

PROPOSED BYLAWS

I. NAME

The name of this Board is the **Police Civilian Review Board (the “Board”)** for the City of Charlottesville (the “City”).

II. MISSION

Mission Statement: The Board aims to provide objective and independent civilian-led oversight of the Charlottesville Police Department (the “CPD”) in an effort to enhance transparency and trust, to promote fair and effective policing, and to protect the civil and constitutional rights of the people of the City of Charlottesville.

To achieve its mission, the Board shall collaborate with and be assisted by professional Oversight Staff in pursuit of the following principles and objectives:

- ensuring that police officers act with integrity and treat *every person* with equal dignity;
- empowering and inspiring self-governance and a culture of mutual respect;
- seeking social and racial justice;
- engaging in community outreach and amplifying the voices of the socially, politically, and economically disenfranchised;
- listening to and building bridges between all stakeholders to find and develop common ground and public purpose;
- championing just, equitable, and legitimate policing policies and practices; and
- processing complaints, investigating incidents, reviewing police practices and internal investigations, issuing findings, writing public reports, and making recommendations.

III. ORGANIZATION

Organization: Within two months of its first meeting, the inaugural Board shall appoint at least the following officers: Chairperson and Vice Chairperson. Each officer shall serve an eighteen-month term, measured from the date of appointment of the inaugural board. Every eighteen months thereafter, the Board shall appoint new officers or renew appointment of current officers, except no officer may serve more than two consecutive eighteen-month terms.

The Chairperson shall run meetings, draft agendas, organize Board communications, and serve as a media point of contact for the Board. The Chairperson shall work closely with and receive assistance from Oversight Staff.

The Vice Chairperson shall act at the direction of the Chairperson and, as needed, assume the role of Chairperson. The Vice Chairperson shall take minutes at public meetings unless the Board votes for Oversight Staff to assume this task.

Ad-hoc Tasks: A Chairperson or Vice Chairperson may assign *ad-hoc* tasks to one or more Board members. An officer shall assign tasks as the officer deems necessary to fulfill the Board's mission and its bylaws. Board members may solicit outside volunteer assistance on a task from a member of the public. However, no outside volunteer may vote on a Board matter, including the task at issue. An officer may call upon a Board member at a regular meeting to report, orally or in writing, on an assigned *ad-hoc* task.

Community Advisory Panels: The Board may establish community advisory panels as it deems necessary. The Board shall determine the membership of a community advisory panel. No outside volunteer may vote on a Board matter, including a matter at issue before a community advisory panel. An officer may call upon a Board member at a regular meeting to report, orally or in writing, on the work of a community advisory panel.

Selection, Removal & Resignation: The City shall select and remove Board members and fill Board vacancies consistent with the terms of the Board's Enabling Ordinance. A voting or non-voting member may resign at any time by delivering written notice of termination to the City Council and a copy to the Board. Unless the notice specifies an effective date, the resignation is effective upon receipt by the Clerk of Council/Chief of Staff.

IV. MEETING & VOTING

Meetings: The Board may meet even without the appointment of a full complement of seven voting Board members. However, to meet, the Board requires the presence of a quorum of currently appointed voting members, where a quorum is defined as a majority of currently appointed voting members.

The Board shall hold regular meetings as necessary but at least once per month. All regular meetings shall be public meetings, as required by the Virginia Freedom of Information Act ("FOIA"). Va. Code § 2.2-3707. At least four days before each regular meeting, the Board shall provide city administrative staff with notice of the meeting, which city administrative staff shall publicly and prominently post at least three days before the meeting, as required by FOIA. Va. Code § 2.2-3707.

Notwithstanding the foregoing notice rules, but consistent with FOIA, the Board may hold, under special circumstances defined by law, "special, emergency, or continued meetings" with public notice provided as "reasonable under the circumstance[s]." Va. Code § 2.2-3707(D). Likewise,

“for certain limited purposes” and according to “closed meeting procedures,” the Board may hold closed meetings or enter into closed session during a public meeting. Va. Code §§ 2.2-3711-12.

During all regular meetings, the Board shall leave time for public comment. Upon majority vote of Board members present, the Board Chairperson may establish a reasonable time limit on the public-comment period.

Board members shall endeavor to attend all meetings. A Board member may participate in a meeting by teleconference or video-conference if: (i) a quorum of the Board is present in-person; (ii) a majority of those present in person vote to permit remote participation; (iii) the Board member states the remote location from which they are participating, and the location is recorded in the Board’s minutes; and (iv) the remote Board member’s comments are sufficiently audible to Board members and the public.

A Board member may participate remotely for an unlimited number of meetings due to the member’s temporary or permanent disability or medical condition.

The meeting minutes shall include the date, time, and location of each meeting; the Board members present and absent; a brief summary of the matters discussed; and a record of votes taken, including each member’s vote on each issue by name, unless unanimous. Unless impractical, the Vice Chairperson shall circulate meeting minutes to Board members no later than five days before the next regular meeting. The Vice Chairperson shall work with City staff to ensure that all approved minutes are posted prominently on the Board’s public website.

Votes: The Board shall vote publicly, orally, and not by proxy. Except as specified elsewhere, the Board may act upon the vote of a majority of the voting members present at a meeting, provided at least a quorum is present (defined above).

Amendments: At a regular meeting, a Board member may propose an amendment to the bylaws. The Board member must provide a written copy of an amendment to each Board member at least seven days before a vote on the amendment. The Board may amend the bylaws only upon the vote of a majority of currently appointed voting members. Unless the amendment specifies an effective date, the amendment is effective at the next Board meeting.

V. ETHICS

Ethics & Conflicts of Interest: All members shall demonstrate a commitment to integrity, impartiality, and transparency. A Board member shall not allow personal interests to compromise these values. A Board member shall alert the Board to the existence and nature of a

conflict and shall abstain thereafter from participating in a Board matter about which the member cannot maintain objectivity or upon which the member cannot work diligently.

Board members shall reasonably participate in Board trainings, including but not limited to bias training, police ride-alongs, and/or participation in a police academy. However, no Board member shall be required to participate in a training that adversely impacts the Board member's mental health or physical safety. If a Board member elects to opt out of a training on these grounds, professional Oversight Staff shall arrange alternative training opportunities.

The Board shall operate transparently to the extent consistent with existing federal and state law, the Board's Enabling Ordinance, and any memorandum of understanding between the Board and the CPD. However, the Board shall also endeavor to protect the privacy, where ethically or legally required, of civilians and police officers.

VI. ADMINISTRATION

The Board, assisted by Oversight Staff, shall develop and implement its own administrative systems and operating policies and procedures, consistent with existing federal and state law, the Board's Enabling Ordinance, and any memorandum of understanding between the Board and the CPD. The Board shall responsibly collect, process, and maintain documents, data, and evidence.

At its discretion, but consistent with federal and state law, the Board may use its budget to hire independent contractors to assist with the business of the Board or Oversight Staff.

The Board shall issue regular public reports, as described below (under "Powers, Duties & Functions") and in the Board's Enabling Ordinance. Additionally, the Board shall issue a public annual report, detailing all activities of the Board and Oversight Staff over the preceding year.

VII. POWERS, DUTIES & FUNCTIONS

Complaints: The Board shall have the authority, assisted by Oversight Staff, to develop and administer a process for receiving civilian complaints against the CPD.

The City shall authorize the Board, to take the following actions, consistent with existing federal and state law, as to any complaint against a member of the CPD, received by the Board or the CPD:

1. review the complaint;
2. review an IA or other internal CPD investigation into the complaint;
3. under limited circumstances, and independent of an existing IA or other internal CPD investigation, investigate the complaint, (described below, under "Investigations");

4. administer a public or private hearing to review an IA investigation or disposition (described below, under “Hearings”); and
5. make independent findings of fact and offer disciplinary or other recommendations to the Chief of Police and City Manager after a review, investigation, or hearing (described below, under “Findings, Recommendations & Public Reports”).

The Board may not review or investigate a complaint concerning a matter that is the subject of a pending criminal investigation or proceeding, undertaken by the City Commonwealth’s Attorney. If the Board has commenced reviewing or investigating a complaint and is thereafter made aware of a pending criminal investigation or proceeding, the Board shall:

1. immediately suspend its review or investigation, pending resolution of the criminal investigation or proceeding;
2. notify the complainant, in writing, of the suspension;
3. track the suspended matter; and
4. notify the complainant, expeditiously and in writing, that the criminal investigation or proceeding has ended or is on appeal, and that the Board’s review or investigation of the complaint thereby may recommence.

Investigations: The Board shall have the authority, assisted by Oversight Staff, to independently investigate civilian complaints in circumstances where an IA investigation was or is unsatisfactory or untimely.

An IA investigation shall be considered unsatisfactory upon a vote of a majority of current Board members. If the Board determines that an IA investigation is unsatisfactory, it shall provide the City and the CPD with written reasons for the determination.

An investigation shall be considered untimely where IA has not disposed of a complaint within 75 days of the date it received the complaint.

Even without a civilian complaint, the Board may initiate an investigation into any officer-involved death, defined as any police-civilian interaction that results in a death.

Before the Board may initiate an independent investigation, Board members or Oversight Staff shall meet with CPD Officials to determine whether a matter that qualifies for independent investigation may be resolved without an independent investigation. If CPD Officials are unavailable to meet within 30 days of a request to meet by Board members or Oversight Staff, the Board may initiate an independent investigation without further action. If a majority of current Board members remains unsatisfied with a proposed alternative resolution after meeting with CPD Officials, the Board may initiate an independent investigation without further action.

The Board, assisted by Oversight Staff, may only conduct an investigation consistent with existing federal and state law, including the Virginia Law Enforcement Officers Procedural Guarantees Act.

Hearings: The Board shall have the authority, assisted by Oversight Staff, to administer public hearings about any Board-related matter or another policing matter of pressing public concern. If the subject of a hearing is a civilian complaint:

1. the complainant shall have a right to offer testimony and introduce relevant documents and physical and testimonial evidence; and
2. an IA representative and the Board's legal advisor shall attend and be available to answer questions from the Board.

The hearing shall be public, but, consistent with existing federal and state law, the Board may enter into closed session to discuss:

1. personnel files or information;
2. information that could publicly identify, even contextually, a juvenile or a victim of sexual assault; or
3. another matter, legally recognized as confidential.

Audits: Oversight Staff shall have the authority, assisted by the Board, to conduct monthly audits, analyzing data and identifying trends in CPD patterns and practices. Oversight Staff has discretion to determine the scope and substance of audits, including examinations of:

1. the timing and processing of ongoing and completed IA and Board investigations;
2. the timing of communications and collaboration between the CPD and the Board;
3. the timing of information-sharing, including disclosure of files, documents, evidence, and data between the CPD and the Board;
4. trends in the findings and dispositions of completed IA investigations;
5. trends in patterns of instances of use of force and officer-involved death, particularly as to the presence of a discriminatory impact on historically-disadvantaged communities that have traditionally experienced disparate policing;
6. trends in practices of arrest and stop and frisk (termed "investigative detention" by the City and the CPD), particularly as to the presence of a discriminatory impact on historically-disadvantaged communities that have traditionally experienced disparate policing;
7. compliance by the CPD and the Board with applicable training, practices, and policies;
8. data on the CPD's minority-recruitment and retention efforts; and

9. any other relevant matter of public interest.

At least quarterly, Oversight Staff, assisted by the Board, shall issue a public report (described below, under “Findings, Recommendations & Public Reports”), detailing the findings and conclusions of any audit and, at its discretion, recommending policy, systemic, or training reform.

Policy Review: The Board and Oversight Staff are authorized to serve as policy advisors on policing matters to City Council and the CPD. Before the CPD may issue a new policy or general operating order, it shall transmit the draft document to the Board and Oversight Staff and shall provide the Board and Oversight Staff at least 30 days to review the proposed policy or order. By public report (described below, under “Findings, Recommendations & Public Reports”), the Board or Oversight Staff may comment upon the proposed policy or order and may evaluate its impacts, particularly on historically-disadvantaged communities that have traditionally experienced disparate policing. Before issuing a public report on a proposed policy or order, the Board or Oversight Staff shall seek community input.

At any time, the Board or Oversight Staff are authorized to issue a public report, making proposals to the CPD for policy, systemic, or training reform, including providing the CPD with draft policies or orders or recommending to the CPD particular training protocols or community-policing initiatives.

Community Engagement and Community Relations: The Board, supported by Oversight Staff, is authorized to engage in community outreach and to enlist the assistance and input of community members. At least quarterly, the Board, assisted by Oversight Staff, shall:

1. host public community listening sessions to discuss policing matters of pressing public concern, including the impacts of local policing on historically-disadvantaged communities that have traditionally experienced disparate policing; and
2. host public police-community relations meetings, in which Board members, supported by Oversight Staff, mediate discussions between CPD Officials and community members about policing matters of pressing public concern, including questions about transparency, availability, legitimacy, mutual respect and trust, equitable treatment, social and racial justice, equal rights, and community safety and order.

If the CPD plans to present documentation or other materials at a community listening session or community/police-relations meeting, CPD Officials shall provide the materials to the Board and Oversight Staff no fewer than five days prior to the meeting. The Board, assisted by Oversight Staff, shall review the materials and, at its discretion, make them available to the public.

At least quarterly, the Board assisted by Oversight Staff, shall issue a public report (described below, under “Findings, Recommendations & Public Reports”), detailing the Board’s community outreach and engagement, public input, and any recommendations for community-policing initiatives or for improved police-community relations.

Right of Access: With respect to reviews of complaints, hearings, independent investigations, or audits, the City shall ensure that the Board and Oversight Staff have access, consistent with existing federal and state law and confidentiality requirements (described below, under “Confidentiality”), to relevant CPD files, documents, data, and physical and testimonial evidence, including:

1. personnel files of the CPD subjects of complaints;
2. IA investigative files and accompanying documents and physical and testimonial evidence;
3. files and accompanying documents and physical and testimonial evidence, related to any police-civilian interaction that results in an officer-involved death;
4. raw data on the timing, findings, and dispositions of IA investigations; and
5. raw data on arrest, stop and frisk (termed “investigative detention” by the City and the CPD), and instances of use of force, including data on the impacts of these practices on historically-disadvantaged communities that have traditionally experienced disparate policing.

With respect to these files, documents, evidence, data, and testimony to which the Board has a right of access, the Board shall provide written notice to the City and the CPD of its demand for specific materials, and the City and the CPD shall comply expeditiously. If the Board demands information that could identify, even contextually, a juvenile or a victim of sexual assault, the City or the CPD may forward the information to the City Attorney’s Office for redaction, consistent with existing federal and state law. If materials are available for review only on CPD premises, the CPD shall provide a reason for limiting access to the materials and shall expeditiously provide reasonable access to its premises for review of these materials on premises.

With respect to files, documents, evidence, data, and testimony outside the Board’s right of access, the Board may not compel production of such materials, subpoena a witness, nor place a witness under oath, including the subject of the complaint. However, the Board may provide written notice to the City and the CPD of a request for the production of relevant evidence or documentation or for the opportunity to interview or take testimony, not under oath, from any relevant witness, including the subject of the complaint. The City and the CPD shall expeditiously provide a reason for rejecting a Board request for relevant documents, evidence, interviews, or testimony. Alternatively, the Board may request that the City Manager compel an

interview or the taking of testimony, under oath, from a CPD employee, or the production of relevant documents or evidence in the possession of the CPD or another City department. The City Manager shall expeditiously provide a reason for rejecting a Board request for the City Manager to act.

Confidentiality: All Board members must sign a notice of confidentiality, and no Board member may disclose publicly:

1. the contents of an IA file or any other personnel record if inconsistent with state and federal law and without prior approval of the Chief of Police, the City Manager, or another authorized official; or
2. unless an officer consents to a statement's disclosure, any statement made by a CPD officer, pursuant to the officer's testimonial obligations under *Garrity v. New Jersey*, 385 U.S. 493 (1967), except that a board member may disclose an acknowledgement by a CPD Official or other authorized official that the officer admitted or denied an allegation.

Findings, Recommendations & Public Reports: Once the Board or Oversight Staff has concluded a complaint review, independent investigation, hearing, audit, or policy review (described above, under multiple provisions), the Board or Oversight Staff may issue a written public report, including findings of fact and recommendations. If the subject of a review, investigation, or hearing is a civilian complaint, the Board, assisted by Oversight Staff, shall determine whether the complaint's allegations are sustained or unfounded, or whether another disposition is appropriate. The Board has no disciplinary authority, but, if a majority of current Board members determine that a complaint's allegation is sustained, the Board may recommend:

1. discipline,
2. reopening an IA investigation,
3. training,
4. mediation, and/or
5. policy or systemic reform.

Once the Board or Oversight Staff has issued a written public report for any reason, it shall expeditiously transmit the report to the Chief of Police and the City Manager. Within 30 days, the CPD must respond publicly to the Board, Oversight Staff, and the City Manager. The CPD must indicate whether it:

1. agrees with any findings of fact;
2. plans to implement any recommendations;
3. plans to open or reopen an investigation; and/or
4. plans to take another action, and if so what.

If the CPD's response disagrees with a finding of fact or refuses to follow a recommendation by the Board or Oversight Staff, the response shall provide a reason for its disagreement or inaction. Thereafter, the Board or Oversight Staff may publicly request reconsideration, by transmitting a written public request for reconsideration to the Chief of Police and the City Manager.