

ARTICLE AA Independent Community Policing Review Board

Sec. 2-4-220 Independent community policing review board.

There is hereby established a commission to be known as the independent community policing review board ("board"). The operation of the board established pursuant to this article shall be consistent with Virginia law and regulations.

(Ord. No. 5337, 4/17/21, Sec. 1)

Sec. 2-4-221 Board purpose and scope.

- (a) *Purpose:* The purpose of the board is to enhance policing legitimacy and to increase and maintain trust between and among the police department, city council, city manager and the public. The board shall: provide timely, fair and objective review and evaluation of policing policies, practices, procedures, and outcomes in Alexandria; provide meaningful assessments and corrective recommendations intended to remedy discriminatory practices, including racial and social inequities, that it may find; ensure the protection of all communities through recommended actions and reform, including in the criminal justice system; and recommend strategies for effectively implementing these reforms in our community.
- (b) *Scope:* The board shall have the authority to review investigations completed by the Alexandria Police Department (APD) for certain matters as assigned in section 2-4-227, request investigations pursuant to identified patterns and practices of potential discrimination, bias, unequal treatment or other abuses of police authority as identified in section 2-4-227(c)3, and evaluate policing practices, policies, procedures, and outcomes in Alexandria, issue findings to the public, and provide actionable recommendations to the city council, the city manager, Alexandria Independent Policing Auditor (AIPA), the school board, the school superintendent, APD and other public agencies regarding appropriate discipline, policing practices, policies and procedures in Alexandria. The board is hereby authorized to perform the following duties:
- (c) *Procedural memorandum of understanding:* In order to carry out its scope and authorized functions and to define in more detail the process and terms articulated in its scope, the board shall enter into a memorandum of understanding ("MOU") with the APD. The MOU shall be signed by the police chief and the city manager. The MOU shall define the terms of the relationships and mutual obligations between the board and APD. The board is authorized to negotiate the provisions of these MOUs, assisted by the city council appointed independent policing auditor, and the city attorney's office. If a provision of these MOUs conflict with a provision of this enabling ordinance, the provision of the enabling ordinance shall govern.
- (d) *Access to APD records:* The board and the AIPA, shall be provided full access to all APD reports, files and records related to the board's review of complaints filed with the board or with APD. All records, documents and materials in the possession of APD or the city that are determined by the board to be necessary and requested by the board to carry out its scope and authorized functions shall be provided in unredacted form. If the documents requested are part of a criminal investigative file for an active criminal investigation which could be compromised by the revelation of the process, evidence, methods, scope, or other factors in such investigation, APD shall provide such documents to the AIPA who shall not provide it to the board or share with the public until such time as the investigation is completed or a determination is made that the criminal investigation will no longer be compromised.

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- (e) *Board reports:* The board shall produce public reports regarding the work of the board and disseminate such reports in hardcopy and online, including, but not limited to:
- (1) a written report to the city council by September 1 of each fiscal year of its activities for the prior fiscal year under the provisions of this chapter along with any comments and recommendations as it may choose to make; and
 - (2) a written report of each review conducted pursuant to section 2-4-227(d) which shall not include any personally identifiable information, or criminal or juvenile information prohibited from being disclosed by Virginia State Code or federal law. A summary of such reviews and inquiries shall be provided to City Council quarterly and published on the Board's website.
- (f) *Other duties:* Undertake any other duties as reasonably necessary for the board to effectuate its purpose as defined in this article.
- (Ord. No. 5337, 4/17/21, Sec. 1)

Sec. 2-4-222 Board member requirements and term of office.

- (a) The board shall be composed of seven voting members appointed by the city council, which shall endeavor to create a fair, objective, independent, diverse, and representative body which shall reflect the demographic diversity of the city.
- (b) The seven voting members of the board shall be residents of the City of Alexandria and shall demonstrate fairness, integrity and objectivity and will be chosen on the basis of expertise and personal experience relevant to the performance of the duties of the board. City council shall appoint voting members who are representatives of the following groups (though one member may be representative of more than one group):
 - (1) at least three members who come from historically, racially or socially marginalized communities that have commonly experienced disparate policing in Alexandria or the Commonwealth of Virginia; and
 - (2) at least one member who represents an organization, office, or agency that seeks racial or social justice or that otherwise advocates on behalf of historically, racially or socially marginalized communities, particularly communities that may have experienced disparate policing.
- (c) Ex-officio, non-voting members:
 - (1) at least one nonvoting, ex-officio member who shall have past experience in law enforcement, but shall not be a current employee of a law enforcement agency.
- (d) No voting or nonvoting member shall be a current or former city employee, a current or former city elected official, a current candidate for public office, a current employee of a law enforcement agency, or an immediate family member of any former or current city employee, former city elected official, or a current candidate for public office. When used in this section, the definition of "former" means less than three years separated from service.
- (e) Except as to the inaugural board, members shall be appointed for terms of three years each. Board members' terms shall be staggered. To that end, the city council shall appoint three voting members of the inaugural board to 18-month terms and four voting members to three-year terms. A board member may be appointed to no more than two consecutive three-year terms.
- (f) Ethics: in addition to the requirements of section 2-4-7(g) of this code, board members shall have the following requirements:

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- (1) board members shall sign and comply with the terms of a Standards of Professional Conduct Statement which shall address the board members' ethical and professional obligations.
- (g) In addition to the reasons set out in section 2-4-7(i) of this code, board members may be removed by the city council for the following reasons:
- (1) failure to keep confidential privileged information to which they receive access as members of the board, including that information described in section 2-4-223(b) of this code;
 - (2) failure to complete initial and annual training requirements; and
 - (3) failure to sign or comply with the terms of the Standard of Professional Conduct Statement.
- (Ord. No. 5337, 4/17/21, Sec. 1)

Sec. 2-4-223 Conflicts of interest and confidentiality.

- (a) The board and each member shall comply with the Virginia State and Local Government Conflict of Interests Act under Virginia Code sections 2.2-3100 et seq.
 - (b) Except as included in the board reports defined in section 2-4-221(f) and to the extent allowed under the Virginia Freedom of Information Act, each member shall maintain the confidentiality of all confidential or privileged information, including but not limited to:
 - (1) disciplinary actions, memos, reports, and any investigatory documents or information, including audio recordings or videotapes and footage, that the member receives during service on the board;
 - (2) statements of a police officer, or APD employee, who was required by APD to give a statement; and
 - (3) criminal investigative files.
 - (c) All original records provided to the board by APD shall remain official APD records.
- (Ord. No. 5337, 4/17/21, Sec. 1)

Sec. 2-4-224 Quorum, voting, and meetings.

- (a) The board shall comply with the procedures for board and commissions in article A of [title 2](#), chapter 4, unless expressly amended in this article.
- (b) The board, assisted by the AIPA, is authorized to develop and implement its own bylaws, administrative systems, and operating policies and procedures, consistent with existing federal and state law, state regulation, and this enabling article. Such bylaws shall be subject to public notice and public hearing before approval by City Council and adoption by the board. The bylaws become effective upon adoption by city council.
- (c) The board shall meet as often as necessary to conduct its business, but no less frequently than four times per calendar year.
- (d) Meetings of the board shall comply in all respects with the meeting regulations of the Virginia Freedom of Information Act including being open to the public except under circumstances when the topic is authorized by the law to be discussed in closed session.
- (e) Quorum:
 - (1) To take any action authorized by section 2-4-227 of this code, a quorum of five must be present.

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- (2) To take any action except those referred to in subsection (1), above, a quorum of voting members must be present.
 - (f) The board shall keep minutes of its board meetings, and those minutes shall include:
 - (1) the date, time, and location of each meeting;
 - (2) the members present and absent;
 - (3) a summary of the discussion on matters proposed, deliberated, or decided; and
 - (4) a record of any votes taken.
 - (g) The board meeting minutes are public records and subject to inspection pursuant to the Virginia Freedom of Information Act.
- (Ord. No. 5337, 4/17/21, Sec. 1)

Sec. 2-4-225 Support of board.

- (a) *Board staff.*
 - (1) The city council shall appoint an independent policing auditor pursuant to sections 4-1-5 and 4-1-7 of this code who shall staff the board and coordinate the board's administrative functions.
 - (2) The city attorney, or its designee, shall serve as legal advisor to the board. As to a particular matter, and in the event the city attorney determines that there is a conflict of interest that precludes effective representation by the city attorney's office, the board shall retain outside counsel to advise the board from a list of attorneys recommended by the city attorney. If the board disagrees with the city attorney's conflict-of-interest determination, it may request the determination from the Commonwealth's Attorney for the City of Alexandria, which will be controlling.
- (b) *Other support from the city.*
 - (1) A website shall be established for the board hosted on the city's website. The board shall control what is posted on the board's website to the extent it complies with all applicable federal, state and local laws.
 - (2) All public meetings of the board may be videotaped, or audiotaped when there is an inability for video recording. All video or audio recordings of the board's public meetings shall be made available to the public on the city's website.
 - (3) The city shall not interfere unreasonably with the board's decisions, assisted by the AIPA, to post materials to or remove materials from the board's website.
 - (4) Board members shall be provided with a city email address to be used exclusively for board-related matters.
 - (5) The city, including all city departments, boards, commissions, and staff shall make good faith effort to cooperate with and assist the board, and shall comply with all reasonable board requests or expeditiously provide a reason for rejection.

(Ord. No. 5337, 4/17/21, Sec. 1)

Sec. 2-4-226 Board training.

- (a) Initial training: Before members may vote in board meetings, they shall complete the following training:

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- (1) at least 4-hours of ride-alongs with APD patrol operations;
 - (2) an eight-hour training, approved by the AIPA and presented by the National Association for Civilian Oversight of Law Enforcement (NACOLE) or a comparable experienced professional; and
 - (3) legal and ethical obligations of members of the board, to include relevant privacy rules and matters related to police operations.
- (b) Training that an appointee to the board undertakes within the three months prior to his/her swearing in as a board member counts towards that appointee's initial training requirements.
- (c) Annual training: Once every year, board members shall participate in training consisting of:
- (1) At least 8-hours of ride-alongs with APD patrol operations
 - (2) A four-hour civilian oversight of law enforcement training presented by NACOLE or a comparable experienced professional;
 - (3) Legal and ethical obligations of members of a public board; and
 - (4) APD policies, systems, processes, structure and operations, including but not limited to simulated training exercises, defensive tactical training, crisis intervention training, and de-escalation training and city Administrative Regulations related to liability, employee discipline and matters related to police operations.
- (d) The city and the AIPA, shall provide board members with additional training, which shall include but not limited to relevant training by subject matter experts on mental health, trauma-informed policing, civil rights and constitutional law, race and systemic racism, community organizing and outreach, mediation, investigation, and policing practices, policies, and administration.

(Ord. No. 5337, 4/17/21, Sec. 1)

Sec. 2-4-227 Board duties.

(a) *Board readiness resolution.*

When the board has established its procedures for how to take in inquiries (defined in subsection (b)(1), below), how reviews will be conducted, and the memorandum of understanding required pursuant to section 2-4-221(c) has been executed by all parties, it shall pass a resolution indicating its readiness to take on the responsibilities designated to it in this article. No current processes for inquiry intake or reviews of inquiries shall be transferred to the board unless and until such resolution is adopted by the board.

(b) *Inquiry intake.*

- (1) The board will develop and administer a process for receiving community questions, concerns, or comments regarding conduct of APD law enforcement officers and civilian employees ("inquiries") and referring these inquiries to APD) and AIPA. Once in receipt of an inquiry, the APD and the AIPA shall determine whether to process the inquiry as a complaint that shall be investigated by the APD and monitored by the AIPA or investigated by the AIPA.
- (2) Inquiries submitted to the board and formal complaints submitted to the AIPA may be submitted using a form provided by the board or may be submitted orally.
- (3) Information about the process for filing an inquiry with the board, the process for filing formal complaints with the AIPA and general information about the board and its purpose and scope shall be made available online and at the AIPA, APD, the office of human rights, as well as other locations deemed effective for making such forms and information widely available. This information shall be

made readily available in English, Spanish, Amharic and Arabic and in any additional language requested.

- (4) Complaints made directly to the AIPA shall contain information regarding the incident including, but not limited to, the following:
- A. Name, address and contact information for the person filing the complaint;
 - B. a statement describing the reasons for the complaint;
 - C. the specific police behavior of concern;
 - D. a description of the incident in which the behavior occurred; and
 - E. information regarding witnesses to or persons with knowledge of the incident known to the complainant, including but not limited to names, addresses, and phone numbers, if known at the time the complaint is filed.

Failure to provide all information on the form by the complainant shall not render the complaint unreviewable.

- (6) This process shall be separate and distinct from any existing procedures by which the APD receives community complaints as specified under Virginia Code section 9.1-600;

(c) *Board review of APD investigations.*

- (1) APD shall continue to investigate all complaints submitted to APD or to the AIPA. The AIPA shall monitor APD investigations throughout the process, providing ongoing assurance that internal investigations by law enforcement are thorough, fair and unbiased and that police practices are transparent. APD shall complete its investigation of the complaint and provide its full investigation report to the AIPA within 60 days. The Chief of Police may extend the 60-day period to protect an ongoing criminal investigation, or for other good cause with notice to the complainant, board and AIPA.
- (2) The board may review investigations conducted by APD regarding conduct of APD law enforcement officers and civilian employees, whether received by the APD or the AIPA.
- (3) APD investigations of the following types of wrongdoing shall be reviewed by the board at its discretion. Those investigations the board decides to review shall be monitored by the AIPA throughout the investigative process, providing ongoing assurance that internal investigations by law enforcement are thorough, fair and unbiased and that police practices are transparent:
 - A. Violations that fall under APD Directives Chapter 2 (Ethics and Conduct) and Chapter 10.32 General Procedures), as may be amended from time to time; and
 - B. "Severe misconduct" defined as dereliction of duty or unlawful or improper behavior which shall include the offenses listed in AR 6-20, Group III offenses, as the same may be amended from time to time:
 - 1. Sexual conduct, even consensual conduct, on the job; and
 - 2. Verbal or other conduct regarding an individual or group that maligns or shows hostility for the individual or group because of race, color, religion, gender, national origin, age, disability, sexual orientation, or gender identity and expression.
- (4) At the conclusion and receipt of the investigation, the AIPA shall within 30 days forward a report with a summary of the investigation completed by APD to the board. All personal identifiable information shall be removed or redacted from the report. Within 30 days of receiving the AIPA review, the board shall hold at least one public hearing on the investigation. The review of the investigation can be

extended for 30-60 days for good cause with notice to the complainant and APD. At the conclusion of the public hearing, the board may take one of the following actions:

- A. Concur with all or some of the findings and determinations detailed in the investigation report;
 - B. Advise city council, the city manager, the APD, and the AIPA that the findings are not supported by the information reasonably available to the APD and recommend further review, consideration, and/or action by the police chief; or
 - C. Advise city council, the city manager, the APD, and the AIPA that, in the board's judgment, the investigation is incomplete and recommend additional investigation.
 - D. Recommend referral of the complaint to the commonwealth's attorney for the City of Alexandria.
- (5) If the APD declines to implement the recommendation by the board, the chief of police or designee, shall, within 30 days of the board's recommendation, create a written record, which shall be made available to city council, the city manager, the board, the AIPA and the public, of its rationale for declining to implement the recommendation of the board.
- (6) The board may also request investigations pursuant to identified patterns and practices of potential discrimination, bias, unequal treatment or other abuses of police authority as identified in section 2-4-227(c)3. If a requested investigation is not completed by the responsible party, that party will provide a written letter to the Board explaining the reasons the investigation will not be completed.
- (d) *Board policy recommendations and duties.*
- (1) The board shall have the following duties regarding review of police policy and procedure:
- A. review and evaluate existing APD administrative directives, including all rules, policies, and procedures which direct the operation of the APD
 - B. review and evaluate reports issued and data collected by the APD related to policing practices, policies, procedures, and outcomes;
 - C. receive, review and evaluate the annual budget and expenditures of the APD and make budgetary recommendations;
 - B. advise city council on the hiring and annual evaluation of the independent policing auditor;
 - C. recommend legislation, policy changes and other actions related to review and evaluation conducted by the board to the city council, city manager, APD, school board, school superintendent, and other public agencies;
 - D. conduct community outreach in the city related to the review and reform of policing practices, policies and procedures in Alexandria and the work of the board;
 - E. undertake any other duties as reasonably necessary for the board to effectuate its lawful purpose to effectively review the policing agencies as authorized by the city; and
 - F. review and evaluate periodic reports from the police chief regarding implementation of recommendations made by the board.
- (2) The board may recommend policies or procedures to city council, the city manager and the APD concerning police practices, policies and procedures. The board shall present in writing its findings, and recommendations with supporting rationale to city council, the city manager and the APD within 30 days from the date the board adopted the recommendations.
- A. The board's recommendations shall be included in any public reports issued by the board, including hardcopy and online.
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- B. If the APD declines to implement any changes recommended by the board, the chief of police shall, within 30 days of the board's recommendation, create a written record, which shall be made available to city council, the city manager, and the public, of its rationale for declining to implement the recommendation of the board.

(Ord. No. 5337, 4/17/21, Sec. 1)

Sec. 2-4-229 Exclusions.

- (a) The board shall not consider claims or issues involving the following:
- (1) Complaints involving any incident that occurred more than two years before the filing of the complaint with the AIPA or the APD;
 - (2) Any financial management, or procurement decisions made by the APD, or any individual hiring, assignment and promotional decisions made by the APD;
 - (3) If any agency having responsibility for criminal investigations or prosecutions has initiated a criminal investigation or proceeding against any police officer or officers who are the subject(s) of an incident or complaint that the board has responsibility for reviewing pursuant to this article, the board shall defer its preliminary inquiry and review until said criminal proceedings have been withdrawn or concluded; and
 - (4) Any other claim outside the scope of the board's authority as determined by this article or applicable state law.

(Ord. No. 5337, 4/17/21, Sec. 1)