

## CRB Subcommittee’s Modified/Clarified Recommendations & Perspective on Draft Ordinance

Authority/Function	Original Recommendation	Re-Considered/Modified Recommendation	Rationale for Change to Recommendation	Subcommittee’s Perspective on Draft Ordinance
Investigative & Subpoena Authority	<p>Auditor monitor + civilian oversight body should have investigative and subpoena authority (or substitute authority to compel the production of information/records).</p> <p>a. Investigative authority to be exercised on a limited bases for those matters for which the auditor/monitor + civilian oversight body determine that an independent investigation is needed.</p> <p>b. Investigations to be conducted by the auditor/monitor.</p> <p>c. Subpoena authority exercised only after efforts to obtain information/records voluntarily from ACPD have been exhausted.</p> <p>d. Before applying for a subpoena, the civil oversight body will escalate its request up to the County Manager. If escalation is</p>	<p><i>Auditor monitor + civilian oversight body should have investigative and subpoena authority (or substitute authority to compel the production of information/records).</i></p> <p>a. <b>Change/Clarification:</b> Auditor/Monitor + civilian oversight body will exercise discretion to determine which matters it will work with ACPD OPR unit to investigate vs. those matters it will defer to ACPD OPR’s investigation <i>which the Auditor/Monitor can review once it is completed.</i></p> <p>b. <b>Clarification:</b> Investigations to be conducted by the auditor/monitor. <b>NOTE:</b> <i>The investigation conducted by the auditor/monitor may include joint investigative steps taken with ACPD (e.g., auditor/monitor participates in ACPD’s</i></p>	<p>a. Change made to clarify that auditor/monitor + civilian oversight body will have discretion to choose which matters the auditor/monitor will investigate.</p> <p>b. Clarification provided so, when appropriate, the auditor/monitor may work with ACPD to conduct investigative steps. <i>The CRB subcommittee has been informed that ACPD is receptive to this approach.</i></p>	<p>a. County Mgr.’s recommendation (§69-9(c)) does not provide for investigative authority. In contrast, the County Bd.’s advertised alternative (§69-9(d)) allows for Investigative Authority. <b>The County Bd.’s advertised alternative is more consistent with the Subcommittee’s Recommendation.</b></p> <p>b. The County Mgr.’s recommendation does not provide for investigative authority. The County Bd.’s advertised alternative (§69-9(d)(i)) provides that “investigations . . . may be conducted by the Review Board with the Independent Policing Auditor’s assistance.” <b>Thus, the County Bd.’s advertised</b></p>

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	<p>unsuccessful, the civil oversight body may apply for a subpoena.</p>	<p><i>interview of witness and/or alleged violator).</i>                      c. <b>No Change.</b>                      d. <b>No Change.</b></p>		<p><b>alternative is more consistent with the Subcommittee’s Recommendation; however, per the Subcommittee’s recommendation, the auditor/monitor conducts the investigation.</b></p> <p>c. Both the County Mgr.’s recommendation (§69-9(c)(iv)) and the County Bd.’s advertised alternative (§69-9(d)(ii)) provide for subpoena authority. However, since <b>the County Bd.’s advertised alternative</b> allows for greater access to ACPD records—that is, it excludes the application of the limits imposed by §69-8(c)—<b>it is more consistent with the Subcommittee’s recommendation.</b></p> <p>d. Neither the County Mgr.’s</p>

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				<p>recommendation (§69-9(c)) nor the County Bd.’s advertised alternative (§69-9(d)(ii)) explicitly include this requirement. However, both provide that the “Review Board shall not unreasonably withhold its agreement to limitations requested by the County Manager “on the scope of the subpoena intended to protect confidential information and other information that may adversely affect pending matters.”</p> <p><b>The CRB Subcommittee does not believe this proposed requirement to be unreasonable.</b></p>
Review Authority	Auditor/monitor + civilian oversight body will have authority to review	<b>Change/Clarification:</b> Auditor/monitor + civilian oversight body will have authority to review		The County Mgr.’s recommendation (§69-9(c)) and the County

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	<p>completed ACPD investigations.</p> <ul style="list-style-type: none"> <li>- Auditor/monitor will receive ACPD internal investigation reports before they are issued to assess thoroughness and sufficiency and be given the authority to recommend changes to a report before it is issued, including a recommendation that additional investigative steps be taken.</li> </ul>	<p>completed ACPD investigations.</p> <p>Auditor/monitor will receive ACPD internal investigation reports before they are <i>finalized</i> to assess thoroughness and sufficiency and be given the authority to <del>recommend changes to a report before it is issued, including a recommendation that additional investigative steps be taken.</del> <i>express an opinion on the report, including whether additional investigative steps should have been taken.</i></p>		<p>Bd.’s advertised alternative also appears to allow for this authority; however, language in the advertised alternative referencing the provisions of §69-9(c) appears to muddy the issue. The reference to “§69-9(c)” maybe a typo and, if appropriate, should be changed to read “§69-8(c).”</p> <p><b>Inasmuch as both provide for review authority, they are both consistent with the Subcommittee’s recommendation.</b></p>
<p>Make Binding Disciplinary Determinations</p>	<p>Civilian oversight body will have authority, in consultation with the ACPD Police Chief, to make binding disciplinary determinations for ACPD officers who have been found to have committed serious breaches of ACPD procedures or professional standards.</p>	<p><b>No Change.</b></p>		<p>Neither the County Mgr.’s recommendation nor the County Bd.’s advertised alternative incorporated this recommendation. <b>The majority of the CRB Subcommittee stands by this recommendation,</b> but it acknowledges that the County Bd.’s advertised alternative provides that</p>

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				the “Review Board” may “recommend disciplinary” action to be taken by the Police Chief.
Receive Complaints	Auditor/monitor + civilian oversight body will have authority to receive complaints from the public against ACPD and the discretion to determine whether the complaints should be passed on to ACPD for investigation or should be investigated by the auditor/monitor.	<b>Change/Clarification:</b> Auditor/monitor + civilian oversight body will have authority to receive complaints from the public against ACPD. <i>The auditor/monitor + civilian oversight body will share <b>all</b> complaints with ACPD. The auditor/monitor + civilian oversight body will have the discretion to determine whether the auditor/monitor will conduct a concurrent investigation with ACPD or allow ACPD to complete the investigation which the auditor/monitor + civilian oversight body will review.</i>	This change was made after it was clarified for the CRB Subcommittee that ACPD investigates all complaints it receives regarding alleged officer misconduct. Inasmuch as these investigations are a part of ACPD’s process of accessing and, when warranted, correcting misconduct by its officers, the Subcommittee determined that ACPD should have access to these complaints so it can determine if corrective action is needed. As previously indicated, passing along complaints to ACPD will not preclude the auditor/monitor from investigating the alleged misconduct.	The Draft Ordinance provides for this authority (§69-9(b)) but it is silent on whether auditor/monitor + civilian oversight body will determine which complaints will be passed on to ACPD for investigation. As modified, the Subcommittee recommends that all complaints received be shared with ACPD. <b>The Draft Ordinance is consistent with the Subcommittee’s recommendation.</b>
Advise on Policies and Procedures	Auditor/monitor + civilian oversight body will have authority to review and make recommendations regarding ACPD on policies and procedures.	<b>No Substantive Change:</b> Drop word “on” because it is unnecessary.		The Draft Ordinance provides for this authority (§69-9(e)). <b>It is consistent with the Subcommittee’s recommendation.</b>

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Issue Public Reports	The auditor/monitor will have the authority to issue public reports to County Manager and County Board regarding its review of internal investigations and ACPD’s policies and procedures.	<b>No Change.</b>		The Draft Ordinance provides for this authority (§69-9(e)(ii)). <b>It is consistent with the Subcommittee’s recommendation.</b>
Engage with Community	Civilian oversight body will have the authority to hold public meetings and share information with the public to promote transparency.	<b>No Change.</b>		The Draft Ordinance contemplates the civilian oversight body holding public meetings ( <i>See e.g.</i> , §69-6(b)(ii) “All public meetings of the Review Board shall be videotaped and made available to the public on the County’s website”). <b>This is consistent with the Subcommittee’s recommendation.</b>