

Police Civilian Review Board Meeting
May 13, 2021 at 6:30 p.m.
Agenda
<https://www.charlottesville.gov/zoom>

- I. Call to Order (Bellamy Brown, Chair)
- II. Agenda Approval
- III. Adoption of Minutes
- IV. Public Comment (3 minutes per speaker)
- V. Status of Complaints
- VI. Update on Executive Director Process
- VII. Public Comment (3 minutes per speaker)
- VIII. Hearing Procedures Discussion
- IX. Discussion of Bylaws and Ordinance Issues
- X. Public Comment (3 minutes per speaker)
- XI. Upcoming Training
- XII. Adjournment

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

City Council – Police Civilian Review Board Joint Work Session Minutes

Date: April 27, 2021

Scheduled Time: 5:00 p.m.

Location: Virtual/Electronic Meeting

Board Members Attending: Bellamy Brown, Bill Mendez, Nancy Carpenter, Dierdre Gilmore, James Watson, Jeffrey Fracher, Phillip Seay

City Manager/Staff: Chip Boyles, Maxicelia Robinson

Guests: Kaki Dimock

Mayor Nikuyah Walker called the city council to order at 4:58 p.m.

CARES Funding Allocation Resolution discussed by city council, one reading.

Mr. Boyles is seeking city council approval to transfer from public safety and transfer to emergency assistance program. Currently out of funding to help affordable housing assistance. Would like to use funding to bridge gap.

Councilor Hill moved to adopt CARES Funding Allocation Resolution, Councilor Snook second.

Resolution passed, 5-0.

Chair Brown called PCRБ meeting to order.

Chair Brown stated the purpose of the joint session is to have a formal discussion with City Council regarding SB 5055 and its implementation locally by the July 1 timeframe.

While PowerPoint presentation was being prepared, Mayor Walker thanked the Board for its work and for serving our community.

Vice-Chair Mendez presented via phone the Board presentation to City Council, in two parts (see posted on PCRБ website).

After the presentation concluded, Mayor Walker opened the meeting for public comment.

Public Comment Session I

Sean McGowan – Division Director of the Virginia Police Benevolence Association, membership representation over 7k in Virginia. What's glaring about the presentation is that everyone is included except the officers who are on the ground. Would like to be involved in the discussion; and hope to be included in the discussion.

Kate Fraleigh – Support PCRB making budget recommendations, and getting annual report of police expenditures.

Sarah Burke – Focus on investigative element. Disagree that PCRB should only investigate serious misconduct; the PCRB should be able to investigate all misconduct and complaints, and have full investigatory power. Police officers often exonerate their colleagues' misconducts. George Floyd's initial report is an example. In Charlottesville, Officer Jaeger was initially cleared, and later found guilty in a court of law. We do know that we cannot rely on police to investigate their own conduct. That should be the job of an independent investigative arm of the city through the PCRB.

Jeff Fogel – We are quite aware that members of council are familiar with the proposal being put forward by the civilian review board. What we don't know is the opinion of the members of council. And it seems to me more appropriate that we make comments after we have heard the opinions and views of those whose opinions and views we don't know. Mayor Walker informed Mr. Fogel that there is another comment section of the meeting. Mr. Fogel continues, okay, well let me state if the national PBA had been a responsible organization, we wouldn't be here today.

Walt Heinecke – Thanks PCRB members and Mr. Mendez for the great overview; and thanks council for listening to this important issue. Went back and looked at the council video in 2017 when resolution was proposed; and several counselors were adamant about creating a strong CRB to handle these kinds of problems. Later, it seemed like council walked back from that commitment. Heard from councilors about being sued because there was no enabling legislation. Now legislation exists, and the concern about being sued no longer exists and it's a matter of political will. It's not about any particular police chief; it's about every police chief that's going to come to Charlottesville over the next fifty years. This is about the future, as well as the present; and I hope you will think about those kinds of things when you're thinking of supporting this new ordinance. I hope this will be enabled by the July 1 date.

Mayor Walker clarified to the public that there will be an additional opportunity for the public to speak after city council and PCRB discussion.

Mayor Walker opened the floor for councilor discussion. Acknowledge presence of Chief Brackney and Acting City Attorney Lisa Robertson, and City Manager Chip Boyles.

Councilor Snook inquired whether any PCRB across the country has the type of disciplinary power being sought in the new ordinance. Contacted NACOLE in December, and was told it could not come up with any.

Vice-Chair Mendez conveyed that the closest is Chicago.

Chair Brown interjected in a Washington Post, the City of Denver does have a model that includes the disciplinary function.

Councilor Snook inquired whether there is any place where the chief of police is cut out of the disciplinary process in serious cases.

Vice-Chair Mendez conveyed there isn't and acknowledge not finding one either. The legislation requires that the Board consult the police chief and/or the supervising officer before making any disciplinary decisions. It would be in rare situations where the Board would impose discipline different for that recommended by the Police Chief. Under the new ordinance, it opens up and democratizes the process under which disciplinary decisions are made.

Chair Brown there is an aspect of the law in section b (3) that states General Assembly intent is after consultation.

Mayor Walker sought clarification of what Chair Brown was referencing. Chair Brown clarified HB 5055, 9.1-601.

Councilor Snook inquired whether once the PCRB deems an allegation of misconduct a serious incident would the CPD no longer investigate. Vice-Chair Mendez confirmed. Snook inquired how the PCRB would get a forensic examination.

Chair Brown interjected that the General Assembly intent was that the Board be an administrative body, and does know that the powers extend to matters of criminality such as needing a forensic examination. Vice-Chair Mendez confirmed.

Councilor Snook inquired whether he misunderstood the draft ordinance in requiring that once independent investigatory power kicks in, it pre-empts any other CPD investigation. Vice-Chair Mendez conveyed Snook has an accurate interpretation. However, the PCRB does not want to be involved in criminal investigation under any circumstance. Vice-Chair Mendez conveyed under 2-465, circumstances that trigger investigation are listed.

Councilor Snook conveyed being unable to move past when is it determined that a criminal investigation is to commence under the proposed ordinance independent investigation function. How is the PCRB going to get police officers to talk to investigators? Vice-Chair Mendez conveys the police retain Garrity protection.

Chair Brown stated under Garrity it's made in application of the threat of dismissal, which the PCRB would not have the capacity to do. Snook inquired how PCRB could have binding disciplinary authority, but lack dismissal authority.

Vice-Chair Mendez – excluding criminal matters, the PCRB would have the power the make recommendations on disciplinary matters. The PCRB would be responsive to any consultative advice by the chief of police or supervising officer.

Mayor Walker interjected that a better use of the time remaining is to not try to find holes in the ordinance; but to find what's missing in conjunction with operating procedures.

Councilor Snook conveyed his support for a review board, but has reservations of creating a disciplinary board. Council is being asked to break new ground and do something that has never been done in Virginia, and few models nationally. Council and PCRB must be careful when taking away powers that police officers currently maintain.

Chair Brown interjected that the General Assembly has completed substantive due diligence in making the requirement of "after consultation," and the work that's being done on behalf of the public should not be tanked as a whole.

Vice-Chair Mendez stated that the ordinance would involve consultation with the Board's legal counsel to address legal issues similar to the ones Councilor Snook raised. Additionally, the legislation does not discuss review boards, it discusses oversight, and the Board's name should be changed to reflect that.

Member Fracher conveyed it's important that when there's a criminal matter, it's out of the PCRB's authority.

Mayor Walker interjected in her experience, whenever the Commonwealth Attorney's seeks an investigation, it's always done by the police department. And one of her concerns is what does that mean if the PCRB is not going to investigate criminal matters, but also have independent investigatory authority of the police when the police must cease investigations.

Member Carpenter conveyed that she has no problem going past the July 1 timeframe for an ordinance to be implemented and have a deeper dive. Councilor Hill agreed, conveyed that expectations should be managed regarding timeline. Additionally, getting more feedback from law enforcement. There is a concern that there is a lack of collaboration. There is a shared desire for police accountability.

Chair Brown conveyed that Chief Brackney and Acting Attorney Robertson were sent documentation throughout this process in showing inclusion; only line officers were not included. Vice-Chair Mendez conveyed that the Board has made attempts to reach out via phone calls and emails under Covid conditions.

Chief Brackney conveyed that the conversation had was requested by Vice-Chair Mendez and Chair Brown vs. a meeting which Chief Brackney requested. Chair Brown conveyed there was a discussion regarding independent investigatory authority (Chair Brown intertwined with disciplinary) in which Chief Brackney was against being taken out of the investigation process.

Chief Brackney conveyed that forensics would be needed in investigations, and it's still not clear how the Board would go about getting that information in investigations. How does that Board get information from officers when the Board can't give Garrity? Witnesses don't have to engage, so how can a system be created to obtain desired outcomes.

Councilor Snook interjected that both council and the board should be aware of the impact of the Procedural Guarantee Act when crafting the ordinance update.

Chair Brown understands that the legislation provides for the grievance process to be handled solely by local government, and the Board would only be engaged in those powers specifically outlined in the legislation.

Vice-Chair Mendez conveyed that both the Acting City Attorney and the PCRB's legal counsel have reviewed the ordinance draft, and neither have raised the legal issues Chief Brackney raised. There is something that needs to be resolved and the Board will do its best.

Councilor Hill conveyed that there are a good number of details that need to be worked out between the overarching ordinance and the operating procedures. Vice-Chair Mendez concurred.

Chair conveyed it's really a two-step process. The overarching ordinance, although accepted, would have no effect until the operating procedures are adopted, and the thought is that it would be done stagnantly due to the requirement of capital needed to fund the procedures.

Vice-Chair Mendez stated that the strategy in drafting the ordinance was to create something concrete that could be discussed.

Councilor Hill conveyed that she could see the benefit in the overarching ordinance being approved to set the guidance before engaging work that may ultimately not be used in the final ordinance.

Council Payne raised the issue of privacy concerns related to whether citizen's private information would be FOIA exempt. That appears to be a big barrier to people being willing to lodge a complaint or participate.

Chair Brown conveyed that the FOIA question would be covered under executive director when he or she is placed.

Councilor Payne stated that it's hard to unentangle the ordinance from the operating procedures; for instance, in conjunction with employment law. Chair Brown inquired whether Councilor Payne is thinking the ordinance and operating procedures should be presented simultaneously. Councilor Payne concurred. Chair Brown reiterated that the operating procedures is what triggers the effect of the ordinance; and it would go a long way toward showing the community that city council is serious about something being done.

Chair Brown introduces the Charlottesville Disproportionate Minority Study.

Councilor Payne conveyed the example of an independent investigation being unentangled from operating procedures. FOIA, employment law, how evidence will be gathered are areas mentioned.

Chair Brown – it appears we're stuck on the independent investigation and the disciplinary powers; there are six other areas in the legislation that don't appear to have objections. In those areas headway can be made, and the independent investigation and disciplinary power can be worked on going forward.

Member Watson believes a list should be created with all of the potential challenges to disciplinary power, independent investigations. What options are available for working out the differences with the assistance of the City Attorney and the PCRB's legal counsel. Continue multiple work sessions, with continued revisions.

Member Fracher conveyed that its important the city council and the PCRB demonstrate that we, as leaders, are doing something with substance due the skepticism his encountered in the community. Chair Brown concurred, and cited some statistics from the city's Disproportionate Minority Study.

Member Carpenter inquired whether concurrent hearings need to be implemented; is it possible to have conjoined hearings? Is there a way to look at a model that takes into consideration the cost of human resources?

Councilor Hill sees rebuilding trust between law enforcement and the community. What does that look like? How are those relationships rebuilt?

Chair Brown agreed; and conveyed that the current 2019 ordinance does nothing for the PCRB in exercising any function. The Board's current work requires a lot of benevolence on behalf of Chief Brackney and the CPD to get the information that the PCRB needs to report out to the public.

Vice-Mayor Magill inquired what the auditing function would entail, and how would that intersect with the duties of the Board. Has challenges with theoretical thinking as opposed to concrete. Is willing for it to take longer or have a staged rollout. Hesitant to go the PCRB route when citizens don't have a privacy guarantee. Concerned about current investigation process. How is it being handled? Inquired about the current complaint under a review request. What criteria is used to select investigators? Concerned about how much work is being identified to handle. How is it ensured that enough members exist to have quorum? Can't wrap head around powers until its understood how powers will be executed.

Vice-Chair Mendez said that the auditing function is listed in 2-468 of the draft. Feedback from NACOLE and other experts in the field is that generally people are less reluctant to go to an independent investigator or go the Board than they are to the police. On the current complaint form a citizen could forget to check

the box to send the complaint to the PCRB. There is no current investigation process, the PCRB only reviews. Simple answer as to how investigators will be chosen is by competitive procurement.

Vice-Chair Mendez re-introduced Board members having a stipend in order to make the Board more diverse.

Chair Brown conveyed that ideally the Board would be a governing board; however, due to not having an executive director, the Board has had to roll up its sleeves to get some of the policy aspects moving forward. The Board is at a point where the operational aspect is significantly missing, and many of the questions will be answered once operations are in place. Currently, the complaints received have not been disseminated to the full Board; and the privacy aspect is still intact. No public information is being placed at risk at this point. Once the executive director is placed, he or she would answer the privacy related questions.

Councilor Magill inquires who conducts the hearing, and how is information kept private in those hearings.

Chair Brown conveyed that there is a public aspect to hearings, and a private deliberative aspect that takes place in closed session where some of the more sensitive information is discussed.

Acting City Attorney conveyed significant concerns about the availability of exemptions for members of the public who are reporting. She Spoke with Kim Rolla and Maisie Osteen, including discussions with Delegate Hudson and staff explaining what current exemptions are. The current exemptions fall under the police department; and they protect police officer personnel records and records of internal administrative investigations. As of now, cannot promise members of the public that information will be kept private. Those details will need to be worked out.

Member Watson inquired from Acting City Attorney whether the CRB could fall under protection.

Acting City Attorney discussed in her prior meeting and arrived at the conclusion that it would be a matter of interpretation. It might be appropriate to ask the FOIA Advisory Council for an interpretation. Current ordinance was written to include confidentiality agreement with Board to extend protection; and ensure police chief is the decider.

Chief Brackney clarified that the PCRB gets a copy of the complaint, not the investigative file, when a citizen opts-in to have the PCRB review the complaint. CPD does not complete complaints for citizens.

Acting City Attorney conveyed there will always be nuances to all of the issues at play. FOIA doesn't make anything legally confidential; additionally, a representative of the Board will need to make the decision on who will extend the protection.

Vice-Chair noticed in other oversight organizations the Chair is a custodian of documents; inquired whether that impacts FOIA. Acting City Attorney conveyed that does not affect whether a FOIA exemption applies. Other entities may be looking to Charlottesville to determine what matters the Board would seek to disclose. So far, we have not reached that point.

Mayor Walker has questions regarding how the current process is working operationally. Whether complaints all go to both bodies. Is there a website that's created? Does not want the Board to be able to decide by majority vote what is "serious." Would like to see collaboration between both PCRB and CPD throughout every step of the process.

Vice-Chair conveyed flexibility on the opt-out option given discussion.

Chief Brackney conveyed that CPD already completed website set up with chief, executive director, and internal affairs simultaneously receiving complaints. Citizens should have the option of not having their complaint shared with the PCRB.

Mayor Walker inquired how many people are opting out of not having their complaint sent to PCRB. Chair Brown conveyed 4-5 for 2021, and 2-3 for 2020. Inquired whether PCRB members have determined what a collaborative effort looks like, whether Commonwealth's Attorney needs to be brought in, etc. What does the structure of the independent investigatory function look like if resources are moved from the current structure? Is there a possibility of collaboration on recommending disciplinary power between the PCRB and Chief Brackney? How can the city move to where the community gains trust in the system?

Vice-Chair Mendez conveyed that executive director should be hired in order to maintain the requested level of communication and collaboration, supported by an auditor who will be a conduit in reporting.

Chair Brown interjected not solely looking at community trust in police, but also police trust in the CRB.

Mayor Walker has questions on the proposed model; and collectively will have to spend some time working through the model. Legal counsel should be available at the next meeting to represent the PCRB as opposed to solely the Acting City Attorney.

Acting City Attorney stated that the current ordinance is extremely restrictive in what legal counsel can provide advice on. Due to that, it's recommended to change the restrictive position, and allow legal counsel to provide more guidance.

Vice-Chair inquired whether 2-457 provides a broad interpretation of policy recommendations.

Chair Brown inquired whether its more effective to get the entire ordinance adopted, and allow the operating procedures to effectively be the stated trigger point for the powers. Acting City Attorney conveyed that's a matter to be decided between the PCRB and city council.

Member Watson inquired whether the modification would require a new scope of work for legal counsel. Acting City Attorney conveyed it would not.

Mayor Walker opened the floor for second public comment period.

Harold Folley – commend the PCRB for doing the work it's doing. Chief Brackney has done a wonderful job of making the CPD more transparent. I have been here fifty years, and I know that you will not be here another fifty years. What I'm saying to city council is we have to get this right. A lot of people talk about their experiences; the reason why I'm so passionate about police accountability is when I was 18 or 19, I had a police officer throw me in a patty wagon, stick a gun to my head and tell me he was going to blow my head off. How do we as community move forward without being pigeon-holed from the things we can do.

Kate Fraleigh – a question; does the exemption carry from CPD to the PCRB? Chief Brackney you have said twice that you copied it from Fairfax, but I checked and could not find them. Chief Brackney conveyed it would be found under the Fairfax County auditor; and the way the current form is set up is based on that model.

Roseia Parker – city council has had plenty of time to do the research to find out what models would work for Charlottesville. City Council could have consulted NACOLE to have a people model. The longer you live in stagnation, there will never be any trust from the community. As a victim of ten police officers on

me as a female, from officers not being correctly trained; and being abused, I have made complaints to CPD that was never taken care of. There was more pushback than taking time to help the community.

Don Gathers – there appear to be hang ups on semantics. Charlottesville should be viewed as a corporation; the citizens as employees of that corporation; the police department could be viewed as management; and the CRB’s job is to function as the union that represents the employees. I don’t think you as representatives need to have a high level of focus on the rights of police; that’s what police unions and benevolence associations are for. The focus is skewed and there’s a need to hammer down on what the citizen’s need.

Gloria Beard – I’ve learned a bit tonight about what’s going on. Want to make a comment about the first public comment about police being more involved. I was on the original board and I have always said with more transparency and more union this city would be a better place. A lot of older people like myself feel lost; they don’t have a voice, and nobody cares. They have to see the police out here bringing unity in the community. We have to have a relationship with police officers.

Sarah Burke – liked the idea of a full-day work session; and Ms. Robertson’s idea of expanding legal counsel powers. Highlight importance of an auditor role. Under the current ordinance, there is no capacity to review sustained complaints where discipline was imposed. CPD website lists information from the police department perspective as opposed to the community perspective. We should be expanding the PCRB’s access to information in policing.

Walt Heinecke – I realize you have to due your due diligence. However, your comments are starting to sound the same as when the initial ordinance was watered down. I’m seeking a commitment by councilors to support the General Assembly powers. I would like you to reframe, rethink how you’re viewing policing and social justice. Generally speaking, the community is seeking you to take leadership on this.

Teresa Hepler – LAJC, Thank you, Bill for all of your work on this ordinance. I’m not getting a sense the council is interested in granting the people any real power.

Mayor Walker is not seeking public trust in the police department. I’m speaking of operating procedures. I believe this can be funded under a state organization that takes local government out of the process. I don’t believe anyone should be asking another person to vote on this ordinance blindly. We don’t want to say police can’t do investigations, and later find that the only people who can do the investigation is someone with a police background. We need to put something together that works.

Chief Brackney suggested achieving small wins to show that the Board can be successful. There are current powers that the PCRB could utilize and then scaffold in the General Assembly legislation; the power to review complaints, and to do community engagement. What does a cooperative model look like in other localities across the nation? Whatever systems are put in place, we have to ensure someone does not later roll them back.

Mayor Walker inquired how do we get there? How do we make sure this works well?

Chair Brown interjected that the 2019 ordinance under which the PCRB currently operates, does nothing for the Board operationally; heavy reliance upon the benevolence of the CPD.

Vice-Chair Mendez conveyed that the models provided by Chief Brackney were purely advisory; they are not like anything granted by the General Assembly. Extensive research has gone into the various available models, and there is more research that says it can work as opposed to it can’t.

Councilor Payne brought to the floor the idea of next steps, additional meetings; including PCRB legal counsel and expanding powers available for representation. The issue of FOIA is a relevant point related to recommendations. It's a real risk that if due diligence is not done, it could create greater problems. There are not enough details for council to vote on tonight as to whether this will be successful. There's more work to be done.

Mayor Walker asks for closing comments.

Vice-Chair Mendez agrees with a full-day work session.

Mayor Walker believes multiple work sessions will be necessary, two to start. The disciplinary aspect needs to be discussed first, and then other matters can be discussed.

Councilor Hill believes collaboration should be occurring with more police officers.

Chair Brown asked Councilor Hill to clarify what she meant by collaboration; is solely Chief Brackney; a number of line officers. Councilor Hill would leave it up to the chief to determine. Clearing up the dialogue between PCRB and CPD. Chief Brackney conveyed defining what problem are we trying to solve? There would be much more engagement by those who would be involved.

Councilor Payne stated it would be helpful to frame the discussion around each specific power as opposed to policies and procedures. I don't see having a productive conversation if we're separating the operating procedures from the powers in the ordinance. Councilor Hill and Vice-Mayor Magill concurred.

Vice-Chair Mendez believes draft procedures with annotations could be created and distributed to members of council.

Mayor Walker conveyed that if the police are not involved in the investigation process, the independent investigation process would need to be really clear. Councilor Snook concurred. Offered services to review drafts prior to publication. Vice-Chair Mendez accepted.

Mayor Walker believes having two readings for legal representation change is cumbersome. Acting City Attorney conveyed that city council could waive the second reading. Acting City Attorney will research whether the change is a possibility for occurrence at the next city council meeting.

Meeting adjourned.

REORGANIZATION OF CIVILIAN REVIEW (OVERSIGHT) BOARD BYLAWS (OPERATING PROCEDURES)

Bylaws	Operating Procedures	Changes
ARTICLE 1. NAME	ARTICLE 1. NAME	Change to Police Civilian <u>Oversight</u> Board
ARTICLE 2. PURPOSE	ARTICLE 2. PURPOSE	Unchanged, except “investigate” is included
ARTICLE 3. BOARD MEMBERSHIP AND TERMS OF OFFICE	ARTICLE 3. BOARD MEMBERSHIP AND TERMS OF OFFICE	Unchanged, except to specify grounds for Board member removal
ARTICLE 4. CHAIR, VICE CHAIR, OTHER OFFICERS AND COMMITTEES	ARTICLE 4. CHAIR, VICE CHAIR, OTHER OFFICERS AND COMMITTEES	Unchanged
ARTICLE 5. QUORUM, VOTING, MEETINGS, MINUTES, AND ETHICS	ARTICLE 5. QUORUM, VOTING, MEETINGS, MINUTES, AND ETHICS	Unchanged, except Board may meet electronically during health emergency; reference or incorporate Sec. 2-471 (training)?
ARTICLE 6. STAFF	ARTICLE 6. STAFF	Pull in language from Ordinance Sec. 2-454, -456, regarding Executive Director, Auditor, and independent counsel
ARTICLE 7. BOARD AUTHORITY TO REVIEW INVESTIGATIONS	--	Unnecessary; stated in Ordinance
ARTICLE 8. BOARD REVIEW PROCEDURES	ARTICLE 7. COMPLAINTS	Board receives all complaints; describes procedures for initiating investigation; sections related to complaint review and hearings moved to section 10
ARTICLE 9. COMPLAINTS	ARTICLE 8. INVESTIGATIONS	Fill in gaps not covered in Ordinance Sec. 2-460; investigator qualifications, scopes of work, avoidance of COI (a lot of 2-460 could be put here)
ARTICLE 10. INVESTIGATIONS	ARTICLE 9. DISCIPLINARY AUTHORITY	Definition of “serious” misconduct; procedures for holding disciplinary meetings, hearings, consultations with chief, standards of proof, deliberation and decision making; issuance of findings
	ARTICLE 10. HEARINGS	New separate section; describes hearing procedures in support of complaint review, investigation, and disciplinary actions; clarifies subpoena process
	ARTICLE 11. AUDITS	New section; move audit language from Sec. 2-468 here? Add oversight of IA investigations
ARTICLE 11. POLICY REVIEW AND ANNUAL REPORT	ARTICLE 12. POLICY REVIEW AND ANNUAL REPORT	Unchanged; reference or incorporate Sec. 2-466
ARTICLE 12. PUBLIC ENGAGEMENT	ARTICLE 13. PUBLIC ENGAGEMENT	Pull in language from Sec. 2-471
ARTICLE 13. EFFECTIVE DATE OF THE BYLAWS; AMENDMENT OF THE BYLAWS	ARTICLE 14. EFFECTIVE DATE OF THE BYLAWS; AMENDMENT OF THE BYLAWS	Unchanged

SPECTRUM OF INVESTIGATORY OPTIONS

Approach to Investigations	Implementation Details	Advantages	Disadvantages
<p>1. Board Investigates all complaints and serious Incidents</p>	<ul style="list-style-type: none"> Board receives all complaints Initiates investigations of all complaints through staff investigator or contractor Complaints meeting “serious” criteria are identified for Board disciplinary action 	<ul style="list-style-type: none"> Board sees all complaints “Police do not investigate themselves” Board sees all evidence every time; can spot trends, deviations from policies more easily Simple: only a single “pipeline” of investigations “Serious” complaints can be identified anytime during an investigation Improved public confidence 	<ul style="list-style-type: none"> Cost and staffing higher than other alternatives; around one additional FTE for full-time investigator, or equivalent contractor time Board would need to build its own complaint and evidence management infrastructure (more costs) IA is already set up and staffed to do routine investigative work
<p>2. Board investigates subset of complaints deemed serious (current draft ordinance)</p>	<ul style="list-style-type: none"> Board receives all complaints Investigation Committee applies defined criteria to determine which complaints merit independent investigation Board initiates investigation of selected complaints Investigations conducted by independent professional investigators 	<ul style="list-style-type: none"> Board sees all complaints Board focuses investigative resources on the most serious complaints, leaves the rest to IA Independent investigations would be tailored to generate evidence to inform “binding disciplinary action” Rapid, focused response to “serious” complaints 	<ul style="list-style-type: none"> Complicated; there would be two streams of investigations related to misconduct Would need to define criteria for what merits independent investigation Deciding when to take over evolving investigations would not be straightforward Information transfer issues from IA to be resolved
<p>3. Board does not investigate complaints or incidents (except when IA investigation is defective)</p>	<ul style="list-style-type: none"> Board receives all complaints IA conducts investigation of all complaints and incidents Civilian Auditor monitors day-to-day operation of IA, identifies “serious” complaints for Board disciplinary action Auditor reports to Board when he/she considers IA investigation to be incomplete or defective (Board reserves right to investigate <u>in limited circumstances</u>) 	<ul style="list-style-type: none"> Board sees all complaints Capitalizes on existing IA structure and procedures One stream of complaint processing Can identify “serious” complaints for disciplinary attention as they arise, anytime during investigations Inexpensive, convenient as interim measure 	<ul style="list-style-type: none"> Leaves most investigations in the hands of IA (community distrust) Requires strong, fully empowered Auditor and high degree of police cooperation Precedent of Board not investigating complaints may be hard to overturn, Option may be seen as “business as usual”