

1. Order of Procedure for Mock Hearing

The hearing shall consist of two phases main phases: the **Presentation of Evidence**, and **Board Deliberations**. The Table below summarizes the elements of the hearing and (highly tentative) estimates of the duration of each phase. During the **Presentation of Evidence**, the Board will hear and discuss the evidence in the file and presented by parties related to the alleged police misconduct and the Internal Affairs investigation. During **Board Deliberations**, the Board will evaluate the evidence presented in the case file and the hearing, evaluate the quality and completeness of the investigation and discuss findings related to the investigation.

Proposed Order of Hearing

Procedure	Elements	Lead/Content	Suggested Duration (Minutes) ¹
Ground Rules Review		Examiner explains order of proceedings, reviews possible decisions, preponderance of evidence standard	~5
Presentation of Evidence			
	Summary of investigation	Lt. Gore or other IA spokesman	10
	Statement by Complainant/ representative	Role player (complainant or “brother”)	5
	Statement by Witness ²	(In this hearing there will be none)	--
	Statement by Subject Officer ²	(Not in this hearing)	--
	Questions from Parties, Board, and Examiner ³	Questions from parties in writing will be screened by Examiner; questions from Board can be asked orally upon recognition by Examiner. Examiner is free to ask clarifying questions.	20
Board Deliberation			
	Structured discussion of thoroughness, completeness, objectivity, impartiality, accuracy,	See Section (6)	20
	Structured discussion of finding options	Section (6)	20
	Polling of Board regarding preferred findings	Board members explain how they might vote in a “real” hearing	10
	Discussion of outstanding issues, minority opinions, policy recommendations		10
Summary comments from the Board			?
Public comments(?)			?
		Time permitting	?

2. Role of the Hearing Examiner

The major duties of the hearing Examiner are to assure adherence to procedures, the smooth flow of the proceedings, and to act as a “filter” or “buffer” between the parties and between the Board and the parties. The Examiner has final say in what questions are asked of which party. The Examiner will:

- Call the hearing to order
- Give background on the objectives procedures of the hearing
- Preside during the meeting to assure that the order of proceeding is followed
- During the presentation of evidence:
 - Ask clarifying questions as necessary¹
 - Screen questions from parties and ask them of the appropriate parties/witnesses at his discretion
 - Recognize Board members who wish to ask questions during and after the presentation of evidence
- During the Board Deliberations:
 - Guide the discussion of thoroughness, completeness, accuracy, etc. of the investigation
 - Guide the discussion to elicit the Board’s finding in the case
 - Poll the Board on their preferred findings
 - Lead discussion of minority opinions, possible policy recommendations
- Adjourn the hearing

3. Presentation of Evidence

During the presentation of evidence, the Examiner shall ask for statements from, in order:

- the CPD IA representative, who shall present a summary of the complaint, the IA investigation of the complaint, and review the basis for the IA finding
- the complainant, who may summarize their experience during the incident, and state the basis for appealing the IA finding
- witnesses identified by the complainant (if any)
- the subject officer (if they are in attendance; statements are voluntary)

Questions may be asked of the parties to the hearing as described below.

4. Questioning of Parties

During the presentation of evidence, questions from other parties to the hearing or their representatives will not be permitted. The Examiner may ask clarifying questions at his discretion, generally waiting until the end of each statement. Board members should not ask questions while statements are being given but may ask clarifying questions at the end of any statement. Board members wishing to ask questions must be

¹ Examiner should ask questions sparingly, being careful not to bias or influence the outcome.

recognized by the Examiner, who at his discretion may ask the question posed by the Board member to the party in question.²

At any time during the presentation of evidence, parties to the hearing may forward questions in writing to the Examiner (chat function in Zoom?) When all parties and witnesses who wish to speak have been heard, the Examiner will review questions posed in writing by the parties. He³ then may, at his discretion, pose some or all of the questions to the appropriate parties. Board members may seek to be recognized to ask questions of the parties.

5. Examiner's Discretion Regarding Procedures

The Examiner has final say with regard to maintaining order during the proceeding and conformance to rules of evidence and conduct.⁴ It should be remembered that the intent of the hearing is to allow free and complete statements by the various parties as well as candid and open deliberations by Board members. The Examiner should allow substantial leeway to parties when discussing emotional issues or personal experiences related to a police-civilian interaction, but should act to limit irrelevant, inflammatory, or abusive statements. In particular, complainants have never before had any opportunity to express their concerns related to alleged police misconduct in any public forum in Charlottesville, and may be inexperienced in public speaking. Generally, complainants and their supporting witnesses should be given the benefit of the doubt.

The Examiner may nonetheless interrupt any statement or question whenever in his judgement,

- It is not relevant to the case before the board,
- It is defamatory or insulting to any party, and without evidentiary value,
- The statement involves a threat of reprisal or physical harm, or
- Confidential information, or any information that must be redacted under Virginia law, is being, compromised.

Parties who repeatedly violate the above standards may be removed from a hearing. The Examiner should remain studiously neutral and refrain from expressing any personal opinion that would unduly affect the Board's decision process.

6. Board Deliberations

The Board will begin by reviewing the evaluation criteria in the Board's "Rubric" as they relate to the case at hand:

- Thoroughness⁵

² It's not clear from the wording of our interim guidelines whether only the Examiner can ask questions or if the PCRB members can also question the parties.

³ Intended to be gender neutral.

⁴ The new COB ordinance recommends compliance with rules of evidence specified by the Supreme Court of Virginia. However, it is intended that the COB hearings be as informal as possible, and the Examiner may use substantial discretion with regard to the conduct of the proceedings.

⁵ The listing suggests the desired order of topics; thoroughness and completeness might be discussed together(?)

- Completeness
- Objectivity
- Impartiality
- Accuracy

The Examiner will ask each Board member to briefly state their opinions on each evaluation criterion.⁶ Board members may defer responding or simply state their agreement with previous speakers. After each member has had opportunity to comment on each criterion, the Examiner shall open the floor to additional discussion as appropriate in his judgement. It is not expected that agreement will be reached on all aspects of the investigation, nor should the Examiner attempt to influence the discussion in favor of consensus, or towards any particular resolution.

The Board will then consider its options with regard to findings as defined under Section 2-461(e) of the 2019 ordinance:

1. The Police Civilian Review Board concurs with the findings of the Charlottesville Police Department investigation; or
2. The Police Civilian Review Board advises the City Manager that the Charlottesville Police Department investigation's findings are not supported by the information reasonably available to the Charlottesville Police Department and make further recommendations to the City Manager concerning disposition of the Review Request; or
3. The Police Civilian Review Board advises the City Manager that the Charlottesville Police Department's investigation is incomplete or unsatisfactory and provide the specific reasons for this finding; or⁷

The Examiner shall elicit opinions from each Board member about which finding they favor and the reasons for their preference. After each member has spoken, the Examiner will open the floor to all Board members for additional discussion. When the Examiner feels that the Board has reached a consensus, or that the Board members opinions have been fully explored, he will poll the members regarding their favored finding. The results of this poll will be the official finding of the Board.⁸

The Examiner will then ask the Board members whether the information presented at the hearing suggests that Board should make policy recommendation(s) to the Chief of Police and City Manager.

⁶ While this might be rather time-consuming, doing it this way assures that all Board members will have an opportunity to express an opinion. The same goes for arriving at findings.

⁷ There is another option in the ordinance that applies only to cases investigated by the Board that is not relevant for the mock hearing.

⁸ In an actual hearing, the Board Chair would then invite a member or members to draft a report to the City Manager and would invite members not agreeing with majority or plurality to write minority opinions.