

Independent Citizen Review Board Agenda

May 15, 2024 | 4:00 PM

Municipal Center | City Hall, Building 1
2401 Courthouse Drive, Virginia Beach, VA 23456
Rooms 1009/1010

Welcome/Introductions

Approval of Meeting Minutes

April 6, 2024 Business Meeting Minutes and April 6, 2024 Town Hall Meeting Minutes

April 17, 2024 Meeting Minutes

Old Business

Request for Proposals for outside counsel

Town Hall Meeting at New Jerusalem Church - Monday, May 20, 2024 at 6:30 pm

VBPD Response to ICRB Recommendations

New Business

Policy and procedure recommendations

Town Hall and/or Community Meetings:

- May 9, 2024 at 4:00 pm – Virginia Beach Human Rights Commission
- May 14 or 21, 2024 at 6:30 pm - Virginia Beach Police Department staff
- June 18, 2024 at 6:30 pm - Virginia Beach Council of Civic Organizations
- July ___, 2024 - Philippine Cultural Center
- August through December 2024 – preferred days of week and times
 - Board Member recommendations
 - Pungo area
 - Hampton Roads Pride
 - Republican & Democrat party meetings
 - Other civic and faith-based organizations

Refresher Training and ride-alongs

Upcoming elections for new Chair and Vice Chair - June 12, 2024 meeting

Legislative review items for 2025 Virginia General Assembly session

ICRB Liaison Update

Board mandated reviews, letters received from Internal Affairs & inquiries

Next Meeting

Next Meeting – June 12, 2024 at 4:00 pm at Municipal Center, Building 19, Rms A/B/C

Adjourn



Independent Citizen Review Board Minutes

Saturday April 6, 2024 | 2:00 PM

Business Meeting

Oceanfront Area Library

700 Virginia Beach Boulevard, Virginia Beach, VA 23451

The Independent Citizen Review Board (ICRB) held a business meeting on Saturday, April 6, 2024, at 2:00 p.m., at the Oceanfront Area Library, 700 Virginia Beach Boulevard, Virginia Beach, Virginia.

MEMBERS PRESENT:

Corinna Craver, Paullette Diaz-Reed, Latonya Ferguson, Charles Frost, Joe Jackson, James Leach, Michael Kelly, Thomas Lewis, Annabelle Paffrath and Kelvin Wright (non-voting member).

MEMBERS ABSENT:

Kristine PJ Caalim and Valerie Grissom were excused

CITY STAFF PRESENT:

Melissa Zibutis and Valerie Matney from the City Manager's Office, and Roderick Ingram, Deputy City Attorney, supported the meeting.

CALL TO ORDER:

Chair Lewis called the meeting to order at 2:00 pm.

Chair Lewis welcomed the guests, staff, and members of the Board thanking everyone for taking time out of their schedules to attend.

APPROVAL OF MINUTES:

Board Member Ferguson made a motion to approve the March 14, 2024 meeting minutes.

Board Member Craver seconded the motion. The vote was (8-0-1) with Members Craver, Diaz-Reed, Ferguson, Frost, Jackson, Leach, Lewis, and Paffrath voting in favor, and Member Kelly abstaining (because he did not attend the March 14, 2024 meeting).

OLD BUSINESS:

Community Outreach

Chair Lewis noted that the Board would finalize community outreach plans at the April 17th meeting.

The ICRB Liaison provided proposed dates and locations for April/May community outreach meetings: Saturday, April 20 or Friday April 26 in the Pungo area; Saturday, May 11 or Monday, May 20 at New Jerusalem Church; and Friday, May 24 - Philippine Cultural Center. The proposed dates and locations will also be emailed to the Board Members.

NEW BUSINESS:

Town Hall Debrief

The Board Members discussed feedback after the last Town Hall meeting and decided that each member would introduce themselves.

First Hearing Debrief

The Board Members surfaced key items from the first hearing for discussion with Deputy City Attorney Rod Ingram.

FOIA & Complainant Privacy Considerations

Deputy City Attorney Ingram addressed concerns from the public and Board Members regarding maintaining privacy for the Complainant. He outlined the legal requirements for public disclosure of meeting and hearing documentation. The Board and City staff are working to balance transparency with privacy concerns.

Deputy City Attorney Ingram further indicated that documents provided to the Board by the ICRB Liaison for public meetings must be available for public inspection. The documents are not necessarily required to be posted on the ICRB website but must be available for public inspection in accordance with FOIA requirements. The ICRB Liaison maintains the Board's documents and makes public documents available for inspection in her office and at Board meetings.

The Chair summarized the concerns discussed to ensure that all Board Members were clear on privacy, FOIA laws, Garrity protections, and an understanding the Board is privy to information that may not be shared in a public forum.

The Chair indicated the City Manager would be available to discuss the ICRB Liaison's role and hearing processes and the Board could further discuss policies and procedures as at the April 17th meeting.

Officers Present at the Hearing

During the first hearing, Board Members asked about requesting the presence of the officer as the subject of the complaint and the Internal Affairs investigator.

Deputy City Attorney Ingram explained public disclosure protections for police officers compelled by the terms of their employment to provide testimony in Internal Affairs investigations. He further explained that under *Garrity v. New Jersey*, 385 U.S. 493 (1967), Board Members may not reference or quote a statement from the Internal Affairs file but may ask the Internal Affairs investigator about whether the officer was asked certain questions in the interview about the subject complaint. He directed the Board to page 9 of the Board's policy referencing *Garrity v. New Jersey*.

Dr. Lewis summarized Deputy City Attorney Ingram's comments by reiterating that members can ask for the IA investigator or officer to attend, but the officer who is part of the complaint may invoke Garrity protections and cannot be compelled to provide testimony.

Board Initiatives Review Request and Formal Vote

The Chair reminded the Board about email communication received from Mr. Wayne Lynch, Donovan Lynch's father. Mr. Lynch recently confirmed no civil or criminal litigation was pending and asked the Board to consider a review of the Internal Affairs investigation.

The Chair outlined the Board's request for review and self-initiation processes. Prior to a vote for a self-initiated review of the Lynch investigation, the Chair asked the Board to set a lookback date for reviews of completed Internal Affairs investigations.

Deputy City Attorney Ingram stated that City Council adopted the ordinance to establish the Board on November 16, 2021. He recommended that reviews of completed Internal Affairs investigations should not occur prior to that date. He also noted a scenario in which a citizen could file an Internal Affairs complaint about an incident prior to November 16, 2021, but the investigation was not complete until after that date.

Board Member Kelly asked about Board-mandated reviews and Deputy City Attorney Ingram provided Board policy about "Other Mandated Reviews". Board Member Kelly indicated that a vote to establish the lookback date should wait until a list of Board-mandated reviews was obtained by the ICRB Liaison.

The Chair stated although the Lynch investigation was completed after November 16, 2021, the Board still needed to set a lookback date for self-initiated reviews.

Vice Chair Leach made a motion that the Board would review completed Internal Affairs investigations after November 16, 2021. Board Member Ferguson seconded the motion. The motion carried 9-0.

The Chair noted that Deputy City Attorney Rod Ingram could not provide advice regarding the Lynch review due to a conflict.

Deputy City Attorney Ingram stated there is a Request for Proposals for outside counsel for open through mid-May for the Board's review of the Lynch investigation.

Board Member Diaz-Reed made a motion for the Board to review the Lynch investigation. Board Member Jackson seconded the motion. The motion carried 9-0.

The Board's review of the Lynch investigation will be on hold until outside counsel is hired.

Board Member Kelley asked for the definition of "serious injury" and the ICRB Liaison provided the City Ordinance definition and indicated the Police Department policy also contained a definition of "serious physical injury". Both definitions will be emailed to the Board Members.

ICRB LIAISON UPDATE:

The ICRB Liaison reported seven letters carried over from IRP and seven new letters for completed Internal Affairs investigations since February 1, 2024.

The April 17, 2024 meeting location is Building 19. The ICRB Liaison is looking into having microphones and speakers available for hearings from input provided to the Board by Council Member Wooten.

The City Manager will be first on the agenda next meeting to discuss the Board Liaison role and the hearing recommendations process.

ADJOURNMENT:

With no further business, Vice Chair Leach moved to adjourn the meeting. Board Member Ferguson seconded the motion. All were in favor. (9-0)

The meeting adjourned at 2:55 pm.

Valerie Matney, ICRB Liaison

Melissa Zibutis, ICRB Staff Liaison

Dr. Thomas F. Lewis, Jr., ICRB Chair



Independent Citizen Review Board Minutes

Saturday April 6, 2024 | 3:00 PM

Town Hall

Oceanfront Area Library

700 Virginia Beach Boulevard, Virginia Beach, VA 23451

The Independent Citizen Review Board (ICRB) held a Town Hall meeting on Saturday, April 6, 2024, at 3:00 p.m., at the Oceanfront Area Library, 700 Virginia Beach Boulevard, Virginia Beach, Virginia.

MEMBERS PRESENT:

Corinna Craver, Paullette Diaz-Reed, Latonya Ferguson, Charles Frost, Joe Jackson, Michael Kelly, James Leach, Thomas Lewis, Annabelle Paffrath and Kelvin Wright ([non-voting member](#)).

MEMBERS ABSENT:

Kristine PJ Caalim and Valerie Grissom were excused.

CITY STAFF PRESENT:

Chief Paul Neudigate, Virginia Beach Police Department

Melissa Zibutis and Valerie Matney from the City Manager's Office, and Roderick Ingram, Deputy City Attorney, supported the meeting.

CALL TO ORDER:

Chair Lewis called the meeting to order at 3:05 pm.

Chair Lewis welcomed the guests, staff, and members of the ICRB thanking everyone for taking time out of their schedules to attend.

Chair Lewis introduced Virginia Beach Police Chief Paul Neudigate.

Chief Neudigate gave additional background on his position, the Virginia Beach Police Department, and the evolution of police oversight. He discussed the opportunity for improvement as a benefit of the ICRB's oversight responsibilities.

Chair Lewis and each Board Member introduced themselves and shared their background information followed by a presentation about the purpose and composition of the ICRB.

Chair Lewis and Board Members also provided answers to questions from meeting attendees about the ICRB. Chief Neudigate also addressed attendees' questions.

At the conclusion of the presentation and questions, Chair Lewis invited the group to join the Board Members for pastries. Member Diaz-Reed generously donated the pastries for the meeting.

No votes were taken.

ADJOURNMENT:

The meeting presentation adjourned at 4:03 pm. After which the attendees joined the Board Members for pastries and the meeting adjourned at 4:30 pm.

Valerie Matney, ICRB Liaison

Melissa Zibutis, ICRB Staff Liaison

Dr. Thomas F. Lewis, Jr., ICRB Chair



Independent Citizen Review Board Minutes

Wednesday, April 17, 2024 | 4:00 PM
Municipal Center | Building 19
2416 Courthouse Drive, Virginia Beach, VA 23456
Rooms A/B

The regular meeting of the Independent Citizen Review Board (ICRB) was held on Wednesday, April 17, 2024, at 4:00 pm, in Building 19, Rooms A/B at the Municipal Center.

MEMBERS PRESENT:

PJ Caalim, Corinna Craver Paulette Diaz-Reed, Latonya Ferguson, Charles Frost, Valerie Grissom, Joe Jackson, Michael Kelly, James Leach, Thomas Lewis, Annabelle Paffrath and Kelvin Wright (*non-voting member*).

MEMBERS ABSENT:

N/A

CITY STAFF PRESENT:

City Manager Patrick A. Duhaney, Valerie Matney and Devyn Granby (City Manager's Office), and Roderick Ingram (Deputy City Attorney), supported the meeting.

CALL TO ORDER:

Chair Lewis called the meeting to order at 4:00 pm.

Chair Lewis welcomed the group and acknowledged City Manager Patrick Duhaney for his time and attendance at the meeting. The Chair also acknowledged members of the public and Virginia Beach Police Department staff in attendance at the meeting.

Ms. Matney announced an addition to the meeting agenda for the draft 2024 First Quarter Report provided to the Board and made available for public inspection.

APPROVAL OF MINUTES:

Vice Chair Leach made a motion to approve the March 20, 2024, meeting minutes. Board member Ferguson seconded the motion. The vote was unanimously agreed upon with all in favor. (10-0)

PATRICK A. DUHANEY, CITY MANAGER:

Mr. Duhaney explained the City Manager's authority granted by City Council and his responsibility for all City Departments and City staff including staff providing support to City boards and commissions.

Mr. Duhaney outlined the Board Liaison's role to facilitate the independent review process through communication with the Police Department or other City departments and to provide resources towards City Council's intent for the Board. He will direct the Board Liaison to perform all of the duties set forth in the ICRB Policy and Procedures to fulfill City Council's

intent for the Board. He further explained It was not his place or intent to muzzle the Board in any way.

Mr. Duhaney addressed hearing, findings and recommendations processes. The overall process is 5 business days for the Board Liaison to submit the hearing report to the City Manager and Police Department and 15 business days for the Police Department to respond to the City Manager. The City Manager and Police Department are not required to accept the Board's recommendations, but they are obligated to respond to the Board with the response is publicly available. Concerns about the City Manager's or Police Department's response may be discussed as a Board meeting agenda item.

Mr. Duhaney expressed his appreciation and thanked the Board Members for their service to the City. He acknowledged the difficult positions and conversations the Board may experience as well as the learning process for all involved towards the Board's success.

OLD BUSINESS:

Board Self-Initiated Review and Lookback Date

At the April 6, 2024 meeting, the Board established November 16, 2021, as the lookback date for self-initiated reviews and self-initiated a review of the Donovan Lynch Internal Affairs investigation. A request for proposals from outside counsel closes on May 15, 2024.

The Board Members discussed determining the number of Board-mandated investigation reviews of serious injuries or deaths as a result of police action and prioritizing reviews. The Chair acknowledged Deputy Chief Wilkerson and Captain Wyatt who indicated approximately two to five deaths or serious injury investigations since the lookback date and that investigations prior to December 2022 were generally on paper. The Board tabled prioritizing reviews until a future meeting.

Board Member Frost made a motion to clarify the lookback date for all Board reviews to be November 16, 2021. Board Member Kelly seconded the motion. All in favor (10-0). Ms. Matney will compile a list of deaths or serious injury investigations since that date.

Town Hall & Community Group Meetings

The Board Members discussed Town Hall community meetings for the entire Board to attend given resources, time and attendance. The Board met the goal of scheduling three Town Hall meetings and will discuss spacing out Town Hall meetings through the end of the year. Board Member Jackson indicated he would not be able to attend on May 20, 2024.

Board Member Craver made a motion for the next Town Hall Meeting to be May 20, 2024 at New Jerusalem from 6:30-7:30 pm. Board Member Frost seconded the motion. All were in favor (10-0).

NEW BUSINESS:

Town Hall Meetings Debrief

The Board Members discussed number of attendees, a "please come in" sign, improvements to presentation slides, as well as positive feedback regarding participant questions and individual Board member introductions for Town Hall meetings.

Board Member Paffrath arrived at 5:10 pm.

Policy/Procedural Update Considerations

The Board Members discussed adding rules to Board policy about officers and investigators being present at hearings given previous advice from the City Attorney's Office about Garrity statements involving officer testimony provided in Internal Affairs investigations.

Board Member Ferguson made a motion to require the investigator(s) who conducted the Internal Affairs investigation to be present at all hearings, seconded by Joe Jackson. Additional Board Member discussion about the motion ensued along with Police Department comments as acknowledged by the Chair. The motion passed (9-2) with Lewis, Leach, Caalim, Ferguson, Diaz-Reed, Jackson, Kelly, Craver and Paffrath in favor. Frost and Grissom were opposed.

Additional privacy and sunshine laws and requests for speakers were tabled until a future meeting.

The Chair requested Board Members to look at their summer calendars for training purposes and to email the Board Liaison with vacation dates and any agenda items for the May 15th meeting.

Ms. Matney indicated approximately eight hours of Board Member refresher training as established by the City Manager, Police Chief and City Attorney. City Attorney Rod Ingram provided confirmation of Board policy on required refresher training and ride-alongs.

ICRB LIAISON UPDATE:

Ms. Matney expressed appreciation to the Board for their volunteer service in advance of Volunteer Week.

NEXT MEETINGS:

The May 15, 2024, ICRB Meeting will take place in Rooms 1009/1010 or Room 2034 at the Municipal Center, City Hall, Building 1. The meeting will begin at 4:00 p.m.

The May 20, 2024, Town Hall Meeting will take place at New Jerusalem. The meeting will begin at 6:30 p.m.

ADJOURNMENT:

There being no further business, Board Member Kelly made a motion to adjourn the meeting, and all were in favor. (11-0) The meeting adjourned at 5:53 p.m.

Valerie Matney, ICRB Staff Liaison

Dr. Thomas F. Lewis, Jr., ICRB Chair



City of Virginia Beach

VBgov.com

DEPARTMENT OF POLICE
OFFICE OF THE CHIEF OF POLICE
(757) 385-4841

MUNICIPAL CENTER
BUILDING 11
2504 COURTHOUSE DR.
VIRGINIA BEACH, VA 23456

DATE: April 16, 2024

TO: Patrick Duhaney, City Manager

FROM: Paul W. Neudigate, Police Chief

PWN

SUBJECT: Independent Citizens Review Board Recommendations Response

I am in receipt of the ICRB's recommendations, dated March 27, 2024, and I thank them for the time and effort they've dedicated to providing this feedback. After much consideration and discussion amongst numerous department stakeholders, the following responses are submitted for your review:

Board Recommendation:

Revise policy/procedure for active warrants from Commonwealth of Virginia localities outside of the City to be entered into NCIC to enable Precinct-level verification of active warrant searches. The NCIC check should be performed for any individual requesting his/her own active warrant(s) status and for warrant service by officers to be timely and accurate. This would help to avoid delays, confusion and employment-related notification issues for individuals desiring to turn themselves in as well as for warrant service to be timely and accurately effectuated by the Police Department.

The Federal Bureau of Investigation (FBI) maintains and sets policy for the entry of warrants and other criminal information into the National Crime Information Center (NCIC). In Virginia, the Virginia Criminal Information Network (VCIN) serves as the statewide interface to NCIC, and all policies pertaining to its use are dictated by the Virginia State Police (VSP). The VBPD has no authority to enact change regarding NCIC/VCIN protocols or how warrants outside of Virginia Beach are entered into the system.

As a direct response to the confusion and frustration we learned about in this case, we followed up with the VSP to confirm that our civilian Precinct Desk Officers are authorized to conduct national warrant searches through VCIN – they are. We are not sure if this occurred in this case. Consequently, we are in the process of amending the appropriate General Order to reflect that future searches will include local, regional, and national warrant returns.

Board Recommendation:

Provide educational training opportunities on implicit bias and professionalism in citizen interactions conducted over the phone and/or in written form. Written communication in reports using certain verbiage such as references to “this Complainant name” could be viewed as and/or tend toward demonstrating bias in the investigation. Citizens should be informed when telephone interviews are recorded to demonstrate professionalism. Education and training in these areas will benefit the Police Department and the citizens in reducing bias and increasing professionalism in their interactions.

The VBPD is committed to fostering trust and understanding our community, and one way we’ve demonstrated that commitment is through implicit bias training.

In late 2021, the Department hosted a refresher course on Fair and Impartial Policing for the entire sworn workforce. The course was divided into three groups of instruction: officers, supervisors, and executive staff. The course provided to executive staff also included participation from local community leaders to help gain an understanding of areas of concern, opportunity, and learning from multiple perspectives. In October 2023, a separate refresher on biased-based policing was delivered to the sworn workforce. In addition, all new sworn officers receive two days of instruction in Fair and Impartial Policing during the Basic Recruit Academy.

The professionals and subject matter experts in our Internal Affairs Unit have expressed several concerns regarding instituting a blanket policy of informing complainants that interviews are being recorded. An absolute policy that does not allow for investigative discretion may hamper their ability to obtain information that will assist them in conducting a complete, comprehensive, and factual investigations. The Department will need to research and assess this further, to include conferring with the Major Cities Chiefs Association, the Virginia Association of Chiefs of Police, the Police Executive Research Forum, and other similar organizations to determine if this is a best practice that will be beneficial to the community.

Board Recommendation:

Revise the Memorandum of Understanding (MOU) with military base installations to better identify the individual position/role for notification of active warrants on civilian employees or military members. Such MOU clarification would provide a more direct route for warrant service on civilian employees or military members and limit disclosure of active warrants to authorized positions/roles.

The Police Department will discuss this issue with the U.S. Navy to see if this is an area they wish to consider when the current MOU is up for renewal. In the interim, the Police Department will contact the military installations within Virginia Beach to ascertain if they have a preferred point of contact for warrant service where practical.

Provide written explanation of the reasons complaint allegations investigated were determined to be “unfounded” in disposition letters sent to complainants. This will provide an increased level of procedural justice to citizens and additional transparency in policing.

The Police Department is currently reviewing our complaint closure letters and the use of the following notifications: Unfounded, Exonerated, Not Sustained, and Sustained, to see if there is a way to make the notifications clearer for the recipients. We understand the community may not understand the definition of what each finding entails.

However, the ability to provide a written explanation of the reasons for the findings of a complaint investigation would present a challenge for the investigators. To provide enough material for a complainant to understand the rationale for a finding, would necessitate including pertinent facts from the completed investigative report, which is an administrative personnel document not subject to public records release.

That is why, if a complainant desires further information, the response letter provides contact information for the affected deputy chief who can discuss the issue and provide the requested clarification. If that is not satisfactory, the complainant can request the Independent Citizens Review Board review the finding which provides the additional level of procedural justice and transparency desired.

PWN