

ARLINGTON

VIRGINIA

Civilian Review Board: County Board Listening Session (June 22, 2021)

SUMMARY NOTES

Overview

The County Board hosted a Community Listening Session on June 22, 2021 for interested stakeholders to share insights and perspectives on a future Civilian Review Board(CRB). Approximately 35 participants came together to share insights and perspectives with County Board members on the [draft ordinance to establish a Law Enforcement CRB](#) advertised earlier by the County Board to be considered during the County Board’s July Board meeting.

The County Board also hosted a [work session](#) on June 10; and is currently accepting [online feedback](#). They will also host a [public hearing](#) during the July County Board meeting.

This summary is organized into six sections and reflects key points surfaced during the small group conversations among participants and County Board members.

- (1) General Comments about the Role of Civilian Review Board (CRB)
- (2) Considerations for Role of CRB during Investigations
- (3) Role of CRB in Receiving and Processing Complaints
- (4) Role of the Auditor Monitor and Staffing
- (5) Appointments and Membership of the CRB
- (6) Other Areas that Surfaced during the Session

Discussion Themes

1. General Comments about the Role of Civilian Review Board (CRB)

- Take advantage of the authorities offered by Virginia General Assembly and apply here in Arlington
 - Concerns expressed that current language and CM recommendations in the ordinance do not provide the full scope of opportunity
 - In addition to subpoena power, there were several requests that it be called “Civilian Oversight Board” not “review”
 - Suggest the County Board implement the things they say they want to accomplish

- Outline Criteria for what CRB/CRB can investigate and outline “what they can do”
- Recognize everyone has own bias, but believe CRB is what the community wants at this point
 - Suggest following not just the PPG recommendations but also the spirit of the PPG
 - Utilize a community process in building the CRB
 - Suggest following what community has already said regarding Police Chief choices and appointments by CB/CM
 - Important to explore what is at the root of this; trust in our police to ensure we have a police force that works more closely with the community
 - Belief that there is a TRUST issue
 - Residents of Arlington –will put more trust in system –if they know CRB (residents) are looking at the scenario
 - Make sure people know about the CRB---and their role in being involved much earlier, getting reports about investigation, including status and process
- Several Participants noted that since George Floyd, there is a concern that all PDs are getting lumped together
 - We’re not trying to fix something that was wrong in the past, we’re trying to create transparency for all future events
 - Creating a CRB in Arlington is more about putting up guardrails so [bad] things DON’T happen. Sees it more establishing trust where it has been trampled
- Important that a CRB in Arlington has the power to correct any shortcomings of the police and provide accountability in efforts to foster accountability
 - In order to move the needle—what can we do to truly inspire what would make a difference
 - Believe that prominent issues are with communities of color and rape cases
 - This process should center on the people most impacted, not people in power
 - Intentional leadership is needed
- CRB needs to be independent
 - there are already internal investigation processes within ACPD. A CRB needs to work independently from what PD is doing. I don’t believe in simultaneous investigations and would be duplicative in efforts, manpower
 - Whatever model is selected, having an independent CRB is important to ensure undocumented people are not in fear
 - Belief that CRB needs complete authority and has the same access to information as ACPD has; ACPD should be required to give the CRB the information they request
 - With greater access to CBO/CMO comes more familiarity – consider how to keep the auditor independent while still familiar?
 - Consider giving CRB power to retain independent counsel (avoids conflict of interest with using CAO)

- Independent review—would inspire the MOST confidence. Not having police “police’ /monitor themselves
- Several participants noted confidence in ACPD unless there's ‘something else missing’
Would not support creating another commission
 - Concerns that CRB (concurrent investigation) will be another commission (there's already 55-60)
- CRB role in prevention
 - Important to explore if /how CRB can influence prevention
 - How do we prevent possible scenarios where there might NOT be camera footage that might potentially lead to “ this didn’t happen” response?

2. Considerations for Role of CRB during Investigations

NOTE: Participants offered different perspectives as to whether CRB should or should not have investigative authority

In favor of CRB investigative Authority

- Believe we should give CRB the full powers that the general assembly allows
 - It was noted by several participants that investigative authority is the main difference between the PPG and manager's recommendations
 - The NAACP and Arlington for Justice noted both groups oppose the County Manager’s Recommendation to not include Investigative or Disciplinary Authority
- Giving CRB investigative powers would engender the very most amount of confidence (along with ---Subpoena and Disciplinary powers)
 - This is about building the best system—and build the most trust possible
 - Investigative Authority would help build Trust with community members
 - Investigative Function—also important. Feelings that having CRB simply review investigations—will NOT make it credible [in reference to that function]
 - Recognize that CRB having IA is a heavy lift---but it CAN work, IF we want it to
 - Concern about inability of CRB to have subpoena power or actual investigative power
- There must be independent investigation
 - Police oversight needs to be completely independent from established oversight in ACPD
 - CRB must have access to the same information that police have.
 - Some thought CRB needs to have enforcement authority. They get to make referrals that are binding
 - Question of whether Independent or concurrent review of internal affairs
 - Participants noted the key to meaningful change, is having an independent review. “We can’t leave it to the internal affairs of ACPD”
- ACPD Office of Professional Responsible should still have a role, however, CRB would be the FIRST place to decide (keep it OR have police do investigation)

- Participants pondered a real-life example how it might be enforced. For example, the GW Parkway shooting. There was no investigation until the family filed a civil lawsuit in 2020, now entering 4th year and nothing has been revealed. Suggested the CRB have the authority to investigate a case like this

Concerns with CRB having Investigative Authority

- Believe CRB should 'have the determining authority' as to whether they get involved
- Do not see CRB members showing up at a crime scene
- Concern with Investigative Authority timelines, suggest the CRB could set a timeframe
- Concerned that giving the CRB investigatory powers would re-victimize people. Would have to repeat their experience multiple times, and victims' confidentiality on the table. Participant noted concerns that having CRB access to this information could perpetuate the situation
- Question raised about "why won't independent investigation work?" We want the CRB to be effective and their actions to be enforceable/actionable. Believe it is too early to use the word enforceable but perhaps the word meaningful. However, need to understand what the CRB can do with its finding to ensure the failures of ACPD are addressed?
- Concern expressed about costs and also the use of tax dollars spent to support an expensive duplication of a function – Investigative Authority –that several participants believed to be working well
- CRB doesn't need to be at the crime-scene, not their job. After-the-fact review of cop shootings, incidents
- Some felt the CRB would only take investigative action IF cases are mishandled or seem suspect; if things are functioning well – good harmony between APCD and community goals, then suggest that CRB would **not** get called upon
- Suggestions to discuss with other jurisdiction on how they do simultaneous and/or sequential investigations or both – may mean a combination. Explore success and failures of both

Specific Considerations for Role of CRB During a Criminal Case

- Outside of criminal investigations, CRB would have a role in most scenarios that are NON -Criminal
- Discussion around how CRB could be involved in criminal investigations, and not completely take it off the table
- Some thought CRB should be able to decide first who conducts a criminal investigation.
 - IF a criminal investigation is warranted, CRB should step in/up...
 - Criminal Cases proceed first, then Civil cases
 - "See" criminal process as separate---but believe there is a way to make it work
- Others thought the CRB should not interfere with serious matter---on a criminal matter

- CRB should not have a role –with a criminal investigation. Not have concurrent proceedings
- When talking about criminal or civil cases, some participants felt it was like comparing apples and oranges—
- Some thought that once a decision was made in a criminal investigation, the CRB could look at policies, protocols, practice
 - Important that CRB—look at Subsets of criminal investigations---relevant to the CRB
 - If a criminal investigation (example officer involved shooting)...
 - Not always about the shooting, but also about officer, the beatings, the record, the language, how was the individual treated

Sequencing Considerations

- Critically important to have sequencing—who goes first?
- Some believe that CRB should have concurrent jurisdiction. Know what they are capable of and informed on where /how investigation is going
- Value of Independent Investigations. The question is who leads? And what order?
 - Police? Commonwealth’s Attorney? CRB?
 - Sequential? Determined by CRB? MOU?
 - Concern too many cases fall through the cracks, hence the need for the CRB
- Support for concurrent review, aka CRB going first
 - In a criminal Case, believe the Commonwealth’s Attorney would have first opportunity to review OR the federal agency. In these cases, believe CRB would wait (as well as the police)
 - Concern that conducting investigations simultaneously----between police, commonwealth, and CRB would be a challenge
 - Concerned with lack of sequencing, would undermine the work of criminal investigation
- Concern that delays in review diminish trust and closure for family
 - Some concerned that police department –would already have completed the investigation before the CRB was involved
 - CRB needs to hold police accountable when investigations are taking too long, or police don’t want to have investigated
 - Consider how criminal cases avoid running into the statute of limitations
 - Concerns about pace of internal review
 - Concerns that sequential review can be too drawn-out
 - Consequences of drawn-out/cold cases
 - Witnesses forget information, people die/pass away, cases lose importance
 - IA investigations need to happen in 45-60 days, but this doesn’t encompass all investigations that can happen
- Believe authority should not be concurrent but should have the authority to reverse those decisions.

- Some thought simultaneous investigations can be redundant
- Others thought concurrent investigation would be better -----approach (as opposed to sequential)
- Participants noted important role CRB will play in reviewing policies and practice
 - Believe policy review is also important
 - Great that CRB has audit function, subpoena authority, ---IMPORTANT
 - Support reviewing policies
- Believe that there needs to be a separate entity to review policies. Arguably as important as the investigatory component
- Important to make sure current policies are reviewed and staff fully understands those policies is important. There's policy and common practice - should review how officers are trained
- Audit function also very important and with right staff—can make a difference
- Consider CRB's full independence to conduct policy review/audit if necessary

3. Role of CRB in Receiving and Processing Complaints

- Participants thought CRB should accept complaints
 - “Like” the idea of CRB receiving complaints
 - Build a thorough complaint process
- The complainant should not have to go to the department that wronged them. Remove personally identifying information, and protecting privacy is extremely important. Should allow for anonymous complaints
- In additions to receiving complaints, participants noted that it would be helpful to also give the CRB the ability to asks questions based on data and trends they are seeing—the ability to initiate an investigation
- Need to establish a safe mechanism for a survivor of assault perpetrated by a PD officer to bring the complaint forward, and explore other paths including possible federal involvement
- Consider having the CRB could take complaints directly. And determine if CRB conducts the investigation OR pass it to police

Confidentiality and Privacy Considerations

- IF the Investigation stays with CRB, considerations need to be given to private proceedings with a public report; and determine how to handle confidential information
- Question of privacy should be taken up by the CRB itself, and make sure their practices are doing that
- Explore what would happen if a Citizen made a phone call to report a complaint, Could the citizen be compelled? Would need to work through it?

4. Role of the Auditor Monitor and Staffing

Reporting Structure (Varying considerations surfaced)

- Consider having Auditor Monitor make recommendations/reports directly to County Board instead of CMO
- Some thought the County Board should do the hiring/firing of the auditor and be a direct report of the County Board
- Consider having Auditor report to County Board – via County Manager maybe, but not as a direct report to the County Manager (so not a staff person)
- There was also some interest in having separation between auditor and CMO and CBO – so auditor should report directly to CRB but deal directly with CBO
- Some suggested moving under CRB and not under CMO – and allow the auditor the ability to retain own legal counsel and at the same time prevent any conflict of interest with CAO

Staffing

- Important to know and follow innovative practice
- Important to understand funding and staffing
- Auditor Monitor—needs to be able to guide work of internal and external staff/consultants
 - Important that the CRB has access to dedicated staff if they are going to have investigative authority-and /or engaged early in the investigative process
 - Consider partnerships with community organizations that do this work
- Consider Phased in with smaller number of people—however, important to outline of what is to come over time
 - Outline full scope up front—with Phase in approach
 - PPG proposed the CRB start and then have a review process, following a designated period (of time) to ensure the resources align with the work

Requirements for both Auditor and staff

- Ability to work proactively and reactively
- Need Resources to do this work
- Need people with law enforcement and forensic experience
- In addition to legal/law enforcement---also capacity to build restorative justice work
- Need an operations/research component. Statistical analysis of 911 calls---as an example. Overserved/underserved/--maybe use consultant

Accountability and Transparency

- Suggest that CRB will also be transparent and share its process, not just promote transparency
 - People will know how to access it, how to make CRB available to them

- Clear expectations as to how the public can expect results
- Intermediary between ACPD and public
- Looking for additional transparency – so there needs to be a level of separation from being a direct employee
- Auditor/monitor will have obligation to put out report about their own work and be transparent
 - Report on how ACPD is working and what can be improved
 - Transparency on ACPD, but also spokesperson on what the community wants
 - Some thought regular report (2x) to community And County Board were important
 - Others were not fans of a big number of reports and not wanting to ‘over’ paper the group. Do they spend time reporting or doing the work?
 - Others thought that reporting with community could build trust bringing complaints to the CRB
 - Don’t OVER paper the group---can perform work –or REPORT work
 - The findings of the CRB – helpful to know and be public

5. Appointments and Membership of the CRB

Membership

- Some suggest 7-15 members on board
- Suggestion for County Board to make all appointments
 - Will need a public hearing on how this goes
- Consider mix of experience, backgrounds, advocacy organizations,
 - Diversity of ethnicity, gender, race, geography, income, jobs, education, experience
 - Include people of color, income diversity, underrepresented members of our community,
 - Include ‘returning’ resident impacted by the legal system
- Careful to NOT have all attorneys – sometimes get too “lawyerly” and digs in heels rather than do what they need to accomplish as part of CRB
- Avoid institutional nepotism before it can start (the usual suspects of community members)
- Some participants believe that for any CRB to have legitimacy, crucial that police (current or former) do not have a seat on the CRB. Should be centered around working class, black and brown, etc. No former or current police

Training

- Important for CRB members to receive training

- CRB member should ride along with police, one to humanize member perception of police, and two to witness practices that are common, but for which there are no policies
- This isn't an advisory committee or commission – needs to be thoroughly trained/immersed in investigative processes
 - Need to be committed
 - Need serious training upfront

6. Other Areas that Surfaced during Discussion

Role of CRB in Disciplinary Authority

- Believe that a CRB with no disciplinary authority is not effective. Would like to have a CRB who can 'rule' against the department in order to have an affect/impact—without jeopardizing the accused
- Important that when lower level folks requested the documentation and concerned that complainants' names are not always redacted – can make individuals fearful for their safety
- Suggest the CRB has the ability to recommend disciplinary action and if the Chief of Police disagrees – should be required to provide written explanation for record
- Suggest CRB gets the information needed to have access to confidential information and understand also what discipline needs to be imposed
- Reflecting on experience with sexual assault accountability issues in the [Military Reserve]. Because of the ethos of brotherhood, etc. it's difficult for them to objectively investigate themselves. It affects how they act
- If an Officer does not want to come—can he/she be compelled? And the Commonwealth Attorney----would need to sign off---regarding immunity
- Some believe the CRB Should have authority to fire officers

Proactive Prevention Initiatives

- ACPD should not be navigating mental health/human services (See [PPG Recommendations](#))
 - Interest in consideration for hiring PEER Recovery Counselors to go out on calls to be with police, and engage in heightened situations in real time
 - County should use funds to create substance abuse prevention program; civilians doing the investigations could be in an issue
- Prevention----options for submitting complaints about scenarios –that were not comfortable or seemed bias
 - If CRB is truly independent, they could potentially be part of the prevention solution
- Education campaign, on rules about traffic, rules, and laws (See [PPG Recommendations](#))
 - CRB should look at statistics---and understand number of traffic stops, what is going on, trends in increased stops in one area

- Consider offering a proactive education campaign during traffic stops—with education—as opposed to ‘tickets’ to improve community relationships with police; and driving behavior
- Concerned that there are STILL black people being stopped by passing through the community

Other

- Concerns on how his officers take race into consideration
 - Important to reflect on the relief of communities of color when the push for BWCs was successful
 - Concerns that people of color have been treated differently/scrutinized differently than white neighbors
 - Not all people of color who are arrested have parents who have community influence/are advocates
- Interest in the role of ACPD and schools (See [APS Release](#))
- Some were interested in “seeing” what it means ‘when police are engaging’