

## CHAPTER 1. - CITIZEN REVIEW BOARD

### Sec. 12-1-1. - Definitions.

*Appropriate Supervisor* As used in this Chapter refers to the ultimate supervisory authority within a Department, as defined below, including but not limited to the Chief of Police, the Fish and Game Director, or the detention or corrections department director.

*Agency* As used in this Chapter means an organization or department that is created to carry out a function of the government.

*Bad Faith* As used in this Chapter refers to when an individual acts fraudulently, dishonestly, in a corrupt manner, or with reckless disregard for the truth in initiating and/or pursuing a complaint of Misconduct.

*BIA Division of Professional Standards* As used in this Chapter refers to the internal affairs program maintained by the Bureau of Indian Affairs, Deputy Bureau Director, Law Enforcement Services that investigates all allegations of Misconduct by any Officer receiving funding and/or authority from the Bureau of Indian Affairs.

*Board* As used in this Chapter is defined to mean the Citizen Review Board established pursuant to this Chapter.

*Council* means As used in this Chapter is defined to mean the Fort Hall Business Council, the elected, governing body of the Shoshone-Bannock Tribes.

*Department* As used in this Chapter is defined to mean the Tribal department with administrative oversight over Law Enforcement Officers, as defined below, including but not limited to the Fort Hall Police Department, the Tribal Fish and Game Department and any tribal detention or corrections department.

*Diversity* As used in this Chapter is defined to mean the rich mixture of people who inhabit the Fort Hall Reservation in terms of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, age, handicap, disability, and economic status.

*Law Enforcement Professional* As used in this Chapter shall include, but not be limited to, police officers employed by any tribal, local, state or federal governmental entity, including municipal authorities, sheriffs or sheriff's deputies, agents of the Federal Bureau of Investigation, Central Intelligence Agency, U.S. Marshals, employees of the U.S. Attorney's office, employees of a state attorney general's office, employees of a county District Attorney's office, tribal prosecutors, corrections officers, detention officers, jail guards or other jail or prison employees.

*Law Enforcement Officer or Officer* As used in this Chapter means any Tribal uniformed and/or plain clothes police officer and any officer in training, Tribal criminal investigator, Tribal uniformed and/or plain clothes game warden, Tribal adult or juvenile correctional officer, or Tribal law enforcement radio communication dispatcher.

*Misconduct* As used in this Chapter is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a natural person by reason of:

- (1) A violation of any general, standing or special orders or guidelines of the Department; or
- (2) A violation of any applicable Tribal, federal, or state law by the Department or an Officer;
- (3) Any act otherwise evidencing improper or unbecoming conduct by an Officer.

*Tribes* As used in this Chapter is defined to mean the Shoshone-Bannock Tribes.

*Reservation* As used in this Chapter means all land within the present confines of the Fort Hall Reservation and to such other lands without such boundaries as may hereafter be added thereto under any law of the United States except as otherwise provided by law.

*Working Days* As used in this Chapter “Working Days” is defined as Monday through Friday of any given week excluding holidays recognized by the Shoshone-Bannock Tribes.

(Ord. of 4-27-2010, art. I, § 1)

Sec. 12-1-2. - Declaration of Policy.

- (a) It is hereby declared to be the policy of the Tribes that it is paramount to the maintenance of public safety and public confidence in law enforcement that allegations of misconduct be thoroughly investigated and evaluated by an independent board which shall reflect to the greatest extent possible the Fort Hall community's Diversity.
- (b) It is equally important that falsely accused Officers be evaluated by a credible, objective, independent, and fair minded Board.
- (c) The Citizen Review Board shall strive to prevent future incidents of Misconduct and abuses of civil rights, and strive to promote public confidence in law enforcement.
- (d) It is not the intention of this Chapter to undermine the disciplinary authority of the Appropriate Supervisor in the exercise of his or her duties or to alter the executive authority of the Council, but to mandate independent, equitable procedures for both citizens and Department personnel for investigating citizens' complaints of Misconduct.
- (e) This Chapter is not intended to violate the right against self-incrimination of any individual, in particular any Officer, nor is this Chapter intended to violate any other rights of individuals protected under Tribal laws or the laws of the United States of America. This Chapter shall be interpreted consistent with this principle.
- (f) This Chapter is not intended to eliminate the executive authority and obligation of the Tribes to thoroughly investigate all complaints of Misconduct. Nor is it the goal of this Chapter to eliminate the authority of the BIA Division of Professional Standards to conduct investigations into allegations of Misconduct.

(Ord. of 4-27-2010, art. I, § 2)

Sec. 12-1-3. – Authority & Jurisdiction.

This Chapter is enacted pursuant to the inherent sovereign authority of the Shoshone-Bannock Tribes, the Treaty between the Eastern Band of Shoshoni and Bannock Indians and the United States of America, made at Fort Bridger in 1868, and codified at 15 Stat. 673, 2 Kappler 1020 (Fort Bridger Treaty), and the authority including but not limited to, expressly established in the Constitution of the Shoshone-Bannock Tribes, Article VI, Section 1, subsections (a), (h), (j), (k), (l), (q), (r), and (s) to promulgate, adopt, repeal and enforce rules, regulations, standards, and procedures for the protection of the Tribes' lands, resources, and people of the Fort Hall Reservation.

Sec. 12-1-4. - Establishment of Board; Members – Board Members.

- (a) There is hereby created the Citizen Review Board which shall typically consist of at least five members reflecting the Fort Hall community's Diversity, who shall be appointed by the Council. For Board action to be taken requires a quorum of at least 3 members and at least a vote of 3 members in favor of an action or a majority of those members, present, whichever is more.
- (b) The requirements for membership on the Board include:

- (1) No member of the Board shall be employed by the Tribes' Court system or any department of the Tribes with employs law enforcement officers or professionals other than serving on the board;
  - (2) No member of the Board shall hold any other elected public office while serving on the Board;
  - (3) No more than two persons who are experienced as Law Enforcement Professionals;
  - (4) No Board member shall be a sworn, currently employed, Law Enforcement Professional;
  - (5) Must reside on the Fort Hall Reservation.
  - (6) Must possess good moral character;
  - (7) Must not have ever been convicted of any felony in any jurisdiction;
  - (8) Must not have ever been convicted of any misdemeanor involving dishonesty in any jurisdiction. Dishonesty shall mean deceitfulness shown in someone's character or behavior;
  - (9) Must be fair-minded and committed to the efficient and effective operation of the Board and its purposes;
  - (10) For the purposes of this section, the term "convicted" shall not include withheld judgments.
- (c) Terms.
- (1) Three of the original members shall be appointed to four-year terms and the other two shall be appointed to two-year terms, and all shall serve until the appointment of their successors.
  - (2) Persons appointed to fill vacancies shall serve for the balance of the terms for which their predecessors were appointed.
  - (3) All other appointments, after the initial board is appointed, shall be for terms of four years.
- (d) Stipends. Each member of the Board shall be compensated as authorized by the Council by resolution for time and expenses incurred in the direct implementation of the Board's responsibilities.
- (e) The Council shall make appointments in the following manner:
- (1) Appointments shall be made from a list of not more than four nominations for each Board vacancy submitted to the Council by the Tribes' Human Resource Director. The Human Resource Director will forward such nominations to the Council:
    - a. No later than 30 calendar days prior to the effective date of this Chapter for the initial Board appointments;
    - b. No later than 30 calendar days prior to the expiration of a Board member's term; or
    - c. No more than 30 calendar days after a vacancy occurs on the Board.
  - (2) If the Council fails to appoint Board members within 30 calendar days of being forwarded nominations, the Human Resource Director shall make recommendations to Council for the appointment of Board members for any existing Board vacancies.
- (f) In making such nominations and appointments to the Board, the Council shall use their best efforts to create and maintain a Board reflecting the Diversity in the Fort Hall community.
- (g) At its first meeting, the Board shall elect a chair and vice-chair. New elections for officers shall be held every two years after the election of the Board's initial officers, and at such other times as the Board may determine in its rules.
- (h) All Board members shall be required to receive training sufficient to become familiar with Department policies, procedures and training. Board members shall be trained on and comply with applicable tribal policies and procedures. Board members shall also receive training in citizen rights with regard to the Officers, including civil, constitutional and human rights, as well as information regarding the history and operation of other Citizen Review Boards. Such training shall be provided in a timely fashion by qualified experts in each area.

- (i) Should any member of the Board be terminated, suspended or suffer other reprimand by the Fort Hall Business Council, said member of the Board shall be afforded due process rights to address any allegations or actions taken against them before the Fort Hall Business Council. The due process right shall include the right to address the claims made against them, to cross examine adverse witnesses, and present evidence in a form approved by the Fort Hall Business Council. Requests for a due process hearing shall be made within 10 working days of the termination, suspension or other reprimand.

(Ord. of 4-27-2010, art. II, § 1)

Sec. 12-1-5. - Budget.

The Board's expenses, arising from the obligations imposed hereunder, including investigation, consulting and any required training and the maintenance of an office shall be evaluated during the budget process.

(Ord. of 4-27-2010, art. II, § 2)

Sec. 12-1-6. - Powers and Limitations of Board.

- (a) The Board shall provide advice and recommendations to the Council, the tribal Executive Director and the Appropriate Supervisor on policies and actions of the Department with the purpose of improving the ability of Department personnel to carry out their duties, and to improve the relationship between the Department and the community.
- (b) The Board shall have the authority to receive all complaints alleging Misconduct and shall have full discretion to select appropriate individual incidents to investigate and broader issues to study regarding community and law enforcement relations. The Board shall, to the extent possible, minimize any duplication of effort between the Board and any other existing agencies, Tribal offices or Tribal departments which have jurisdiction over the same matter. However, the Board may carry on investigatory and other proceedings on a matter being examined at the same time by the Department, the BIA Division of Professional Standards or the Federal Bureau of Investigation. The Board shall be mindful not to interfere, impede, or impair any ongoing or pending criminal investigation.
- (c) In the event of a conflict between any findings or recommendations issued by the Board and findings or recommendations issued by the BIA Division of Professional Standards arising out of or related to the same complaint or issue, the BIA Division of Professional Standards findings, recommendation or decision shall be controlling.
- (d) The Board shall meet regularly to receive, review, evaluate and make recommendations concerning individual citizen allegations of Misconduct.
- (e) No Board finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the sole basis for any such finding or recommendation.
- (f) The Board shall have the responsibility of informing the public about the Board and its duties regarding this Chapter.
- (g) The Board shall direct and supervise its operations with regard to receiving, investigating, and disposing of all citizens' complaints against an Officer in accordance with this Chapter, the Citizen Review Board Rules and Operating Procedures and the best available investigatory practices.
- (i) In order to accomplish its goals as set forth above, and consistent with the limitations set forth herein, the Board shall have full power to request the Department to produce appropriate personnel or order such personnel for interviews, which the Department shall cooperate with and make a good

faith effort to accommodate, and to request or issue administrative orders for relevant documents which it agrees to keep confidential, including, but not limited to the following, for review:

- (1) Department files, ethics and accountability files, and the files of any other internal investigative agency charged with investigating Misconduct incidents;
  - (2) Paperwork produced by the Department for the purpose of investigating suspects or to aid in their prosecution;
  - (3) Personnel files of Officers, including annual performance evaluations, records documenting training or records documenting mandatory counseling;
  - (4) Department directives;
  - (5) All general summaries, statistical compilations and other internal reports on shootings, injuries, complaints of abuse, training and any other issues related to the work of the Board; and
  - (6) Written reports required to be filed by Officers concerning use of force, warrantless searches, body cavity searches or strip searches and warrantless seizures of property, including towing of vehicles, and traffic stops.
- (j) If the Board finds that the complaint was brought in Bad Faith and if the Board finds that the subject Officer(s) did not engage in misconduct, as defined in this Chapter, the Board may assess the complainant attorney fees and costs expended on behalf of the subject Officer(s).
- (k) If at any time the Board determines that a complainant has issued a false accusation against any Officer as manifested in his/her citizen complaint, the Board shall immediately forward a complete copy of the complaint together with a written directive to the Tribal Prosecutor to investigate the complainant for possible violations of applicable statutes relating to sworn statements.
- (l) The Board shall not receive complaints containing allegations nor initiate investigations on its own motion pertaining to incidents which occurred over six months prior to the date of receipt of such complaint.
- (m) Members of the Board shall be exempt from serving on jury duty in Tribal Court during the time period that such person is appointed to the Board.

(Ord. of)

Sec. 12-1-7. - Annual Report.

The Board shall prepare an annual report for Council, summarizing the activities and recommendations of the Board, including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period.

(Ord. of 4-27-2010, art. II, § 4)

Sec. 12-1-8. - Severability.

The provisions of this Chapter shall be deemed severable. If any portion, paragraph, sentence, or phrase of such Chapter shall be held by a Court of competent jurisdiction to be illegal or unenforceable for any reason, all other provisions shall continue to be deemed valid and effective.

(Ord. of)

Sec. 12-1-9. – Conflicts of Laws.

In the event of a conflict between the provisions of this Chapter and any other provision of applicable law that by its terms is applicable, those provisions of law creating a more stringent or otherwise higher standard shall be controlling..

(Ord. of )

Sec. 12-1-10. – Sovereign Immunity.

Neither the implementation of this Chapter, nor any provision contained herein, shall act or interpreted to act as a waiver of the Shoshone-Bannock Tribes’.

(Ord. of )

Sec. 12-1-11. – Effective Date.

The Chapter shall take effect within the constitutionally required time frame, after the date of its enactment of the Fort Hall Business Council and approval by the Secretary of the Interior.

(Ord. of )