board established by Division 9 of this chapter.

SECTION 2. Chapter 279, Article II of the "Revised Code of the Consolidated City and County" hereby is amended by the addition of Division 9, "General Orders Board," to read as follows:

DIVISION 9. - GENERAL ORDERS BOARD

Sec. 279-291. Findings and purpose.

(a) The city-county council hereby finds as follows:

- (1) There is a substantial interest from residents of the city and the county in developing a mechanism for increased civilian oversight of policies and operations of the department;
- (2) The residents of the city and the county and the department will benefit from implementing civilian oversight over the department in at least the following ways:
 - (A) Civilian oversight can help improve community relations by fostering communication between the city's and the county's residents and the department;
 - (B) Civilian oversight can improve department policies and procedures by better identifying areas of public concern and facilitating policy recommendations that offer options to improve policing;

- (C) Civilian oversight can increase the city's and the county's inhabitants' understanding of law enforcement policies and procedures and their confidence in the department's actions;
 - (D) Civilian oversight can facilitate the department's work in developing, implementing, and adhering to anti-racism policies and procedures;
 - (E) Civilian oversight can assist with ensuring that the department and its personnel are accountable for their actions and increase the transparency of the department's administration and actions;
 - (F) Civilian oversight can more effectively introduce diverse and inclusive viewpoints into policy development to address concerns of persons and groups historically under-represented in law enforcement positions and statistically over-represented in arrests and incarceration; and
 - (G) Civilian oversight can help address public concern stemming from incidents that receive substantial public attention;
- (3) These benefits of civilian oversight of the department will promote the safety and general welfare of the residents of the city and the county and of the department and its personnel;
 - (4) Establishing a board that implements civilian oversight over aspects of the department will help the city, the county, and the department realize these benefits; and
 - (5) The department maintains and updates the "Indianapolis Metropolitan Police Department General Orders Accountability List and Index," which lists all effective general orders and categorizes them by subject matter.

(b) Consistent with these findings, it is the purpose of this Division to promote the health, safety, and general welfare of the residents of the county and the city and of the department's personnel by establishing a general orders board to institute civilian oversight over the department.

Sec. 279-292. General orders board.

There is hereby created a general orders board ("g.o. board"), which shall have the authority to propose, enact, review, and modify general orders, as that term is defined in Section 279-293 of this Division.

Sec. 279-293. Definitions.

As used in this Division, the following terms shall have the meanings ascribed to them in this section.

General order means the written directives that department personnel use in carrying out the powers and accomplishing the objectives of the department in a professional and lawful manner that concern or relate to the department's interactions with the residents of the city and county and the general public. General orders include, by way of example and not limitation, all department directives and policies concerning procedures for investigations, searches, seizures, arrests, use of law enforcement discretion, use of force, and other official operational actions provided for by state, federal, or local law. General orders do not include those department directives and policies that concern only internal standards and specifications under which the department's personnel carry out their day-to-day operations, including, for example, directives related to uniform/appearance requirements for department personnel, awards and commendations for department personnel, and personnel participation in nonprofit organizations. General orders also do not include those department directives and policies relating to its organization, administration and personnel processes that are listed in Section 2 and Section 3 of the "Indianapolis Metropolitan Police Department General Orders Accountability List and Index."

Immediate family member means a person's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, spouse, child, stepchild, or adopted child.

Preliminary order means a general order approved by the chief before it is submitted to or reviewed by the g.o. board in accordance with Section 279-295(b).

Sec. 279-294. Duties and responsibilities.

- (a) The g.o. board shall have the power to:
- (1) Adopt general orders in accordance with Section 279-295.
 - (2) Resolve any dispute about whether a department policy or directive constitutes a general order.
 - (3) Resolve any dispute about whether the procedures set forth in Section 279-295 were followed
 - (4) Set rules for its governance and establish its procedures for conducting public meetings as permitted or required by law.
 - (5) Have discretion to construe, interpret, clarify, reconsider, and amend any general order in accordance with Section 279-296.
 - (6) Engage staff and independent contractors, as necessary and appropriate, to assist with carrying out its duties and responsibilities.
 - (7) Study issues pertinent to the department's relationship and interactions with the residents of the city and county, including, but not limited to, anti-racism and implicit bias and the department's policies on and procedures for investigations, searches, seizures, arrests, use of law enforcement discretion, and use of force.

The g.o. board shall carry out its duties and responsibilities in this subsection in accordance with the purposes set forth in Section 279-291 of this Division.

- (b) The chief shall regularly report to the g.o. board regarding:
- (1) The training of department personnel, including training necessary to effect any general orders and accomplish any changes to any general orders; and
 - (2) The department's progress in implementing and effecting anti-racism policies and procedures.

Sec. 279-295. Submission of proposed and preliminary orders.

(a) General orders. A member of the g.o. board or the chief may submit a proposed general order by providing a copy of the order to the secretary and each member of the g.o. board. The member may request, by providing written notice to the g.o. board secretary at least two (2) days before the next scheduled g.o. board meeting, the g.o. board to adopt the proposed general order. Upon receiving such a request, the g.o. board shall, at the next scheduled g.o. board meeting, consider the request to adopt the proposed general order.

(b) Preliminary orders. Notwithstanding subsection (a), the chief may propose, review, and approve preliminary orders for the department only in the event the chief reasonably determines, in good faith, that the prompt enactment of a general order is necessary, in a shorter timeframe than is available under subsection (a), to ensure the safety and general welfare of the residents of the city and the county and of the department and its personnel or the proper functioning of the department. In the event that the chief approves a preliminary order:

- (1) The chief shall submit a copy of the preliminary order to the secretary and each member of the g.o. board within two (2) days after he/she approves the order.
- (2) The preliminary order shall have the effect of a general order until the preliminary order expires in accordance with this Section.

- (3) Unless earlier terminated by the chief, the preliminary order shall be in force and effect for thirty (30) days after the date the chief approved the order and shall automatically expire thirty (30) days after that date absent adoption or extension of the preliminary order by the g.o. board.
- (4) Prior to the expiration of a preliminary order as set forth in subsection (b)(3), any member of the g.o. board or the chief may request, by providing written notice to the g.o. board secretary, that the preliminary order be placed on the agenda at the next g.o. board meeting that is scheduled to occur not more than thirty (30) days after the chief's approval of the preliminary order. Upon receiving such a request, the g.o. board shall, at the next scheduled g.o. board meeting, consider the request to review, extend, or adopt the preliminary order.

(c) It shall require the affirmative vote of at least four (4) members of the g.o. board to adopt any general order as set forth in this Section.

Sec. 279-296. Interpretation, clarification, construction, reconsideration, amendment, and publication of general orders.

(a) The chief or a member of the g.o. board may request, by providing written notice to the g.o. board secretary at least two (2) days before the next scheduled g.o. board meeting, the g.o. board to interpret, clarify, construe, reconsider, or amend any general order.

(b) Upon receiving such a request, the g.o. board shall, at the next scheduled g.o. board meeting, consider the request to interpret, clarify, construe, reconsider, or amend the subject general order. It shall require the affirmative vote of at least four (4) members of the g.o. board to interpret, clarify, construe, reconsider, or amend the subject general order.

(c) All general orders shall be written and shall be classified in accordance with standards approved by the g.o. board.

(d) All general orders shall be made publicly available, including by electronic media.

Sec. 279-297. Board membership.

(a) The general orders board shall be composed of seven (7) members to be selected as follows:

- (1) Two (2) members appointed by the chief;
- (2) One (1) member elected by a majority vote of the active members of the department;
- (3) Four (4) civilian members.

(A) Two (2) members appointed by the mayor.

(B) Two (2) members appointed by the president of the city-county council.

(b) Civilian members and their immediate family may not be presently or formerly employed by IMPD or any law enforcement agency. Should a civilian member or his or her immediate family, as defined in Section 279-293, become employed by IMPD or any other law enforcement agency during the member's tenure on the board, the member shall no longer be eligible to serve on the g.o. board for so long as the member or his or her family member is employed by IMPD or any other law enforcement agency, and the member's appointing authority shall appoint a successor for that member as soon as possible, and, in any event, within thirty (30) days, pursuant to subsection (d).

(c) Members shall be eligible for reappointment and serve at the pleasure of the appointing authority.

(d) Subject to subsection (b), members shall be appointed for a term of two (2) years and until their successors are appointed and qualified as provided by law. In the event of a vacancy prior to the expiration of a term, the appointing authority shall appoint a member for the remainder of the unexpired term.

(e) At all times, the department shall make publicly available on its website the full name and contact information, including at least one e-mail address, for each currently serving g.o. board member.

Sec. 279-298. Board officers, quorum, meetings.

(a) The members of the g.o. board shall select a chairperson and vice-chairperson. A recording secretary who shall keep the official minutes of the meetings, reserve meeting room space, and handle all communications, including but not limited to meeting notices, will be supplied by the department.

(b) Four (4) members of the g.o. board shall constitute a quorum.

(c) The g.o. board shall meet as often as necessary to review and adopt general orders for the department.

(d) Meetings of the g.o. board shall be subject to Indiana's Open Door Law, Indiana Code § 5-14-1.5, as hereafter may be amended.

Sec. 279-299. Training.

(a) Within three months after appointment to the g.o. board, any member of the g.o. board who is not a sworn officer of the department must:

(1) Successfully complete the Citizen's Police Academy or similar training approved by the chief.

(2) Receive instruction from the department in the following:

(A) Use of force training (which must include introduction to de-escalation training and the legal standards applicable to use of force in the law enforcement context);

(B) Implicit bias training;

(C) IMPD General Orders, applicable Merit Laws, and other laws and regulations applicable to police officers of the department; and

(D) IMPD Training Curriculum.

(3) Accompany patrol officers during field duty ride-alongs for a minimum of twenty-four (24) hours.

(b) After the first anniversary of service on the g.o. board, any member of the g.o. board who is not a sworn officer of the department must:

(1) Complete sixteen (16) hours of field duty ride-alongs during each subsequent year of service on the board; and

(2) Complete sixteen (16) hours of continuing education on use of force and implicit bias during each subsequent year of service on the board.

(c) The department shall facilitate and cover the cost of the training requirements set forth in this Section.

(d) The appointing authority for a respective member shall replace that member if he/she fails to meet the training requirements set forth in this Section after written notice to such member and the member's appointing authority of the member's failure to meet these standards and a thirty (30) day opportunity to cure the failure. The Secretary shall tender the notice described in this subsection to the member and the member's appointing authority.

SECTION 3. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 4. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 5. This ordinance shall be in effect January 1, 2021, after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this _____ day of _____, 2020, at _____ p.m.

ATTEST:

SaRita Hughes
Clerk, City-County Council

Vop Osili
President, City-County Council

Presented by me to the Mayor this _____ day of _____, 2020.

SaRita Hughes
Clerk, City-County Council

Approved and signed by me this _____ day of _____, 2020.

Joseph H. Hogsett, Mayor