

Citizen Review Board
Panel Hearing Policies and Procedures
Revised and Updated June 2014

The purpose of the CRB hearing is to provide a safe forum in which complainants, police officers, and witnesses can offer their account of the incident which resulted in a complaint being filed and to give the board the opportunity to pose questions to the involved parties. The hearing is designed to promote fairness and trust in the CRB process.

1. A three-member Hearing Panel rotation shall be established by the full Board to hear each case that the Board has voted to move to a panel hearing. Each panel shall be composed of one mayoral appointee, one council at-large appointee, and one council district appointee. Each panel shall select its own Chairperson.
2. Appearance at the hearing shall be optional for complainants, witnesses, and subject officers. However, the board strongly recommends that all parties take part in the panel hearing.
3. Testimony at the hearing can be offered by complainants, officers, or witnesses to supplement or correct any prior statements.
4. Statements made by complainants, officers, or witnesses are subject to the panel's determinations of weight and credibility. Participation or lack of participation in the hearing process may be considered by the Board as one factor in their determination of credibility.
5. Although no participants in the hearing shall be sworn in under oath or affirmation, all participants in the hearing will agree to tell the truth to the best of their recollection. Before testifying, every witness shall be required to declare that he or she will testify truthfully.
6. The Board, by majority vote of its members, may authorize the issuance of a subpoena to compel the attendance of complainants, witnesses, or officers as well as to require the production of such records or other materials as are necessary for the hearing of a complaint including records of the SPD, other persons, or other agencies.
7. Panel hearings shall not be open to the public.
8. Panel hearings shall not be recorded verbatim by any means or method.
9. Panel hearings shall follow the substantial evidence standard of proof.
10. Both complainants and officers subject to a hearing shall have the right to obtain counsel and to cross examine witnesses. For the purposes of a CRB hearing, a witness shall be defined as anyone who offers testimony at the hearing. Complainants may represent themselves, retain counsel to represent them, or use legal assistance options in the

community. Cross-examination of any witness shall be limited to approximately 15 minutes but may be abbreviated or extended at the discretion of the panel chair. If there are multiple complainants or officers participating in the hearing, every complainant and officer (or their legal counsel) will be allowed to cross-examine any witness for approximately 15 minutes per witness, which may be abbreviated or extended at the discretion of the panel chair.

Questions posed during cross-examinations shall be limited in scope and must be directly relevant to the case. Individuals conducting the cross-examinations shall not be allowed to intimidate or have the effect of intimidating a witness. Questions allowed during cross-examinations shall be limited to the following criteria:

- a. to clarify facts presented under direct testimony
- b. to identify contradictory testimony that speaks to a witness' credibility
- c. to identify circumstances which may have interfered with a witness' ability to observe the incident
- d. to assess the mental or physical state of the witness at the time of observation

Objections during the course of questioning by cross-examiners shall not be allowed. The panel chair shall not allow any questioning of witnesses that violates the principles specified in the hearing policies and procedures.

Reference to a complainant's criminal record or an officer's complaint or disciplinary record may be noted and may be considered by the panel. However, no questions relating to a complainant or officer's past record shall be allowed during cross-examination.

11. Prior to the commencement of the hearing, the panel members shall receive a copy of the administrator's investigative report as well as a copy of the entire case file.
12. The hearing shall proceed as follows:
 - a. The chair of the panel shall convene the hearing.
 - b. All panel members, the CRB administrator, and any complainants, witnesses, or officers present shall be introduced by name and identified as complainant, witness, or subject officer.
 - c. The complainant, if present, shall be offered the first opportunity to testify. The complainant(s) shall provide a description of the events that are the basis of the complaint. At the conclusion of the complainant's testimony, the officer or the officer's legal counsel may cross-examine the complainant(s) within the limits specified in paragraph #10 above. Members of the hearing panel may then pose questions to the complainant(s) at the conclusion of the cross-examination.

- d. Any subject officer, if present, shall be the next individual to testify. The officer shall provide a description of the events that are the basis of the complaint. At the conclusion of the officer's testimony, the complainant or the complainant's legal counsel may cross-examine the officer(s) within the limits specified in paragraph #10 above. Members of the hearing panel may then pose questions to the officer(s) at the conclusion of the cross-examination.
 - e. Any third party witness(es), if present, shall be the next individuals to testify. The witness(es) shall share with the panel any and all knowledge that they possess relevant to the complaint that is currently before the panel. At the conclusion of the witness' testimony, the complainant or the complainant's legal counsel may cross-examine the witness within the limits specified in paragraph #10 above. The subject officer or the subject officer's legal counsel may then cross-examine the witness within the limits specified in paragraph #10 above. Members of the hearing panel may pose questions to the witness(es) at the conclusion of the cross-examinations. Third party witnesses shall be in the hearing room only when they are testifying, being cross-examined, or being questioned by the panel.
 - f. The panel chairperson shall function as the hearing administrator during panel hearings. The role of the hearing administrator will be to resolve any procedural points of contention that arise during the hearing by fairly and impartially enforcing the CRB's hearing policies and procedures.
 - g. The hearing panel shall exclude the complainant(s), officer(s), or witness(es) from the proceeding when the panel receives and considers evidence involving confidential matters that are unrelated to the allegations in the complaint.
 - h. After all witnesses have testified and been cross-examined, the officer or the officer's legal counsel shall have the opportunity to make a closing statement in which any objections or rebuttals to prior testimony may be cited. Next, the complainant or the complainant's legal counsel shall have the opportunity to make a closing statement in which any objections or rebuttals to prior testimony may be cited.
 - i. The hearing shall then conclude and the panel members shall convene in private to deliberate.
13. Decisions of the panel shall be made by majority vote. Deliberations of the panel shall be confidential and confined to the panel members assigned to that particular hearing, and their legal advisors. The decision shall include findings of fact and may include recommendations for discipline.
14. If the panel finds that the officer may have engaged in criminal conduct, it may refer the matter to the district attorney and request that he/she initiate an investigation.

15. After hearing the testimony of all involved parties and reviewing all the available evidence, the panel shall state a finding of one of the following:
 - a. **Unfounded:** the investigation indicates the alleged act did not occur.
 - b. **Exonerated:** the investigation indicates the act occurred but that the act did not constitute misconduct.
 - c. **Insufficient Evidence:** the investigation discloses insufficient evidence to clearly prove or disprove the allegation.
 - d. **Sustained:** the investigation indicates that the act did occur and constitutes misconduct.
16. If a panel finds that misconduct has occurred the CRB Administrator shall notify the Chief of Police, the officer(s) who were the subject(s) of the complaint, and the complainant, in writing within one (1) business day of the panel's findings and recommendations, by verifiable means. Such recommendations may include disciplinary sanctions including but not limited to counseling, reprimand, suspension, retraining, demotion or dismissal. The panel may also recommend that restitution be paid to the complainant by the city for damage to real or personal property, costs related to medical or mental health treatment, or other losses causally related to the incident.
17. The panel shall report its findings in mandated reporting periods in accordance with Section Seven, Subsection 2, paragraph (d) of local law 11 of 1993 as amended.

The actions of the Board do not preclude action by the judicial system. A finding or decision by the Board shall not have any collateral effect upon a subsequent administrative or judicial proceeding.