September 2013

Citizens Review Board Stakeholder Process

Response to Request from the Mayor and City Council

History: In December 1996, the Mayor and City Council directed the City Manager to conduct a review of the Police Department's process for receiving, investigating and adjudicating complaints of police misconduct. The review was in response to community concerns raised following the shooting death of a motorist by a CMPD officer in November of 1996. The review led to the creation of the Citizens Review Board in 1997.

CRB Process Task Force
Community Relations Committee
Citizens Review Board

CRC/CRB Task Force

At the request of Charlotte City Council and former Mayor Anthony Foxx, a task force was created that involved a partnership between the Charlotte-Mecklenburg Community Relations Committee (CRC) and the Citizens Review Board (CRB). This task force was charged with gathering feedback from the community regarding the Citizens Review Board appeal process. Information was collected for the purpose of providing City officials with objective feedback on the current process so that a determination could be made regarding recommended modifications.

Community Relations Committee	Citizens Review Board
Patricia Albritton, Chair	Gregory West, Chair
J. R. Black	Harvey Katowitz, Vice Chair
Pat Taft	Robbie Harrison
Jill Santuccio	Alan Adler
Shay Merritt	Carolyn Millen
Janet Lama	
Omar Saxton	
Aaron Orr	

Staff of the

Charlotte Mecklenburg

Community Relations Committee

2013 CRC/CRB Task Force Report

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I. Overview/Purpose

The overview and purpose of the task force and its work is best summarized in this press release:

FOR IMMEDIATE RELEASE
Thursday, June 20, 2013
Contact: Willie Ratchford, Executive Director
704-336-2195
wratchford@charlottenc.gov

CHARLOTTE-MECKLENBURG COMMUNITY RELATIONS SEEKS COMMUNITY INPUT ON CITIZENS REVIEW BOARD PROCESS

At the request of City Council and Mayor Anthony Foxx, Charlotte-Mecklenburg Community Relations is partnering with the Citizens Review Board to gather feedback from the community regarding the Citizens Review Board appeal process. The information collected will be used by City officials as they determine if the process needs to be modified.

When a complaint is filed against an officer, it is investigated by the Charlotte-Mecklenburg Police Department (CMPD) Internal Affairs division. If it is a serious offense, such as excessive force, the case goes to a hearing by the CMPD Chain of Command Review Board. During the hearing, the investigative case file is reviewed by all of the board members, which includes at least one member of the Community Relations staff. The board also questions employee witnesses to clarify any concerns or ask additional questions. Following the hearing, a decision is made by CMPD; the complaint may be sustained, not sustained, unfounded or exonerated. If a citizen is not satisfied with the CMPD decision, he or she may appeal to the Citizens Review Board. When an appeal is filed, the Citizens Review Board determines whether an appeal hearing is warranted based on the evidence presented. For more information about this process, visit crc.charmeck.org.

A task force made up of members of the Community Relations Committee and the Citizens Review Board has identified three major groups of stakeholders whose input is crucial to make recommendations: the general public, police department staff, and the faculty and students of the Charlotte School of Law. The stakeholder meetings that are open to the public have been scheduled for July 9 at Covenant Presbyterian Church (1000 East Morehead St.) from 6 - 7:30 p.m. and July 11 at Beatties Ford Road Regional Library (2412 Beatties Ford Road) from 6 - 7:30 p.m.

Those who are not able to attend a meeting are encouraged to fill out a short survey about the process by clicking here.

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II. Executive Summary

Problem/Issue/Purpose:

At the request of Charlotte City Council and former Mayor Anthony Foxx, a task force was created that involved a partnership between the Charlotte-Mecklenburg Community Relations Committee (CRC) and the Citizens Review Board (CRB). This task force was charged with gathering feedback from the community regarding the Citizens Review Board appeal process (Appendix F). Information was collected for the purpose of providing City officials with objective feedback on the current process so that a determination could be made regarding recommended modifications.

This request stemmed from a report by the Charlotte School of Law (Appendix D) and subsequent articles in the Charlotte Observer (Appendix A) that highlighted perceived inequities in the current CRB process. The report resulted from a three-year study conducted by the Charlotte School of Law Civil Rights Clinic. Research began with a comprehensive public records request in which clinic members identified sixty former complainants who had filed appeals with the Citizens Review Board (Appendix G). Since that original document request, further investigation revealed that during the fifteen year history of the CRB, the board received a total of seventy-eight appeals, held four hearings and never ruled against the police department. However, it should be noted that it would be unusual for a sustained case to be appealed to the Citizens Review Board since the officer would have been disciplined internally by CMPD. In the one sustained case that was appealed, the officer was given a 40-hour active suspension, but the citizen felt the officer should have been fired. When the feedback from former complainants revealed an overall dissatisfaction with the complaint review process, and local media criticized statistics of the Citizens Review Board history of never ruling for a citizen complainant, the Clinic took an in-depth look at the ordinance that provides for creation of the Citizens Review Board to identify problems

Key groups of stakeholders were identified by the task force for the purpose of gathering feedback on the current CRB appeal process. The stakeholders and the meetings scheduled were as follows:

- Charlotte School of Law – Friday, June 28, 2013 (Appendix D)
- Charlotte-Mecklenburg Police Department – Friday, July 5, 2013
- Public Meeting – Covenant Presbyterian Church – Tuesday, July 9, 2013 (Appendix H)
- Public Meeting – Beatties Ford Road Library – Thursday, July 11, 2013 (Appendix H)
- Coalition for a Stronger CRB Process – Friday, July 12, 2013 (Appendix E)

The public meetings were facilitated, pro bono, by Rhonda York who is the managing partner of TeamWide Solutions and who has no affiliation to the CRC or CRB. At each meeting, Ms. York presented an overview of the purpose of the CRC/CRB Task Force and stated this meeting was to focus on input from the public. The identical question was presented to the citizens in attendance: What Makes an Effective Citizens Review Board Process? What should we keep doing, start doing and/or stop doing? The public audience was divided into groups and given 30 minutes to answer and document their responses. Each group was given an opportunity to present their responses to the overall audience.

Identical surveys were made available for any member of the general public who was unable to attend one of the public meetings (Appendix B) and sworn officers of the Charlotte Mecklenburg Police Department (Appendix C). The public survey was available from June 6 - July 17, 2013 and collected 84 total responses. The survey was announced in a June 6, 2013 news release to all local electronic and print media, through the City of Charlotte social media network, various e-mail distribution lists, and Mecklenburg County MeckConnect. The CMPD survey was available from June 27 – July 17, 2013 and collected a total of 388 responses. Key issues from the surveys were an overall knowledge/understanding of the current CRB appeals process and fairness for citizens who filed complaints against police.

Key Survey Findings:

- More than 61% of public respondents indicated that they have a good understanding of the Citizens Review Board process and how it works.
- More than 70% of CMPD respondents indicated that they have a good understanding of the Citizens Review Board process and how it works.
- 27.7% of public respondents indicated that the Citizens Review Board process is fair for citizens who file complaints.
- 59.2% of CMPD respondents feel that the Citizens Review Board process is fair for police officers who have had complaints filed against them.
- 65% of public respondents believe the Citizens Review Board process should be changed.
- Only 14% of CMPD respondents believe the Citizens Review Board process should be changed.

Educating the Task Force

In order to address its task, the members of the CRC/CRB Task Force sought to educate itself with terminology used by the Citizen Review Board in carrying out its work. That terminology is contained in the matrix on the following pages and taken from the CRB Manual:

The CRB may hold an appeals hearing only when it appears, based upon a preponderance of the evidence, that the disposition of the disciplinary charges entered by the Chief of Police constituted an abuse of discretion by the Chief of Police.

The duty and the power of the CRB is to conduct an appeals hearing and to determine whether by a preponderance of the evidence, the Chief of Police abused his discretion by:

- **Finding in a disciplinary action that the allegations against an officer were sustained, not sustained, exonerated, unfounded, or classified as an information file; or**
- **Finding in connection with the discharge of a firearm that the officer's action was justified, not justified, or accidental.**

Reasonable Suspicion Probable Cause	A. **Reasonable suspicion** – facts and circumstances that would cause a reasonable officer to suspect a person of criminal activity B. **Probable cause** – facts and circumstances that would cause a reasonable officer to believe a particular person committed a crime/"fair probability" C. **100%** **Proof beyond a reasonable doubt** **Clear and Convincing** **Preponderance of the Evidence (50 percent + 1)** **50%** **Probable Cause** **Reasonable Suspicion** **0%**
Discretion	• The authority of Chief of Police to decide whether allegations made against an officer are meritorious or not. Inherent in this is the ability to decide whether an officer's actions were justified or accidental.
Abuse of Discretion	• Occurs when a decision is manifestly unsupported by reason or so arbitrary that it could not have been the result of a reasoned decision.

Abuse of Discretion (continued)	• Synonymous with a failure to exercise a sound, reasonable, and legal discretion. • It does not imply intentional wrong or bad faith, or misconduct, nor any reflection on the decision maker, but means that a clearly erroneous conclusion and judgment was reached; one that is clearly against logic or against the reasonable and probable deductions to be drawn from the available facts. • An improvident exercise of discretion—exercised to an end or purpose not justified by and clearly against reason and evidence. • Unreasonable departure from considered precedents and settled custom. Any unreasonable, unconscionable and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted.
Preponderance of the Evidence	• Judicial standard. Also called "50% plus one" or "greater weight of the evidence." • Evidence which is of greater weight or more convincing than the evidence which is offered in opposition of it: that is, evidence which as a whole shows that the fact sought to be proved is more probable than not • Evidence which is more credible or convincing to the mind • That which best accords with reason an probability • How this standard relates to other judicial standards of proof (i.e., probable cause; clear and convincing; beyond a reasonable doubt).
Complaint Dispositions	**The Chief of Police may adjudicate allegations of employee misconduct as:** **Sustained:** The investigation disclosed sufficient evidence to prove clearly that the allegation made in the complaint is true. **Not Sustained:** The investigation failed to disclose sufficient evidence to prove or disprove the allegation made in the complaint. **Exonerated:** The acts which provided the basis for the complaint or allegation occurred; however, investigation revealed that they were justified, lawful and proper. **Unfounded:** The allegation is false. The alleged incident never took place. **Information File:** Allegations of employee misconduct which are so lacking in merit and/or substance that the preparation of formal Departmental charges and review by a Chain of Command Review Board would serve no useful purpose shall be placed in an information file pending receipt of additional information relevant to that particular investigation. Unless the complaint and investigation demonstrate that there is a fair probability (i.e., probable cause) that the employee engaged in misconduct, then it shall be placed in the information file.

Firearms Discharge	**The Chief of Police may decide that the discharge of a firearm was:**	
	Justified:	Means that the firing of the weapon complied with relevant state and federal laws. That the firing was within departmental regulations and represented reasoned judgment based on the officer's training and experience. May also mean that the firing was necessary to prevent serious injury or death.
	Not Justified:	Means that the firing of the weapon did not comply with relevant state or federal laws. That the firing was inappropriate under departmental regulations and did not represent reasoned judgment based on the officer's training and experience. That the firing was unnecessary to prevent serious injury or death.
	Accidental:	Means that the firing was not in violation of state or federal law, but resulted from accidental circumstances.

Scope/Limitations/Procedures:

The task force members reviewed all input received, but did not interpret or offer any suggestions of their own during any of the public sessions. The overall results, as well as the survey comments, were reviewed by the task force for the purpose of identifying common themes.

Considerations, Analysis and Findings:

It should be noted that the feedback the task force received represents a relatively small sample of the general public (84 survey responses and approximately 65 in attendance during the public meetings held on July 9 and 11, 2013). Additionally, the public sessions were also attended - and to some extent influenced - by outside groups, such as CRB Reform Now, with a clear agenda and perception regarding changes to the Citizens Review Board. That being said, it became apparent to the task force that there is a clear perception by some citizens and public organizations of impropriety built into the current CRB process.

The task force believes improving communication between the CRB and the general public can provide a significant opportunity to address public perception of the CRB process. This can be done by improving communication between the CRB and general public through a web page for the CRB on the city government site, and including a list of board members and information on the appeal process. Additionally, there is significant opportunity to improve transparency by publishing information on the disposition of appeals for the public. The lack of perceived power/authority by the CRB is also worth noting, as requests for the CRB to have subpoena power was a recurring theme throughout.

The task force is mindful that whatever recommendations are made and that may be ultimately implemented by City Council to the CRB process would have to maintain the integrity of state personnel laws. The current CRB ordinance takes this into consideration and any future change or revision to Charlotte's current law should also be mindful of the privacy/personnel issues that are guaranteed to all City employees. With regards to other potential recommendations, the chart on the following page shows the basic provisions of the City of Charlotte ordinance versus what is being asked by citizens and organizations such as the Charlotte School of Law and the Coalition for a Stronger CRB Process.

Charlotte Citizens Review Board Authority vs. Stakeholder Group Recommendations				
	Standard of Review	**Investigative/Subpoena Power**	**Public Access Information**	**Jurisdiction**
Charlotte CRB 11 Members	Preponderance of the evidence Abuse of discretion	No subpoena power Complaints are investigated by CMPD - IA	General info available on CRC website	After IA investigation, complainants may appeal on four issues: Force, Conduct AS&S Firearms
Stakeholder Group Recommendations	Probable cause Reasonable cause to believe Whether misconduct occurred	Subpoena power Independent investigatory powers	CRB independent website: o Minutes o Bios o Reports	Board reviews and investigates IA complaints

III. Process/Meeting Schedule

The task force met several times before and after the public/focus group meetings. In most cases, these were two-hour meetings. During these meetings the task force discussed its charge, how best to conduct public meetings, how best to collect information and the structure of this final report. These task force meetings took place on June 11, 2013; June 20, 2013; June 27, 2013; July 17, 2013; August 7, 2013: August 28, 2013 and September 16, 2013.

IV. Minutes from Stakeholder Meetings

a) Charlotte School of Law Meeting Minutes	**Charlotte School of Law** **Friday, June 28, 2013** **3 – 4:30 p.m.** **1300 South Blvd, Charlotte, NC**
Attending	**CRC** • Patricia Albritton-Chair • JR Black • Jill Santuccio • Omar Saxton **CRB** • Gregory West-Chair • Alan Adler • Robbie Harrison • Harvey Katowitz • Carey Davis – CRB Attorney **CRC Staff** • Willie Ratchford-Executive Director • Ledger Morrissette – Community Relations Manager
Minutes	The meeting opened with introductions of those in attendance. Mr. Ratchford presented an overview of the purpose of the CRC/CRB Task Force and stated this meeting was to focus on input from the Charlotte School of Law (CSL). **Recommendations from the CSL:** • The CSL report is the result of three years of investigative study by various members of the CSL. • Recommend to maintain an independent website for public information. The information should include process information and all information regarding complaints and relating documents. • The CRB process should include information on hearings. • Recommend changing the standards for citizens presenting complaints. The standard is too high. • Citizens should have the right to call witnesses. • Recommend to lower the probable cause rating the CMPD Chief currently maintains. • For subpoena power, the CSL recommends to adopt the guidelines in existence for the Civil Service Board. • The biggest concern is that people are not afforded the opportunity to nor have a fair chance to have a hearing. Citizens need due process. • Transparency • *Website – easy access; easy to understand information.*

	• *Detailed meeting minutes.* • *Annual reports from the CRB.* • Lower the burden/standards that individuals have to meet for an informal hearing. • *Change "preponderance of evidence" that the Chief abused his discretionary power to "probable cause" that the conduct occurred.* • Create an investigative management position with subpoena power. • Create an administrative management position. • Allow independent investigations. • Increase the number of hearings. • People do not understand or trust the process. The full report from the CSL was previously provided to this Task Force. The CSL asked to participate in public and review meetings relating to the CRB process review.

Minutes submitted by CRC Chair, Patricia Albritton

b) Charlotte Mecklenburg Police Department Meeting Minutes	**Charlotte Mecklenburg Police Department** **Friday, July 5, 2013** **10 - 11:30 a.m.** **601 East Trade Street - Room 3A** **Charlotte, NC**
Attending	**CRC** • Patricia Albritton-Chair • Janet Lama • Jill Santuccio • JR Black **CRB** • Gregory West-Chair • Alan Adler • Robbie Harrison • Harvey Katowitz • Carolyn Millen **CRC Staff** • Willie Ratchford-Executive Director • Terry Bradley – Community Relations Manager
Minutes	The meeting opened with a welcome from Ms. Albritton. Ms. Albritton presented an overview of the purpose of the CRC/CRB Task Force and stated this meeting was to focus on input from the Charlotte-Mecklenburg Police Department (CMPD). **Recommendations/Comments from CMPD:** The CRB process requires more clarification to the general public. More intentional public education is recommended. • *Include information on what CRB cases are open and what CRB cases are closed.* • *Include information on why CRB cases are opened and/or closed.* • *Include information on the meaning of preponderance of evidence* Review and update the CRB Appeals Form • *Currently only two lines are available on the hardcopy form for information on the complaint. (Per Terry Bradley, this form has been updated and is available online and by hardcopy)* The recommendation is to keep the CRB process. • *Ensure the CRB maintains a legal advisor.* • *Review and define the role of the legal advisor. He should not question the officer.* Recommend for the Charlotte City Council to attend the CRB review meetings for a better understanding of the process.

	Recommendation is to not allow CRB access to CMPD HR records. Recommendation is to not allow CRB independent investigations. From a CMPD attorney: the CMPD has reviewed the complaint review processes in other cities. The feeling is the CMPD internal review process would rate above other cities. Cities have different laws that mandate how a CRB functions. Charlotte's laws are different than other cities' laws. Comment- Internal Affairs (IAB) does not have a vote in internal investigations. Comment – Chain of review command does not include a member of the officer's immediate command. Comment – There is a civilian oversight at the chain of review command. A member of the Charlotte-Mecklenburg Community Relations Committee (CRC) participates in the review. Comment – CRB puts IAB and CMPD through changes. CMPD has taken recommendations from CRB and changed policies. Comment – Officers report other officers more than civilians complaining about officers. Officers do not feel that the CRB is a rubber stamp. Recommend to streamline the hearing process. • *Individual hearings can be too long.* • *Recommend to allow only documented parties essential to providing information in the hearing.* • *Recommend to review the overall CRB process timeline and look for ways to shorten the process.* Recommend to update the formal vetting process for selection of CRB members.

Minutes submitted by CRC Chair, Patricia Albritton

c) Covenant Presbyterian Church	**Public Meeting** **Tuesday, July 9, 2013** **6 – 7:30 p.m.** **1000 E. Morehead Street** **Charlotte, NC**
Attending	**CRC** • Patricia Albritton-Chair • Janet Lama • Shay Merritt • Jill Santuccio • Omar Saxton **CRB** • Gregory West-Chair • Alan Adler • Robbie Harrison • Harvey Katowitz • Carolyn Millen • Julian Wright – CRB Attorney **CRC Staff** • Willie Ratchford-Executive Director • Ledger Morrissette-Community Relations Manager • Terry Bradley – Community Relations Manager • Stephanie Randolph – CRC Staff • Lezlie Briggs – CRC Staff **Charlotte City Council** • Mayor Pro-Tem Patrick Cannon greeted participants after the close of the meeting

The public meeting was opened and facilitated by Rhonda York, managing partner of TeamWide Solutions. Ms. York has no affiliation to the CRC or CRB and offered her services pro-bono.

Ms. York presented an overview of the purpose of the CRC/CRB Task Force and stated this meeting was to focus on input from the public.

The question was presented to the citizens in attendance: What Makes an Effective Citizens Review Board Process? What should the board keep doing, start doing and/or stop doing?

The public audience was divided into groups and given 30 minutes to answer and document their responses.

Each group was given an opportunity to present their responses to the overall audience.

Recommendations/Comments from the citizen groups. Note: A number of comments are the exact comments from a one page document distributed during the meeting from an unknown source.

What makes an effective Citizens Review Board process? What should the board keep doing, start doing and/or stop doing?

Keep	The CRB Process Keep process flow steps 1 and 2 but reduce to 48 hours between complaint

Keep (continued)	Keep phase 1 of investigation to prevent loss of evidence All documentation in writing
Start	• More transparency (6) • Having more procedural fairness (3) • Investigatory power for the CRB (4) • Independent decision making power for the CRB (5) • Giving equal weight to decisions made by the CRB • Give equal weight to CRB, CMPD, and City Manager decisions • Subpoena power for the CRB (4) • Lower the standard for review (3) • Cross examinations of all parties in the complaint • Review qualifications for the CRB members • CRB involvement from beginning to end of complaint process • Complainant involvement from beginning to the end of the complaint process • CRB should be notified at the conclusion of each step in the process and the results of each step • Start notification of CRB on all serious excessive force or other offenses • CRB receives a copy of the complaint as well as the CMPD • Investigation of every complaint • Better public relations • Documentation follow up • Webpage upgrades for better public information (2) • Display complaint decisions on the website (2) • Focusing on the citizens and not on the police (3) • Use advocates for the citizens involved in the process (6) • The citizens of Charlotte Mecklenburg should have access to a legal adviser to provide guidance through the CRB process. (2) • Process flow steps 1-4 need to be transparent • In step 3 of CRB process (Community Bulletin), the citizen or complainant should be able to give testimony • Step 4 – the public or citizens should always be notified • Move start of complaint process to CRB • The CRB process needs to be simplified • Hire a staff to assist the CRB • Open hearings on all complaints (2) • Use the Charlotte School of Law as a citizens' advocate, to bring in expertise, and to create non-partisanship • CMPD internal procedures disclosures (2) • Provide CRB with a budget • CRB should be able to discipline officers
Stop	• Abuse of discretion and replace with probable cause • Using preponderance of evidence as the standard of review (3) • Private narratives held within the CMPD • CPMD officers testifying in closed sessions • Beginning complaints with the CMPD and/or within the police officer's team • All offenses such as excessive force require a hearing by the Chain of Command Review Board

Additional recommendations from the audience:

- ***Subpoena power for the CRB is absolutely necessary***
- ***The CRB should have access to legal training***

Ms. York closed the meeting by indicating the next steps are for the Task Force to present the responses to the Council-Manager Relations Committee of Charlotte City Council. The Council-Manager Relations Committee will determine the next steps.

Minutes submitted by CRC Chair Patricia Albritton

d) Beatties Ford Road Library	**Public Meeting** **Thursday, July 11, 2013** **6 – 7:30 p.m.** **2412 Beatties Ford Road** **Charlotte, NC**
Attending	**CRC** • Patricia Albritton-Chair • Shay Merritt • Aaron Orr • Jill Santuccio • Omar Saxton **CRB** • Gregory West-Chair • Alan Adler • Robbie Harrison • Harvey Katowitz • Carolyn Millen **CRC Staff** • Ledger Morrissette-Community Relations Manager • Stephanie Randolph – CRC Staff • Lezlie Briggs – CRC Staff **Charlotte City Council** • Beth Pickering, Councilwoman At-Large

The public meeting was opened and facilitated by Rhonda York, managing partner of TeamWide Solutions. Ms. York has no affiliation to the CRC or CRB and offered her services pro-bono.

Ms. York presented an overview of the purpose of the CRC/CRB Task Force and stated this meeting was to focus on input from the public.

The question was presented to the citizens in attendance: What Makes an Effective Citizens Review Board Process? What should the board keep doing, start doing and/or stop doing?

The public audience was divided into groups and given 30 minutes to answer and document their responses.

Each group was given an opportunity to present their responses to the overall audience.

Recommendations/Comments from the citizen groups. Note: A number of comments are the exact comments from a one page document and process flow distributed prior to the meeting by Robert Dawkins of Democracy-NC and attorney Matt Newton of Coalition for a Stronger CRB Process.

What Makes an Effective Citizens Review Board Process? What should the board keep doing, start doing and/or stop doing?

Keep	The CRB Process (3) Two step process of Internal Affairs and the CRB
	• Reform of the CRB and Internal Affairs processes • More transparency (3) • More transparency between Internal Affairs, CRB, and the community

Start	• Having more procedural fairness (2) • Investigatory power for the CRB (3) • The CRB should have its own professionally trained investigators • Final decision by the Board majority • Have an outside agency do the investigation (e.g. DA's office, SBI, etc.) • Extend complaint filing deadline to 30 days (2) • Step 5: lengthen to 30-60 days • Subpoena power for the CRB (3) • Lower the standard for review (2) • No second or final decision by the CMPD Police Chief (2) • Identify CRB members and their bios(3) • Board makeup should represent a diverse, cross-section of professions • Identify the CRB selection process. How are members selected? • Term limits for CRB members • CRB involvement from beginning to end of complaint process (2) • Complainant involvement from beginning to end of the complaint process (3) • CRB and complainant should be notified of the status of each step in the process and the results of each step • CRB receives a copy of the complaint as well as the CMPD • CRB investigation of every complaint (2) • Every complaint should have a hearing • Better public relations and more public awareness • Better education to the public of the CRB process • Provide public information on complaint decisions (2) • Use advocates for the citizens involved in the process (2) • Use pro bono advocates for complainants • Open public hearings on all complaints (2) • Complaint properly received; interviewed recorded • Keep investigative process within the chain of command unless it is a serious offense • Provide a hardcopy complaint form to the citizen • Suggest CRB meeting attendance from members of the City Council • Develop a budget for the CRB
Stop	• Any roadblocks that prevent citizens from making a complaint • Eliminate CMPD from the CRB process • Being secretive • Excluding complainant from process • Independent decision making authority • Having such a high standard of review • Having someone outside the chain of command do their (police) internal review • Step 5: Stop the seven day timeframe to appeal; lengthen to 30-60 days • Final decisions by the City Manager

Ms. York closed the meeting by indicating the next steps are for the Task Force to present the responses to the Council-Manager Relations Committee of Charlotte City Council. The Council-Manager Relations Committee will determine the next steps.

Minutes submitted by CRC Chair Patricia Albritton

e) Coalition for a Stronger CRB Process Meeting Minutes	**Friday, July 12, 2013** **6 – 7:30 p.m.** **5501 Executive Center Drive, #109** **Charlotte, NC**
Attending	**CRC** • Patricia Albritton-Chair • JR Black • Shay Merritt • Jill Santuccio • Omar Saxton **CRB** • Gregory West-Chair • Alan Adler • Robbie Harrison • Harvey Katowitz • Carolyn Millen **CRC Staff** • Ledger Morrissette – Community Relations Manager **Charlotte City Council** • Councilman John Autry, District Five Representative
Minutes	The meeting opened with a welcome from Ms. Albritton. Ms. Albritton presented an overview of the purpose of the CRC/CRB Task Force and stated this meeting was to focus on input from the Coalition. **Recommendations/Comments from the Coalition:** The overall goal is to make a stronger CRB representing the needs of the citizens of Charlotte Mecklenburg. • *Comment: A stronger CRB will improve the public trust and confidence in the CRB process and in the CMPD.* • *Recommended changes will better position us for the growth of Charlotte Mecklenburg.* Overall, the Coalition has three recommendations: • Investigatory Power – Subpoena Power 1. *The CRB should have the ability to subpoena documents and individuals.* 2. *The CRB should have independent investigatory power but not conduct independent investigations.* 3. *The CRB should have the ability to conduct concurrent investigations.* 4. *The CRB should have access to the full complaint and information filed with the CMPD.* 5. *The City should remove the ability of the CMPD Police Chief to make second and final decisions on complaints.* 6. *Recommend to change the city ordinance to*

allow the CRB more power.

- Procedural Fairness – Lower Standard of Review
    1. *Eliminate any standard of review. (Remove "preponderance of evidence and abuse of discretionary powers")*
    2. *Extend complaint filing deadline from seven to thirty days.*
    3. *Expand CMPD Internal Affairs procedure disclosure to CRB.*
    4. *Create independent disciplinary decision making authority.*
    5. *Establish citizen complaint assistance process.*

- Transparency
    1. *Public access to CRB meeting minutes.*
    2. *A public list of CRB board members.*
    3. *Public access to all CRB written documentation.*
    4. *CRB process and case information available to the public through websites, newspapers, neighborhood associations, churches, public service announcements, etc.*

Costs

- The Coalition believes the recommended CRB changes can occur for approximately $29,000.
    1. *Estimated costs for CRB attorney to request subpoenas are $8,000. (A separate recommendation was made to ask the Charlotte School of Law to perform pro-bono work for the CRB and the citizens filing complaints.)*
    2. *Estimated costs for an attorney to represent and/or assist complainants are $20,000. (A separate recommendation was made to ask the Charlotte School of Law to perform pro-bono work for the citizens filing complaints)*
    3. *Updates and maintaining a public information access website are estimated to be $1,000. (A separate recommendation was made to consider the Charlotte School of Law recommendation to add two people as City staff to assist the CRB)*

Additional recommendations from Queen Thompson representing the NAACP

- The CRB attorneys should be independent and not paid for by the City.
- All telephone calls to the CRB should be logged and evaluated for statistical analysis and reporting.
- The NAACP should be involved with assisting complainants.
- The CRB process needs more detailed explanation to the public with information reported on the process and results of investigations.

Additional recommendations from Robert Dawkins representing Democracy-NC

- The public needs clarity on the ordinances relating to the CRB.
- There is not enough public information and access to CRB documents. Information is difficult to find and/or the documents do not exist.
- Comment: The CRB and the Hospital Board are the only two advisory boards in Charlotte-Mecklenburg where the identity of the board members is not available.
- Review and updates to the CRB process and CMPD

	internal review process may help to reduce possible lawsuits against the City and the CMPD. • Many of the Coalition recommendations, per Matt Newton, were based on review of CRB and internal complaint procedures in Winston-Salem, N.C. • A Coalition representative will send a copy of their report to Willie Ratchford, Patricia Albritton, and Gregory West by end of business day Monday, July 15.

Minutes submitted by CRC Chair, Patricia Albritton

Summary/Overview of Stakeholder Group Recommendations

The Charlotte Mecklenburg Community Relations Committee (CRC) and Citizens Review Board (CRB) Task Force summary is a brief of comments received during public forum and focus group meetings held since April 1, 2013.

1. **Maintain the Citizen Review Board (CRB) and IAB processes.**

2. **Improve Transparency and Communications**
    a. Create a more robust CRB public information website.
    b. Identify CRB members and their experience publicly (website).
    c. Identify how CRB members are selected and the length of their terms.
    d. Improve public relations and increase public awareness of the CRB process.
    e. Provide more public education on the CRB process.
    f. Provide more public education on the complaint decisions made by the CRB.
    g. Work to create effective, intentional public education.
    h. Hold community dialogues on the CRB process and the ways cases are handled.
    i. Include information on open and closed CRB cases.
    j. Include information on why CRB cases are opened and/or closed.
    k. Define “preponderance of evidence”.

3. **Approve Investigatory and Subpoena Power for the CRB**

    a. Make professionally-trained investigators available to the CRB.
    b. Provide CRB members additional legal training.
    c. Grant power of independent review to the CRB.
    d. Involve the CRB from the beginning to the end of the complaint process and document information to the complainant and the public.
    e. Conduct concurrent investigations with CMPD-IA if necessary to prevent delays to the appeal process.
    f. Investigate every complaint filed against the CMPD. Every complaint should have a hearing with IAB and the CRB.

4. **Lower the Standard of Review**
    a. Remove “preponderance of the evidence” as the standard of review and replace with “reasonable cause to believe”; and change “abuse of discretion” to whether “misconduct occurred.”

5. **Include More Procedural Fairness**
    a. Extend the response to the complaint filing deadline from seven (7) to thirty (30) days.
    b. Extend the complaint and response filing periods
    c. Extend the appeal filing deadline

6. **Use advocates and staff assisting citizens through the IAB complaint and CRB appeal processes.**
    a. Hire an Investigative Manager for the CRB
    b. Hire an Administrative Manager for the CRB
    c. Provide a retainer for a complainant attorney

7. **Other Stakeholder Group Recommendations**
    a. Remove discretionary authority from the CMPD police chief.
    b. Hire/dedicate a staff to assist the CRB.
    c. Reduce the number of appointed CRB members from 11 to seven and make sure that there is geographic representation on the board
    d. Review and update the CRB appeals form (hardcopy and online).
    e. According to a CMPD attorney, the CMPD has reviewed the complaint review processes in other cities. The feeling is the CMPD internal review process would rate above other cities. Cities have different laws that mandate how a CRB functions. Charlotte's laws are different than other cities.
    f. Streamline the hearing process.
        - Individual hearings can be too long.
        - Only allow participants essential to providing information in the hearing.
        - Review the overall CRB process timeline and look for ways to shorten the process.
    g. Encourage the Charlotte City Council to attend CRB hearings and appeals meetings to decide, first-hand, what additional actions may be required.
    h. It is unreasonable to assume the CRB will investigate every complaint filed. The recommendation is to sustain the existing criteria used to determine the eligibility for the CRB to review a complaint.
    i. Appoint members to the CRB based on their experience, availability and geographic representation
    j. Provide appropriate training for CRB members – legal training, policy training and community awareness training

VI. Appendices

Appendix A – Charlotte Observer Articles

Appendix B – Survey Results – Public

Appendix C – Survey Results – CMPD

Appendix D – Charlotte School of Law Report

Appendix E – Coalition for a Stronger CRB Process Report

Appendix F – CRC/CRB Task Force Process Flowchart

Appendix G - Analysis of Cases

Appendix H – Handouts Presented by Outside Sources at Public Meetings

Appendix A

Charlotte Observer Articles

2013 Charlotte
Community Relations Committee – Citizens Review Board
Task Force

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Posted: Saturday, Feb. 16, 2013

CMPD review panel rules against citizens - every time

By Gary L. Wright and Fred Clasen-Kelly
PUBLISHED IN: CRIME & JUSTICE

Since it was established 15 years ago to look into allegations of police misconduct, Charlotte's Citizens Review Board has always sided with police.

It's not surprising citizens have never won: The board has no independent power to investigate, and citizens must meet an unusually high standard of evidence for the board to even hold a formal hearing.

Instead, the 11-member, volunteer board has met behind closed doors – first with citizens, then with police – and voted to dismiss almost every case.

Family members of five men shot to death by police were denied full hearings to present what they viewed as evidence of misconduct. Their cases were tossed out, too.

The board has held only four hearings for citizens who complained about police behavior. After the hearings, the board members ruled in favor of the officers accused of misconduct.

Two prominent former Citizens Review Board members – civil rights lawyer George Daly and former Mecklenburg County Commissioners Chairman Harold Cogdell – don't think citizens had much of a chance.

A Charlotte School of Law professor who is researching the board's practices also believes that citizens are overmatched by police. The board's own attorney says citizens are at a disadvantage.

- High-profile cases, no hearings

These two high-profile cases landed before the Citizens Review Board but were not granted hearings:

LaQuan Hykeem Davon Brown

• Brown was shot and killed by a police officer in 2007. Police said the 16-year-old had a gun as he fled from officers at an apartment complex off Albemarle Road in east Charlotte.

One of the officers, who thought Brown had a gun in his hand, fired two shots. One of the bullets struck Brown in the lower back.

But Brown was not holding a gun – and likely had a cellphone in his hand – when he was shot to death, sources told the Observer.

A .40-caliber gun was found about 20 feet from Brown's body. A cellphone was found near his hand.

Melissa Brown turned to the Citizens Review Board and accused police of using excessive force on her son. The board voted not to hold a formal hearing and dismissed her complaint.

Alexander Ehrenburg

• After a Charlotte police officer shot and killed 67-year-old Ehrenburg in 2005 during a three-hour standoff, his widow filed a complaint with the Citizens Review Board.

The board's limitations and record of never siding with citizens in 78 cases suggest it is among the weakest in the nation, review board experts and civil liberties advocates told the Observer.

Established in 1997, the board was designed to restore public confidence in police after three unarmed African-Americans had been killed by white officers.

"The review board gave the appearance of giving citizens a right to complain about police," said Daly, the board's first chairman. "But that right was an illusion."

City officials defend the board's record. They said the panel has bolstered police accountability and helped ensure fairness for citizens.

Julian Wright, the Citizens Review Board's attorney, believes the board's record shows that the Charlotte-Mecklenburg Police Department conducts thorough investigations and appropriately disciplines officers.

"As a citizen, I personally take comfort in that," Wright said. "Those citizens on the board have concluded that Charlotte's police do a pretty good job of policing themselves – not that the officers never make mistakes."

But national experts, local attorneys and past board members say Charlotte's review board lacks the power necessary to provide effective oversight of CMPD.

In some other cities, boards can launch independent investigations. Charlotte's board stands out because it only looks into appeals after a police Internal Affairs investigation.

Fewer than 20 percent of review boards nationwide hear only appeals from internal affairs rulings, said Pierce Murphy, past president of the National Association for Civilian Oversight of Law Enforcement.

In cities such as San Jose, Calif., Denver and Portland, Ore., officials take complaints directly

Izabella Skorska wondered why police had to use deadly force on her husband.

Officers could have used Tasers or tear gas to subdue Ehrenburg, said her attorney, William "Shel" Robinson. Police could have also contacted the physician who had initially called them to check on the wheelchair-bound double amputee to help defuse the confrontation, he said.

"Here was a man who was old and disabled who had no legs," Robinson said. "Why did he have to be killed?"

During the standoff, Ehrenburg pointed a handgun at police and refused to put the weapon down, police said. Ehrenburg, who did not fire his gun, was shot in the abdomen and hand.

The review board met behind closed doors for more than four hours. The board decided not to hold a formal hearing on the killing and dismissed the complaint filed by Ehrenburg's wife.

The board members didn't believe police and other emergency responders had engaged in "any negligence in the several hours leading up to this tragedy," according to the board minutes.

"I know Izabella was very disappointed with the Citizens Review Board process," Robinson said. "She was shocked that her husband's killing didn't even merit a hearing before the board."

Skorska later filed a lawsuit against the city of Charlotte. The city paid $275,000 to settle the litigation out of court.

Anthony Wayne Furr

In this killing, the victim's family decided not to appear before the review board, opting instead to take the case to court:

from residents and also audit internal affairs cases, Murphy said.

Charlotte's review board has examined 78 cases in its 15-year history, which Murphy called "remarkably low."

Civilian oversight agencies with the ability to launch independent investigations and audit police departments have looked into hundreds, even thousands, of complaints since the late 1990s.

Some cities have gone so far as to grant civilian review boards the authority to subpoena evidence and require officers to attend mediations with residents. Charlotte's board has none of those powers.

The Charlotte City Council has the ability to strengthen the Citizens Review Board, but some members said they were unaware of the panel's track record and did not pay close attention to how it operates.

Some wonder if the review board has failed in its mission.

"It looks like the Citizens Review Board is a rubber stamp for the police department," said Terry Sherrill, a Charlotte lawyer and former judge. "I wouldn't have expected the board to have ruled 100 percent in favor of police, even if it were essentially a rubber stamp."

Effective oversight?

Review boards date back more than 60 years but gained popularity nationwide after the 1991 videotaped beating of Los Angeles motorist Rodney King by police. Today, they operate in more than 100 cities.

The panels range from "very weak to somewhat effective," said Mark Silverstein, executive director of the American Civil Liberties Union of Colorado. In many cities, he said, the boards are "underfunded and understaffed."

Civilian review boards in cities such as St. Paul, Minn., Denver and New York City have full-time

• Furr, a cellphone tower worker, was shot to death by a police officer in 2006.

The 41-year-old Stanly County resident was working on a tower off Albemarle Road in southeast Charlotte around 1 a.m. — a time that is least likely to disturb cellphone customers.

But someone spotted Furr's company truck and called police about a suspicious vehicle.

When an officer responded, police said, Furr pulled a gun and did not obey commands to put the weapon down. The officer fired three times. Two of the bullets struck Furr in the chest.

Furr was a single father and a church usher. His family and friends said they could not imagine him being aggressive toward a police officer.

Robinson now represents Furr's family. But the Furr family didn't take their case before the Citizens Review Board. Instead they sued the city over the killing.

The lawsuit is pending, and Robinson wouldn't discuss the case.

But he explained why the Furr family did not appeal to the review board.

"Following the shooting of Wayne Furr by CMPD, we recommended to the Furr family that it not submit the shooting to the Citizens Review Board but rather proceed in court where there are open procedures to discover the truth," Robinson told the Observer. Gary L. Wright, Fred Clasen-Kelly

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How CMPD's Internal Affairs fits with the Citizens Review Board
How Charlotte's Citizens Review Board works

investigators who look into accusations of police misconduct.

Tim Lynch, director of the Cato Institute's Project on Criminal Justice, said the Charlotte review board's rulings show it is "not serious about looking into complaints or doesn't have the power to look into misconduct. Their default is to favor police."

When citizen boards repeatedly rule for police, the public loses confidence in their findings, Lynch said.

"In this situation, all the red flags just point to the word is out that the board always sides with police," Lynch said. "What happens is people stop filing complaints because of the perception. Then the police use that decline as a sign they are doing a good job."

Defense of board

Citizens Review Board Chairman Gregory West said accusations that the board favors police are "completely false."

"If I felt that the board was a rubber stamp for the police department, I would not serve on it," he said. "We listen to both sides. We're not going to automatically give the police a pass."

Board member Robbie Harrison also denied the panel has a bias toward police. "When I find that to be the situation, I'll resign," said Harrison, who has served on the board for nine years.

"We will hear the citizens' side," Harrison said. "We are charged to listen to the citizens and look carefully at their complaints. We aren't charged to look in favor of the police. I don't have a problem going against the chief of police."

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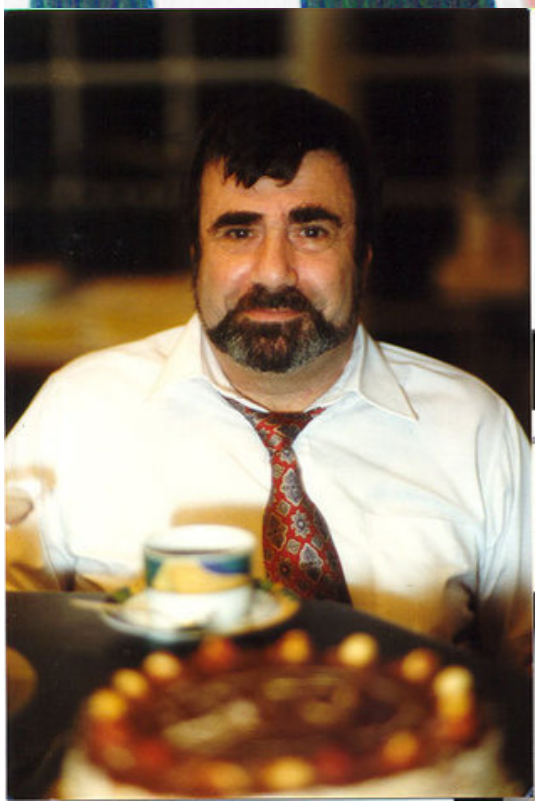

Citizens who have filed appeals, West and Harrison said, simply have not persuaded the board they were victims of police misconduct.

Other board members declined comment or did not respond to phone calls and emails.

Police Chief Rodney Monroe said he supports the Citizens Review Board. The panel, he said, has helped CMPD keep public confidence in its internal investigations.

"The employees of the Charlotte-Mecklenburg Police Department have important responsibilities and duties as public servants and must always strive to preserve the public's trust," Monroe said in a prepared statement. "This group of independent members of the CRB is a tremendous asset to our community and serves a critical role in maintaining that trust."

Criticism

A study by the Charlotte School of Law questions whether the Citizens Review Board is following its mandate to serve as a public watchdog.

Professor Jason Huber's civil rights class began looking into the review board after the law school was contacted about police misconduct. The law students then researched how the city and CMPD dealt with citizen complaints.

Huber said that he and his students have concluded that the board's structure needs to be changed so that residents have a better chance to get hearings. He expects the law school to present its findings to the City Council after the research is completed later this year.

People who filed appeals felt board members did not take their complaints seriously, according to a preliminary report researchers issued in 2011. The report also assailed the review board for a lack of transparency. Civilian boards in other cities often make their findings and recommendations public by posting them online.

Charlotte's review panel has no website. The board meeting minutes contained "boilerplate" language and did not include key information, researchers said.

"This is woefully inadequate and needs to be corrected to increase accountability," Huber said.

Huber believes the Citizens Review Board has failed in its mission.

He doesn't blame review board members for never siding with citizens. The problem, he said, is that the board's rules make it virtually impossible for citizens to win their appeals.

Huber said the burden of proof to gain a formal hearing should be lowered from the preponderance of evidence to probable cause that an officer engaged in misconduct. Police use probable cause as the standard when determining whether a crime might have occurred and whether they should make an arrest.

"The people who serve on the board are volunteer, well-intentioned public servants," Huber said. "The flaws exist not with them but in the structure of the board itself.

"The failure over the board's 15-year existence to ever rule in favor of a citizen raises serious questions about whether the current structure of the board provides effective, independent oversight of police behavior."

Is system fair?

Citizens Review Board attorney Julian Wright acknowledged that people who appear before the board are at a disadvantage.

Most of the citizens don't have lawyers. The police officers accused of misconduct are represented by CMPD attorneys and Internal Affairs investigators.

Police typically show up with PowerPoint presentations, Wright said, while citizens may have only snapshots.

Still, Wright said the board strives to achieve fairness. "The police department brings more resources to bear than the citizens," he said. "But the board works hard to keep a balance. They try to make sure citizens' voices are heard."

City Council member Patrick Cannon, who pushed for the creation of the board in the 1990s, said he isn't bothered that the board has never ruled against CMPD. Cannon said he believes the panel looks at cases objectively.

"I would like to believe we have officers who conduct themselves in a better fashion" than police in other cities, Cannon said.

Council member Andy Dulin expressed surprise when told the review board has never sided with a citizen.

"It's either running very quietly and smoothly or not running at all," said Dulin, a member of the council's Community Safety Committee.

He said he did not know enough about the Citizens Review Board to offer an opinion on its effectiveness but added that the relatively low number of complaints the board has received "might speak to us having a professional police force."

Dulin said he is confident that Chief Monroe handles discipline appropriately.

Mayor Anthony Foxx did not respond to multiple requests for an interview.

City Council member Claire Fallon said she is troubled by the review board's record. She said the board's "hands are tied" because it has no investigators to conduct independent probes.

To fully empower Charlotte's board, the City Council could give it the authority to independently investigate complaints and lower the threshold for a hearing from preponderance of the evidence to probable cause. The council also could direct the board to post information online about cases and its findings.

"If you don't have investigative power or money, you don't make a good decision," said Fallon, a member of council's Community Safety Committee. "How could you?"

'A paper tiger'

Daly had been calling for some type of citizen review of police misconduct allegations since the late 1960s, when Charlotte was troubled by anti-war sentiment and racial tensions. In 1997, when the Citizens Review Board was finally established, Daly was selected as its first chairman.

Within a year, though, the prominent civil rights lawyer was disillusioned. In an opinion piece published in the Observer in October 1998, Daly expressed his frustrations with the way the panel was set up.

"What was the point of creating the board if it is powerless to represent the public interest?" Daly wrote.

To Daly, the problem was the ordinance that created the board.

"It ties the board's hands with legal procedures, makes the board a paper tiger, looking as if it can review the police but in reality unable to do so," he wrote.

Daly points out that he and his colleagues on the review board weren't allowed to question the police officers accused of misconduct when deciding whether to hold formal hearings on citizens' complaints. Instead, Internal Affairs investigators and CMPD attorneys appeared before the board on behalf of the officers.

"We didn't have much of a chance to get at the facts," Daly recalled. "It's totally useless to cross-examine someone from Internal Affairs rather than the cop who's accused of misconduct. It's like cross-examining the defense lawyer instead of the defendant."

Former Mecklenburg County Commissioners Chairman Harold Cogdell served on the Citizens Review Board for two years. Cogdell, an attorney, said residents had almost no chance to prove their allegations because they didn't have access to Internal Affairs reports that form the basis of CMPD's disciplinary decisions.

"It was difficult for the citizens to get the evidence they needed to establish police wrongdoing," Cogdell said.

Don Luna, coordinator for the Police Civilian Review Commission in St. Paul, Minn., expressed amazement that no appeals before Charlotte's review board have been successful.

"How can you get complaints and have none substantiated?" he asked. "I just don't know how that's possible. Everybody makes mistakes." Observer researcher Maria David contributed to this report

Wright: 704 358-5052

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Posted: Saturday, Feb. 16, 2013

How CMPD's Internal Affairs fits with the Citizens Review Board

By Gary L. Wright

PUBLISHED IN: CRIME & JUSTICE

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Before citizens take complaints of misconduct to the Citizens Review Board, they must wait for findings from CMPD's Internal Affairs Bureau.

CMPD disciplined hundreds of officers between 2004 and 2011, Internal Affairs reports show.

More than 3,500 allegations accusing police of misconduct were filed during those eight years. A majority of the complaints – more than 2,100 – were levied by police officers against fellow officers. Citizens filed more than 1,400 complaints.

Internal Affairs found police misconduct in 26 percent of complaints lodged by citizens. When CMPD supervisors and officers filed complaints, 85 percent, more than 1,800, led to findings of misconduct.

More than 3,000 disciplinary actions, including more than 500 suspensions, were levied against officers during the eight-year period. Officers were given written reprimands more than 900 times. They were ordered to undergo counseling more than 1,300 times.

Fifty-four officers were fired. Seventy-five resigned.

Offenses included rule violations, unbecoming conduct, neglect of duty and use of force.

When citizens aren't satisfied with outcomes of the Internal Affairs investigations, they can appeal to the Citizens Review Board. But citizens have never won a case before the 11-member panel.

Maj. Cam Selvey, who heads CMPD's Internal Affairs Bureau, doesn't believe the review board is a rubber stamp for the police department.

"It means the CMPD does a good job of taking care of discipline in the organization," Selvey said. "I think the people of this community would have reason to be concerned if the Citizens Review Board was disagreeing with us a lot. That would be an indication of a systemic problem within the organization. We don't have that type of problem here." Gary L. Wright

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Posted: Saturday, Feb. 16, 2013

Woman 'felt dismissed' after filing complaint against CMPD

By Fred Clasen-Kelly

PUBLISHED IN: CRIME & JUSTICE

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Kare Romanski filed a complaint with the Citizens Review Board after alleging that a CMPD officer used excessive force, verbally abused her and wrongfully arrested her on Aug. 24, 2009.

Disabled by a chronic spine condition, Romanski said she was trying to park a sport utility vehicle at an east Charlotte bank when she noticed that a police cruiser left her little room to park.

Romanski, 51, of Concord, said she approached the squad car to ask the officer if he would move his vehicle. She knocked on the window but said she walked away when she saw the officer sleeping.

But moments later, Romanski said, the officer got out of his cruiser and approached her, saying, "Hey, what's your problem?"

She also recalled him saying, "You women are the worst."

Romanski, who stands about 5 feet tall and weighs about 105 pounds, said the officer forcefully grabbed her by the arm and slammed her against a vehicle. She says the officer held her arm so tightly his fingers left bruises.

"I've had 31 operations," said Romanski, who uses a service dog. "I am freaking out, thinking he's going to paralyze me."

Romanski said the officer handcuffed her and she was taken to jail. She was charged with disorderly conduct. On Sept. 21, 2009, the case was dismissed, according to records Romanski provided.

Romanski said she hired an attorney to help her get the charge expunged from her record. A letter from her attorney shows the charge was removed.

Romanski said she was injured while being arrested and could not work as a dog trainer.

CMPD referred questions about Romanski's account of the incident to Senior Assistant City Attorney Judith Emken. In an email response, Emken said that under state law police must destroy records related to expunged cases.

Emken said state law prevents the department from discussing expunged cases publicly.

Romanski turned to the Citizens Review Board after the CMPD Internal Affairs Bureau completed an investigation into her complaint. Romanski said she could not recall if CMPD disciplined the officer after the internal investigation.

She said the Citizens Review Board interviewed her for 30 to 45 minutes and later dismissed her appeal.

Romanski said she believes the board members did not take her allegations seriously. She alleges that the board members did not carefully review her documentation, including photos of bruising she suffered. Romanski said board members repeatedly interrupted her as she tried to explain what happened.

"I felt dismissed," Romanski said. "This is one of the most devastating things that has ever happened to me. I thought I would be welcomed, like, 'We're here to listen.' "

Citizens Review Board Chairman Gregory West said he does not recall Romanski's case. West said he is sorry Romanski is upset but said the board makes sure complaints are examined thoroughly.

"I can only tell you this: I make sure the person is given the opportunity to clearly state why the police chief or designee was unfair or incorrect," West said.

Clasen-Kelly: 704-358-5027

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How Charlotte's Citizens Review Board works

By Gary L. Wright

PUBLISHED IN: CRIME & JUSTICE

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How Charlotte's Citizens Review Board works:

• Citizens who believe they've been mistreated by police must first file complaints with CMPD's Internal Affairs Bureau.

• Citizens can appeal the outcomes of the Internal Affairs panel's investigations to the Citizens Review Board if their complaints involve use of excessive force; unbecoming conduct; unlawful arrest, search or seizure; or a shooting.

• The CRB meets behind closed doors – first with the citizen, then with the police – before deciding whether to hold a formal hearing or dismiss the complaint.

The board holds hearings if it concludes that "the preponderance of the evidence" shows that police made serious mistakes or abused their discretion in their investigations and decisions on whether to discipline the officers.

• The review board has the power to instruct CMPD to conduct further investigations into complaints or ask for more information.

• The CRB cannot take disciplinary actions against police officers or award damages to citizens. The board members can only advise the police chief and city manager if they believe the disciplinary decisions by CMPD were serious mistakes.

• The CRB's decisions to dismiss the complaints will not be reviewed by CMPD or the city government.

Who's on the board:

• The 11-member Citizens Review Board is appointed by the City Council, mayor and city manager.

• Retired police officers, business owners, ministers, lawyers and community activists are among those who have served three-year terms on the panel. The current board is composed of mostly business owners and managers and finance workers. One sitting board member is a retired police officer.

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Posted: Monday, Feb. 18, 2013

CMPD's perfect review board record

PUBLISHED IN: OPINION

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In 1997, after years of resistance from public officials, the Charlotte City Council voted to establish a Citizens Review Board that had the power to investigate allegations of police misconduct. The decision came after separate killings of three unarmed black citizens by white police officers, and city leaders saw the review board as something that could help restore and maintain Charlotteans' confidence in their police department.

In the nearly 16 years since, the 11-member volunteer board has heard 78 complaints about potential police misconduct, according to an Observer investigation published Sunday. Of those, four cases made it to the next step of a full hearing that involved citizens and police representatives presenting their case to the board. In each of the four, the board ruled in favor of the police.

That adds up to zero for 78 for citizens – or, from CMPD's perspective, 78 for 78. Either way, it's a number that raises the eyebrows of review board experts nationwide, and it troubles local attorneys and leaders who believe that citizens don't stand much of a chance in front of the board. That belief should also trouble police and the city council.

Here's what the numbers don't necessarily say, however: They don't say that injustice was done in any one of those 78 cases, or that the board exists solely to rubberstamp police perspective.

The numbers also don't tell us that CMPD turns a blind eye to misconduct. The Internal Affairs Bureau has heard 1,400 citizen complaints between 2004 and 2011 (citizens must go through Internal Affairs before appealing to the review board). Of those cases, Internal Affairs found misconduct in 26 percent – including 37 percent in the last three years.

Still, the 16-year review board shutout has some concluding that appeals of Internal Affairs decisions might be bound for failure. A former review board chair, civil rights lawyer George Daly, told the Observer that the board gave only the "illusion" of a citizen's right to complain. Another attorney, William "Shel" Robinson, has advised the family of a CMPD shooting victim to go straight to court instead of submitting a case to the review board.

Such skepticism might help explain the small number of cases the review board has heard, compared to the hundreds or thousands heard in other cities during a similar time period. Another possible contributor: Many cities allow citizens to complain directly to a review board instead of Internal Affairs. Some boards have the authority and investigative personnel to launch separate investigations.

The city council should explore whether allowing Charlotte's review board that flexibility is preferable to giving Internal Affairs first opportunity to investigate cases. It also should consider giving citizens and their attorneys access to Internal Affairs reports involving their complaints, as well as allowing the review board to directly interview police officers. Other cities' review boards do so.

Police Chief Rodney Monroe said he believes Charlotte's review board helps the public have confidence in the department's internal investigations. After all, a perfect record can rightfully be seen as affirmation that Internal Affairs is making the right calls on misconduct.

But to some, zero for 78 signals how much of a disadvantage citizens have if they think they've been wronged by police. That skepticism alone should prompt the city council to explore how the review board is doing, because skepticism is what the board was supposed to repair.

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Posted: Sunday, Feb. 24, 2013

The real story on the Citizens Review Board

By Gregory West and Julian H. Wright, Jr.

PUBLISHED IN: VIEWPOINT

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In "0-78," (Feb. 17) and "CMPD's perfect review board record" (Feb. 19), the Observer describes the workings and record of the Citizens Review Board. The newspaper, however, obscures the most basic point about the board's work.

The CRB ordinance does not give the board the power or the responsibility merely to point out mistakes or object when it thinks the Charlotte-Mecklenburg Police Department could have disciplined an officer differently. The CRB only can advise the police chief (and the city manager) when a "preponderance of the evidence" (more evidence than not) establishes that the chief or his Internal Affairs designees have "abused their discretion" in imposing discipline. This "abuse of discretion" standard explains why – in the Observer's rhetoric – the CRB supposedly only "sides" with CMPD. As told repeatedly to reporters over the four years spent on the story, "abuse of discretion" means acting "without good reason" or "acting so arbitrarily that the act could not have been the result of a reasoned decision." For the board to recommend to the police chief to discipline an officer differently, the CRB must conclude that CMPD acted so arbitrarily that it did not make a reasoned decision in disciplining an officer or that CMPD acted without any good reason. It is not enough for CRB members to believe that CMPD made a mistake or that CRB members would have disciplined the officer differently if they had been making the decision.

CRB members listen to citizen/complainants' and CMPD's versions of events. CRB members learn how the results of CMPD's investigation lead to any decision about disciplining an officer. In neither meetings (at which most CRB appeals are resolved) nor full hearings has the CRB found that the CMPD so abdicated its investigative role or violated its standards in disciplining officers that the CRB could conclude that the department acted "arbitrarily," "without good reason," or without making a "reasoned decision." The Observer ends its article with the uncontroversial statement – by a Minnesota civil servant – that "everybody makes mistakes" to suggest the CRB somehow misses this truth and decides that CMPD never makes mistakes in disciplining officers. That conclusion, however, is patently false. The CRB has not determined that CMPD never makes mistakes. The CRB has determined – per its ordinance's standard – that CMPD has not abused its discretion in the 78 cases reviewed by the board. Suggesting otherwise might generate heat and controversy, but it shines no light on the actual issues of how the CRB functions and whether more should be done to determine if our police department adequately polices itself.

The Observer suggests multiple ways to change the CRB, ranging from subpoena power to directly questioning officers (which already can happen in hearings) to hiring its own investigative staff. Such suggestions might have merit, and the public can debate them. The Observer largely ignores,

however, the root reason why the CRB has always decided as it has. If the Observer, City Council, or our community wants different results from the CRB, they need only lower the "abuse of discretion" standard imposed upon the board. A "suggestion of error," "clearly erroneous," or de novo (or totally new) standard all could yield dramatically different results in CRB appeals.

Despite its lengthy story, the Observer also ignores the CRB's other work in advising the police chief on various policies. For example, the CRB suggested – and CMPD implemented – changes about how to trigger and collect patrol-car video and audio recordings. This collaboration has improved the recording process and allows more video or audio records to be used when making – and reviewing – disciplinary decisions. These records often remove any doubt about what actually occurred and whether CMPD properly disciplines officers.

CRB members also cannot respond to allegations about individual cases. State personnel laws and the CRB ordinance mandate confidentiality of CRB proceedings, which are part of police officers' employment records. The Observer mostly ignored this requirement. While a complainant may get his picture published with a one-sided version of events, CRB members cannot respond with the complete version of what they learned from the CMPD – or independent third-party witnesses – in concluding that no abuse of discretion occurred in how officers were disciplined in particular cases.

The Observer mentions that any problem with the CRB's record may stem from its creating ordinance, not the actions of CRB members. In fact, the board generally has diligently performed its duties and done so within the rules established in the city's ordinance and North Carolina's laws. Our community may want and need a debate on whether CMPD needs more civilian oversight. Nobody on the CRB would suggest that police officers are infallible. The Observer, however, would perform a greater service if its investigation illuminated the real causes of the statistics it reports. The volunteers serving on the CRB also should be thanked for their service and for rigorously applying our laws as actually written, not just as how some citizens – and apparently the newspaper – would like them to be written.

Gregory West, a health care administrator, chairs the CRB. Wright, of Robinson, Bradshaw & Hinson, serves as one of the CRB's attorneys.

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Posted: Sunday, Feb. 24, 2013

Mayor Foxx asks CMPD Chief Monroe to examine citizens police panel

By Fred Clasen-Kelly

PUBLISHED IN: CRIME & JUSTICE

Mayor Anthony Foxx is questioning how Charlotte's Citizen Review Board handles allegations of police misconduct.

Also, the review board's chairman says the panel will consider drafting reform proposals for City Council to consider.

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In his first public comments on the issue, Foxx said Friday that he has asked Charlotte-Mecklenburg Police Chief Rodney Monroe to respond to last Sunday's Observer investigation showing that the oversight panel has ruled in favor of police every time in its nearly 16-year history.

"I've spoken with Chief Monroe and expressed my concerns to him about recent media reports on the Citizens Review Board," Foxx said in a written statement.

He said after he receives Monroe's response, he may ask the City Council to examine the issue.

Asked to clarify what concerns Foxx had about the review board, a spokesman declined to comment.

City Council member Michael Barnes said officials should examine why the review board has only sided with police.

"That seems like an imbalanced result," said Barnes, who sits on the council's Community Safety Committee. "We need to look into it."

Monroe could not be reached for comment. A CMPD spokesman said he was not authorized to speak on behalf of the chief on the matter.

The Observer report found that people appealing police disciplinary decisions had virtually no chance to win because they must meet an unusually high standard of evidence for the board to hold a full hearing, and the review board has no independent power to investigate. Formed in 1997, the board was created to restore public confidence in CMPD after unarmed African-Americans were killed in three separate incidents by white officers.

Residents unsatisfied with the outcome of a CMPD internal affairs investigation can file an appeal with the review board. The panel looks into allegations of excessive force; unbecoming conduct; unlawful arrest, illegal search or seizure; or a shooting.

But prominent former Citizens Review Board members, local attorneys and experts said it did not appear residents had a fair chance to prove their cases. The board's limited authority and history of never siding with citizens in 78 cases put it among the weakest civilian oversight panels in the nation, experts and civil liberties advocates said.

Review board's defense

Review board Chairman Gregory West and attorney Julian Wright defended the panel's rulings in an op-ed column in today's Observer. They said members considered evidence from both sides and ruled objectively based on criteria spelled out in the city ordinance that established the board.

"The CRB ordinance does not give the board the power or the responsibility merely to point out mistakes or object when it thinks the Charlotte-Mecklenburg Police Department could have disciplined an officer differently," they wrote. "The CRB only can advise the police chief (and the city manager) when a 'preponderance of the evidence' (more evidence than not) establishes that the chief or his Internal Affairs designees have 'abused their discretion' in imposing discipline."

In an interview, West said that Citizen Review Board members will discuss whether they will draft reform proposals for the City Council to consider.

"Are there opportunities to do some things differently?" West said. "I think so."

City Council member Patrick Cannon, who chairs the council's Community Safety Committee, said he is willing to discuss reform only if he hears public outcry.

To this point, Cannon said he has not heard complaints from residents in "any overwhelming numbers."

He and other officials have previously said the board has not ruled for a citizen because CMPD does a good job policing itself.

More than 3,500 police misconduct complaints were filed between 2004 and 2011. A majority of the complaints – more than 2,100 – were levied by police officers against fellow officers. Citizens filed the other roughly 1,400 complaints.

Internal Affairs found police misconduct in 26 percent of complaints lodged by citizens. When CMPD supervisors and officers filed complaints, 85 percent led to findings of misconduct.

But national experts, local attorneys and past board members say Charlotte's review board lacks the power to fulfill its mission.

Charlotte's board is distinctive because it only hears appeals after a police Internal Affairs investigation. Fewer than 20 percent of review boards nationwide are set up that way, said Pierce Murphy, past president of the National Association for Civilian Oversight of Law Enforcement.

In other cities, boards can launch independent investigations, take complaints from residents and conduct audits of random internal affairs cases.

Some cities even grant civilian review boards the authority to subpoena evidence and require officers to attend mediations with residents.

The Charlotte board can advise the police chief and city manager if the board believes the disciplinary decisions by CMPD were serious mistakes.

Charlotte law school study

A study by the Charlotte School of Law concluded that Charlotte needs to change its review board's structure to give citizens a better chance to win. Researchers plan to present the study findings to the City Council later this year.

Professor Jason Huber, who is leading the study, said the mayor's request is a small step.

"The empirical evidence speaks for itself," Huber said. "This deserves to be heard by the City Council as soon as possible."

To make the civilian panel a true public watchdog, Huber said the council must give the board authority to conduct independent investigations, order more transparency and lower the burden of proof for a full hearing from preponderance of evidence to probable cause that an officer violated department policy.

In almost every case, the 11-member board has met privately – first with citizens, then with police – and voted to dismiss the complaint without holding a formal hearing.

"The structure of the Citizens Review Board essentially renders it ineffective," Huber said. "It would take a dramatic overhaul to transform it."

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Posted: Monday, Apr. 01, 2013

Charlotte council may study police review board

By Cleve R. Wootson Jr. and Gary L. Wright

PUBLISHED IN: CRIME & JUSTICE

Charlotte's City Council on Monday may take steps to strengthen the Citizens Review Board after an Observer investigation found that the board, set up nearly 16 years ago to look into allegations of police misconduct, has always sided with police.

Proponents of reforming the review board hope to pressure the City Council to give it more power. They're trying to gather dozens of residents to speak at the council meeting or wear black in silent protest.

At least one City Council member has told the Observer he plans to recommend that the council's community safety committee review the board. If passed, the motion would be the first official step toward changes.

Among proponents' suggested changes: giving the board the authority to subpoena witnesses and to overturn Charlotte-Mecklenburg Police Department disciplinary decisions after investigations of officer misconduct.

Jason Huber, a professor at the Charlotte School of Law, believes the Citizens Review Board has failed in its mission. A study by the law school questions whether the board is following its mandate to serve as a public watchdog.

Huber plans to attend Monday's council meeting.

"We would hope the City Council overhauls the Citizens Review Board's structure to make it fairer for the citizens who believe they've been abused by police," Huber told the Observer.

- Want to go?

Charlotte's City Council will hold a workshop on the Citizens Review Board at 5:30 p.m. Monday in room 267 of the government center. Police have prepared a presentation about the review board.

A forum begins at 7:30 p.m. for residents who wants to address the council.

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CMPD review panel rules against citizens - every time

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Community members have said overhauling the board would reinforce the community's faith in the police department.

"Everybody on the council understands that there is concern in the community, but we want them to understand the extent of that concern," said Matt Newton, a Charlotte defense lawyer who has helped organize an effort to bring dozens to Monday's council meeting in support of reforming the board. "We perceive there to be erosion in the public trust of the (police department) and the government, and we just want to reinforce that trust and reinstill the faith that we have in an efficient, proficient police force."

'The board is a cruel joke'

Since it was established in 1997 to look into allegations of police misconduct, 79 complaints have been filed with the Citizens Review Board. No one has won before the board.

The 11-member, volunteer board was established to restore public confidence in police after three unarmed African-Americans had been killed by white police officers.

If residents don't agree with the outcomes of CMPD Internal Affairs investigations into police misbehavior, they can appeal to the board. The complaints must involve the use of excessive force, unbecoming conduct, unlawful arrest, search or seizure or a shooting.

The board's limitations and record of never siding with complainants suggest it is among the weakest in the nation, experts and civil liberties advocates told the Observer.

"Right now the board is a cruel joke – an illusion held out to the citizens that a board exists that can give them justice against the police," George Daly, a civil rights lawyer and the board's first chairman, wrote in a letter to the Observer.

"If the City Council refuses to give the Board the power to find the facts, then it is continuing to hide behind the peculiar Southern myth that policemen can do no wrong."

Critics, including two former board members – Daly and former Mecklenburg Commissioners Chairman Harold Cogdell – don't believe complainants had much of a chance to win.

The board has little authority. It has no independent power to investigate. And residents must meet an unusually high standard of proof for the board to even hold hearings on their complaints of inappropriate police behavior.

The board has met behind closed doors – first with the complainants, then with police – and voted to dismiss almost every case without holding a hearing on the allegations of police misconduct. The board has only held four hearings. After each of those hearings, the board ruled in favor of police.

One complaint is pending. A couple has accused a police officer of using excessive force in killing their dog. The board has asked police for additional information before deciding whether to hold a hearing.

Critics recommend changes

Among changes the board needs, according to critics:

• The burden of proof to gain a formal hearing should be lowered from the "preponderance of evidence" to "probable cause" that CMPD made mistakes in its investigation into allegations of misconduct.

• Independent investigative powers. Now, the board can't initiate its own investigations.

• Residents who can't afford to hire lawyers should be given representation.

• The power to overturn CMPD's disciplinary decisions. The board now can only advise the police chief and city manager if they believe the disciplinary decisions by CMPD were mistakes.

City Council member Patrick Cannon, the chairman of the community safety committee, declined to comment before Monday's meeting, saying he's awaiting input from the public and members of the committee.

Cannon has indicated, however, that he intends to ask that the community safety committee look into the board's work to hammer out what, if any, changes are needed. Any recommendations would have to be approved by the City Council.

"I've had some level of conversation with some members of the body," Cannon told the Observer in March. "I think there's some open minds about making any changes that would be for the betterment of the board."

In a letter to the mayor and City Council, Police Chief Rodney Monroe didn't recommend any changes to the board, saying it "serves the needs of the community." Later, in an interview with the Observer, he said he was open to the City Council re-examining the board.

"If they want to look and study it more, I'm all for anything that's going to give (residents) more trust and confidence," he told the Observer. "I'm not going to sit back and say don't do it."

Monroe outlined in the letter how CMPD investigates allegations of police misconduct. CMPD's disciplinary process, the police chief wrote, is "a direct reflection of the department's integrity and professionalism and, as such, is taken seriously by every member of the department."

Monroe praised the Citizens Review Board, calling it an asset to the community that plays a critical role in the department's disciplinary process.

"I support the Citizens Review Board as a way of providing members of the community who feel they have been mistreated by the police the opportunity to present their cases to a body that is independent

of the Police Department for review," Monroe said. "It is another level of accountability and the public is better served because of the Board's existence."

Staff researcher Maria David contributed.

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After scrutiny, council votes to examine review board

By Gary L. Wrightand Cleve R. Wootson Jr.
PUBLISHED IN: CRIME & JUSTICE

The Charlotte City Council on Monday voted to examine the mandate and powers of the Citizens Review Board, a move that could ultimately give residents a better chance of proving that they've been victims of police misconduct.

The council voted unanimously to have the Council-Manager Relations Committee look into the Citizens Review Board's work over the past 16 years and determine whether the standard of proof for residents to win their cases should be lowered.

City officials will also assemble a group of stakeholders that Mayor Anthony Foxx said he hopes will "scope out the issues" surrounding the 11-member volunteer review board.

Nearly 50 people turned out Monday to pressure the council to take steps to both boost the review board's power and give residents more of a chance to win their appeals. Most wore black and held up printed signs that said "Transparency."

The Observer reported last month that since the Citizens Review Board was established in 1997 to look into allegations of police misconduct, it has always sided with police.

That record and the review board's limited power suggest it is among the weakest in the nation, review board experts and civil liberties advocates told the Observer.

Jason Huber, a professor at the Charlotte School of Law who believes the review board has failed

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in its mission, praised the City Council's move Monday.

"It's a small step in the right direction," he told the Observer after the council's decision. "It's a solid beginning to reforming the Citizens Review Board."

Matt Newton, a Charlotte lawyer who organized the effort to encourage the council to reform the review board, said: "All we're asking for is a level playing field. We don't want to see a bandage placed on this. We want to see some meaningful changes."

The Citizens Review Board was set up to restore public confidence in Charlotte-Mecklenburg police after three unarmed African-Americans had been killed by white police officers.

During Monday's City Council meeting, Mayor Pro Tem Patrick Cannon recalled the tension in Charlotte before the Citizens Review Board was established.

"When those motorists were being shot and killed, this community was on the fringe of going way under, where riots were about to take place in our city," Cannon said. "Although it may need some work, in my opinion, (the review board) has put the citizens' voice in a process that it wasn't a part of."

But Cannon added: "I'm looking to see a review board that sides with fairness."

Gregory West, the Citizens Review Board's chairman, told the council the board isn't a rubber stamp.

"One thing I can guarantee you is that we grill the police department and internal affairs," he said.

In nearly 16 years, residents have filed 79 complaints about police misbehavior with the Citizens Review Board. But the board, after meeting behind closed doors, first with the complainants and then with the police, has voted to dismiss almost every case without holding a hearing.

Residents who appeal to the review board must meet an unusually high standard of proof for it to hold hearings on their allegations of police misconduct. The board has only held four hearings. After each hearing, the board ruled in favor of the police.

The Citizens Review Board has little authority. It doesn't have the power to overturn CMPD's discipline of police officers. Board members can only advise the police chief and city manager if they believe the disciplinary decisions were serious mistakes.

Charlotte-Mecklenburg Police Chief Rodney Monroe told council members that the department has strengthened its policies concerning officer conduct.

Shooting at moving vehicles, for example, has been prohibited. CMPD has made Tasers, a less-lethal weapon, part of officers' mandatory equipment, and added video cameras to patrol cars.

Monroe said use-of-force complaints against officers to CMPD have declined by 60 percent since 2005. Unbecoming conduct complaints have dropped by nearly 30 percent.

Some of the residents who turned out Monday night told council members about their negative and sometimes violent interactions with police. One said officers beat her grandson with a flashlight as he lay on the ground during an arrest. Another said officers needlessly harass him just because he has a criminal record.

Kare Romanski, who is disabled by a chronic spine condition, said an officer slammed her onto the hood of a car in 2009 after she spotted him sleeping in his patrol car. She appealed to the review board, hoping the officer would be required to get training for dealing with impaired people. She lost.

"I didn't want his badge," she told council members while standing beside her service dog, D.J. "Everybody has a bad day. This officer had a really bad day. I had a worse one."

George Daly, a Charlotte civil rights lawyer and the first chairman of the review board, told the council: "It is very dangerous to insulate the police from being held accountable when they do wrong. … Police sometimes do wrong. There should be an avenue for citizens to correct that."

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City seeks public input on reforming board that reviews claims of police misconduct

By Cleve R. Wootson Jr.
PUBLISHED IN: CRIME & JUSTICE

Charlotteans will have a chance next month to suggest ways to strengthen the Citizens Review Board, which investigates allegations of police misconduct but has always sided with police in its 16-year history.

A task force – made up of members of the Citizens Review Board and the Community Relations Committee – is seeking to get feedback and suggestions from the community and groups of concerned stakeholders. The task force will present its findings to Charlotte's city council, which will determine what changes, if any, to make to the Citizens Review Board.

"If nothing else, I think this will be an educational exercise," Gregory West, chair of the CRB, told other members of the task force on Thursday. "We're all a part of this. There might be ideas and suggestions we haven't thought about."

In 16 years, citizens have filed 79 complaints about police misbehavior with the Citizens Review Board. But a Charlotte Observer investigation showed that the 11-member volunteer board, after meeting behind closed doors, first with the citizens, then with the police, has voted to dismiss almost every case without holding a hearing.

At an April meeting attended by dozens of sign-waving residents in favor of reforming the board, the city council voted to examine the mandate and powers of the CRB, a decision that could ultimately give residents a better chance of proving that they've been victims of police misconduct.

Next month's community forums are the first major step in that process. People can also submit recommendations online.

- Want to have a say?

Forums about the Citizens Review Board are open to the public. They are scheduled for:

• 6-7:30 p.m. July 9 at Covenant Presbyterian Church, 1000 E. Morehead St.

• 6-7:30 p.m. July 11 at Beatties Ford Road Regional Library, 2412 Beatties Ford Road.

Those not able to attend a forum can fill out a survey about the CRB by going to https://www.surveymonkey.com/s/YDD3ZNM.

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Gathering stakeholders

The task force will also meet with several stakeholder groups: the Charlotte-Mecklenburg Police Department, students and staff at the Charlotte School of Law who have studied the board and recommended changes, and members of a coalition group that has advocated for reforming the board.

"We're ecstatic that the city will be working with us as we move forward in this endeavor," said Matt Newton, a Charlotte defense attorney and one of the organizers of a group called CRB Reform Now. "Part of the reason why we wanted to have a stakeholder group was because we wanted to gather a number of representatives from across the community."

People who feel they've been victims of police misconduct can appeal to the CRB if they are not satisfied with the results of a CMPD investigation into their complaints. But residents who appeal to the review board must meet an unusually high standard of proof before the CRB will hold hearings on their allegations of police misconduct. The board has only held four hearings in 16 years. After each hearing, the board ruled in favor of the police.

The Citizens Review Board has little authority. It cannot take disciplinary actions against police officers or award damages to citizens. Board members can only advise the police chief and city manager if they believe CMPD's disciplinary decisions were serious mistakes.

In a memo to city council, Police Chief Rodney Monroe said he doesn't think the makeup or powers of the board need to be changed. He has told the Observer that he believes his department does a good job of policing itself, and that the CRB has been responsible for department policy changes that have held police more accountable.

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Charlotte law prof to discuss report on Citizens Review Board

By Cleve R. Wootson Jr.
PUBLISHED IN: CRIME & JUSTICE

A Charlotte School of Law professor will discuss on Sunday the school's report on the Citizens Review Board, which investigates allegations of police misconduct but has never ruled against the Charlotte-Mecklenburg Police Department.

The report that Jason Huber will talk about includes suggested reforms based on research of more than 60 models of civilian oversight across the nation. The presentation is sponsored by the North Carolina branch of the American Civil Liberties Union.

The law school has been identified as one of three stakeholder groups that will meet with a task force looking at ways to improve the board, which came under public and political fire this year.

- Want to go?

  The presentation by Charlotte School of Law Professor John Huber starts at 7 p.m. Sunday at Unitarian Universalist Church of Charlotte, 234 N. Sharon Amity Road, Charlotte.

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The task force, which includes members of the Citizens Review Board and the city's Community Relations Committee, also plans to meet with Charlotte-Mecklenburg police leaders and a coalition that has advocated for strengthening the board. The task force, which has scheduled two meetings for the general public, also allows people to submit suggestions online.

In 16 years, citizens have filed 79 complaints about police misbehavior with the Citizens Review Board. But a Charlotte Observer investigation showed that the 11-member volunteer board, after meeting behind closed doors, first with the citizens, then with the police, has voted to dismiss almost every case without holding a hearing.

At an April meeting attended by dozens of sign-waving residents, the city council voted to examine the mandate and powers of the CRB, a decision that could ultimately give residents a better chance of proving that they've been victims of police misconduct. Next month's community forums are the first major step in that process. People also can submit recommendations online.

People who feel they've been victims of police misconduct can appeal to the CRB if they are not satisfied with the results of a CMPD investigation into their complaints. But residents who appeal to

the review board must meet an unusually high standard of proof before the CRB will hold hearings on their allegations of police misconduct.

The board has only held four hearings in 16 years. After each hearing, the board ruled in favor of the police.

The Citizens Review Board has little authority. It cannot take disciplinary actions against police officers or award damages to citizens. Board members can only advise the police chief and city manager if they believe CMPD's disciplinary decisions were serious mistakes.

In a memo to thecouncil, Chief Rodney Monroe said he doesn't think the makeup or powers of the board need to be changed. He has told the Observer that he believes his department does a good job of policing itself and that the CRB has been responsible for department policy changes that have held police more accountable.

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CMPD Citizens Review Board needs investigative power, professor says

By Cleve R. Wootson Jr.
PUBLISHED IN: CRIME & JUSTICE

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A board that reviews residents'complaints against Charlotte-Mecklenburg police needs structural changes if it's going to provide true due process, a Charlotte School of Law professor told members of the American Civil Liberties Union on Sunday.

The board, which has come under public and political scrutiny recently, should have the ability to conduct independent investigations, Jason Huber told the nearly 50 people gathered Unitarian Universalist Church of Charlotte. It also needs to focus investigations and inquiries on whether the "complained action actually occurred."

In 16 years, resident have filed 79 complaints about police misbehavior with the Citizens Review Board. But an Observer investigation showed that the 11-member volunteer board, after meeting behind closed doors, first with the residents, then with the police, has voted to dismiss almost every case without holding a hearing.

At an April meeting attended by dozens of sign-waving residents, the City Council voted to examine the mandate and powers of the board, a decision that could ultimately give residents a better chance of proving that they've been victims of police misconduct. A task force has scheduled community forums to seek input into how to change the board.

The task force also wants input from three stakeholder groups, including Huber and the law school.

Huber said Sunday that the board makes it hard for residents to get a fair hearing before police from the outset. People who appeal to the review board must meet an unusually high standard of proof before it will hold hearings on their allegations of police misconduct.

Huber said that process hinders due process.

"It's at this stage that the fundamental decision is made as to whether they're going to get due process," he said.

Huber and the school's Civil Rights Clinic have also drafted a report based on a three-year study of the board.

The report says procedural barriers and limited investigatory powers have stopped the board from ever ruling in favor of residents' complaints.

It says the review board is weak because it can't investigate cases on its own or compel people to testify.

"While this model is often utilized because of its inexpensive administrative needs, a major drawback of this form of oversight is the lack of power afforded to the review committee," the report says. "Without the investigative and subpoena powers necessary to engage in fully independent fact-finding, review boards such as the CRB in Charlotte must rely on the investigative reports developed by Internal Affairs and the goal of independent neutrality is compromised."

People who feel they've been victims of police misconduct can appeal to the Review Board if they are not satisfied with the results of a CMPD investigation into their complaints.

The board has only held four hearings in 16 years. After each hearing, the board ruled in favor of the police.

In a memo to the council, Chief Rodney Monroe said he doesn't think the makeup or powers of the board need to be changed. He has told the Observer that he believes his department does a good job of policing itself and that the Review Board has been responsible for department policy changes that have held police more accountable.

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Posted: Monday, Jul. 08, 2013

Dems questioned on citizens panel that reviews allegations of police misconduct

By Steve Harrison

PUBLISHED IN: LOCAL NEWS

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A forum Monday for the city of Charlotte's Democratic elected officials focused in large part on reforming the Citizens Review Board, which has been criticized for always siding with the police.

In 16 years, citizens have filed more than 75 complaints about police misbehavior with the CRB. But the Charlotte Observer found that the 11-member volunteer board had voted to dismiss almost every case without holding a hearing.

The City Council has voted to explore ways to change the CRB, by possibly giving it more power to investigate.

Mayor Patsy Kinsey, a Democrat, told the audience to be patient.

"Everyone is at work on this issue," said Kinsey, who became mayor last week after Anthony Foxx resigned to become U.S. Secretary of Transportation.

She wouldn't commit to a timeframe on when the city might have recommendations about the board.

"Until we get all the information back to us, I can't say," Kinsey said.

The forum was hosted by the Mecklenburg County Democratic Party. Kinsey and Democratic council members were invited to take questions from an audience.

Many focused on the CRB.

One woman, Beverly Foster of west Charlotte, said the current CRB is "appalling."

"Asking the police to guard the police is like asking the fox to guard the hen house," she said.

The event was one of the first opportunities for Mayor Pro Tem Patrick Cannon and District 2 council member James Mitchell to share a stage as mayoral candidates.

Cannon re-affirmed his position of not wanting to pay for a streetcar with property taxes. Mitchell said he would have raised the property tax rate to build the streetcar.

Both Cannon and Mitchell voted for the $126 million streetcar extension after City Manager Ron Carlee created a plan to pay for it without using property taxes.

Other questions focused on lowering the city's unemployment rate.

District 4 council member Michael Barnes, who is running for an at-large seat, said the city is adding jobs. But he said so many people are moving to Charlotte in search of work that it's difficult to absorb all of the transplants.

Beth Pickering, who is running for re-election as an at-large member, said the recently passed $816 million capital plan could create 18,000 jobs. The plan requires a 7.25 percent property tax increase.

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Public speaks out about Citizens Review Board

By Cleve R. Wootson Jr.
PUBLISHED IN: CRIME & JUSTICE

In the first of two public forums about Charlotte's Citizens Review Board, nearly 30 people voiced their opinions about overhauling the body created to serve as a check on the Charlotte-Mecklenburg Police Department.

Tuesday's meeting near uptown Charlotte drew a small but diverse cross-section of the city – neighborhood leaders, civic activists seeking reform and some people who felt they've been wronged by the police.

Many echoed opinions that have been voiced for months, after an Observer investigation showed that the Citizens Review Board people can appeal to about allegations of police misconduct has always sided with police.

Most at the forum agreed that the board needed more authority. Some said the CRB should have independent investigative powers. Others said the board should be given subpoena powers.

- Want to go?

The final public forum about the Citizens Review Board is scheduled for Thursday.

The forum is from 6 to 7:30 p.m. at Beatties Ford Road Regional Library, 2412 Beatties Ford Road.

Those not able to attend the forum can fill out a survey about the CRB by going to https://www.surveymonkey.com/s/YDD3ZNM.

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"If you can't subpoena some people and put them under oath – and later prosecute them if they lie under oath – then the board doesn't have any teeth," Lowell Faison said. "If they don't have that fear, they don't have any reason to tell the truth."

In the 16 years since its establishment, citizens have filed 79 complaints about police misbehavior with the Citizens Review Board. But a Charlotte Observer investigation showed that the 11-member volunteer board, after meeting behind closed doors, first with the citizens, then with the police, has voted to dismiss almost every case without holding a hearing.

The Charlotte City Council voted in April to examine the mandate and powers of the CRB, a decision that could ultimately give residents a better chance of proving that they've been victims of police misconduct.

This week's public forums are a major step in that process. People also can submit recommendations online.

People who think they've been victims of police misconduct can appeal to the CRB if they are not satisfied with the results of a CMPD investigation into their complaints. But residents who appeal to the review board must meet an unusually high standard of proof before the CRB will hold hearings on their allegations.

The board has only held four hearings in 16 years. After each hearing, the board ruled in favor of the police.

The Citizens Review Board has little authority. It cannot take disciplinary actions against police officers or award damages to citizens. Board members can only advise the police chief and city manager if they believe CMPD's disciplinary decisions were serious mistakes.

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Appendix B

Public Survey Results

2013 Charlotte
Community Relations Committee – Citizens Review Board
Task Force

Citizens Review Board Process Survey

SurveyMonkey

1. Have you ever filed a complaint against a Charlotte Mecklenburg Police Officer?

	Response Percent	Response Count
Yes	13.3%	11
No	86.7%	72
answered question		83
skipped question		0

2. I am knowledgable and have a good understanding of the Citizens Review Board process and how it works.

Strongly Disagree	Disagree	No Opinon	Agree	Strongly Agree	Rating Average	Rating Count
8.4% (7)	19.3% (16)	10.8% (9)	44.6% (37)	16.9% (14)	3.42	83
answered question						83
skipped question						0

3. The Citizens Review Board Process is a fair process for citizens who may file a complaint against police officers.

Strongly Disagree	Disagree	No Opinion	Agree	Strongly Agree	Rating Average	Rating Count
28.9% (24)	18.1% (15)	25.3% (21)	16.9% (14)	10.8% (9)	2.63	83
answered question						83
skipped question						0

4. The Citizens Review Board Process is a fair process for police officers who have had complaints filed against them.

Strongly Disagree	Disagree	No Opinion	Agree	Strongly Agree	Rating Average	Rating Count
13.3% (11)	16.9% (14)	**34.9% (29)**	26.5% (22)	8.4% (7)	3.00	83
				answered question		**83**
				skipped question		**0**

5. The Citizens Review Board Process needs to be changed.

Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree	Rating Average	Rating Count
37.3% (31)	27.7% (23)	21.7% (18)	6.0% (5)	7.2% (6)	2.18	83
				answered question		**83**
				skipped question		**0**

6. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

	Response Count
	54
answered question	**54**
skipped question	**29**

7. Please check (one) the appropriate box below:

	Response Percent	Response Count
I am a citizen/resident of Charlotte-Mecklenburg	**89.2%**	**74**
I am a CMPD employee/officer	1.2%	1
I am a member of an organization that has a vested interest in the Citizens Review Board (CRB)	6.0%	5
Other	3.6%	3
answered question		**83**
skipped question		**0**

8. Please answer the following

	Response Percent	Response Count
ZIP:	**100.0%**	**83**
answered question		**83**
skipped question		**0**

9. What is your age?

	Response Percent	Response Count
18 to 24	2.4%	2
25 to 34	13.3%	11
35 to 44	16.9%	14
45 to 54	15.7%	13
55 to 64	**27.7%**	**23**
65 to 74	21.7%	18
75 or older	2.4%	2
	answered question	**83**
	skipped question	**0**

10. What is your gender?

	Response Percent	Response Count
Female	45.6%	36
Male	**54.4%**	**43**
	answered question	**79**
	skipped question	**4**

11. What is your race? Please choose one or more.

	Response Percent	Response Count
White	**50.0%**	**40**
Black or African-American	36.3%	29
Asian	1.3%	1
Native Hawaiian or other Pacific Islander	0.0%	0
American Indian or Alaska Native	3.8%	3
Other	12.5%	10
	answered question	**80**
	skipped question	**3**

Citizens Review Board Process Survey

SurveyMonkey

Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

	Response Count
	54
answered question	54
skipped question	29

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

1	Increase independence of board	Jul 14, 2013 1:04 PM
2	citizens need more legal representation at hearings, similar to that of the CMPD's officers	Jul 12, 2013 5:40 PM
3	Can't submit my input, need more knowledge of Charlotte Citizens Review Board	Jul 12, 2013 5:03 AM
4	More of an open book policy. Less control by police department in what action is taken.	Jul 11, 2013 2:36 PM
5	I try to file a complaint against a police but it was block by his manager sgt. Shy he said I just mad because I was given a ticket and laughed at me in other words nothing was done about it now I have to go to court on 7/31/13 because of a speed trap on Pavilion Blvd.	Jul 11, 2013 2:33 PM
6	1. Transparency of the process 2. Board should have the power to investigate, call witnesses, and question complainant and police officer. 3. Procedure should be fair to both complainant and police officer. 4. Decision should be made on preponderance of evidence. 5. Final decision should not be made by police chief but an unbiased person such as city manager.	Jul 11, 2013 2:33 PM
7	Need to learn more. Will come to meeting Beatties Ford Library.	Jul 11, 2013 11:00 AM
8	1. Give the CRB investigatory power. 2. Provide more resources and information for the citizen to allow for more procedural fairness and less of an extreme advantage for the police. 3. There also needs to be much more transparency for the public. I have lived in other cities that provided a CRB website and posted the results of the hearings in front of the CRB so the community could see what was happening. I don't believe these recommendations are anti-police but rather a way of restoring the trust the community wants to be able to have with the CMPD. Every major organization has an effective checks and balances/organization that reviews potential misconduct (doctors, lawyers, military, teachers, etc). By granting the current CRB the above recommendations, they can effectively review a complaint and make their own findings independent of the findings from CMPD's own internal affairs...thereby allowing the community to better trust the findings as their independently found. Again...it's about restoring trust in the community.	Jul 11, 2013 8:28 AM
9	It needs to be a balanced board with no agenda.	Jul 11, 2013 7:16 AM
10	1. Investigatory Power 2. Procedural Fairness 3. Transparency	Jul 11, 2013 6:59 AM
11	The citizen should have more than seven days to file an appeal.	Jul 11, 2013 6:51 AM
12	Review make up of members - is there a good balance; does the members and public under stand the roles and responsibilities/process of this Board. Does the general public know when hearings are held and how is it advertised - other citizens can attend and observe. This is an advisory board CRB process should be reviewed on at least an annual basis. Evaluations should be an on going process of any board.	Jul 11, 2013 5:55 AM
13	The survey was too general. One may have SOME knowledge but not necessarily a good understanding of the Board.	Jul 11, 2013 3:35 AM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?		
14	The board members should have more checks and balances to ensure a leveled playing field.	Jul 10, 2013 6:09 PM
15	1)ACTIVELY include CRB in the complaint process from the initial complaint; 2)Keep complainant fully informed throughout the process as well as the to the outcome; 3)Offer the complainant opportunity for an advocate from a pro bono source; 4)Have the process more transparent to the community and complainant; 5)Give CRB subpoena power for due process.	Jul 10, 2013 3:04 PM
16	First, the CRB is fair neither to citizens nor officers. When justice is not done, it is not fair to anyone. Second, the CRB needs an investigator and the ability to subpeona witnesses and the officer in question.	Jul 10, 2013 2:17 PM
17	A start would be to raise the profile of and shine a light on the Board to foster better understanding of how the process works and what's been done. I don't think the public cares enough or takes the concerns seriously enough yet -- this could change.	Jul 10, 2013 2:14 PM
18	The CRC should have investigatory powers, procedural fairness and transparency. 1. Subpoena power number, 2.. Power of independent review, 3. Lowered standard of review, 4. Internal procedure disclosures, 5. Independent decision-making authority, 6. Civilian complaint assistance, and 7. Transparency in the entire process with a website that citizens can file complaints duplicate and filed an internal affairs.	Jul 10, 2013 1:47 PM
19	For the Citizens Review Board to be able to the job it made to do it needs investigatory power including subpoena power, procedural fairness including a decrease in the outrageously high standard of review, and transparency all throughout the process.	Jul 10, 2013 11:18 AM
20	There needs to be more marketing about the Citizens Review Board Process in urban areas throughout the city of Charlotte.	Jul 10, 2013 9:15 AM
21	We do not need the police to review itself. Citizens should be over watching the police activities to insure citizens concerns are heard and not ignore.	Jul 10, 2013 8:55 AM
22	What also needs to be changed is that complaints have to be looked into when one is made. Last year I filed 8 complaints about harassment. Not a single one was looked into.	Jul 10, 2013 7:33 AM
23	Let the Citizens have a voice in the process!!	Jul 10, 2013 6:04 AM
24	Consider amending the prerequisite that any member of the Citizens Review Board complete the Citizen's Academy. First, it is extremely burdensome for anyone with work and/or family obligations to attend approximately sixteen, three hour long evening classes - even given the two years allotted for completion. Second, it would seem to introduce an inherent conflict of interest into the entire review process by requiring members of the review board to be instructed on CMPD policies and procedures by members of CMPD. Finally, as an attorney and former prosecutor/criminal defense attorney, and someone who has applied for Citizens Academy in the past but been unable to attend due to scheduling conflicts, maybe consider waiving/lessening requirements for consideration to be appointed to the board for licensed attorneys in the CharMeck area. Thanks	Jul 10, 2013 5:46 AM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?		
25	change members on a yearly basis, have non-paid personal to talk to anybody (no matter their background) with issues with the cmpd etc. i watched a minor traffic stop and was just so terrible it sicken me and made me realize that abuse of power is alive in charlotte nc.	Jul 10, 2013 5:01 AM
26	Use of the CRB early in the process, why agree to be on a committee with name only? Prcess is closed and not transparent.	Jul 10, 2013 3:35 AM
27	??? No Clue	Jul 10, 2013 1:34 AM
28	The CRB process needs greater transparency, the board must have the ability to independently investigate complaints and the threshold for review of a citizen's complaint must be lowered.	Jul 9, 2013 10:42 PM
29	Charlotte must come into this Modern Century by strengthening the powers of the CRB.	Jul 9, 2013 9:42 PM
30	This survey is woefully inadequate and comes across as a ruse, as lip service to show you "did something." The Community Relations Committee is a joke. Fire them. Take those salaries and pay an investigator for the CRB (currently very inadequate) and legal fees for citizens. Employ all CRB reform committee suggestions. Publicize all of this FULLY in the newspaper and on all television and radio stations for the next 2-3 weeks, including Spanish-speaking news. Spend no more than 1 more week typing those responses. Make this a PRE-ELECTION ISSUE and stop making excuses to put it off. The only way to make any of this mean anything is to also include a COMPLETE 100% AUDIT of INTERNAL AFFAIRS, WHICH IS NOT REPORTING COMPLAINTS AND IS HIDING INFORMATION OF OFFICER MISCONDUCT. THAT IS THE BASIS OF THE PROBLEM, INCLUDING THE POLICE CHIEF AND HIS BOSSES THAT LET IT HAPPEN.	Jul 9, 2013 9:30 PM
31	I my experience with the CRB, I do not know if they can even take action. I filed with the CRB and never received a response on whether my case was even considered.	Jul 9, 2013 9:23 PM
32	Our citizens Review Board Process should be handled as soon as their is a complete. They should not wait until future complaints a made. It should be made up with people who are very knowledgeable of how the court system and police department operate.	Jul 9, 2013 9:10 PM
33	The standard of review limits to abuse of discretion on the part of the Chief of Police. It provides no real forum for the facts of the case to be heard by an independent body, and this is completely inadequate for such grievances.	Jul 9, 2013 9:01 PM
34	Independent investigator should gather evidence if police refused or failed to do so.	Jul 9, 2013 8:52 PM
35	This is a very large and complicated issue, so I have narrowed it to the most pressing matters. 1. Subpoena power 2. Lower standard of review to "no standard of review," 3. Procedural fairness (i.e. right to a lawyer for complainants, cross examination of defendants) 4. Independent decision making authority 5. Transparency - reports of the Citizen Review Board available to the public (with officers personnel information redacted, of course).	Jul 9, 2013 8:13 PM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

36	There no check and balence,no teeths,no authority as it is now. Its just a rubber stamp for police actions,the citizens have no voice. 100% finding for police,are you kidding me.	Jul 8, 2013 9:58 AM
37	I am a citizen not a police officer or police employee. Stop trying to give a citizens board police powers. A well regulated Internal Affairs bureau is TRAINED to investigate these complaints. You focus on the CRB never overturning the Police Chief. Tell us how many disciplinary actions that he punished a police officer AFTER the Internal Affairs division. BE FAIR QUIT TRYING TO PERSUADE and JUST INFORM WITH ALL FACTS	Jul 7, 2013 11:49 AM
38	Notify the citizen the reason(s) why the Board came to the decision they did.	Jul 4, 2013 7:23 AM
39	The CRB should be funded by the city and employ an independent investigator with subpoena powers. It's focus should be on whether or not there was police misconduct, not whether the chief abused his discretion.	Jul 2, 2013 3:53 PM
40	I do not know the exact process, but the historical statistics seem to indicate that it is not unbiased. If it were, the statistics would not show that all cases have been decided in favor of the police.	Jul 2, 2013 6:43 AM
41	Give more authority to the members of the CRB.	Jul 2, 2013 6:40 AM
42	I think it is clear that there is a protection of your own. I even know of a case where an officer was promoted when there was clear issues with them with the way they were donig their job that had been brought forward to city.	Jul 2, 2013 6:17 AM
43	Provide CRB investigatory and subpoena powers.	Jun 26, 2013 10:05 AM
44	The initial disciplinary hearing should include an equal amount of CMPD staff and Community Relations representatives.	Jun 26, 2013 8:33 AM
45	When you file a complaint, the process is not clear or communicated by the police officer who contacts you about the complaint.	Jun 26, 2013 7:05 AM
46	Not sure, but every case that I have heard that was reviewed was in favor of the officer and I know that some appeared to be very questionable	Jun 26, 2013 5:53 AM
47	Based on the excerpt in Mr. Ratchford's email about how the process works, it seems like a good one.	Jun 26, 2013 5:36 AM
48	If we trust CMPD to be professional there should be no need for a second, somewhat uneducated (in law enforcement matters and tactics), civilian review. The police need to be able to do their job. That's very difficult with one hand tied behind their back.	Jun 26, 2013 5:34 AM
49	Get rid of it. It is completely unnecessary.	Jun 21, 2013 5:53 PM
50	The review board must be outside of the police dept and independent of elected officials. A complete 3 party nonbias to review and judge the incidents.	Jun 21, 2013 12:26 PM
51	Keep gathering citizen input from across the county. Listen. Address concerns. Include a diverse group of stakeholders.	Jun 21, 2013 9:57 AM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?		
52	Well trained board members; a clear understanding of the mission and vision of the board; education for the public not in times of tragedy but on going.	Jun 21, 2013 9:53 AM
53	There is nothing wrong with the process. The CRB's mission is to decide if the Chief of Police abused his discretion when disciplining an officer who has had a complaint filed against them. It would be very rare for the Chief of Police (the IA chain of command hearing) to err in it's duty. If anything is to be changed, the whole CRB concept would need to be rewriten to actually give it some power to act. As it is now, it has no real power, so it is performing as it is directed to do. I don't believe that the public understands the mission of the CRB when they are given the opportunity to appeal the ruling in their case. It would be almost impossible for them to get a ruling in their favor as the mission of the CRB is currently written. On the other hand, if the CRB were to be expanded to give it more power throughout the process or as an independant board, I don't feel that ordinary citizens on the CRB who have no training in how the police conduct disciplinary hearings and have no knowledge of the law or police rules and regulations would be able to investigate cases and dole out appropriate discipline to police officers. To educate them would be time consuming and expensive and would have to be ongoing since members only serve for a certain period of time.	Jun 21, 2013 9:52 AM
54	* Afford the Citizens Review Board subpoena power. * Remove the requirement that the CRB must ask: "whether, by a preponderance of the evidence, the chief of police abused his discretion." * Provide transparency into the activities and makeup of the CRB: create a CRB website, with board member reports and biographies included.	Jun 21, 2013 8:12 AM

Appendix C

CMPD Survey Results

2013 Charlotte
Community Relations Committee – Citizens Review Board
Task Force

CMPD/Citizens Review Board Process Survey

SurveyMonkey

1. I am knowledgable and have a good understanding of the Citizens Review Board process and how it works.

Strongly Disagree	Disagree	No Opinon	Agree	Strongly Agree	Rating Average	Rating Count
5.4% (21)	16.2% (63)	8.0% (31)	**52.1% (202)**	18.3% (71)	3.62	388
				answered question		388
				skipped question		0

2. The Citizens Review Board Process is a fair process for citizens who may file a complaint against police officers.

Strongly Disagree	Disagree	No Opinion	Agree	Strongly Agree	Rating Average	Rating Count
2.8% (11)	6.2% (24)	25.3% (98)	**42.1% (163)**	23.5% (91)	3.77	387
				answered question		387
				skipped question		1

3. The Citizens Review Board Process is a fair process for police officers who have had complaints filed against them.

Strongly Disagree	Disagree	No Opinion	Agree	Strongly Agree	Rating Average	Rating Count
4.1% (16)	11.1% (43)	25.6% (99)	**44.7% (173)**	14.5% (56)	3.54	387
				answered question		387
				skipped question		1

4. The Citizens Review Board Process needs to be changed.

Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree	Rating Average	Rating Count
4.9% (19)	9.1% (35)	**40.5% (156)**	22.9% (88)	22.6% (87)	3.49	385
					answered question	**385**
					skipped question	**3**

5. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

	Response Count
	115
answered question	**115**
skipped question	**273**

6. Please answer the following

	Response Percent	Response Count
ZIP:	**100.0%**	**388**
answered question		**388**
skipped question		**0**

7. What is your age?

	Response Percent	Response Count
18 to 24	0.0%	0
25 to 34	19.1%	74
35 to 44	**41.0%**	**159**
45 to 54	37.6%	146
55 to 64	1.8%	7
65 to 74	0.3%	1
75 or older	0.3%	1
	answered question	**388**
	skipped question	**0**

8. What is your gender?

	Response Percent	Response Count
Female	15.2%	57
Male	**84.8%**	**317**
	answered question	**374**
	skipped question	**14**

9. What is your race? Please choose one or more.

	Response Percent	Response Count
White	**78.2%**	**291**
Black or African-American	15.3%	57
Asian	1.1%	4
Native Hawaiian or other Pacific Islander	0.3%	1
American Indian or Alaska Native	1.9%	7
Other	6.2%	23
	answered question	**372**
	skipped question	**16**

CMPD/Citizens Review Board Process Survey

SurveyMonkey

Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

	Response Count
	115
answered question	115
skipped question	273

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?		
1	I am currently unfamiliar with the Citizens Review Board Process, but would be very interested in learning about it.	Jul 9, 2013 5:39 AM
2	We already have one. The Civil Service Board	Jul 8, 2013 9:21 PM
3	I do not know enough about the Citizen Review Board to respond to the questions.	Jul 8, 2013 5:12 PM
4	None, I think they make a decision based off the facts at hand. The general public does not agree because the facts do not facor them.	Jul 8, 2013 5:07 PM
5	Define their roll and their guide lines	Jul 8, 2013 2:57 PM
6	Don't change it. It works great the way it is now.	Jul 8, 2013 2:25 PM
7	I have never been before the review board. I only have subjective and third person accounts to draw conclusions from.	Jul 8, 2013 1:26 PM
8	I don't know that much about the Citizens Review Board, however I feel that the CMPD IA holds officers to a higher standard than the CRB probably does.	Jul 8, 2013 9:18 AM
9	none	Jul 8, 2013 6:07 AM
10	Nothing. The idea that the media dictates the decisions of the review board is ridiculous. The people complaining about the process are attempting to manipulate it so it prevents Officers from effectively doing their jobs.	Jul 8, 2013 6:02 AM
11	I have no idea what they do or if they have ever fairly convened on any police investigation. This is a political step to insure fairness that is not really needed. CMPD does a great job of policing itself.	Jul 7, 2013 11:19 AM
12	The process can continue to remain the same should one thing change. It is my opinion that if a citizen files a complaint against an officer and that complaint is determined through evidence and other findings that the complaint is false (a lie) then that citizen filing the complaint should be charged criminally. Along the same lines of filing a false police report. Officers receive false complaints on them daily and there is no repercution to those that continue to do so. Not only is this a waste of city resources to investigate this claim but it is an injustice to the officer.	Jul 6, 2013 9:09 AM
13	A complete sreening of complaints from Citizens against Officers.	Jul 6, 2013 4:30 AM
14	Citizens without police training should never be allowed to sit in judgment of an officer split second actions without hearing from experienced LEO. Therefore I recommend that you use retired police officers who have separated for a department that have an understanding of the law and also have life experience. As I age I have come to the realizations that all police officers actions are not always the better decision however they were often justifiable actions by the law and policy. Retired Officer with life experience are the best folks to make this decision and to recommend better ways for Officers to handle their duties. Retired officers are also the best folks to review and assist with policy and proceedural decissions. Therefore I recommend the following. • A panel of 5 members o 4- formal officers o 1- community Chairperson If a unanimous	Jul 5, 2013 7:11 PM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

	decision report returned to the Chief of Police. In the event the Community Chair is not in agreement with the four officer panel then a three panel community leaders is convened to hear the panel decision and a final decision is make with the three panel community leaders after hearing from the four panel retired officer board. Think about it, the community leader has the Chair and the trained pannel reviews policy and actions.	
15	n/a	Jul 5, 2013 3:59 PM
16	None. CMPD does an excellent job policing themselves and discipline is handed out even when officer's had good intentions. The review board hasn't sided with citizens because CMPD IA and review board conducts thorough investigations.	Jul 5, 2013 3:08 PM
17	A better filtering system of whose selected, affiliation of someone who understands / current civil process to determine due cause	Jul 5, 2013 2:44 PM
18	Start with changing up CMPD IA's chain of command as they do not even appreciate their own officers but only justifying their assignments. IA needs to review their CMPD Motto!	Jul 5, 2013 12:34 PM
19	None	Jul 5, 2013 12:12 PM
20	My knowledge of the citizen board is very little.	Jul 5, 2013 11:44 AM
21	We do not need it. We already have IA and the Civil Service Board. And they do a good job. No officer is required to go before the civilian review and they should not. This is nothing more than a political feel good thing.	Jul 5, 2013 11:19 AM
22	I like how you switched the last questions answers so that people would mastakenly check the wrong box. Shady as only as the city could do.	Jul 5, 2013 11:12 AM
23	their should be no changes to this process, its is work fine.	Jul 5, 2013 11:12 AM
24	Have them apart of the investigative process to ensure fairness.	Jul 5, 2013 11:10 AM
25	Just because people do not get the answer that THEY want does not mean the current system is flawed or broken. Internal affairs does a great job investigating allegations in a fair impartial manner. Invite some of the Citizens review board members to sit in on hearings held by the COC so they can see for themselves.	Jul 5, 2013 9:14 AM
26	I'm not familiar with the process at all.	Jul 5, 2013 8:59 AM
27	Citizens do not understand what police officers deal with day to day. Citizens can file absurd complaints that are not true without any form of repercussion.	Jul 5, 2013 8:30 AM
28	In my opinion, the CRB has been impartial and fair on most of the cases brought before the board. It does not need to be changed. CMPD Internal affairs has done an adequate job in investigating officers and prosecuting them when their has been sufficient evidence.	Jul 5, 2013 8:18 AM
29	I have heard citizens complain that the process is in favor of police because they are often found to not be "guilty"; however I cannot say if it is or is not fair.	Jul 5, 2013 8:06 AM
30	None	Jul 5, 2013 7:48 AM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?		
31	no improvements needed	Jul 5, 2013 7:46 AM
32	Make its decisions more public. That way you can avoid the perception the public has of the process.	Jul 5, 2013 7:45 AM
33	I fully trust that IA is objective in conducting investigations and the CRC results are indicitave of that	Jul 5, 2013 7:45 AM
34	Nothing that needs changing that I have heard of in this process , I feel that as long as the complaint filed is complete in the investigation and all evidence is presented at the hearing then it can be fair for the citizen and the officer involved .	Jul 5, 2013 7:39 AM
35	better educate the public and officers on the process and how it works	Jul 5, 2013 7:01 AM
36	I do not believe there should be an ex police officer on the panel. Ex Major Garnes	Jul 5, 2013 6:32 AM
37	This survey is rigged the answers should be in the same order why would you try to trick us	Jul 5, 2013 6:21 AM
38	None at this time.	Jul 5, 2013 5:53 AM
39	I do not feel that a civilian board is fair and equal when it pertains to sworn police officers. I feel the current chain of command is better suited due to the understanding of our policies, procedures, training and legal training and authority given to us by the state and Federal statutes. I feel civilians sometimes want the out come to be in their favor regardless if it is right or wrong and without knowing the full situation that officers are challenged with on a daily basis.	Jul 5, 2013 5:40 AM
40	Don't need it. CMPD IA will go out of their way to ensure that an officer is disciplined severely whether they deserve it or not.	Jul 5, 2013 5:22 AM
41	I tend to follow the rules and have not had to experience the review board in person. None of my close friends have either so I can't speak intelligently on this matter. I am aware it is there.	Jul 5, 2013 5:06 AM
42	There is already a member of the Community Relations Committee that sits in on the COC hearings. If a citizen wants to appeal the outcome of a complaint, they should be able to meet with the Major of the board that dealt with the case. If the citizen still has a problem, they should put thier concerns in writting and request that the chief reviews the findings.	Jul 5, 2013 4:37 AM
43	I do not have any. I have not been involved w/ it nor do I have any colleagues that have been through that process.	Jul 5, 2013 4:11 AM
44	It is fine the way it is.	Jul 5, 2013 4:06 AM
45	No changes needed.	Jul 4, 2013 7:41 AM
46	Completely eliminate the Citizens Review Board. Very simple solution for a quite frankly stupid system meant to placate one race of Charlotte citizens.	Jul 4, 2013 6:11 AM
47	I don't know.... its been awhile since I utilized the board.	Jul 3, 2013 6:42 PM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?		
48	I do not like the process at all.If a citizen is angry with CMPD Officer then they can appeal to the review board after an internal investigation is done.	Jul 3, 2013 5:07 PM
49	No changes are needed. Lack of rulings in favor of citizens does not indicate a corrupt system but represents that we police ourselves as an agency. This was the purpose of the board's creation.	Jul 3, 2013 4:16 PM
50	The CRB seems to be working fine.CMPD IA does a good/fair job enforcing the rules of CMPD.	Jul 3, 2013 8:03 AM
51	we don't need a citizens review board. citizens will never understand what we do because there're never have to deal with the situations we deal with on a daily basis. the citizens review board monday night quarterback, i've never endorsed this and will never endorse it	Jul 2, 2013 6:17 PM
52	I have no idea how the citizen review board operates. I would recommend that each time a board is held, that an officer is there to watch the process.	Jul 2, 2013 5:05 PM
53	none I know nothing about it	Jul 2, 2013 10:41 AM
54	No changes need to be made.	Jul 2, 2013 8:51 AM
55	None	Jul 2, 2013 8:36 AM
56	no	Jul 2, 2013 7:46 AM
57	The process works for both sides.	Jul 2, 2013 7:24 AM
58	Complaints need to be valid.	Jul 2, 2013 7:16 AM
59	None needed. It's unfortunate that in order to be redeeemed the next officer to go through the review board will be burned. Why? Just the the CRC can save face. I see this coming and so do other people. I hope this isn't the case.	Jul 2, 2013 6:35 AM
60	The Charlotte Observer article was very one sided and failed to point out that there are many sustained complaints that result in officers being disciplined. It also portrayed IA and the police attorney as representing the officers. In fact, IA and the police attorneys present an inpartial investigation and interpretation of departmental policy and Constitutional Law.	Jul 2, 2013 6:29 AM
61	The Citizens Review Board Process model is fundamentally flawed. Citizens do not have the proper legal training, police training, or fundamental understanding of police proceedures to make reasonable, informed decisions than impact an officer's career. There is a reason why the medical and legal professions are governed by boards staffed with medical and legal peers. The internal affairs process with Civil Service Board oversight is more than sufficient to insure transparency. Historical data shows that serious allegations are rigorously investigated by IA. If CMPD wants to increase transparency and citizen involvement, we should/could start including the complaintant as a witness in the chain of command board hearing in order to give them a voice. If we want to keep the CRB (which is completely redundant and ineffective) it should, at the very least, be staffed with former police professionals who have the training and background to understand the given issues.	Jul 2, 2013 5:51 AM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

62	The perception that the public has about the citizens review board is unjustly biased due to how it has been portrayed by the media who is more interested in grabbing headlines and making a controversy than actually reporting the truth. The cases haven't been overturned because in most situations the officers have either been exonerated or already had action taken against them such as days off of other punitive actions. The fact is that the officers facing the review board have already had a judgement made about the allegation from the department and IA and the review board finds that the action taken by the department is appropriate. The news does not report on that fact however. The review board is typically hearing from citizens who are already not pleased with the police and are "hell bent' on their justice which most likely is having the officer fired even after a judgement has been passed by the depeartment which could include suspension, sustained allegations, etc.	Jul 2, 2013 5:00 AM
63	N/a	Jul 2, 2013 4:51 AM
64	CMPD just needs to follow its own directives. The CMPD command staff and supervisors will not follow their own directives.	Jul 2, 2013 3:38 AM
65	I cannot answer certain questions because I have no experience or knowledge about how the review board handles issues.	Jul 2, 2013 3:23 AM
66	Individuals serving on the CRB may only serve for a term of 2 - 3 years	Jul 2, 2013 1:49 AM
67	NO COMMENT	Jul 1, 2013 10:26 PM
68	It shouldn't be so easy for a citizen to complain on officers. They should have to at least come to a station to file the complaint. No more online complaints.	Jul 1, 2013 8:44 PM
69	Eliminate it. Despite what has been reported in the press, Police officers do have someone "policing" them. The state of North Carolina issues law enforcement certificates and has the right to revoke them. They have done this on several occasions including times where it contradicted what Internal Affairs found. The citizens of Mecklenburg County do not fully understand the dynamic environment police officers work under and therefore cannot validly judge their actions.	Jul 1, 2013 8:37 PM
70	N/A	Jul 1, 2013 5:36 PM
71	A better explanation of how thorough and professional and integrity based the department's internal investigations already are,	Jul 1, 2013 5:21 PM
72	Citizens on the review board should have to complete ride alongs monthly and need to have knowledge of the areas where officers are working to see how the other "citizens" talk to, yell at, and ineract with officers on an everyday basis. Then they might have a better understanding of how to render an opinion when there is a complaint.	Jul 1, 2013 3:43 PM
73	It is unnecessary fluff for disgruntled complainants. It puts undo stress on the officers. Cmpd holds it's officers accountable for there actions, and conducts fair and impartial investigations of there own. Do away with this unnecessary process.	Jul 1, 2013 2:30 PM
74	The media coverage may be misleading to the public. They may not realize that	Jul 1, 2013 2:17 PM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?		
	it only goes to the Citizens Review Board if the complainant is not satisfied with the previous results. It does NOT mean that the officer was not punished.	
75	The Citizen Review Board is very important because it provides a check and balance to Internal Affairs and allows a unbiased 3rd party to hear the case against an officer. It also provides a safety net to officers while still providing an outlet for citizens who are unsatisfied with the outcome of an Internal Affairs investigation by again providing that 3rd party involvement.	Jul 1, 2013 1:51 PM
76	have the officer and the witness present during the review process. Here is my name Jeffrey Bingham # 1675 Central Division CMPD	Jul 1, 2013 1:27 PM
77	It is not necessary. Internal affairs already does an outstanding job of investigating. The Chain of Command review board understands these cases much better than the public.	Jul 1, 2013 1:13 PM
78	For a complaint to be filed the complianant should have to show up in person similar to the SHP system of filing a complaint.	Jul 1, 2013 12:44 PM
79	Although I dont' think the CRB process needs to be changed, I don't oppose giving the CRB more authority to review cases and conduct independent interviews. I feel confident that CMPD does an outstanding job of fairly investigating cases and feel having a CRB with more oversight will show our community that they can trust the process that CMPD has in place.	Jul 1, 2013 12:27 PM
80	Get people on the board that have an open mind and that realize that things don't work like the CSI tv show.	Jul 1, 2013 12:20 PM
81	Leave it as it is, it has proven to be fair and works.	Jul 1, 2013 12:19 PM
82	Eliminate it	Jul 1, 2013 12:14 PM
83	With the availability of redress through the civil courts, state courts, and federal courts, I do not understand the need for the CRB.	Jul 1, 2013 11:58 AM
84	It needs to be disbanded. Police have Internal Affairs, Civil Service boards and criminal prosecution to deal with. What is the purpose of a Citizen Review Board but to get another attempt at sanctioning only the Officer.	Jul 1, 2013 11:50 AM
85	I think the general public is mislead with the authority and expectations of the CRB process. Many civilians feel that the police do an ineffective job of policing the police and the job of the CRB should be to review more complaints then they do and to punnish the accused. If the public was aware that the CRB reviews the process and not each complaint or appeal then I think they would be more accurately informed. After all, this is not supposed to look like the police covering up for each other.	Jul 1, 2013 11:48 AM
86	No changes needed. Effective tool for citizen complaints against police. CMPD Internal Affairs does a great job of managing their personnel disciplinary issues. Discipline against officers usually adjudicated prior to citizen review board process.	Jul 1, 2013 11:32 AM
87	There is no need to make this change. Why would an outside source who has	Jul 1, 2013 11:18 AM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

	no experience with law enforcement have a bearing on an internal investigation.	
88	An educational campaign that describes the disciplinary process for CMPD, the makeup of the board and selection of membership, the process for appeals would benefit the general public.	Jul 1, 2013 11:00 AM
89	I think the review board members need a little more education on what the police do on a daily basis before they get the right to "investigate" a complaint. You can't have a citizen without the proper knowledge make judgements against an officer without first hand experience for both sides of the complaint.	Jul 1, 2013 10:52 AM
90	Get rid of it! The citizens of Charlotte had no idea of the lack of teeth this Board had when it was implemented. The Civil Service Board oversees firing, hiring and promotions, but the Citizens of Charlotte were sold a bill of goods when this board was implemented after a tragic situation where a person was shot and killed by a police officer and the citizens felt they needed more oversight of the department. These same citizens felt that they were getting a board that oversaw the hiring and firing practices, when in turn, the board only reviews what is given to them by the department. The board has sided with the department and its officers a high percentage of the time, thus making it apparent that many of the citizen complaints are unfounded or without merit. The department has done a good job in policing their own for many years, and the citizens of Charlotte and Mecklenburg County don't need a CRB to echo this fact.	Jul 1, 2013 10:49 AM
91	not have one.	Jul 1, 2013 10:48 AM
92	I believe that our Internal Affairs already does a good and fair job of investigating complaints against officers. I don't we need another layer of people investigating complaints. Either you trust CMPD or you don't.	Jul 1, 2013 10:47 AM
93	Completion/resolution time frame, some sort of information video or pamphlet that explains the CMPD process better so that citizens will have a good understanding of what has happened up to the point of a review by the CRB.	Jul 1, 2013 10:47 AM
94	Police Officers already submit to Internal Affairs and criminal investigations. There does not need to be an additional investigation group as well.	Jul 1, 2013 10:41 AM
95	Make the case public information, including all information about the person disputing as well as the Officer being investigatged.	Jul 1, 2013 10:41 AM
96	There is nothing to fix. Just leave it alone. I believe the system is working just fine and it is fair system.	Jul 1, 2013 10:41 AM
97	N/A	Jul 1, 2013 10:26 AM
98	The current process seems to work well and is fair.	Jul 1, 2013 10:23 AM
99	You survey questions format is skewed. The police officers have to contend with 2 investigations while trying to continue to work without constant dealings with internal affairs. I believe that the process as of this point works fairly for the citizens. What happens if after the review gets denied? How many more Board processes are needed?	Jul 1, 2013 10:18 AM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

100	none	Jul 1, 2013 10:17 AM
101	The department already does a good job of investigating cases and putting them in the proper context. As long as the citizen board is a balance group from the community it should continue as it has to function as an addition review without bias. Officers should continue to be judged based on their individual action(s) or conduct. The boards decisions should be looked at based on policy more so than public opinion. The most recent discussion about the findings in favor of officers doesnt mean the process needs to be overhauled. I'd simply look to the balance of citizens to ensure we offer a balance process to all parties.	Jul 1, 2013 10:14 AM
102	outside agency (SBI) should handle investigation of all officer involved shootings	Jul 1, 2013 10:12 AM
103	disband the board. It is staffed politically, and it's members are corrupt.	Jul 1, 2013 10:09 AM
104	suggest that the types of complaints heard by the Citizen's board be listed on www.charmeck.org, under the CRB page. No notice given of those now.	Jul 1, 2013 10:08 AM
105	I know next to nothing about the Citizens Review Board process.	Jul 1, 2013 10:07 AM
106	The thought of a citizen review board with investigative powers makes me very afraid. I have been an investigator for over twenty years and have only just begun to fine tune my investigative skills. It takes continuous training and legal updates to conduct an investigation without violating someones rights and in this case it would be mine. I do not relish the thought of my personel records floating out there with a group of political appointees to oversee them. I think the public outcry or in this case the media stance is not recognizing my needs or privacy.	Jul 1, 2013 10:05 AM
107	I do not want a biased outside citizen group having oversight or disciplinary authority over me.	Jul 1, 2013 10:03 AM
108	Assure the citizens that are selected to sit on the board are qualified to do so and possess sufficient education and judgment to render an impartial opinion.	Jul 1, 2013 10:01 AM
109	The average citizen does not have the legal nor real world experience to qualify them to judge wether or not officers acted appropriately in a use of force situation. With that in mind, the review board should be picked cautiously.	Jul 1, 2013 10:00 AM
110	The review board has saved jobs for officers that have been previously mislabeled or had the wrong chain of command making the initial decision. Leave the review board as is.	Jul 1, 2013 9:58 AM
111	CMPD does an excellent job of investigating complaints both internally and criminally. Changing the process and making the officer go through another investigation and board hearing is equivalent to double jeopardy in the court system.	Jul 1, 2013 9:51 AM
112	The system is set up for a layman to come in and make a case, yet professionals can make the case for the departments interest	Jul 1, 2013 9:48 AM
113	N/A	Jul 1, 2013 9:46 AM
114	The board members need to be reflective of the community and the folks alledging the misconduct. These members need to roll off the board every two	Jul 1, 2013 9:46 AM

Q1. Comment: What ideas do you have for improving/changing the Citizens Review Board Process?

	years. A very difficult perception issue with the number of cases they have heard and they have never ruled against the department.	
115	Unless those civilians are knowledgable about the law and when officers are justified in using force and taking action, police officers will be judged unfairly by people who aren't qualified to do so.	Jul 1, 2013 9:42 AM

Appendix D

Charlotte School of Law Report

2013 Charlotte
Community Relations Committee – Citizens Review Board
Task Force

CHARLOTTE SCHOOL *of* LAW CIVIL RIGHTS CLINIC
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Charlotte School of Law: Civil Rights Clinic
Citizens Review Board:
Research and Proposed Reform
June 4, 2013[1]

This report is the result of a three year study conducted by Charlotte School of Law's Civil Rights Clinic. Research began with a comprehensive public records request in which clinic members identified sixty former complainants who had filed appeals with the Citizens Review Boar ("Board"). Since that original document request, further investigation revealed that over the Board's fifteen year history it received a total of seventy-eight appeals, held only four hearings and never ruled against the police department. When the feedback from former complainants revealed an overall dissatisfaction with the complaint review process, and local papers touted eerily bleak statistics of the Citizens Review Board's history of never ruling for a citizen complainant, the Clinic took an in-depth look at the ordinance creating the Citizen's Review Board to identify problems. Discovering structural issues within the ordinance, receiving internal concerns from former board members, and researching over sixty models of civilian oversight throughout the nation, the Clinic drafted a model ordinance that fits within the municipal powers granted by the state legislature and compliments the current community relations structure set up within the city.

Part I of this memo outlines the development and purpose of civilian oversight commissions in the United States. Recognizing the value of various community stakeholders including – discrete geographic communities, individual citizens, law enforcement personnel and management, and municipal interests – the changes proposed in this memo build on strengths of the current structure while refocusing the Citizens Review Board on the main goal of civilian oversight of law enforcement – establishing community trust and transparency. Part II provides brief descriptions of the strengths and weaknesses of each general model of civilian oversight, emphasizing that particular components such as external review, independent investigatory power, subpoena power, and an audit function are well-suited to enhance the necessary reform of Charlotte's Citizens Review Board. Oversight models of different jurisdictions throughout the United States are included to illustrate that no two models are alike and that each form of oversight develops and adapts as a result of the specific needs of the community where it is located. Within North Carolina, Charlotte has the opportunity to implement an exemplary model of oversight function for others in the state to follow. Drawing on the current structure of Charlotte's municipal accountability scheme, Part III identifies the inconsistencies and weaknesses within the Citizens Review Board, and suggests four primary changes: 1)lowering the pre-hearing standard from preponderance of the evidence to probable cause; 2)shifting the focus of the standard of review from abuse of discretion to whether actual misconduct occurred; 3)providing independent investigatory, subpoena, and audit powers to the Citizens Review Board; and 4)establishing stronger lines of communication and accessibility between the city

[1] Primary Author: Isabel Carson, JD 2014; Contributing Research from: Daniel Melo, JD 2014; Katie Webb, JD 2013; Lindsey Engels, JD 2014. The Civil Rights Clinic Faculty Supervisor is Jason Huber.

and its residents. The Addendum attached is a proposed ordinance with underlined changes from the original ordinance creating the Citizens Review Board.

I. Development and Purpose of Civilian-Oversight of Law Enforcement

As the most visible representation of the municipal government, due to its frequent interaction with citizens, law enforcement agencies have a vested interest in establishing stable and enduring community trust. Before the 20th century, the main form of oversight of law enforcement agencies came in the form of political control. Mayors were often the sole arbiter of police oversight, and law enforcement became intertwined with political agendas.[2] The national trend, shifting away from political oversight, has been to delegate quality assurance oversight to public servant citizen commissions.[3] In 2005, the Bureau of Justice Statistics found that 79% of police agencies across the country with 1,000 or more officers have some form of police oversight or complaint review process in place.[4]

This trend towards civilian oversight is illustrated in Charlotte through the statutory creation of various commissions including the Community Relations Commission, the Civil Service Board, and the Citizens Review Board. [5] While the Civil Service Board provides a forum for police officers to appeal internal disciplinary actions, and has the power to overturn the disciplinary decisions of the Chief of Police, the powers and authority delegated to the Citizens Review Board does not establish an equivalent forum for citizens voicing their complaints of alleged police misconduct. Procedural barriers and limited investigatory powers have prohibited

[2] Review of National Police Oversight Models for the Eugene Police Commission, Police Assessment Resource Center ("PARC"), at 7. (February 2005) < http://www.parc.info/client_files/Eugene/Review%20of%20National%20Police%20Oversight%20Models%20(Feb.%202005).pdf>
[3] Id. at 8.
[4] Bureau of Justice Statistics (2005)
[5] Community Relations Committee, Charlotte Charter, Art. II §12-26-31 ; Civil Service Board, Charlotte Charter, Art III § 4.61, Citizens Review Board, Charlotte Charter, Art II

the CRB, in its sixteen years of existence, from ever resolving complaints favorably to the citizen complainant.

The goal of a civilian oversight committee is to establish a neutral intermediary between citizens and the police department in order to ensure that police practices and policies are responsive to the needs of the community. One of the main benefits to the community of an efficient oversight body is its ability to defuse tense community conflicts. This can be achieved through: 1) affording complainants an opportunity to be heard in a formal hearing, 2) assessing and evaluating general public grievances of police practices, 3) increasing the public understanding of police policies, procedures, and behaviors, and 4) reassuring the community that police officers are appropriately disciplined when misconduct occurs.

When the complaint review process provides citizens with an adequate forum to air grievances and a realistic avenue to resolve conflicts with the law enforcement agency, civilian oversight may significantly reduce the risk of municipal liability and §1983 claims burdening the courts. If the city can develop a process that adequately addresses not only individual complaints, but also community concerns about general police policies (including acts and omissions), it can greatly deter the *Monel*[6] claims of municipal liability involving: 1) a municipal "custom," (2) a municipal "policy,"[7] (3) failure to train, discipline, investigate, supervise, etc.,[8] or 4) the decision of a "final decision-maker." [9]

In order for the review process to continue to be effective – structural, procedural and managerial safeguards must be in place. Just recently, in Virginia Beach, it was discovered that the Investigation Review Panel (IRP) created in 1991 had not met in over seven years due to lack

[6] Monell v. Department of Social Services, 436 U.S. 658 (1978).
[7] *Id.* at 690-91.
[8] *See, e.g.,* City of Canton v. Harris, 489 U.S. 378 (1989).
[9] *See* Pembaur v. City of Cincinnatti, 475 U.S. 469, 480-81 (1986).

of diligent and accountable management.[10] As a result of "gross negligence, mismanagement, and lack of oversight," the IRP had violated the community's trust and two city employees were forced to retire. To avoid the potential liabilities that accompany such a situation, and to ensure the effective and efficient communication of Charlotte's CRB with citizens, the police department, and the City Council, it is essential to place Charlotte's current model within the context of what options are available and what changes would best serve this community. A comprehensive review of civilian oversight agencies throughout the United States makes clear that no two agencies are alike. Each jurisdiction adopts a model of oversight that adapts to its community needs, conforms to municipal authority, and compliments the civil services already available in the community. Highlighted in each sample jurisdiction are the components that would benefit Charlotte's CRB.

II. Comparative Models and Components of Oversight Committees

A. Review and Appellate

The Charlotte CRB currently falls into this category of civilian oversight. Generally, review and appellate oversight models hear complaints only after they have been investigated and decided by the police department. Rather than reviewing the police department as a whole, assessing broad patterns and practices of police misconduct, review and appellate models deal exclusively with citizen complaints on an individual basis. Without a broader perspective on general police practices and the police department's relationship with discrete populations, this limited nature of review hinders the CRB from providing effective oversight.

Review and appellate models are an external mechanism of oversight, separate and distinct from Internal Affairs. The benefit of establishing an oversight agency as a completely

[10] Aaron Applegate, The Virginia Pilot "Va. Beach police review board hasn't met in 7 years" (July 28, 2012) <http://hamptonroads.com/2012/07/va-beach-police-review-board-hasnt-met-7-years>

separate entity from Internal Affairs and the police department is providing the appearance of neutrality and impartiality. Citizen complainants are not deterred from filing appeals, and the review process becomes a form of "democratic accountability" for resolving conflicts. While this model is often utilized because of its inexpensive administrative needs, a major drawback of this form of oversight is the lack of power afforded to the review committee. Without the investigative and subpoena powers necessary to engage in fully independent fact-finding, review boards such as the CRB in Charlotte must rely on the investigative reports developed by Internal Affairs and the goal of independent neutrality is compromised.

1. St. Paul, Minnesota

The Police-Civilian Internal Affairs Review Commission (PCIARC) in St. Paul, Minnesota consists of seven voting members who are charged with reviewing each complaint filed and subsequent investigation by Internal Affairs.[11] Rather than awaiting the Chief of Police's initial disciplinary action, the PCIARC reviews each complaint and investigation, may hire an independent investigator and subpoena additional witnesses, and makes a disciplinary recommendation to the Chief of Police. When the PCIARC holds that a complaint is "sustained" and recommends disciplinary action, the standard for the ruling is "the allegation is supported by sufficient evidence to justify a reasonable conclusion of guilt."[12]

This process is far different from Charlotte's CRB in many ways. First, in Charlotte, citizen complaints are always initially investigated and determined by Internal Affairs and the Chief of Police. Our study does not propose changing that chain of command – as the Charlotte Police Department (CPD) has given adequate statistics to show that it effectively handles and

[11] St. Paul Minnesota, Code of Ordinances, Part III, Tit. V, Ch. 102 < http://library.municode.com/HTML/10061/level3/PTIIIADCO_TITVCOCO_CH102POVIINAFRECO.html#TOPTITLE>

[12] City of St. Paul, Police-Civilian Internal Affairs Review Commission: 2009 Annual Report. at 16. <http://www.stpaul.gov/DocumentCenter/Home/View/13234>

disposes of the majority of citizen complaints. However, the investigative and subpoena power afforded to PCIARC, and the lower procedural burden under a finding of "sustained" are positive tools that can aid Charlotte's CRB in appearing independent and neutral from Internal Affairs and the CPD[13].

St. Paul's PCIARC's active involvement in the case from the initial filing of the complaint is something we would like to mirror in Charlotte as a way to review and assess the internal investigations procedures of CPD. An important function of civilian oversight is the review and recommendations for broader policy and procedure reform. As stated in PCIARC's annual report, the commission reviews complaints for excessive force, discrimination, poor public relations, improper procedures, and identifies patterns in summary data from complaint investigations.[14] The PCIARC also has community meetings to educate the public about the review process and hear general public grievances and suggestions for policy reform. Additionally, PCIARC's annual report provides easily accessible and readily understood information about the nature and number of complaints filed against the police, the dispositions of all complaints, and the instances when the Chief of Police disagreed with or changed the disciplinary recommendation.[15]

An interesting statistic, and one that reassures citizens of police accountability, is that the Chief of Police changed the disciplinary order from the PCIARC nine times in 2009 – eight of those nine instances were to change the PCIARC's finding from "not sustained" to "sustained." The accessibility of this information creates transparency that holds both the oversight committee and the police force accountable.

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[13] Addendum at 16-38(b), 16-39(b)
[14] *Id*. at 10.
[15] *Id*. at 17.

2. North Carolina Models

Durham's Civilian Police Review Board's (CPRB) sole function is to hear appeals from citizens who are dissatisfied with the initial determination by the Chief of Police.[16] Although the CPRB has the power to issue recommendations to the Police Department regardless of a determination to hear a citizen appeal, the lack of information available to the public makes it virtually impossible for citizens to know if the Board actually reviews police policies and procedures. Similar to Charlotte, the CPRB is required to create annual reports on its activity, but this information is not readily accessible or visible to the public eye. Unlike Charlotte, Durham explicitly lays out what should be included in these annual reports: the nature and number of complaints, dispositions, information about board members, and any other information the Board deems relevant.

Similar to Charlotte, citizens in Durham must meet an unreasonably high procedural barrier before receiving a full hearing; the CPRB must find by a preponderance of the evidence that the police chief abused his discretion in making a disciplinary determination. In making this threshold determination, the CPRB reviews only a summary report of the case from the police department and the appeal request filled out by the complainant. The lack of in-depth information available to the CPRB at this stage, and lack of independent investigatory power coupled with the extremely high procedural burden make this threshold determination almost a mirror to the process of Charlotte's CRB.

The Winston-Salem Citizen Police Review Board is charged with hearing appeals of citizen complaints after an initial determination by the police.[17] However, unlike Charlotte and Durham, the Winston-Salem Board receives a copy of each complaint filed regardless of a

[16] Durham City Council, City of Durgam: Civilian Police Review Board Procedure Manual <http://www.durhampolice.com/news/commendation_complaint.cfm>
[17] Winston-Salem, North Carolina, Code of Ordinances, Pt III, Ch. 2, Art. III, Div. 3, Sec 2-101 – 2-113.

request for appeal.[18] Though the ordinance outlining the procedures of the Board does not indicate any action taken upon receipt of the complaint, our proposed reform in Charlotte seeks to implement and extend this process for the CRB in order to allow the CRB to oversee Internal Affairs investigations and provide feedback on patterns and protocols of Internal Affairs.[19] Upon notification of each complaint filed, a representative of the CRB should be actively involved in the entire investigation process.

A distinguishing characteristic of Winston-Salem's Citizen Police Review Board is that, upon completion of a full hearing of a citizen appeal, all findings of fact are sent directly to the City Manager who then makes the final disciplinary determination – taking the decision making process out of the hands of the Board. There is no indication that the Chief of Police will make the final disciplinary decision. While our proposed reform does not suggest taking the decision making power out of the hands of the Chief of Police or the CRB, we do propose that the City Manager have the authority to issue binding disciplinary orders on the Chief of Police in cases where disagreement arises between the recommendation of the CRB and the ultimate disciplinary decision of the Chief of Police.[20]

The role of the Winston-Salem's Citizen Police Review Board is to act as an advisory committee to both the City Manager and the Public Safety Committee. The Board issues all of its findings of fact to the Public Safety Committee for informational purposes, assisting the committee in its duty to provide for the effective civil services of citizens in the community. This role as advisor to a policy-making body is an important addition that we seek to implement in Charlotte both by increasing communication between the CRB and City Council, and by

[18] *Id*. at Sec 2-108(a)
[19] Addendum at 16-37(a)
[20] Addendum at 16-39(l)-(m)

expanding the oversight function to include not only individual case-by-case complaints, but also broader policy and practice issues within the CPD.

Lastly, Greensboro's Complaint Review Committee (CRC) is composed of five appointed members, representing each of the five council districts, and two city residents selected by the Human Relations Commission (HRC).[21] The HRC, Police Department, and City Attorney's Office provide specific trainings to ensure members have the core knowledge required for case review. Where the CRC differs from other Review and Appellate models in North Carolina is that citizens may file appeals directly with the CRC. The CRC will send the complaint to the Division of Professional Standards for investigation, and make a determination based on the results of the investigation.

If the CRC is satisfied with the investigation and determination of the complaint, it will close the case. If the CRC is not satisfied with the investigation it may request additional investigation to be performed by the Division of Professional Standards, meet with the complainant, or hold a conference with the Chief of Police. If the CRC and Chief of Police fail to resolve the conflict, the CRC can appeal to the City Manager for a final resolution.

B. Investigative and Quality Assurance

Because the review and appellate model can often be seen as inherently biased to the internal operations of the police force, many jurisdictions throughout the nation have adopted civilian oversight models that either entirely displace the investigative process of Internal Affairs[22] or afford significant power to the oversight agency over Internal Affairs investigations.[23] Granting powers to the external agency to conduct investigations and subpoena

[21] http://www.greensboro-nc.gov/index.aspx?page=721#process
[22] Office of Citizen Complaints ("OCC") in San Francisco, CA, "Complaint Procedures" page. <http://www.sfgov3.org/index.aspx?page=435>; San Fran. Munic. Code § 4.127 (2011).
[23] Office of Professional Accountability ("OPA") of Seattle, Washington <http://seattle.gov/police/OPA/about.htm.>

witnesses supports a community perception that the oversight agency is engaging in independent judgment on the merits of a complaint. The core responsibility of these types of oversight agencies is to assure the quality and integrity of individual investigations of citizen complaints.[24]

While it is important to afford the CRB with investigatory and subpoena powers in order to ensure an even-handed forum for citizen complainants, there are two drawbacks to models focused solely on independent investigations; they require larger pools of resources and the focus on case-by-case investigations eclipses broader policy concerns. For these reasons, we do not propose that Charlotte create an independent investigatory agency to replace the CRB, rather to hire a single Investigations Manager to oversee investigations as they are completed by IA and to conduct independent investigation of complaints on appeal as requested by the CRB.[25]

Seattle has taken a "Director" Approach to external investigatory powers and hired a civilian lawyer to head up oversight within the Internal Affairs unit called the Office of Professional Accountability ("OPA").[26] This civilian OPA director reviews and classifies complaints into four general categories, and reviews weekly investigation reports to determine the sufficiency and completeness of investigations – requiring further investigation if deemed necessary. Upon a finding that investigations are complete, the Director of the OPA makes disciplinary recommendations to the Chief of Police. If a citizen complainant is unhappy with the outcome of his/her investigation, he/she may request further action, but no adversarial hearing or appeals process takes place. A response to a citizen request for appeal consists of the OPA director either refusing or granting further investigation into the complaint.

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[24] See *Review of National Police Oversight Models for the Eugene Police Commission*, Police Assessment Resource Center, 14-17 (February 2005) http://www.parc.info/client_files/Eugene/Review%20of%20National%20Police%20Oversight%20Models%20(Feb.%202005).pdf

[25] Addendum at 16-34(a),(e) & 16-37(a)

[26] Seattle's OPA homepage: http://www.seattle.gov/police/OPA/process.htm

While our proposed reform does establish a permanent position outside of the police department to oversee Internal Affairs investigations, we do not seek to displace the current CRB adversarial hearing opportunity for civilian complainants. Our proposed model follows the Review and Appellate model, grants independent investigatory and subpoena powers, and creates an oversight/auditor function within the CRB to review Internal Affairs investigations protocol.

C. Civilian Auditor Model

The Civilian Auditor model allows for a broader advisory role in citizen oversight committees. These models require low staff and thus are an efficient and low cost way to ensure effective police practices and policies. Rather than focusing solely on the content of each individual complaint, the auditor or "professional monitor" looks at the overarching complaint process, and serves to identify systemic failures in police procedures as a whole. Often called an "ombudsperson," the auditor has access to all internal documentation, evidence, and investigative materials of Internal Affairs, and the end goal is more of an evaluative and performance based quality assurance. In addition to the broad perspective afforded through the auditor's function, this model does not displace the internal processes of the police force. Rather, it reviews the procedures over time and identifies patterns and policies that can be altered to better serve the community and deter misconduct.

One drawback of this model is the public perception that auditors are working for the police and not for bridging the gap between law enforcement and the community. Because auditors' primary interaction is with the police department and Internal Affairs, there is a lack of community outreach and participation. For this reason, we recommend that Charlotte create a position, as representative of the CRB, to engage in the Internal Affairs investigative process

from the initiation of a complaint, and to conduct independent investigation as needed in order to both identify patterns within IA, and to directly serve citizens in the complaint process.

Sacramento, CA, has established the Office of Public Safety and Accountability (OPSA) that monitors investigations of civilian complaints, evaluates the quality of internal procedures and protocols, and may conduct independent investigations to supplement inadequate internal investigations.[27] The primary role of the Director of the OPSA is to advise the police department and City Council of systemic failures and ideas for policy reform, and to closely track serious allegations of misconduct against the police department. The City of Sacramento avoids the perception of the Director working in cohorts with the Police Department by requiring the Director to act as a liaison with the community, and to publish annual findings of deficiencies and complaint results in order to promote accountability. Establishing open lines of communication between the oversight function and citizens is important to preserving the appearance of neutrality.

Portland, OR, has established an Independent Police Review (IPR) that can choose between referring citizen complaints to the Internal Affairs investigation process or taking on the investigation of complaints on its own.[28] The Director of the IPR is charged with independently reviewing the complaint process, investigation practices, and other data in order to advise the Chief of Police on how to improve procedures and prevent future issues.[29] Portland expands this auditing function with a Citizen Review Committee designed to establish workgroups that study particular policy reform recommendations from the Director of IPR and to communicate in the policy research phase with community stakeholders. This model closely resembles the audit

[27] http://www.cityofsacramento.org/opsa/documents/Purpose_Authority_Proceedures.pdf
[28] Administrative Rules Adopted by Bureau Pursuant to Rule-Making Authority: ARB-PSF-5.01 http://www.portlandonline.com/auditor/index.cfm?c=27455&a=9030
[29] Administrative Rule Adopted by Auditor's Office Pursuant to Rule-Making Authority: ARB-PSF-5.18 < http://www.portlandonline.com/auditor/index.cfm?c=27455&a=62444>

function of the Investigations Manager and the broader policy recommendation function of the CRB that we seek to implement in reforming the Charlotte CRB.

III. Suggested Changes for Charlotte's Citizens Review Board

A fundamental concern in reforming the CRB should be to ensure adequate representation of Charlotte's communities, and require specific and thorough training of each member before serving on the Board.[30] Reducing the number of appointed Board members to seven, and requiring a representative from each district in Charlotte would ensure geographic representation, but other qualities such as profession, socio-economic status, and community involvement should be considered when electing members for the CRB. Additionally, sufficient legal, policy, and community sensitivity training should be required before service on the Board. Through our review of public records of past board members, there were many instances where the Citizens' Academy training was either not completed or not recorded – and no indication that other relevant legal training had been provided.

In order to ensure that Board members feel well-equipped to effectively hear citizen complaints and host public forums, unbiased legal training (from both prosecutors and defense attorneys) should be provided. Many complainants going through the appeals process are victims, and from our research it was apparent that the communications between citizens, police officers, and the Board did not provide an open, neutral, or receptive forum for complainants. In 2008, the Public Safety Committee set up a Criminal Justice Task Force and one of the many

[30] Addendum at 16-34(a)

problems that Task Force identified was the inadequate treatment of victims in criminal justice matters.[31]

In addition to the duties of the seven volunteer members of the CRB, our proposed reform adds two paid and permanent positions to the Board: an Investigations Manager and an Administrative Manager.[32] To ensure the longevity of the oversight function, each of these positions is charged with ongoing review and assessment of both the CRB's activities and the internal procedures of the police department. The Investigations Manager serves both as an auditor of Internal Affairs Investigations and as an independent investigator to supplement the information about each complaint appealed to the CRB.[33] The Administrative Manager is charged with scheduling, securing locations, creating agendas, and taking minutes for CRB case-hearings and community forums.[34] Additionally, the Administrative Manager serves as the primary contact point between the community and the CRB, and the City Council/City Manager and the CRB, and maintains the CRB website, ensuring regular up-dates and accurate accounts of the CRB's activities. While these two positions ensure effective supervision for the longevity of the CRB, four specific procedural and substantive changes serve to build the community trust in both oversight and police polices.

A. Community Involvement

Community outreach is an important component of civilian oversight that ensures an oversight agency is responding to the concerns of citizens, not just in a closed adversarial hearing, but in an open forum where community interest groups, civic associations, tenant

[31] Justice and Public Safety Task Force, November 2008 <http://www.centerforcommunitytransitions.org/images/Justice_and_Public_Safety_Task_Force_-_Final_Report.pdf>
[32] Addendum at 16-34(a)
[33] Addendum at 16-37(a),(d) & 16-39(b)
[34] Addendum at 16-36(a)(2) & 16-41

organizations, businesses, churches, and other issue-oriented groups can educate and be educated about police policies and procedures.[35] Initiatives to increase citizen involvement can be used as a tool that fosters continuous dialog between residents of a community and its police force.

The Administrative Manager would be a paid position charged with acting as liaison between citizens, the police, the Board members, and the City Council. Scheduling open forum meetings where community organizations can attend and voice general grievances or concerns arising from CPD's interactions with the community is an important component to maintaining community trust.[36] Additionally, if CRB members have more exposure to citizen complainants on a broader spectrum of policy concerns then they are better able to spot recurring and legitimate complaints. Over time these open forums can be a valuable asset by keeping the city informed of community-police relations.

B. Independent Investigatory and Subpoena Power

While many models throughout the United States have adopted a complaint review process that bypasses the police department and is handled exclusively, from the initial filing of the complaint to the appeal process, by the oversight agency, we recognize Charlotte Mecklenburg Police Department's notable reputation for handling and resolving citizen complaints effectively. To implement and reinforce the mission of the CRB as a committee dedicated to the maintenance and continuing longevity of quality law enforcement practices, the method of oversight used should involve both proactive and reactive mechanisms that ensure thoroughness in investigations of individual complaints and constant reinforcement of accountability. The role of an Investigations Manager would serve both as an auditor of the Internal Affairs investigation procedures and as an independent investigator when appeals are

[35] Stephen Clarke, *Arrested Oversight: A comparative analysis and case study of how civilian oversight of police should function and how it fails*, 43 COLUM. J.L. & SOC, PROBS. 1, 35 (2009). Kim, *supra* note 1, at 483.
[36] Addendum at 16-41

actually filed with the CRB.[37] As an auditor overseeing the general process of IA investigations for each complaint, the Investigations Manager can proactively identify negative patterns and inconsistences and make recommendations to improve broader policies.

Independent investigatory powers, such as those granted to the Civil Service Board[38], are vital to creating the public perception that a civilian oversight committee is neutral and independent from law enforcement. This appearance of neutrality is central to assuring that citizens are not hindered from seeking recourse for alleged misconduct, and to providing thorough feedback and assessments to the law enforcement agency of its policies and procedures. Citizens should not fear that the reviewers of important social issues will not operate independently from the police department. One complainant interviewed during our research stated that she felt the Board members were not interested in making any decision against the police, that she was unsure of whether the Board was actually working *with the police* and that if a citizen wants an impartial hearing they are better off "bringing in somebody from out of town." This perception can be corrected by giving the CRB the power to compel discovery, subpoena witnesses, and investigate independently from the Internal Affairs office. With this necessary authority, supported by the command of law, members of the CRB will be empowered to conduct more thorough and impartial hearings.

C. Lowering the Procedural Burden

The changes that must come in reforming the CRB's general procedures is to 1) lower the threshold burden that complainants must meet before receiving a full hearing before the board, and 2) refocusing the standard from the actions (or abuse of discretion) of the Chief of Police to

[37] Addendum at 16-37(a) & 16-39(b)
[38] Charlotte Charter, Ch. 4, Art III § 4.61 (j)

whether or not actual misconduct was likely to have occurred.[39] As the ordinance currently stands, complainants will not and cannot receive a full hearing on the merits of their complaint unless they prove "by a preponderance of the evidence" that the Police Chief "abused his discretion" in applying the contested disciplinary action.

1. From Preponderance of the Evidence to "Reasonable Cause to Believe"

At the initial hearing phase of the Complaint Appeal process, the information available to the CRB is limited, and complainants have not been afforded the opportunity to engage in discovery or present a fully developed array of evidence to support their complaint. Under the ordinance, the CRB looks at a summary of the investigative report from the Chief of Police and the complaint to make this initial determination. In practice, the CRB may hear testimony from all involved actors representing the Police force and from the complainant before making this initial determination. The imbalance of evidence presented to the Board at this stage, and the significantly greater weight of representation for the police force creates an adversarial atmosphere that is inherently biased – and makes the burden of "preponderance of the evidence" an unlikely one for the complainant to meet.

The Community Relations Committee ("CRC") makes final determinations of citizen complaints based on this same standard.[40] Additionally, the Civil Service Board ("CSB") (a Board designed to hear appeals made by police officers of internal disciplinary decisions) does not require a preponderance of the evidence.[41] By lowering the threshold burden to reasonable cause to believe the CRB can ensure that citizens are afforded an adequate and equal opportunity to receive a full adversarial hearing on the merits of the complaint.

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[39] Addendum at 16-36(a)4, 16-38(b), 16-39(k)
[40] Charlotte Code of Ordinances Art II Sec. 12-30 "Complaint Procedure": ("whether reasonable cause to believe that the respondent violated…")
[41] Charlotte Code of Ordinances Art III Sec. 4.61

2. Shift Focus from "Abuse of Discretion" to "Whether Misconduct Occurred"

The current focus of the CRB's initial and final disposition of complaints is on the disciplinary decision of the Chief of Police. This misplaced standard of "abuse of discretion" prohibits the effective function of the CRB for two reasons: 1) an abuse of discretion standard is an unreasonably high standard for citizens to meet and is rarely met even in a court of law, and 2) the decision by the CRB should be an independent review of the merits of the complaint rather than an assessment of the discretionary authority of the Chief of Police. The standard must be changed from "abuse of discretion" to "whether actual misconduct occurred."[42]

By focusing on the alleged conduct of the subject officer, the CRB is more likely to focus on the underlying merits (the conduct in question) of the complaint. Many oversight commissions (including the CRC and CSB in Charlotte) focus on the reasonableness of the evidence in support of the underlying conduct or allegations in question.[43] The Chief's discretionary authority should only become relevant once the CRB has made a final disposition of the complaint and a conflict arises between the recommendation made by the CRB and the disciplinary action taken by the Chief of Police. At this point the City Manager may resolve the conflict on his own or by a request from the CRB (by majority vote).[44] The City Manager may either compel the Chief of Police to follow the disciplinary recommendation or agree with the disciplinary action taken by the Chief.

D. Transparency and Accessibility Lead to Accountability

The city should make three changes. First, As indicated by the public outcry at the City Council meeting on April 1st and through our discussions with former complainants and

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[42] Addendum at 16-36(a)4, 16-38(b) & 16-39(k)

[43] R U L E S of the BOARD OF FIRE AND POLICE COMMISSIONERS CITY OF MILWAUKEE, XVI-4 <http://city.milwaukee.gov/ImageLibrary/Groups/cityFPC/Rules/FPCRules.pdf>; Charter of New York, Sec, 440 (c) < http://72.0.151.116/nyc/Charter/Charter_Chapter18-aSection%20440.asp>

[44] Addendum at 16-39(l),(m) & 16-40

members of the community, there is not enough information readily available about the CRB. Currently, the website consists of a short paragraph stating how many members are on the Board (not by name) and the general duties of the board.[45] On the Charlotte Police Department website, entirely separate from the city website where the paragraph about the CRB is located, a Q & A describes the general process of filing a complaint and how the appeals process with the CRB works. All information pertaining to the CRB and complaint and appeals process should be located together on a separately maintained webpage.[46] Information should include and not be limited to plain language illustrations of how the process works, expectations of what amount of detail should be included in a complaint in order to receive a full hearing, statistical and historical data about the nature, number, disposition, and final disciplinary action of complaints, and the names and occupations of all CRB members as well as the point of contact for community members.[47]

Second, in order to assist the Board and the public in evaluating this information, it is important that the Board maintain sufficiently detailed records of its hearings. After reviewing the Board's meeting minutes obtained from the Clinic's public records request, it is apparent that the Board's boiler plate language used to document hearings violates North Carolina State law for two reasons. First, the Board must make a public motion to enter the closed session, and must cite the specific statute or law that protects the information from public disclosure. The limited purposes for entering into a closed meeting are set forth in N.C. Gen. Stat. § 143-318.11(a)(1)-

[45] http://charmeck.org/city/charlotte/CityClerk/BoardsandCommissions/Pages/Boards.aspx
[46] Addendum at 16-42
[47] New York City < http://www.nyc.gov/html/ccrb/html/history.html>; Miami, FL < http://www.ci.miami.fl.us/cip/pages/>; Portland, OR < http://www.portlandonline.com/auditor/index.cfm?c=26646>; Milwaukee, WI < http://city.milwaukee.gov/fpc>; Boise, ID < http://www.boiseombudsman.org/>; D.C. < http://policecomplaints.dc.gov>

(9). The current meeting minutes do not demonstrate that the Board strictly complies with this mandate.

Second, the closed meeting minutes fail to adequately document the business discussed during the closed session. Pursuant to N.C. Gen. Stat §143-318.10(e), even closed session meetings must be recorded fully and accurately so that a "person not in attendance would have a reasonable understanding of what transpired." The language used in the documented minutes of the Board's closed hearings do not illustrate the nature of the complaint, the number of parties involved, the degree of deliberation amongst Board members, or the specific statute allowing for a closed session. To ensure the accurate record-keeping, compliance with the open meetings law and to create useful data for assessing the effectiveness of the Board it is important that all minutes, including closed session meeting minutes, maintained contain the requisite degree of detail.

Third, annual reports which the CRB compiles should be comprehensive and readily available to the public – as well as used by the Public Safety Committee when assessing and reforming policy. By outlining the specific reporting requirements of the CRB to include more detailed and expansive information about the complaint process, and increasing accessibility of the information to the general public, the city can create transparency of official practices that leads to a public perception of municipal accountability and an increase in public trust and respect for city officials.

IV. Conclusion

With the review and stakeholder process, Charlotte has the opportunity change the structure of the Board in a meaningful manner by lowering the pre-hearing burden from

preponderance of evidence to probable cause, shifting the focus of the Board's inquiry to whether the complained of conduct occurred, providing the Board with investigatory powers complete with compulsory process and taking concrete steps to increase the Board's transparency. Making these changes balances the stakeholders' interests, fosters community trust in the police department, provides residents an appropriate forum to air grievances, and assures independent oversight of the police department.

Attached is the Clinic's proposed amended ordinance with changes underlined. The Clinic appreciates the opportunity to participate in this process and looks forward to working with all interested parties in the future.

ADDENDUM: REFORMED ORDINANCE

Revision to Ordinance No. 849

AN ORDINANCE AMENDING CHAPTER 16 OF THE CODE OF THE CITY OF CHARLOTTE BY THE REVISION TO AN ORDINANCE CREATING A CITIZENS REVIEW BOARD.

WHEREAS, City Council finds that the citizens of the City of Charlotte have an interest in ensuring the thoroughness and fairness of the Charlotte-Mecklenburg Police Department disciplinary process through an official oversight committee dedicated to transparency and community participation; and

WHEREAS, City Counsel finds that the City had broad authority to adopt such an ordinance pursuant to the powers granted under Chapter 160A of the North Carolina General Statutes and confirmed and extended by the Supreme Court of North Carolina in Homebuilders Association of Charlotte v. City of Charlotte, 336 N.C. 37 (1994); and

WHEREAS, City Council finds that under the authority of N.C.G.S. 160A-168(c)(7), the City Manager may, with the concurrence of the City Council, release information concerning the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a city employee and the reasons for that personnel action provided that before releasing the information, the City Manager or Council shall determine in writing that the release is essential to the maintaining of public confidence in the administration of city services or to maintaining the quality and level of city services.

Section 16-34: Creation; composition; terms; training; compensation; appointments; vacancies; removal.

a. The Citizens Review Board shall be composed of <u>nine (9) members; three (3) members to be appointed by City Council, two (2) members by the Mayor, three (2) to be appointed by the City Manager, and two (2) shall be hired: one (1) to act as Administrative Manager and one (1) to act as Investigations Manager for the Committee.</u>
   1. <u>The appointing authorities shall ensure that each of the seven (7) districts in Charlotte are represented</u>
   2. Seven (7) appointed members shall serve without compensation for a three year term, with no member serving more than two (2) consecutive terms.
   3. <u>Two (2) paid members (Investigations Manager and Administrative Manager) will serve on salary basis with no limitation on the term served.</u>
   4. All nine (9) members must remain domiciled within Mecklenburg County and must be registered to vote in the County during the entirety of their term.
   5. The Board shall select a Chairperson and a Vice-Chairperson from membership. When a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.

b. <u>Training Required:</u>
   1. All members shall successfully complete the Charlotte-Mecklenburg Police Department's Citizen's Academy <u>and participate in one ride-along</u> before serving on the Board.
   2. All members shall receive relevant legal training including:
      - <u>N.C. public record and meeting laws</u>
      - <u>Confidentiality requirements</u>
      - <u>State & Local peace officer laws</u>
      - <u>Victim sensitivity training</u>
      - <u>Case law regarding 4th amendment search and seizure, rights of arrested, etc.</u>

- Criminal Justice System and process: including standards of proof and review

3. Trainings must be provided by both public defenders and city attorneys or prosecutors, and may be provided by public interest organizations.
4. Every three (3) years the Board will either attend the National Association for Civilian Oversight of Law Enforcement's (NACOLE) annual Conference, or schedule a training for a NACOLE officer to travel to Charlotte.

c. Disqualifying Factors:
   1. No person with a Class A1 misdemeanor conviction shall be eligible to serve.
   2. Individuals with a Class 1 or Class 2 misdemeanor conviction within three (3) years of their nomination for appointment shall be ineligible.
   3. Conviction of or plea of nolo contendere, to a felony, a Class A1, Class 1, or Class 2 misdemeanor during term of office shall automatically terminate membership on the Board, irrespective of any appeals. Board members charged with a felony, a Class A1 misdemeanor, or a Class 2 misdemeanor during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.
   4. No spouse of a current police officer shall serve on the Board

d. Qualifications for Administrative Manager
   1. Five years experience in administrative duties with information technology expertise. Strong organizational skills and management experience.
   2. Strong written and oral communication skills. Ability to communicate regularly with diverse populations throughout community, initiate community outreach efforts, compile written reports and summaries in language easily understood by the average citizen.

e. Qualifications for Investigations Manager
   1. Bachelor of Arts/Science or equivalent degree
   2. Five years experience conducting civil, criminal or factual investigations. Knowledge of relevant criminal justice procedures, legal rules, and Internal Affairs protocols. Ability to oversee, review, and independently conduct investigations.
   3. Strong written and oral communication skills. Ability to communicate with individuals from a variety of cultural and socio economic backgrounds, and to provide clear, concise and well-organized written reports

Section 16-35 Meetings; quorum

The Citizens Review Board shall hold regular meetings no less than once every two months. Members are required to attend all hearings, business meetings and community forums in accordance with the attendance policies promulgated by the City Council. The affirmative vote of a majority, a quorum of five (5) members being present, shall be required before any recommendation is made on any matter considered. A majority vote shall be required for any decision made by the board. Special meetings may be called by the Chairperson , the Investigations Manager, or the Administrative Manager to carry out any duties described in Section 16-36 by giving each member notice in writing or by providing personal notice, or by leaving notice at the members residence not more than 72 hours prior to the time set for the meeting.

Section 16-36. Duties and Responsibilities

a. The board's responsibilities are as follows

1. Serve as an advisory board for the Chief of Police, City Manager, and the City Council on matters relating to general police practices and community relations with the criminal justice system.
2. Review public grievances and establish community forums for discussion of general law enforcement policies and protocols.
3. Review appeals filed by citizens who filed complaints with Internal Affairs and are unsatisfied with the Chief of Police's disciplinary action relating to the allegations of misconduct against a sworn police officer. The Board may hear appeals of complaints regarding alleged violations of the following rules: use of force, unbecoming conduct, arrest, search and seizure. In addition, the disposition of the review of any discharge of a firearm by an officer which results in the death or injury of a person may be appealed to this Board by the person injured or the next of kin in the event of a death. When a death results and there is no next of kin, any member of City Council or the Chairman of the Community Relations Committee may file an appeal pursuant to Section 16-37. The disciplinary actions that may be reviewed shall include the findings of the Chief of Police that an allegation has been categorized as: sustained, not sustained, exonerated, unfounded, or information file. The dispositions that may be reviewed for discharges of firearms shall include: justified, not justified, or accidental. The Board may not review appeals of decisions of the City Manager or Civil Service Board. Alternatively, the Civil Service Board may not hear appeals from disciplinary actions taken as a result of findings of the Citizen's Review Board
4. Determines whether to hold an appeals hearing. Each appeal shall be assigned to 2-3 members of the CRB, and if those members determine by reviewing the allegations in the complaint, and a complete file of Internal Investigations that it **is reasonable to believe that misconduct may have occurred**, then those members will present to the Board for a vote. If the majority agrees, the Board will hold a full appeals hearing. If majority determines more information is required, the Board may conduct independent investigation pursuant to the powers granted in section 16-37. If majority finds no reason to believe that misconduct occurred, it must provide written notice to the complainant and the Police Department stating reasons for refusal to afford a hearing. A copy of this written notice shall be filed with the rest of the case information by the Administrative Manager within the CRB's records.
5. Conduct Appeals hearings, which include receiving and evaluating the complete investigation files from Internal Affairs, independent investigation of all relevant documents, witnesses, and reports, and issuing findings of fact regarding the alleged misconduct of the subject police officer. The duty and power of the Board is to conduct a full adversarial appeals hearing and to determine whether by a preponderance of the evidence, it is apparent that the misconduct occurred.
6. Upon a disposition by the CRB that misconduct has occurred, the Board has the duty and power to advise the Chief of Police of recommended disciplinary action, and upon failure of the Chief of Police to abide by that recommendation, the Board may, by majority vote, request for the City Manager to issue a final disciplinary order.
7. As required by state law, board members shall maintain as confidential all personnel information to which they gain access as a member of the Board. Pursuant to N.C.G.S. 160A-168(c)(7), the City Manager may permit release of personnel files if determines essential to maintaining public confidence in administration of city services. Board members shall be required to execute and adhere to a Confidentiality Agreement that is satisfactory to the City.

8. An annual report of the number of complaints in city, number of appeals filed, number of appeals turned away at initial hearing, number of appeals afforded a full hearing, disposition of those full hearings, the nature of each complaint (involving use of force, unbecoming conduct, arrest, search and seizure, or discharge of a firearm)will be published on the CRB website.

b. The Citizens Review Board shall promulgate rules and regulations to effect its exercise of authority under this division, and shall keep such rules and regulations in its own records and on file with the City Clerk.

Section 16-37 Initiation of Appeal Procedure

a. All complaints will be initially filed and investigated by the Police Department. The Citizens Review Board will be notified of each complaint filed with the police department, and the Investigations Manager will oversee and review the Investigation Conducted by Internal Affairs.

b. Upon completion of an investigation, the Chief of Police shall, consistent with state law, notify the complainant by certified letter of the disposition of the complaint. This letter shall, in specific and plain language, inform the complainant of his or her right to appeal to the Citizens Review Board, explain the appeals process in full including what is required in order for an appeal to receive a full hearing, provide current contact information of the Administrative Manager, inform the citizen of his or her ability to seek the assistance of the Community Relations Committee in drafting and filing his or her appeal, and inform the citizen of his or her right to an attorney.

c. All appeals to the Citizens Review Board must be mailed in writing to the Administrative Manager of the CRB, stating the reason for the appeal and the nature of the incident within fourteen (14) business days of receiving written notice of the Chief of Police's disposition of the complaint. The appeal must contain sufficient detail and factual allegations to establish probable cause that misconduct occurred in order to receive a full appeals hearing. The citizen must provide a valid current address and phone number for the purpose of all notifications required to be made pursuant to this ordinance. The Administrative Manager shall keep one copy of the appeal for the Board's recordkeeping, and file another copy of the appeal with the City Clerk.

d. Upon receiving a request for an appeals hearing, the Investigations Manager shall request the Chief of Police to prepare a summary of the case, and shall compel disclosure of any Internal Investigations files relevant to the subject of the appeal as requested by the members of the Board.

Section 16-38. Necessity for a Hearing

a. Upon receiving request for an appeals hearing, a meeting of the Board will be held in fourteen (14) calendar days.

b. Three members of the Board will be assigned the appeal, will review the complaint, appeal form, and summary of investigation in closed session, and request further investigation as deemed necessary. If the three members determine there is sufficient evidence to support **reasonable cause to believe that the alleged misconduct occurred**, they shall submit the appeal to the entire Board and, only if a majority of the Board agrees, will the Board afford a full hearing. If the majority finds no reasonable cause, it must provide written notice to the complainant and the Police Department within seven (7) business days stating specific reasons for refusal to afford a hearing. A copy of this written notice shall be filed with the rest of the case information by the Administrative Manager within the CRB's records.

c. In a public session, the Chairperson shall indicate whether the Board has decided to hold a hearing and if so, shall announce the date, time and place of the hearing. The Chairperson shall

notify the complainant and other involved parties in writing of the decision and, if a hearing is to be held, also shall advise all parties in writing of the reasons for the decision to hold a hearing.

Section 16-39. Hearing Procedures.

a. If the Board decides to conduct a full hearing, it shall be concluded within sixty (60) calendar days of the decision to hold a hearing. Should the complainant or Department desire a hearing date other than that set by the Board, they shall submit a written request for a change of hearing date, stating the reason for the request. The Administrative Manager shall approve or disapprove of the request provided that such request is received by the Board at least seven (7) days prior to the date of the hearing. For good cause, the Administrative Manager, Investigations Manager, or Chairperson may continue the hearing from time to time, but all appeals must be concluded within no more than 90 days of the decision to hold an appeals hearing.

b. The Investigations Manager shall compel discovery of all relevant documentation developed by Internal Affairs and the police department during the investigation process, and shall conduct independent investigation as needed during the appeals process. The Investigations Manager shall have the power and authority to subpoena witnesses, officers, or complainants for depositions and interviews.

c. All witnesses must testify under oath.

d. All parties involved have the right, and shall be informed of that right to be represented by counsel.

e. The complainant shall have the right to compel discovery, subject to the limitations set out in the public records laws (160A-168(c)(7)).

f. All hearings shall be conducted in closed session, but shall be recorded. Minutes of each hearing shall describe the nature of the complaint, the number of witnesses presented, a general description of the proceedings, the vote-count of the disposition, and the recommended disciplinary action or lack thereof that results. All minutes shall be filed in the Board's records by the Administrative Manager.

g. The complainant shall offer evidence first in support of his or her appeal. The Department and officers shall have the right to cross-examine the complainant and his or her witnesses.

h. The Department shall then offer its evidence and the complainant shall have the right to cross examine its witnesses. In addition, the complainant shall have the right to cross-examine the subject officer of the complaint.

i. Members of the Board may question witnesses or request additional information or further investigation at any point in the process.

j. Members, who in a particular case have a conflict of interest, shall not attend nor participate in the hearing and decision-making process.

k. Within ten (10) calendar days after the conclusion of the hearing, the Board shall issue its written findings of fact along with its recommendation for disciplinary action to the Chief of Police, the City Manager and the Complainant. The Board must find that a preponderance of the evidence supports that the alleged misconduct did occur in order to find for the complainant.

l. The Board shall have the power, by majority vote, to request the City Manager to issue a final disciplinary order that is binding if the Chief of Police refuses to comply with the Board's initial disciplinary recommendation.

m. The City Manager shall have the authority and power to issue a final disciplinary order on the Chief of Police on his own, without the request of the Board.

Section 16-40 Action by the Chief of Police and City Manager

a. The Chief of Police shall review the findings of fact of the Citizens Review Board and any other information at his or her disposal. The Chief of Police shall, in accordance with the recommendation of the CRB and consistent with state law and city policy, take such action as he or she deems appropriate. Within seven (7) calendar days of the receipt of the Board's recommendations, the Chief of Police shall report his or her decision to the City Manager and the CRB.

b. The City Manager shall review the decision of the Chief of Police and within ten (10) calendar days of the receipt of the decision of the Chief of Police, take such action as he or she deems appropriate, consistent with state law, and shall advise the Chief of Police and the CRB of any intended action.

c. The Citizens Review Board shall review the decision of the Chief of Police and shall have the power, by majority vote, to request that the City Manager issue a final disciplinary order on the Chief of Police. The Board must notify the City Manager and the Chief of Police of its decision or intended action within ten (10) days of receipt of the Chief of Police's decision. A copy of this notice shall be recorded by the Administrative Manager within the CRB records.

d. The City Manager shall notify all parties, including the CRB, Chief of Police, citizen complainant, and the members of City Council, of the ultimate disciplinary decision of the Chief of Police. Notification to all parties must take place within seven (7) calendar days of the receipt of either the City Manager's decision or the CRB's decision to compel or accept a disciplinary decision of the Chief of Police.

Section 16-41 Administrative Manager Duties;

a. The Administrative Manager shall act as Secretary to the Board, shall keep the minutes of its meetings, shall be custodian of all papers and records pertaining to the business of the Board, and shall perform such other duties as the Board may require.

b. The Administrative Manager shall file all appeals, dispositions, and ultimate disciplinary decisions with the City Clerk as well as retaining a copy within the CRB records.

c. The Administrative Manager shall schedule, keep track of, and participate in annual trainings, public forum meetings, business meetings, and stakeholder meetings.

d. The Administrative Manager shall maintain the CRB's website, ensuring annual reports are compiled and published, graphical statistics of the types of complaints heard and their dispositions are displayed, information about Board members including name, profession, district, and year of term are accessible to the public, current contact information for the Administrative Manager and Investigations Manager is accurate and accessible, plain language and accessible description of the Appeals process is accessible in both English and Spanish, and the requirements for an appeal to receive a full hearing are plainly spelled out.

e. The City Council and City Clerk shall provide sufficient and reasonable rooms and use of public buildings for meetings and hearings of the Board as may be necessary.

f. The Board will not conduct hearings or meetings in any venue where law enforcement business is conducted. In addition, the Board and Administrative Manager will employ reasonable efforts to hold meetings in a variety of geographic areas in Mecklenburg County so as to make a forum accessible to a wider public audience.

g. The Administrative Manager shall post upcoming meeting times and locations, agendas, and invitation for community stakeholder participation on the CRB's website.

Section 16-42 Reports.

a. The Board shall make a semi-annual and annual report of its actions for each preceding year. The content of these reports shall include

1. The number of complaints filed with the Police Department.
2. The number of appeals made to the Citizens Review Board.
3. The nature of each complaint that was appealed.
4. The number of appeals afforded a full hearing before the Board.
5. The disposition, including the vote-count, of the complaint accompanied by the Board's disciplinary recommendation.
6. The number of instances when the Chief of Police did not follow the disciplinary recommendation of the CRB.
7. The number of instances when the CRB requested for the City Manager to make a binding disciplinary action on the Chief of Police.
8. The number of instances where the City Manager had to compel disciplinary action of the Chief of Police.
9. The number and nature of general police policy and protocol grievances filed with the board.
10. The identified community stakeholders who participate in community forums with the Board.

b. These reports shall be published on the Board's website and kept in the files of the Board, and the Administrative Manager shall deliver a copy to the Chief of Police, the City Manager, City Council, Community Relations Committee, and filed with the City Clerk.

Appendix E

Coalition for a Stronger CRB Process Report

2013 Charlotte
Community Relations Committee – Citizens Review Board
Task Force

CRB Reform Now

"Improving Charlotte's Police Process Together"

www.crbreform.com

CRB REFORM NOW

RESEARCH AND RECOMMENDATIONS FOR AMENDING CHARLOTTE'S CITIZENS REVIEW BOARD ORDINANCE

JULY 15, 2013

COALITION PARTNERS

ACLU

A. Philip Randolph Institute

Black Women's Caucus

Charlotte Community Justice Coalition

NAACP - Charlotte Chapter

Action NC

Bill of Rights Defense Committee

Campaign for Political Reform

CAMPAIGN FOR POLITICAL REFORM

Democracy North Carolina

National Hookup of Black Women

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RESEARCH AND RECOMMENDATIONS FOR AMENDING CHARLOTTE'S CITIZENS REVIEW BOARD ORDINANCE

JULY 15, 2013

CRB Reform Now is a coalition of reputable community organizations interested in fortifying our city's police process by strengthening its Citizens Review Board (CRB). We recognize that citizens in the communities we represent are disenfranchised by the current process and request improvements be instituted that are commensurate to the type of city Charlotte is becoming.

In an effort to restore the public confidence in the Charlotte-Mecklenburg Police Department (CMPD), CRB Reform Now has reviewed CMPD internal affairs policies, the current CRB process, and the ordinances of cities similar in size to Charlotte. We found that Charlotte can embrace a fresh community-policing paradigm, modeled upon the review boards of numerous large cities across the country, by strengthening its CRB in the following ways:

1. **Granting the CRB investigatory powers;**
2. **Instituting greater procedural fairness throughout the CRB appellate process;**
3. **Improving the level of transparency between the CRB and the public; and,**
4. **Creating a CRB Budget.**

Each of these proposals is explained in more detail below.

BACKGROUND

Our discussion concerning the dynamics of CRB change begins with the events leading up to Charlotte's institution of a review board in the first place. It then considers the current internal affairs and CRB processes, the processes' results, and where Charlotte is situated among metropolitan areas around the country. From this standpoint we measure the value of our Review Board to the community and where our CRB currently falls short.

CRB Reform Now's findings demonstrate that there has been and continues to be a need for our CRB. Furthermore, the Board in its current form does not meet the needs of Charlotte's citizens and is inadequate compared to review boards found in similarly sized cities.

A. HISTORY

Charlotte's CRB was instituted on June 9, 1997 in the wake of the tragic killing of two unarmed African-Americans who were shot by CMPD officers. Their names were James Willie Cooper and Carolyn Boetticher:

1. James Willie Cooper

James Willie Cooper was a 19-year old man who was the subject of a traffic stop on November 19, 1996. An officer signaled for Mr. Cooper to stop his vehicle using his blue lights. Mr. Cooper then pulled into a driveway and exited his vehicle. The officer told Cooper to get back inside the vehicle and pulled out his service pistol.[1] Mr. Cooper reached into the car for something before allegedly jerking towards the officer. That is when the officer fired five shots towards him, one of which went through the rear-driver's side window and another into Cooper's torso. Mr. Cooper ran towards an adjoining parking lot where he collapsed and died.[2]

An investigation found that Mr. Cooper had reached into his car for his jacket. His 4-year old daughter was in the back seat of the vehicle throughout the entire incident.

2. Carolyn Boetticher

Carolyn Boetticher was a 48-year old woman who was a passenger in a vehicle that had driven through a police checkpoint on April 8, 1997. An officer, positioned in front of the vehicle, stepped towards the car in an attempt to stop it. The car allegedly swerved towards him and he, and another officer, opened fire on the vehicle. The officers fired 22 shots at the car. 14 of those 22 shots entered the rear of the vehicle, with one striking Ms. Boetticher in the back of the neck and killing her.[3]

These incidents occurred within five months of each other, and served as the catalyst for the implementation of Charlotte's current CRB. Since then, this catalyst remains. In fact, CRB Reform Now has discovered that there have been at least five citizen deaths resulting from officer shootings in Charlotte over the past thirteen months.[4] This has come in the wake of CMPD cutting community services costs by over $350,000.00 over the past three years, and cutting police officer training/recruitment costs by almost $3 million dollars over the last four years.[5] Meanwhile, the department's budget has increased by an average of over $5 million dollars per year over the last four years.[6]

B. THE INTERNAL AFFAIRS PROCESS

For a citizen, the CRB process begins with the filing of a complaint alleging officer misconduct. This is done either in person, by mail, or by phone with CMPD or with the Community Relations Committee. The complaint is then sorted by seriousness. Less severe allegations (e.g. absence from duty, neglect of duty, and/or courtesy) are investigated by the

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[1] DeAngelis, M. (November 21, 1996) Searching for Answers. *The Charlotte Observer,* p. 1A.
[2] *Id*.
[3] Meadows, B. and Wright, G. (April 4, 1997) Shooting a Tragic Event. *The Charlotte Observer*, p. 1C.
[4] Wright, G., Cooke, M. and Lyttle, S. (July 3, 2012). Man dies in CMPD shooting. *The Charlotte Observer*. Retrieved from http://www.charlotteobserver.com/2012/07/03/3359208/cmpd-officer-shoots-kills-man.html; Wootson, Jr., C. (October 12, 2012). DA: CMPD's fatal shooting of mentally ill man justified, *The Charlotte Observer*. Retrieved from http://www.charlotteobserver.com/2012/10/12/3591878/da-fatal-shooting-of-mentally.html; Wright, G. and Wootson, Jr., C. (January 29, 2013). DA: Officer who fatally shot mentally ill man acted within the law, *The Charlotte Observer*. Retrieved from http://www.wcnc.com/news/local/DA-Officer-who-fatally-shot-mentally-ill-man-acted-within-the-law-188941581.html; Helms, A. (June 20, 2013). Hidden Valley residents, police try to rebuild after shootings, *The Charlotte Observer*. Retrieved from http://www.charlotteobserver.com/2013/06/20/4118480/hidden-valley-leaders-seek-answers.html; The Associated Press (July 7, 2013) Charlotte SWAT team kills 59-year-old man. *The Charlotte Observer*. Retrieved from http://www.charlotteobserver.com/2013/07/07/4151985/charlotte-swat-team-kills-59-year.html.
[5] City of Charlotte. Adopted FY2012 & FY2013 Strategic Operating Plan and FY2012-2016 Capital Investment Plan, p. 58. Retrieved from http://charmeck.org/city/charlotte/Budget/Documents/FY2012-FY2013%20Strategic%20Operating%20Plan.pdf; City of Charlotte. Adopted FY2011 Strategic Operating Plan and FY2011-2015 Capital Investment Plan, p. 66. Retrieved from http://charmeck.org/city/charlotte/Budget/Documents/FY2011%20Strategic%20Operating%20Plan.pdf.
[6] *Id*.

officer's supervisor. More severe allegations (e.g. unbecoming conduct, search and seizure, and/or use of force issues) are investigated by internal affairs.[7]

Complaints sent to internal affairs are required to be investigated within 45 days. During this 45 day period, there is no police directive requiring that internal affairs consult with the citizen complainant.[8] Upon completion of its investigation, internal affairs makes a decision whether to forward the complaint to an internal police hearing board for a hearing.

Complaints forwarded by internal affairs are heard by the Chain of Command Hearing Board (CCHB). Before any hearing, the accused officer is allowed to select a peer to sit on the CCHB.[9] The CCHB than holds a hearing and decides whether the complaint should be sustained, not sustained, exonerated, or is unfounded. The Chief of Police must decide the disciplinary action against an officer when a complaint is sustained, and has the power to determine disciplinary action in all other instances.[10]

At the conclusion of this process, internal affairs notifies the citizen complainant of the outcome of the complaint and the citizen then has seven days to appeal to the CRB.[11]

C. THE CRB PROCESS

The Community Relations Committee may assist a citizen in drafting and filing any internal affairs appeal, but it is not authorized to assist the citizen any further in the process.[12] Thereafter, the citizen is allowed to hire an attorney to assist him or her at any time.[13]

The CRB receives the appeal after it is filed and is then required to request a summary of the case from the Chief of Police. The Chief of Police is only required to provide a summary of the case and nothing more.[14] The Board then holds a meeting to decide whether to grant a hearing to the citizen complainant.[15] In making its decision, the Board asks whether, by a preponderance of the evidence, the Chief of Police abused his discretion in his disciplinary decision.[16]

If a hearing is granted, it must be completed within 30 days.[17] During the hearing, the citizen complainant and officer, or officer's representative, each has an opportunity to separately present their case. Each party is also provided the right to cross-examine the other.[18] However, there is no requirement that the accused officer attend the hearing. In instances where the officer does not attend, the citizen is unable to cross-examine.

After the hearing, the CRB decides whether to recommend any disciplinary action against the officer. Any recommendation is then sent to the Chief of Police and City Manager.[19] The Chief of Police reviews the recommendation and decides whether to abide by it. At that point, he sends his final decision to the City Manager who reviews it and notifies all parties of the final disposition of the appeal.[20]

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[7] Charlotte Community Relations (April 1, 2013). "Creation of the Citizens Review Board; Role of the Community Relations Committee," pp. 30-31. PowerPoint presentation presented at the April 1, 2013 Charlotte City Council meeting.
[8] *See* CMPD Internal Directives 200-001.
[9] CMPD Internal Affairs Directives 200-001, V(D).
[10] *See* CMPD Internal Directives 200-001.
[11] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-59(b).
[12] *Id*.
[13] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-61(d).
[14] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-59(c).
[15] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-60.
[16] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-58(a)(3).
[17] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-60(a).
[18] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-61.
[19] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-61(h).
[20] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-62.

D. INTERNAL AFFAIRS/CRB PROCESS RESULTS

It is well documented that Charlotte's CRB has never upheld a citizen's complaint. An April 1, 2013 joint CRB/CMPD PowerPoint presentation in front of Charlotte City Council revealed the fact that there have been 79 appeals considered by the CRB as of March 31, 2013. Of those 79 appeals, the citizen's complaint was not upheld a single time.[21] In fact, a February 17, 2013 Charlotte Observer article reported that there have only been 4 hearings since the Board's inception.[22]

The April 1, 2013 PowerPoint presentation also reported that the incidence of internal affairs complaints has fallen approximately 43.55% since 2005.[23] This may be the result of the police doing an excellent job policing themselves. However, Tim Lynch, director of the Cato Institute's Project on Criminal Justice disagrees. His feeling is that the public loses confidence when results of complaints are similar to Charlotte's. Cato has stated, "[w]hat happens is people stop filing complaints because of the perception. Then the police use that decline as a sign they are doing a good job."[24]

It is clear that questions have arisen regarding the CRB's power to do its job effectively. The Charlotte CRB currently has no investigatory power, lacks procedural fairness, and has no transparency. CRB Reform Now endeavors to give the CRB these powers so that it may be in a position to fulfill its purposes if and when the need arises.

E. CHARLOTTE'S IDENTITY

Charlotte is quickly becoming one of the largest cities in the United States. According to 2010 U.S. Census Bureau statistics and 2012 population estimates, we are the 17th largest city, by population, in the country.[25] A recent Forbes report listed Charlotte as the fastest growing city, among the top 17 most populous in the United States, over the past five years.[26] Furthermore, a 2012 IHS Global Insight study prepared for the United States Conference of Mayors projects Charlotte to grow at a rate ranking 5th, among the 17 most populous cities, over the next 30 years.[27] It is evident that Charlotte is becoming a premiere national, and even world-class, city.

Unfortunately, Charlotte's CRB does not reflect the city that Charlotte is becoming. The largest cities in our country have police review boards with much broader power and scope (as seen in the chart below). It is against this backdrop of history, process results, and Charlotte's place within the national community that CRB Reform Now proposes its recommendations.

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[21] Charlotte Community Relations (April 1, 2013). "Creation of the Citizens Review Board; Role of the Community Relations Committee," p. 26. PowerPoint presentation presented at the April 1, 2013 Charlotte City Council meeting.
[22] Wright, G. and Clasen-Kelly, F. (2013, February 17) 0-78. *The Charlotte Observer*, p. 1A.
[23] *See* Charlotte Community Relations (April 1, 2013). "Creation of the Citizens Review Board; Role of the Community Relations Committee," p. 41. PowerPoint presentation presented at the April 1, 2013 Charlotte City Council meeting.
[24] Wright, G. and Clasen-Kelly, F. (2013, February 17) "0-78." *The Charlotte Observer*, p. 6A.
[25] *See* "Annual Estimates of the Resident Population for Incorporated Places over 50,000, Ranked by July 1, 2012 Population: April 1, 2010 to July 1, 2012." *2012 Population Estimates*. United States Census Bureau, Population Division. June 2012. Retrieved from http://en.wikipedia.org/wiki/List_of_United_States_cities_by_population.
[26] Joel Kotkin (June 18, 2013). America's Fastest-Growing Cities Since The Recession. *Forbes*. Retrieved from http://www.forbes.com/sites/joelkotkin/2013/06/18/americas-fastest-growing-cities-since-the-recession/.
[27] *See* IHS Global Insight (July 2012). U.S. Metro Economies: Outlook-Gross Metropolitan Product, and Critical Role of Transportation Infrastructure.

City Population Growth Rate (GR)	Standard of Review	Subpoena Power	Final Decision-Making Authority After Review	Independent Review Board Website	Board Member Bios on Website	Board Data Reports on Website
New York 8,244,910 GR 8.4%	Preponderance of Evidence	✔	Police Chief	✔	✔	✔
Los Angeles 3,819,702 GR 12.4%	None	✔	Citizen Board	✔	✔	✔
Chicago 2,707,120 GR 15.9%	None	✔	Citizen Board	✔	✔*	✔
Houston 2,145,146 GR 63.8%	None	✖	Inspector General (division of City Attorney's Office)	✔	✔	✔
Philadelphia 1,536,471 GR 9.5%	None	✔	Police Chief	✔	✔	✔
Charlotte 751,087 GR 64.7%	Preponderance of the evidence whether there was an **abuse of discretion**	✖	Police Chief (City Manager reviews decision)	✖	✖	✖

* City populations are estimates as of July 1, 2011, by the United States Census Bureau
** Growth rates are based upon estimated population growth over the next 30 years, from a study conducted by IHS Global Insight for the 2012 United States Conference of Mayors
*** Charlotte is the only city within the July 1, 2011 U.S. Census Bureau's top 20 most populous United States cities that has an ordinance containing "abuse of discretion" standard of review

RECOMMENDATIONS

Charlotte's current CMPD internal affairs and CRB processes are not responsive to the needs of citizens and CRB decisions have raised questions pertaining to the efficacy of the Board. Whether warranted or not, perceptions of futility and hopelessness challenge the very foundation upon which the Board was created. The fact that review boards of similarly sized cities across the country routinely operate with broader scope and powers underscores the need for reform.

CRB Reform Now has researched and reviewed the municipal ordinances of other large cities, Charlotte's ordinances, North Carolina State law, and the June 4, 2013 Charlotte School of Law report. We have also compiled an archive of additional resource information that can be found on our website: http://www.crbreform.com. In so doing, we have identified four broad recommendations:

1. **Grant the CRB Investigatory Power;**
2. **Institute Procedural Fairness;**
3. **Improve Transparency; and**
4. **Create a CRB Budget.**

These four recommendations are a codification of the following nine key recommendations for reform:

1. Subpoena Power for the Board;
2. Independent Review Power for the Board;
3. A Lowered Standard of Review;
4. Extended Appeal Filing Deadline;
5. Expanded Internal Procedural Disclosures;
6. An Independent Decision-Making Authority;
7. Citizen Complainant Assistance;
8. Transparency; and,
9. Creating a CRB budget.

The importance of enacting these above recommendations cannot be overstated. Each plays an essential role in placing meaningful power into the hands of the CRB; and the nine, in their entirety, will repel perceptions of impropriety. These nine recommendations, within the context of the four broader recommendations mentioned above, are analyzed in greater detail below. Redline and proposed Charlotte CRB ordinances, incorporating all nine recommendations, are also attached at the conclusion of this report.

A. INVESTIGATORY POWER

Investigatory power allows review boards to gather information independent of any other agency or person. This power ensures that they have the ability to obtain all the information in a case and make fully informed decisions. In the circumstance of independent review power, it also ensures that any internal affair lapses are addressed as a fail-safe that upholds the public trust.

1. Grant the CRB Subpoena Power

The most important investigatory power is subpoena power. This is the power to compel someone to either produce information or to appear at a given time and location. Someone's failure to abide by a subpoena request is punishable by contempt of court.[28] There are many ways the review board may apply such a power, including requiring civilian witnesses to appear before it and obtaining documents from uncooperative sources.

Many review boards across the country, including New York, Los Angeles, Chicago, Philadelphia, Dallas, Indianapolis, and Memphis, afford their review boards subpoena power.[29]

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[28] *See* N.C.Gen.Stat.§1A-1. Rule 45.

[29] *See* The Rules of City of New York, Title 38-a, Chapter1, subchapter C, §1-23(d); Los Angeles Board of Police Commissioners, Policies and Authority Relative to the Inspector General VII., Retrieved from http://www.oiglapd.org/documents/policies&authority.pdf; Municipal Code of Chicago, Title 2, Chapter 2, §2-57-050; The Philadelphia Code, Title 21, Chapter 21-1207; The Dallas City Code, Volume II, Chapter 37, Article III, §37-32(a)(7), 37-35(a), 37-35(b);

This ability is standard among the largest cities in the country. These cities do not leave their boards' ability to gather all the facts and make fully informed decisions up to chance.

In fact, Charlotte's own Civil Service Board does not take any chances. It has subpoena power too.[30] Charlotte's Civil Service Board, like the CRB, is comprised of ordinary citizens, appointed by the Mayor and City Council. The only difference is that members of the CRB must undergo specialized training whereas members of the Civil Service Board do not. Yet, the Civil Service Board has the ability to subpoena and the CRB does not.

Arguments that subpoena power is prohibited by state law are unfounded. The Civil Service Board has been exercising its subpoena powers under color of law for years and the power to subpoena is exempted by our State personnel records law, N.C. Gen. Stat. §160A-168. As per the law, "[a]ll information contained in a city employees personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances: By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court."[31] Subpoenas signed by a competent officer of the court, such as the Board's attorney, constitute an order of the court.[32]

There is no good reason to deny the CRB subpoena power. CRB Reform Now understands that the CMPD has made a genuine effort to provide the Board with more information than just a case summary as required by the CRB ordinance.[33] However, this is an issue that extends beyond the parameters of simply obtaining information from the police department. Tomorrow's police department may not be as forthcoming as it is today. The CRB must have the power to make fully informed decisions today and in the future, trumping any argument to the contrary.

2. Permit the Power of Independent Review

Some cities have review boards with the independent power to launch their own investigations when necessary. Memphis, for example, can do so in cases involving deadly force or the death or injury of someone in police custody.[34] Other cities, like Baltimore, furnish their boards with a copy of every citizen complaint filed so their boards can decide whether to launch an independent investigation concurrent with the police department's internal investigation.[35] These systems of oversight provide control over the immeasurable symptoms of over-extended internal affairs divisions, where some complaints may inevitably fall through the cracks.

Our research has uncovered the fact that CMPD's internal affairs division has no responsibility to keep the citizen complainant informed throughout the internal affairs process.[36] This creates the appearance that complaints vanish within the system. Charlotte needs a process of oversight that ensures that citizen complaints do not fall through the cracks. Granting the CRB the power of independent review, whereby the Board receives a copy of every complaint filed with internal affairs and then conducts its own investigation, will solve this problem.

Indianapolis- Marion County, Indiana, Code of Ordinances, Title 1, Chapter 251, Article II, Division 3, §251-231; Memphis, Tennessee- Code of Ordinances, Title 2, Chapter 2, §2-52-4.

[30] Charlotte Code of Ordinances, Part I, Chapter 4, Article III, Sec. 4.61(j).

[31] N.C. Gen. Stat. §160A-168(c)(4).

[32] *See* N.C.Gen.Stat. §1A-1, Rule 45; N.C.Gen.Stat. §5A, et. al.

[33] [33] *See* Charlotte Community Relations (April 1, 2013). "Creation of the Citizens Review Board; Role of the Community Relations Committee," p. 22. PowerPoint presentation presented at the April 1, 2013 Charlotte City Council meeting.

[34] Memphis, Tennessee- Code of Ordinances, Title 2, Chapter 2, §2-52-9(C).

[35] Baltimore Office of Civil Rights and Wage Enforcement/ Civilian Review Board/ Rules, Sections 2-02(a), 3-02, Retrieved from http://media.wix.com/ugd//62f6d0_c1416880e5ecf9ff274470f4e41912e8.pdf.

[36] *See* CMPD Internal Directives 200-001.

On June 4, 2013, the Charlotte School of Law submitted a report to the joint CRC/CRB task force assembled to explore the current CRB issue. That report recommended that the city create an Investigations Manager staff position to oversee internal affairs investigations and engage in investigatory matters, on behalf of the Board, during the CRB appeal process.[37] This person would also advise the Board regarding any issues pertaining to internal affairs patterns and protocols, allowing the CRB to formulate suggestions for the police department under its present duties.[38]

We agree with the Charlotte School of Law that an Investigations Manager position must be created. However, this person will need to have the power to file subpoenas and investigate otherwise confidential personnel matters. For that reason, we recommend that the Investigations Manager be an attorney and be given approval to investigate by the City Manager, to comply with state law. North Carolina General Statutes §160A-168 provides City Managers the power to release otherwise confidential personnel information so long as the disclosure is in the interest of "maintaining public confidence in the administration of city services."[39] Here, the Investigations Manager's duties will be assisting the very Board tasked with maintaining public confidence in the administration of the police department's services. In the interests of fully comporting with the manner of state law, we also recommend that the Investigations Manager sign a confidentiality agreement.

B. PROCEDURAL FAIRNESS

Procedural fairness ensures the CRB process is fair and balanced for everyone involved, citizen complainant and officer. It mandates, by specific provisions in law, that the merits of every appeal be considered to the fullest extent possible. It also protects the Board, and city government, from criticism by providing impartial guidelines. Our procedural fairness recommendations include lowering the CRB's standard of review, extending the appeal filing deadline, expanding internal procedural disclosures, creating independent decision-making authority, and establishing citizen complainant assistance.

1. Lower the Standard of Review

The standard of review is the baseline consideration that a review board applies to the evidence before it. The higher the standard of review the stronger the case a complainant must make to prevail. In Charlotte, the CRB applies its standard of review twice. Once when it is considering evidence to determine whether a complainant will be granted a hearing and again after any hearing itself. In both instances, the CRB applies a standard that asks whether, by a preponderance of the evidence, the Chief of Police abused his discretion.[40]

It is important to note that our CRB's current standard of review contains the language "preponderance of the evidence." Standing alone, this would be a reasonable standard of review synonymous with those applied by a handful of cities across the country.[41] That is because all the Board would be asked to consider is which party, officer or complainant, presented the stronger evidence.[42] Or alternatively, did the citizen complainant present enough evidence of officer misconduct to overcome any evidence that the officer behaved appropriately.

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[37] *See* Carson, I., Melo, D., Webb, K., Engels, L., and Huber, J. (June 4, 2013). Citizens Review Board: Research and Proposed Reform. Charlotte School of Law: Civil Rights Clinic.
[38] *See* Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-58(a).
[39] N.C. Gen.Stat. §160A-168(c)(7).
[40] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-58(a)(3), 16-58(a)(4).
[41] *See* The Rules of City of New York, Title 38-a, Chapter1, subchapter C, §1-33(b); San Francisco Police Department General Order 2.04, III.A.3(a), Retrieved from http://media.wix.com/ugd//62f6d0_a16c8601967d8ec4708f0b1c231c056c.pdf; City of Detroit, Office of the Chief Investigator, Retrieved from http://www.detroitmi.gov/DepartmentsandAgencies/BoardofPoliceCommissioners/ChiefInvestigatorComplaints/ComplaintInformation.aspx.
[42] *See Generally* "Preponderance of the Evidence." Black's Law Dictionary. 7th ed. West Group, 1999.

However, our Board must go one step further and ask if the Chief of Police "abused his discretion." This is a brutally high standard that suggests an adjudicator's failure to exercise sound, reasonable, and legal decision-making.[43] Our Board must ask twice whether the Chief of Police failed to exercise sound, reasonable, and legal decision-making when reviewing the evidence before it. This standard places the Board in the position of determining if the Chief of Police has broken the law before deciding in favor of the citizen.

"Abuse of discretion" is also a standard that no other major city in the United States uses. Among the top 30 largest cities in the United States, not a single one has a review board ordinance containing the term "abuse of discretion." Our research did uncover Durham, North Carolina as the only other municipality in the United States, which we discovered, with an "abuse of discretion" standard of review.[44] However, Durham is the 83rd largest municipality and not where Charlotte, the 17th largest city, should be focusing its attention. If anything, Charlotte should be a leader in our region, willing to consider the best aspects of review boards across the country.

The fact is that the vast majority of Boards across the country have no defined standard of review. They instead ask their review boards to examine the facts presented before them and then come to their own conclusions as to whether officer misconduct occurred. They allow their boards to rely on their training, and Charlotte's CRB should be no different. Members of Charlotte's Board must undergo Citizen's Academy training before being appointed.[45] This training includes multiple course studies, workshops, and ride-alongs. After such extensive measures to ensure that the Board knows what they are doing prior to being appointed, we should trust that they will make the right decision on their own.

It is our recommendation that our CRB ordinance allow the Board to operate with no defined standard of review. This would be an effective way to ensure a level playing field for citizen complainants and does not violate state law. This is consistent with boards within the state as Winston-Salem's review board has no defined standard of review either.[46]

2. Extend the Appeal Filing Deadline

The amount of time a citizen has to file their appeal under the CRB ordinance is seven days.[47] One week is inadequate and it places an over-extended or uninformed citizen in a dire position. Citizens need time to review their internal affairs decision, understand the process moving forward, and consult with a professional.

City ordinances allow citizens 30 days to appeal a parking ticket fine.[48] Given the much greater gravity of an internal affairs appeal, the deadline to file an appeal to the CRB should reflect a much more reasonable timeframe. We recommend 30 days.

3. Expand Internal Procedural Disclosures

Internal procedural disclosures are written guidelines that mandate certain disclosures be made by the police department to the review board at the beginning of any review board case. Currently, the CRB ordinance requires the Chief of Police to provide the Board with a summary of the case at the start of each citizen appeal.[49] A simple summary constitutes a limited amount

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[43] "Abuse of discretion," Black's Law Dictionary. 7th ed. West Group, 1999.
[44] Carson, I., Melo, D., Webb, K., Engels, L., and Huber, J. (June 4, 2013). Citizens Review Board: Research and Proposed Reform. Charlotte School of Law: Civil Rights Clinic, p.7.
[45] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-56(c).
[46] *See* Winston-Salem, North Carolina- Code of Ordinances, Part III, Chapter 2, Article III, Division 3.
[47] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-59(b).
[48] Charlotte Code of Ordinances, Part II, Chapter 2, Article II, Sec. 2-25.
[49] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-59(c).

of information that does not always disclose all the relevant facts. We can ensure that the Board has the capability to make fully informed decisions and save the city money by expanding the scope of these internal procedural disclosures.

Measures requiring the police department to disclose much more than a summary are commonplace elsewhere. There are mechanisms within the ordinances of cities like Los Angeles, Philadelphia, and Virginia Beach, which give their review boards access to entire internal affairs files upon their involvement in any case.[50] This allows their boards to save time and money by bypassing any external methods of obtaining the same information. It also allows their boards the opportunity to make better educated and fully informed decisions.

Charlotte's CRB should be allowed the same deference. There is no reason to believe that any sensitive information handed over to the board will be disclosed to the public because CRB members are required to sign confidentiality agreements under two separate provisions of the CRB ordinance.[51] Furthermore, broader disclosures to the Board, including internal affairs files, are entirely legal under state law. As described under the "Permit the Power of Independent Review" section above, North Carolina General Statutes §160A-168 provides City Managers the power to release otherwise confidential personnel information so long as the disclosure is in the interest of "maintaining public confidence in the administration of city services."[52] Here, maintaining public confidence in the administration of the police department's services is precisely what the CRB does.

Our recommendation calls for the City Manager to make much more expansive initial procedural disclosures to the Board at the beginning of all citizen appeals. The Board will have to request such disclosures from the City Manager directly, but there is no reason to believe that the Chief of Police cannot assist in this process. These disclosures will provide the Board with more information so that it may make the most fully informed decisions possible. Moreover, it will save the city money by avoiding any further time or expense in pursuing other avenues to obtain the same information.

4. Create Independent Decision-Making Authority

Charlotte's current police review board system is not set up in a way that conveys a perception of accountability. That is because the Chief of Police makes a decision in the overall process twice. The most significant time is after the Board has made its final recommendation.[53] We recommend that the final decision of the Board, after a hearing, either be adopted outright or, in the alternative, be sent directly to the City Manager without any intervention or subsequent decision by the Chief of Police. This ensures true accountability by guaranteeing that an independent entity or person makes a final decision free from any police department intervention.

Our recommendation is precisely what police oversight systems do in other cities. Cities like Chicago, Los Angeles, and Detroit, allow citizens to make the final decision whether to accept a review board's recommendation or not. These cities have oversight boards, made up of appointed citizens, with the authority to overturn a police chief's original decision. In effect, these cities have placed a premium value upon the average citizen's voice in citywide public safety concerns. Charlotte should do the same. Our CRB consists of well-trained citizens and CMPD is not directly subject to any other form of oversight. The State Bureau of Investigation

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[50] *See* Los Angeles Board of Police Commissioners, Policies and Authority Relative to the Inspector General, Retrieved from http://www.oiglapd.org/documents/policies&authority.pdf; The Philadelphia Code, Title 21, Chapter 21-1204(1); City of Virginia Beach, Investigation Review Panel Policy and Procedures, IV(C)(2)(c), Retrieved from http://media.wix.com/ugd//62f6d0_4da40c4bfbd7dc4210913176f8f04e45.pdf.
[51] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-56(e), 16-58(a)(5).
[52] N.C. Gen.Stat. §160A-168(c)(7).
[53] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-62(a).

(SBI) is allowed to run investigations concurrent with those of internal affairs, but only upon the request of the police department itself.[54]

The City Manager is the final authority in cities like Virginia Beach and Winston-Salem. This appears to be congruous with our own review process. However, there is no subsequent police chief intervention, after the review board has made its final recommendation, in those systems. The decision to overturn a police chief's original decision, after the internal affairs investigation, lies solely with the City Manager in an unencumbered fashion. Charlotte must eliminate the Chief of Police's authority to make a decision after the Board's if it is to maintain a system of review in which the City Manager is allowed the final decision.

Our independent decision-making authority recommendation is two-fold. There is value in pure citizen oversight because SBI is only involved in CMPD investigations by request. Therefore, we have proposed an ordinance that includes language wherein the CRB itself makes the final decision in the CRB appeal process. On the other hand, we also recognize the value in simply having another governmental agency, independent of the police department, with the ability to make an unencumbered decision on a consistent basis. We have also attached a second proposed ordinance to this report, consistent with review boards like the ones in Virginia Beach and Winston-Salem, wherein the City Manager has the final decision-making authority without any police chief intervention.

5. Establish Citizen Complainant Assistance

The CRB process is the only choice for many citizens seeking redress. Financial constraints limit their options and their indigence necessitates citizen complainant aid throughout the entire process. Currently, citizens may receive assistance, from the Community Relations Committee, when they write and file an appeal to the CRB.[55] However, they are on their own from this point forward. This extends throughout the entirety of the CRB appeal process, including after any final decision has been made. Fairness dictates that the citizen complainants be granted additional assistance for the sake of equal opportunity and conciliation.

The CRB ordinance does allow for citizen complainants to hire an attorney to represent them.[56] Unfortunately, this is not helpful for citizens who cannot afford one. On the other hand, the CRB and police department, on behalf of an accused officer, have attorneys who are provided and paid for by the city. The disadvantage this creates for the average citizen complainant is palpable. In a February 17, 2013 Charlotte Observer article, CRB Attorney Julian Wright acknowledged that "[t]he police department brings more resources to bear than the citizens." The article added that most of the citizens do not have lawyers, whereas the police officers accused of misconduct are represented by CMPD attorneys and internal affairs investigators. This lack of guidance and resources calls the CRB process into question and mandates that there be citizen assistance after an appeal is written and filed. Citizen assistance could easily be offered by an attorney who is kept on retainer or by an Administrative manager, as suggested by the Charlotte School of Law in its June 4, 2013 report.[57]

Complainants also need guidance after the process is over. It is important that they understand any final decision, how the decision was reached, and why the decision was reached. This is a critical stage where confusion or resentment may lead to distrust, undermining the board's purpose. We, therefore, also recommend that a member of the

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[54] N.C. Gen.Stat. §160A-288.
[55] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-59(b).
[56] Charlotte Code of Ordinances, Part II, Chapter 16, Division 2, Sec. 16-61(d).
[57] *See* Carson, I., Melo, D., Webb, K., Engels, L., and Huber, J. (June 4, 2013). Citizens Review Board: Research and Proposed Reform. Charlotte School of Law: Civil Rights Clinic.

Community Relations Committee meet with every complainant at the end of the CRB process to discuss the results of the complainant's complaint and the reasoning behind any final decision.

C. TRANSPARENCY

Every police review board is tasked with the job of providing police accountability in an effort to maintain the public's trust in its municipal police force. Unfortunately, this endeavor is meaningless if the public is unaware of what their review board is doing. That is why no review board can fulfill its purpose without transparency. Currently, Charlotte's CRB does not have a website and its reports are not provided to the public.

The vast majority of review boards researched by CRB Reform Now have independent websites containing a variety of information. Examples of this include New York, Philadelphia, San Diego, Atlanta, Boston, and Salt Lake City. Each of these cities' websites includes board member biographies, meeting minutes, and regular reports. They place a premium upon transparency and locate all review board information on a centralized board website where the public would expect to find it.

Charlotte's CRB has inadequate information on the websites of two separate city departments. There is currently a small blurb on the City Clerk's website explaining the composition of the board (i.e. 11 members and who appoints them) and board duties. On the other hand, the Community Relations Committee website contains additional information pertaining to the CRB process and a link to file complaints against officers, under the unclear headings "Police complaint review program" and "Police complaint process." Neither of these sites contains any information regarding the biographies of board members, meeting minutes, or regular reports. The CRB needs to have its own consolidated webpage analogous to those of other large cities, with board member biographies, meeting minutes, and regular reports.

It is also important to note that there are many citizens who do not have access or use of the Internet. It is, therefore, equally important that CRB information be available in writing. If it is not already, written information pertaining to the CRB process should be made available in the Community Relations Committee office and at the 601 East Trade Street CMPD location, where citizens file complaints. Furthermore, an explanation of the appeal process should accompany any notification delivered to a citizen at the conclusion of an internal affairs investigation.

D. CRB BUDGET

There will be costs associated with the above recommendations. As a result, our final recommendation is that a budget be created for the CRB. However, funding the CRB need not be costly because of how inexpensive it will be to operate.

Costs will include the salary of an Investigative Manager, retainer for a citizen complainant attorney, and charges associated with the creation and maintenance of a CRB website. Some of these costs are defrayable. For example, subpoena costs will likely be absorbed by the salary of the Investigative Manager position and website costs may be slashed by having the site incorporated into the city's existing website platform. All the review board websites across the country reviewed by CRB Reform Now were associated with their city government websites.

Those costs that are not defrayed will be minimal. As discussed in the "History" section at the beginning of this report, CMPD's budget has increased by an average of over $5 million dollars per year over the last four years.[58] Monumental changes could be afforded if the CRB

[58] *Id.*

were to even receive a tiny sliver of this revenue. Moreover, the general fund could certainly absorb the expense. Charlotte's 2013 budget had a general fund totaling $552.6 million.[59] If CRB were granted $80,000 per year, this would only be 0.01% of the general fund. For a citizen making $35,000 a year, this is the equivalent of $5.

It is important that this change be instituted to strengthen the CRB so that it may fulfill the purpose for which it was created in 1997. CRB Reform Now is of the opinion that $5 is a small price to pay for the public's faith in its city government and police department.

CONCLUSION

For the reasons stated above, CRB Reform Now recommends the following changes to the Charlotte Citizens Review Board:

1. **Granting the CRB investigatory powers;**
2. **Instituting greater procedural fairness throughout the CRB appellate process;**
3. **Improving the level of transparency between the CRB and the public; and,**
4. **Creating a CRB budget.**

In making these recommendations, it is important to note that varying systems of oversight across the country operate effectively and efficiently under synonymous provisions. Just as in any other instance, individual officers are not asked to do anything more than rely on their training as they perform the duties of their jobs. The public's trust and confidence is redeemed by providing a genuine system of oversight guaranteeing this performance.

[59] City of Charlotte, Budget & Evaluation Department. FY2013 BUDGET at a Glance. Retrieved from http://charmeck.org/city/charlotte/Budget/Documents/FY2013%20Budget%20Summary.pdf.

ATTACHMENT A

REDLINE ORDINANCE:
CITIZEN OVERSIGHT

Sec. 16-56. – Creation; composition; terms; compensation; appointments; vacancies; quorum; removal.

(a) There is hereby established a citizens review board to be composed of 11 members: five members to be appointed by the city council, three members to be appointed by the mayor and three to be appointed by the city manager. The appointing authorities shall ensure that the members of the board are representative of the community.

(b) Members must be continually domiciled within the county and must be registered to vote within the county.

(c) Board members shall attend and successfully complete the Charlotte-Mecklenburg Police Department's Citizens' Academy and receive training on relevant legal and policy issues as required by the city manager. This training must be completed prior to any board appointee serving as a member of the board. <u>The city manager shall also arrange training, by or through the National Association for Civilian Oversight of Law Enforcement, to be attended by sitting board members on an annual basis.</u>

(d) Individuals with a felony conviction or a class A1 misdemeanor conviction shall not be eligible to serve on the board. In addition, individuals with a class 1 or class 2 misdemeanor conviction within three years of their nomination for appointment shall be ineligible to serve. Further, conviction of or a plea of nolo contendere to a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during the term of office shall automatically terminate membership on the board, irrespective of an appeals. Board members charged with a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.

(e) Prior to serving, each board member must sign a confidentiality agreement that is satisfactory to the city and which shall require that members maintain as confidential any information classified as confidential by state law or otherwise classified as confidential by the city.

(f) The members shall serve staggered terms of office for three years, with no member serving more than two consecutive terms.

(g) The board shall elect a chairperson and vice-chairperson from the membership.

(h) When a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.

(i) Six members shall constitute a quorum in order to hold business meetings and hearings. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the city council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.

(j) All members shall serve without compensation.

(k) Members of the board shall be subject to removal from office by a two-thirds vote of the city council.

<u>(l)</u> <u>There shall be an investigations manager appointed by the board who will serve as an employee of the city. The investigations manager must sign a confidentiality agreement that is satisfactory to the city prior to acting in any official capacity for the board.</u>

Sec. 16-57. – Meetings.

(a) The citizens review board shall hold regular meetings as scheduled by resolution of the board. The affirmative vote of a majority, a quorum being present, shall be required before any recommendation is made on any matter considered. A majority vote shall be required for any decision made by the board.

(b) Special meetings may be called by the chairperson to carry out any duties described in section 16-58 by giving each member notice in writing, by providing personal notice, or by leaving notice at the member's residence not less than 72 hours prior to the time set for the meeting.

Sec. 16-58. – Duties and responsibilities.

(a) The citizens review board shall:

(1) Serve as ~~an advisory~~ a board of ~~to the chief of police, the city manager, and~~ the city council and advisory board for the chief of police on general police practices and community relations matters.

(2) Review appeals by the citizens who filed complaints of disciplinary dispositions imposed by the chief of police or his designee relating to allegations of misconduct against a sworn police officer. The board may hear appeals of complaints regarding alleged violations of the following rules: use of force, unbecoming conduct, and arrest, search and seizure. In addition, the disposition of the review of any discharge of a firearm by an officer which results in the death or injury of a person may be appealed to this board by the person injured or the next of kin if death occurs. When a death results and there is no next of kin any member of the city council or the chairperson of the community relations committee may file an appeal pursuant to section 16-59. The disciplinary actions that may be reviewed shall include the findings of the chief of police that an allegation has been categorized as: sustained, not sustained, exonerated, or unfounded. The dispositions that may be reviewed for the discharge of firearms shall include: justified, not justified, or accidental. The board may review only appeals of citizen complaints arising from incidents that occur after the effective date of the ordinance from which this section derives. The board may not review appeals of decisions of the city manager or the civil service board.

(3) Review any on-going police department investigations, upon its own complaint, that the board decides warrant additional investigation. Any decision to review an investigation under this subsection shall require a majority vote of the members of the board and the matter must be one that the board would otherwise be able to review if it were appealed. Upon any board complaint under this subsection, the chairperson of the board will request pertinent information from the chief of police pursuant to section 16-59 and the chief of police shall comply with that request. The board will then follow the procedures in sections 16-60 and 16-61 of this division.

~~(3)~~ (4) Determine whether to hold an appeal hearing. The board ~~may~~ shall hold an appeal hearing ~~only when it appears, based upon a preponderance of the evidence, that the disposition of the disciplinary charges entered by the chief of police constituted an abuse of discretion by the chief of police.~~ if it decides, by a majority vote, that the information before it or that information it reasonably believes might be obtained upon further investigation may suggest a violation of the rules regarding use of force, unbecoming conduct, and arrest, search and seizure, or an instance where injury or death unjustifiably results due to the discharge of a firearm by an officer. In making its decision, the board is to rely on the chief of police's summary of the case, the complainant's appeal, and any other information obtained through the powers enumerated in the board by this division.

~~(4)~~ (5) Conduct appeal hearings, which include receiving and evaluating testimony and issuing findings of fact and recommendations to the chief of police and the city

manager. The duty and power of the board is to conduct an appeal hearing and to determine whether~~, by a preponderance of the evidence, the chief of police abused his discretion by:~~

~~a. Finding in a disciplinary action that allegations were sustained, not sustained, exonerated or unfounded; or~~

~~b. Finding in connection with the discharge of a firearm that the officer's action was justified, not justified, or accidental.~~

, by a majority vote, the officer against whom the complaint was filed violated any rule regarding use of force, unbecoming conduct, and arrest, search and seizure, or engaged in an unjustified discharge of his firearm resulting injury or death. The board may use any of the powers enumerated in it by this division in gathering information to assist in carrying out its duties under this sections.

~~(5)~~ (6) As required by state law, maintain as confidential all personnel information to which the members gain access as a member of the board. In addition, board members shall be required to execute and adhere to confidentiality agreement that is satisfactory to the city.

(b) The citizens review board shall promulgate rules and regulations to effect its exercise of authority under this division and shall keep such rules and regulations on file with the city clerk.

Sec. 16-59. – Appeal procedure.

(a) Under this division, all complaints will be investigated by the police department. The board will be notified of each complaint filed with the police department, and the investigations manager will oversee and review the police department investigation. Upon completion of an investigation, the chief of police shall, consistent with state law, notify the complainant by certified letter of the disposition of the complaint. The complainant also shall be informed of his right to appeal the decision of the department to the citizens review board and be provided with a written explanation of the citizens review board process.

(b) All appeals to the citizens review board must be filed in writing with the city clerk's office. The request must state the reason for the appeal and the nature of the incident. The citizen may seek the assistance of the community relations committee or an attorney provided by the community relations committee in drafting and filing his appeal. All other subsequent requests for assistance will be directed to an attorney that will be provided by the community relations committee. The citizen must file ~~this~~ his appeal within ~~seven~~ thirty calendar days of receiving written notice of the disposition of the complaint. The citizen must provide a valid current address for the purpose of all notifications required to be made pursuant to this division.

(c) Upon receiving a request for an appeal hearing, the chairperson of the board shall ~~direct the chief of police to prepare a summary of the case and forward the summary to the chairperson of the board.~~ notify the city manager and chief of police. The city manager, with the cooperation of the chief of police, shall provide a complete copy of the internal affairs office file to the chairperson within ten business days of the chairperson's notification. A meeting of the board will be held to discuss the request for appeal.

Sec. 16-60. – Necessity for hearing.

(a) Upon receiving a request for an appeals hearing, a meeting of the board will be held within 30 calendar days of the request.

(b) In a public session, the chairperson shall indicate whether the board has decided to hold a hearing and, if so, shall announce the date, time and place of the hearing. The chairperson shall notify the complainant and other involved parties in writing of the decision and, if a hearing is to be held, also shall advise all parties in writing of the reasons for the decision to hold a hearing.

(c) The chairperson shall also notify the community relations committee of the board's decision. If the board will not be holding a hearing, a member of the community relations committee will schedule a time and meet with the complainant to discuss the decision and how it was reached.

Sec. 16-61. – Hearing procedures.

(a) If the citizens review board decides to conduct a hearing, it shall be concluded within 30 calendar days of the date of the decision to hold an appeal hearing. Should the complainant or the department desire a hearing date other than that set by the board, the complainant or the department shall submit a written request for a change of the hearing date, stating the reason for the request. The chairperson shall approve or disapprove such request, provided that such request is received by the board at least seven calendar days prior to the date of the hearing. For good cause, the chairperson may continue the hearing from time to time, but all appeals must be concluded within 30 calendar days from the date of the decision to hold an appeal hearing. The hearing shall be conducted in a closed session, with at least six members of the board present.

(b) In the conduct of its hearing, each member of the Board shall have the power to subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice, Superior Court Division, for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all parties. If any person, while under oath at a hearing of the Board, willfully swears falsely, such person shall be guilty of a Class 1 misdemeanor.

~~(b)~~ (c) All witnesses must testify under oath.

~~(c)~~ (d) All of the proceedings before the board shall be recorded.

~~(d)~~ (e) All parties involved shall have the right to be represented by counsel or any other person of their choice.

~~(e)~~ (f) The complainant shall offer evidence first in support of his appeal. The department and officer shall have the right to cross examine the complainant and his witnesses. Thereafter, the department and officer shall have the right to offer evidence, and the complainant shall have the right to cross examine the department's and officer's witnesses. At the conclusion of all the evidence, the complainant or his representative, followed by the department and officer, may make a closing statement.

~~(f)~~ (g) Members of the board may question witnesses or request additional information or further investigation at any point in the process.

~~(g)~~ (h) Members who, in a particular case, have a conflict of interest shall not attend or participate in the hearing and decision-making process.

~~(h)~~ (i) Within ten calendar days after the conclusion of the hearing, the board shall issue its written findings of fact to the chief of police and the city manager ~~along with a recommendation~~. The findings of fact must be ~~supported by a preponderance of the evidence and~~ approved by a majority of the board who were present at the hearing.

Sec. 16-62. – Action by the citizens review board, chief of police, ~~and~~ city manager, and community relations committee.

(a) If the citizens review board's findings propose more discipline than that imposed by the disposition of the chief of police, then the board and the chief of police shall meet to discuss the reasons for the board's decision. If, after meeting, the board decides to impose more discipline than that imposed by the chief of police, ~~The chief of police shall review the findings of fact of the citizens review board and any other information at his disposal. T~~ the chief of police shall take such action as ~~he deems appropriate~~ the board prescribes, consistent with state law and city policy. The chief of police will then, within seven calendar days ~~of the receipt of the board's recommendations~~, act upon the board's decision and report ~~his decision~~ this to the city manager.

~~(b) The city manager shall review the decision of the chief of police and, within seven calendar days of the receipt of the decision of the chief of police, take such action as he deems appropriate, consistent with state law, and shall advise the chief of police of any intended action.~~

~~(c)~~ (b) The city manager shall notify all parties~~, including the citizens review board,~~ , and the community relations committee, of the decision of ~~the city manager~~ the board consistent with state law and city policy. The city manager also shall advise the city council of the outcome of the appeal within seven calendar days of receipt of the board's decision. ~~Notifications made under this subsection must be made within seven calendar days of the date that the decision of the city manager was initially communicated to the chief of police.~~

(c) Upon receiving the city manager's decision, a member of the community relations committee will schedule a time and meet with the complainant to discuss the decision and how it was reached.

Sec. 16-63. – City clerk's duties; meeting places; staff.

(a) Under this division the city clerk shall:

(1) Act as secretary to the citizens review board;

(2) Keep the minutes of its meetings;

(3) Be custodian of all papers and records pertaining to the business of the board; and

(4) Perform such other duties as the board may require.

(b) The city council shall provide sufficient and reasonable rooms and use of public buildings for meetings and hearings of the board as may be necessary.

(c) The city manager shall assign staff to support the functions of the citizens review board.

Sec. 16-64. – Reports.

(a) The citizens review board shall make a ~~semiannual and an annual~~ quarterly report of its actions ~~for each preceding year~~ indicating:

(1) The number of appeals considered by the board since the date of the last report;

(2) The number of hearings initiated by the board since the last report;

(3) The number of appeals that have been concluded since the last report;

(4) The number of appeals pending as of the reporting date;

(5) The results for any denial of the board to grant a hearing for any appeal; and,

(6) The results, including findings of fact and recommendations, of any board hearings since the date of the last report.

(b) These reports shall be kept in the files of the board and a copy delivered to the chief of police, city manager, city council and the community relations committee.

(c) These reports shall also be open for public inspection and shall be posted on the city's website, except to the extent that information contained therein is exempted from disclosure by law or any other provision of this division.

ATTACHMENT B

PROPOSED ORDINANCE:
CITIZEN OVERSIGHT

Sec. 16-56. – Creation; composition; terms; compensation; appointments; vacancies; quorum; removal.

(a) There is hereby established a citizens review board to be composed of 11 members: five members to be appointed by the city council, three members to be appointed by the mayor and three to be appointed by the city manager. The appointing authorities shall ensure that the members of the board are representative of the community.

(b) Members must be continually domiciled within the county and must be registered to vote within the county.

(c) Board members shall attend and successfully complete the Charlotte-Mecklenburg Police Department's Citizens' Academy and receive training on relevant legal and policy issues as required by the city manager. This training must be completed prior to any board appointee serving as a member of the board. The city manager shall also arrange training, by or through the National Association for Civilian Oversight of Law Enforcement, to be attended by sitting board members on an annual basis.

(d) Individuals with a felony conviction or a class A1 misdemeanor conviction shall not be eligible to serve on the board. In addition, individuals with a class 1 or class 2 misdemeanor conviction within three years of their nomination for appointment shall be ineligible to serve. Further, conviction of or a plea of nolo contendere to a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during the term of office shall automatically terminate membership on the board, irrespective of an appeals. Board members charged with a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.

(e) Prior to serving, each board member must sign a confidentiality agreement that is satisfactory to the city and which shall require that members maintain as confidential any information classified as confidential by state law or otherwise classified as confidential by the city.

(f) The members shall serve staggered terms of office for three years, with no member serving more than two consecutive terms.

(g) The board shall elect a chairperson and vice-chairperson from the membership.

(h) When a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.

(i) Six members shall constitute a quorum in order to hold business meetings and hearings. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the city council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.

(j) All members shall serve without compensation.

(k) Members of the board shall be subject to removal from office by a two-thirds vote of the city council.

(l) There shall be an investigations manager appointed by the board who will serve as an employee of the city. The investigations manager must sign a confidentiality agreement that is satisfactory to the city prior to acting in any official capacity for the board.

Sec. 16-57. – Meetings.

(a) The citizens review board shall hold regular meetings as scheduled by resolution of the board. The affirmative vote of a majority, a quorum being present, shall be required before any recommendation is made on any matter considered. A majority vote shall be required for any decision made by the board.

(b) Special meetings may be called by the chairperson to carry out any duties described in section 16-58 by giving each member notice in writing, by providing personal notice, or by leaving notice at the member's residence not less than 72 hours prior to the time set for the meeting.

Sec. 16-58. – Duties and responsibilities.

(a) The citizens review board shall:

(1) Serve as a board of the city council and advisory board for the chief of police on general police practices and community relations matters.

(2) Review appeals by the citizens who filed complaints of disciplinary dispositions imposed by the chief of police or his designee relating to allegations of misconduct against a sworn police officer. The board may hear appeals of complaints regarding alleged violations of the following rules: use of force, unbecoming conduct, and arrest, search and seizure. In addition, the disposition of the review of any discharge of a firearm by an officer which results in the death or injury of a person may be appealed to this board by the person injured or the next of kin if death occurs. When a death results and there is no next of kin any member of the city council or the chairperson of the community relations committee may file an appeal pursuant to section 16-59. The disciplinary actions that may be reviewed shall include the findings of the chief of police that an allegation has been categorized as: sustained, not sustained, exonerated, or unfounded. The dispositions that may be reviewed for the discharge of firearms shall include: justified, not justified, or accidental. The board may review only appeals of citizen complaints arising from incidents that occur after the effective date of the ordinance from which this section derives. The board may not review appeals of decisions of the city manager or the civil service board.

(3) Review any on-going police department investigations, upon its own complaint, that the board decides warrant additional investigation. Any decision to review an investigation under this subsection shall require a majority vote of the members of the board and the matter must be one that the board would otherwise be able to review if it were appealed. Upon any board complaint under this subsection, the chairperson of the board will request pertinent information from the chief of police pursuant to section 16-59 and the chief of police shall comply with that request. The board will then follow the procedures in sections 16-60 and 16-61 of this division.

(4) Determine whether to hold an appeal hearing. The board shall hold an appeal hearing if it decides, by a majority vote, that the information before it or that information it reasonably believes might be obtained upon further investigation may suggest a violation of the rules regarding use of force, unbecoming conduct, and arrest, search and seizure, or an instance where injury or death unjustifiably results due to the discharge of a firearm by an officer. In making its decision, the board is to rely on the chief of police's summary of the case, the complainant's appeal, and any other information obtained through the powers enumerated in the board by this division.

(5) Conduct appeal hearings, which include receiving and evaluating testimony and issuing findings of fact and recommendations to the chief of police and the city manager. The duty and power of the board is to conduct an appeal hearing and to determine, by a majority vote, whether the officer against whom the complaint was filed violated any rule regarding use of force, unbecoming conduct, and arrest,

search and seizure, or engaged in an unjustified discharge of his firearm resulting in injury or death. The board may use ay of the powers enumerated in it by this division in gathering information to assist in carrying out its duties under the section.

(6) As required by state law, maintain as confidential all personnel information to which the members gain access as a member of the board. In addition, board members shall be required to execute and adhere to confidentiality agreement that is satisfactory to the city.

(b) The citizens review board shall promulgate rules and regulations to effect its exercise of authority under this division and shall keep such rules and regulations on file with the city clerk.

Sec. 16-59. – Appeal procedure.

(a) Under this division, all complaints will be investigated by the police department. The board will be notified of each complaint filed with the police department, and the investigations manager will oversee and review the police department investigation. Upon completion of an investigation, the chief of police shall, consistent with state law, notify the complainant by certified letter of the disposition of the complaint. The complainant also shall be informed of his right to appeal the decision of the department to the citizens review board and be provided with a written explanation of the citizens review board process.

(b) All appeals to the citizens review board must be filed in writing with the city clerk's office. The request must state the reason for the appeal and the nature of the incident. The citizen may seek the assistance of the community relations committee or an attorney provided by the community relations committee in drafting and filing his appeal. All other subsequent requests for assistance will be directed to an attorney that will be provided by the community relations committee. The citizen must file his appeal within thirty calendar days of receiving written notice of the disposition of the complaint. The citizen must provide a valid current address for the purpose of all notifications required to be made pursuant to this division.

(c) Upon receiving a request for an appeal hearing, the chairperson of the board shall notify the city manager and chief of police. The city manager, with the cooperation of the chief of police, shall provide a complete copy of the internal affairs office file to the chairperson within ten business days of the chairperson's notification. A meeting of the board will be held to discuss the request for appeal.

Sec. 16-60. – Necessity for hearing.

(a) Upon receiving a request for an appeals hearing, a meeting of the board will be held within 30 calendar days of the request.

(b) In a public session, the chairperson shall indicate whether the board has decided to hold a hearing and, if so, shall announce the date, time and place of the hearing. The chairperson shall notify the complainant and other involved parties in writing of the decision and, if a hearing is to be held, also shall advise all parties in writing of the reasons for the decision to hold a hearing.

(c) The chairperson shall also notify the community relations committee of the board's decision. If the board will not be holding a hearing, a member of the community relations committee will schedule a time and meet with the complainant to discuss the decision and how it was reached.

Sec. 16-61. – Hearing procedures.

(a) If the citizens review board decides to conduct a hearing, it shall be concluded within 30 calendar days of the date of the decision to hold an appeal hearing. Should the complainant or the department desire a hearing date other than that set by the board, the complainant or the department shall submit a written request for a change of the hearing date, stating the reason for the request. The chairperson shall approve or disapprove such request, provided that such request is received by the board at least seven calendar days prior to the date of the hearing. For good cause, the chairperson may continue the hearing from time to time, but all appeals must be concluded within 30 calendar days from the date of the decision to hold an appeal hearing. The hearing shall be conducted in a closed session, with at least six members of the board present.

(b) In the conduct of its hearing, each member of the Board shall have the power to subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice, Superior Court Division, for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all parties. If any person, while under oath at a hearing of the Board, willfully swears falsely, such person shall be guilty of a Class 1 misdemeanor.

(c) All witnesses must testify under oath.

(d) All of the proceedings before the board shall be recorded.

(e) All parties involved shall have the right to be represented by counsel or any other person of their choice.

(f) The complainant shall offer evidence first in support of his appeal. The department and officer shall have the right to cross examine the complainant and his witnesses. Thereafter, the department and officer shall have the right to offer evidence, and the complainant shall have the right to cross examine the department's and officer's witnesses. At the conclusion of all the evidence, the complainant or his representative, followed by the department and officer, may make a closing statement.

(g) Members of the board may question witnesses or request additional information or further investigation at any point in the process.

(h) Members who, in a particular case, have a conflict of interest shall not attend or participate in the hearing and decision-making process.

(i) Within ten calendar days after the conclusion of the hearing, the board shall issue its written findings of fact to the chief of police and the city manager. The findings of fact must be approved by a majority of the board who were present at the hearing.

Sec. 16-62. – Action by the citizens review board, chief of police, city manager and community relations committee.

(a) If the citizens review board's findings propose more discipline than that imposed by the disposition of the chief of police, then the board and the chief of police shall meet to discuss the reasons for the board's decision. If, after meeting, the board decides to impose more discipline than that imposed by the chief of police, the chief of police shall take such action as the board prescribes, consistent with state law and city policy. The chief of police will then, within seven calendar days, act upon the board's decision and report this to the city manager.

(b) The city manager shall notify all parties, and the community relations committee, of the decision of the board consistent with state law and city policy. The city manager also shall advise the city council of the outcome of the appeal within seven calendar days of receipt of the board's decision.

(c) Upon receiving the city manager's decision, a member of the community relations committee will schedule a time and meet with the complainant to discuss the decision and how it was reached.

Sec. 16-63. – City clerk's duties; meeting places; staff.

(a) Under this division the city clerk shall:
  (1) Act as secretary to the citizens review board;
  (2) Keep the minutes of its meetings;
  (3) Be custodian of all papers and records pertaining to the business of the board; and
  (4) Perform such other duties as the board may require.

(b) The city council shall provide sufficient and reasonable rooms and use of public buildings for meetings and hearings of the board as may be necessary.

(c) The city manager shall assign staff to support the functions of the citizens review board.

Sec. 16-64. – Reports.

(a) The citizens review board shall make a quarterly report of its actions indicating:
  (1) The number of appeals considered by the board since the date of the last report;
  (2) The number of hearings initiated by the board since the last report;
  (3) The number of appeals that have been concluded since the last report;
  (4) The number of appeals pending as of the reporting date;
  (5) The results for any denial of the board to grant a hearing for any appeal; and,
  (6) The results, including findings of fact and recommendations, of any board hearings since the date of the last report.

(b) These reports shall be kept in the files of the board and a copy delivered to the chief of police, city manager, city council and the community relations committee.

(c) These reports shall also be open for public inspection and shall be posted on the city's website, except to the extent that information contained therein is exempted from disclosure by law or any other provision of this division.

ATTACHMENT C

REDLINE ORDINANCE:
CITY MANAGER OVERSIGHT

Sec. 16-56. – Creation; composition; terms; compensation; appointments; vacancies; quorum; removal.

(a) There is hereby established a citizens review board to be composed of 11 members: five members to be appointed by the city council, three members to be appointed by the mayor and three to be appointed by the city manager. The appointing authorities shall ensure that the members of the board are representative of the community.

(b) Members must be continually domiciled within the county and must be registered to vote within the county.

(c) Board members shall attend and successfully complete the Charlotte-Mecklenburg Police Department's Citizens' Academy and receive training on relevant legal and policy issues as required by the city manager. This training must be completed prior to any board appointee serving as a member of the board. <u>The city manager shall also arrange training, by or through the National Association for Civilian Oversight of Law Enforcement, to be attended by sitting board members on an annual basis.</u>

(d) Individuals with a felony conviction or a class A1 misdemeanor conviction shall not be eligible to serve on the board. In addition, individuals with a class 1 or class 2 misdemeanor conviction within three years of their nomination for appointment shall be ineligible to serve. Further, conviction of or a plea of nolo contendere to a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during the term of office shall automatically terminate membership on the board, irrespective of an appeals. Board members charged with a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.

(e) Prior to serving, each board member must sign a confidentiality agreement that is satisfactory to the city and which shall require that members maintain as confidential any information classified as confidential by state law or otherwise classified as confidential by the city.

(f) The members shall serve staggered terms of office for three years, with no member serving more than two consecutive terms.

(g) The board shall elect a chairperson and vice-chairperson from the membership.

(h) When a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.

(i) Six members shall constitute a quorum in order to hold business meetings and hearings. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the city council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.

(j) All members shall serve without compensation.

(k) Members of the board shall be subject to removal from office by a two-thirds vote of the city council.

<u>(l)</u> <u>There shall be an investigations manager appointed by the board who will serve as an employee of the city. The investigations manager must sign a confidentiality agreement that is satisfactory to the city prior to acting in any official capacity for the board.</u>

Sec. 16-57. – Meetings.

(a) The citizens review board shall hold regular meetings as scheduled by resolution of the board. The affirmative vote of a majority, a quorum being present, shall be required before any recommendation is made on any matter considered. A majority vote shall be required for any decision made by the board.

(b) Special meetings may be called by the chairperson to carry out any duties described in section 16-58 by giving each member notice in writing, by providing personal notice, or by leaving notice at the member's residence not less than 72 hours prior to the time set for the meeting.

Sec. 16-58. – Duties and responsibilities.

(a) The citizens review board shall:

(1) Serve as an advisory board to the chief of police, the city manager~~,~~ and the city council.

(2) Review appeals by the citizens who filed complaints of disciplinary dispositions imposed by the chief of police or his designee relating to allegations of misconduct against a sworn police officer. The board may hear appeals of complaints regarding alleged violations of the following rules: use of force, unbecoming conduct, and arrest, search and seizure. In addition, the disposition of the review of any discharge of a firearm by an officer which results in the death or injury of a person may be appealed to this board by the person injured or the next of kin if death occurs. When a death results and there is no next of kin any member of the city council or the chairperson of the community relations committee may file an appeal pursuant to section 16-59. The disciplinary actions that may be reviewed shall include the findings of the chief of police that an allegation has been categorized as: sustained, not sustained, exonerated, or unfounded. The dispositions that may be reviewed for the discharge of firearms shall include: justified, not justified, or accidental. The board may review only appeals of citizen complaints arising from incidents that occur after the effective date of the ordinance from which this section derives. The board may not review appeals of decisions of the city manager or the civil service board.

(3) Review any on-going police department investigations, upon its own complaint, that the board decides warrant additional investigation. Any decision to review an investigation under this subsection shall require a majority vote of the members of the board and the matter must be one that the board would otherwise be able to review if it were appealed. Upon any board complaint under this subsection, the chairperson of the board will request pertinent information from the chief of police pursuant to section 16-59 and the chief of police shall comply with that request. The board will then follow the procedures in sections 16-60 and 16-61 of this division.

~~(3)~~ (4) Determine whether to hold an appeal hearing. The board ~~may~~ shall hold an appeal hearing ~~only when it appears, based upon a preponderance of the evidence, that the disposition of the disciplinary charges entered by the chief of police constituted an abuse of discretion by the chief of police.~~ if it decides, by a majority vote, that the information before it or that information it reasonably believes might be obtained upon further investigation may suggest a violation of the rules regarding use of force, unbecoming conduct, and arrest, search and seizure, or an instance where injury or death unjustifiably results due to the discharge of a firearm by an officer. In making its decision, the board is to rely on the chief of police's summary of the case, the complainant's appeal, and any other information obtained through the powers enumerated in the board by this division.

~~(4)~~ (5) Conduct appeal hearings, which include receiving and evaluating testimony and issuing findings of fact and recommendations to the chief of police and the city manager. The duty and power of the board is to conduct an appeal hearing and to

determine whether~~, by a preponderance of the evidence, the chief of police abused his discretion by:~~

~~a. Finding in a disciplinary action that allegations were sustained, not sustained, exonerated or unfounded; or~~

~~b. Finding in connection with the discharge of a firearm that the officer's action was justified, not justified, or accidental.~~

, by a majority vote, the officer against whom the complaint was filed violated any rule regarding use of force, unbecoming conduct, and arrest, search and seizure, or engaged in an unjustified discharge of his firearm resulting injury or death. The board may use any of the powers enumerated in it by this division in gathering information to assist in carrying out its duties under this sections.

~~(5)~~ (6) As required by state law, maintain as confidential all personnel information to which the members gain access as a member of the board. In addition, board members shall be required to execute and adhere to confidentiality agreement that is satisfactory to the city.

(b) The citizens review board shall promulgate rules and regulations to effect its exercise of authority under this division and shall keep such rules and regulations on file with the city clerk.

Sec. 16-59. – Appeal procedure.

(a) Under this division, all complaints will be investigated by the police department. The board will be notified of each complaint filed with the police department, and the investigations manager will oversee and review the police department investigation. Upon completion of an investigation, the chief of police shall, consistent with state law, notify the complainant by certified letter of the disposition of the complaint. The complainant also shall be informed of his right to appeal the decision of the department to the citizens review board and be provided with a written explanation of the citizens review board process.

(b) All appeals to the citizens review board must be filed in writing with the city clerk's office. The request must state the reason for the appeal and the nature of the incident. The citizen may seek the assistance of the community relations committee or an attorney provided by the community relations committee in drafting and filing his appeal. All other subsequent requests for assistance will be directed to an attorney that will be provided by the community relations committee. The citizen must file ~~this~~ his appeal within ~~seven~~ thirty calendar days of receiving written notice of the disposition of the complaint. The citizen must provide a valid current address for the purpose of all notifications required to be made pursuant to this division.

(c) Upon receiving a request for an appeal hearing, the chairperson of the board shall ~~direct the chief of police to prepare a summary of the case and forward the summary to the chairperson of the board.~~ notify the city manager and chief of police. The city manager, with the cooperation of the chief of police, shall provide a complete copy of the internal affairs office file to the chairperson within ten business days of the chairperson's notification. A meeting of the board will be held to discuss the request for appeal.

Sec. 16-60. – Necessity for hearing.

(a) Upon receiving a request for an appeals hearing, a meeting of the board will be held within 30 calendar days of the request.

(b) In a public session, the chairperson shall indicate whether the board has decided to hold a hearing and, if so, shall announce the date, time and place of the hearing. The chairperson shall notify the complainant and other involved parties in writing of the decision and, if a hearing is to be held, also shall advise all parties in writing of the reasons for the decision to hold a hearing.

(c) The chairperson shall also notify the community relations committee of the board's decision. If the board will not be holding a hearing, a member of the community relations committee will schedule a time and meet with the complainant to discuss the decision and how it was reached.

Sec. 16-61. – Hearing procedures.

(a) If the citizens review board decides to conduct a hearing, it shall be concluded within 30 calendar days of the date of the decision to hold an appeal hearing. Should the complainant or the department desire a hearing date other than that set by the board, the complainant or the department shall submit a written request for a change of the hearing date, stating the reason for the request. The chairperson shall approve or disapprove such request, provided that such request is received by the board at least seven calendar days prior to the date of the hearing. For good cause, the chairperson may continue the hearing from time to time, but all appeals must be concluded within 30 calendar days from the date of the decision to hold an appeal hearing. The hearing shall be conducted in a closed session, with at least six members of the board present.

(b) In the conduct of its hearing, each member of the Board shall have the power to subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice, Superior Court Division, for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all parties. If any person, while under oath at a hearing of the Board, willfully swears falsely, such person shall be guilty of a Class 1 misdemeanor.

~~(b)~~ (c) All witnesses must testify under oath.

~~(c)~~ (d) All of the proceedings before the board shall be recorded.

~~(d)~~ (e) All parties involved shall have the right to be represented by counsel or any other person of their choice.

~~(e)~~ (f) The complainant shall offer evidence first in support of his appeal. The department and officer shall have the right to cross examine the complainant and his witnesses. Thereafter, the department and officer shall have the right to offer evidence, and the complainant shall have the right to cross examine the department's and officer's witnesses. At the conclusion of all the evidence, the complainant or his representative, followed by the department and officer, may make a closing statement.

~~(f)~~ (g) Members of the board may question witnesses or request additional information or further investigation at any point in the process.

~~(g)~~ (h) Members who, in a particular case, have a conflict of interest shall not attend or participate in the hearing and decision-making process.

~~(h)~~ (i) Within ten calendar days after the conclusion of the hearing, the board shall issue its written findings of fact to the chief of police and the city manager along with a recommendation. The findings of fact must be ~~supported by a preponderance of the evidence and~~ approved by a majority of the board who were present at the hearing.

Sec. 16-62. – Action by ~~chief of police and~~ city manager and the community relations committee.

~~(a) The chief of police shall review the findings of fact of the citizens review board and any other information at his disposal. The chief of police shall take such action as he deems appropriate, consistent with state law and city policy. The chief of police will then, within seven calendar days of the receipt of the board's recommendations, report his decision to the city manager.~~

~~(b)~~ (a) The city manager shall review the ~~decision~~ recommendation of ~~the chief of police~~ the citizens review board and, within seven calendar days of the receipt of the decision of ~~the chief of police~~ the citizens review board, take such action as he deems appropriate, consistent with state law, and shall advise the chief of police of any intended action.

~~(c)~~ (b) The city manager shall notify all parties, including the citizens review board and the community relations committee, of the decision of the city manager consistent with state law and city policy. The city manager also shall advise the city council of the outcome of the appeal. Notifications made under this subsection must be made within seven calendar days of the date that the decision of the city manager was initially communicated to the chief of police.

(c) Upon receiving the city manager's decision, a member of the community relations committee will schedule a time and meet with the complainant to discuss the decision and how it was reached.

Sec. 16-63. – City clerk's duties; meeting places; staff.

(a) Under this division the city clerk shall:

(1) Act as secretary to the citizens review board;

(2) Keep the minutes of its meetings;

(3) Be custodian of all papers and records pertaining to the business of the board; and

(4) Perform such other duties as the board may require.

(b) The city council shall provide sufficient and reasonable rooms and use of public buildings for meetings and hearings of the board as may be necessary.

(c) The city manager shall assign staff to support the functions of the citizens review board.

Sec. 16-64. – Reports.

(a) The citizens review board shall make a ~~semiannual and an annual~~ quarterly report of its actions ~~for each preceding year~~ indicating:

(1) The number of appeals considered by the board since the date of the last report;

(2) The number of hearings initiated by the board since the last report;

(3) The number of appeals that have been concluded since the last report;

(4) The number of appeals pending as of the reporting date;

(5) The results for any denial of the board to grant a hearing for any appeal; and,

(6) The results, including findings of fact and recommendations, of any board hearings since the date of the last report.

(b) These reports shall be kept in the files of the board and a copy delivered to the chief of police, city manager, city council and the community relations committee.

(c) These reports shall also be open for public inspection and shall be posted on the city's website, except to the extent that information contained therein is exempted from disclosure by law or any other provision of this division.

ATTACHMENT D

PROPOSED ORDINANCE:
CITY MANAGER OVERSIGHT

Sec. 16-56. – Creation; composition; terms; compensation; appointments; vacancies; quorum; removal.

(a) There is hereby established a citizens review board to be composed of 11 members: five members to be appointed by the city council, three members to be appointed by the mayor and three to be appointed by the city manager. The appointing authorities shall ensure that the members of the board are representative of the community.

(b) Members must be continually domiciled within the county and must be registered to vote within the county.

(c) Board members shall attend and successfully complete the Charlotte-Mecklenburg Police Department's Citizens' Academy and receive training on relevant legal and policy issues as required by the city manager. This training must be completed prior to any board appointee serving as a member of the board. The city manager shall also arrange training, by or through the National Association for Civilian Oversight of Law Enforcement, to be attended by sitting board members on an annual basis.

(d) Individuals with a felony conviction or a class A1 misdemeanor conviction shall not be eligible to serve on the board. In addition, individuals with a class 1 or class 2 misdemeanor conviction within three years of their nomination for appointment shall be ineligible to serve. Further, conviction of or a plea of nolo contendere to a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during the term of office shall automatically terminate membership on the board, irrespective of an appeals. Board members charged with a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.

(e) Prior to serving, each board member must sign a confidentiality agreement that is satisfactory to the city and which shall require that members maintain as confidential any information classified as confidential by state law or otherwise classified as confidential by the city.

(f) The members shall serve staggered terms of office for three years, with no member serving more than two consecutive terms.

(g) The board shall elect a chairperson and vice-chairperson from the membership.

(h) When a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.

(i) Six members shall constitute a quorum in order to hold business meetings and hearings. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the city council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.

(j) All members shall serve without compensation.

(k) Members of the board shall be subject to removal from office by a two-thirds vote of the city council.

(l) There shall be an investigations manager appointed by the board who will serve as an employee of the city. The investigations manager must sign a confidentiality agreement that is satisfactory to the city prior to acting in any official capacity for the board.

Sec. 16-57. – Meetings.

(a) The citizens review board shall hold regular meetings as scheduled by resolution of the board. The affirmative vote of a majority, a quorum being present, shall be required before any recommendation is made on any matter considered. A majority vote shall be required for any decision made by the board.

(b) Special meetings may be called by the chairperson to carry out any duties described in section 16-58 by giving each member notice in writing, by providing personal notice, or by leaving notice at the member's residence not less than 72 hours prior to the time set for the meeting.

Sec. 16-58. – Duties and responsibilities.

(a) The citizens review board shall:

(1) Serve as an advisory board to the chief of police, the city manager, and the city council.

(2) Review appeals by the citizens who filed complaints of disciplinary dispositions imposed by the chief of police or his designee relating to allegations of misconduct against a sworn police officer. The board may hear appeals of complaints regarding alleged violations of the following rules: use of force, unbecoming conduct, and arrest, search and seizure. In addition, the disposition of the review of any discharge of a firearm by an officer which results in the death or injury of a person may be appealed to this board by the person injured or the next of kin if death occurs. When a death results and there is no next of kin any member of the city council or the chairperson of the community relations committee may file an appeal pursuant to section 16-59. The disciplinary actions that may be reviewed shall include the findings of the chief of police that an allegation has been categorized as: sustained, not sustained, exonerated, or unfounded. The dispositions that may be reviewed for the discharge of firearms shall include: justified, not justified, or accidental. The board may review only appeals of citizen complaints arising from incidents that occur after the effective date of the ordinance from which this section derives. The board may not review appeals of decisions of the city manager or the civil service board.

(3) Review any on-going police department investigations, upon its own complaint, that the board decides warrant additional investigation. Any decision to review an investigation under this subsection shall require a majority vote of the members of the board and the matter must be one that the board would otherwise be able to review if it were appealed. Upon any board complaint under this subsection, the chairperson of the board will request pertinent information from the chief of police pursuant to section 16-59 and the chief of police shall comply with that request. The board will then follow the procedures in sections 16-60 and 16-61 of this division.

(4) Determine whether to hold an appeal hearing. The board shall hold an appeal hearing if it decides, by a majority vote, that the information before it or that information it reasonably believes might be obtained upon further investigation may suggest a violation of the rules regarding use of force, unbecoming conduct, and arrest, search and seizure, or an instance where injury or death unjustifiably results due to the discharge of a firearm by an officer. In making its decision, the board is to rely on the chief of police's summary of the case, the complainant's appeal, and any other information obtained through the powers enumerated in the board by this division.

(5) Conduct appeal hearings, which include receiving and evaluating testimony and issuing findings of fact and recommendations to the chief of police and the city manager. The duty and power of the board is to conduct an appeal hearing and to determine, by a majority vote, whether the officer against whom the complaint was filed violated any rule regarding use of force, unbecoming conduct, and arrest,

search and seizure, or engaged in an unjustified discharge of his firearm resulting in injury or death. The board may use ay of the powers enumerated in it by this division in gathering information to assist in carrying out its duties under the section.

(6) As required by state law, maintain as confidential all personnel information to which the members gain access as a member of the board. In addition, board members shall be required to execute and adhere to confidentiality agreement that is satisfactory to the city.

(b) The citizens review board shall promulgate rules and regulations to effect its exercise of authority under this division and shall keep such rules and regulations on file with the city clerk.

Sec. 16-59. – Appeal procedure.

(a) Under this division, all complaints will be investigated by the police department. The board will be notified of each complaint filed with the police department, and the investigations manager will oversee and review the police department investigation. Upon completion of an investigation, the chief of police shall, consistent with state law, notify the complainant by certified letter of the disposition of the complaint. The complainant also shall be informed of his right to appeal the decision of the department to the citizens review board and be provided with a written explanation of the citizens review board process.

(b) All appeals to the citizens review board must be filed in writing with the city clerk's office. The request must state the reason for the appeal and the nature of the incident. The citizen may seek the assistance of the community relations committee or an attorney provided by the community relations committee in drafting and filing his appeal. All other subsequent requests for assistance will be directed to an attorney that will be provided by the community relations committee. The citizen must file his appeal within thirty calendar days of receiving written notice of the disposition of the complaint. The citizen must provide a valid current address for the purpose of all notifications required to be made pursuant to this division.

(c) Upon receiving a request for an appeal hearing, the chairperson of the board shall notify the city manager and chief of police. The city manager, with the cooperation of the chief of police, shall provide a complete copy of the internal affairs office file to the chairperson within ten business days of the chairperson's notification. A meeting of the board will be held to discuss the request for appeal.

Sec. 16-60. – Necessity for hearing.

(a) Upon receiving a request for an appeals hearing, a meeting of the board will be held within 30 calendar days of the request.

(b) In a public session, the chairperson shall indicate whether the board has decided to hold a hearing and, if so, shall announce the date, time and place of the hearing. The chairperson shall notify the complainant and other involved parties in writing of the decision and, if a hearing is to be held, also shall advise all parties in writing of the reasons for the decision to hold a hearing.

(c) The chairperson shall also notify the community relations committee of the board's decision. If the board will not be holding a hearing, a member of the community relations committee will schedule a time and meet with the complainant to discuss the decision and how it was reached.

Sec. 16-61. – Hearing procedures.

(a) If the citizens review board decides to conduct a hearing, it shall be concluded within 30 calendar days of the date of the decision to hold an appeal hearing. Should the complainant or the department desire a hearing date other than that set by the board, the complainant or the department shall submit a written request for a change of the hearing date, stating the reason for the request. The chairperson shall approve or disapprove such request, provided that such request is received by the board at least seven calendar days prior to the date of the hearing. For good cause, the chairperson may continue the hearing from time to time, but all appeals must be concluded within 30 calendar days from the date of the decision to hold an appeal hearing. The hearing shall be conducted in a closed session, with at least six members of the board present.

(b) In the conduct of its hearing, each member of the Board shall have the power to subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice, Superior Court Division, for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all parties. If any person, while under oath at a hearing of the Board, willfully swears falsely, such person shall be guilty of a Class 1 misdemeanor.

(c) All witnesses must testify under oath.

(d) All of the proceedings before the board shall be recorded.

(e) All parties involved shall have the right to be represented by counsel or any other person of their choice.

(f) The complainant shall offer evidence first in support of his appeal. The department and officer shall have the right to cross examine the complainant and his witnesses. Thereafter, the department and officer shall have the right to offer evidence, and the complainant shall have the right to cross examine the department's and officer's witnesses. At the conclusion of all the evidence, the complainant or his representative, followed by the department and officer, may make a closing statement.

(g) Members of the board may question witnesses or request additional information or further investigation at any point in the process.

(h) Members who, in a particular case, have a conflict of interest shall not attend or participate in the hearing and decision-making process.

(i) Within ten calendar days after the conclusion of the hearing, the board shall issue its written findings of fact to the city manager along with a recommendation. The findings of fact must be approved by a majority of the board who were present at the hearing.

Sec. 16-62. – Action by city manager and community relations committee.

(a) The city manager shall review the recommendation of the citizens review board and, within seven calendar days of the receipt of the decision of the citizens review board, take such action as he deems appropriate, consistent with state law, and shall advise the chief of police of any intended action.

(b) The city manager shall notify all parties, and the citizens review board and community relations committee, of the decision of the city manager consistent with state law and city policy. The city manager also shall advise the city council of the outcome of the appeal. Notifications made under this subsection must be made within seven calendar days of the date that the decision of the city manager was initially communicated to the chief of police.

(c) Upon receiving the city manager's decision, a member of the community relations committee will schedule a time and meet with the complainant to discuss the decision and how it was reached.

Sec. 16-63. – City clerk's duties; meeting places; staff.

(a) Under this division the city clerk shall:

(1) Act as secretary to the citizens review board;

(2) Keep the minutes of its meetings;

(3) Be custodian of all papers and records pertaining to the business of the board; and

(4) Perform such other duties as the board may require.

(b) The city council shall provide sufficient and reasonable rooms and use of public buildings for meetings and hearings of the board as may be necessary.

(c) The city manager shall assign staff to support the functions of the citizens review board.

Sec. 16-64. – Reports.

(a) The citizens review board shall make a quarterly report of its actions indicating:

(1) The number of appeals considered by the board since the date of the last report;

(2) The number of hearings initiated by the board since the last report;

(3) The number of appeals that have been concluded since the last report;

(4) The number of appeals pending as of the reporting date;

(5) The results for any denial of the board to grant a hearing for any appeal; and,

(6) The results, including findings of fact and recommendations, of any board hearings since the date of the last report.

(b) These reports shall be kept in the files of the board and a copy delivered to the chief of police, city manager, city council and the community relations committee.

(c) These reports shall also be open for public inspection and shall be posted on the city's website, except to the extent that information contained therein is exempted from disclosure by law or any other provision of this division.

Appendix F

CRC/CRB Task Force Process Flowchart

2013 Charlotte
Community Relations Committee – Citizens Review Board
Task Force

Charlotte-Mecklenburg

Community Relations

Citizens Review Board—Police Complaint Process

INTERNAL REVIEW

STEP 1:

A complaint is filed

- Every complaint, regardless of its nature, will be investigated.
- Complaints may be filed online by visiting crc.charmeck.org; in-person at the Community Relations office (600 E. Trade Street); or with the CMPD Internal Affairs office.

STEP 2:

The complaint is investigated

- Complaints are assigned to an investigator in internal affairs or the appropriate supervisor in the officer's chain of command.
- Minor offenses, such as rudeness or failure to appear in court, are usually handled by the officer's immediate supervisor.
- Serious offenses, such as excessive force, require a hearing by the Chain of Command Review Board (C of CRB).

STEP 3:

A disciplinary hearing is held

- During the hearing, the investigative case file is reviewed by all of the C of CRB members, which includes at least one staff member of Community Relations.
- The C of CRB also questions employee witnesses (other CMPD officers) to clarify any concerns or ask additional questions not covered in the investigation.

STEP 4:

A decision is made by CMPD*

The C of CRB reviews the allegation of misconduct (complaint), which is settled in one of four ways:

1. **Sustained**—The complaint is proven by evidence.
2. **Not sustained**—There is not enough information to prove or disprove the complaint.
3. **Exonerated**—The incident occurred; however, the officer involved acted lawfully and properly.
4. **Unfounded**—The complaint is false and the alleged incident did not occur.

The citizen and police officer are sent a letter notifying them of the decision.

If a citizen is not satisfied with CMPD's decision, he or she may appeal.
(See steps 5, 6, & 7)

APPEAL PROCESS

STEP 5:

An appeal is filed with the Citizens Review Board (CRB)

- With assistance from Community Relations, citizens may file a written notice of appeal with the CRB at the City Clerk's Office within seven days of receiving the written closure letter from CMPD.

STEP 6:

The CRB holds a meeting to determine if a hearing should be held

- If no hearing is held, the citizen's appeal would be denied after this step.

STEP 7:

At the hearing, the CRB issues recommendations about officer discipline

- The CRB conducts a hearing like a trial (ex. cross-examining, asking questions beforehand).

The Citizens Review Board will issue its recommendation to the Chief of Police and City Manager.

The City Manager makes the final decision, and all parties will be notified of the decision.

CHARLOTTE-MECKLENBURG
COMMUNITY RELATIONS

Appendix G

Analysis of Cases

2013 Charlotte
Community Relations Committee – Citizens Review Board
Task Force

Analysis of Cases Reported by Citizens vs. Police/Analysis of 79 Review Board Cases

Of the 1271 cases that were eligible for review by the CRB, reported by Chief Monroe on 4.01.13, 550 were sustained and the officers involved given corrective/disciplinary action.

• Citizen generated complaints	843	66.5%
• CMPD generated complaints	428	33.5%

Disposition of 78* cases reviewed by the Citizens Review Board

• Number sustained	1**	1%
• Number not sustained	31	40%
• Number exonerated	18	23%
• Justified (officer involved shootings)	9	11%
• Unfounded	2	2.5%
• Information File***	15	20%

*The data in this chart is based on 76 of the 78 cases; two of the files (2.5%) on older cases could not be located.

**It should be noted that it would be unusual for a sustained case to be appealed to the Citizens Review Board since the officer would have been disciplined. In the one sustained case that was appealed, the officer was given a 40-hour active suspension but the citizen felt the officer should have been fired.

***The cases marked information file contained information on complaints that, after initial investigation, did not have adequate information to move forward or in which the investigation revealed that the complaint was without merit. That designation is no longer used and all cases are adjudicated.

Appendix H

Handouts Presented by Outside Sources at Public Meetings

2013 Charlotte
Community Relations Committee – Citizens Review Board
Task Force

The following are copies of two documents handed out by attendees at the meeting who were not part of city staff nor the CRC/CRB Task Force

The first document in this appendix was distributed by unknown parties at the first public meeting held on July 9, 2012 at Covenant Presbyterian Church.

The second document in this appendix was distributed by members of the Coalition for a Stronger CRB at the second public meeting held on July 11, 2013 at Beatties Ford Road Library.

1. Investigatory Power for the CRB;

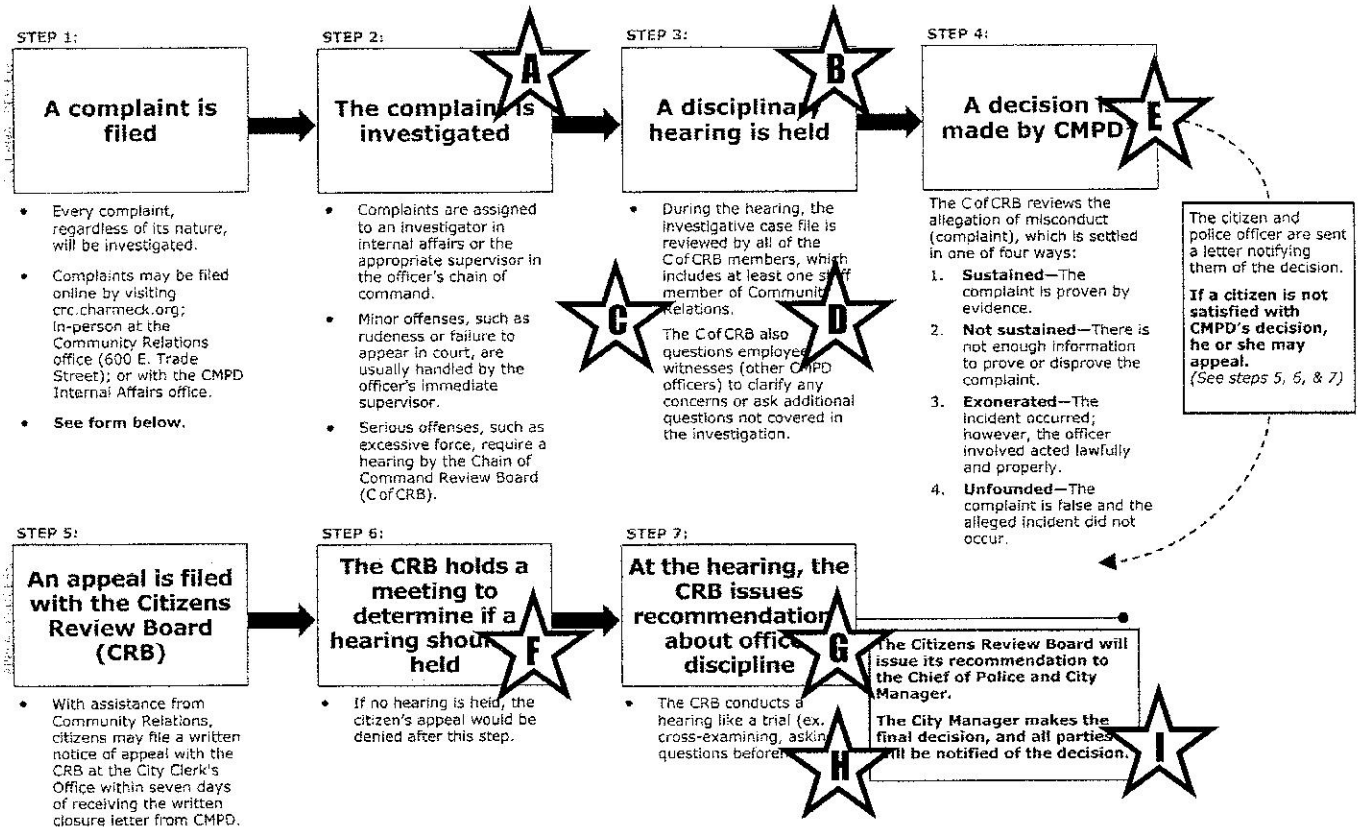
2. Procedural Fairness; and

3. Transparency.

As many of you know, these are a consolidation of our seven-point proposal plan: (1) Subpoena Power, (2) Power of Independent Review, (3) Lowered Standard of Review, (4) Internal Procedural Disclosures, (5) Independent Decision-Making Authority, (6) Citizen Complainant Assistance, and (7) Transparency. There is more information regarding these proposals on our website: http://www.crbreform.com/, and it wouldn't hurt to sprinkle in mention of these points either.

Thank you all for your efforts in support of CRB Reform.

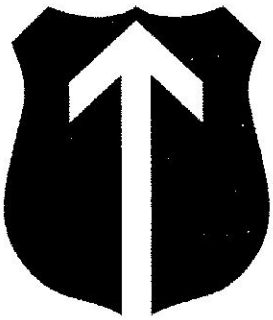
Citizens Review Board—Police Complaint Process



A. Internal Affairs (IA) directives* do **NOT** require IA to communicate with citizen complainant (i.e. returning phone calls, status updates, etc)
B. Hearing is internal** – **NO** contribution of the citizen other than original complaint
C. Accused officer allowed to choose one member of oversight board (CCRB)
D. Inclusion of CRC staff member in hearing is **NOT** in IA directives*
E. Chief of Police makes a decision that may be appealed by citizen complainant**
F. "Abuse of discretion" **Standard Of Review**** applied by CRB in making decision to have a hearing
G. Nothing compels the accused officer to attend (**NO Subpoena Power**), therefore citizen cannot cross examine**
H. CRB must again apply "Abuse of discretion" **Standard of Review****
I. Chief of Police reviews and makes second decision on CRB recommendation before passing it to the City Manager**

CRB Reform Now calls for

1. Investigatory Power – **Subpoena Power**
2. Procedural Fairness – **Lower Standard of Review**
3. Transparency



* IA Directives
** Citizen Review Board Ordinance