

ORDINANCE NO. _____, SERIES 2020

**AN ORDINANCE CREATING THE OFFICE OF POLICE INSPECTOR GENERAL AND
EXPANDING THE ROLE OF THE CITIZENS COMMISSION ON POLICE
ACCOUNTABILITY**

**SPONSORED BY: COUNCIL MEMBER MCCRANEY AND COUNCIL
MEMBER HOLLANDER**

WHEREAS, the creation of the Metro Louisville/Jefferson County's civilian-led independent police inspector general recognizes the need to have effective policing and a police department that has the faith, trust, respect, and support of the community; and

WHEREAS, effective policing that aligns with Metro Louisville/Jefferson County's community values, needs, and expectations has been an ongoing goal; and

WHEREAS, Louisville Metro Council seeks to involve citizens in reviewing more than just closed cases of police involved shootings; and

WHEREAS, Louisville Metro Council wants to create by law a comprehensive and sustainable independent oversight system that guarantees a police department that has the trust and confidence of the community and respects the constitutional rights of the people of Metro Louisville/Jefferson County.

Commented [LA1]: These opening statements are the rationales that council members draft to explain why laws are being created. These are based upon past drafts by Council members McCraney and Hollander, and will be further edited by Metro Council for this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (“THE COUNCIL”) AS FOLLOWS:

SECTION I. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Definitions. For the purpose of Chapter 36 of the Louisville Metro Code of Ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Definitions: If any are needed for OIG / citizens review.

Commented [LA2]: Section 1 is typically reserved for definitions, but this section will be deleted if no definitions emerge from future drafts. At this point in drafting, none are needed yet.

SECTION II. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Establishment of the Office of Inspector General.

(A) There is hereby established an Office of Inspector General to perform the functions and responsibilities for investigation and oversight of the Louisville Metro Police Department as established in this subchapter.

(B) The Office of Inspector General shall be separate from any other agency or department of Louisville/Jefferson County Metro Government.

(C) The office shall be provided a separate budget sufficient to carry out the responsibilities and functions established in this subchapter.

(D) The Inspector General appointed under Section IV of this Act shall establish the internal organization of the office and shall divide it into such divisions as deemed necessary to perform the functions, powers, and duties of the office. The Inspector General shall have the power to appoint, employ, and remove personnel as deemed

necessary for the efficient and effective administration of the affairs of the office, and to contract with outside experts and consultants as needed.

SECTION III. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Qualifications for Inspector General.

The Inspector General is not required to have law enforcement experience. The Inspector General cannot have a current or past affiliation with the Louisville Metro Police Department (“LMPD”). Candidates with an educational and work background in auditing, financial analysis, law, criminal justice, management analysis, public administration, investigations, or other relevant fields are preferable.

SECTION IV. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Appointment and term of Inspector General

- (A) The Inspector General shall be appointed by the Mayor and approved by the Council.
- (B) The Inspector General’s term of office shall be four (4) years, and the Inspector General may be reappointed to one (1) additional successive term.
- (C) The Inspector General shall receive a salary, subject to applicable ordinances and resolutions concerning classification and compensation of Metro Government employees.

(D) The Inspector General shall be required to take the same oath of office as is required by the Mayor and members of the Council before performing official duties.

SECTION V. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Removal of Inspector General; vacancy

(A) The Inspector General may only be removed by the Mayor and with an affirmative vote by a majority of Metro Council members, after a finding that the Inspector General has:

- (1) failed to perform the duties outlined in this subchapter;
- (2) been convicted of a criminal act;
- (3) committed misconduct, misfeasance, or malfeasance in office that undermines the credibility of the Inspector General or hinders their ability to perform their duties; or
- (4) demonstrated a pattern of incompetence and lack of fitness for the position.

(B) If a vacancy occurs in the Office of Inspector General, an Inspector General shall, within thirty (30) days, be appointed by the Mayor. If less than one (1) year remains in the term of the outgoing Inspector General, the interim appointee shall serve until the end of the term. If more than one (1) year remains in the term of the outgoing Inspector General, the interim appointee shall serve until a new Inspector General is found under the process established in Section III of this Act.

SECTION VI. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Powers and duties of Inspector General

(A) The Inspector General may:

- (1) Examine patterns and practices within LMPD;
- (2) Review policies, procedures, and operations within LMPD;
- (3) Conduct operational audits of LMPD;
- (4) Provide recommendations on improving operations to LMPD, the Mayor, and Metro Council;

(5) Investigate complaints as determined under Section VII of this Act; and

(6) Conduct other operations as needed to carry out the requirements of this subchapter.

(B) The Office of Inspector General shall adopt rules and regulations that guide the functions and processes conducted by the Office of Inspector General that are not inconsistent with state or local laws, Louisville Metro Government Personnel Policies, or LMPD collective bargaining agreements.

(C) The Inspector General shall take appropriate steps to build public awareness of the Office of inspector General and of all procedures established by the Inspector General for receiving complaints.

(D) (1) To the extent permissible by law, all officers and employees of Louisville/Jefferson County Metro Government shall cooperate with and furnish the Office of Inspector General unrestricted access to employees, documents, records, and any other information necessary to assist in carrying out his duties under this subchapter.

Commented [LA3]: DISCUSSION POINT: Are there other areas of review that you would suggest that the IG have the ability to engage in? Or areas that should be removed from this section? We have included areas identified by the group for IG review, and areas reviewed by IGs from other cities.

Commented [LA4]: For what purpose would the IG conduct investigations into individual complaints or incidents? See discussion points in that Section for investigation-specific questions.

Commented [LA5]: Potential inconsistencies that have been identified and are being researched by the County Attorney's Office:

- Will the IG have subpoena power, which is dependent on a change in state law?
- Do the state Open Records laws or KRS 17.150 limit any of the documents available to the IG?
- Does KRS 67C.326, known as the Police Bill of Rights, limit whether the IG may simultaneously investigate misconduct alongside the LMPD Professional Standards Unit and the Public Integrity Unit?

Legal research into these areas is ongoing.

(2) The Inspector General shall report to the Mayor and Council, in writing, of any failure by an officer or employee to cooperate with the Inspector General's requests. Disciplinary action may be taken in accordance with personnel policies by the appointing authority and under applicable law.

(E) The Office of Inspector General shall not publicly disclose any information received during an investigation that is considered proprietary or confidential in nature under any local, state or federal law or regulation.

SECTION VII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Investigations by the Inspector General

(A) Pursuant to paragraph (B) of this section, the Inspector General may investigate incidents any member of the Louisville Metro Police Department that involve the following types of conduct:

- (1) The serious injury or death of any individual in police custody;
- (2) The serious injury or death of any individual resulting from police action;
- (3) Abuse of police authority;
- (4) Excessive use of force;
- (5) Financial crimes;
- (6) Discrimination; or
- (7) Sexual misconduct.

Commented [LA6]: The roles ultimately given to the IG and the interaction with PIU and the citizens review board will determine much of this.

Please also note potential overlap with the Internal Auditor's office which, for example, recently completed an audit of police overtime hours.

(B) (1) The Inspector General may obtain complaints on conduct specified in paragraph (A) of this section and related to LMPD from the following sources:

- a) The LMPD Professional Standards Unit and the Public Integrity Unit;
- b) The Metro Ethics Tipline;
- c) The Metro Internal Auditor's Office;
- d) The Police Ombudsman at the Human Relations Commission;
- e) Direct reference of complaints to the OIG from citizens or from other

Metro offices and departments;

(2) The Inspector General shall do an initial screening and prioritization of complaints, and present written recommendations regarding the complaints to the [CRB] under the procedures established in Section XVI of this Act.

(3) After presentation to the [CRB], and with the approval of the [CRB], the Inspector General may initiate investigations, or may be mandated to investigate by:

- (a) The [CRB] under the process established in Sec. XVI of this Act;
- (b) The Mayor; or
- (c) A majority vote of the Metro Council.

(C) In conducting investigation, to the extent as may be authorized by state law, the Inspector General shall have the power to issue subpoenas, administer oaths, and compel testimony.

(D) Upon the conclusion of an investigation, the IG shall have the authority to refer investigations to the Professional Standards Unit, the Public Integrity Unit, the Commonwealth Attorney, the County Attorney, or other appropriate bodies based on the results of the investigation and the judgment of the Inspector General.

Commented [LA7]: How will the IG and the citizens review board interact? This is one suggested work flow. Please see further comments in the body of Section XVI.

Commented [LA8]: DISCUSSION POINT: Should approval by the CRB be required before the IG can initiate an investigation or review patterns and practices? Should the Mayor or Metro Council, with oversight by the CRB, be able to mandate an investigation?

Commented [MPD9R8]: The IG should receive complaints and make presentation to CRB. The IG should, at her/his discretion, or by mandate by Mayor of Metro Council investigate all complaints. If the IG, in his report to CRB, determines no investigation is warranted, the CRB should have authority to require IG investigation.

Commented [HH10]: At what point, does the group envision the IG investigation occurring? is it envisioned to be working simultaneously with either of the internal investigation units? Criminal conduct is investigated first by PIU, then referred to PSU. Complaints that don't involve possible criminal conduct go directly to PSU.

Commented [MPD11R10]: PIU/IG can work simultaneously. It would be ideal to remove the responsibility of PIU to investigate all police shootings that result in death and any death that occurs while in custody of police. The investigation of these incidents should rest solely with IG. If this can not happen, I envision PIU and IG working simultaneously and independent of one another.

Commented [LA12]: The power granted to Metro Council's Govt Oversight and Audit Committee in KRS 67C.103 can only be delegated to the Ethics Commission for potential violations and enforcement of the ethics code, and cannot be shared with an Inspector General or the citizens review board.

Subpoena power is dependent on a grant of the power from General Assembly. See 6-1-20 memo to the workgroup.

SECTION VIII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Reports by Inspector General

(A) With respect to any investigation, the OIG shall provide information on the progress of investigations to the [CRB] upon the request of the chair of the board.

(B) The OIG shall provide a written report upon the conclusion of each investigation conducted under Section VII of this Act to Mayor, Metro Council, and [CRB]. The reports shall provide a detailed account of the alleged misconduct, the investigative findings of fact, conclusions reached, and any recommendations to assist in the promotion of accountability and integrity of LMPD.

(C) For reviews other than investigations, the OIG shall make available for public viewing a report of any inspection or evaluation, except that any sensitive or confidential information must be redacted as required by law.

(D) The Office of Inspector General shall prepare and submit an annual report to the Mayor and Metro Council within 30 days after the end of each calendar year concerning the Office's activities, investigations, major observations, recommendations, and actions taken during the preceding year.

Commented [HH13]: If the IG is investigating specific incidents where an PIU/PSU investigation may still be ongoing, or where no decisions have been made about prosecution or discipline, care must be taken to avoid actions that might affect the integrity of any investigation or subsequent prosecution.

Commented [HH14]: There are significantly fewer concerns if the investigations and reports relate to systemic operations or patterns and practices, or relate to a specific case after the investigation is closed. These types of reports are much more easily produced. Reports relating to investigations of specific complaint may need to have information redacted to protect confidentiality or the integrity of the investigation or prosecution, depending on when the report is provided.

Section IX. Abolishment of the Citizens Commission on Police Accountability to Create New Citizens Review Board.

The Citizens Commission on Police Accountability created pursuant to LMCO 36.50 and 36.51 is hereby abolished. LMCO Sections 36.50 and 36.51 are hereby

repealed in their entirety. All authority previously vested in the Citizens Commission on Police Accountability shall now be vested in the [CRB] created pursuant to Sections 36.XX-36.XX. Any records of the Citizens Commission on Police Accountability shall be transferred to the [CRB].

Section X. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Establishment of the [CRB]

There is hereby established a [CRB] for Louisville/Jefferson County Metro Government for the purpose of increasing citizen involvement in the investigation and review of allegations of police misconduct.

SECTION XI. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Appointment; Term; Leadership of the [CRB]

(A) The Mayor shall appoint eleven (11) members to the [CRB], which shall be subject to approval by Metro Council. Four (4) appointments shall be at the Mayor's discretion, and the remaining appointments shall be chosen from among lists of nominees provided in the following manner:

- (1) Metro Council shall submit lists of three (3) nominees to fill each of three (3) positions; and
- (2) Each of the entities named shall submit lists of three (3) nominees to fill each of four (4) positions;

Commented [HH15]: - Louisville Metro Police
Accountability Review Board
- Civilian Review and Accountability Board
- Civilian Accountability Board
- Citizen Review Board
- Civilian Review Board
- Louisville Civilian Review Board

These are the names suggested so far. CRB is a placeholder

Commented [LA16]: LMCO 32.001 gives general appointment guidelines, which apply unless expressly provided elsewhere in ordinance.

(A) A person hereinafter appointed to serve on a board or commission, whose appointment is subject to Metro Council approval, shall not at the same time serve on another board or commission whose appointment is subject to Metro Council approval.

(B) No person shall be appointed to serve more than three terms on any board or commission. If a person has served more than fifty percent (50%) of a term, he or she is considered to have served a full term.

(C) Appointments should reflect geographic, political, gender, age, racial and other elements of diversity, where appropriate, so that representatives on all boards and commissions are proportionate to the many facets and areas of the Louisville Metro community to enable an equal voice in the policy and decision making processes of such boards and commissions.

Commented [HH17]: Consensus was reached that the CRB should have 11 members total. The manner in which nominations and appointments are made remains a subject under active discussion and consideration by the work group. All agree there should be community involvement in recommending names for appointment. Some have suggested specific organizations be identified to submit names, others have suggested identifying areas from which nominees would come. Combining the areas suggested resulted in this list:

Advocacy community
Non-profit community
Business community
Legal community

(B) The initial terms of the [CRB] shall be as follows:

- (1) 3 members shall be appointed for a term of 1 year;
- (2) 4 members shall be appointed for a term of 2 years;
- (3) 4 members shall be appointed for a term of 3 years.

At the expiration of an initial term, all new members shall be appointed for a term of 3 years.

Members may serve two (2) consecutive terms. Members who have rotated off the board may be considered for reappointment no sooner than 3 years from the expiration of their final consecutive term, and may only serve one three-year term upon reappointment.

(C) The members shall elect by majority vote one member to serve as Chair and one member to serve as Vice Chair for terms of one year. No member may serve more than two consecutive terms as Chair, and no member may serve more than two consecutive terms as Vice Chair.

(D) Members shall serve without compensation, but shall be eligible for expense reimbursement.

SECTION XII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Removal of [CRB] members.

A member of the [CRB] may be removed as follows:

NOTES TO WORK GROUP:

Commented [HH18]: DISCUSSION POINT
On what grounds should a member of the citizens review board be removed? Should missing a certain number of consecutive meetings be grounds for removal? Failure to meet the qualifications set out in the next section? Neglect and misconduct in office?

Because appointments involve both Mayor and Council, should a removal decision involve both bodies? See examples of other boards in body of this section.

Some boards specifically address removal in the ordinal language. In other cases, the boards through their bylaws set the grounds for removal of their members. Allowing the board to determine grounds for removal may also foster more ownership in the work.

- Commented [LA19R18]:** Work group members suggested as grounds for removal:
- Missing 3 meetings should be grounds
 - Same grounds as IG
 - Agree with the list. Missing a certain percentage of meetings, misconduct/malfeasance, failure to provide service, etc
 - Crimes against children

- Some Metro ordinances spell out grounds for removal of a board member in the ordinance (See, e.g., Code Enforcement Board: “A board member may be removed from office by the Louisville Metro Mayor for misconduct, inefficiency, or willful neglect of duty. The Louisville Metro Mayor shall submit a written statement to the member and the legislative body setting forth the reasons for removal.”)
- Other ordinances make no references to removal of board members, but leave it to the board to adopt removal standards and processes in its rules. (See, e.g., Civil Service Board – rules adopted by the board provide that “Board members may be removed by resolution of Metro Council for neglect, incapacity, misfeasance, or violation of Rule 1.6 [relating to political activity].”)
- A sampling of removal measures for civilian review boards in other jurisdictions:
 - Portland says CRB shall adopt policies and procedures to carry out duties, and has no removal procedure in ordinance
 - Albuquerque says removal “for cause” by Mayor and for missing meetings
 - Atlanta lists reasons in ordinance (incompetence, neglect of duty, misconduct, unexcused absences, malfeasance, not meeting training requirements)
 - Cincinnati says in ordinance “for cause” removal by Mayor
- The work group previously indicated that removal should involve input from both Council and the Mayor

SECTION XIII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Qualifications for nomination and membership to [CRB]

The following qualifications are required for service on the [CRB]:

(A) Persons must have resided in Jefferson County for a minimum of 180 days prior to joining the [CRB], and must remain continuously domiciled within Jefferson County for the duration of their term.

(B) The following persons shall not be eligible to **serve**:

(1) Current Metro employees shall not be eligible to serve on the board.

(2) The family members of current LMPD employees shall not be eligible to serve.

(C) Nominees are subject to a state criminal background check.

(D) All board members shall attend and successfully complete the training required in Section XV of this Act.

(E) Appointees are subject to **ethics** requirements as follows

(F) Appointees must sign and adhere to a confidentiality agreement.

Commented [LA20]: Work group responses summarized below:
a. Should family members of current non-LMPD Metro employees be eligible? Yes
b. Family members of current LMPD employees? No
c. Family members of former or retired non-LMPD Metro employees? Yes
d. Family members of former or retired LMPD members? Yes

Commented [LA21]: In this draft, we have removed the total ban against serving if a person has a felony conviction. In some jurisdictions felons are not eligible to serve on the board. Should it depend on the crime, or the number of years since the crime was committed? What about misdemeanors? We are researching how criminal convictions are handled for service on other Metro boards.

Commented [LA22]: Metro Code has ethics requirements under Chapter 21 of the LMCO that most Metro boards and commissions follow.

SECTION XIV. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Training for [CRB] board members

The following training shall be required before any appointee may serve on the board:

Academy Core Workshops (Two 8-Hour Days)

Two 8-Hour Days of Training

These two days of training would include **workshops and activities**:

- Core Workshops** covering the following topics:
LMPD Policies and Procedures / Officer Bill of Rights
Laws of Arrest, Search and Seizure
Response to Resistance / Defensive Tactics
De-escalation / Use of Force

Commented [LA23]: DISCUSSION POINT: This draft contemplates two 8-hour days for volunteer board members to train. What topics should be included in training? Should continuing education and training be required? How many hours? Board members should be required to read any new or updated relevant policies, procedures or ordinances on an annual basis.

Commented [LA24]: It is envisioned that the Criminal Justice Commission would organize and staff the training, along with qualified presenters on specific topics.

Criminal Investigations
Internal Affairs / Public Integrity Unit
Implicit Bias Training
Complaint Process
Warrants
Police Records, Crime Reporting, Property Control
Investigative and Disciplinary Processes
Police Recruitment
Crime Commission / Merit Board
Body Camera Requirements
No-Knock Warrants Ordinance

Basic Training:

Simulation Firearms Training

Elective Activities (each member may choose one):

Attend a Synergy or Police Community Meeting
Tour of LMPD Headquarters
Tour of Jail
Attend Roll Call

Outside the 2- 8 hour days, but also required, are **patrol ride-alongs**
A minimum 4-hour day shift and a minimum 4-hour night shift

Board members may schedule these ride-alongs in increments (e.g. two 2-hour day sessions and two 2-hour night sessions)

SECTION XV. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Meetings of the [CRB]

The Board shall schedule regular monthly meetings. The Board may cancel meetings or schedule special meetings at the call of the chair, as appropriate to satisfy the duties and obligations of the Board. In no event shall the Board meet less frequently than once per quarter. All meetings will be held in compliance with Kentucky open meetings laws.

SECTION XVI. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. [CRB] Powers and Duties

DISCUSSION POINT for work group:

Because CRB is a volunteer board, and Inspector General is a paid employee with staff and a budget, it seems that the OIG office should be the place where complaints are gathered (see sample language in Section VII, subsection (B) of this rough draft)

The OIG could make the board aware of all complaints from multiple sources, and could propose cases which the OIG believes need further attention, but the board could select the work for OIG by majority vote.

- (1) Establish a process for evaluating whether an alleged incident merits an Inspector General investigation which shall include, but not be limited to, an initial determination as the sufficiency of the information to warrant a formal investigation;
- (3) Determine by majority vote whether to require an Inspector General investigation into any incident;
- (4) Review any investigations conducted by the Inspector General;
- (5) Review closed internal police investigations into police shooting cases and incidents involving loss of life due to police action, but, if a criminal investigation is involved, it shall not review the incident until the criminal investigation is closed; and

(6) Advise the Mayor, Metro Council and the Chief of Police on matters relating to the quality and adequacy of internal police investigations and investigations by the Inspector General, and recommend any needed changes in policy, training, and procedures as a result of its **reviews**.

Commented [HRJ25]: Again, it should be considered as to whether this is a responsibility you want the CRB to have and in what format.

SECTION XVII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Investigation Reports from The Inspector General.

The Inspector General shall make confidential reports to the Board of all instances in which the OIG has initiated an investigation. The OIG shall be required to make periodic reports to the Board concerning any ongoing investigations initiated at the direction of the Board. The OIG shall notify the Board of any investigations not initiated by the Board including the basis for such **investigations**.

Commented [MPD26R25]: CRB should be involved in this to the extent that they are evaluating the performance of the IG. It should be the responsibility of the IG to determine the adequacy of internal police investigations. The IG should report findings to CRB, who then can make recommendations to Chief and report info to the Mayor and Metro Council.

Commented [HRJ27]: This will need to be spelled out more in depth in this section and in the procedural sections above, based on work group recommendations.

SECTION XVIII. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Reports to Mayor and Council.

The Board shall report quarterly to the Mayor and Metro Council. Such report shall address community outreach efforts, agency progress and initiatives, status of ongoing investigations, and any of the Board's issues or **concerns**.

Commented [HRJ28]: How often should the board report and in what format? What issues should they be required to address?

SECTION XIX. A new section of Chapter 36 of the Louisville Metro Code of Ordinances is created as follows:

Section 36.XX. Annual Reports

The Board shall prepare and submit an annual report to the Mayor and Metro Council within 30 days after the end of each calendar year concerning the Office’s activities, investigations, major observations, recommendations, and actions taken during the preceding year.

SECTION XX: This Ordinance shall take effect upon its passage and approval.

Sonya Harward
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:
Michael J. O’Connell
Jefferson County Attorney

BY: _____
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