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Title:	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 Civilian Review Board.				
Sponsors:	Mayor Stoney, Michael Jones, Stephanie Lynch, Andreas Addison, Ann-Frances Lambert				
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Date	Ver.	Action By	Action	Result
10/10/2022	1	City Council		
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9/12/2022	1	City Council	introduced and referred	

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 Civilian Review Board.

WHEREAS, the Mayor and the Council believe that it is in the best interests of the citizens of the City of Richmond that the City establish a Civilian Review Board to review and provide findings on certain internal investigations conducted by the Department of Police and to make policy recommendations concerning law enforcement matters; and

WHEREAS, it is estimated that the annual operating costs for the Civilian Review Board will be approximately $200,000, including 1,800 staff hours;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 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

CIVILIAN REVIEW BOARD

Sec. 2-1202.1. Created.

In accordance with Code of the Virginia, § 9.1-601, there is hereby created a board of the City of Richmond with indefinite duration to be known as the Civilian Review Board for the purpose of (i) reviewing, investigating and making recommendations to the Council, the Mayor, and the Chief of Police concerning internal investigations conducted by the Department of Police regarding (a) police officer-involved shootings; (b) deaths of persons while held in the custody of the Department of Police; (c) serious injuries to persons while in the custody of the Department of Police; (d) accusations of physical or verbal abuse by officers of the Department of Police; and (e) appeals by citizens of a finding or decision of the Department of Police; and (ii) providing recommendations on law enforcement practices, policies, and procedures. For purposes of section 2-773, the Board is classified as "advisory."

Sec. 2-1202.2. Composition; terms of office; compensation; training.

(a) *Composition*. The Board shall be composed of eight members. Of the eight members, four of such members shall be appointed by the Council and four of such members shall be appointed by the Mayor. Pursuant to Code of Virginia, § 9.1-601(B), the composition of the Board shall reflect the demographic diversity of the city of Richmond. In addition, in order to be eligible to serve on the Board, the members of the Board shall meet the following conditions:

(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 shall be residents of the same Council election district.

(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.

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(4) No person who is a family or household member, as defined in Code of Virginia, § 16.1-228, of a person who is currently or who was previously employed as a law-enforcement officer, as defined in Code of Virginia, § 9.1-101, shall be appointed to the Board.

(5) No person who has a complaint pending against the Department of Police or litigation pending against the City or who is a family or household member, as defined in Code of Virginia, § 16.1-220, of a person who has such a pending complaint or litigation shall be appointed to the Board.

(b) *Terms of office*. In order to facilitate the staggering of terms of the members of the Board, of the members initially appointed, two members appointed by the Council and two members appointed by the Mayor shall serve for terms of three years; one member appointed by the Council and one member appointed by the Mayor shall serve for terms of two years; and one member appointed by the Council, one member appointed by the Mayor shall serve for terms of one year. Thereafter, all members shall be appointed for terms of three years from the date of appointment; provided, however, that no member of the Board shall be eligible for reappointment to the Board after serving on the Board for two consecutive terms. A member of the Board may be reappointed to the Board after serving on the Board for two consecutive terms if at least 365 days have elapsed since the date on which the member's last term expired. 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.

(c) *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. If any member fails to attend three or more meetings within a calendar year without first obtaining approval from the Board, such member shall forfeit his or her membership on the Board.

(d) *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.

Sec. 2-1202.3. Duties; prohibited review.

(a) The Board shall perform the following duties in accordance with the policies and procedures established pursuant to this division:

(1) Review all investigations conducted by the Department of Police regarding:

a. Police officer-involved shootings.

b. Deaths of persons while held in the custody of the Department of Police.

c. Serious injuries to persons while held in the custody of the Department of Police.

d. Accusations of physical or verbal abuse by officers of the Department of Police.

e. Appeals by citizens of a finding or decision of the Department of Police.

(2) Review all investigations set forth in subdivision (a)(1) of this section after final disposition by the Department of Police, but before any discipline is imposed, to ensure the accuracy, completeness, and impartiality of such investigations and the sufficiency of any discipline proposed by the Department of Police resulting from such investigations.

(3) If the Board determines that, in order to carry out the duties set forth in this division, it must obtain information aside from any records or information furnished by the Department of Police, conduct independent investigations of the matters set forth in subdivision (a)(1) of this section. Such independent investigations shall comply with all existing federal, state, and local law, including, but not limited to, the Law Enforcement Officers Procedural Guarantee Act and protections afforded under the United States Supreme Court decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967). In conducting such independent investigations, the Board may:

a. Conduct interviews of witnesses and request the production of books, papers, and

other evidence necessary to perform its duties.

b. If, after making a good faith effort to obtain, voluntarily, the attendance of witnesses to interviews and the production of books, papers, and other evidence necessary to perform its duties, the Board is unable to obtain such attendance or production and subject to an affirmative vote of at least six members of the Board, apply to the Circuit Court of the City of Richmond for a subpoena compelling the attendance of such witness or the production of such books, papers, and other evidence, as permitted by Code of Virginia, § 9.1-601(D).

c. Contract with a third-party investigator, subject to (i) an affirmative vote of a majority of the members of the Board, (ii) the availability of sufficient funds appropriated for such purpose, and (iii) compliance with chapter 21 of this Code.

(4) After the completion of any and all reviews or investigations undertaken in accordance with this division, provide the Council, the Mayor, and the Chief of Police with a written report of the Board's findings and, as the case may be, the written report of the findings of a third-party investigator. Such findings may include recommendations for disciplinary actions or changes to law enforcement practices, policies, and procedures. The Board's written report and findings shall not be disclosed until all criminal and civil proceedings have concluded.

(5) 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 or exempted from disclosure pursuant to Code of Virginia, § 16.1-301, or other applicable law. Any statement provided by a police officer pursuant to the United States Supreme Court decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967) shall remain confidential, but the summary may disclose whether the officer admitted or denied the allegations.

(6) 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 Code of Virginia, § 16.1-301, (ii) involving statements that may compromise the identities of confidential informants or undercover officers, or (iii) prohibited or exempted from disclosure by law.

(7) To undertake any other duties as may be reasonably necessary for the Board to effectuate its purpose as set forth in this division.

(b) The Board shall not review or shall suspend its review of the following:

(1) Investigations completed by the Department of Police 60 days or more before all of the initial members of the Board were appointed.

(2) Investigations conducted by the Department of Police involving matters that are under or subject to an active criminal investigation or proceeding against any police officer. In such cases, the Board shall defer its review until the criminal investigation or proceeding has been dismissed or concluded as a matter of law. In the event that a criminal investigation or proceeding is initiated during review, the Board shall suspend its review until the investigation or proceeding is concluded as a matter of law.

(3) Matters that are the subject of pending civil proceedings while those proceedings are pending, provided that the City Attorney must determine whether a civil proceeding is pending and when that civil proceeding is resolved. In the event that a civil claim is initiated during review, the Board shall suspend its review until the civil claim is concluded as a matter of law.

(4) Any financial or procurement decisions made by the Department of Police.

Sec. 2-1202.4. Administration.

(a) *Quorum*. Five members of the Board shall constitute a quorum.

(b) *Officers*. The Board shall select from among its voting membership a chairman and a vice chairman.

(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.

(e) *Staff and Resources*.

(1) Pursuant to section 4.02(f) of the City Charter, the Council shall appoint a full-time employee, who shall serve at the pleasure of the Council and the costs of whom shall be paid from City funds appropriated for the Board, to assist the Board in performing its duties as set forth in this division.

(2) An employee of the Department of Police assigned by the Chief of Police shall serve as a liaison between the Board and the Department of Police.

(3) The City Attorney shall provide for legal counsel for the Board in accordance with section 4.17 of the City Charter to represent the Board in all cases, hearings, controversies, or matters involving the interests of the Board, and the costs of any outside counsel shall be paid from City funds appropriated to the Board.

(f) *Policies and procedures.* The employee appointed by the Council in accordance with subsection (e)(1) of this section shall prepare recommended policies and procedures for the performance of the duties of the Board. The policies and procedures prepared in accordance with this subsection shall include, at a minimum, a protocol, which protocol shall be agreed to by the Chief of Police, concerning (i) communication and the sharing of data between the Board and the Department of Police and (ii) the completion and submission of reports on matters being investigated by the Board. Such policies and procedures shall also include, at a minimum, standards concerning how and when hearings of the Board shall be held, the maintenance of minutes, confidentiality, and reporting requirements. The employee appointed by the Council in accordance with subsection (e)(1) of this section shall submit to the Council the policies and procedures that the Board staff member recommends and that the City Attorney has approved as to form and legality.

The Council must adopt a resolution establishing the Board's policies and procedures pursuant to Code of Virginia, § 9.1-601(D) before such policies and procedures may become effective. Any amendments to the Board's policies and procedures shall be recommended and established in the same manner.

(g) *Reporting*. The Board shall submit to the Council and the Mayor a written annual report by no later than October 1 of each year. Such annual report shall exclude personal identifying information and other information prohibited or exempted from disclosure pursuant to Code of Virginia, § 16.1-301, or other applicable law. Any statement provided by a police officer pursuant to the United States Supreme Court decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967) shall remain confidential, but the annual report may disclose whether the officer admitted or denied the allegations.

Sec. 2-1202.5. Response to Board recommendations.

For any and all of the Board's recommendations regarding the matters set forth in section 2-1202.3(a)(1), the Department of Police shall create a written record, which shall be made available to the public within 30 days after the Chief of Police's receipt of the Board's recommendations, of the Department of Police's responses to all of such recommendations. For any and all of the Board's recommendations pursuant to section 2-1202.3(a)(4), the Department of Police shall provide the Board with a written response to all of such recommendations.

§ 2. That:

(a) No member of the Board shall be either (i) appointed by the Council or the Mayor or (ii) administered the requisite oath of office by the City Clerk until the Council has both:

(1) Appointed the employee for which section 2-1202.4(e)(1) of the Code of the City of Richmond (2020) as adopted by section 1 of this ordinance provides; and

(2) Adopted the initial policies and procedures for which section 2-1202.4(f) of the Code of the City

of Richmond (2020) as adopted by section 1 of this ordinance provides.

(b) The Council shall endeavor to appoint the employee for which section 2-1202.4(e)(1) of the Code of the City of Richmond (2020) as adopted by section 1 of this ordinance provides within 90 days after the date of the adoption of this ordinance.

(c) The Chief Administrative Officer shall, in accordance with all applicable laws and regulations, select a third party to conduct an evaluation of the Board and its activities within 365 days after the date on which all the initial Board members are appointed and shall cause such third party to provide the Council and the Mayor with a written evaluation within 90 days after the date on which the Chief Administrative Office selects such third party. Such written evaluation shall exclude personal identifying information and other information prohibited or exempted from disclosure pursuant to Code of Virginia, § 16.1-301, or other applicable law. Any statement provided by a police officer pursuant to the United States Supreme Court decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967) shall remain confidential, but the written evaluation may disclose whether the officer admitted or denied the allegations.

§ 3. This ordinance shall be in force and effect upon adoption.

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