

1 **BOARD BILL NO. 306** **INTRODUCED BY ALDERMAN TERRY KENNEDY**

2 An amendment to Ordinance 69984 (which established the Civilian Oversight Board
3 in the City of St. Louis), extending the number of days that the St. Louis Civilian Oversight
4 Board has to review complaints and make recommendations by amending Section Six of said
5 ordinance 69984; and containing a severability clause.

6 **WHEREAS**, pursuant to Board Rule 54, the proposed amendments to Ordinance
7 69984 are set out in the body of this bill, with additions marked in **boldface** and deletions
8 marked with [~~brackets and boldface strikethrough~~].

9 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

10 **SECTION ONE.** Section Six of Ordinance 69984, approved June 6, 2015, is hereby
11 revised to read as follows:

12 **SECTION SIX. Inspection Procedures**

13 1. Complaint Intake and Sharing: The COB and the Police Department shall
14 create a joint civilian complaint form that shall be readily available to the general public at all
15 Police Department facilities that have areas open to the public, the office of the Department
16 of Public Safety, and all other locations that are recommended by the COB and approved by
17 the Director of Public Safety. A complaint shall be properly completed and submitted only if
18 it is signed by the complainant. If the complainant submits the complaint form to the COB,
19 the COB shall forward the complaint to the IAD within two (2) business days after receiving
20 it. If the complainant submits the complaint form to the Police Department, the Police
21 Department shall forward the complaint to the COB within two (2) business days after
22 receiving it.

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Sponsor: Alderman Terry Kennedy

1 2. Investigation of Complaints: All complaints received by the COB or the
2 Police Department shall be investigated by IAD according to the protocols for IAD
3 Investigation. IAD shall not refuse to investigate any such complaint.

4 3. COB Criteria for Inspection: The COB shall establish criteria to determine
5 which complaints warrant various levels of Inspection, including such factors as
6 seriousness of complaint and identification of patterns of misconduct. The COB will not
7 investigate employment-related complaints against fellow officers or superiors.

8 4. Mediation: At any time during the process, the COB or IAD may recommend
9 to the complainant, the Police Department member(s) who is/are the subject of the complaint,
10 and the Commissioner that a complaint be mediated. If the complainant, the Police
11 Department member(s) who is/are the subject of the complaint, and the Commissioner agree
12 to mediation, the COB process shall cease and, if the complaint is resolved through
13 mediation, the complaint shall be classified as having been resolved through mediation. Any
14 resolution through mediation must be agreed to by the complainant, the Police Department
15 member(s) who is/are the subject of the complaint, and the Commissioner. If a resolution is
16 not reached through mediation, the COB process shall be re-activated.

17 5. Monitoring: The COB may Monitor the IAD Investigation by attending IAD
18 interviews of witnesses and obtaining copies of all recordings, documents and/or other
19 evidence as the IAD Investigation proceeds as provided for in this ordinance and in a manner
20 that is consistent with the Charter, and the rules and regulations of the Department of
21 Personnel, the Sunshine Law, and the privacy rights of employees. The COB may, by a
22 majority vote of its members voting at a meeting where a quorum is present, designate one of

1 its members and/or a staff person to attend IAD's interviews of civilian witnesses; the
2 member so designated may attend IAD interviews of civilian witnesses. The COB may not
3 attend IAD's interviews with Police Department employees. COB members shall not
4 interfere with the investigation, delay the investigation beyond normal coordination of
5 schedules or as outlined in this ordinance, or in any way interfere with or act contrary to the
6 Charter of the City of St. Louis. The COB member present for the interview may not ask
7 questions during the interview, but may provide IAD with suggested questions for the
8 interview before an interview begins or during designated breaks during the interviews.
9 During such interviews, the COB member may make reasonable requests to IAD for breaks
10 during the interviews, but may not do so in a manner that interferes with the interviews. The
11 Police Department shall coordinate scheduling of interviews and access to evidence with the
12 COB when a notification to monitor IAD Investigations is made by the COB.

13 6. Recording: All interviews conducted by IAD or the COB as part of their
14 Investigations or Inspections shall be audio and video recorded in entirety.

15 7. Extensions for the IAD Investigation: Within ninety (90) days of receiving a
16 complaint, IAD shall complete its investigation unless the Commissioner, for good cause,
17 authorizes additional time for IAD to complete its investigation. If the Commissioner
18 authorizes additional time, the Commissioner shall notify the COB that additional time has
19 been authorized. The Commissioner may not extend the time for investigation by more than
20 one hundred twenty (120) days unless either: (a) there are extraordinary circumstances that
21 require an extension; (b) a criminal charge arising from the subject matter of the complaint is
22 pending against the officer; or (c) the United States Attorney, the Circuit Attorney, or other

1 federal or state law enforcement requests that the investigation be extended or not be
2 completed at that time. If any of these circumstances are present, the Commissioner must
3 provide the Director of Public Safety and Chair of the COB an explanation for the delay.

4 8. Completing the IAD Investigation and Forwarding Information: Upon
5 completion of its investigation, IAD shall submit its findings and recommendation to the
6 Commissioner pursuant to the Police Manual. Within a reasonable time, the Commissioner
7 shall forward the investigative file to the COB. The investigative file the Commissioner
8 forwards to COB shall include the IAD's findings, recommendation, and all recordings and
9 documents from its investigation, to the extent permitted by law.

10 9. Independent COB Review: Upon receipt of IAD's findings and
11 recommendations, the COB shall conduct an independent review of the findings,
12 information, evidence and recommendations of IAD. In order to conduct its independent
13 review, the COB may inspect any and all physical evidence gathered by, or in the custody of,
14 IAD pertaining to the complaint and the investigation of such complaint. Upon request, IAD
15 shall permit the reasonable inspection of all such evidence by the COB.

16 10. COB Review: Within [~~thirty (30)~~] **sixty (60)** days after receiving IAD's
17 findings and recommendations:

18 A. If a majority of the COB members, voting at a meeting where a
19 quorum is present, agree with the IAD findings and recommendations, the
20 COB shall notify the Commissioner and Public Safety Director in writing of
21 its agreement.

1 B. If a majority of the COB members, voting at a meeting where a
2 quorum is present, disagree with IAD's findings and recommendations, the
3 COB shall notify the Commissioner and Public Safety Director in writing of
4 its disagreement.

5 C. Request for Reconsideration: If a majority of the COB members,
6 voting at a meeting where a quorum is present, determines that further
7 investigation is warranted, the COB shall present any inquiries and
8 suggestions to the Public Safety Director and may also request that the Public
9 Safety Director direct the Commissioner to command the presence of
10 designated members of IAD at any meeting of the COB during which an
11 investigative review is conducted. Within [~~thirty (30)~~] **sixty (60)** days of
12 receipt of receiving the requested information, the COB shall notify the
13 Commissioner in writing that it either agrees or disagrees with IAD's findings
14 and recommendations. If the COB disagrees with IAD's findings and
15 recommendations, it may submit its own findings and recommendations to the
16 Commissioner or vote to conduct an Independent Inquiry.

17 D. Independent Inquiry: If the COB finds, by an affirmative vote of at
18 least five of its members, that IAD failed to investigate a Complaint, failed to
19 properly notify and involve the COB pursuant to this Ordinance, failed to
20 follow its own protocols in conducting the investigation, or failed to provide
21 the COB with findings and information as required by this Ordinance, the

1 COB may conduct an Independent Inquiry. Within ninety (90) days of voting
2 to conduct an Independent Inquiry, the COB shall report its findings and
3 recommendations to the Commissioner.

4 11. COB Findings and Recommendations: The COB shall determine, by majority
5 vote of its members at a meeting where a quorum is present and based on a preponderance of
6 the evidence, final findings and recommendations. The COB may, in its internal operating
7 procedures, provide an opportunity for the complainant, the subject of the complaint, or the
8 Commissioner, to ask the COB to reconsider its findings before they are finalized. The
9 COB's final findings and recommendations shall be forwarded in writing to the
10 Commissioner and the Director of Public Safety.

11 12. Suspension of Inspection: If grand jury or litigation proceedings are initiated
12 against the subject officer and the IAD Investigation is suspended for similar reasons, COB
13 Inspection of any complaint shall be suspended. Records relating to criminal proceedings
14 shall not be made available to the COB unless they are otherwise public records.

15 13. Maintaining Files: The COB shall maintain its files for each Inspection for a
16 period of ten (10) years or as required by the Sunshine Law, whichever period is longer.

17 14. Officer-Involved Shootings. In the event of any officer-involved shooting that
18 results in the fatality of a civilian:

19 A. The Director of Public Safety shall inform, as soon as practical, the
20 COB members and the COB Executive Director that the officer-involved shooting occurred.

1 The COB members and staff shall not interfere with any investigation into the officer-
2 involved shooting.

3 B. The Commissioner shall provide the COB with copies of IAD's
4 findings, recommendation, and investigative file only after the Force Investigative Unit and
5 the Deadly Force Review Board have completed their analyses and provided their final
6 reports to the Commissioner.

7 C. The Director of Public Safety shall request that the Attorney General
8 of the State of Missouri oversee or conduct the IAD investigation concerning the incident. If
9 the Attorney General agrees to do so under reasonable terms, the Attorney General's
10 investigation shall be treated as the IAD investigation for purposes of this Ordinance and the
11 COB's role as described in this Ordinance shall continue as if the IAD investigation was
12 overseen or conducted by IAD rather than by the Attorney General.

13 **SECTION TWO. Severability Clause.** The provisions of this ordinance shall be
14 severable. In the event that any provision of this ordinance is found by a court of competent
15 jurisdiction to be unconstitutional, the remaining provisions of this ordinance are valid unless
16 the court finds the valid provisions of this ordinance are so essentially and inseparably
17 connected with, and so dependent upon, the void provision that it cannot be presumed that
18 the Board of Aldermen would have enacted the valid provisions without the void ones or
19 unless the Court finds that the valid provisions, standing alone, are incomplete and incapable
20 of being executed in accordance with the legislative intent.