

By Ms. Bunte of Boston, petition of Doris Bunte, Sandra Graham and Melvin H. King that provision be made for the establishment of civilian investigative review commissions in certain cities of the Commonwealth. Local Affairs.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Two.

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A CIVILIAN INVESTIGATIVE REVIEW COMMISSION IN THE CITIES WITH A POPULATION OF 100,000 AND OVER.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 41 of the General Laws is hereby  
2 amended by inserting after section 108L the following section: —

3 *Section 108M.* In cities having a population of over one hun-  
4 dred thousand, there shall be a civilian investigative review com-  
5 mission. The commission shall consist of one member elected from  
6 each ward and five persons appointed by the mayor of said city.  
7 Members shall be represented of the ward districts and elected by  
8 the same. Elections shall be conducted in the same manner and  
9 time as municipal elections and shall be administered by the elec-  
10 tion commission. Nominees for a commission seat shall be eligible  
11 upon the petition of not less than fifty valid signatures of registered  
12 voters who reside within their respective wards. No elected officials  
13 or law enforcement officers shall be eligible.

14 The five members of the commission appointed by the mayor  
15 shall be comprised of one former police officer, one religious  
16 leader, one educational leader, one black youth, one white youth.  
17 For the purposes of this review commission, a youth is defined as  
18 one who is between the ages of sixteen to twenty years of age. Of the  
19 remaining three appointed members at least one shall be an elderly  
20 person. An elderly person is defined as one who is at least sixty  
21 years of age.

22 The commission shall administer a staff office of civilian investi-  
23 gations to consist of a full time, salaried, executive director, an  
24 administrative secretary and at least two special investigative as-  
25 sistants.

26 The term of each commission member shall be two years. All  
27 vacancies shall be filled by special intercession of the municipal  
28 election committee which will manage the interim elections to fill  
29 said vacancies.

30 The commission shall elect one of its members as chairperson  
31 and one as vice chairperson who shall retain office for two years or  
32 until such time as their successor is elected. No officer shall be  
33 elected to succeed himself in the same office.

34 The commission shall meet on the first Wednesday in January to  
35 establish procedures for the election of officers. Notice of election  
36 results will be disclosed to the public no later than the third week in  
37 January. The commission will hold regular meetings no less than  
38 six times a year.

39 All commission meetings and agendas for such meetings shall be  
40 publicized in advance by written notice given to newspaper, radio,  
41 and television stations serving the city, at least three days prior to  
42 regular meetings and at the same time as members are notified of  
43 special meetings. In addition, notice of meetings shall be posted  
44 regularly on such bulletin boards and at such locations throughout  
45 the city as are designated by the commission.

46 Special meetings may be called by the chairperson or by seven  
47 members of the commission upon personal notice being given to all  
48 members or written notice being mailed to each member and  
49 received at least thirty-six hours prior to such meetings, unless such  
50 notice is waived in writing.

51 All meetings shall be open to the public, unless the commission,  
52 in order to protect the rights and privacy of individuals, decides  
53 otherwise and if such closed meeting is not waived by the individual  
54 concerned. The commission shall cause to be kept a prior record of  
55 its proceedings. The record and files of the commission and its  
56 officers shall include, but not be limited to all official correspon-  
57 dence, or copies thereof, to and from the commission and its  
58 members, gathered in their official capacities and shall be kept  
59 open for inspection by the public at reasonable times in the Office  
60 of Civilian Investigations.

61 Fourteen members of the commission shall constitute a quorum  
62 and given a quorum the affirmative vote of a majority of the voting  
63 members is required to take any actions.

64 In carrying out its objectives, the commission shall receive  
65 prompt and full cooperation and assistance from all departments,  
66 officers and officials of the city at the behest of the Mayor of the  
67 city.

1 SECTION 2. The civilian investigative review commission  
2 shall have the following rights and duties:

3 (a) Subpoena powers.

4 (b) To deliver substantive recommendations on appropriate  
5 action to the public, to the superintendent of the police department  
6 and to the mayor.

7 (c) To review and make recommendations concerning all abuses  
8 and violations and misconduct of police department representa-  
9 tives that are of a serious nature as determined by the office of  
10 civilian investigations.

11 (d) To file all class action suits with the appropriate courts.

1 SECTION 3. The civilian investigative review commission  
2 shall be administered by the civilian investigative review commis-  
3 sion whose responsibility it shall be to hire a full time salaried  
4 executive director. The executive director shall be a bona fide  
5 criminal investigator with a proven record of successful investiga-  
6 tion.

7 The executive director shall have responsibility for the adminis-  
8 tration of the office of civilian investigations including an adminis-  
9 trative secretary and no less than two investigative assistants; one  
10 of whom shall be a certified legal counsel or attorney.

11 The office of civilian investigations shall receive and administer  
12 complaints directed against any officer or employee of the police  
13 department. The office of civilian investigations will fully and  
14 completely investigate said complaints and make such recommen-  
15 dations as to official hearings or disciplinary actions relating to  
16 department policies and procedures to the commission for its  
17 consideration and resolution. The office of civilian investigations  
18 may alternatively recommend a complaint to an appropriate ser-

19 vice agency, i.e. the MCAD or the Civil Rights Commission, if it is  
20 determined that the said complaint does not warrant review by the  
21 commission.

22 The office of civilian investigations shall also have power to  
23 arrange an informal settlement should the executive director de-  
24 cide that a formal hearing by the commission is unwarranted or  
25 that referral to another agency is not required. Only in the event of  
26 this circumstance may a complainant appeal to a designated com-  
27 mission special appeals subcommittee and only when such appeal  
28 involves either the excessive use of physical force or sexual harass-  
29 ment.

30 The office of civilian investigations shall also function as an  
31 advisor on the retention or acquisition of legal counsel by com-  
32 plainants in need of such guidance.

1 SECTION 4. The conduct of the office of civilian investigations  
2 shall be as follows:

3 (a) That investigations of all complaints filed with the office of  
4 civilian investigations shall begin immediately after complaints are  
5 filed and proceed as expeditiously as possible. The complainant  
6 need not be the actual victim of the alleged misconduct.

7 (b) That all such complaints filed with other offices, boards,  
8 bureaus, of the police department, shall be referred to the office of  
9 civilian investigations for investigation.

10 (c) That in the conduct of such investigations, the office of  
11 civilian investigations shall have access to all city records and  
12 documents, including employee personnel records as authorized  
13 by law.

14 All investigations must be completed with or otherwise disposed  
15 of within ninety days of receipt of the complaint and the complain-  
16 ant is to be notified of the conclusion by first class mail. Under  
17 unusual circumstances an extension of time may be permitted by  
18 the mayor for completion of the investigation.

19 The completion of such preliminary investigations will, on the  
20 recommendation of the office of civilian investigations be for-  
21 warded to the civilian investigative review commission for resolu-  
22 tion. The resolution of the civilian investigation review commis-  
23 sion shall be forwarded to the mayor and the head of the police  
24 department when such resolutions affect the police department.

25 Investigation conclusions are also to be forwarded to the com-  
26 plainant, the employee accused, and the appropriate department  
27 director. An employee shall be disciplined only through the regular  
28 processes of the law.

29 The office of civilian investigations is not to replace any other  
30 city investigatory body. The office of civilian investigations shall  
31 provide an additional point at which citizen or employees may  
32 register serious misconduct complaints.





