



City Council – Police Civilian Review Board

Joint Work Session

April 27, 2021

5:00 PM – 8:00 PM

Register at: www.charlottesville.gov/zoom

AGENDA

- I. Call to Order**
- II. Resolution: CARES Funding Allocation for Emergency Assistance Program (Pathways Fund) - \$150,000 (1 reading)**
- III. Welcome**
- IV. PCRB Overview of Proposed Changes to Governing Policies**
- V. Public Comment (Speakers – 3 Minutes each)**
- VI. Questions from Council**
 - i. CRB Response to the City Manager’s review of proposed policies**
- VII. Discussion (City Council/PCRB)**
- VIII. Public Comment (Speakers – 3 Minutes each)**
- IX. Discussion (City Council/PCRB)**
- X. Next Steps**

Individuals with disabilities who require assistance or special arrangements to participate in the public meeting may call the ADA Coordinator at (434) 970-3182 or submit a request via email to ada@charlottesville.gov. The City of Charlottesville requests that you provide a 48 hour notice so that proper arrangements may be made.

During the local state of emergency related to the Coronavirus (COVID19), City Hall and City Council Chambers are closed to the public and meetings are being conducted virtually via a Zoom webinar. The webinar is broadcast on Comcast Channel 10 and on all the City's streaming platforms including: Facebook, Twitter, and www.charlottesville.gov/streaming. Public hearings and other matters from the public will be heard via the Zoom webinar which requires advanced registration here: www.charlottesville.gov/zoom. You may also participate via telephone and a number is provided with the Zoom registration or by contacting staff at 434-970-3182 to ask for the dial in number for each meeting.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	April 27, 2021
Action Required:	Approve Resolution
Presenter:	Kaki Dimock, Director of Human Services
Staff Contacts:	Kaki Dimock, Director of Human Services Chris Cullinan, Director of Finance
Title:	CARES Funding Allocation for Emergency Assistance Program (Pathways Fund) - \$150,000

Background:

The City received approximately \$8.2 million from the Commonwealth of Virginia as part of the Coronavirus Relief Funds (C.R.F.) to local governments made available through the CARES Act. The City received these funds in two, equal tranches of \$4.1 million in June and August of 2020. The Commonwealth distributed these funds to local governments based on population. Expenses related to the City’s direct response to the pandemic were eligible for CARES funding. Additionally, “second order” effects of the pandemic are eligible, including business disruption funding and other economic support to those impacted economically.

Discussion:

Approximately \$7.3 million in CARES funding was anticipated to be incurred by the original deadline of December 30, 2020. The projected balance of unspent funds and accrued interest totaled approximately \$921,500. At the December 21, 2020 City Council meeting staff recommended the usage of these unspent CARES funds to reimburse the General Fund for previously incurred public safety payroll expenses in order to expend all of the CARES Funds prior to the deadline of December 30, 2020. Subsequent to the December 21, 2020 City Council meeting, the deadline was extended allowing for the usage of these funds for this purpose.

Due to the pandemic crisis, requests for financial assistance through the Pathways/Community Resource Hotline have increased dramatically, resulting in the full distribution of previously appropriated funds from City Council. Department of Human Services is seeking an appropriation of \$150,000 from unspent CARES funds to provide emergency finance assistance to community members through the Pathways/Community Resource Hotline. This hotline is maintained by the Department of Human Services in order to provide immediate financial relief to community members experiencing a financial crisis.

Staff’s review of this request finds that it is eligible to receive funds under the CARES Act and is

appropriate and needed as our community continues to deal with the impacts of COVID-19.

Alignment with City Council's Vision and Strategic Plan:

This resolution aligns with Goal 1 of the Strategic Plan to be an inclusive community of self-sufficient residents; and it aligns with Goal 5 of the Strategic Plan, to be a well-managed and responsive organization.

Community Engagement:

The Department of Human Services is in regular contact with community members in need, community partners addressing financial needs, and partners in Albemarle County to ensure that we are able to be responsive and comprehensive, particularly during this health and economic crisis. Hotline operators have engaged with over 4,000 community members in need as part of the partnership with the Charlottesville Area Community Foundation and United Way of Greater Charlottesville.

Budgetary Impact:

The CARES funds that are proposed to be reallocated are unspent, previously appropriated dollars, so no new additional funding is required to be appropriated. The funds which were to be used to reimburse the General Fund for previously incurred public safety payroll expenses, will be reduced to approximately \$771,500. This is reducing the additional budgetary capacity previously created in the General Fund in the current fiscal year. However should additional funding be necessary to close any budget shortfalls at the end of the fiscal year, these funds would be backfilled using American Rescue Plan (A.R.P.) funds.

Recommendation:

Staff recommend that Council approve the attached resolution.

Alternatives:

Identify an alternative funding source (such as Council Strategic Initiatives Funds) and amend the Resolution, or not approve the resolution and add provide no additional funding to the Emergency Assistance Program.

Attachments:

1. Resolution

RESOLUTION
Coronavirus Aid, Relief, and Economic Act (CARES) Funds for Emergency Assistance
Program (Pathways Fund)
\$150,000

WHEREAS, the Charlottesville City Council allocated \$921,500 of unspent Coronavirus Aid, Relief, and Economic Act (CARES) funds to reimburse the General Fund for previously incurred public safety payroll expenses; and

WHEREAS, the Charlottesville City Council has requested those funds be used to provide emergency finance assistance to community members through the Pathways/Community Resource Hotline;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that \$150,000 of the previously unspent CARES Funds be allocated in the following manner:

Transfer From:

\$150,000 Fund: 208 Internal Order: 1900386 GL Code: 599999

Transfer To:

\$150,000 Fund: 208 Internal Order: 1900384 GL Code: 599999

Charlottesville Police Civilian Review Board Presentation to the City Council

APRIL 27, 2021



Overview of Presentation

A little history

Oversight Model Development Process

Main Elements of Oversight Model

Resource Considerations

Current Status and Next Steps

Questions

History of Police Oversight in Charlottesville

Civilian Review in the 1990s

August 2017 and Dissolution of the CRB

December 2017 City Council Resolution

Activities of the Initial Civilian Review Board

2019 Ordinance and Bylaws


Current CRB



Charlottesville did not Adopt the Oversight Model Proposed by the Initial Board

Recommendation by initial Board was for an oversight model involving complaint review, audits, limited independent investigation, and advisory functions

2019 ordinance and bylaws were very different:

- Model limited almost exclusively to review and advisory functions
 - Reduced paid staff from two (Director, Auditor) to one (Executive Director)
 - Greatly limited public input into staff hiring, Board member selection
 - Reduced diversity requirements for Board membership
 - Eliminated Board stipend
 - Board members could be removed without cause
 - Includes “opt-out” provision so that Board will not see all complaints
 - Board can take no action on complaints until after IA investigation is complete
 - Board not allowed to independently investigate complaints or incidents
 - Board explicitly denied input into disciplinary decisions
 - Audit function removed
- 

Bottom Line on Existing Model

Complaint investigation process remains opaque

Board is incapable of acting on most complaints, cannot act independently even in response to serious incidents

Board cannot initiate independent investigations of complaints

Board cannot address disciplinary or corrective action matters

Executive Director is the only individual allowed to interact with CPD during complaint review

Board can consult outside counsel only on limited range of issues

Board has limited power to access information

Oversight Model Development Process

House Bill 2055 (signed by Governor Northam Oct. 28, 2020) allows municipalities to grant expanded powers

CRB forms Ordinance Work Group (12/20)

Asked for community input on needs and objectives

Background research on oversight models and organizations

- Initial CRB recommendations
- Insights from NACOLE and other organizations
- Review of oversight structures across the U.S.


Design an oversight model that is consistent with HB 5055, addressing shortcomings of 2019 Ordinance and Bylaws

Major Provisions of House Bill 5055

Municipalities may establish oversight organizations (§9.1-601(B)) and can grant them powers:

- ...To receive, investigate, and issue findings on complaints from civilians regarding conduct of law-enforcement officers...
- ...To investigate and issue findings on incidents, including the use of force by a law-enforcement officer, death or serious injury to any person held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops...
- ...after consultation with [an]officer's or employee's direct supervisor or commander, to make binding disciplinary determinations in cases that involve serious breaches of departmental and professional standards, as defined by the locality.

Powers enabled by HB 5055 (continued)

- ...To investigate policies, practices, and procedures of law-enforcement agencies... and to make recommendations regarding changes to such policies, practices, and procedures...
 - ...To review all investigations conducted internally by law-enforcement agencies
 - ...To request reports of the annual expenditures of the law-enforcement agencies...and to make budgetary recommendations
 - ...To make public reports on the activities of the civilian oversight body, including investigations, hearings, findings, recommendations, determinations, and oversight activities
 - ...To undertake any other duties as reasonably necessary for the civilian oversight body to effectuate its lawful purpose as provided for in this section to effectively oversee the law-enforcement agencies
- 

Major Elements of the Proposed Oversight Model

Model includes Review, Investigative, Audit, and Advisory functions

- Receive and process complaints
- Initiate independent investigations of complaints of serious misconduct or incidents involving use of force, etc.
- Review IA investigations that are not categorized as “serious”
- Hold hearings in support of complaint review, investigations, or disciplinary matters, in support of which the board may exercise subpoena power
- Conduct periodic audits of Charlottesville Police Department’s policies, practices, and outcomes, evaluate impacts on disproportionately policed groups
- Provide reports of audits and investigations of CPD policies, practices, and outcomes
- Conduct public engagement activities to hear community concerns, facilitate communications with the CPD

Receive Complaints

Current structure allows plaintiffs to opt-out

This means that the Board cannot get a clear picture of the totality of the complaints received by the CPD

Board also needs to identify serious complaints and incidents for independent investigation

Proposed Ordinance calls for working cooperatively with the CPD to develop a method for receiving complaints and maintaining confidentiality

Independent Investigations

Board would have authority to initiate independent investigations of serious incidents and complaints of serious misconduct

An Investigations Committee of the Board will be appointed, and criteria for initiating investigations will be defined in the Board's Operating Procedures

When the Investigations Committee decides the Board should conduct its own investigation, Internal Affairs will cease investigating and provide all relevant evidence, documents, and files to the investigator

Conducted by licensed independent investigators, procured through the City Manager

The Board may call a hearing in support of an investigation, or make findings of fact and proceed to disciplinary action solely based on the results of an investigation

Independent investigations anticipated to be relatively rare

Review of Internal Affairs Investigations

Proposed model is much like that in the 2019 Ordinance, but “backstopped” by the Audit function

Reviews will be limited to complaints not classified as “serious” or subject to independent investigation

Reviews will occur after IA investigation is complete, upon receipt of review request

CPD will provide complete investigation file, other relevant evidence, and the subject officer’s complaint history to the Board

The Board will hold a hearing in support of each review request

The Board may concur with the IA investigation, find that the result is not supported by the evidence, or that the IA investigation is incomplete or unsatisfactory

Hearings

The Board may hold hearings in support of complaint review, independent investigations, disciplinary actions, or other matters where information gathering is necessary to support effective police oversight

Procedures (under development) will vary somewhat depending upon the purpose of the hearings; best practice models are available from a number of oversight organizations

Hearings dealing with confidential matters may be closed

Subpoenas of documents or witnesses may be requested after good faith efforts fail to elicit cooperation

Police officers will have procedural protections

Audits

Audits are a key feature that was not included in the 2019 ordinance

An Auditor would:

- Report on trends in police activities, investigations, and outcomes
- Monitor and maintain information access channels with the CPD
- Support the Executive Director in all information gathering and reporting tasks

Given workload considerations, having a full-time auditor seems advisable



Public Engagement

An important aspect of trust building that has been very difficult during COVID

Board would hold quarterly public listening sessions to hear community concerns related to policing

Facilitate communications between community and the CPD

Provide periodic reports on community concerns identified at listening sessions, through other channels

Resource Considerations


- Research by NACOLE indicates that:
 - Budgetary allocations for oversight organization vary widely
 - Major determinants include size of organization/municipality, workload, and type of model
 - Advisory and Review models are least expensive
 - Investigative and Audit models require more resources
 - Staff compensation is generally the major cost element
- Resource levels for the Charlottesville Board
 - The number of complaints anticipated to be low-moderate compared to larger cities
 - The Board performs other functions in addition to complaint review
 - Participants in the volunteer Board tend to be employed and busy
 - Effective oversight staffing requires at least a full-time Executive Director; the draft ordinance recommends a police Auditor as well

Current Status and Next Steps

Currently:

- Draft ordinance has been completed
- Operating Procedures under construction
- Interim hearing procedures under review
- Ongoing Board operations under 2019 framework

Next Steps

- Receive feedback on draft Ordinance from Council, Board, and community
 - Present revised Ordinance to full Board for its approval at May 13 Meeting
 - Continue work on Operating Procedures document
 - Present to Board at June 10 meeting (?)
- 

Acknowledgements

Bellamy Brown and other CRB members

Sarah Burke, Katrina Turner, Gloria Beard, and other members of initial CRB

Harold Folley (People's Coalition)

Kate Fraleigh

Maisie Osteen (LAJC)

Janice Redinger

Lisa Robertson (Acting City Attorney)



City Council – Police Civilian Review Board Joint Work Session

Questions/Issues from The City Manager

Why Does the Board need for access to all citizen complaints, not merely complaints forwarded from CPD?

To do its job (of providing effective oversight) the Board needs to understand the totality of complaints regarding CPB personnel

Especially, we need access to all “serious” complaints, which might qualify for independent investigation

Having two lists of complaints, addressed by two separate sets of procedures, could lead to confusion and to inconsistent and inequitable results

The current complaint form is a little confusing...

The proposed Ordinance and Operating Procedures will include provisions to preserve confidentiality

CPD is currently working on automated system for sharing complaints with the Executive Director

...Need a clearly defined process that ensures the PCRB has access to all information necessary to perform its functions, particularly as it relates to investigations

Agreed; much work needs to be done in defining information access provisions in the Operating Procedures

Alternative Strategies

- Have a broad, general statement requiring maximal information access
- Have specific provisions identifying types of information to be made available to support investigations, hearings, audits

Ordinance Work Group research suggests that best practices regarding information access for investigators are well-established

Information access for Audits is also very important




Clarify that City Council can remove board members for cause only

Initial Board suggested that City Council would need to supply a reason for removing Board Members

Current Ordinance and Bylaws simply say the Council can remove Board members

Proposed solution:

- Define specific causes for which Board members can be removed in the Operating Procedures
 - Provisions from U.S. oversight agencies often include violations of confidentiality agreements, irreconcilable conflicts of interest, neglect of duties, criminal offences, or violations of codes of ethics
- 

Developing a specific procedure for what the PCRB does for investigations

The intent is for the Board to elect an Investigation Committee from it's ranks that will operate as follows:

“When the Investigation Committee of the Civilian Review Board determines that criteria specified in the Operating Procedures indicate that an independent investigation is warranted, they shall instruct the Executive Director to request that the City Manager initiate an investigation.

Currently, the draft ordinance says:

“...a qualified investigator independent of the Police Department shall be engaged in accordance with the provisions of City Code Sec. 2-156. Required elements of the scope of work for independent investigations shall be as set forth within the Operating Procedures. The investigator shall be required to execute a written confidentiality agreement, prior to commencement of work.

Procedures for avoiding conflicts of interest need to be specified in the Operating Procedures

Practical issues relating to rapid response need to be worked out as well



How will disciplinary authority operate?

The Board's proposed general approach to exercising disciplinary authority is found in Section 2-461 of the draft Ordinance

- The board shall consult with the Chief of Police and/or Supervisors of accused officers to consult on disciplinary decisions
- Board discussions of disciplinary matters will take place in closed meetings
- Misconduct will be defined in accordance with the prevailing Police Disciplinary Matrix
- The Board is allowed to consult complainants and witnesses in the closed meeting(s)
- Officers will be notified of specific misconduct with which they are charged and offered an opportunity to address the Board and be represented by counsel
- The Board cannot compel officers to provide statements
- The Board's disciplinary decision will be made in an open meeting by majority vote

Many procedural issues remain to be worked out!



What are “serious breaches of departmental and professional standards”?

- The Board’s disciplinary authority is restricted to “serious” misconduct
- The Work Group and Board are considering ways to define “serious”
 - CPD Discipline Matrix categories
 - Models from other municipalities (Fairfax County, Seattle, Eugene OR)
- Need to achieve balance between:
 - Identifying all cases involving harm, flagrantly discriminatory practices, harrassment
 - Not overburdening the Board with cases that can be resolved without its intervention
- Input from all stakeholders will be required to develop a workable formula

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

ARTICLE XVI. – POLICE CIVILIAN REVIEW BOARD

AN ORDINANCE TO AMEND AND REENACT THE PROVISIONS OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, CHAPTER 2 (ADMINISTRATION)

Table of Contents

1

2

3

4

5

6 Sec. 2-450.-Title 2

7 Sec. 2-451.-Police Civilian Review Board Established; Immunities..... 2

8 Sec. 2-452.-Powers and Duties of the Police Civilian Review Board..... 2

9 Sec. 2-453.- Police Civilian Review Board Membership Appointment, and Terms. 4

10 Sec. 2-454. – Public Meetings. 5

11 Sec. 2-455.-Police Civilian Review Board Executive Director..... 5

12 Sec. 2-456.-Police Civilian Review Board Legal Counsel. 5

13 Sec. 2-457. - Receipt and Investigation of Complaints 6

14 Sec. 2- 458. - Investigations of Incidents. 6

15 Sec. 2- 459. - Review of Investigations Conducted Internally by the Department 6

16 Sec. 2- 460. - Independent Investigations Conducted by The Civilian Review Board..... 8

17 Sec. 2-461. - Binding Disciplinary Action..... 10

18 Sec. 2- 462. - Investigations of Policies, Practices and Procedures 10

19 Sec. 2- 463. - Request Annual Reports of Police Expenditures 11

20 Sec. 2- 464. Authority to Hold Hearings..... 11

21 Sec. 2- 465. - Deferral of Complaint Review and Investigations..... 11

22 Sec. 2-466. - Police Civilian Review Board Recommendations and Annual Report..... 12

23 Sec. 2-467. - Police Civilian Review Board Operating Procedures 13

24 Section 2-468. – Audits 13

25 Section 2-469. - Community Engagement and Community Relations..... 14

26 Section 2-471. - Training 14

27 Section 2-472. - Stipends 14

28

29

30

31

32

33

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

34 WHEREAS, the Charlottesville City Council previously enacted an ordinance establishing a Charlottesville
35 Police Civilian Review Board and codified the ordinance within Chapter 2, Article XVI of the Code of the
36 City of Charlottesville (1990), as amended; and

37 WHEREAS, on October 28, 2020 the Virginia General Assembly enacted House Bill 5055, the provisions
38 of which become effective July 1, 2021, and this legislation expressly authorizes the governing body of a
39 locality to establish a law enforcement civilian oversight body; and
40

41 WHEREAS, City Council hereby finds that it would be in the public’s best interests for the City to conform
42 Chapter 2, Article XVI of the City Code to the requirements of the new state legislation and to
43 reestablish the City’s Police Civilian Review Board with certain additional oversight powers and duties
44 enabled by the new state legislation;
45

46 NOW, THEREFORE, BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Article
47 XVI within Chapter 2 of the Code of the City of Charlottesville (1990) is amended and reenacted, as
48 follows:
49

50 **ARTICLE XVI-POLICE CIVILIAN REVIEW BOARD**

51 **Sec. 2-450.-Title**
52

53 This article shall be known as the Charlottesville Police Civilian Review Board Ordinance.

54 **Sec. 2-451.-Police Civilian Review Board Established; Immunities.**

55 There is hereby established a Charlottesville Police Civilian Review Board which shall be referred to as
56 the Police Civilian Review Board, or “the Board”, within this article. The Board shall have the authority
57 and duties of a law-enforcement civilian oversight body, as expressly authorized by state law and as
58 provided within this ordinance. The Police Civilian Review Board shall enjoy the protection of sovereign
59 immunity to the extent allowed and provided by pursuant to Virginia statutory and common law.

60 **Sec. 2-452.-Powers and Duties of the Police Civilian Review Board.**
61

62 (a) The Police Civilian Review Board shall have the following powers and duties:
63

64 (1.) To receive, investigate, and issue findings on complaints from civilians regarding the conduct of
65 law enforcement officers and civilian employees of the Charlottesville Police Department;
66

67 (2.) To investigate and issue findings on incidents, including the use of force by a law enforcement
68 officer, death or serious injury to any individual held in custody, serious abuse of authority or
69 misconduct, allegedly discriminatory stops, and other incidents regarding the conduct of law
70 enforcement officers and civilian employees of the Charlottesville Police Department;

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

- 71
- 72 (3.) At the conclusion of any investigation conducted pursuant to subdivisions (1) and (2), above,
73 consistent with the Board’s findings in the investigation: to make binding disciplinary
74 determinations in cases that involve serious breaches of departmental and professional
75 standards, as defined by City Council within the Board’s Operating Procedures adopted pursuant
76 to Sec. 2-467;
77
- 78 (4.) To investigate policies, practices, and procedures of the police department and to make
79 recommendations regarding changes to such policies, practices and procedures, as set forth
80 within sec. 2-462 of this article;
81
- 82 (5.) To review investigations conducted internally by the Police Department, as set forth in sec. 2-
83 459 of this article, including internal investigations of civilians employed by the Police
84 Department, and to issue findings regarding the accuracy, completeness, and impartiality of the
85 investigations and the sufficiency of any discipline resulting from such investigations;
86
- 87 (6.) To request reports of the annual expenditures of the Police Department, and to make budgetary
88 recommendations to the city council concerning future appropriations;
89
- 90 (7.) To make public reports on the activities of the Police Civilian Review Board, including
91 investigations, hearings, findings, recommendations, determinations and oversight activities;
92
- 93 (8.) To hold hearings and, if after making a good faith effort to obtain, voluntarily, the attendance of
94 witnesses and the production of books, papers, and other evidence necessary to perform its
95 duties, the Board is unable to obtain such attendance or production, it may apply to the Circuit
96 Court for the City of Charlottesville for a subpoena compelling the attendance of such witness or
97 the production of such books, papers and other evidence, and the court may, upon good cause
98 shown, cause the subpoena to be issued. Any person so subpoenaed may apply to the
99 Charlottesville Circuit Court to quash it; and
100
- 101 (9.) To undertake other duties, as reasonably necessary for the Police Civilian Review Board to
102 effectuate its lawful purpose as provided for in this article, in order to effectively oversee the
103 Police Department.
- 104 (b) The Police Civilian Review Board shall not exercise the powers and duties set forth within
105 paragraphs (a)(1)-(9), or any of said paragraphs, until (i) City Council approves Operating Procedures
106 for performance of such powers and duties pursuant to sec. 2-467 of this article, and (ii) sufficient
107 public funds have been appropriated by City Council within the Board’s annual budget for all staff,
108 independent investigators, independent legal counsel and other resources as are necessary for the
109 Board to effectively carry out such duties and powers.

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

110 **Sec. 2-453.- Police Civilian Review Board Membership Appointment, and Terms.**
111

112 (a) Board composition. The Police Civilian Review Board shall reflect the demographic diversity of the
113 City of Charlottesville. The Police Civilian Review Board shall be composed of seven voting members
114 and one non-voting member appointed by the City Council. The members shall be removable by the
115 City Council for causes specified in the Operating Procedures.

116 (1) The seven voting members of the Police Civilian Review Board shall be residents of the City of
117 Charlottesville except that the member who represents an organization that seeks racial or social
118 justice on behalf of historically disadvantaged communities shall either be a resident of the City of
119 Charlottesville or the organization they represent shall perform advocacy on behalf of City of
120 Charlottesville residents.

121 (2) The seven voting members shall include: at least three members who come from historically
122 disadvantaged communities that have traditionally experienced disparate policing or who are
123 residents of public housing, and at least one other member who represents an organization that
124 seeks racial or social justice on behalf of historically disadvantaged communities.

125 (3) The non-voting member of the Police Civilian Review Board shall be an individual with policing
126 expertise or experience. The non-voting member may be a retired law enforcement officer, who
127 prior to his or her retirement was employed in a locality similar to the City of Charlottesville.

128 (4) No Police Civilian Review Board voting member shall be a current City of Charlottesville
129 employee, a current candidate for public office, a former member of the Charlottesville Police
130 Department, an immediate family member of a current Charlottesville Police Department employee,
131 or a current employee of a law enforcement agency.

132 (b) Appointment Process. The City Council shall appoint the members of the Police Civilian Review
133 Board. The Council shall announce a public application process with applications available online
134 and by hardcopy in English and Spanish for individuals interested in serving on the Police Civilian
135 Review Board.

136 (c) Terms. Each member of the Police Civilian Review Board shall be appointed for a term of three
137 years.

138 (d) Vacancies. If a Police Civilian Review Board member's service on the Board ends before the
139 conclusion of the Board member's term, the City Council shall appoint an individual to complete the
140 remainder of the term. A Board member whose term has expired may continue to serve until his or
141 her successor is appointed by City Council.

142
143

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

144 **Sec. 2-454. – Public Meetings.**
145

146 The Charlottesville Police Civilian Review Board shall hold public meetings, at least once per calendar
147 month.

148 **Sec. 2-455.-Police Civilian Review Board Executive Director and Auditor**
149

150 (a) The City Manager shall appoint a Police Civilian Review Board Executive Director with the approval of
151 a majority vote of the City Council.

152 (b) Before the Police Civilian Review Board Executive Director is appointed, the City Manager shall
153 convene an interview panel that includes two members of the Police Civilian Review Board. If the two
154 members of the Police Civilian Review Board serving on an interview panel recommend a candidate for
155 appointment as Executive Director, the City Manager shall provide a written justification to the Board if
156 a different candidate is appointed.

157 (c) The duties of the executive director shall be to support the Board in the implementation and exercise
158 of all of its functions authorized under this ordinance and to undertake specific oversight tasks assigned
159 by the Board.

160 (d) The City Manager shall be responsible for day-to-day supervision of the Executive Director. The City
161 Manager will conduct an annual evaluation of the Executive Director’s performance, which shall include
162 consideration of a written performance review submitted by the Police Civilian Review Board to the City
163 Manager. The Police Civilian Review Board may at any time, by a majority vote, request a conference
164 between the Board’s Chair and the City Manager to discuss the Executive Director’s performance. The
165 City Manager shall provide the Police Civilian Review Board a written justification for rejecting a
166 recommendation of the Board that the Executive Director’s employment should be terminated.

167 (e) The Board may utilize a police Auditor to support the Executive Director in fulfilling the functions
168 described in Sec. 2-468, subject to the availability and appropriation of funding by City Council within
169 the Board’s budget for the Auditor position. The Auditor shall be appointed by the Executive Director,
170 with the consent of the City Manager, after following an an interview process the same as described in
171 subparagraph (b), above, except that the Executive Director shall also be a member of the interview
172 panel.

173 **Sec. 2-456.-Police Civilian Review Board Legal Counsel.**
174

175 The Police Civilian Review Board may retain legal counsel to represent the Board in all cases, hearings,
176 controversies, or matters involving the interests of the Board, and the Board’s Chair shall have authority
177 to execute a contract in the name of the Board for legal services if the contract has first been approved
178 by the Board and endorsed by the City’s Finance Director to verify that funding is available and has been
179 appropriated to support performance of the payment obligations of the Board under such contract. The

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

180 Board’s legal counsel shall be paid only from funds that have been appropriated to the Board’s budget
181 by City Council. The Board and the Board’s Executive Director may consult the Office of the City Attorney
182 for legal advice concerning legal questions not related to cases, hearings, investigations, or controversies
183 that are before the Board, or any other matter in which the Board’s and Police Department’s interests
184 may conflict.

185 **Sec. 2-457. - Receipt and Investigation of Complaints**
186

187 (a) The Police Civilian Review Board is authorized to develop and administer a process for receiving,
188 investigating, and issuing findings regarding civilian complaints about the Charlottesville Police
189 Department. The process will be defined in the Board’s Operating Procedures.

190 (1) Complaint Intake. The Civilian Review Board will receive all complaints regarding police
191 misconduct. A complaint is considered to have been received when a written complaint is delivered
192 to the Executive Director or when the Executive Director receives a complaint that is filed
193 electronically. The Board will forward all complaints to the Charlottesville Police Department within
194 24 hours.

195 (2) Complaint Form and Content. The Board and the Police Department will work cooperatively to
196 develop a standardized complaint form. The Board may also develop procedures for handling
197 complaints that are filed by means other than the standardized form.
198

199 (b) Complaint Processing. Upon receipt of a complaint, the Executive Director shall consult with the
200 Investigation Committee of the Board. Using criteria and procedures described in the Board’s Operating
201 Procedures, the Committee shall determine if the complaint qualifies for independent investigation by
202 the Board. If the Investigation Committee determines that a complaint merits independent
203 investigation, the Executive Director shall request the City Manager initiate an independent
204 investigation as described in Section 2-460. If the Investigation Committee concludes that the complaint
205 does not merit an independent investigation, then the Executive Director will notify to Chief of Police
206 and the Police Department shall investigate the complaint.

207 **Sec. 2- 458. - Investigations of Incidents.**
208

209 The Civilian Review Board shall have the authority to conduct independent investigations of incidents of
210 police officer misconduct, in the absence of a civilian complaint. Decisions to investigate incidents of
211 misconduct shall be made by the Investigations Committee of the Board, using procedures and criteria
212 set forth within the approved Operating Procedures for the Board.

213 **Sec. 2- 459. - Review of Investigations Conducted Internally by the Department**
214

215 (a.) Scope of Board Review Authority.

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

216 The Police Civilian Review Board may review Charlottesville Police Department internal affairs
217 investigations to ensure their thoroughness, completeness, accuracy, objectivity, and impartiality where
218 (i) the Charlottesville Police Department has completed an internal affairs investigation of a police
219 officer; and (ii) a request is filed by a civilian with the Board’s Executive Director, asking for the Board’s
220 review of the Department’s findings (“Review Request”). A Review Request shall be deemed filed when
221 it is received by the Executive Director.

222 (b) The Board shall not review:

223 (1) Any Review Request related to an incident that occurred before the date of Council’s
224 adoption of this Article, except for those under Internal Affairs investigation on the date as of
225 which the Article is adopted;

226 (2) A Review Request that is filed more than one (1) year after the date of the incident that is the
227 subject of the complaint;

228 (3) A Review Request filed more than seventy-five (75) days after the date of the Charlottesville
229 Police Department notice sent to the complainant that informs the complainant of the
230 completion of the Charlottesville Police Department’s internal affairs investigation (unless
231 the Police Civilian Review Board determines that there is good cause to extend the filing
232 deadline); or

233
234 (4) A Review Request concerning matters that are subject of a pending criminal proceeding in
235 any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a
236 Notice of Claim or a filed complaint), or any City of Charlottesville grievance proceeding.

237
238 (c) Access to Materials. Upon scheduling a Review Request for a hearing before the Police Civilian
239 Review Board, the Board shall notify the Charlottesville Chief of Police. The Police Department shall
240 provide each Board member the following records: (1) a complete copy of the internal affairs file that is
241 the subject of the Review Request, in accordance with protocols set forth within the Operating
242 Procedures. Any information related to a juvenile shall be protected by redaction or other means, as
243 required by Virginia Code Section 16.1-301.

244
245 (2) the officer’s complete complaint history, including any final disciplinary action taken against
246 the officer who is the subject of the Review Request relative to each complaint.

247
248 (3) any material or evidence utilized by the Charlottesville Police Department during its internal
249 affairs investigation related to the Review Request, unless the Chief of Police, upon concurrence
250 of the Charlottesville Commonwealth’s Attorney, determines that the material or evidence is
251 the subject of an active criminal investigation.

252
253 The records referenced in (c)(1)-(3), above shall be provided by the Police Department after each
254 member of the Board has signed a confidentiality agreement, promising not to disclose the contents of

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

255 an internal affairs file or disciplinary action taken against the officer. Failure to adhere to the
256 confidentiality agreement shall result in the Council removing the Board member from the Police Civilian
257 Review Board.

258

259 (d) Hearings in Support of Review Requests

260

261 The Police Civilian Review Board shall conduct a hearing on all Review Requests that it finds to be in
262 conformance with the criteria established in Section 2-459(a), as described in the Board's Operating
263 Procedures.

264

265 (e) Findings

266

267 The Police Civilian Review Board shall report its findings within thirty (30) days of the hearing of the
268 Review Request. The Board shall determine, by a preponderance of the evidence, and by a majority
269 vote of Police Civilian Review Board members one of the following findings:

270

271 (1) The Police Civilian Review Board concurs with the findings of the Charlottesville Police
272 Department investigation; or

273

274 (2) The Police Civilian Review Board advises the City Manager that the Charlottesville Police
275 Department investigation's findings are not supported by the information reasonably available
276 to the Charlottesville Police Department and make further recommendations to the City
277 Manager concerning disposition of the Review Request; or

278

279 (3) The Police Civilian Review Board advises the City Manager that the Charlottesville Police
280 Department's investigation is incomplete or unsatisfactory and provide the specific reasons for
281 this finding.

282

283 (f) Investigations in Support of Review Requests.

284

285 If the Police Civilian Review Board advises the City Manager that the Charlottesville Police
286 Department's investigation is incomplete or unsatisfactory, the Board shall provide a written
287 explanation to the City Manager and Chief of Police explaining their concerns. The Board may initiate
288 an independent investigation, as set forth within Section 2- 460(a)(3).

289

290 **Sec. 2- 460. - Independent Investigations Conducted by The Civilian Review Board**

291

292 (a.) The Civilian Review Board may initiate independent investigations under any of the following
293 circumstances:

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332

- (1) When the Board’s Investigation Committee determines that a civilian complaint or incident as defined in Section 2-452(A)(2) merits such an investigation;
- (2) When an Internal Affairs investigation of a civilian complaint is not completed in 75 days, and, after consultation with the Chief of Police, a majority of the Board determines an investigation is necessary; or
- (3) If, after completion of a Review Request, the Police Civilian Review Board advises the City Manager that the Charlottesville Police Department’s investigation is incomplete or unsatisfactory, and, after consultation with the Chief, the majority of the Board determines an investigation is necessary.

(b.) Any investigation initiated by the City Manager shall comply with existing federal, state, and local laws. Board members, the Board’s Executive Director, and the Board’s legal counsel shall not have any authority to compel a statement from any Charlottesville Police Department employee. When an independent investigation is required by Sec. 2-460, a qualified investigator independent of the Police Department shall be engaged in accordance with the provisions of City Code Sec. 2-156. Required elements of the scope of work for independent investigations shall be as set forth within the Operating Procedures. The investigator shall be required to execute a written confidentiality agreement, prior to commencement of work.

(c.) Investigations of Complaints and Incidents. When the Investigation Committee of the Civilian Review Board determines that criteria specified in the Operating Procedures indicate that an independent investigation is warranted, they shall instruct the Executive Director to request that the City Manager initiate an investigation.

- (1) When the Civilian Review Board decides that an independent investigation is warranted under its Operating Procedures, the Board shall notify the Chief of Police. Upon receipt of the Board’s notice, the Police Department shall cease investigating the complaint or incident. Upon receipt of a copy of the investigator’s confidentiality agreement, the Police Department shall provide the independent investigator with all information, files, evidence or other material relevant to the complaint or incident. This information may include the records referenced in Sec. 2-459(c)(1)-(3). The investigator shall be afforded full cooperation by all employees of the Police Department.
- (2) The investigator will review the evidence provided by the Police Department and conduct additional interviews and investigation as necessary to determine which, if any, Department policies, procedures or standing orders were violated.
- (3) The results of all investigations shall be provided to the City Manager, Chief of Police and the Executive Director.

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

333 (d.) Investigations initiated pursuant to Sec. 2-460(a)(2) or 2-460(a)(3) shall be initiated and
334 conducted in accordance with paragraph (c), above. The Police Department shall cooperate with
335 the investigation as set forth within Sec. 2-460(c)(1).
336

337 (e.) Prior to commencement of an independent investigation pursuant to Sec. 2-460(a)(3) the Board
338 shall provide a written explanation of what aspects of the initial investigation they consider to
339 be inadequate or incomplete. The Police Department shall cooperate with the investigation as
340 set forth within Sec. 2-460(c)(1).

341 **Sec. 2-461. - Binding Disciplinary Action**
342

343 (a) Upon receipt of the investigator's report related to a complaint or incident involving a serious breach
344 of departmental and professional standards, as defined within the Operating Procedures, the Board
345 shall convene in one or more closed meetings, to discuss appropriate disciplinary action. The Board
346 shall consult with the Chief of Police as well as the officer's direct supervisor or commander. Disciplinary
347 action to be considered by the Board shall include those specified within any applicable disciplinary
348 matrix utilized by the Police Department. The Board may also consult complainants and witnesses, when
349 discussing the appropriate disciplinary action to be imposed. Prior to commencement of any such
350 disciplinary deliberations, the accused officer(s) or employees shall be given notice of the proceedings
351 and of the range of disciplinary actions under consideration, and the officer shall be offered an
352 opportunity to be heard. The officer may be represented by legal counsel during any discussions or
353 deliberations of the Board. No officer or Police Department employee, and no other City employee, shall
354 be compelled to provide statements to the Board during its deliberations.

355
356 (b) Any final disciplinary action shall be evidenced by majority vote of the Board taken within an open
357 meeting.
358

359 (c) Final disciplinary action imposed by the Board shall be implemented by the Chief of Police and any
360 other Police Department employee having direct supervisory authority over the employee against
361 whom the disciplinary action is to be taken.

362
363 (d) Any law enforcement officer or other Police Department employee against whom disciplinary action
364 is imposed by the Board shall have a right to file a grievance requesting a hearing before the City's
365 Personnel Appeals Board, provided that the matter is a qualifying grievance under the City's
366 grievance procedures.

367 **Sec. 2- 462. - Investigations of Policies, Practices and Procedures**
368

369 (a) The Charlottesville Civilian Review Board is authorized to investigate and make recommendations
370 regarding policies, practices, and procedures of the Charlottesville Police Department, including, without

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

371 limitation written policies, procedures and standing orders. If the Police Department declines to
372 implement any changes recommended by the Board, the Board may require the Department to create a
373 written record, which shall be made available for public inspection, of its rationale for declining to
374 implement the Board's recommendation.

375 (b) In support of developing recommendations, the Board may require the Executive Director to conduct
376 Audits of police activities, IA investigations, and other matters as described in Sec. 2-468.

377 **Sec. 2- 463. - Request Annual Reports of Police Expenditures**

378
379 Not more than once per year, during the City Manager's preparation of a proposed budget for the City,
380 the Budget Office shall provide the Civilian Review Board with annual expenditure estimates and future
381 year projections, itemized to the same level of detail as provided to the City Manager. The estimates
382 shall be presented to the Board at the same time they are presented to the Budget Office. The Civilian
383 Review Board will review the estimates and is authorized to make budgetary recommendations to the
384 City Manager and/or to the City Council during the annual budget process.

385 **Sec. 2- 464. Authority to Hold Hearings**

386
387 (a) The Charlottesville Police Civilian Review Board is authorized to hold hearings in connection with any
388 of its authorized activities, including, without limitation:

- 389 (1.) Complaint review;
390 (2.) The conduct of independent investigations of complaints or incidents of misconduct;
391 (3.) Disciplinary actions authorized by Section 2-461;
392 (4.) Other matters which the Board determines to require the gathering of facts, public testimony,
393 or other information to facilitate adequate police oversight.

394
395 (b) A hearing may be called at the request of any two members of the Civilian Review Board. Hearings
396 may be public or closed if confidential information is to be discussed, subject to applicable provisions of
397 law.

398
399 (c) Hearings shall be conducted in accordance with procedures set forth within the Board's Operating
400 Procedures.

401 **Sec. 2- 465. - Deferral of Complaint Review and Investigations**

402
403 (a.) If at any point in the complaint review process the Police Civilian Review Board learns that the
404 matters pertaining to a Review Request are the subject of pending criminal proceeding in any trial court,
405 a pending or anticipated civil proceeding in any trial court (as evidenced by a notice of claim or filed
406 complaint), or any grievance proceeding, the Police Civilian Review Board shall:

407

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

- 408 (1.) Suspend its review, including any ongoing investigation;
409 (2.) Defer the review pending final resolution of the criminal, civil or grievance proceeding by the
410 trial court or Personnel Appeals Board panel, as applicable;
411 (3.) Notify the complainant, in writing, of the suspension and deferral; and
412 (4.) Track any deferred matter and notify the complainant once the proceedings are closed and the
413 Review Request may proceed.
414
415 (b.) The Police Civilian Review Board may request assistance of the City Attorney in making its
416 determination that matters of a Review Request are the subject of pending proceedings.
417
418 (c.) Deferral of Investigations. If at any point in an investigation of a complaint or incident the Police
419 Civilian Review Board or an independent investigator finds evidence of a possible criminal act or
420 offense, the Police Civilian Review Board and investigator shall:
421
422 (1.) Suspend its investigation, deferring it until notified by the Commonwealth's Attorney that any
423 criminal investigation and/or prosecution has been completed; and
424 (2.) Provide any information and records gathered in the investigation to the Charlottesville Police
425 Department, Commonwealth's Attorney, or any court investigating or prosecuting the matter;
426 (3.) The Board or investigator may resume its previously suspended investigation after the City
427 Attorney determines that there are no pending or anticipated criminal or civil proceedings.

428 **Sec. 2-466. - Police Civilian Review Board Recommendations and Annual Report.**
429

- 430 (a) The Police Civilian Review shall provide the City Council a list of recommendations, if the Board
431 determines any recommendations are necessary, for the Council's consideration to include in its annual
432 legislative program present to the General Assembly. These recommendations shall be presented to the
433 City Attorney's Office by August 15 of each year.
- 434 (b) On or before April 15 of each calendar year, the Police Civilian Review Board shall provide the City
435 Council with an annual report of activities conducted during the preceding calendar year. The report
436 shall detail the Police Civilian Review Board's calendar year activities with sections related to the
437 appointment of committees and their actions; the establishment of any community advisory panels; an
438 overview of complaints received during the calendar year including the number of complaints, the
439 complaints' findings, and the number of complaints deferred due to pending proceedings; the number
440 and outcome of any independent investigations; an overview of proposed policy recommendations and
441 amendments to Charlottesville Police Department policies and whether the recommendations and
442 amendments were implemented by the Charlottesville Police Department; the number, type, and
443 attendance at community listening sessions; recommendations the Police Civilian Review Board wishes
444 to make about policing within the City of Charlottesville; and any other information that the Police
445 Civilian Review Board deems necessary to provide a complete overview of the Board's activities.

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

446 **Sec. 2-467. - Police Civilian Review Board Operating Procedures**
447

- 448 (a) City council shall establish, and may from time to time amend, policies and procedures
449 (“Operating Procedures”) for the performance of each of the powers and duties of the Board
450 authorized within sec. 2-452 (a)(1)-(9) of this article.
451 (b) The Police Civilian Review Board may from time to time propose amendments to the approved
452 policies and procedures. Any proposed amendment must be presented by a Police Civilian
453 Review Board member in writing to the Board at a regular Board meeting. Upon an affirmative
454 vote of a majority of Board members having the right to vote, the proposed amendment shall be
455 recommended to City Council for consideration.

456 **Section 2-468. – Audits**
457

458 The Executive Director or Auditor shall have the authority, assisted by the Board, to conduct audits,
459 analyzing data and identifying trends in CPD patterns and practices. The Executive Director, in
460 consultation with the Auditor, has discretion to determine the scope and substance of audits, including
461 examinations of:

- 462
463 1. the timing and processing of ongoing and completed IA and Board investigations;
464 2. the timing and substance of communications and collaboration between the CPD and the Board,
465 as required by this enabling ordinance and the Board’s Operating Procedures;
466 3. the timing and substance of information-sharing, including disclosure of files, documents,
467 evidence, and data between the CPD and the Board, as required by this enabling ordinance and
468 the Board’s Operating Procedures
469 4. trends in the findings and dispositions of completed IA investigations;
470 5. trends in patterns of instances of use of force and officer-involved death, particularly as to the
471 presence of a discriminatory impact on historically-disadvantaged communities that have
472 traditionally experienced disparate policing;
473 6. trends in practices of arrest and stop and frisk (termed “investigative detention” by the
474 City and the CPD), particularly as to the presence of a discriminatory impact on
475 historically disadvantaged communities that have traditionally experienced disparate
476 policing;
477 7. compliance by the CPD and the Board with applicable training, practices, and policies;
478 8. compliance by the CPD with its minority-recruitment and retention initiatives and policies; and
479 9. any other policing matter of pressing public concern.
480

481 The Charlottesville Police Department shall cooperate with Executive Director/Auditor in the
482 performance of audits and provide them access to files, records, and evidence reasonably necessary to
483 fulfill their duties. The Executive Director shall report periodically to the Board and issue public reports
484 detailing the findings and conclusions of any audit. The Board may, at its discretion, recommending
485 policy, systemic, or training reform based on the results of audits.

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

486 **Section 2-469. - Community Engagement and Community Relations**
487

488 The Board, supported by the Executive Director, is authorized to engage in community outreach and to
489 enlist the assistance and input of community members. At least quarterly, the Board, assisted by
490 Oversight Staff, shall host public community listening sessions to discuss policing matters of pressing
491 public concern, including the impacts of local policing on historically-disadvantaged
492 communities that have traditionally experienced disparate policing.

493
494 The Board may also host public police-community relations meetings, in which Board members,
495 supported by The Executive Director, mediate discussions between CPD Officials and community
496 members about policing matters of pressing public concern, including questions about transparency,
497 availability, legitimacy, mutual respect and trust, equitable treatment, social and racial justice, equal
498 rights, and community safety and order.

499
500 At least quarterly, the Board, assisted by Executive Director, shall issue a public report, detailing the
501 Board’s community outreach and engagement activities, public input, and any recommendations for
502 community-policing initiatives or for improved police-community relations.

503 **Section 2-471. - Training**
504

505 At least once every two years, and within six months of Board appointments, the City,
506 assisted by Executive Director, shall provide new Board members with a training of at least eight
507 hours, presented by the National Association for Criminal Oversight of Law Enforcement or a
508 comparable professional organization. The training should be tailored to the Board’s mission, this
509 enabling ordinance, and the Operating Procedures.

510
511 At least once every two years, and within six months of Board appointments, the City, assisted
512 by the Executive Director and other relevant city departments, shall provide new Board members with a
513 training:

- 514 1. explaining the legal and ethical obligations of members of a public board;
515 2. explaining CPD procedures and policies;
516 3. describing the substance of CPD personnel files and the scope of prevailing confidentiality rules;
517 4. reviewing completely, at least one closed and anonymized CPD IA investigation; and
518 5. educating the Board on relevant CPD and City databases, administrative systems, and
519 operations.

520 As needed, the City, assisted by Oversight Staff, shall provide Board members with additional
521 training, including ride-alongs, relevant training by subject matter experts on mental health, trauma-
522 informed policing, civil rights and constitutional law, race and racism, community organizing and
523 outreach, mediation, investigation, and policing practices, policies, and administration.

524 **Section 2-472. - Stipends**
525

Discussion Draft Only: This document has not been approved by the Charlottesville Civilian Review Board or City Council

526 The City shall provide voting Board members with a minimum annual stipend of \$1,500 for Board
527 service.

DRAFT

Written Comments on 4/16 Draft Ordinance

Maisie Osteen, Legal Aid Justice Center

Sec. 2-453(a) (3.) At the conclusion of any investigation conducted pursuant to subdivisions (1) and (2), above, consistent with the Board's findings in the investigation: to make binding disciplinary determinations in cases that involve serious breaches of departmental and professional standards, as defined by City Council within the Board's Operating Procedures adopted pursuant to Sec. 2-467;

Sec. 2-452(a)(4.) To investigate policies, practices, and procedures of the Charlottesville Police Department and to make recommendations regarding changes to such policies, practices and procedures, as set forth within sec. 2-462 of this article;

Sec. 2-255 (d) The City Manager shall be responsible for day-to-day supervision of the Executive Director.

Sec. 4-257(a.) (1) Complaint Intake. The Civilian Review Board will receive all complaints regarding police misconduct.

Sec. 4-257(b.) Using criteria and procedures described in the Board's Operating Procedures, the Committee shall determine if the complaint qualifies for independent investigation by the Board. If the Investigation Committee determines that a complaint merits independent investigation, the Executive Director shall request the City Manager initiate an independent investigation as described in Section 2-460.

Sec. 4-259(a.) The Police Civilian Review Board may review Charlottesville Police Department internal affairs investigations to ensure their thoroughness, completeness, accuracy, objectivity, and impartiality where (i) the Charlottesville Police Department has completed an internal affairs investigation of a police officer; and (ii) a request is filed by a civilian with the Board's Executive Director, asking for the Board's review of the Department's findings ("Review Request"). A Review Request shall be deemed filed when it is received by the Executive Director.

Sec. 4-259(b.) (4) A Review Request concerning matters that are subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or a filed complaint), or any City of Charlottesville grievance proceeding.

Sec. 4-259(c.) The records referenced in (c)(1)-(3), above shall be provided by the Police Department after each member of the Board has signed a confidentiality agreement, promising not to disclose the contents of an internal affairs file or disciplinary action taken against the officer.

Sec. 4-260(a.) The Civilian Review Board may initiate independent investigations under any of the following circumstances:

- (1) When the Board's Investigation Committee determines that a civilian complaint or incident as defined in Section 2-452(A)(2) merits such an investigation;

Commented [LAJC1]: The statute spells out examples of disciplinary actions that the PCRB is authorized to take. Should those be spelled out here?

Commented [LAJC2]: The statute authorizes the PCRB to require the CPD to make a written record of its rationale for declining to implement these recommendations. That should be included here.

Commented [LAJC3]: Does this mean the ED is not going to report to the Deputy City Manager for the Office of Equity?

Commented [LAJC4]: Does this mean that all complaints will be filed with the PCRB, and that complainants will not choose whether to file with the PCRB or the CPD? If so, it seems like that should be more explicit in this section. If not, it should also specify that CPD must forward complaints that it receives to the PCRB as well.

Commented [LAJC5]: What criteria will be used to determine this, and where will that be spelled out? In the Operating Procedures? Will the complainant be notified and have any avenue to challenge that decision?

Commented [LAJC6]: How will civilians be notified of their right to request a review? Can that request be included in their initial complaint?

Commented [LAJC7]: There should be an exception for cases in which a community member has been charged with resisting arrest, obstruction of justice, or something similar, where the complaint involves the conduct giving rise to those charges and the community member requests that the investigation continue despite the criminal charges.

Commented [LAJC8]: There should be an exception to the time limits in subsections (2) and (3) in cases where there is also a criminal, civil, or grievance proceeding. So the Board should be able to review requests that were submitted within a certain time after the resolution of any criminal/civil/grievance proceeding.

Commented [LAJC9]: This is not required by the State statute. The confidentiality agreements should allow for disclosure of the outcome of their investigation and the basis for that outcome when a complaint has been determined to be founded or valid. If the officer has a history of similar misconduct, that should be able to be disclosed as well.

Commented [SB10R9]: Agree!

Commented [LAJC11]: Again, this should refer to some criteria that guides when a complaint merits investigation.

Sec. 4-261. (a) Upon receipt of the independent investigator's report related to a complaint or incident involving a serious breach of departmental and professional standards, as defined within the Operating Procedures, the Board shall convene in one or more closed meetings, to discuss appropriate disciplinary action. The Board shall consult with the Chief of Police as well as the subject officer's direct supervisor or commander. Disciplinary action to be considered by the Board shall include those specified within any applicable disciplinary matrix utilized by the Police Department. The Board may also consult complainants and witnesses,

Commented [LAJC12]: Complainants or "victims" – in some cases where the allegations were founded and the reporter should be considered a victim not a complainant.

Sec. 2-464 (a.) (a) The Charlottesville Police Civilian Review Board is authorized to hold hearings in connection with any of its authorized activities, including, without limitation:

- (1.) Complaint review;
- (2.) The conduct of independent investigations of complaints or incidents of misconduct;
- (3.) Disciplinary actions authorized by Section 2-461;

Commented [WM13]: Edits to 2-461 suggest the Board might not be allowed to hold a hearing on a disciplinary case.

Sec. 2- 465. - Deferral of Complaint Review and Investigations

Commented [LAJC14R13]: Why would they want a hearing for this discussion?

Sec. 2- 465 (c.) Deferral of Investigations. If at any point in an investigation of a complaint or incident the Police Civilian Review Board or its independent investigator finds evidence of a possible criminal act or offense, the Police Civilian Review Board and investigator shall:

Commented [LAJC15]: It might be more clear and cleaner if these provisions were just included in the review/investigations sections rather than in a separate section. See comment above.

Sec. 2- 465 (c.) (1.)Suspend its investigation, deferring it until notified by the Commonwealth's Attorney that any criminal investigation and/or prosecution has been completed; and

Commented [LAJC16]: This refers to criminal acts by police officers, not community members, correct? If so, that should be clarified.

(2.) Provide any information and records gathered in the investigation to the Charlottesville Police Department, Commonwealth's Attorney, or any court investigating or prosecuting the matter;

Commented [LAJC17]: These seem out of order. This section seems to be addressing circumstances where the PCRb is conducting an investigation and discovers evidence of a criminal act that is not yet the subject of a criminal investigation. In those circumstances, it might be more appropriate to have the PCRb defer its independent investigation for a defined period of time (30 days?) to allow the Commonwealth's Attorney to determine whether to initiate a criminal investigation. If the CA declines or no determination is made, the PCRb's investigation can continue.

Commented [SB18R17]: I agree.

Sarah Burke, Ordinance Work Group, Member of Initial CRB

Sec. 4-257(a.) The Police Civilian Review Board is authorized to develop and administer a process for receiving, investigating, and issuing findings regarding civilian complaints about the Charlottesville Police Department. The process will be defined in the Board's Operating Procedures.

Sec. 4-257 (b.) Complaint Processing. Upon receipt of a complaint, the Executive Director shall consult with the Investigation Committee of the Board.

Sec. 4-259(a.) The Police Civilian Review Board may review Charlottesville Police Department internal affairs investigations to ensure their thoroughness, completeness, accuracy, objectivity, and impartiality where (i) the Charlottesville Police Department has completed an internal affairs investigation of a police officer; and (ii) a request is filed by a civilian with the Board's Executive Director, asking for the Board's review of the Department's findings ("Review Request"). A Review Request shall be deemed filed when it is received by the Executive Director.

Sec. 4-259(b.) (3) A Review Request filed more than seventy-five (75) days after the date of the Charlottesville Police Department notice sent to the complainant that informs the complainant of the completion of the Charlottesville Police Department's internal affairs investigation (unless the Police Civilian Review Board determines that there is good cause to extend the filing deadline);

Sec. 4-259 (c.) Access to Materials. Upon scheduling a Review Request for a hearing before the Police Civilian Review Board, the Board shall notify the Charlottesville Chief of Police.

Sec. 4-259 (c.) (3) any material or evidence utilized by the Charlottesville Police Department during its internal affairs investigation related to the Review Request, unless the Chief of Police, upon concurrence of the Charlottesville Commonwealth's Attorney, determines that the material or evidence is the subject of an active criminal investigation.

Sec. 4-259 (e.) (2) The Police Civilian Review Board advises the City Manager that the Charlottesville Police Department investigation's findings are not supported by the information reasonably available to the Charlottesville Police Department and make further recommendations to the City Manager concerning disposition of the Review Request; or

Sec. 4-260 (c.) Investigations of Complaints and Incidents. When the Investigation Committee of the Civilian Review Board determines that criteria specified in the Operating Procedures indicate that an independent investigation is warranted, they shall instruct the Executive Director to request that the City Manager initiate an investigation.

Sec. 2-462 (a.) If the Police Department declines to implement any changes recommended by the Board, the Board may require the Department to create a written record, which shall be made available for public inspection, of its rationale for declining to implement the Board's recommendation.

Commented [SB19]: I suggest spelling out that complaints can be made anonymously and need not be made by the person who is alleged to be the subject of the misconduct.

Commented [SB20]: I suggest including the number of Board members you intend to have on this committee. In my opinion, it should be no fewer than three members, so that this critical role is not left in the hands of one or two people who will/could meet privately to avoid FOIA law.

Commented [SB21]: I strongly disagree that a Review Request should be mandated. It is a hurdle that need not be included. If you want to include a Review Request for procedural reasons, I suggest including that the Board itself may also file a Review Request at any time within a year of the conclusion of the IA investigation.

Commented [SB22]: If you're going to mandate a Review Request, I suggest deleting this. You already have subsection b(2) above that keeps anyone from filing a review request more than one year after the incident. By including this section, you are limiting that much further. A complainant may think at first that they don't want to bother going through the PCRb review process. But after a month or two, they may change their mind. There is no reason not to allow that kind of flexibility here.

Commented [SB23]: This language is strange. I suggest saying "upon receipt of a Review Request, the Board shall notify the Chief of the Charlottesville Police Department." You need not schedule a hearing to get access to the complete files. The Review Request alone should grant you access to complete CPD files.

Commented [SB24]: I suggest mandating that the CPD and CWA issue a joint letter explaining what evidence is being excluded.

Commented [SB25]: I recommend adding language that mandates a response from CPD with detailed explanations (as per NACOLE's suggestion)

Commented [SB26]: The ED instructs the CM to initiate the investigation? Why so many steps?

Commented [SB27]: Consider being more explicit re: what the "rationale" letter should include, per NACOLE's comments.

Sec. 2-463. Not more than once per year, during the City Manager's preparation of a proposed budget for the City, the Budget Office shall provide the Civilian Review Board with annual expenditure estimates and future year projections, itemized to the same level of detail as provided to the City Manager . The estimates shall be presented to the Board at the same time they are presented to the Budget Office. The Civilian Review Board will review the estimates and is authorized to make budgetary recommendations to the City Manager and/or to the City Council during the annual budget process.

Sec. 2-465. If at any point in the complaint review process the Police Civilian Review Board learns that the matters pertaining to a Review Request are the subject of pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a notice of claim or filed complaint), or any grievance proceeding, the Police Civilian Review Board shall

Sec. 2-467 (b.) The Police Civilian Review Board may from time to time propose amendments to the approved policies and procedures. Any proposed amendment must be presented by a Police Civilian Review Board member to the Board at a regular Board meeting. Upon an affirmative vote of a majority of Board members having the right to vote, the proposed amendment shall be recommended to City Council for consideration.

Commented [SB28]: Include that the CPD shall also provide the previous year's actual spending and revenue. Part of this power is also to see, for example, how much overtime costs are, how much revenue the CPD is making and by what means, how much grant or other funding they are getting from outside sources, etc.

Commented [SB29]: Check your language here. Sometimes you use the term "Charlottesville Civilian Review Board" sometimes it is "Police Civilian Review Board" and sometimes it is "Civilian Review Board." I'd suggest choosing one of the latter two for consistency.

Commented [SB30]: Removed "in writing" because it's an added hurdle that isn't necessary. A Board member should be permitted to propose an amendment verbally, have it discussed and have the language crafted as a group, and have it voted upon without having to wait a month to present it in writing.

Comments in Email from Janice L. Redinger P.L.C

Wed 4/21/2021 12:33 PM

This is bad policy.

What is it that you are trying to address with this bloated, convoluted, excessively complex policy?

Why do you want to give an officer 2 hearings and, therefore, 2 bites at the apple?

How will you address the issue of a different grievance process for complaints that result in binding discipline by the CRB and those that do not?

Is it your intent to abrogate the police bill of rights?

Are you aware that as of May 1 police officers have a right to unionize (if approved by city council)?

Do you think this policy will increase the likelihood that will happen?

Do you think the public, police, city council or any reasonable person trusts this CRB with actually being able to comply with this?

Why don't you decide what you need to do for effective, meaningful police oversight (which is your charge, and your only charge) and do that?

How can you draft a policy, law, or anything else, without EVER having a discussion on your board?

How many times have I, and others, urged you to have a board work session? Even one that is facilitated by perhaps your LAWYER?

There's been no public engagement (and yes, I get COVID and no, People's Coalition is not public engagement, although valued perspective).

You have an existing ordinance. I also recognize there are some limitations due to no ED being hired.

HOWEVER, what has this CRB done under the authority you have been granted? FOR THE BETTER PART OF A YEAR?

Have you analyzed all the CPD policies? Did you request and analyze the CPD budget, as budget season came and went?

Have you addressed the complaints you have before you? Have you even publicly reported on them?

Have you discussed other initiatives that might be important for local oversight and transparency?

Do you even peruse the vast database that is on the CPD's website? Which is growing? Have you had discussions about what you'd like to see added to that public database?

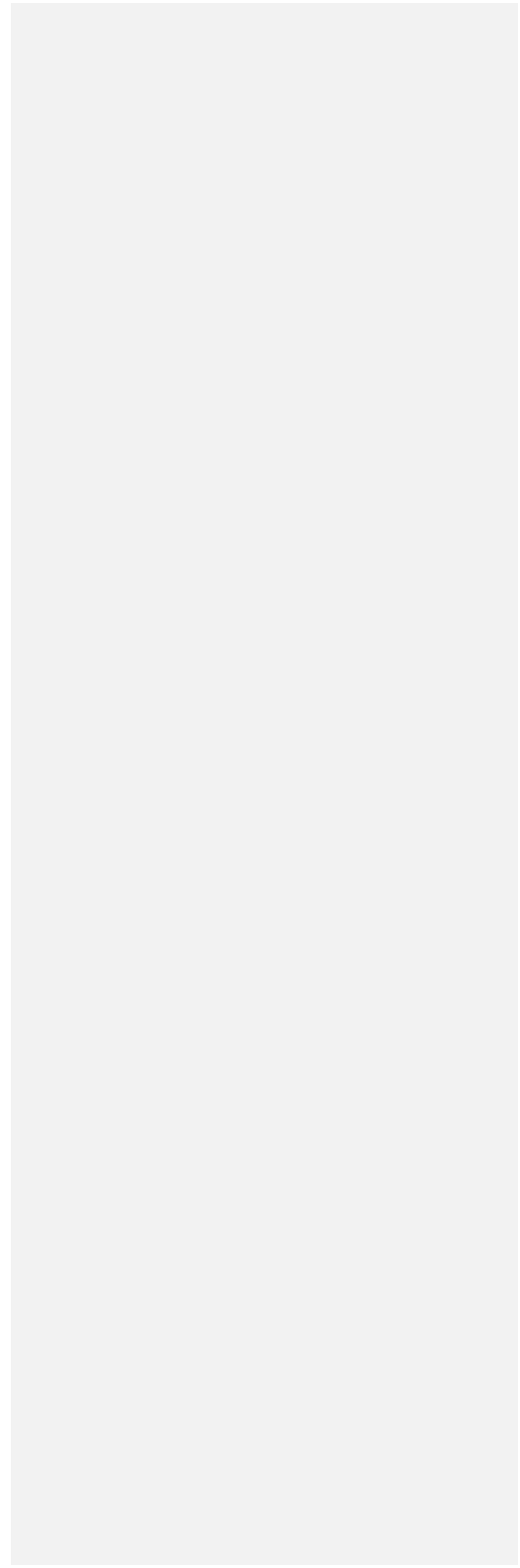
None of these discussions have taken place.

You want "all the powers" without ever once discussing how it would actually work in real life. For what? To put a big P for progressive beside your name?

I do not believe Lisa intended for her template to be tacit approval of all that she added to it. I believe she was providing you with the template, and as a matter of convenience, copied and pasted word-for-word each of the enumerated powers of the enabling legislation so that the proper language was there. She is not in a position to make recommendations on policy; that would be a conflict. The enabling legislation is ENABLING, not a mandate. Be smarter.

This is bad policy, in my opinion.

Janice



Comparison Between Interim Board Proposed Oversight Model, 2019 Ordinance and Bylaws, and Proposed 2021 Oversight Model

Provision/Power	Interim Board Proposed Oversight Model	2019 Ordinance and Bylaws	2021 Proposed Model Oversight Model
General Approach	Complaint Review, Audit, Investigation and Advisory	Review and Advisory	Investigation, Review and Auditor
Staffing	Director, Auditor, ideally also an Investigator and Data Manager	Executive Director	Executive Director, Auditor(?)
Staff Hiring Procedure	Hiring Committee includes four Board members; public interview forum, public ranking of candidates, City Manager must justify hiring other than Committee recommendation	Executive Director hired by City Manager; two Board members on interview panel, City manager must justify hiring candidate other than Board recommends	Currently same as 2019 Ordinance
Board Membership	Seven voting members, one resident of public housing, four from historically disadvantaged communities, one representative of racial/social justice organization;	Seven voting members, three residents of public housing or members of historically disadvantaged communities, one representative of racial/social justice organization;	Currently same as 2019 Ordinance; Expand to four members from disadvantaged communities?
Non-voting Membership	Up to two (discretionary); one member of the City Council, one with law enforcement experience	One member with law enforcement experience	Same as 2019 Ordinance
Board Member Selection	Candidates announced publicly, Board members interview candidates, public forum and public input to the ranking of candidates, rank ordering publicized, Council must justify appointments/non-appointments	Public application process; candidates interviewed by City Council, Board members selected in open Council Meeting	Same as 2019 Ordinance
Board Member Removal	City Council must provide a reason for removing Board member not at the request of the Board	Members may be removed "by the City Council" (no justification required.)	Removal by the City Council for cause only (causes to be specified in Operating Procedures)
Stipend	Board members receive a minimum stipend of \$1,500 per year	No stipend	Stipend, as in Interim Board proposal
Responsibilities of Executive Director	Receives civilian complaints, coordinates weekly with IA, maintains communications with complainants, reports to the Board monthly regarding the status of complaints, conducts investigations, arranges hearing logistics.	Executive Director receives and processes complaints, receives complaint review requests, interacts with CPD regarding untimely complaint investigations, reports to Board, initiates investigation requests to City Manager, organizes Board training, consults with independent Council, consults with City Manager to initiate investigations	"...support the Board in the implementation and exercise of all of its functions..." (to be further defined in Operating Procedures; likely similar to 2019 role. Hiring an Auditor would free up time for Executive Director to fulfill other functions.)

Termination of Executive Director	By City Manager; Board may recommend termination, City Manager must provide reasons for not doing so	By City Manager; Board may request meeting to discuss ED performance; City Manager must provide reason for not accepting Board recommendation to terminate ED	By City Manager; Board provides input to the Executive Director's personnel evaluation; other powers as in 2019 model.
Responsibilities of Police Auditor	Examines long-term trends in policing, issues periodic reports on all policing outcomes, with access to all CPD documents; makes recommendations regarding changes in CPD policies	Not included	Evaluate trends in policing and IA activities and outcomes; monitor and maintain information channels with CPD Workload considerations suggest hiring an Auditor as well.
Receipt of Complaints	Board can develop procedures to receive [all] complaints against the CPD	The Board and CPD are required to forward complaints they receive to each other, except the complainants may opt out of having complaints forwarded to the Board.	Opt-out would no longer be allowed; the Board would be able to track all complaints; procedures for receiving complaints, maintaining confidentiality to be defined in the Operating Procedures.
Actions on Complaints	The Board may receive, review complaints, review IA investigations, conduct investigations, hold hearings and make findings and disciplinary recommendations.	The Board may review complaint investigations upon receipt of a review request by the plaintiff; may not review untimely complaints, untimely review requests, sustained complaints; must suspend review if issues are subject to criminal or civil litigation; may hold hearings	Serious complaints and incidents will be investigated independently, not waiting for Internal Affairs; Complaints not characterized as serious will be treated similarly to 2019 ordinance, except that sustained complaints may be reviewed to examine consistency of final disciplinary action with CPD General Orders and Disciplinary Matrix
Investigation Authority	Triggered ("under limited circumstances"), when IA investigation is untimely or unsatisfactory, or in any officer-involved death; Board must meet with CPD before deciding if an investigation is necessary	Board investigations are allowed when (1) an IA investigation is not completed in 75 days or (2) the Board concludes after a review request that the IA investigation was incomplete or unsatisfactory	The Board may initiate investigations of serious allegations of misconduct or serious incidents immediately, taking over for IA. Investigations may also be undertaken in response to untimely or unsatisfactory IA investigations (as under 2019 framework)
Investigation Procedures	"Board, assisted by Oversight Staff, may ... conduct an investigation consistent with existing federal, state, and municipal law, including the Virginia Law Enforcement Officers Procedural Guarantees Act."	After an untimely or unsatisfactory IA investigation, the City Manager, in consultation with the Executive Director, will procure an independent investigator, who issues a report to the	Investigations would be conducted by independent professional investigators with requirements and scopes of work to be specified in Operating Procedures. Investigations must conform to all applicable federal, state and local laws

		City Manager and Executive Director (scope of investigation not specified)	
Hearings	Board, assisted by Staff, may “administer public hearings about any policing matter of pressing public concern.” Closed sessions are allowed when discussing personnel matters, other information “legally recognized as confidential.”	Hearings may be held as part of review request process. Complainant may present evidence and witnesses related to review request; CPD representative will also present “shall present a statement which summarizes all findings of fact and a review of all evidence collected”	Hearings may be held in support of investigations, complaint review, disciplinary oversight, and “Other matters which the Board decides require the gathering of facts, public testimony, or other information to facilitate. adequate police oversight.” Hearing procedures currently under development.
Information Access	“With respect to reviews of complaints, hearings, independent investigations, or audits, the City shall ensure that the Board and Oversight Staff have access, consistent with existing federal, state, and municipal law and confidentiality requirements, to relevant CPD files, documents, data, and physical and testimonial evidence...” A Memorandum of Understanding between the Board and CPD was envisioned to more clearly specify which records were to be provided and procedures for doing so.	There is no MOU. In support of a review hearing, the CPD will provide complete [redacted] IA file to the Board. Also “the Police Civilian Review Board shall have access to any material or evidence utilized by the Charlottesville Police Department during its internal affairs investigation related to the Review Request...” and “the officer’s complete complaint history including any final disciplinary action taken against the officer that is the subject of the Review Request.” The Board “shall have access to raw and aggregated data on the timing, findings, and dispositions of CPD internal affairs investigations.”	The new Ordinance would specify that the Board will have access to all information necessary to fulfill its functions. This would include support for independent investigation, review requests, and Auditor functions.
Complaint Review Findings	“Board or Oversight Staff may issue a written public report, including findings of fact and recommendations... the Board, assisted by Oversight Staff, shall determine whether the complaint’s allegations are sustained or unfounded, or whether another disposition is appropriate.” The Board may recommend discipline, reopening the IA investigation, mediation and/or policy or systemic reform.	Board may (1) concur with the CPD investigation, (2) find that the outcome is not supported by the available evidence, (3) find that the investigation is incomplete or unsatisfactory, (4) after independent investigation, find as in (3) and provide reasons	Same as 2019 ordinance except a recommendation to allow mediation of some complaints is under consideration.

Subpoena Power	The Board has no power to subpoena evidence, compel the presence of witnesses, or take testimony under oath.	No subpoena power	The Board is authorized to “To hold hearings and, if after making a good faith effort to obtain, voluntarily, the attendance of witnesses and the production of books, papers, and other evidence necessary to perform its duties, the Board is unable to obtain such attendance or production, it may apply to the Circuit Court for the City of Charlottesville for a subpoena compelling the attendance of such witness or the production of such books, papers and other evidence...”
Disciplinary Authority	The Board may “offer disciplinary or other recommendations to the Chief of Police and City Manager after a review, investigation, or hearing...” “The Board has no disciplinary authority...”	“The Board shall be advisory and shall not have disciplinary authority.”	“At the conclusion of any investigation [of complaints or incidents]... consistent with the Board’s findings in the investigation, and after consultation with the Chief of Police: [the Board is authorized] to make binding disciplinary determinations in cases that involve serious breaches of departmental and professional standards.” Criteria for determining if misconduct is “serious” will be included in the Board’s Operating procedures. Grievance procedures related to board-imposed sanctions now governed by local grievance process, rather than LEOPGA.
Audits	Oversight Staff (Auditor) has broad authority to review IA procedures and findings, trends in use of force, stop and frisk, CPD compliance with training, practices and policies, minority recruitment, and other “policing matters of pressing public concern” Audits will be conducted monthly; Auditor will issue quarterly reports of findings.	No formal Audit function.	Options: Limited audit functions to be performed by Executive Director. Extended audit functions performed by Auditor (recommended)
Policy Recommendations	“The Board and Oversight Staff are authorized to serve as policy advisors on	“The [Board] may recommend policies or procedures to the City Council or the	Authority to suggest policy recommendations would be similar to

	<p>policing matters to City Council, the CPD, and other relevant governmental entities...”</p> <p>The Board may review CPD policies and Standing Orders 30 days before they go into effect, solicit public input regarding the proposed changes and issue public reports. CPD must agree/disagree with findings of fact and provide reasons for not implementing changes recommended by the Board.</p>	<p>Charlottesville Police Department...”</p> <p>CPD must respond to Board recommendations and give reasons if they are not adopted. The Board may “may request reconsideration of the Charlottesville Police Department’s decision by providing a written request to the Chief of Police and City Manager...”</p> <p>The Board may comment on proposed changes to CPD general orders listed on the November 4, 2019 City Council Resolution, specifically with regard to impacts on historically disadvantaged disparately policed communities.</p>	<p>2019 ordinance, but review of proposed changes to orders would not be limited to those listed in the November 4, 2019 Resolution. Recommendations may be based on Audit results.</p>
Community Engagement	<p>The Board will:</p> <p>Hold quarterly public community listening sessions and public police-community relations meetings</p> <p>Mediate discussions between CPD Officials and community members.</p> <p>Issue quarterly reports on public outreach and engagement activities, including any recommendations for community-policing initiatives or for improved police-community relations.</p>	<p>The Board is “is authorized to engage in community outreach efforts to discuss and gather information about community relations between the Charlottesville Police Department and the general public... [the Board] may request the City Council to conduct a joint meeting to discuss issues of concern between the Charlottesville Police Department and the general public.” Outreach and public information gathering activities would be included in the Board’s Annual Report.</p>	<p>Requirement for quarterly public listening sessions reinstated; provision for joint participation with CPD in community outreach activities</p>
Budgetary Input	<p>No specific authority to review or comment on CPD expenditures (implicit ability to affect budget by recommending changes in priorities and practices)</p>	<p>Not mentioned</p>	<p>“To request reports of the annual expenditures of the Police Department, and to make budgetary recommendations to the city council concerning future appropriations...”</p> <p>Review budget documents in parallel with the City Council and provide recommendations.</p>

**March 10, 2021 – DRAFT CHARLOTTESVILLE POLICE CIVILIAN
REVIEW BOARD HEARING PROCEDURES**

1. Hearings and Meetings

- a.** The PCRB may, from time to time, hold meetings for such purposes as it deems advisable and consistent with the authority granted to it by ordinance of the City of Charlottesville. Meetings shall be conducted in accordance with Robert’s Rules of Order or such other procedures as the PCRB may adopt. Any PCRB-adopted procedures shall control.
- b.** The PCRB may, from time to time, upon receipt of information relating to a Complaint, conduct a Hearing related to a Complaint.

 - i.** The PCRB may receive information relating to a Complaint from any person or entity provided the information is submitted to the PCRB in writing and the person making the submission identifies their name, address, and telephone number.
- c.** A Complaint shall mean:

 - i.** A complaint from a civilian regarding the conduct of law-enforcement officers and civilian employees of a law-enforcement agency serving under the authority of the City of Charlottesville (“Civilian Complaint”); or
 - ii.** Information relating to incidents, including the use of force by a law-enforcement officer, death or serious injury to any person held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops, and other incidents regarding the conduct of law-enforcement officers or civilian employees of a law-enforcement agency serving under the authority of the City of Charlottesville (“Police Conduct Complaint”); or
 - iii.** Information related to an investigation conducted internally by law-enforcement agencies serving under the authority of the City of Charlottesville, including internal investigations of the conduct or behavior of law enforcement officers and of civilian employees of such law-enforcement agencies, and taking issue with the findings, accuracy, completeness, and impartiality of such investigations and the sufficiency of any discipline resulting from such investigations (“Internal Affairs Review”).
- d.** Any Complaint shall set out with particularity any claim of misconduct by a law enforcement officer and/or a civilian employee under the authority of the City of Charlottesville

and shall set forth facts or information sufficient for the PCRБ identify any law, policy, or procedure the misconduct may or is alleged to have violated.

- e. Upon receiving a Complaint, the PCRБ shall determine whether (i) any applicable ordinance of the City of Charlottesville permits or requires the PCRБ to conduct a Hearing to review the Complaint and (ii) whether, in the exercise of its discretion, it determines a Hearing is appropriate.
- f. The PCRБ shall conduct Hearings concerning Complaints in accordance with the procedures set forth herein provided that it may make modifications to these procedures from time to time as circumstances concerning a particular Complaint may require provided that no such modification shall operate to deprive any party to a Hearing of substantial justice.
- g. The parties to a Hearing shall include:
 - i. Any person or entity who alleges they were the subject of police misconduct related to the Complaint that is the subject of the Hearing;
 - ii. The police officials who are the subject of the Complaint.

2. Advisors.

- a. Right to advisor/representative of choice. Throughout the Hearing process, each party has the right to choose and consult with an advisor. An advisor may be any person, and may be, but is not required to be, an attorney.
- b. Role of advisor/representative. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the Hearing which right shall not include the right to be present during investigative efforts related to the Complaint. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, unless the advisor is also an attorney licensed by the Virginia State Bar, they may not speak on behalf of the parties, submit written statements attributed to the party, or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

3. Investigation.

- a. Upon receipt of a Complaint, the PCRБ shall compile or cause to be compiled a Written Record related to the Complaint. The Written Record shall include:

- i. Material from the Charlottesville Police Department which the PCRB shall request by notifying the Charlottesville Chief of Police of the Complaint. Upon receiving such a request, the Charlottesville Police Department shall, within _____ days[?], provide the PCRB with:
 1. a complete copy of any internal affairs file that is the subject of the Review Request. The City Attorney shall review the file and redact any information related to a juvenile pursuant to Virginia Code Section 16.1-301, as amended or as otherwise required to be redacted by law;
 2. the complete complaint history including any final disciplinary action taken against any officer or civilian employee who is the subject of the Complaint;
 3. any material or evidence utilized or collected by the Charlottesville Police Department during its internal affairs investigation related to the Complaint unless the Chief of the Charlottesville Police Department, upon concurrence of the Charlottesville Commonwealth's Attorney, determines that the material or evidence is the subject of an active criminal investigation;
 4. raw and aggregated data on the timing, findings, and dispositions of Charlottesville Police Department internal affairs investigations; and
- ii. Any additional written information provided by a party to the PCRB that the party believes to be relevant to a Complaint at any time prior to the commencement of the Hearing.
- b. Investigative material from the Charlottesville Police Department shall be presumptively confidential and may not be disclosed by the PCRB except upon a certification by the PCRB that it is germane to a Hearing, serves the public interest to be disclosed in public proceedings of the PCRB, and, in the interests of fairness, must be made available to the parties to the Hearing.

4. Policies Governing Hearings.

- a. Presumption of Lawful Conduct. The Hearing and related investigation are a neutral fact-gathering process. All parties are presumed, until findings are made to the contrary, to have acted lawfully and in accordance with applicable policies and procedures. That presumption may be overcome only by a PCRB finding that there is sufficient evidence, by a

preponderance of the evidence, that any person or entity acted unlawfully or in violation of applicable policies or procedures.

- b. Participation by the Parties and Witnesses. In the absence of a lawfully issued subpoena, no party or witness is required to participate in a Hearing but the PCRB may infer from a party's or a witness's voluntary absence from a Hearing, despite notice and a request to appear, that their truthful participation would have been adverse to the interests of such voluntarily absent party or witness.
- c. Prior or Subsequent Conduct. Prior or subsequent conduct of a party may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. The determination of relevance of such conduct will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of unlawful conduct or conduct that violates applicable policies or procedures.
- d. Relevance. The PCRB may determine in any Hearing the relevance of any proffered evidence and to include or exclude certain types of evidence from the Hearing.
- e. Rules of Evidence. Virginia's Rules of Evidence, contained in Part II of the Rules of the Supreme Court of Virginia and in the Code of Virginia and in applicable case opinions are not binding in Hearings but may be the basis for arguments in support of the admission or exclusion of evidence which the PCRB may consider in determining, in its discretion, whether to admit evidence.
- f. Expert Consultation(s). The PCRB may consult disinterested medical, forensic, technological, or other experts, as defined by applicable law, when expertise on a topic is needed in order to achieve a fuller understanding of the issues presented by the Complaint.
- g. Virginia Freedom of Information Act. The activities of the PCRB are subject to the requirements of the Virginia Freedom of Information Act.

5. **Conduct of Hearings.**

- a. Information Provided to Decision Maker. Prior to the Hearing, the PCRB shall review the Written Record.
- b. Purpose of the Hearing. The Hearing is an opportunity for the parties to address the PCRB about issues relevant to the Complaint.
- c. Order of Hearing.

- i. The PCRB shall hear any motions or requests at the commencement of the Hearing and may rule on them or defer ruling upon them as the PCRB determines to be appropriate.
 - ii. Each party may make an opening statement at the commencement of the Hearing.
 - iii. The PCRB and the parties may call witnesses or seek to introduce documentary evidence not already part of the Written Record. The PCRB shall determine the order in which parties shall present evidence.
 - iv. The parties may submit written questions to the PCRB to pose to witnesses and the PCRB members may pose questions to any witnesses. The PCRB shall determine whether any question is inappropriate for submission to a witness.
 - v. At the conclusion of the presentation of evidence, the parties may make closing arguments to the PCRB.
- d. Notice of Hearing. The PCRB shall provide written notice to the parties of no less than 14 days of the date, time, and location of the Hearing. The hearing may be continued by the PCRB from time to time until completed.
 - e. Location of Hearing. A Hearing may be conducted with all parties physically present in the same geographic location or, at the discretion of the PCRB, any or all parties, witnesses, or other participants may appear at the Hearing virtually, with technology enabling participants simultaneously to see and hear each other.
 - f. Pre-Hearing Conference. The PCRB may convene a Pre-Hearing Conference during which preliminary matters related to the Hearing are discussed and/or resolved. The parties will be provided advance written notice of the date, time, and location of the pre-hearing conference.
 - g. Recording of Hearing. The PCRB shall make arrangements to create an audio or audiovisual recording, or transcript, of the Hearing.
 - h. Determination by the PCRB. After the Hearing, the PCRB will objectively evaluate all relevant evidence, both from the Written Record and presented during the Hearing, and make a written finding within the time and in the form provided by the enabling Ordinance, for each allegation of misconduct in the Complaint:
 - i. Whether there was a preponderance of evidence that the misconduct alleged in the Complaint occurred;

- ii. Whether the PCRB concurs with any finding by the Charlottesville Police Department concerning the misconduct;
- iii. Whether the PCRB finds that the Charlottesville Police Department's investigation, if any, of the Complaint is incomplete or unsatisfactory and, if so, in what regard;
- iv. With respect to any Civilian Complaint or Police Conduct Complaint, to the extent permitted by Charlottesville City Ordinance:
 - 1. Whether the PCRB wishes to consult with a Charlottesville Police Department officer's or employee's direct supervisor or commander, to make binding disciplinary determinations in cases that involve serious breaches of department and professional standards as defined by the City of Charlottesville which determinations may include letters of reprimand, suspension without pay, suspension with pay, demotion within the department, reassignment within the department, termination, involuntary restitution, or mediation, any of which is to be implemented by the local government employee with ultimate supervisory authority over officers or employees of law-enforcement agencies serving under the authority of the locality.

6. Informal Resolution.

- a. At any time after receiving a Complaint and before issuance of the written findings required at the conclusion of a Hearing, the PCRB and any party may propose an informal resolution of the Complaint which may be adopted if all parties and the PCRB agree to such a resolution.