

Police Civilian Review Board – Special Meeting

July 14, 2021 at 6:30 p.m.

Agenda

<https://www.charlottesville.gov/zoom>

I. Call to Order (Bellamy Brown, Chair)

II. Agenda Approval

III. Closed Session Discussion and Vote

Closed Session: Motion to convene in closed session pursuant to Virginia Code § 2.2-3711(A)(8) to consult with legal counsel retained by the City as Board Counsel regarding legal issues relating to proposal to recommend amendment of the Board enabling ordinance, and requiring the provision of legal advice by such counsel.

IV. Hearing Procedures Discussion/Vote

V. Ordinance Discussion/Vote

XI. Adjournment

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.

Remote participation supported for the duration of the City Manager's Declaration of Emergency issued March 12, 2020.

**June 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 ("the City"). 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, as authorized within Chapter 2, Article XVI of the City Code and these Procedures.
 - 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. For the purpose of these procedures:
 - i. A “Complaint” shall mean 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 (“Civilian Complaint”); or
 - ii. “Information relating to a Complaint” shall mean **(i)** 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 (“Police Conduct Complaint”); or
(ii) information related to an investigation conducted internally by law-enforcement agencies serving under the authority of the City , 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 and shall set forth facts or information sufficient for the PCRB identify any law, policy, or procedure the misconduct may or is alleged to have violated.

- e. Upon receiving a Complaint or information relating to a Complaint, the PCRB shall determine whether (i) any applicable ordinance of the City permits or requires the PCRB to conduct a Hearing and (ii) whether, in the exercise of its discretion, it determines a Hearing is appropriate.
- f. The PCRB shall conduct Hearings 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 officer/employee misconduct set forth in the Complaint that is the subject of the Hearing;
 - ii. The Charlottesville Chief of Police ("the Chief of Police") or designated representative(s) of the Chief of Police appearing on behalf of the City Police Department; and
 - iii. The police officers/employees who are the subject of the Complaint.

2. Advisors/Representatives.

- a. Right to advisor/representative of choice. Throughout the Hearing process, all parties may consult with and be represented by counsel or other individual advisor/representative of their choosing.
- 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 interviews or be privy to other investigative efforts of PCRB 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, the nature of their participation in the proceedings on behalf of a party shall be determined by the Board. No advisor or representative may in any manner disrupt such meetings and/or proceedings.

3. Investigation.

- a. Upon receipt of a Complaint, the PCRB shall compile or cause to be compiled a Written Record related to the Complaint. The Written Record shall include:
 - i. Material from the City Police Department which the PCRB shall request by notifying the Chief of Police of the Complaint. Within [10?] days of receipt of a request from the PCRB, the Chief of Police shall cause to be delivered to the PCRB:
 - 1. a complete copy of any internal affairs investigation file regarding the conduct or matter that is the subject of the Complaint. The file shall be redacted to preserve the confidentiality of any information related to a juvenile pursuant to Virginia Code Section 16.1-301, as amended, and to protect other information required by law to be confidential;
 - 2. the complete complaint history including any final disciplinary action taken against any officer or civilian employee who is the subject of the Complaint; and
 - 3. any material or evidence utilized or collected by the Police Department during its internal affairs investigation related to the Complaint 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, or the Chief of Police, upon concurrence of the City Attorney notifies the PCRB that the material or evidence is at issue in a pending civil action. In either such case, proceedings of the PCRB shall be suspended until notice of the conclusion of the criminal investigation or civil action or other basis to resume PCRB proceedings.
 - 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 and information provided by a party to the PCRB shall be presumptively confidential and may not be disclosed by the PCRB except upon a certification by vote of the PCRB that it is germane to a Hearing, serves the public interest to be disclosed in a Hearing, or, in the interest of fairness and due process, must be made available to the parties to the Hearing.

Upon the PCRB's receipt of a Virginia Freedom of Information Act ("FOIA") request for investigative information or records from the

Charlottesville Police Department, or for personnel information or records of a police officer, the PCRB shall refer the request to the City's FOIA Officer (foia@charlottesville.gov) and the Chief of Police shall have the duty to respond to that request and the right to determine whether any discretionary exemption(s) will be asserted in accordance with applicable law.

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 averse 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, both as to access to PCRB records and as to requirements for open, public meetings.

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, whether in the nature of "cross examination" or "direct examination" 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. Members of the PCRB must be physically present in the same geographic location, except as may otherwise be authorized by FOIA or other provisions of state law.

- 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 either an audio or audiovisual recording of the Hearing, or a transcript of the Hearing prepared by a court reporter present at 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 City Ordinance, whether the PCRB wishes to consult with the Chief of Police and/or the supervisors of a police officer/employee whose conduct is a subject of the complaint, to make disciplinary recommendations, applying the Police Department Disciplinary Matrix, in cases that involve serious breaches of Police Department policies and professional standards, and other determinations as may be provided by City ordinance, any of which to be implemented by the City official/employee with ultimate supervisory authority over officers and employees of the Police Department.

6. Informal Resolution.

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.

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ARTICLE XVI. – POLICE CIVILIAN OVERSIGHT BOARD

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

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5 Sec. 2-450.-Title 2

6 Sec. 2-451.-Police Civilian Oversight Board Established; Immunities..... 2

7 Sec. 2-452.-Powers and Duties of the Police Civilian Oversight Board..... 2

8 Sec. 2-453.- Police Civilian Oversight Board Membership Appointment, and Terms. 4

9 Sec. 2-454. – Public Meetings. 5

10 Sec. 2-455.-Police Civilian Oversight Board Executive Director 5

11 Sec. 2-456.-Police Civilian Oversight Board Legal Counsel. 6

12 Sec. 2-457. – Receipt and Investigation of Complaints – Authority and Complaint Intake 6

13 Sec. 2-458. - Review of Police Department Internal Investigations.....7

14 Sec. 2- 459. - Independent Civilian Oversight Board Investigation..... 8

15 Sec. 2-460. - Disciplinary Recommendations 10

16 Sec. 2- 461. - Board Review of Policies, Practices and Procedures..... 10

17 Sec. 2- 462. - Request Annual Reports of Police Expenditures..... 11

18 Sec. 2- 463. Authority to Hold Hearings and Issue Subpoenas..... 11

19 Sec. 2- 464. - Deferral of Complaint Review and Investigations..... 11

20 Sec. 2-465. - Police Civilian Oversight Board Recommendations and Annual Report. 12

21 Sec. 2-466. - Police Civilian Oversight Board Operating Procedures 12

22 Sec. 2-467. - Community Engagement and Community Relations.....13

23 Sec. 2-468. – Training.....13

24 Sec. 2-469. – Commendations for Exceptional Community Service.....14

25 Sec. 2-470. – Mediation.....14

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38 WHEREAS, the Charlottesville City Council previously enacted an ordinance establishing a Charlottesville
39 Police Civilian Oversight Board and codified the ordinance within Chapter 2, Article XVI of the Code of
40 the City of Charlottesville (1990), as amended; and

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

44

45 WHEREAS, City Council hereby finds that it is in the public's best interests to amend Chapter 2, Article
46 XVI of the City Code to name the City's Police Civilian Oversight Board in conformity with Virginia Code §
47 9.1-601 and to empower the City's Police Civilian Oversight Board with certain additional oversight
48 authority and duties enabled by the statute.

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

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54 **ARTICLE XVI-POLICE CIVILIAN OVERSIGHT BOARD**

55 **Sec. 2-450.-Title**

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57 This article shall be known as the Charlottesville Police Civilian Oversight Board Ordinance.

58 **Sec. 2-451.-Police Civilian Oversight Board Established; Immunities.**

59 There is hereby established a Charlottesville Police Civilian Oversight Board which shall be referred to as
60 the Police Civilian Oversight Board, or "the Board", within this article. The Board shall have the authority
61 and duties of a law-enforcement civilian oversight body, as expressly authorized by state law and as
62 provided within this ordinance. The Police Civilian Oversight Board shall enjoy the protection of
63 sovereign immunity to the extent allowed and provided by Virginia statutory and common law.

64 **Sec. 2-452.-Powers and Duties of the Police Civilian Oversight Board.**

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66 (a) The Police Civilian Oversight Board shall have the following powers and duties:

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

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- (2.) To investigate and issue findings on incidents, including the use of force by a law enforcement officer, death or serious injury to any individual held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops, and other incidents regarding the conduct of law enforcement officers and civilian employees of the Charlottesville Police Department;
 - (3.) At the conclusion of any investigation conducted pursuant to subdivisions (1) and (2), above, and consistent with the Board’s findings in the investigation: to recommend to the Chief of Police disciplinary action in cases that involve serious breaches of departmental and professional standards, as defined by City Council, within Board Operating Procedures adopted pursuant to Sec. 2-466;
 - (4.) To investigate policies, practices, and procedures of the Police Department and to make recommendations regarding changes to such policies, practices and procedures, as set forth within sec. 2-462 of this article;
 - (5.) To review investigations conducted internally by the Police Department, as set forth in sec. 2-459 of this article, including internal investigations of civilians employed by the Police Department, and to issue findings regarding the accuracy, completeness, and impartiality of the investigations and the sufficiency of any discipline resulting from such investigations;
 - (6.) To request reports of the annual expenditures of the Police Department, and to make budgetary recommendations to the City Council concerning future appropriations;
 - (7.) To make public reports on the activities of the Police Civilian Oversight Board, including investigations, hearings, findings, recommendations, determinations and oversight activities;
 - (8.) 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, and the court may, upon good cause shown, cause the subpoena to be issued. Any person so subpoenaed may apply to the Charlottesville Circuit Court to quash it; and
 - (9.) To undertake other duties, as reasonably necessary, for the Police Civilian Oversight Board to effectuate its lawful purpose as provided for in this article, in order to effectively oversee the Police Department.
- (b) The Board is authorized to receive and shall be provided full access to all Police Department reports, files and records related to Board investigations of complaints and incidents, or its review of

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109 Police Department internal affairs investigations, as authorized in this ordinance. All records,
110 documents and materials in the possession of the Police Department or the City that are determined
111 by the Board to be necessary and requested by the Board to carry out its authorized powers and
112 responsibilities shall be provided to the Board subject to Board procedures adopted, with Council
113 approval, for the protection of confidential information as defined in such procedures.

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115 (c) The Police Civilian Oversight Board shall not exercise the powers and duties set forth within
116 paragraphs (a)(1)-(9), or any of said paragraphs, until (i) City Council approves Operating Procedures
117 for performance of such powers and duties pursuant to sec. 2-466 of this article, and (ii) sufficient
118 public funds have been appropriated by City Council within the Board's annual budget for all staff,
119 independent investigators/auditors, independent legal counsel and other resources as are necessary
120 for the Board to effectively carry out such duties and powers.

121 **Sec. 2-453.- Police Civilian Oversight Board Membership Appointment, and Terms.**

122

123 (a) Board composition. The Police Civilian Oversight Board shall reflect the demographic diversity of the
124 City of Charlottesville. The Police Civilian Oversight Board shall be composed of seven voting
125 members and one non-voting member appointed by the City Council. The members shall be
126 removable by the City Council for cause as specified in Operating Procedures adopted pursuant to
127 section 2-466.

128 (1) The seven voting members of the Police Civilian Oversight Board shall be residents of the City of
129 Charlottesville except that the member who represents an organization that seeks racial or social
130 justice on behalf of historically disadvantaged communities shall either be a resident of the City of
131 Charlottesville or the organization they represent shall perform advocacy on behalf of City of
132 Charlottesville residents.

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

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

140 (4) No Police Civilian Oversight Board voting member shall be a current City of Charlottesville
141 employee, a current candidate for public office, a former member of the Charlottesville Police
142 Department, an immediate family member of a current Charlottesville Police Department employee,
143 or a current employee of a law enforcement agency.

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144 (b) Appointment Process. The City Council shall appoint the members of the Police Civilian Oversight
145 Board. The Council shall announce a public application process with applications available online
146 and by hardcopy in English and Spanish for individuals interested in serving on the Police Civilian
147 Oversight Board.

148 (c) Terms. Each member of the Police Civilian Oversight Board shall be appointed for a term of three
149 years, which term for any particular Board member may be extended for an additional period of
150 time, in the determination of the City Council, to provide for staggering as deemed appropriate and
151 necessary.

152 (d) Vacancies. If a Police Civilian Oversight Board member's service on the Board ends before the
153 conclusion of the Board member's term or any extended term, the City Council shall appoint an
154 individual to complete the remainder of the term. A Board member whose term has expired may
155 continue to serve until his or her successor is appointed by City Council.

156 **Sec. 2-454. – Public Meetings.**
157

158 The Charlottesville Police Civilian Oversight Board shall hold public meetings at least once per calendar
159 month. Special meetings may be called by the Chair of the Board or any two Board members, in
160 accordance with the requirements of applicable law.

161 **Sec. 2-455.-Police Civilian Oversight Board Executive Director**
162

163 (a) The City Manager shall appoint a Police Civilian Oversight Board Executive Director with the approval
164 of a majority vote of the City Council.

165 (b) As a part of any Police Civilian Oversight Board Executive Director appointment process , the City
166 Manager shall convene an interview panel that includes two members of the Police Civilian Oversight
167 Board. If the two members of the Police Civilian Oversight Board serving on an interview panel
168 recommend a candidate for appointment as Executive Director, the City Manager shall provide a written
169 justification to the Board if a different candidate is appointed.

170 (c) The duties of the Executive Director shall be to support the Board in the implementation and exercise
171 of all of its functions authorized under this ordinance and to undertake or ensure the performance of
172 specific oversight tasks assigned by the Board. Accordingly, the Executive Director shall be responsible,
173 at the direction of the City Manager, for engaging the services of such investigators and auditors in
174 accordance with City Code Sec. 2-156 as the needs of the Board in the execution of its authority under
175 this ordinance require.

176 (d) The City Manager shall be responsible for day-to-day supervision of the Executive Director. The City
177 Manager will conduct an annual evaluation of the Executive Director's performance, which shall include
178 consideration of a written performance review submitted by the Police Civilian Oversight Board to the

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179 City Manager. The Police Civilian Oversight Board may at any time, by a majority vote, request a
180 conference between the Board's Chair and the City Manager to discuss the Executive Director's
181 performance and may at any time, by two-thirds majority vote, recommend to the City Manager that
182 the employment of the Executive Director be terminated. The City Manager shall provide the Police
183 Civilian Oversight Board a written justification for rejecting a recommendation of the Board that the
184 Executive Director's employment should be terminated.

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186 **Sec. 2-456.-Police Civilian Oversight Board Legal Counsel.**
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188 The Police Civilian Oversight Board may retain legal counsel to represent the Board in all cases, hearings,
189 controversies, or matters involving the interests of the Board, and the Board's Chair shall have authority
190 to execute a contract in the name of the Board for legal services if the contract has first been approved
191 by the Board and endorsed by the City's Finance Director to verify that funding is available and has been
192 appropriated to support performance of the payment obligations of the Board under such contract. The
193 Board's legal counsel shall be paid only from funds that have been appropriated to the Board's budget
194 by City Council. The Board and the Board's Executive Director may consult the Office of the City Attorney
195 for legal advice concerning legal questions not related to cases, hearings, investigations, or controversies
196 that are before the Board, or any other matter in which the Board's and Police Department's interests
197 may conflict.

198 **Sec. 2-457. – Receipt and Investigation of Complaints – Authority and Complaint**
199 **Intake**
200

201 (1) Authorization. The Police Civilian Oversight Board is authorized to develop and administer a process
202 for receiving community complaints regarding the conduct of Police Department officers and civilian
203 employees; for referring complaints to the Charlottesville Police Department for investigation or to the
204 City Manager to initiate the Board's independent investigation process, as authorized herein; and for
205 issuing findings regarding such complaints. The process will be set forth in the Board's Operating
206 Procedures as approved by the City Council. The Board process shall be in addition to and separate and
207 distinct from any existing procedures by which the Police Department receives community complaints in
208 accordance with Virginia Code § 9.1-600.

209 (2) Complaint Intake. Complaints filed with the Board may be submitted in person, by mail or electronic
210 delivery to the Executive Director using a complaint form developed by the Board in cooperation with
211 the Police Department such that the forms shall be the same in all material respects. The Board may
212 also develop procedures for intake of complaints made by other means, including orally. A complaint
213 shall be considered to have been received upon delivery to the Executive Director by any of the means
214 provided here or in approved Board procedures. The Board will forward all complaints to the Police
215 Department within 24 hours of receipt, and the Police Department shall forward to the Board all

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216 complaints received pursuant to its complaint receipt procedures referenced in subsection (1) within 24
217 hours of receipt.

218 (3) Public Information. Information about the process for filing a complaint with the Board, complaint
219 forms, and general information about the Board and its purpose and authority shall be made available
220 online, at the office of the Executive Director, and at other locations deemed reasonable and effective
221 for making such information widely available.

222 **Sec. 2- 458. – Review of Police Department Internal Investigations**

223 (a.) Scope of Board Review Authority.

224 Except as otherwise provided in Sec. 2-459 for Board investigation of complaints, the Police Department
225 shall continue to investigate complaints submitted to the Police Department or to the Board, subject to
226 such Board review and oversight responsibility authorized by this ordinance. The Board may review any
227 or all completed Police Department internal affairs investigations to ensure their thoroughness,
228 completeness, accuracy, objectivity, impartiality and the sufficiency of any discipline resulting from such
229 investigations, in accordance with review selection criteria set forth in Board procedures approved by
230 City Council. The Board shall review all such completed investigations where a request is filed by a
231 complainant with the Board’s Executive Director seeking the Board’s review of the Department’s
232 findings (“Review Request”). A Review Request shall be deemed filed when it is received by the
233 Executive Director.

234 (b) The Board shall not review:

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

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

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

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245 (4) A Review Request concerning matters that are the subject of a pending criminal proceeding
246 in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a
247 Notice of Claim or a filed complaint), or any pending City of Charlottesville grievance
248 proceeding.

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250 (c) Hearings in Support of Review Requests

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252 The Police Civilian Oversight Board shall conduct a hearing on all Review Requests that it finds to be in
253 conformance with the criteria established in Section 2-459(a), following procedures set forth in Board
254 Operating Procedures, as approved by the City Council.

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256 (d) Findings

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258 The Police Civilian Oversight Board shall report its findings within thirty (30) days of the hearing of the
259 Review Request. The Board shall report publicly and to the City Manager and Police Chief, that it has
260 determined, by a preponderance of the evidence and by a majority vote of Board members, one of the
261 following findings with respect to each allegation or issue under review:

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263 (1) The Police Civilian Oversight Board concurs with some or all of the findings of the Police
264 Department investigation; or

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266 (2) The Police Civilian Oversight Board finds that the Police Department investigation's findings
267 are not supported by the information reasonably available to the Police Department and makes
268 further recommendations to the City Manager concerning disposition of the Review Request; or

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270 (3) The Police Civilian Oversight Board finds that the Police Department's investigation is
271 incomplete or otherwise unsatisfactory and provides a detailed written explanation of the basis
272 for such finding.

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274 (e) Investigations in Support of Review Requests. The Board may initiate an independent investigation,
275 in accordance with procedures set forth in Sec. 2-459, of any matter that was the subject of a Board
276 Review Request proceeding where the Board determined the Police Department investigation was
277 incomplete or unsatisfactory.

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279 **Sec. 2- 459. - Independent Civilian Oversight Board Investigation**

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281 (a.) The Civilian Oversight Board may initiate investigations under any of the following
282 circumstances:

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284 (1) When the Board determines that a civilian complaint filed with the Board or an incident as
285 defined in Section 2-452(A)(2), whether or not the incident is the subject of a complaint, merits
286 such an investigation;

287 (2) When a Police Department Internal Affairs investigation of a civilian complaint is not completed
288 in 75 days and, after consultation with the Chief of Police, a majority of the Board determines an
289 investigation is necessary; or

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290 (3) If, after completion of a Review Request, the Police Civilian Oversight Board advises the City
291 Manager that a Police Department investigation is incomplete or unsatisfactory and, after
292 consultation with the Chief, the majority of the Board determines an investigation is warranted
293 in the public interest.

294
295 (b.) Any investigation under this section shall be initiated by notice from the Board Chair to the City
296 Manager, with concurrent notice to the Chief of Police who shall ensure the Police Department's
297 cooperation with the investigation in general, and in compliance with the specific requirements of this
298 ordinance and applicable Board Operating Procedures as approved by the City Council. Any such
299 investigation shall comply with existing federal, state, and local laws. Board members, the Board's
300 Executive Director, and the Board's legal counsel shall not have any authority to compel a statement
301 from any Charlottesville Police Department employee. When an independent investigation is initiated
302 pursuant to this Sec. 2-459, a qualified investigator independent of the Police Department shall be
303 engaged in accordance with the provisions of City Code Sec. 2-156. Required investigatory qualifications
304 and elements of the scope of work for independent investigations shall be as set forth within Board
305 Operating Procedures. The investigator shall be required to execute a written confidentiality agreement
306 prior to commencement of work.

307
308 (c.) At the conclusion of the investigation, the investigator shall forward the report of investigation
309 and investigative file to the Board. The Board shall hold at least one public hearing, pursuant to
310 approved hearing procedures, on the investigation. At the conclusion of the public hearing(s) the Board
311 shall make findings as to each allegation stating whether the allegation is founded, unfounded or
312 sustained, as each such finding is defined in Board Operating Procedures approved by the City Council.
313 In addition, the Board may take one of the following actions:

314
315 (1) If the investigation was based on a complaint, dismiss the complaint in whole or in part where, from
316 the investigation file and report, it determines that the complaint or any allegation in the complaint is
317 unfounded or the actions justified;

318 (2) If the Board finds that any allegation was founded and establishes a serious breach of departmental
319 and professional standards, as defined by City Council within Board Operating Procedures adopted
320 pursuant to Sec. 2-466, recommend disciplinary action be taken by the Chief of Police as described in
321 Section 2-460.. If the Chief of Police declines to implement the discipline recommended by the Board,
322 the Chief shall, within 30 days of notice of the Board's recommendation, set forth in writing to the City
323 Council, city manager and the public its rationale for declining to implement the recommendation of the
324 Board.

325 (3) Refer the complaint to the Commonwealth's Attorney for the City of Charlottesville if it determines
326 that the investigation establishes a criminal offense was or may have been committed and is not already
327 the subject of criminal investigation;

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330 **Sec. 2-460. - Disciplinary Recommendations**
331

332 (a) Upon receipt of the investigator’s report related to a complaint or incident involving a serious breach
333 of departmental and professional standards, as shall be defined within the Board Operating Procedures,
334 the Board shall convene in one or more closed meetings to discuss appropriate recommendations for
335 disciplinary action. The Board shall consult with the Chief of Police as well as the officer’s direct
336 supervisor or commander. Disciplinary action to be considered for recommendation by the Board shall
337 include those specified within any applicable disciplinary matrix utilized by the Police Department. The
338 Board may also consult complainants and witnesses when discussing the appropriate disciplinary action
339 to be imposed. Prior to commencement of any such disciplinary deliberations, the accused officer or
340 employee shall be given notice of the proceedings and of the range of disciplinary actions under
341 consideration, and the officer or employee shall be offered an opportunity to be heard. The officer may
342 be represented by legal counsel during any discussions or deliberations of the Board. No officer or Police
343 Department employee, and no other City employee, shall be compelled to provide statements to the
344 Board during its deliberations.

345
346 (b) Any law enforcement officer or other Police Department employee against whom disciplinary action
347 is imposed by the Chief of Police on recommendation of the Board shall have a right to file a
348 grievance requesting a hearing before the City’s Personnel Appeals Board, provided that the matter
349 is a qualifying grievance under the City’s grievance procedures.

350 **Sec. 2- 461. - Board Review of Policies, Practices and Procedures**
351

352 (a) The Charlottesville Civilian Oversight Board is authorized to review and make recommendations
353 regarding policies, practices, and procedures of the Charlottesville Police Department, including, without
354 limitation written policies, procedures and standing orders. The Board shall present in writing its
355 findings and recommendations with supporting rationale to City Council, the city manager and Chief of
356 Police within 30 days of the date of Board approval of the recommendations. If the Police Department
357 declines to implement any changes recommended by the Board, the Chief of Police shall create a
358 written record, which shall be made available for public inspection, of its rationale for declining to
359 implement the Board’s recommendation, unless the Board instead withdraws the recommendation
360 based on the rationale provided. The Board's withdrawal of any such recommendation shall be made
361 available for public inspection.

362 (b) The Board may require its Executive Director to conduct retrospective examination and audits of
363 patterns in the Internal Affairs investigations, arrest and detention, and other public-police interactions.
364 The scope of such examinations, and the manner in which the examinations may be conducted, shall be
365 set forth within the Operating Procedures.

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366 **Sec. 2- 462. - Request Annual Reports of Police Expenditures**
367

368 Not more than once per year, during the City Manager’s preparation of a proposed budget for the City,
369 the Budget Office shall provide the Civilian Oversight Board with annual expenditure estimates and
370 future year projections for the Police Department, itemized to the same level of detail as provided to
371 the City Manager . The estimates shall be presented to the Board at the same time they are presented
372 to the City Manager. The Civilian Oversight Board will review the estimates and is authorized to make
373 budgetary recommendations to the City Manager and/or to the City Council during the annual budget
374 process.

375 **Sec. 2- 463. Authority to Hold Hearings and Issue Subpoenas**
376

377 (a) The Charlottesville Police Civilian Oversight Board is authorized to hold hearings in connection with
378 any of its authorized activities, including, without limitation:

- 379 (1.) Complaint review;
380 (2.) The conduct of independent investigations of complaints or incidents of misconduct;
381 (3.) Other matters which the Board determines to require the gathering of facts, public testimony,
382 or other information to facilitate adequate police oversight.
383

384 (b) A hearing may be called at the request of any two members of the Civilian Oversight Board. Hearings
385 may be public or closed if confidential information is to be discussed, subject to applicable provisions of
386 law.
387

388 (c) Hearings shall be conducted in accordance with Board Operating Procedures to be developed by the
389 Board and approved by the City Council.

390 **Sec. 2- 464. - Suspension of Complaint Investigations**
391

392 (a.) Suspension of Investigations. If, on its face, a complaint asserts criminal conduct by a police
393 officer or civilian employee of the Police Department or at any point in an investigation of a complaint or
394 incident the Board or an independent investigator becomes aware of a possible criminal act or offense,
395 the Board and investigator shall:

- 396 (1.) Suspend the investigation and notify the Chief of Police and Commonwealth’s Attorney of the
397 alleged conduct, ensuring that no statements obtained from the Police Department employee(s)
398 whose actions are the subject of the matter are shared with criminal investigators or any
399 prosecuting authority except in accordance with applicable law; and
400 (2.) Evaluate, in consultation with Board legal counsel and the City Attorney, whether competing
401 public interests and civil rights involved permit the resumption of continued, parallel
402 investigation by the Board.
403

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404 **Sec. 2-465. - Police Civilian Oversight Board Recommendations and Annual Report.**
405

406 (a) The Police Civilian Oversight Board shall provide the City Council a list of recommendations, if the
407 Board determines any recommendations are necessary, for the Council's consideration to include in its
408 annual legislative program to present to the General Assembly. These recommendations shall be
409 presented to the City Attorney's Office by August 15 of each year.

410 (b) On or before April 15 of each calendar year, the Police Civilian Oversight Board shall provide the City
411 Council with an annual report of activities conducted during the preceding calendar year. The report
412 shall detail the Police Civilian Oversight Board's calendar year activities with sections related to the
413 appointment of committees and their actions; the establishment of any community advisory panels; an
414 overview of complaints received during the calendar year including the number of complaints, the
415 complaints' findings, and the number of complaints deferred due to pending proceedings; the number
416 and outcome of any independent investigations; an overview of proposed policy recommendations and
417 amendments to Charlottesville Police Department policies and whether the recommendations and
418 amendments were implemented by the Charlottesville Police Department; the number, type, and
419 attendance at community listening sessions; recommendations the Police Civilian Oversight Board
420 about policing within the City; and any other information that the Police Civilian Oversight Board deems
421 necessary to provide a complete overview of the Board's activities.

422 **Sec. 2-466. - Police Civilian Oversight Board Operating Procedures**
423

- 424 (a) City Council shall establish, and may from time to time amend, policies and procedures
425 ("Operating Procedures") for the performance of each of the powers and duties of the Board
426 authorized within sec. 2-452 (a)(1)-(9) of this article
- 427 (b) The Police Civilian Oversight Board may from time to time propose to the City Council Operating
428 Procedures and amendments to the approved policies and procedures. Upon an affirmative
429 vote of a majority of Board members having the right to vote, the proposed amendment shall be
430 recommended to City Council for consideration. Any proposed amendment(s) shall be
431 presented by a Police Civilian Oversight Board member in writing to the Board at a regular Board
432 meeting.

433 **Section 2-467. - Community Engagement and Community Relations**
434

435 The Board, supported by the Executive Director, is authorized to engage in community outreach and to
436 enlist the assistance and input of community members. At least quarterly [semi-annually?], the Board
437 shall host public community listening sessions to discuss policing matters of pressing public concern,
438 including the impacts of local policing on historically-disadvantaged communities that have traditionally
439 experienced disparate policing.
440

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441 The Board may also host or participate in public police-community relations meetings, in which Board
442 members, supported by the Executive Director, mediate discussions between CPD officials, designated
443 by the Chief of Police, and community members about policing matters of pressing public concern,
444 including questions about transparency, availability, legitimacy, mutual respect and trust, equitable
445 treatment, social and racial justice, equal rights, and community safety and order.

446
447 The Board shall report on its community outreach and engagement activities, public input, and any
448 recommendations for community-policing initiatives or for improved police-community relations at least
449 annually as part of the annual report provided for in Section 2-465.

450

451 **Section 2-468. - Training**

452

453 At least once every two years, and within 90 days of Board appointments, the City,
454 assisted by Executive Director, shall provide new Board members with training of at least eight
455 hours, presented by the National Association for Criminal Oversight of Law Enforcement or a
456 comparable professional organization. The training shall be consistent with the Board's mission, this
457 enabling ordinance, and the Operating Procedures.

458

459 At least once every two years, and within six months of new Board appointments, the City, assisted
460 by the Executive Director, the Chief of Police/designees, and such other city personnel as may be
461 appropriate shall provide new Board members with training or information:

- 462 1. describing the legal and ethical obligations of members of a public board;
- 463 2. explaining Police Department procedures, policies, and regulations;
- 464 3. describing the substance of Police Department personnel recordkeeping; and
- 465 4. describing such other City policies, procedures and systems material to the duties of the Board

466

467 As needed, the City shall provide Board members with additional
468 training, including police "ride-alongs", relevant training by subject matter experts on mental health,
469 trauma-informed policing, civil rights and constitutional law, race and racism, community outreach,
470 mediation, investigation, and policing practices.

471 **Section 2-469. – Commendations for Exceptional Community Service**

472

- 473 (a) The Board shall establish procedures for soliciting comments from the public concerning
474 incidents of exceptional performance by employees of the Charlottesville Police Department.
- 475 (b) The Board may consult with the Chief of Police regarding individual employees who have made
476 outstanding contributions exemplary of equitable, just, and professional policing.
- 477 (c) The Board may issue public citations recognizing individuals deemed to have made such
478 contributions.

479 **Section 2-470. Mediation**

480

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481 The Board may propose procedures for the use of mediation or other alternative dispute resolution
482 techniques to resolve complaints against employees of the Charlottesville Police Department. Such
483 procedures shall not affect the ability of complainants to pursue remedies under other sections of this
484 ordinance.

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