

<b>Section</b>	<b>Provision/Changes</b>	<b>Comment</b>
2-451 Civilian Oversight Board Established	New Language: "It [the Board] shall not be able to bring suit or to be sued in its own name, except to the extent needed to request and defend subpoenas as authorized by this ordinance."	Provides for same level of legal immunity as previous language.
2-452 Powers and Duties	New Section (a) lays out general powers and duties.	Section (b) with itemized list of powers is <u>unchanged</u>
	New Section (d) specifies definition of "serious" misconduct	Adopted from Fairfax County
	(f), (g) include provisions for handling confidential information	Intent is to assure VA FOIA compliance
2-453 Membership Appointment, and Terms	(a) Language added stating desirable skills and experience for candidates (h) Members may be removed by the City Council for revealing confidential information, violation of Code of Ethics, or "any other Malfeasance or Misfeasance."	Demographic distribution requirements are preserved Previous version had no specific criteria for Board member removal
2-454 Meetings	Meetings must be held at least once per quarter, specifies required contents of Minutes	Standard language for Charlottesville Boards and Commissions; intent is to have monthly meetings
2-455 Executive Director	New language in (b) describing Executive Director's duties: "including the oversight of investigations conducted by the Police Department."	Intended to make clear the Executive Director can have ongoing access to IA investigations
2-456 Legal Council	No material changes	Board retains power to consult independent council on any issue; consultation with the City Attorney is a recommended alternative
2-457 (a) – (c) Receipt and Investigation of Complaints	(a) calls for an MOU in which the CPD and the Board "jointly" administer a system for receiving and processing complaints and allows the complainant to specify whether they want IA or the Board do execute the investigation	Intent is that the Board and IA will both have access to a joint case management system, facilitating the sharing of information, assuring that the Board gets to see all complaints
	(b) and (c) prescribe limits on what types of misconduct the Board may investigate and requires the Board to suspend an investigation when they "become aware of a criminal act or offense" by a subject officer	Language in (b) is largely unchanged New language in (c) allows the Board to conduct a parallel investigation of non-criminal conduct upon consultation with the City and Commonwealth's Attorneys
2-457(d) Investigation of New Complaints	(1) If complainant specifies the CPD conduct the investigation, CPD initiates the investigation, sends the redacted complaint to Executive Director. The Board receives a summary report upon the completion of the investigation.	Meant to protect privacy of complainants and witnesses. This does not foreclose the ability of complainants to request a review (Sec. 2-458)

	(2) If complainant specifies that Board conduct the investigation, the Board does so. The Independent Investigator’s report is provided to the Board and CPD and Board proceeds to hearing (2-459) and, if appropriate, to disciplinary recommendation (2-460)	Process flow is essentially unchanged from previous language.
	(3) When complainant specifies no preference for who investigates, allows Board to investigate as per criteria in 2-459(a)	Clarifies that Board still can investigate serious incidents and complaints where the complainant does not forbid it
	(4) All investigations are to be completed in 60 days, with extensions for good cause only.	Reduced from 75 days in previous version
	(5) Gives Executive Director authority to oversee specified aspects of all investigations by the CPD or independent investigator. The ED is required to safeguard confidential information when doing oversight.	An important (new) oversight function.
	(6) – (9) lay out procedures for obtaining a subpoena. Specifies what to do if Board or ED believe necessary information is not forthcoming, requirements for City Manager to consider such requests, and rules that the Court should use in deciding whether to grant a Subpoena	Much more specific than previous language. This version allows the ED to hear statements in closed settings to protect “private or sensitive” information.
2-457 (e), (f) Results of Investigations	(e) Upon completion of an investigation <u>conducted by the CPD</u> , the Board receives a summary report from the Police Department and a report from the ED concerning the adequacy of the investigation. The complainant may file a review request but must allow the Board access to investigative file to support the request.	The Board will have insight from ED’s oversight of the investigation as to its quality, completeness, and the degree to which disciplinary findings are supported.
	(f) Upon completion of investigation <u>by independent investigator</u> , the Board will receive the investigator’s report and will then move to a hearing under Sec. 2-459 and, depending upon findings of fact, to a disciplinary action under Sec. 2-460	The process flow is essential unchanged from the previous draft.
2-458 Review of Police Department Internal Investigations	(a)-(c) The Board may choose to review any investigation, with the exception of review requests that are not filed in a timely fashion, issues that are subject of a criminal investigation, and other issues that are outside the scope of their authority.	The list of investigations that the Board cannot review is essentially unchanged. The complainant must decide whether they want the Board to see investigatory files.

	The Board <u>must</u> grant all timely review requests of non-criminal cases, except where the complainant does not allow the Board access to investigative files and evidence.	
	(d) allows the Board to review investigations beyond the time limits in (c) with good reason	Again, allows for cases where new information comes to light
	(e) Authorizes board to hold hearings on review requests	Question about ability to hold closed hearings (see 2-461) applies
	(f) requires Board to report findings within 30 days of a hearing	"Findings" are the same: concurrence, non-concurrence, or the investigation is incomplete or defective.
	(g) Board may initiate an investigation in support of a complaint review if the CPD investigation is found to be incomplete or defective	Essentially unchanged
2-459 Independent Investigations	(a) Board may initiate investigations of "serious" complaints or incidents, when an IA investigation is not completed in 60 days, or when IA investigation has been found to be incomplete or unsatisfactory	Gives Board the ability to interpret the definition of "serious" when deciding whether to investigate, otherwise unchanged
	(b) Specifies procedures for initiating and conducting independent investigations	Unchanged (details to be specified in the operating procedures.)
	(c) requires board to hold public hearing after receiving investigative report; the Board may report that the evidence is insufficient to support any allegation, move to a disciplinary proceeding if the evidence is sufficient to sustain a "serious" allegation, or refer any allegation involving criminal acts to the Commonwealth's Attorney	New language recognizes that the Board has no disciplinary authority and therefore cannot "dismiss" complaints as in the previous draft
2-460 Hearing Procedures	(a) Allows the board to conduct hearings as defined in its Operating Procedures. Adds language requiring a Hearing examiner, gives the Examiner discretion to modify procedures depending on the nature of the issues.	Flexibility is intended to allow less formal proceedings.
	(b) allows any party to propose "informal resolution" anytime before the Board makes its findings	Does not obligate anyone to give up any rights under this ordinance.
2-461 Disciplinary Recommendations	(a) Allows the Board to meet in closed session to discuss disciplinary recommendations if the City Attorney certifies that current law allows the Board to receive and discuss confidential information without making it public.	There is an ongoing legal controversy regarding whether current law allows Boards to obtain and discuss confidential information in closed sessions. How this issue is resolved will have a major impact on the functioning of the Board.
	(b) – (d) Procedures for making disciplinary recommendations. Requires the Chief of Police explain in	Unchanged from previous draft

	writing if they do not accept the Board's recommendations. Affirms that disciplined officers have access to the City's grievance procedures	
2-462 Review of Law Enforcement Policies, Practices and Procedures	Authorizes the Board to review police policies and practices and make recommendations to the City Council, City Manager, and Chief of Police. Allows the Board to require the Executive Director to perform audits of police activities Chief of police must provide a rationale within 30 days for not accepting the Board's recommendations	Essentially unchanged
2-463 Request Annual Reports of Police Expenditures	Board may examine annual police budgetary and expenditure estimates and make recommendations to the City Manager and Council	Unchanged
2-464 Recommendations and Annual Report	Requires Board to provide Annual Report by April 15, recommendations for the legislative program by August 15	Unchanged
2-465 Community Engagement	Specifies requirements for listening sessions, joint police-Board-public events, reporting of outreach activities	Unchanged
2-466 Training	New language in (b)(5) requiring training on the Board's Code of Ethics (c) requires annual ride-alongs	Otherwise unchanged Ride-along requirements will be flexible(?)
2-467 Commendations	Allows the board to issue commendations for outstanding community service	Unchanged
4-268 Mediation	Allows the Board to establish procedures for using mediation to resolve complaints	Unchanged (Would be purely voluntary)