

CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD
MINUTES

Date: May 13, 2020

Scheduled Time: 6:30 p.m.

Location: Virtual/Electronic Meeting

Board Members Attending: Bellamy Brown, Nancy Carpenter, Jeff Fracher, Diedre Gilmore, William Mendez, and James Watson

Staff: Lachen Parks, Maxicelia Robinson

Guests: City Manager Chip Boyles, Cynthia Hudson (CRB counsel), City Council Member Michael Payne, Sarah Burke and Teresa Hepler (members of ordinance/operating procedures work group)

Chair Bellamy Brown called the meeting to order at 6:32p.m. He announced that Board Member Philip Seay had moved out of the area and was no longer serving on the Board.

Agenda Adoption – Vice Chair Mendez suggested that the guest speakers be given an opportunity to speak early in the meeting. The Board unanimously approved a motion to have the discussion of the investigative and disciplinary models occur directly after the adoption of minutes.

Adoption of Minutes – The Minutes from the April 27 work session were approved unanimously.

Discussion of Investigation and Disciplinary Authority - Vice Chair Mendez gave a brief summary of the state of development of the revised ordinance and operating procedures, and reported on a conference call between himself, Chair Brown, the board's independent Counsel and City Attorney regarding the Board's disciplinary authority. He then introduced Sarah Burke and Teresa Hepler for a discussion of investigative and disciplinary models.

Ms. Hepler presented flow charts to map out procedural roles during investigation and disciplinary actions (Attachment 1) under two scenarios, one where the Board alone investigated all complaints, and a second where the Board and the CPD Internal Affairs shared investigative responsibilities. She noted that the proposed procedures were highly preliminary, might not reflect the views of all stakeholders and might require "tweaking" before they could be put into practice. The major features of the first model were: the Executive Director would receive all complaints and initiate investigations by a qualified independent investigator, a subcommittee of the Board would then make appealable findings of fact related to misconduct, and in the case of serious misconduct, the Board would make disciplinary recommendations consistent with the current CPD Disciplinary Matrix, in consultation with the Officer's Supervisor. Ms. Burke suggested that serious complaints would be rare so there would be relatively few cases in which the Board would have the authority to address disciplinary options. Ms. Hepler identified increased credibility and openness as major advantages of a full investigative model. She also briefly discussed a model wherein the Board and IA would investigate complaints in parallel.

She suggested that such an approach would be needlessly duplicative and would not have the same credibility as having the Board alone investigate complaints.

The Board discussed the models extensively¹, addressing overall objectives of oversight, the relationship of the Board's powers to the municipal grievance policies, the role of Internal Affairs when the Board investigates all complaints, concerns raised by the City Council and that might be raised by the Chief of Police, the role of an Auditor when the Board investigates complaints, the Board's potential role in internally initiated CPD investigations, and other issues.

Members Carpenter and Fracher argued strongly for the strongest possible model, Chair Brown agreeing that only a full investigative model would be credible to groups that are currently experiencing unequal policing. Ms. Burke cited studies showing that oversight organizations with investigative powers generally were more effective and reducing misconduct and reducing disproportionate impacts.

Ms. Burke suggested that many of the Council's concerns can be addressed by the Board doing further research and outreach; the Board should identify outstanding legal and practical issues, assign Board members to address them, and seek another meeting or work session to show that we have "done our homework." She noted that access to forensic data would very rarely be a problem, which could be resolved through an MOU with the CPD or independently by the Executive Director.

Mr. Mendez raised the possibility of a "no-investigation" model with a strong audit component. Several members and Ms. Burke suggested that such an approach would not have sufficient credibility or independence. She noted that the investigative and audit functions were complementary, since information gathered through independent investigations would serve to inform which policies, practices and outcomes needed to be reviewed by the Auditor.

The Board's Council suggested that a model in which the Board made disciplinary recommendations would not conflict with state law or Charlottesville's municipal grievance procedure. Ms. Hudson and the City Attorney also affirmed the need to the Board's procedures to clearly specify that the Board will not investigate criminal complaints.

Councilor Payne affirmed that the issue of the Board's role in disciplinary actions, along with the need for more information about implementation (costs, staffing, procedural details) were of concern to the Council. Such concerns did not necessarily reflect opposition.

Public Comment Session I

Harold Folley – Mr. Folley stated that the City Council should do have the same degree of commitment as the General Assembly and approve a strong oversight model. The CRB should push the City Council hard, to implement a strong model.

Michael Turriello – Mr. Turriello introduced himself as an Assistant State's Attorney in Baltimore, MD. He complimented the work group's April 26 presentation. He stated that having

¹ This is a very condensed summary; for the full discussion, the meeting can be streamed at <https://boxcast.tv/channel/arevwckqrofmm9t57myy>

an auditor/analyst is extremely important to strong oversight. He expressed support for the board investigating complaints but feels that Internal Affairs is important and should be preserved.

Walter Heineke – Mr. Heinecke reminded the Board that they work for citizens, not the City Attorney, City Manager or City Council. Members shouldn't be on the Board if they don't support the strongest model. He asked the Board and Council to please find the political will to vote for strong oversight despite not having perfect information.

Katrina Turner – Ms. Turner introduced herself as a member of initial Board. She stated that she had a great deal of difficulty as one of two African American women on the original Board. She stated that she filed a complaint with the Charlottesville HRC that has not been addressed in over two years, and that police are cooperating to get each other out of misconduct charges. She strongly urged the Board to present legislation to the City Council and see what they will do; not to hesitate because they might disapprove.

Status of Complaints

Chair Bellamy reported that this year the Board has received 10 complaints, one directly, nine from CPD complaints. Six have been closed, four are open, with none having exceeded the 75-day time limit. Member Carpenter asked for a breakdown of complaints by type of incident, and Chair Bellamy said he would furnish that information.

Update on Executive Director Process

Chair Bellamy stated that he was recusing himself from this discussion and from any Board activities associated with the selection of an Executive Director because he is a candidate for the position. He called on Vice Chair Mendez to preside over this item of business. The City Manager stated that there were 63-64 candidates for Executive Director. He proposed an approach where 5-6 semi-finalists chosen by the HR department would be interviewed by representatives from his office, the CPD, private citizens, and two Board members. That panel would then choose 2-3 finalists who would be interviewed by the Deputy City Manager and two board members. That panel would then discuss their recommendations with the City Manager and, if the City Manager chooses a candidate other than that favored by the Board members, he would provide written justification for doing so. He requested that the Board provide priorities and desirable qualifications for the Executive Director position to aid in the screening process.

Mr. Mendez then noted that Members Fracher and Carpenter had volunteered to be interviewees and asked if there were any more volunteers. Member Watson said he would like to participate in interviews as well. Ms. Carpenter then asked whether Member Gilmore would also like to be involved, and she agreed that she would, at which point, Ms. Carpenter withdrew her name from consideration. Noting that there were three volunteers (Fracher, Gilmore, and Watson), City Manager Boyles suggested that the three members could rotate their participation in the two rounds of interviews, and Vice Chair Mendez made a motion to that effect. Ms. Carpenter said that she had previously encountered difficulties with similar arrangements, the Board should select two interviewers, and that Ms. Gilmore should be automatically included as a member of an underrepresented group. Member Watson indicated that he had no objection to rotating interviews. The motion was seconded and passed (Fracher, Mendez and Watson in favor,

Carpenter and Gilmore opposed.) Mr. Mendez asked the Board members to share their recommendation for qualifications with Mr. Fracher to forward to the City Manager.

Chair Brown proposed a motion to extend the meeting until 9:00. In favor: Brown, Fracher, Gilmore, Mendez, Watson; Carpenter opposed.

Update on Hearing Procedures

Chair Brown indicated that the hearing procedures had been posted for 30 days, and that comments had been received from a member of the public and Peoples Coalition. The Board's independent Counsel asked if the current draft incorporate changes suggested by the City Attorney? Chair Brown stated that the draft would not be finalized at this meeting; concerns related to limitations on parties filing complaints, methods for assuring confidentiality, eliminating cross-examination, and other public hearing requirements remain to be addressed. Specific concerns have been communicated to Counsel. Ms. Hudson stated that she will incorporate all comments for next review draft to be shared with the City Attorney.

Other Business

Member Gilmore requested time to speak: She stated that she strongly supports having an Auditor because having one would facilitate changing inequitable policies. Who would not want audit power? She stated that some people don't want change, but "we want change." She stated that people don't know a lot about the Board and because of that, nothing has changed. Chair Bellamy reiterated that strong oversight would include both an auditor and investigative power.

Public Comment Period #2 –

Jeff Fogel – Mr. Fogel noted that he is an interested party in the Board's first hearing, which has been pending for nine months. He strongly cautioned the board that "lawyers" should not make key decisions related to oversight. The Board needs to hold substantive discussions and then tell the lawyers we want. For example, do we want to allow cross-examination? Allow 3rd party complaints?

Don Gathers – Mr. Gathers Cautioned that many people in Charlottesville and the city government do not the Board to succeed. "Lets get it done, get something concrete in place, that citizens can feel comfortable with."

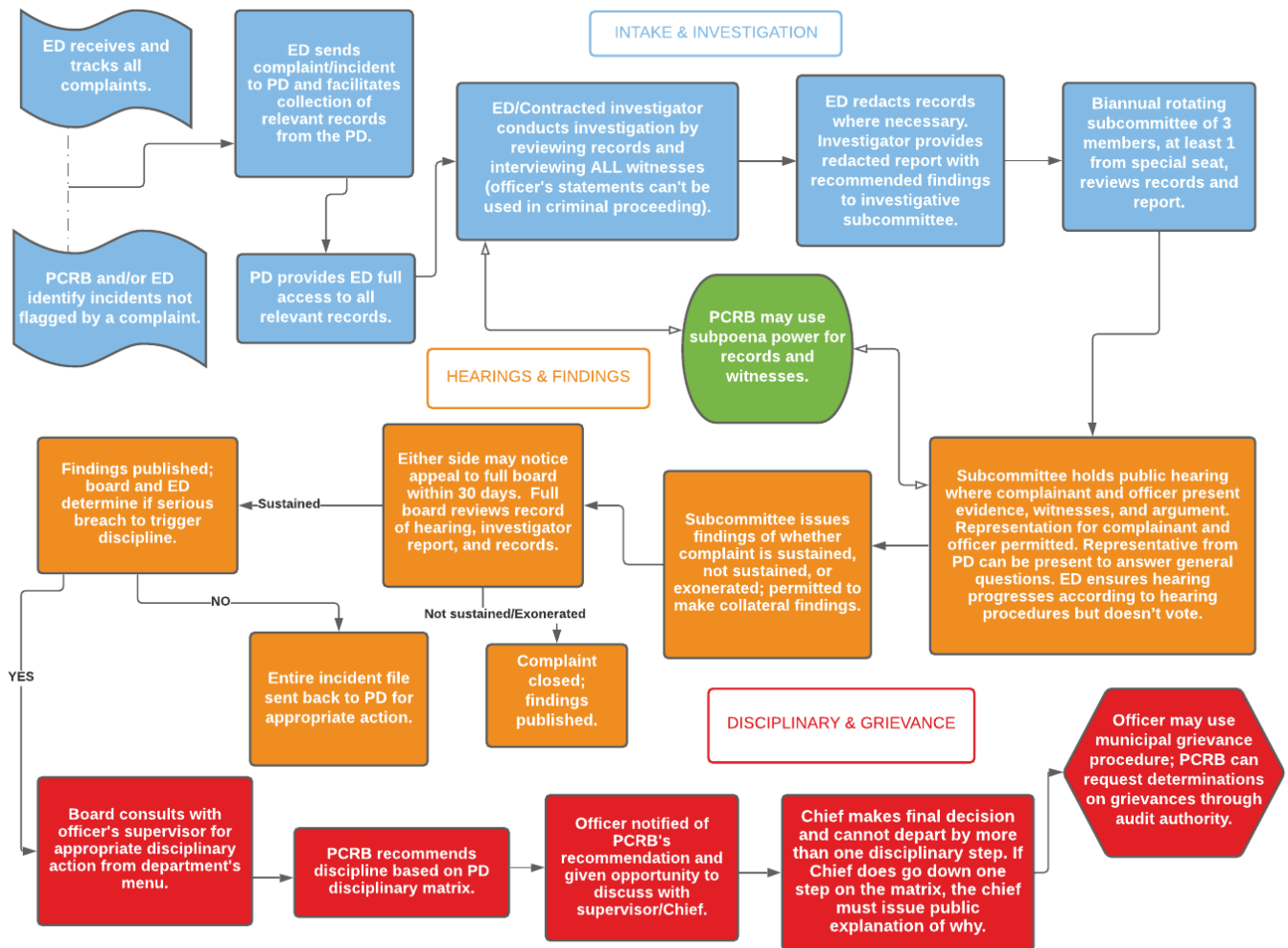
Upcoming Training Events

Chair Bellamy announced that the last NACOLE training session would be presented in June on a date that has yet to be established.

The Board voted to adjourn at approximately 8:55 P.M.

Next Meeting: June 10, 2020 at 6:30

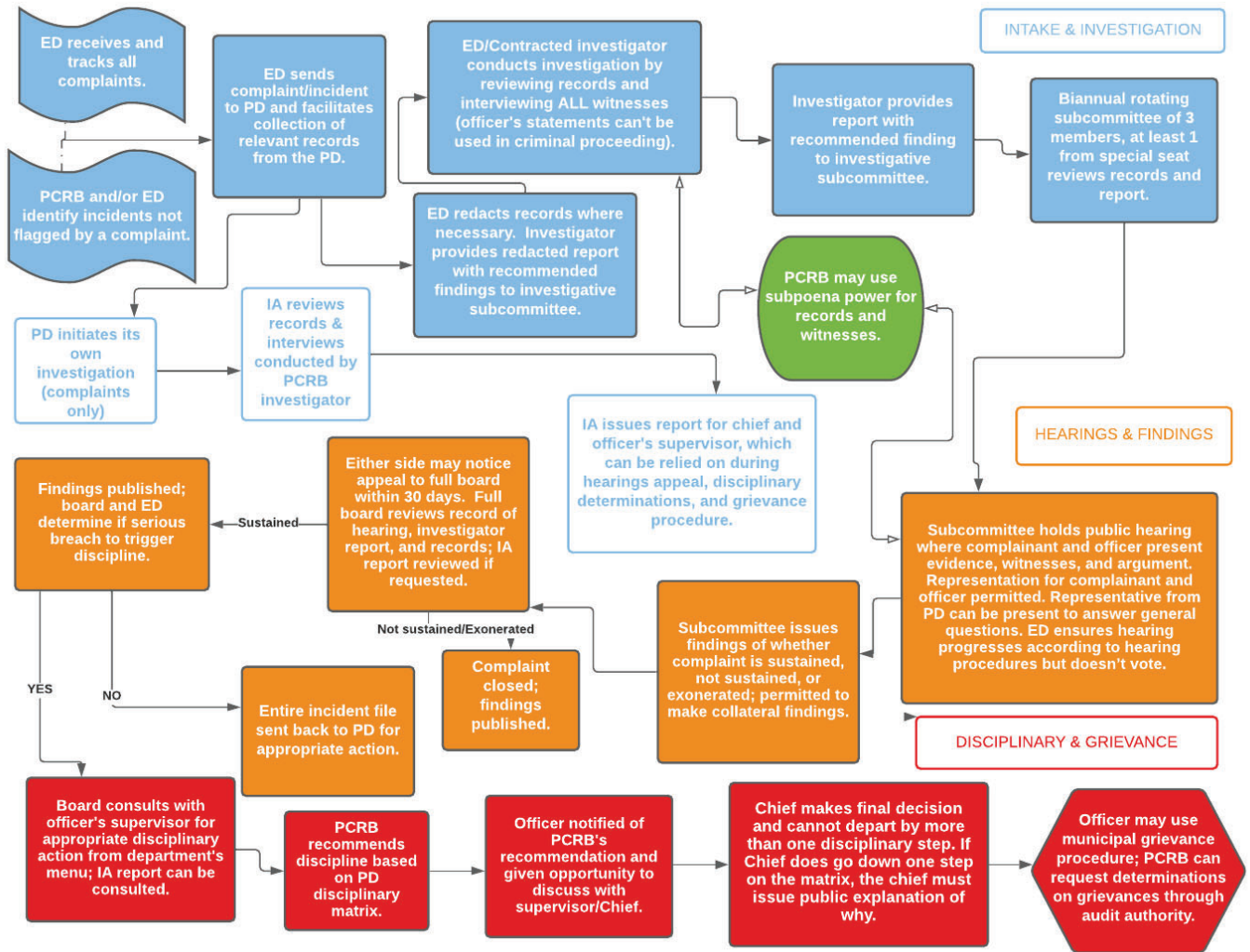
INDEPENDENT INVESTIGATION: NO IA MODEL



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PROS	CONS
Board sees and investigates all complaints	Some light infrastructure would need developing (New ED can help with this)
Develops open line of communication with community	Online complaint system to be developed and requires some funds
Police do not investigate themselves in any circumstances dealing with community incidents	
Creates transparency on what the police are doing in the community	
Info gained from investigations informs policy review	
Simple, because no police involvement	
Money from IA traditionally used for these investigations can be transferred from PD budget to PCRB	
The cons are actually pros – building infrastructure at the beginning to make an already simple process more streamlined will ensure the PCRB retains its investigative authority	

INDEPENDENT INVESTIGATION: PARALLEL IA MODEL



INDEPENDENT INVESTIGATION: PARALLEL IA MODEL

PROS (Same as Non-IA Model)	CONS
Board sees and investigates all complaints	Not simple: 2 bodies conducting same investigation
Develops open line of communication with community	Witnesses must undergo interviews more than once
Creates transparency on what the police are doing in the community	Police are investigating themselves for community incidents and those potentially biased investigations will impact hearings appeals, disciplinary determinations, and the ultimate grievance process decision.
Info gained from investigations informs policy review	More expensive – the City has to pay for 2 investigative units
Development of some infrastructure to ensure PCRB retains investigative power in the future	2 different set of records for the PCRB to sort through, one of which not through a neutral investigator (the PD)
	Potential issues with data-collecting and sharing between the two entities
	Less (or no) community trust in this process