

Warren Jr., Richard A. - Clerk's Office

From: Yohance Whitaker [REDACTED]
Sent: Monday, October 10, 2022 9:57 AM
To: City Clerk's Office
Cc: City Clerk's [REDACTED]
Subject: RTAP Written Comment
Attachments: Analysis of Ordinance 2022-261.pdf; RTAP Draft COB Ordinance .pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

Hon. Clerk,

Attached is an analysis of ORD. 2022-261 provided by the Richmond Transparency & Accountability Project (RTAP) and ordinance language drafted by the same that reflects the model of oversight the group champions. The Richmond Transparency & Accountability Project's mission is to build safer, healthier neighborhoods by disrupting mass incarceration at its source: police policies and procedures. We are writing to comment on ORD. 2022-261. It falls short of community demands in major ways. We have included a thorough analysis of ORD. 2022-261 and draft ordinance language that meets the community vision for civilian oversight.

RTAP has been organizing and advocating for civilian oversight of the Richmond Police Department for over five years. That work included leading a statewide coalition that successfully lobbied for the passage of General Assembly legislation that empowered localities with the authority to establish robust oversight. Richmond must adopt these powers to ensure that ordinary people have the tools to address our local problems with policing.

The ordinance that is put forward MUST include:

- The power to independently investigate all complaints, outside of RPD;
- The power of democratic membership, led by communities impacted by policing;
- The power to audit and police policies and procedures;
- The power to subpoena records and compel witnesses (this power is included in the proposal but requires a SUPER majority – a very high standard for something ultimately decided by a judge);
- The power to make disciplinary decisions; and
- The power to make budgetary recommendations

These powers are required to make robust and meaningful oversight. In its current form, ORD. 2022-261 does not go far enough. Without the necessary tools, racial disparities in policing will continue. We ask members of City Council to vote 'no' on ORD. 2022-261.

Thank you for your time,
Richmond Transparency & Accountability Project

Analysis of Ordinance 2022-261

Overview

This analysis of Ord. 2022-261 is intended to identify the strengths and shortcomings of the current proposal. Where relevant, we have included reference to past proposals that have been reviewed by council, namely, Mayor's ordinance 2022-091 and the proposal presented to council by the Task Force for Establishing Civilian Oversight of the Richmond Police Department (RPD). Our analysis reflects the years of work we have done with community members who have shared their concerns about policing in Richmond, as well as their hopes for what strong, independent oversight of the police should look like.

City Council members received a table demonstrating the differences between the Mayor's original proposal and the current ordinance. While we find this to be accurate, it does not explore the impact of some of the differences, which we hope to shed light on in the analysis below.

RTAP worked diligently with our elected leaders at the state level to ensure that localities were empowered with the ability to create strong, effective oversight of local police departments. As such, RTAP supports the Civilian Review Board having the powers that are granted to localities under Virginia State Law as outlined in SB 5035 authorizes, which the current ordinance falls significantly short of. Virginia State Law authorizes Civilian Review Boards with the following powers:

1. receive, investigate, and issue findings on complaints from civilians regarding conduct of law-enforcement officers and civilian employees;
2. investigate and issue findings on incidents, including the use of force by a law-enforcement officer, death or serious injury to any person held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops, and other incidents regarding the conduct of law-enforcement officers or civilian employees;
3. make binding disciplinary determinations in cases that involve serious breaches of departmental and professional standards
4. investigate policies, practices, and procedures of law-enforcement agencies and make recommendations regarding changes to such policies, practices, and procedures
5. review all investigations conducted internally by law-enforcement agencies and issue findings regarding the accuracy, completeness, and impartiality of such investigations and the sufficiency of any discipline resulting from such investigations
6. request reports of the annual expenditures of law-enforcement agencies and make budgetary recommendations

7. make public reports on the activities of the law-enforcement civilian oversight body
8. undertake any other duties as reasonably necessary for the law-enforcement civilian oversight body to effectuate its lawful purpose to effectively oversee the law-enforcement agencies as authorized by the locality

As written, Ord. 2022-261 does not allow for the civilian oversight body to receive complaints, make binding disciplinary determinations, or review or make recommendations regarding police budgets. These are powers allowed under state law that were also recommended by the Task Force.

Moreover, Ord. 2022-261 provides other powers granted by SB 5035 only in a limited context. While the proposed civilian oversight body can conduct independent investigations, these are supplemental to an already completed internal affairs process, regarding only specific types of complaints, only when the “accuracy, completeness, and impartiality” of the internal affairs investigation is in question, and pending availability of funds. This severely hampers the ability of that body to complete their work..

Ord. 2022-261 makes incremental change beyond what was proposed in Ord. 2022-091 and in some instances, these changes even have the potential to hamper the effectiveness of the civilian review board, namely in the composition of the board in number of members and the number of members required to request a subpoena.

Structure and Independence from Police

Ord. 2022-261 ordinance locates the CRB outside of the police department, however, the complaints process is not independent of Richmond Police Department. RPD would still intake, investigate, and make a determination of findings prior to the case being reviewed by the CRB. And, this would only be certain cases, limited by the Ordinance language. This process forces all aspects of the investigation and decision making through a narrow RPD lens. In addition, tacking the CRB process on at the end,unnecessarily extends the process for citizens to have their complaints heard by an unbiased third party..

Finally,, the requirement for the Chief of Police to approve of the CRB’s policies and procedures undermines its independence.

Review of Cases

Ord. 2022-261 and 2022-091 only allow the CRB to review investigations after they have been completed by Internal Affairs in specific circumstances:

1. Police officer-involved shootings.
2. Deaths of persons while held in the custody of the Department of Police.

3. Serious injuries to persons while held in the custody of the Department of Police.
4. Accusations of physical or verbal abuse by officers of the Department of Police.
5. Appeals by citizens of a finding or decision of the Department of Police.

All complaints should be heard by the CRB, not just complaints that fall into these specific categories. Keeping the intake process for complaints solely within the police department, rather than allowing the CRB to intake complaints, allows the police sole discretion in which complaints will eventually be heard by the CRB. This is because categories such as “verbal abuse” could be subject to interpretation and possible bias. For example, this could allow RPD to make determinations about what constitutes discourtesy vs. verbal abuse, ultimately impacting whether that case is eventually heard by the CRB.

Additionally, we believe that independent, third party investigators should be responsible for all investigations, not internal affairs. As mentioned above, this would effectively put the entire complaints process in the hands of the CRB, rather than housing it within RPD.

Additional Powers

Ord. 2022-261 limits recommendations by the CRB to policies and procedures specifically related to the cases it hears, which are limited by the ordinance as discussed above. This significantly limits the ability of the CRB to oversee the police or have an impact on how policing occurs in our community. The CRB should have the access and power to review all policies and procedures it sees fit under its purview, as they all have direct impact on community members.

The ordinance also explicitly prohibits budget review and recommendations, which provide transparency around issues of policing in our community. RTAP recognizes that budgets are enactments of where our values lie, and the police budget should be transparent to our community. As such, the CRB should have the power to review the police budget.

Ord 2022-261 does include a reporting function for the CRB, with an annual report due to City Council. We believe that timely reporting by the CRB is important for increasing transparency and accountability.

More than just an annual report, the CRB should have the power to audit police data to understand trends in policing, not only limited to the cases it hears. The ability to take a holistic view on policing trends in our City will allow the CRB to make more informed decisions and recommendations.

Composition and Appointment of Members

There are significant differences between Ord. 2022-261 and Ord. 2022-091. In the initial iteration, Ord. 2022-091 gave Council the ability to appoint 3 seats, the Mayor the ability to appoint 3 seats, and the Police Chief the ability to appoint 1 seat. Ord. 2022-261 gives 4 appointments to City Council and 4 appointments to the Mayor, with all tie votes resulting in failure. We opposed the Mayor's original ordinance due to the allocation of appointments, particularly that the Chief of Police would receive any appointments. However, creating a board with 8 members where a tie in votes results in the action failing, will create a board that is ineffective and inefficient.

We agree that the CRB should be reflective of the diversity of our community, which is reflected in the ordinance that has been proposed.

Subpoena Power

Ord. 2022-261 does grant subpoena power to the CRB. However, subpoena power is substantially limited under the ordinance. First, a subpoena can only be issued in relation to the limited scope of cases that it hears. Additionally, the ordinance requires a supermajority to request an application to the Circuit Court of Richmond, not a simple majority. In comparison to the Mayor's ordinance, Ord. 2022-261 actually increases the percentage of votes required to apply to the Circuit Court for a subpoena. This has the potential to reduce the effectiveness of the CRB in carrying out their duties.

Binding Disciplinary Authority

Ord. 2022-261 only provides for giving recommendations to the Chief of Police regarding disciplinary action. This leaves the decision making and oversight of the department in the hands of the Chief of Police, rather than empowering our community with the ability to effectively oversee the police. Binding disciplinary authority does not circumvent any of the grievance procedures available to officers and allows for ample recourse for officers to appeal decisions made by the CRB.

Compensation for CRB Members

Both ordinances suggest compensation for CRB members. Ord. 2022-261 increases the amount of compensation above the amount set forth in Ord. 2022-091. We support this change.

Staff to CRB

Both Ord. 2022-261 and Ord. 2022-091 provides only one full time city staff person to the CRB, though the location of the employee is moved to city council under the revision. This is an improvement, as it reduces the potential for conflicts of interest that may have arisen with the staff member housed within the Inspector General's Office. However, we believe that one staff member will be insufficient for the CRB to carry out their duties.

Budget

Ord. 2022-261 provides a suggested \$200,000 annually on an ongoing basis to pay for a single staff person, pay stipends to board members, hire outside legal counsel, and to hire independent investigators when necessary. However, the ordinance could limit these activities substantially, particularly the hiring of independent investigators, as this is pending availability of funds; this could result in a situation where additional investigation could be necessary, but fail to occur due to lack of funding. The Task Force estimated a budget of approximately 1.2 million dollars annually given the needs of a fully staffed office to support the CRB.

For comparison, the City of Arlington, Virginia which has a population of approximately 245, 000 people has a civilian oversight budget of \$600,000. The City of Charlottesville, Virginia, which has an approximate population of 50,000 people is \$362,677.

Outside Counsel

While outside counsel may be allowable under Ord. 2022-261, there should be an explicit provision allowing for outside counsel and the budgetary restriction should be omitted.

The CRB needs to be able to consult with attorneys independent from the City of Richmond attorneys for their procedure drafting and the day-to-day issues that may arise. The City of Richmond's attorneys' client is the City of Richmond, of which RPD is a part. They are ethically bound to promote the City's best interest and a conflict could frequently arise between the City's interest and the interest of the Board, or even more concerning, an individual that has come to the Board for help. All the established civilian oversight bodies in Virginia utilize outside counsel, a feature the legislature found important enough to permit in the enabling legislation. While outside counsel is allowable under Ord. 2022-261, the budgetary restrictions in the ordinance may fail to provide adequate funding for procuring outside counsel when necessary.

Conclusion

As outlined above, there are minimal differences between Ord. 2022-261 and Mayor's previously introduced ordinance. However, both ordinances differ significantly from the recommendations of the Task Force on Establishing Civilian Oversight and the powers granted to localities under VA State Bill 5035. These differences significantly reduce the ability of the CRB to provide meaningful oversight of the Richmond Police Department and fail to address community concerns about the current complaints process, as the CRB proposed in the ordinance leaves the current process largely intact. Both Ord. 2022-261 and the previously considered Mayor's ordinance merely add an additional layer of review at the end of the current process and only under limited circumstances. As currently

drafted, the ordinance would create a CRB with the fewest powers of any CRB in the state of Virginia.

AN ORDINANCE No. _____

To amend ch. 2, art. V of the City Code by adding therein a new div. 20 (§§ 2-1202.1—2-1202.5) for the purpose of establishing a Community Oversight Board.

Patron –

WHEREAS on October 28, 2020, the Virginia General Assembly enacted House Bill 5055, which expressly authorizes the governing body of a locality to establish a law enforcement community oversight body; and

WHEREAS, the Mayor and Council believe that it is in the public’s best interest that the City establish a Community Oversight Board in conformity with Virginia Code § 9.1-601 and to empower the Community Oversight Board with certain additional oversight authority and duties enabled by the statute; and

WHEREAS, it is estimated that the annual operating costs for the Community Oversight Board will be \$1,200,000 (partial year allocation of \$600,000);
NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

AYES:_____ NOES:_____ ABSTAIN: _____

AYES:_____ NOES:_____ ABSTAIN: _____

§ 1. That Chapter 2, Article V of the Code of the City of Richmond (2020) be and is hereby amended and reordained by **adding therein a new** Division 20, consisting of sections numbered 2-1202.1 through 2-1202.5, as follows:

DIVISION 20
COMMUNITY OVERSIGHT BOARD

Sec. 2-1201.1. Created.

In accordance with Code of Virginia, § 9.1-601, and [link to Office of Community Oversight Code] there is hereby created a board of the City of Richmond with indefinite duration to be known as the Community Oversight Board (“the Board”) for the purpose of creating and maintaining trust between and among the Richmond Police Department (“the Department”), which shall be referred to as “the Department,” the City Council, and the public for increased community safety.

Sec. 2-1201.2 Definitions

- a. *Complaint*. An allegation of misconduct made by a person against a sworn officer or Department employee irrespective of duty status.
- b. *Complainant*. The person filing an investigation complaint or a review request with the Board who is alleging misconduct by sworn officers or civilian employees considered by the Board:
 - 1. Any individuals directly affected by incidents of police misconduct (who were physically present and in physical or verbal contact with police during the alleged misconduct);
 - 2. Designated representatives of individuals affected by police misconduct;
 - 3. Parent or guardian of minor alleging police misconduct or custodians of an individual with diminished mental capacity;
 - 4. Any witness to incidents of police misconduct who was present during the alleged misconduct; and
 - 5. Anyone with material evidence of misconduct.
- c. *Incident*. Refers to an event or occurrence where a member or employee of the Department is involved regardless of whether a member of the public was present.
- d. *Serious*. The term “*serious*”, used in this ordinance to qualify types of police misconduct, refers to the following:
 - 1. Verbal or other conduct regarding an individual or group that maligns or shows hostility for the individual or group because of race, color, religion, gender, national origin, age, disability, sexual orientation, or gender identity and expression;
 - 2. Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability;
 - 3. Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense;
 - 4. Reckless endangerment of a citizen, detainee, or person in custody;
 - 5. Violation of laws or ordinances;
 - 6. Criminal or other misconduct occurring on or off the job which is related to job performance or is of such a nature that to continue the employee in the assigned position or in any City employment capacity would constitute negligence in regard to the City’s duties to the public or to public or to other City employees;
 - 7. In any matter within the jurisdiction of any officer, department or agency of the City: (a) the knowing falsification, concealment or cover-up of a material fact,

and/or (b) the knowing making of any false, fictitious or fraudulent statement or representation, and/or the making or using of any writing or document knowing the same to contain a false, fictitious or fraudulent statement or entry;

8. Sexual activity, including consensual sexual activity, on the job; and
 9. Other serious violations of either City of Richmond or the Department's policies or procedures, including the Department Code of Conduct.
- e. *Witness Officer.* A sworn member of the Department who may have witnessed an incident that resulted in a complaint of allegations of misconduct.

Sec. 2-1201.3. Powers and Duties of the Community Oversight Board.

- a. *Procedures must be adopted before the Board begins to operate.* Within 90 days of appointment of the Board, the Chair of the Board shall submit proposed Operating Procedures to the City Council. The proposed operating procedures should be drafted by the Chair of the Board in cooperation with the rest of the Board pursuant to this division. The Board shall not exercise the powers and duties set forth within paragraphs until City Council approves Operating Procedures.
- b. *Powers and Duties.* The Board shall have the following powers and duties:
 1. To receive, investigate, and issue findings on complaints from community members regarding the conduct of law-enforcement officers and civilian employees of a law-enforcement agency serving under the authority of the locality;
 2. To investigate and issue findings on incidents, including the use of force by a law-enforcement officer, death or serious injury to any person held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops, other incidents regarding the conduct of law-enforcement officers or non-police employees of a law-enforcement agency serving under the authority of the locality, and any citizen appeals or a finding or decision of the Department of Police;
 3. Concordant with any investigation conducted pursuant to subdivisions 1 and 2 and after consultation with such officer's or employee's direct supervisor or commander, to make binding disciplinary determinations in cases that involve serious breaches of departmental and professional standards, as defined by the locality. Such disciplinary determinations may include letters of reprimand, suspension without pay, suspension with pay, demotion within the department, reassignment within the department, termination, involuntary restitution, or mediation, any of which is to be implemented by the local government employee with ultimate supervisory authority

over officers or employees of law-enforcement agencies serving under the authority of the locality;

4. To investigate policies, practices, and procedures of law-enforcement agencies serving under the authority of the locality and to make recommendations regarding changes to such policies, practices, and procedures. If the law-enforcement agency declines to implement any changes recommended by the law-enforcement community oversight body, such law-enforcement community oversight body may require the law-enforcement agency to create a written record, which shall be made available to the public, of its rationale for declining to implement a recommendation of the law-enforcement community oversight body;

5. To review all investigations conducted internally by law-enforcement agencies serving under the authority of the locality, including internal investigations of non-police personnel employed by such law-enforcement agencies, and to issue findings regarding the accuracy, completeness, and impartiality of such investigations and the sufficiency of any discipline resulting from such investigations;

6. To request reports of the annual expenditures of the law-enforcement agencies serving under the authority of the locality and to make budgetary recommendations to the governing body of the locality concerning future appropriations;

7. To make public reports on the activities of the law-enforcement community oversight body, including investigations, hearings, findings, recommendations, determinations, oversight activities and community engagement activities; and

8. To undertake any other duties as reasonably necessary for the law-enforcement community oversight body to effectuate its lawful purpose as provided for in this section to effectively oversee the law-enforcement agencies serving under the authority of the locality.

- c. *Reporting.* The Board shall submit yearly reports to the Council, the Mayor, the Chief of Police, and shall publish on a publicly accessible website an accounting of their work.
- d. *Access to Department Information.* The Board is authorized to receive, and shall be provided full access to, all Department reports, files, Body Worn Camera footage, and other records pertinent to Board investigations of complaints and incidents or to its review of Department Internal Affairs investigations, as authorized in this ordinance. All records, documents and materials in the possession of the Department or of the City that are determined by the Board to be necessary and requested by the Board to carry out its authorized powers and responsibilities shall be provided to the Board subject to Board procedures adopted, with Council approval, for the protection of confidential information as defined in such procedures. Within 60 days of the appointment of the Board chair, the Board Chair shall establish a

Standard Operating Procedure setting forth how this access shall be given by the Department to the Board, how personal information shall be managed and protected by the Board in accordance with the requirements of Virginia Code §2.2-3800 *et seq.*, and under what circumstances or conditions it may be made available to the parties.

- e. Maintain the confidentiality of records obtained in accordance with this division to the extent permitted or required by law. Prior to the release of any information, records, or reports by the Board, the City Attorney shall review any and all records obtained by the Board to redact any information (i) related to a juvenile in accordance with Virginia Code § 16.1-301 or (ii) involving statements that may compromise the identities of confidential informants or undercover officers.

Sec. 2-1201.4. Investigations;

- a. *Compliance.* Any investigation shall comply with all federal, state, local laws, and the Board's Operating Procedures.
- b. *Investigation Trigger.* An investigation is triggered by a complaint from a community member or by incident information provided by community members, witness officers, or others with knowledge of an incident of police misconduct against any community members or the community at large consistent with Sec. 2-1201.2(b)(2).
- c. *Compelled Statements.* The Board may not compel a statement from any Department employee but, if a Department employee refuses to give a statement, the omission can be considered in the investigation.
- d. *Disciplinary Decisions.* Concordant with any investigation conducted pursuant to this division the Board shall issue findings determining whether the allegations are founded or unfounded. If allegations are founded:
 - 1. In cases of serious breaches of departmental and/or professional standards, the Board may elect to issue disciplinary decisions consistent with Sec. 2-1201.2.(b)(3);
 - 2. In cases that do not involve serious breaches of departmental and/or professional standards, the Board may make recommendations to the Department on individual officer response or departmentwide training or policy change;
 - 3. All discipline decisions must follow City of Richmond Human Resource's procedures.
- e. *Exclusions.* The Board shall not make binding disciplinary recommendations for complaints brought prior to the adoption of the Board's Operating Procedures. Additionally, The Board shall not investigate or issue findings of the following:
 - 1. Incidents that occurred more than a year prior to the adoption of this ordinance, except for documentation and auditing purposes;
 - 2. Matters that are the subject of a pending criminal proceeding in any trial court, a pending civil proceeding in any trial court (as evidenced by a Notice of Claim or a filed complaint), or any pending City of Richmond grievance proceeding;
 - 3. Any complaint, incident, claim, or issue where the Complainant requests that the Board not have access to their files;

4. Any complaint, incident, claim, or issue that has previously been the subject of an investigation by the Board, unless substantial new information has come to the attention of the Board;

f. *Subpoenas.*

1. If the Board determines that there is evidence (including witnesses) not within the control of the Department that the Board is unable to obtain voluntarily, the Board by two-thirds vote may direct the Executive Director, on behalf of the Board, to apply to the Richmond Circuit Court for a subpoena compelling the attendance of such witness or the production of such books, papers, and other evidence, and the Court, on finding that the witness or evidence is material to the discharge of the Board's duties, may issue the requested subpoena.
2. If the Executive Director is denied access to material witnesses, records, books, papers, or other evidence within the control of the Department that the Executive Director deems necessary to perform their duties and the duties of the Board, the Executive Director may request the Chief Administrative Officer to require the Department to produce the requested witnesses and documents. The Chief Administrative Officer, or their designees, shall not unreasonably deny such a request, but may place conditions on the production of the requested witnesses and documents as necessary to preserve confidentiality for the reasons set forth in this ordinance. The Chief Administrative Officer, or their designee, shall issue a decision on the Executive Director's request within 5 business days from the date of that request.
3. If the Chief Administrative Officer, or their designee, denies the Executive Director's request made pursuant to subparagraph (2) above, the Board by two-thirds vote may direct the Executive Director, on behalf of the Board, to apply to the Richmond Circuit Court for a subpoena compelling the attendance of such witnesses or the production of such books, papers, and other evidence. The Court, on finding that the witness or evidence is material to the discharge of the Board's duties, shall cause the subpoena to be issued with such conditions as the Court may deem necessary to protect the Department's concerns about the need for confidentiality. The Board shall give the Chief Administrative Officer and the Department reasonable notice of its intent to subpoena such witness or records and shall give the City Attorney a copy of the request for subpoena. The Board shall not unreasonably withhold its agreement to limitations on the scope of the subpoena requested by the Chief Administrative Officer that may be necessary to protect confidential information. The Parties may request that any hearing to be held in the Circuit Court on the request for a subpoena be conducted in a closed courtroom, to the extent permitted by state law. Upon request, the court file for any such subpoena request shall be kept under seal to the extent permitted by state law.
4. If a subpoena is granted, the Board shall digitally record any interviews or depositions conducted pursuant to the subpoena and shall make copies of any documents obtained by subpoena. The Board shall provide the Department with copies of any such interview/deposition recordings and documents. The Board shall delegate its authority

to subpoena and question witnesses to the Executive Director, who shall conduct any interviews, depositions, or questioning of witnesses in a non-public forum that adequately protects the privacy of the individual being subpoenaed, the confidentiality or sensitivity of information shared or sought, and the integrity of any pending or concurrent investigation.

- g. *Reporting.* At the conclusion of all investigations and all criminal and civil proceedings, publish on the City's website a summary of the Board's findings and recommendations for each matter reviewed or investigated by the Board. Such summary shall be approved as to form by the City Attorney and exclude personal identifying information or other information prohibited from disclosure pursuant to Code of Virginia, § 16.1-301.

Sec. 2-1201.5. Composition; terms of office; compensation; training; community engagement

a. *Appointment Process.* City Council shall appoint seven members to the Board. The Council shall announce a public application process with applications available online and by hardcopy in English and Spanish for individuals interested in serving on the Board. Applications can be made available in other languages by request. Council will seek to appoint fair-minded and objective members with a demonstrated commitment to community service who have training and experience, including lived experience, with topics relevant to the business of the Board, including law, police practices, human resources practices and procedures, trauma-informed mental health issues, and the sociology of historically over-policed communities.

b. *Composition.* The composition of the Board shall reflect the demographic diversity of the city of Richmond. City Council shall appoint 9 members to the Board. To be eligible to serve on the Board, the members of the Board shall meet the following requirements:

1. Each member shall be a resident of the city of Richmond and shall maintain such residency during such member's tenure on the Board.
2. No more than two members from any single council district may serve at any given time.
3. No person currently or previously employed as a law-enforcement officer as defined in Code of Virginia, § 9.1-101 shall be appointed to the Board.
4. No person who is a family member of a person who is currently or who was previously employed as a law-enforcement officer as defined in Code of Virginia, § 9.1-601 shall be appointed to the Board. For purposes of this subdivision, the words "family member" mean a spouse, domestic partner, child, parent, guardian, sibling, or dependent.

c. *Terms of office.* In order to facilitate the staggering of terms of the voting members of the Board, of the voting members initially appointed, three members shall serve for terms of three years; two members shall serve for terms of two years; and two members shall serve for terms of one year. Thereafter, all members shall be appointed for terms of three years from the date of appointment. Upon expiration of a member's term of office, that member shall

continue to hold office until the successor thereof is appointed and qualified. All other aspects of the Board and its membership not addressed in Code of Virginia, § 9.1-601 or this division shall be governed by chapter 2, article V, division 1.

d. *Conflicts of Interest.* No Board member may participate in any matter before the Board under circumstances in which the objectivity of the Board member could reasonably be questioned, including, without limitation, the consideration of a Complaint of someone who is a family member. For purposes of the Virginia State and Local Government Conflict of Interests Act, the Board shall be deemed a “governmental agency” and each Board member shall be an “officer,” as those terms are defined in Virginia Code §2.2-3101. All Board members shall comply with the requirements of the Virginia State and Local Government Conflict of Interests Act.

e. *Compensation.* The members of the Board shall receive a stipend of \$200.00 for each meeting of the Board for which such members are actually engaged in the duties of the Board, subject to the appropriation of funds therefor; provided however, that no member shall receive compensation for any amount exceeding \$2,400 within a calendar year. No member shall receive compensation for any meeting such member does not attend.

f. *Training.* After appointment to the Board, each member of the Board shall annually complete training courses on (i) diversity, equity, and inclusion, and (ii) law enforcement policies and procedures, including civilian oversight best practices.

g. *Community Engagement.* The Board and the Executive Director shall engage in community outreach to seek the assistance and input of community members. At least twice a year, the Board shall host public community listening sessions to discuss policing matters of pressing public concern, including the impacts of local policing on historically disadvantaged communities that currently experience or traditionally have experienced disparate policing.

Sec. 2-1201.6. Administration; Office of Community Oversight

a. *Quorum.* Six voting members of the Board shall constitute a quorum.

b. *Officers.* The Board shall select from among its voting membership a chairperson and vice chairperson. No member shall serve in either role more than two terms.

c. *Meetings.* The Board shall meet at least monthly and as often as it deems necessary in order to complete its duties.

d. *Freedom-of-Information.* All meetings and records of the Board shall be subject to and meeting minutes shall be kept in accordance with the provisions of the Virginia Freedom of Information Act.

AN ORDINANCE No. _____

To amend ch. 2, art. V of the City Code by adding therein a new div. 7 (§§
_____) for the purpose of establishing an Office of Community Oversight.

Patron –

WHEREAS on October 28, 2020, the Virginia General Assembly enacted House Bill 5055, which expressly authorizes the governing body of a locality to establish a law enforcement community oversight body; and

WHEREAS, the Mayor and Council believe that it is in the public’s best interest that the City establish a Community Oversight Board that is supported by the Office of Community Oversight in conformity with Virginia Code § 9.1-601; and

WHEREAS, it is estimated that the annual operating costs for the Office of Community Oversight will be \$1,200,000 (partial year allocation of \$600,000);

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

AYES: _____ NOES: _____ ABSTAIN: _____

AYES: _____ NOES: _____ ABSTAIN: _____

§ 1. That Chapter 2, Article IV of the Code of the City of Richmond (2020) be and is hereby amended and reordained by **adding therein a new** Division 23, consisting of sections numbered _____ through _____, as follows:

DIVISION 23
OFFICE OF COMMUNITY OVERSIGHT

Sec. Sec. 2-1202.1 Created; composition.

There shall be an Office of Community Oversight which shall consist of a Director, five (5) investigators, one (1) auditor, one (1) policy analyst, two (2) staff members, and the ability to retrain outside legal counsel. The purpose of the Office is to support the work of Community Oversight Board and ensure transparency to the community of both the oversight board’s actions

and the actions of the Department. The Office shall exercise all of the powers and perform all of the duties assigned to the Office by Division 23 or by other ordinances or laws. The Office shall not be considered a part of any other department or agency under the control of the Chief Administrative Officer and shall not be otherwise accountable to the head of any other department or agency under the control of the Chief Administrative Officer.

Sec. 2-1202.2

Executive Director; administration; general

- a. *Appointment.* The Director of the Office of Community Oversight shall be appointed by the City Council, with an opportunity for public input, for an indefinite term and shall be a member of the unclassified service.
- b. *Interview process.* As a part of the Executive Director appointment process, City Council shall convene an interview panel that includes two members of the Board. If those two members recommend a candidate for appointment as Executive Director, City Council shall provide a written justification to the Board if a different candidate is appointed.
- c. *Duties.*
 1. The Executive Director shall support the Board in the implementation and exercise of all of its functions authorized under this ordinance and to undertake or ensure the performance of specific tasks assigned by the Board, including the monitoring of investigations conducted by the Department.
 2. The Director shall have general management and control of the Office and, subject to applicable personnel policies adopted by ordinance, shall appoint and remove all officers and employees of the Office.
- d. *Qualifications.* The Executive Director shall not be a current or former member of law enforcement. At a minimum, the Executive Director must have:
 1. Demonstrated experience working with, in, and/or for disadvantaged communities or communities who disproportionately experience policing; and/or
 2. Demonstrated commitment to eliminating profiling and misconduct in policing.
- e. *Supervision.* The City Council shall supervise the work of the Executive Director and may delegate that responsibility to a designee. The City Council's annual evaluation of the Executive Director's performance shall consider a written performance review submitted by the Board to the City Council. The Board may request that the City Council meet with the Board's Chair to discuss the Executive Director's performance.
- f. *Vacancy.* If there is a vacancy in the position of Executive Directors, the City Council or their designee may designate some other City employee who is not an employee of the Department to act as Executive Director until a new Executive Director is hired.

Warren Jr., Richard A. - Clerk's Office

From: Teresa Hepler [REDACTED]
Sent: Monday, October 10, 2022 9:40 AM
To: City Clerk's Office
Subject: Written Comment on Ord 2022-261
Attachments: LAJC Statement in Opp to Richmond PCRB Ordinance 10.9.22.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

To the Richmond City Clerk's Office,

Attached is a comment from the Legal Aid Justice Center regarding proposed Ordinance 2022-261.

Best,

Teresa Hepler (she/her/ella)
Community Advocate & Attorney (abogada)
Civil Rights & Racial Justice Program
Legal Aid Justice Center

Statement in Opposition to Proposed Ordinance 2022-261

The Legal Aid Justice Center opposes proposed Ordinance 2022-261, which seeks to establish a board that will not begin to shift power to the community to investigate and correct police misconduct.

In 2020, Virginia became the leader in the country on police oversight boards by enacting 9.1-601. There are police review boards all over the country, but few of them have the powers granted by the Virginia legislature. Those that do reside in states that do not have statewide legislation. 9.1-601 resulted from years and years of police abuse on Virginians, particularly Richmonders of color, who mobilized with other directly-impacted Virginians across the state to share their experiences with legislators, who listened and realized change was greatly needed.

Directly-impacted communities empowered their localities to create oversight boards that can independently investigate complaints against the police department, discipline abusive officers, and examine the police budget, which can often include sums for military equipment. These boards can also better examine department policy and procedures within the context of patterns seen in their complaint investigations.

Before 2020, Virginia already had three review boards in Charlottesville, Virginia Beach, and Fairfax. The directly-impacted communities in Charlottesville and Virginia Beach, having experienced the review boards' inability to stop police abuse, successfully worked with their localities to transform their boards into the oversight boards empowered by the new law. Fairfax has also been discussing a similar transformation, and Arlington and Alexandria have established oversight boards **in close consultation with their directly-impacted communities**.

Meanwhile, Richmond is not working with or listening to its directly-impacted communities and not learning from other localities that already lived through the review model's built-in failures. Richmond instead is proposing to establish a board it could have established before the new law, with the same model already proven unsuccessful in Virginia and elsewhere. Even if the goal is to eventually transform the board into an oversight board, starting with a failed model first is taking several steps backwards, particularly given that the community wants to take a step forward.

As the capital of the commonwealth, Richmond could be the gold standard for the country, empowered by the most powerful police oversight law passed by any state to create a board that investigates police misconduct complaints, disciplines or has input into police discipline, and examines policies, procedures, and the budget, among other necessary authority. While the proposed ordinance does contain some of the recommendations issued by Council's own task force, it does not contain the most important recommendations and powers. These omissions contradict what the directly-impacted Richmond community has advocated for these several years. For that reason, the Legal Aid Justice Center asks City Council to VOTE NO on Ordinance 2022-261.

Warren Jr., Richard A. - Clerk's Office

From: John Bolecek [REDACTED]
Sent: Sunday, October 9, 2022 2:11 PM
To: City Clerk's Office
Subject: Support noise ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

I support the noise ordinance. I live in Oregon Hill and loud parties that go late into the night disturb our neighbors.

Thank you,

John Bolecek
[REDACTED]

Warren Jr., Richard A. - Clerk's Office

From: Margaret Pfohl [REDACTED]
Sent: Monday, October 10, 2022 9:44 AM
To: City Clerk's Office
Cc: Stokes, Kiya A. - City Council; Lambert, Ann-Frances - City Council; David Lydiard - RE/MAX
Subject: RES 2022-R061 10/10/22 City Council Meeting Comment

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

I am the Co-Chairperson of the Bellevue Civic Association Traffic Committee and have been working with city representatives on traffic issues in the Bellevue neighborhood. I would like to voice my support for RES 2022-R061 for enhanced speeding penalties for West Laburnum Avenue from Rosedale Avenue heading east to the Henrico county line. This area is a residential area covering several Northside neighborhoods with many pedestrians, runners, bikers and children walking to school.

We have witnessed many cars in this area traveling at excessive speeds, which is confirmed by the 2021 speed study showing that over 60% of the cars are traveling at speeds of 45-55+mph. This jeopardizes the lives and properties of residents and many of our neighbors have experienced damage to cars parked along Laburnum. We hope this resolution can assist in enforcing traffic calming in this area.

Please convey our support of RES 2022-R061 to the City Council.

Thank you to our representative Ann -Frances Lambert for sponsoring this resolution and thanks to her liaison, Kiya Stokes for notifying the neighborhood.

Sincerely,
Margaret Pfohl

[REDACTED]

Warren Jr., Richard A. - Clerk's Office

From: Susan Rebillot [REDACTED]
Sent: Sunday, October 9, 2022 5:51 PM
To: City Clerk's Office
Cc: Susan Rebillot; Stokes, Kiya A. - City Council; Philipsen, Sven J. - City Council; Lambert, Ann-Frances - City Council
Subject: Letter of Support for Res NO 2022-R061

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

Dear City Clerk,

I am unable to attend the City Council Meeting Monday, October 10, so am writing in support of the Resolution put forth by co-patrons, Council Members Lambert and Jordan, to place signage of enhanced fines for speeding on West Laburnum Avenue between Rosedale and the Henrico County Line. I reside in Laburnum Park, and West Laburnum Avenue runs through our neighborhood and then bisects Ginter Park. Speeding on West Laburnum endangers pedestrians, children and families, and bicyclists and interferes with the safe walkability of our neighborhoods.

Please enter my letter of support for this resolution into the record. Thank you. Thank you, Council Members Lambert and Jordan for proposing an intervention to improve neighborhood traffic safety.

Sincerely,
Susan Rebillot

[REDACTED]

\$

\$