

City of Alexandria, Virginia

MEMORANDUM

DATE: SEPTEMBER 2, 2020

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK B. JINKS, CITY MANAGER /s/

DOCKET TITLE:

..TITLE

Receipt of the Draft Community Policing Review Board and Independent Policing Auditor Ordinance

..BODY

ISSUE: Presentation of a draft ordinance to (1) establish a Community Policing Review Board and (2) an Independent Policing Auditor

RECOMMENDATION: Direct the City Manager utilizing the attached ordinance as the basis of community discussion (1) to establish a community outreach process to review and collect input on the draft City ordinance that would authorize a Community Policing Review Board and Independent Policing Auditor in the City of Alexandria; (2) to use collected input to inform an updated draft ordinance; and (3) to bring a proposed ordinance forward for first reading at the November 10 City Council legislative meeting, and public hearing and adoption at the November 14 Council Public Hearing.

BACKGROUND: On June 9, 2020, City Council unanimously adopted Resolution 2950, which condemned police brutality and systemic racism; reaffirmed that Black Lives Matter; and stated Council's intent to establish a community police review board in our City. In this resolution, City Council acknowledged that the plight of Black and Brown Americans is not only present in the form of police brutality, but is also entrenched in institutions such as the judicial system, the electoral process, career advancement, education, housing and the health care system.

The resolution also affirmed that the City of Alexandria and all government officials have a duty to ensure the protection of all communities through actions and reform, including in the justice system. To that end, the resolution directed the City Manager and City Attorney to return to Council at the first Legislative Meeting of September with a proposed ordinance to establish a community police review board in Alexandria.

Council's direction to City staff echoes the increased national and community interest in increased accountability and transparency with regard to policing. Specific instances of police misconduct or serious abuse of authority are, thankfully, few and far between in Alexandria as

the City has a quality police department with quality, trained, professional police officers. However, it is important to be responsive to community perceptions and respond to the community's call for review, evaluation and change in our policing system. While there is a system of checks and balances in place, the proposed Community Policing Review Board and Independent Policing Auditor will recalibrate and improve existing checks and balances.

Concurrent with staff work on this issue, the General Assembly has been preparing for and participating in a Special Session of the General Assembly on issues related to criminal justice reform and policing reform. Legislation addressing the establishment of Community Police Review Boards is currently being considered in the General Assembly – SB 5035 (Hashmi) and HB 5055 (Herring). In a letter to Alexandria's General Assembly delegation on July 29, 2020, Council expressed support for legislation that would allow localities to *"establish these bodies as appropriate for their community, including affording us any necessary authority and providing appropriate funding to support the implementation of these bodies in localities across Virginia."*

As of the date of this memo, the House and Senate have each passed legislation in this area out of the House Courts and Senate Judiciary committees. There are significant differences between the two bills (including mandate vs. permissive and the inclusion of Sheriff Deputies who provide policing services in much of the State) which we expect will be worked out as the bills move through the legislative process, most likely in Conference Committee. The City's Legislative Director is working with the patrons of both bills as well as stakeholders and subject matter experts on this issue to ensure the final legislation affords Alexandria the flexibility to establish a community police review board that responsive to the needs, concerns, perceptions and problems in our community and is truly representative of Alexandria.

DISCUSSION: Per Council's direction, City Staff has worked for the past 90-days to prepare a draft ordinance to establish a community police review board in Alexandria. Staff work has included outreach national to subject matter experts in the area of community oversight of law enforcement, discussions with City staff including the Police Chief and police association representatives, as well as outreach to members of the community on the topic of community police oversight in Alexandria.

The draft ordinance for a Community Policing Review Board (the "Board") and Independent Policing Auditor (the "Auditor") in Alexandria prepared by staff is envisioned to be the beginning of an iterative process that will change and grow to better meet the needs of the community and evolve in response to the work of the Board and the proposed Independent Policing Auditor. This draft is only the first step in the evolution of this Board but demonstrates a long-term and comprehensive commitment to transparent police oversight, equitable policing, and accountability in Alexandria.

Staff has identified the following elements as critical to successful police oversight in Alexandria:

- the need for a Community Policing Review Board with independent authority to review and evaluate complaints about the conduct of law enforcement officers and civilian employees of the Alexandria Police Department (APD);

- the need for a Community Policing Review Board with authority to access relevant, unredacted APD documents and data;
- the need for professional, experienced support staff, including but not limited to a City Council appointed Independent Policing Auditor, and an appropriate corresponding budget; and
- the need for ongoing public engagement and public reporting on the work of the Board and the Auditor.

The establishment of a Community Policing Review Board and Independent Policing Auditor dovetails with the City of Alexandria and the APD's support for and implementation of the philosophy of community-oriented policing. Robust community outreach, a shared desire for safer, more stable, more secure communities, and working partnerships in the community are all part of this philosophy – a philosophy based on the belief that our community should be provided with the public safety services that it desires and needs. Community review and accountability is a natural extension of the community engagement and outreach that is key to community-oriented policing, which is why community oversight of law enforcement can be seen as an inherent part of our community oriented policing model. The final report of President Obama's Task Force on 21st Century Policing, issued in May 2015, recommended: *"Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community."*

Staff engaged in significant conversations with staff of the National Association for Civilian Oversight of Law Enforcement (NACOLE), a non-profit which serves as a convener and provides subject matter expertise for individuals and agencies working to establish or improve oversight of policing in the United States. NACOLE touts independent oversight boards as an avenue to promote public trust in police services and ensure integrity and transparency during internal police investigations. In addition, formal civilian review can be a tool to ascertain there are if systemic issues within a police department that may need addressing.

When done correctly, civilian oversight of law enforcement can protect civil rights, support effective policing, ensure greater accountability, manage risk, build bridges in our community, and increase confidence in our police. The end goal of this effort is to create a system that delivers the most professional, appropriate and effective police services possible to our community.

It is generally accepted that there are four models of civilian oversight of law enforcement. The first model is investigative, where the board takes a complaint, conducts an investigation, and renders a conclusion. The second model is review, where a board reviews completed police internal affairs investigation, offering recommendations regarding findings. The third model is auditing, wherein a board examines broader patterns in complaint investigations, including any relevant patterns in quality of investigations, findings, and discipline, and makes recommendations based on their findings. The final model is a hybrid model, where parts and portions of the investigative, review and auditing models are brought together in combinations that may be unique to the community in order to achieve the balance of oversight demanded by the community. Some researchers call a hybrid model the "Ideal Police Review System."

In doing research and speaking with subject matter experts on civilian oversight of law enforcement, staff came away with two major conclusions that guided the production of the draft ordinance.

The first is that *“if you’ve seen one community police review board, you’ve seen one community police review board.”* While there are best practices, principles, standards and guidelines based on solid research regarding what makes a community police review board successful, there is no one single model and no one set of duties or authority that will fit the needs of every community. A significant amount of time was spent researching and reviewing community police oversight models across the country, including local examples from Charlottesville and Fairfax County. However, the tremendous variation in the about 200 community police oversight entities in the United States today makes it almost impossible to simply make an automatic selection of commonly implemented citizen review features around which we could build our own oversight procedures. This diversity means we should not feel obligated to dutifully replicate any one model or approach; we have the freedom and the responsibility to tailor the various components of our system to the particular needs and characteristics of our community.

This clearly advises the second conclusion, which is that a community police review board needs to be unique to the community it intends to serve and must have the scope and authority necessary to be responsive to the needs, concerns, perceptions and problems in that community. It must be built on the engagement of local stakeholders and robust community input. This is why we are recommending that the draft ordinance go out for significant, robust community engagement and outreach to listen to concerned and involved citizens and stakeholders and include their feedback in the final version of Alexandria’s Community Policing Review Board and Independent Policing Auditor Ordinance. In addition, a webpage will be established with the draft ordinance including materials from other jurisdictions and NACOLE.

While models of civilian oversight of law enforcement exist, oversight is not a “one-size-fits-all” proposition. However, there are some features – some quantitative, some qualitative – which are key to effective oversight, including independence, adequate funding, access to critical information, rapport with key officials, ample authority, transparency, community/stakeholder support and outreach, and the ability to review police policies, training and other systematic issues. These key features were incorporated into the draft ordinance to establish a Community Policing Review Board in Alexandria. While some police reviews boards focus just on complaints and use of force incidents, it is proposed that Alexandria put in place a Community Policing Review Board that will focus on providing feedback and input not just on individual cases, but also other policing policies, directives and programs. Such a broader mandate will be more impactful on the outcomes of policing in our community

The draft ordinance proposes a hybrid model of civilian oversight of law enforcement, with a review/auditing focus for the Board at its outset. As community oversight bodies are intended to be iterative, this model lends itself to a natural evolution of the Board as it accomplishes its initial purpose.

The purpose of the Board is to enhance policing legitimacy and to increase and maintain public trust among the police department, City Council, City Manager and the public. The Board is charged with:

- providing timely, fair and objective review and evaluation of policing policies, practices, procedures, and outcomes in Alexandria;
- providing meaningful assessments and corrective recommendations intended to remedy discriminatory practices, including race and social inequities, that it may find;
- ensuring 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.

The draft ordinance establishing the Community Policing Review Board proposes a seven-member board appointed by Council. The membership of the Board is intended to create a fair, objective, independent, diverse and representative body and is proposed to include:

- at least three members who come from historically racially or socially marginalized communities that have commonly experienced disparate policing in Alexandria;
- 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; and
- at least one member with past experience in law enforcement, criminal justice or policing but who may not be a current employee of, or immediate family member of an employee of, a law enforcement agency; and
- noting that one member may be representative of more than one group.

The draft ordinance provides the Board with specific authority in order to achieve its stated purpose as enabled under current State law, including:

- Developing and administering a process for receiving and referring to APD for investigation civilian complaints regarding conduct of APD law enforcement officers and civilian employees;
- Reviewing and evaluating the investigation of civilian complaints regarding conduct of APD law enforcement officers and civilian employees received by the Board and submitted to the APD for investigation;
- Reviewing and evaluating the investigations of APD use of force, whether or not a civilian complaint has been filed, including officer-involved shootings, use of electronic weapons and other uses of force, all in-custody deaths and all police actions that result in the death of a person;
- Reviewing and evaluating completed APD Office of External Affairs and Professional Responsibility (OEAPR) investigations of civilian complaints and use of force incidents and issue findings regarding the accuracy, completeness, and impartiality of such investigations and the sufficiency of any discipline resulting from such investigations;

- Reviewing and evaluating existing and proposed APD Directives, including all rules, policies, and procedures which direct the operation of the APD and its employees;
- Reviewing and evaluating reports issued and data collected by the APD related to policing practices, policies, procedures, and outcomes;
- Receiving, reviewing and evaluating the annual budget and expenditures of the APD and make budgetary recommendations;
- Advising City Council on the hiring and annual evaluation of the Independent Policing Auditor;
- Producing public reports regarding the work of the Board;
- Recommending 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;
- Conducting 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; and
- Undertaking 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.

This initial scope and authority of the Board will be supported by a Memorandum of Understanding (MOU) between the Board and the APD, signed by the police chief and city manager, which outlines the Board's policies and procedures and defines the terms of their relationship and their mutual obligations. Many subject matter experts on civilian oversight of law enforcement see this MOU as vital to the ultimate success of the Board, as effective oversight requires both the community and the police department to be meaningful participants in the process. This MOU is intended to clearly memorialize how the APD will collaborate with the Board and serves as an agreement that allows the APD to participate fully in the process by which the department will be held accountable.

In addition, the draft ordinance lays out training requirements for the Board members, a review process and standard of review for civilian complaints received by the Board, as well as City supports that will be provided to the Board.

The draft ordinance specifically includes the hiring of an Independent Policing Auditor who will serve as staff to the Board and coordinate the Board's administrative functions. The Auditor will be appointed by City Council and will be independent of law enforcement. The Auditor will be provided with the resources necessary to support its work and all Board operations and will have access to unredacted police files and data in order to make informed recommendations to law enforcement, City Council and the community about policing practices, rules, policies, procedures, directives and outcomes in Alexandria.

The Independent Policing Auditor (the "Auditor") will serve at the pleasure of City Council and will have permanent office space in a City facility, but will not be housed in any Alexandria Police Department facility in order to ensure the independence of the position. The draft ordinance proposes that the Auditor will have the authority to:

- provide the necessary administrative and policy support for the Community Police

Review Board, as well as assist the Board with achieving its purpose and in carrying out its scope;

- have authority to hire and supervise and make employment decisions regarding the Auditor's staff within existing City Human Resources systems and City Administrative Regulations;
- be responsible for the independent review of Alexandria Police Department current or proposed policing practices, rules, policies, procedures, directives and outcomes and present findings of such reviews and any resulting recommendations to the Board;
- perform a quality assurance function with the goal of identifying systematic changes that will improve police services to the community;
- create and manage a civilian complaint and case tracking system;
- provide advice to APD during APD's investigation of civilian complaints of APD law enforcement officers and civilian employees, as well in regard investigations of use of force incidents;
- review completed investigations of civilian complaints and use of force by the Alexandria Police Department Office of External Affairs and Professional Responsibility.
- review completed investigations of officer involved shootings by the Virginia State Police or other entity;
- review any disciplinary actions taken that may arise as a result of investigations into civilian complaints of use of force and officer involved shootings.

The proposed hybrid model of community oversight of law enforcement included in the draft ordinance to establish a Community Police Review Board will work to examine systemic patterns in complaints, incidents, conduct, policies, procedures and outcomes in policing in our community. The Board and Auditor will work together to conduct broad evaluations and offer data-driven recommendations for improving police policies, practices, procedures and training in the Alexandria Police Department. This combination can improve trust between police and the community by ensuring public confidence in our police department through accountability and transparency.

FISCAL IMPACT: There will be an annual to-be-determined cost in the range of \$0.3 million to \$0.5 million to employ professional staff to support the Community Policing Review Board, including but not limited to the Independent Policing Auditor, as well as costs to establish the Board and provide ongoing support to the Board and Auditor.

ATTACHMENTS:

1. Draft Community Policing Review Board Ordinance
2. Alexandria City Council Resolution 2950
3. Community Police Review Board Legislation Currently Under Consideration by the General Assembly: SB 5035 (Hashmi); HB 5055 (Herring)

STAFF:

Sarah Taylor, Legislative Director
Debra Collins, Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE to amend Chapter 4 (“COMMITTEES, BOARDS AND COMMISSIONS”) of Title 2 (“GENERAL GOVERNMENT”) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding a new Article AA (“COMMUNITY POLICING REVIEW BOARD”).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 4 of Title 2 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding new Article AA, “Community Policing Review Board,” as follows:

ARTICLE AA – COMMUNITY POLICING REVIEW BOARD

Sec. 2-4-#### Community Policing Review Board

- (a) There is hereby established a commission to be known as the Community Policing Review Board (“Board”). The operation of the Board established pursuant to this ordinance shall be consistent with Virginia law and regulations.

Sec. 2-4-#### Board Purpose and Scope

- (a) The purpose of the Board is to enhance policing legitimacy and to increase and maintain public trust among the police department, city council, city manager and the public. The Board will: 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 race 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 and evaluate policing practices, policies, procedures, and outcomes in Alexandria, issue findings, and provide actionable, advisory recommendations to the city council, the city manager, the school board, the school superintendent, the Alexandria Police Department (APD) and other public agencies regarding policing practices, policies and procedures in Alexandria. The Board is hereby authorized to perform the following duties:
- i. develop and administer a process for receiving and referring to APD for investigation civilian complaints regarding conduct of APD law enforcement officers and civilian employees. This process shall be separate and distinct from any existing procedures by which the APD receives civilian complaints as specified under Virginia Code § 9.1-600;

- 1 ii. review and evaluate the investigation of civilian complaints regarding conduct of
- 2 APD law enforcement officers and civilian employees received by the Board and
- 3 submitted to the APD for investigation;
- 4 iii. review and evaluate the investigations of APD use of force, whether or not a
- 5 civilian complaint has been filed, including officer-involved shootings, use of
- 6 electronic weapons and other uses of force, all in-custody deaths and all police
- 7 actions that result in the death of a person;
- 8 iv. review and evaluate completed APD Office of External Affairs and Professional
- 9 Responsibility (OEAPR) investigations of civilian complaints and use of force
- 10 incidents and issue findings regarding the accuracy, completeness, and
- 11 impartiality of such investigations and the sufficiency of any discipline resulting
- 12 from such investigations;
- 13 v. review and evaluate existing and proposed APD Directives, including all rules,
- 14 policies, and procedures which direct the operation of the APD and its employees;
- 15 vi. review and evaluate reports issued and data collected by the APD related to
- 16 policing practices, policies, procedures, and outcomes;
- 17 vii. receive, review and evaluate the annual budget and expenditures of the APD and
- 18 make budgetary recommendations;
- 19 viii. advise city council on the hiring and annual evaluation of the Independent
- 20 Policing Auditor;
- 21 ix. produce public reports regarding the work of the Board and disseminate such
- 22 reports in hardcopy and online, including, but not limited to, a written report to
- 23 the City Council by September 1 of each fiscal year of its activities for the prior
- 24 fiscal year under the provisions of this chapter along with any comments and
- 25 recommendations as it may choose to make;
- 26 x. recommend legislation, policy changes and other actions related to review and
- 27 evaluation conducted by the Board to the city council, city manager, APD, school
- 28 board, school superintendent, and other public agencies;
- 29 xi. conduct community outreach in the city related to the review and reform of
- 30 policing practices, policies and procedures in Alexandria and the work of the
- 31 Board; and
- 32 xii. undertake any other duties as reasonably necessary for the Board to effectuate its
- 33 lawful purpose to effectively review the policing agencies as authorized by the
- 34 city.
- 35
- 36 (c) In order to carry out its scope and authorized functions and to define in more detail the
- 37 process and terms articulated in its scope, the Board shall enter into a memorandum of
- 38 understanding ("MOU") with the APD and signed by the police chief and the city
- 39 manager, that states the Board's policies and procedures and defines the terms of their
- 40 relationships and mutual obligations. With regard to officer-involved shootings, the
- 41 Board shall be authorized to enter into a MOU with the Virginia State Police or any entity
- 42 that conducts an independent investigation of an officer-involved shooting, conducts a
- 43 review of the incident, and issue reports and recommendations when there is an APD
- 44 officer-involved shooting. The Board is authorized to negotiate the provisions of these
- 45 MOUs, assisted by the city council appointed Independent Policing Auditor, and the City

1 Attorney's Office. If a provision of these MOUs conflicts with a provision of this
2 enabling ordinance, the provision of the enabling ordinance shall govern.
3

4 (d) All records, documents and materials requested by the Board necessary to carry out its
5 scope and authorized functions shall be provided in unredacted form. If such documents
6 contain confidential information authorized to remain confidential pursuant to the
7 Virginia Freedom of Information Act, the information may be reviewed in closed session
8 of the Board in order to retain the confidentiality.
9

10 (e) The Board, assisted by the Independent Policing Auditor, is authorized to develop and
11 implement its own bylaws, administrative systems, and operating policies and
12 procedures, consistent with existing federal and state law, state regulation, and this
13 enabling ordinance. Such bylaws shall be subject to public notice and public hearing
14 before adoption by the Board and would become effective upon adoption by City
15 Council.
16

17 (f) In order to carry out its duties the Board and Office of the Independent Policing Auditor
18 shall be provided an annual budget and appropriation by City Council, and shall expend
19 the funds provided consistent with:
20

- 21 i. the purposes and scope of the Board and of the Office of the Independent Policing
22 Auditor;
- 23 ii. the MOU with the APD required herein;
- 24 iii. the budget and appropriation approved by City Council; and
- 25 iv. city procurement and expenditure regulations and practices.
26

27 (g) The Board, through the Independent Policing Auditor shall be provided full access to all
28 APD reports, files and records related to the Board's review of complaints filed with the
29 Board or with APD, as well as uses of force by APD.
30

31 **Sec. 2-4-#### Board Member Requirements and Term of Office**

32

33 (a) The Board shall be composed of seven voting members appointed by the City Council,
34 which shall endeavor to create a fair, objective, independent, diverse, and representative
35 body.
36

37 (b) The seven voting members of the Board shall be residents of the City of Alexandria and
38 shall demonstrate fairness, integrity and objectivity and will be chosen on the basis of
39 expertise and experience relevant to the performance of the duties of the Board. City
40 Council shall appoint voting members who are representatives of the following groups
41 (though one member may be representative of more than one group):
42

- 43 i. at least three members who come from historically racially or socially
44 marginalized communities that have commonly experienced disparate policing in
45 Alexandria;

- 1 ii. at least one member who represents an organization, office, or agency that seeks
2 racial or social justice or that otherwise advocates on behalf of historically,
3 racially or socially marginalized communities, particularly communities that may
4 have experienced disparate policing; and
5 iii. at least one member with past experience in law enforcement, criminal justice or
6 policing but who may not be a current employee of, or immediate family member
7 of an employee of, a law enforcement agency.
8
9 (c) No Board member shall be a current candidate for elected public office or hold an elected
10 public office.
11
12 (d) Except as to the inaugural Board, members shall be appointed for terms of three-years
13 each, which shall expire as of May 31. Board members' terms shall be staggered. To that
14 end, the City Council shall appoint three voting members of the inaugural board to 18-
15 month terms and four voting members to three-year terms. A Board member may be
16 appointed to no more than two consecutive three-year terms.
17
18 (e) The Board procedures shall comply with Section 2-4-1 et seq of the City Code except as
19 has been modified by this Chapter.
20

21 **Sec. 2-4-#### Conflicts of Interest and Confidentiality**
22

- 23 (a) The Board and each member shall comply with the Virginia State and Local Government
24 Conflict of Interests Act under Virginia Code §§ 2.2-3100 through 2.2-3131.
25
26 (b) To the extent allowed under the Virginia Freedom of Information Act, each member shall
27 maintain the confidentiality of all confidential or privileged information, including but
28 not limited to:
29 i. disciplinary actions, memos and reports that the member receives during service
30 on the Board.
31 ii. statements of a police officer, or APD employee, who was required by APD to
32 give a statement.
33
34 (c) No voting member shall be a current City employee, a current candidate for public office,
35 a former employee of APD, an immediate family member of a current or former APD
36 employee, a current APD employee, or a current employee of a law enforcement agency.
37

38 **Sec. 2-4-#### Quorum, Voting, and Meetings**
39

- 40 (a) The Board shall meet as often as necessary to conduct its business, but no less frequently
41 than four times per calendar year.
42
43 (b) Meetings of the Board shall comply in all respects with the meeting regulations of the
44 Virginia Freedom of Information Act including being open to the public except under
45 circumstances when the topic is authorized by the law to be discussed in closed session
46

- 1 (c) To take any action, a quorum of at least five out of seven voting members must be
2 present.
3
- 4 (d) The Board shall keep minutes of its Board Meetings, and those minutes shall include:
5 i. the date, time, and location of each meeting;
6 ii. the members present and absent;
7 iii. a summary of the discussion on matters proposed, deliberated, or decided; and
8 iv. a record of any votes taken.
9
- 10 (e) The Board meeting minutes are public records and subject to inspection pursuant to the
11 Virginia Freedom of Information Act.
12

13 **Sec. 2-4-#### Support of Board**

14

- 15 (a) Board Staff
16 i. The city council appointed Independent Policing Auditor shall be assigned to staff
17 the Board and coordinate the Board's administrative functions.
18 ii. The City Attorney, or its designee, shall serve as legal advisor to the Board. As to
19 a particular matter, and in the event that there is a conflict of interest that
20 precludes effective representation by the City Attorney's Office, the City shall
21 retain outside counsel to advise the Board.
22
- 23 (b) Other Support from the City
24 i. A website shall be established for the Board hosted on the City's website. The Board
25 shall control what is posted on the Board's website to the extent it complies with all
26 applicable Federal, State and local laws.
27 ii. All public meetings of the Board shall be videotaped and made available to the public
28 on the City's website.
29 iii. The City shall not interfere unreasonably with the Board's decisions, assisted by the
30 Independent Policing Auditor, to post materials to or remove materials from the
31 Board's website.
32 iv. Board members shall be provided with a City email address to be used exclusively for
33 Board-related matters.
34 v. The City, including all city departments, boards, commissions, and staff shall
35 endeavor to cooperate with and assist the Board, and shall comply with, or
36 expeditiously provide a reason for rejecting, all reasonable Board requests.

37 **Sec. 2-4-#### Board Training**

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39 At least once every two years, and within six months of Board appointments, Board members
40 shall participate in the following training:
41

- 42 (a) at least eight hours of training, presented by the National Association for Criminal
43 Oversight of Law Enforcement or a comparable professional organization.
44
- 45 (b) Training by the applicable city staff addressing the following matters:

- i. legal and ethical obligations of members of a public board;
 - ii. APD policies and training, including but not limited to defensive tactical training, Crisis Intervention Training, and de-escalation training;
 - iii. relevant privacy rules and City policies and procedures involving liability, employee discipline, and other matters related to police operations; and
 - iv. APD and City administrative systems, processes, structures and operations.
- (c) at least two ride-along sessions with APD patrol operations per calendar year.
- (d) The City and the Independent Policing Auditor, shall provide Board members with additional training, which may 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.

Sec. 2-4-#### Complaint Process and Standard of Review

(a) Complaints

- i. The Board will develop and administer a process for receiving and referring to APD for investigation civilian complaints regarding conduct of APD law enforcement officers and civilian employees. This process shall be separate and distinct from any existing procedures by which the APD receives civilian complaints as specified under Virginia Code § 9.1-600;
- ii. The Board shall accept complaints regarding the conduct of the Alexandria Police Department, police officers in the agency, or civilian employees of the police department.
- iii. Complaints filed with the Board may be submitted using a form provided by the Board or may be submitted orally by a complainant. Complaints filed orally shall capture the same information included in the complaint form developed by the Board.
- iv. Information about the process for filing a complaint with the Board, complaint forms, and general information about the Board and its purpose and scope shall be made available online and at the office of the Independent Policing Auditor, APD, the Office of Human Rights, as well as other locations deemed effective for making such forms and information widely available
- v. Information about the process for filing a complaint with the Board, complaint forms, and general information about the Board and its purpose and scope shall be made readily available in English, Spanish, Amharic and Arabic and in any additional language as requested by an individual looking to submit a complaint to the Board.

- 1 vi. Complaint forms shall request information regarding the incident including, but not
2 limited to:
3 1) identifying information for the person filing the complaint;
4 2) a statement describing the reasons for the complaint;
5 3) the specific police behavior of concern;
6 4) a description of the incident in which the behavior occurred; and
7 5) information regarding witnesses to or persons with knowledge of the incident
8 known to the complainant, including but not limited to names, addresses, and
9 phone numbers.
- 10
11 vii. The Board shall immediately forward the complaint to APD for investigation. Filing a
12 complaint with the Board does not preclude an individual from filing a complaint
13 directly with the police department as specified under Virginia Code § 9.1-600.
14
- 15 viii. APD shall seek to complete its investigation of the complaint and provide an
16 investigation report to the Board within sixty (60) days. The Board shall extend the
17 60-day period upon request of the Police Chief to protect an ongoing criminal or
18 internal administrative investigation, while an employee filed grievance is ongoing
19 under City Administrative Regulation 6-21, the Law Enforcement Officers Procedural
20 Guarantee Act codified under Code of Virginia Title 9.1, or in a court of law, or for
21 other good cause, with notice to the complainant and city council.
22
23

24 (b) Standard of Review
25

- 26 i. The Board may review all investigations of complaints to ensure their thoroughness,
27 completeness, accuracy, objectivity, and impartiality. The Board may consider
28 reducing the review to only a selected number of complaints; however, it shall review
29 every investigation involving use of force, including officer-involved shootings and
30 the use of electronic weapons, all in-custody deaths and all police actions that result
31 in the death of a person,
32
- 33 ii. The Board's authority to review investigations includes but is not limited to:
34
35 1) deliberate application of or use of unnecessary, unreasonable, or excessive
36 physical force;
37 2) using or brandishing of firearms, electric weapon or device or other weapon in a
38 rude, careless, angry, or threatening manner not necessary for self-defense;
39 3) an unjustified use or display of force or unnecessary escalation of charges;
40 4) theft or improper handling of personal property; the use of abusive racial, ethnic
41 or sexual language or gestures;
42 5) harassment or discrimination based on race, color, sex, religion, ancestry, national
43 origin, marital status, familial status, age, sexual orientation, gender identity,
44 transgender status, or disability;
45 6) acting in a rude, careless, angry, retaliatory or threatening manner not necessary
46 for self-defense;

- 7) reckless endangerment of a bystander, detainee or person in custody;
- 8) death or serious injury to any person held in custody;
- 9) violation of laws or ordinances;
- 10) solicitation of sexual acts, favors, or quid pro quo exchanges;
- 11) or other serious violations of APD policies or procedures.

Sec. 2-4-#### Board Findings and Recommendations

(a) After completing an investigation review, the Board may reach one of the following findings:

- i. concur with all or some of the findings and determination detailed in the investigation report;
- ii. advise city council, the city manager, and the APD that the findings are not supported by the information reasonably available to the APD and recommend further review and consideration by the police chief; or
- iii. advise city council, the city manager, and the police department that, in the Board's judgment, the investigation is incomplete and recommend additional investigation.

(b) Board Recommendations

- i. The Board may recommend policies or procedures to city council, the city manager and the police department 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 thirty days from the date the Board adopted the recommendations.
- ii. The Board's recommendations shall be included in any public reports issued by the Board, including hardcopy and online.
- iii. If the APD declines to implement any recommended changes from the board, the department is required to 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 any recommendation of the Board within thirty days from the date the Board reports its recommendation to the city council, the city manager and APD.

Sec. 2-4-#### Compliance with State Law and City Policy

- (a) The Board and each member shall comply with all Virginia laws, including, but not limited to, Virginia Freedom of Information Act (VFOIA), the Virginia State and Local Government Conflict of Interests Act under Virginia Code §§ 2.2-3100 through 2.2-3131, as amended, the Law-Enforcement Officers Procedural Guarantee Act codified under Code of Virginia Title 9.1, all other City ordinances, and with all City policies concerning the activities of its boards, authorities, and commissions.

- (b) The Board's authority shall not override the City's Administrative Regulation 6-21, Grievance Procedures.

Sec. 2-4-#### Exclusions

- (a) The Board shall not consider claims or issues involving the following:
- i. Complaints involving any incident that occurred prior to June 9, 2020, the date that city council determined to establish the Community Policing Review Board.
 - ii. Complaints involving any incident that occurred more than six months before the filing of the complaint with the Community Policing Review Board;
 - iii. Any financial management, or procurement decisions made by APD, or and individual hiring, assignment and promotional decisions made by the APD;
 - iv. Complaint concerning matters that are the subject of an active investigation coordinated with the Commonwealth's Attorney, a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding; or any complaints from city employees that are subject to established employee grievance processes; and
 - v. Any other claim outside the scope of the Board's authority.

Sec. 2.4-### Review of Community Policing Review Ordinance

- (a) The city manager in consultation with the Board, Independent Policing Auditor, community stakeholders, APD and APD employees shall have conducted and submitted to city council by April 1, 2023 a review of this ordinance, its effectiveness, with recommendations for improvements.

Section 2. That Chapter 1 of Title 4 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding new Sections 4-1-5 and 4-1-6, as follows:

Sec. 4-1-5 Independent Policing Auditor

City Council shall appoint an Independent Policing Auditor with the terms and conditions of such appointment set forth in an employment agreement. The Independent Policing Auditor shall serve at the pleasure of City Council. The Independent Policing Auditor shall be provided office space by the City, but such office space shall not be housed in any Alexandria Police Department facility.

Sec 4-1-6 Independent Policing Auditor Duties and Responsibilities

The Independent Policing Auditor shall:

- (a) provide the necessary administrative and policy support for the Community Policing Review Board, as well as assist the Board with achieving its purpose and in carrying out its scope;
- (b) have authority to hire and supervise and make employment decisions regarding the Auditor's staff within existing City Human Resources systems and City Administrative

- 1 Regulations;
- 2 (c) be responsible for the independent review of Alexandria Police Department current or
- 3 proposed policing practices, rules, policies, procedures, directives and outcomes and
- 4 present findings of such reviews and any resulting recommendations to the Board;
- 5 (d) perform a quality assurance function with the goal of identifying systematic changes that
- 6 will improve police services to the community;
- 7 (e) create and manage a civilian complaint and case tracking system;
- 8 (f) provide advice to APD during APD's investigation of civilian complaints of APD law
- 9 enforcement officers and civilian employees, as well in regard investigations of use of
- 10 force incidents;
- 11 (g) review completed investigations of civilian complaints and use of force by the Alexandria
- 12 Police Department Office of External Affairs and Professional Responsibility.
- 13 (h) review completed investigations of officer involved shootings by the Virginia State
- 14 Police or other entity;
- 15 (i) review of any disciplinary actions taken that may arise as a result of investigations in (g)
- 16 and (h) above; and
- 17 (j) have full access to unredacted Alexandria Police Department reports, files and records,
- 18 including disciplinary records, related to completed reviews of complaints filed with the
- 19 Board or with the Department, as well as related to and completed reviews of uses of
- 20 force by the Department.
- 21 (k) Maintain the confidentiality of such disciplinary records as well as any statement of a
- 22 police officer of APD employee who was required by APD to give a statement. Such
- 23 information may be shared with the Board.
- 24

25 Section 3. That Title 2, Chapter 4 as amended pursuant to Section 1 of this ordinance and Title

26 4, Chapter 1 as amended pursuant to Section 2 of this ordinance, be, and the same hereby are,

27 reordained as part of the City of Alexandria City Code.

28

29 Section 3. That the provisions of this ordinance shall become effective immediately.

30

31 JUSTIN WILSON

32 Mayor

33

34 Introduction:

35 First Reading:

36 Publication:

37 Public Hearing:

38 Second Reading:

39 Final Passage:

40