

# 2021 Annual Report

## City of Charlottesville Police Civilian Review Board

*Note:* This report was prepared by members of the Board on or around 07/16/2021 and follows reporting in accordance with the timeframe indicated below:

### **Charlottesville Police Civilian Review Board Annual Report**

The following report summarizes the activities of the Charlottesville Police Civilian Review Board from the start of its activities in June 2020 through June 2021.

#### **1. Introduction**

The Charlottesville Police Civilian Review Board (CRB) was authorized by amended Article XVI of Chapter 2 of the Charlottesville Code of the City of Charlottesville, approved by the City Council on November 4, 2019. The City Council Approved CRB Bylaws at the same meeting. The current CRB is a successor organization to the "Initial" CRB, commissioned in January 2019, whose mission was to research and evaluate models for police oversight and make recommendations to the City Council. That organization in turn superseded the Charlottesville Police Advisory Committee, that was then disbanded.

In the Bylaws, the CRB's guiding principles are listed as:

- 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 cooperation between all stakeholders to find and develop common ground and public purpose
- Championing just, equitable, and legitimate policing policies and practices
- Processing complaints, reviewing police practices and internal investigations, issuing findings, writing public reports, and making recommendations.

The enumerated powers of the Board (Sec. 2-452) include

- (a.) Develop and administer a process for receiving civilian complaints about the Charlottesville Police Department;
- (b.) Review Charlottesville Police Department internal affairs investigations at the request of the civilian complainant;
- (c.) Conduct hearings and make findings concerning Charlottesville Police Department internal affairs investigations initiated by civilians;
- (d.) Organize and conduct community outreach sessions;

(e.) Provide policy recommendations to the City Council and Charlottesville Police Department

The CRB may also recommend policies or procedures to the City Council or the Charlottesville Police Department concerning police practices (Sec. 2-458.) The authorized CRB membership (Sec. 2-453) consists of seven voting members, all residents of Charlottesville, and must include representation of disproportionately policed groups and historically disadvantaged communities. The Board is also allocated one non-voting member with law enforcement experience. Board members initially serve staggered 18-month and 3-year terms. The CRB Executive Director is to be a city employee hired by the City Manager (Sec. 2-456).

## **2. Membership**

Volunteers for CRB membership were solicited by the City Council in December 2019 and January 2020.

Dierdre Gilmore, Dorenda Johnson, James Watson, Nancy Carpenter, Stuart Evans, and William Mendez were appointed as voting members and Phillip Seay was appointed as non-voting member in February 2020. Mr. Evans and Ms. Johnson subsequently resigned from the Board over the course of the reporting period. Dr. Jeffrey Fracher was appointed as a voting member of the Board in February 2021. Philip Seay relocated out of the area in May 2021. As of the date of this report, the Board has one opening for a voting member and an opening for a nonvoting member with law enforcement experience.

## **3. Meetings and Officers**

CRB meetings were not begun until June 2020, due to City COVID restrictions. The first meeting was held electronically on June 29. At that meeting, James Watson was elected Chair and Stuart Evans Vice Chair. The board met 10 times in 2020. All meetings have been conducted electronically consistent with Charlottesville COVID safety guidance. At the first Board meeting in 2021, Bellamy Brown was elected Board Chair and William Mendez elected as Vice Chair. The Board has held six monthly business meetings in 2021.

## **4. Executive Director Search**

The Board and City Manager drafted a job description for the post of Executive Director. The job was initially advertised on the City of Charlottesville jobs website and NACOLE Job Postings in the fall of 2020, but no action was taken to interview candidates. On advice of the Interim City Manager, the job was advertised again in spring of 2021. A total of 64 candidates applied. The Charlottesville Human Resources department screened candidates and identified eight who best met the educational and experience requirements in the posting. The eight candidates were interviewed on May 25, with one member of the Board on the interview panel, and four finalists were identified for a second round of interviews that had not been conducted at the time of this report.

## 5. Training

In July 2020, the CRB obtained an institutional membership to the National Association for the Civilian Oversight of Law Enforcement (NACOLE.) As part of the membership, the CRB obtained access to 32 training webinars from NACOLE's 2020 Annual Meeting. Various members of the CRB viewed a total of approximately 60 hours of these webinars. The Board also procured six in-person (Zoom) training sessions (one and one-half to two hours long) for all Board members intended to address aspects of police oversight most relevant to Charlottesville. The sessions were presented between January and June 2021, with a quorum of CRB members attending each session. These lessons were also made available to, and some were attended by, City Council Members, the City Manager, and Deputy City Manager.

## 6. Complaints Received

Between June 2020 and December 31, the CRB received 10 complaints either directly from citizens or forwarded from the Charlottesville Police Department (CPD). All complaints were closed within 75 days. The Board also received 13 complaints between January 1 and the end of June 2021. Ten of the 13 complaints were closed when this report was being written. All the unresolved complaints were received in June, and none had been open more than 75 days. All citizen complaints received by the CRB were forwarded to the CPD, but citizens may opt out of sending complaints to the CRB. Some complaints were not seen by the CRB; the Internal Affairs department (see below) reported 17 externally generated complaints received between July 1 and December 31, 2020 (seven more than were received by the CRB).

## 7. Internal Affairs Investigations

Between January 1, 2020 and April 30, 2021 (the last month for which information was available), the CPD internal affairs unit reported the results of 51 complaint investigations, 38 received in 2020 and 13 in the first three months of 2021 (see Table 1). Of the 51 cases, 37 (73%) were initiated by citizen complaints and 14 (27%) were initiated internally. In 20 of 51 investigations, (39%) one or more allegations were sustained. The five pending complaints were all received in 2021; none remained from 2020.

**Table 1. Internal Affairs Results for 2020 and the First Quarter of 2021**

Period	2020	Q1 2021	Total	Proportion
Total Complaints	38	13	51	--
Citizen complaints	28	9	37	73%
Internal Complaints	10	4	14	27%
Complaints with One or More Sustained Allegations	14	6	20	39%
Total Allegations	74	22	96	--
Unfounded	33	7	40	42%
Exonerated	9	1	10	10%
Sustained	27	6	33	34%
Administratively Closed	2	0	2	2%
Not Resolved	3	3	6	6%
Pending	--	5	5	5%

The 51 complaints referenced a total of 96 allegations, an average of almost 2 per complaint.<sup>1</sup> Approximately one-half of all cases involved a single allegation with the highest number being eight. As shown in Table 1, 42% of allegations were judged to be unfounded, 10% exonerated<sup>2</sup>, and 34% sustained. Thirteen of 51 complainants (25%) were nonwhite; eight were Black females, four Black males, and one Asian male.

Table 2 shows the most reported allegations and their outcomes. Code of Conduct violations were the most common (17 instances)<sup>3</sup> followed by courtesy/demeanor complaints (13) and allegations related to performance of duties (13). Other allegations occurring more than twice included violations of bias-based policing guidelines (8), truthfulness (4) and excessive force (3). Allegations related to performance of duties were the most frequently sustained common allegations (54%), while no allegations of bias-based policing (0 of 8) or excessive force (0 of 3) were sustained.

**Table 2. Most Common Allegations and Their Outcomes**

Allegation	Total	Unfounded	Exonerated	Sustained	Admin. Closed	Not Resolved	Pending
Code of Conduct	17	8	1	5	0	1	2
Courtesy/Demeanor	13	7	0	3	1	2	0
Performance of Duties <sup>4</sup>	13	1	2	7	0	1	2
Biased-Based Policing	8	7	1	0	0	0	0
Truthfulness	4	2	0	1	0	1	0
Excessive Force	3	2	1	0	0	0	0

## 8. Disciplinary/Corrective Action

Beginning in 2021, the CPD began including summaries of corrective actions associated with sustained complaints. One citizen complaint, alleging multiple instances of misconduct, resulted in termination. There were two internally initiated complaints alleging neglect of duty; one resulting in “discipline” (not further specified) and another resulting in “counseling, training, and termination.” There was one complaint from 2020 in which allegations of “Constitutional Violations, Truthfulness, Use of Force and Conformance to Laws, Performance, Courtesy” involving 3 officers were sustained, but no information related to discipline was reported.

<sup>1</sup> The number of allegations in the table are those reported by the IA department. These presumably represent distinct instances of potentially actionable misconduct. They may differ from the number of accusations in the complaints.

<sup>2</sup> “Unfounded” complaints are those judged to have no basis in fact (the available evidence does not support that the act occurred) while “exonerated” means that the alleged acts occurred but were consistent with CPD policies and guidelines, were within the law, and did not violate standing orders.

<sup>3</sup> In some instances, specific Code of Conduct violations (e.g., truthfulness) were identified, in other cases they were not. the “Code of Conduct NOS” category in the table refers to allegations where the specific violations were not identified.

<sup>4</sup> Includes allegations reported as “Performance”, “Performance of Duty”, and “Unsatisfactory Performance.”

## **9. Review Requests**

The Board has received one request for review of an Internal Affairs investigation (complaint 2020-015-C). The Complainant's representative has requested that the Board review findings of "exonerated" and "unfounded" for allegations of excessive force and biased policing, respectively. The Board has prepared draft hearing procedures in preparation for conducting this review.

## **10. Revision of Enabling Documents**

In November 2020, Gov. Northam signed into law a statute (VA Code 9.1-601) that allows municipalities to grant greater powers to police oversight organizations. The law allows municipalities to grant oversight organizations authority to "receive, investigate, and make findings on civilian complaints", "to investigate and issue findings on [specified types of serious] incidents", "to make binding disciplinary determinations in cases that involve serious breaches of departmental and professional standards", "to investigate policies, practices, and procedures" [of law enforcement agencies]", "to review all investigations conducted internally", "to make budgetary recommendations" [for law enforcement agencies], "to make public reports" of its activities, "to apply to the circuit court of the locality for a subpoena" when information necessary for its functions could not be obtained through good faith efforts, and to "undertake any other duties as reasonably necessary to effectuate its lawful purpose." All powers of any oversight organization must be granted by "the governing body of the locality."

In December 2020, the CRB recruited a work group of stakeholders to develop proposals for revising the Board's ordinance and bylaws to incorporate additional powers and provide for stronger police oversight. The work group included representatives from local citizen groups (the People's Coalition, PHAR), the Legal Aid Justice Center, members of the initial CRB, and other citizens who volunteered to participate. Comments on oversight issues were sought from community members; the work group also took advantage of NACOLE teaching materials and training sessions, and the extensive preliminary research undertaken by the initial CRB which was preserved in its archives.

The work group held several meetings and discussed options for improving police oversight and revising the Board's enabling documents. A preliminary draft ordinance incorporating these elements was developed, using a template provided by the (then) Assistant City Attorney. The draft was subsequently circulated to the work group, the Board, stakeholders, and the City Council. A joint work session with the City Council was held on April 27, 2021, during which a preliminary proposal for an oversight model was presented. The major elements included the Board's authority to receive all citizen complaints, to initiate investigations of serious misconduct and incidents, to review Internal Affairs investigations, to hold hearings during which the Board could exercise subpoena power, conduct periodic audits of CPD policies, practices and outcomes, and to conduct a wide range of community outreach activities.

During May and early June 2021, the ordinance work group then held a series of 2:2 meetings with all members of the City Council and Mayor Walker, and a conference call with the Chief of Police. Councilors Snook and Payne agreed to be the major points of contact with the CRB on issues related to police oversight, and extensive discussions were held to clarify areas of

concern and disagreements. Major issues included practical and legal issues associated with the Board's investigative power and the exact nature of the authority the Board might exercise during the disciplinary process. The contractual scope of work for the Board's independent counsel was expanded to allow involvement in revisions of the draft ordinance and development of operating procedures for Board activities. At the time of writing, independent counsel is generating a revised draft that incorporates comments for the Council and Stakeholders.

## **11. Legislative Proposals**

Section 11(D) of the Board's Bylaws allows the CRB "to make requests to the Charlottesville City Council about specific state legislation that it wishes for the Charlottesville City Council to include in the Council's annual legislative package..." Under this provision, the CRB makes the following request:

Section 9.1-600(A) of the Code of Virginia now requires law enforcement agencies with ten or more officers to "have procedures..., allowing citizen submission of complaints regarding the conduct of the law-enforcement agency, law-enforcement officers in the agency, or employees of the agency." The section specifies procedures which the law enforcement agencies must have in place to assure citizens know how to submit complaints, to provide aid to citizens in filing complaints, and to assure that adequate records of complaints are maintained. The CRB recommends an amendment to this section that would allow municipalities to delegate this authority to police oversight bodies established under VA code 9.1-601, as long as the substantive procedural and record keeping requirements of the existing law were met. This would be consistent with the general spirit of the new legislation and clarify that oversight bodies (including Charlottesville's) would have authority to receive all citizen complaints once they have established procedures for doing so.

## **12. Other Information for the City Council**

The Board would like to bring several issues and recommendations to the attention of the City Council.

- a. Several factors, including COVID, have limited the ability of the Board to function effectively in the last year. The most important factor under the control of the Council and City Manager is the recruitment and hiring of a full-time Executive Director. As this report is written, applicants have been interviewed and promising candidates have been interviewed. The process should proceed to conclusion, choosing the best possible applicant as soon as possible.
- b. The next important issue, as discussed in Section 10, is the revision of the Board's enabling documents to allow for more fair, effective, and transparent police oversight. The Board appreciates feedback, comment, and encouragement it has received from Council Members so far. Very shortly, the Board will provide the Council with a consensus draft ordinance that represents our best efforts to embody the goals stated above, addressing the practical and legal concerns raised by the Council and others. We urge that the full Council begin debating the ordinance and working towards a set of workable operation procedures as soon as possible. We stand

ready to provide additional information and participate in working sessions as necessary to move the process forward.

- c. The Council may wish to consult with the Chief of Police regarding the feasibility, desirability, and resource requirements for obtaining and using purpose-built investigation tracking software in the management of citizen complaints. Such software can be used to organize and centrally store documents and evidence, personal recording media, interview recordings and transcripts, and would facilitate better documentation of the fairness, completeness, and consistency of investigations. Should the Chief agree that such a system would be useful, the Council should consider allocating funds for purchase of the software and training of officers in its use. Such a system would not only support current activities, but having such a system in place would greatly facilitate information sharing in support of independent investigations and complaint review contemplated under the Board's proposed oversight model.