

## **Criminal Justice Task Force Recommendation**

**St. Louis Board of Aldermen consider an ordinance that will create a “Criminal Justice Center Oversight Board” for its city correctional facilities.**

### **Section 1 - Purpose and Intent**

Persons confined to the St. Louis Correction facilities are to be treated in a manner consistent with the United States Constitution, and all other laws, rules and regulations. To this end, a Corrections Oversight Board shall be established by the Board of Aldermen to review incidents that occur in City correction facilities, as well as complaints from detainees and other interested parties, and further, to make recommendations to the Office of the Mayor.

The Board’s review should assist the Mayor’s Office, President of the Board of Board of Aldermen, BOA members, Public Safety Committee, Public Safety Director, and Commissioner of Correction to effectively direct resources with the goal of promoting policy, practices and training to prevent future incidents within the Justice Center. Such a board is further intended to provide a mechanism for community members to assist the Office of the Mayor in furthering this goal.

### **Section 2 - Establishment and Jurisdiction**

The Corrections Oversight Board, will serve independent of City government, and will report directly to the Mayor’s Office. It will have the authority to inspect the St. Louis Criminal Justice Center, interview corrections officers and inmates/detainees, and review systemic issues and concerns.

The intent of the Corrections Oversight Board is to provide transparency and accountability of the staff, to protect the lives, health, safety and rights of all people confined at the Criminal Justice Center, and ensure the conditions of their confinement are safe, sanitary, respectful and humane, according to language in the ordinance that was proposed by the Public Safety Committee and adopted by the Board of Alderman.

The Board may investigate and review incidents, and receive, investigate and review complaints that derive from incidents that occur within the correctional facilities, and may make recommendations as it deems appropriate to the Mayor, President of the Board of Aldermen, and Chair of Public Safety Committee.

For the purpose of this ordinance, the Board shall have access to written reports, records, statements, reviews, audio and video recordings, policies, procedures and training materials of the Department of Corrections that the Board determines are necessary for review of a matter within the jurisdiction of the Board in a manner consistent with law.

For the purpose of this ordinance the Board, and its Executive Director, shall be granted reasonable access to correction facilities and to detainees held within these facilities, or those detainees temporarily transferred to other correctional sites who nevertheless remain under the custody of the Department of Corrections, and in a manner consistent with the law and within reasonable safety procedures and policies of the Department of Public Safety.

### **Section 3 - Definitions**

For the purposes of this ordinance, the terms listed herein shall have the following meaning:

- 1) An “incident” shall include, but not be limited to, situations involving:
  - a) Assault (including, but not limited to: inmate/inmate, inmate/personnel, inmate/visitor, personnel/inmate, visitor/inmate, inmate group/gang, and/or visitor assault as described in the Reportable Incident Manual of the Department of Corrections.
  - b) Sexual Offense (including, but not limited to: inmate/inmate, inmate/personnel, inmate/visitor, personnel/inmate, visitor/inmate sexual offenses as described in the Reportable Incident Manual of the Department of Corrections.
  - c) Serious Injury or death of a prisoners in custody.
  - d) Serious injury or death of Justice Center personnel on the job.
  - e) Inmate Suicide, Attempted Suicide or Self-Inflicted Injury requiring medical treatment.
  - f) Inmate Accidental Injury requiring medical treatment.
  - g) Arson or other occurrence of fire within the Justice Center.
  - h) Hostage Situation.
  - i) Use of force against a detainee by non-SERT personnel
  - j) Use of force by SERT personnel is a serious injury or death should occur.
  - k) Medical emergency requiring response from facility medical personnel, response from emergency medical responders from outside the Justice Center, or emergency transport to a facility outside the Justice Center.

2) A “compliant” shall mean any written report that alleges harm caused to a detainee while in custody in the Justice Center, harmful conditions of confinement in the Justice Center, or misconduct by Justice Center personnel, including, but not limited to, allegations of the following:

- a) Active Misconduct;
- b) Passive Misconduct;
- c) Denial of Medical Treatment related to an injury or to an acute or chronic condition;
- d) Serious Injuries and Deaths in custody or arising directly from conditions or circumstances of custody;
- e) Suicide and Suicide Attempts in Custody;
- f) Truthfulness in Reporting;
- g) Compliance with Policy Directives Training;
- h) Access to Medical Evaluation and Treatment;
- i) Assessment, Treatment, and Accommodation for Prisoners with Disabilities;
- j) Allegations that Statements or Actions Have Been Motivated by Bias;
- k) Use of Excessive Force;
- l) Application of Excessive Penalties, including, but not limited to, Placement in or Extension of Placement in a Segregated Housing Unit or Lockdown Status for more than 10 days;
- m) Unsanitary or Unsafe Housing Conditions;
- n) Arbitrary or Willful Destruction or Denial of Permitted Personal Property;
- o) Retaliation against a detainee or Family Member subsequent to a Grievance or Complaint being made;

- 3) “Active Misconduct” shall mean behavior which is alleged by any individual to be inappropriately aggressive, abusive, injurious or intrusive, ranging from excessive physical force to harassment and slurs or insults.
  - a) “Passive Misconduct” shall mean a failure to intervene appropriately, including untimely response, refusal to provide information about how to file a grievance or complaint, refusal to provide forms required to do so, refusal to notify a superior officer of an detainee’s request to file such a grievance or complaint, as well as refusal to provide information about how to seek medical attention or to provide forms required to do so.
  - b) “Serious Injury” shall mean a personal injury which results in one or more of the following: death; dismemberment; disfigurement that is more than superficial; a fracture; loss of or injury to a fetus; temporary or permanent loss of use of body organ, member, function or system; or a medically determined injury or impairment of a non-permanent nature which either requires extended medical treatment or results in treatment by a medical professional outside the facility, or that prevents the injured person from performing significant material acts which constitute such person’s usual and customary daily activities.
  - c) “Excessive force” shall be defined as physical force used against a detainee beyond that what is reasonably necessary to control, subdue, or restrain a detainee, or physical force against a detainee beyond what is reasonably necessary to control a detainee after they have been placed in restraints.

#### **Section 4 - Board Composition**

- 1) There shall be a city corrections facility civilian oversight board composed of nine residents of the city holding no other city office,

appointed by the Mayor, subject to the confirmation by the Board of Aldermen.

- 2) A “quorum” of the Board shall consist of no less than five (5) members, however a vote on matters described in Sections 4, 6 and 7 shall require a simple majority of the entire Board.
- 3) The composition of the Board should reflect the City’s demographically and geographically diverse community.
- 4) Members shall serve overlapping terms of three years except those appointed to fill a vacancy occurring during the term of a member.
- 5) Members of the Board or members of their immediate family shall not be employed by the Department of Corrections or any local, state or federal law enforcement agency during the period of service on the Board.
- 6) Members of the Board shall not be members of the immediate family of any incumbent elected official of the City of St. Louis.
- 7) No practicing attorney or member of his/her law firm, or the immediate family of an attorney or member of his/her family who represents a plaintiff or defendant in a police officer misconduct lawsuit initiated against the ST. Louis Police Department or the Sheriff’s Office, or a plaintiff or any family member of a plaintiff in such case, shall be a member of the Board.
- 8) Members of the Board shall serve without compensation for service on the Board.

## **Section 5 - Appointments, Notice of Vacancy, Term Limits, Removal of Member**

### **Appointments**

1) Appointments to the Board shall be made as follows:

- a) The Corrections Oversight Board will be comprised of a representative from a recognized detainee advocacy group, a representative from a recognized inmate advocacy group, a member who is good standing with the Criminal Defense Bar, a corrections expert, an individual who was formerly incarcerated, a social justice advocate, an expert in the medical field, and one member of the public.
- b) The Mayor will appoint/select the Chairperson, as well as an Executive Director for the Corrections Oversight Board. In this capacity, the Executive Director will collaborate with the Mayor to nominate the other members, establish the by-laws of the Corrections Oversight Board, and provide administrative support to the Task Force.
- c) Six (6) members shall be recommended by the Mayor for appointment, and confirmed by the majority vote of the Board of Aldermen. Two (2) of those members shall have prior experience in law enforcement, and at least two shall be representatives from the City of St. Louis community who have experience in civil rights and/or civil liberties issues or advocacy. At least one (1) of the six (6) shall represent community organization with a history of ex-offender advocacy.
- d) Three (3) members shall be recommended by the Chairperson of the Public Safety Committee and confirmed by majority vote of the Board of Aldermen.

## **Notice of Vacancy**

- 1) Within seven (7) to ten (10) business days, the Board will provide written notice of Board vacancies to the President of the board of Aldermen and the Mayor of St. Louis. Within seven (7) to ten (10) subsequent business days, the Board shall provide public notice of Board vacancies for the purpose of giving qualified citizens an opportunity to apply for membership, both in the seating of the first full Board and for all subsequent Board vacancies as they occur. “Public notice” shall mean information published in a conspicuous manner as to attract citizens attention and interest in the various media outlets, including but not limited to newspapers, television, radio or online. Special attention should be made to use minority media entities.

## **Removal of Members**

- 1) Upon good cause or a change in qualifications under Section 4, the Board, by a single majority vote of the entire Board, may request that the Board of Aldermen act to remove a board member. Not later than five (5) business days after such Board vote, the board shall provide written notice of such request to the President of the Board of Aldermen, with copies to the Office of the Mayor of St. Louis. Should a sitting member of the Board, come under any of the categories in 4 above, the member shall promptly notify the Chairperson of the Board.

## **Term Limits**

- 1) Members shall be appointed for three years. The initial members confirmed by the Board of Aldermen shall have staggered terms as follows: for an initial one year term-one recommended by the Mayor and one by the President of the Board of Aldermen; for an initial two



year term-three recommended by the President of the Board of Aldermen; and for an initial three year term-one recommended by the Mayor and two by the President of the Board of Aldermen. Thereafter, appointments shall be made for a full three-year term.

- a) A term shall start on January 1<sup>st</sup> of the first year of that term and shall end on December 31<sup>st</sup> of the last year of that term. If a person is appointed to complete the unexpired term of the former Board member, the newly appointed Board member shall be eligible to be appointed to serve two (2) successive three (3) year terms.
- b) In order to provide more people with an opportunity to participate on the Board, members shall be limited to serving no longer than six consecutive years, but may be reappointed after a break in service of no less than twelve (12) months.
- c) Board members shall continue to serve until their successors have been appointed.

## **Section 6 - Board Officers, Board Duties**

The Mayor shall appoint the first Board Chairperson. The Board shall elect the Board Vice Chairperson and Secretary, and such election should occur at the Board's inaugural meeting and annually thereafter. Such officers should serve in the position for a term of one year. In order to provide more people with an opportunity to participate on the Board, an individual should not serve in such a position for more than two consecutive terms, but may be re-elected to such a position after a break in service of no less than twelve months.

- 1) The duties of the Chair shall include, but not limited to:
  - a) Facilitating Board meetings;
  - b) Establishing sub-committees as necessary;
  - c) Working with the Administration on all Board matters; and

- 2) The duties of the Vice Chair and Secretary shall be determined by the Board at the first meeting.

## **Section 7 - Committee Administration**

The Board shall receive administrative services from the Office of the Mayor and/or the Department of Public Safety, and the Executive Director of such Board is referred to as the “Administrator” within this local law. The Administrator may be assisted by such civil and human rights specialists as may be employed by the City of St. Louis.

- 1) The Administrator shall respond to requests from the Board, but may be called upon to respond to inquiries from the Office of the Mayor and the President of the Board of Aldermen. The duties of the Administrator shall include, but not be limited to:
  - a) Maintaining the Board files;
  - b) Representing the Board in public settings, meetings and events, and in consultation with the Board Chairperson, in discussion with City officials;
  - c) Being available to individuals to provide information about the processes of complaint and incident review of the Board;
  - d) Preparing the required Board annual reports;
  - e) Conducting the investigations of incidents and complaints, in service to the Board;
  - f) Creating and maintaining any such forms, documents, and processes that may be necessary to carry out the purpose of the Board;
  - g) Summarizing the findings of complaint and incident investigations for the presentation to the Mayor, President of the Board of Aldermen, and Board;

- h) Communicating regularly with the Chairperson of the Board, Chairperson of the Public Safety Committee, President of the Board of Aldermen, and the Mayor;
  - i) Assisting the Board with its public education efforts;
  - j) Any other tasks deemed necessary by the Board.
- 2) Within the annual City budget adoption process and subject to appropriations, the Administrator will be provided with appropriate office space, phone and computer equipment, a dedicated phone number and voice mail, email account, and website hosting, as well as the essential supplies, budget with technical assistance necessary to establish and support the operations of the Board.

## **Section 8 - Board Powers and Duties**

### **Meetings**

- 1) The Board shall meet as often as it deems necessary, but in any case not less than ten (10) times per year in the Conference Room of the Criminal Justice Center, located at 200 S. Tucker Blvd, St. Louis, MO 63199. Meetings shall be open to the public. Board members may choose to enter into Executive Session to discuss the results of investigation into specific complaints or incidents, or to speak with related witnesses, when such closed session is convened consistent with Open Meetings Law and any other applicable laws.

### **Training for Board Members**

- 2) The Board shall educate and train its members and Administrator in a manner it deems appropriate. The Department of Corrections is encouraged to assist the Administrator and Board in orienting members of the Board to the Criminal Justice Center facility and to its policies and procedures.

## **Public Meetings and Information**

- 3) The Board and its Administrator may hold public meetings as it deems appropriate, but in any case not less than two (2) times per year, where such meetings shall invite public input or comment, and will provide education about the Board process. At least one meeting shall be held within the City of St. Louis limits.

The Board and its Administrator shall create and distribute one or more brochures or fliers describing the Board's mission, contact information, how to submit a complaint, and the Board's procedures to review incidents and complaints. The Board shall also work with City officials to place similar information on an appropriate website location.

## **Reports**

- 4) The Board and its Administrator will produce at least as annual written report that is published on the Board website and is made available to the public in writing at the meetings of the Board or otherwise upon written request. Copies of these reports shall be provided to the Mayor, President of the Board of Aldermen, Chairperson of Public Safety Committee, Director of Public Safety, and Commissioner of Corrections, Members of the Public Safety Committee.

Within any such published report, the Board shall protect the confidentiality of those persons related to complaints, unless written consent is obtained from each such person. Confidentiality should include redaction of names and identifying individual characteristics, however reports will include summaries of aggregated demographic information where appropriate.

## Receipt of Complaints

- 1) The Board and its Administrator shall create and maintain mechanisms for receiving, documenting, and responding to complaints.
  - a) The Board and its Administrator shall consider complaints submitted in writing by Criminal Justice Center detainees of other interested parties, including a detainee's legal representative or family members, representatives of community groups, or City officials and employees working in the Criminal Justice Center.
  - b) Complaints may be accepted by the Administrator at any time; however, the Board may exercise its own discretion to refuse consideration of complaints that are two or more years old.
  - c) Copies of all complaints accepted by the Administrator shall be sent to the Commissioner of Corrections or his/her designee, and to the City Counsellor, or his/her designee, within five (5) business days after receipt by the Administrator.
  - d) The Board and its Administrator shall establish a stand complaint form with clear instructions for completion, including the provision of a notarized signature, and for submission of the form to the board and its Administrator. The Board shall accept notarized complaints whether submitted using this complaint form or through other written format. The Board may accept complains transmitted via fax, mail, or email or received by hand-delivery, however the Administrator shall take steps to confirm the identity of a complainant who submits a complaint using a format other than the standardized complaint form created by the Board.

## **Investigation of Incidents & Complaints; Obtaining Documents & Materials for Use in Pursuing Such Investigations**

- 1) The Board and its Administrator shall create mechanisms for documenting the investigation of complaints it receives and incidents that are brought to its attention, and for reviewing the results of such investigations.
  - a) The Board and its Administrator shall immediately cease its investigation or review of a complaint or incident upon receipt of a written request from the City Counsellor, which shall be based on the initiation of a lawsuit or receipt of a notice of claim by a related complainant as per General Municipal Law of the State of Missouri.
  - b) The Board or its Administrator shall pursue investigation of complaints received and of incidents that come to their attention, utilizing investigatory techniques including, but not limited to, interviewing complainants and witnesses, examining recorded audio or video, and reviewing all polices, procedures and reports the Board or its Administrator deems to be relevant.
  - c) The Board or its Administrator shall seek to obtain documents it deems relevant for use in its investigation and review of a complaint or incident, including but not limited to, recording, including audio and visual formats, and written documents, including reports, records, statement, reviews, training materials, and policies and procedures of the Departments of Corrections. The Board, its Chair or its Administrator shall make formal written request for copies of such recording and documents from the Commissioner of Corrections or the designed records custodian for the Department of Corrections, and such documents shall be disclosed in a manner consistent with law, where such laws include applicable provisions of the Missouri Public Officers Law and Civil Rights Law Section xxxxxxx.

- d) The Board shall comply with any statutory requirements for maintaining the confidentiality of documents and information received by the Board in the course of its duties.

## **Board Recommendations**

- 1) The Board shall create a mechanism for reviewing incidents and complaints, considering the results of investigations and for making recommendations on policy, procedure, or training.
  - a) Deliberations of the Board necessary to make such recommendations shall be confidential and shall not be open to the public. Such deliberation shall not be recorded verbatim by any means method.
  - b) The Board may make recommendations as deemed appropriate about policies, procedures, practices or other systematic concerns existing at the Criminal Justice Center. Such Board recommendations may address matters of policy, procedures, and training with the Criminal Justice Center and may seek to identify and make recommendations can include summaries of aggregated demographic information where appropriate.
  - c) Within any such recommendations, the Board shall protect the confidentiality of those persons related to complaints, unless written consent is obtained from such person. Confidentiality should include redaction of names and identifying individual characteristics, however recommendations can include summaries of aggregated demographic information where appropriate.
  - d) The Board or Administrator shall take steps to notify complainants of recommendations made, if any, in writing within 10 business days of the Board's final vote in relation to their complaint. The Board shall subsequently provide copies of any such recommendations to the Commissioner of Corrections, Mayor,

President of the board of Aldermen, Chairperson of the Public Safety Committee, and Public Safety Director.

- e) No action of the Board shall preclude action by the judicial system, nor a complainant's ability to pursue other available avenues of administrative or legal redress. No recommendation of the Board shall have any collateral effect upon a subsequent administrative or judicial proceeding. Additionally, the Board or its Administrator shall make this clear to each complainant upon accepting a complaint, and also upon communicating the findings and recommendations of the Board.

## **Section 9 - Cooperation of City Officials**

Nothing herein shall be read or construed to abolish, transfer, or curtail the power and duties of any and duties of any elected official. Further nothing herein shall be read or construed to alter any rights of employees under any applicable agreement in statute or ordinance.

- 1) City officials shall use good faith efforts to cooperate with the Board and its Administrator and shall comply with any applicable laws. Such cooperation should include providing the Board with requested documents and recordings and allowing the Board and its Administrator reasonable access to the Criminal Justice Center to conduct investigations, and any other applicable facility, to speak to detainees who are temporarily transferred to that facility but remain under the official custody of the Criminal Justice Center.
  - a) Heads of the City Departments who staff work or are present in the jail on a regular basis are strongly encouraged to designate a liaison from their department to the Board to act as a resource to the Board on matters of information regarding related policies, procedures and training, and to meet periodically with the



Administrator and Chairperson of the Board as requested or on a mutually agreed upon schedule.

- b) City officials and employees should promptly make reports and/or complaints to the Board of alleged misconduct and incidents falling within the Board's jurisdiction. City officials and employees should make all efforts to ensure the preservation of related recordings and documents.
- c) When the Commissioner of Corrections, and or his employees (regardless of rank or administrative position) learns of an incident that may fall within the jurisdiction of the Board, the Commissioner of Corrections or his/her designee is strongly encouraged to provide written notice of this incident to the Administrator of the Board within five (5) business days, and make all efforts to ensure the preservation of related recordings and documents.
- d) City officials should receive and review recommendations of the Board and take such action as may be appropriate in response to each recommendation.

## **Section 10 - Retaliation Prohibited**

- 1) No City official or employee shall retaliate in any way against a detainee, family member, or other interested party for making a complaint to the Board or otherwise participating in any way with the Board's investigation or review of an incident or complaint.
- 2) No City official or employee shall be retaliated against for making a report or complaint as in Section 8 (d) above, or engaging in communication with the Board or its Administrator in the course of their investigation or review of an incident or complaints.

## **Section 11 - Legislative Review of Reports and Recommendation from the Board**

- 1) The Administrator shall, in consultation with the Board Chairperson, communicate regularly to the President of the Board of Aldermen and the Chair of the Public Safety Committee. Such communications shall include, but shall not be limited to, reporting recommendations in relation to both incidents and complaints.
- 2) Upon receiving any reports from the Board that includes recommendations related to policy, procedure, or training, as well as any related responses received for the Department of Corrections, the President of the Board of Aldermen shall request that the Chairperson of the Public Safety Committee place a related item or items on the agenda of the next meeting of the Public Safety Committee, and the content of such discussion will be included in the minutes of this Committee.

## **Section 12 - Severability**

- 1) If any clause, sentence paragraph, section or part of this local law shall be adjudged by a court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

## **Section 13 - Effective Date**

- 1) This Local Law shall take effect 180 days after its enactment. Complaints will not be accepted until such date.