

PRRP Ad Hoc Committee Meeting

January 14, 2021 Agenda

5:15 p.m.

1. Report from Chief DiRuzza
2. Survey Discussion
3. Board of Trustees Meeting Schedule in January, February, and March 2021
4. Subcommittee Final Recommendations to BOT
  - a. Training
  - b. Policy/Accreditation
  - c. Community
  - d. Crime Prevention
  - e. Civilian Oversight
5. Final Closing Items

**From:** "Thomas A. Murphy" <tmurphy@vomny.org>

**Date:** January 12, 2021 at 9:31:40 PM EST

**To:** Police Reform and Reinvention Committee <prrc@vomny.org>, Mayor and Board <MayorandBoard@vomny.org>, Robert Spolzino <RSpolzino@abramslaw.com>, Daniel Sarnoff <dsarnoff@vomny.org>

**Subject: Ossining Village Civilian Police Complaint Review Board.pdf**

Dear Colleagues,

The PRRC has discussed a civilian complaint review process in one form or another since our first meeting. I have been giving this some thought and have some concerns but I believe that it is a worthy discussion and issue to explore. Building trust and cooperation between the police and the community is the main goal of the exercise in which we are currently engaged.

Citizens should feel like their complaints/concerns will be taken seriously and looked at in an objective fashion. I think objective residents can have a constructive role to play. (I am no way casting any doubt on past investigations) Perception is reality in public life. We have to create an atmosphere where residents feel safe to voice complaints or concerns, whether those concerns are founded or unfounded. I believe this process, if done carefully and correctly, can benefit both the residents and the police department.

To further the discussion I have attached a law that Ossining passed around the turn of the century creating their own CCRB. I don't necessarily mean this as a template for Mamaroneck, should the PRRC recommend and the Board of Trustees approve such a policy, but as food for thought. Ossining resembles Mamaroneck in a lot of ways. It is a Westchester County village with a Village Manager form of government. It has roughly the same population. It has a large immigrant community. Please look over the law before Thursday.

I have been impressed with the hard work and dedication that each and every one of you have given to this difficult but important task. I have learned much by listening to the discussions. Even the sometimes spirited debate. Let's work together, remembering that we are all neighbors, to finish the task in front of us and then continue on the road of open and frank dialogue that can move our community forward.

Respectfully,

Tom Murphy

Mayor, Village of Mamaroneck

## **Chapter 8**

### **CIVILIAN POLICE COMPLAINT REVIEW BOARD**

#### **GENERAL REFERENCES**

**Police    Community    Relations    Advisory    Police Department — See Ch. 40.  
Council — See Ch. 37.**

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#### **§ 8-1. Legislative intent.**

- A. Civilian involvement in the review of police practices has been spreading rapidly throughout the United States, as well as several countries overseas. Although a complaint process that is a strictly internal system within the Police Department may be expedient, it can leave community concerns about the effectiveness and integrity of investigations unanswered. The Board of Trustees has determined that in order to provide for civilian participation in the complaint review process it is in the best interest of the Village of Ossining to establish a Civilian Police Complaint Review Board and promulgate policies, procedures, rules and regulations for the operation thereof. This chapter is adopted in order to promote public confidence in the ability of the Village of Ossining to provide a governmental structure to fairly investigate, review and dispose of civilian complaints made against its police officers, giving due regard for the rights and interests of both the civilians and police officers involved. The Civilian Police Complaint Review Board is one step in building a partnership between the police and the community based on trust and mutual respect.
- B. Nothing contained herein shall in any way limit the ability of the Village Board to amend or repeal this manual or the local law creating the Civilian Police Complaint Review Board.

#### **§ 8-2. Civilian Police Complaint Review Board established.**

Pursuant to the powers and authority granted under § 5711-q of the Unconsolidated Laws of the State of New York and § 10 of the Municipal Home Rule Law of the State of New York, there is hereby established in and for the Village of Ossining a Civilian Police Complaint Review Board (hereinafter designated as the "CPCRB") to provide for civilian participation in the review of complaints made against Village of Ossining police officers in accordance with the policies, procedures, rules and regulations hereafter set forth.

#### **§ 8-3. Purpose.**

- A. The Board of Trustees of the Village has created a Civilian Police Complaint Review Board comprised of members who will conduct the

business of the Civilian Police Complaint Review Board in a comprehensive, fair and impartial manner.

- B. The mission of the Civilian Police Complaint Review Board is to conduct a complete review of Police Department investigations of complaints filed against police officers.
- C. The policies and procedures set forth in this manual have been created to provide an impartial, prompt and independent review of the internal investigations of the Police Department in a manner which protects the rights of all concerned.
- D. Members of the public are encouraged to bring forward legitimate complaints of alleged abuses or improper conduct by filing a written complaint.
- E. The CPCRB shall conduct a complete and independent review of the Police Department's investigation of every complaint.
- F. The CPCRB will advise the Chief whether or not, in its opinion, a complaint should be deemed either substantiated or unsubstantiated or unfounded.
- G. Prior to any final determination by the Chief regarding possible disciplinary action, such advice shall include, but not be limited to, whether or not to forward the complaint to the Village Board, acting as police commissioners, for a trial on the charges.
- H. The CPCRB may issue written reports and recommendations, at its discretion, to the Chief of Police and the Village Board regarding the policies and procedures of the Police Department, based on the CPCRB's review of civilian complaints.
- I. Nothing contained herein shall be construed as precluding the Chief from performing necessary functions in a timely manner.
- J. All CPCRB members shall become familiar with the policies and procedures described in this manual and shall be responsible for strictly complying with them.

#### **§ 8-4. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ALTERNATE MEMBER** — An appointed member of the CPCRB who serves when a member from the same selection category is unavailable to review a case based on a conflict of interest. Alternate members will undergo the same training described herein as other CPCRB members.

**CHAIR** — A civilian member of the CPCRB elected by a majority vote of the CPCRB members to chair the CPCRB. The Chair, with the assistance of the

Vice-Chair, is responsible for enforcement of all the policies and procedures set forth in this manual.

CHIEF OF POLICE — The chief executive officer of the Village of Ossining Police Department. The Chief of Police shall not be a member of the CPCRB.

COMPLAINANT — The person making a complaint or allegation regarding the conduct of police personnel.

COMPLAINT — A written allegation, signed by the complainant, regarding the conduct of police personnel. The form of complaint shall contain the notice pursuant to the Penal Law § 210.45: "It is a crime punishable as a Class A misdemeanor to knowingly make a false statement herein."

FINDING — The outcome of the CPCRB's review of the Police Department's investigation and its determination as to whether or not a complaint is either substantiated or unsubstantiated or unfounded.

MEMBER — An appointed member of the CPCRB.

POLICE PERSONNEL — Includes sworn police officers and members of the auxiliary police of the Village of Ossining.

SUBSTANTIATED — The CPCRB has determined, upon review of the investigation, that sufficient evidence exists to support the allegations of the complaint.

UNFOUNDED — There is no objective evidence to support the allegations of the complaint.

UNSUBSTANTIATED — The CPCRB has determined, upon its review, that the investigation failed to disclose sufficient evidence to support the allegations in the complaint.

VICE-CHAIR — An individual appointed by a majority vote of the full CPCRB to assist the Chair, and fulfill the Chair's functions when required. The Vice-Chair, along with the Chair, is responsible for enforcement of all policies and procedures set forth in this manual.

VILLAGE — The Village of Ossining.

VILLAGE BOARD — The Board of Trustees of the Village of Ossining. The members of the Village Board also serve as the Village police commissioners, pursuant to New York Unconsolidated Laws § 5711-q.

### **§ 8-5. Selection and appointment.**

A. Membership. The CPCRB shall consist of seven members appointed by the Village Board and selected in a manner to ensure diverse and representative participation for the entire community of the Village:

- (1) Five civilian members shall be selected by the Board of Trustees who may consider any eligible resident of the Village meeting the criteria specified in § 8-5C. **[Amended 8-5-2003 by L.L. No. 4-2003; 12-20-2017 by L.L. No. 9-2017]**

- (2) Two members shall be appointed from nominees selected by the Chief of Police from the personnel of the Village's Police Department. One police representative shall be a line officer, the other a senior officer.
  - (3) In addition to the seven members, an alternate member shall be appointed from the two selection categories. Alternates will serve on the CPRB only when a member is absent or unable to participate due to a conflict of interest. **[Amended 8-5-2003 by L.L. No. 4-2003; 12-20-2017 by L.L. No. 9-2017<sup>1</sup>]**
- B. Responsibilities of the Chair. One civilian member will be selected by a majority vote of the CPRB to serve as Chair. The Chair will be responsible for the enforcement of all policies and procedures contained in the CPRB manual, including, but not limited to, scheduling and presiding over meetings; training; communications with the Chief; and confidentiality, including securing any written documents generated by the CPRB and its members and ensuring that only CPRB members are in attendance prior to commencement of a meeting.
- C. Criteria for members and alternate members of the CPRB.
- (1) Qualifications.
    - (a) Civilian members must be residents of the Village of Ossining.
    - (b) Police members must be employed full-time by the Village of Ossining Police Department.
    - (c) Members and alternate members must agree to a fingerprint check for the purpose of determining the existence of any criminal convictions. [See Subsection B(2)(a) below.]
    - (d) Members and alternate members must sign a confidentiality oath.
    - (e) Members and alternate members must comply with all training requirements.
    - (f) Members and alternate members must be 18 years of age old or older.
  - (2) Disqualifications. Members and alternate members:
    - (a) Must not have any criminal convictions.
    - (b) Must not be an elected official of the Village or Town of Ossining or the Ossining Union Free School District.

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1. Editor's Note: This local law also repealed former Subsection A(3), which provided for the selection of two additional members by the Village Board.

- (c) Must not be a member of the Police Community Relations Council on the date of appointment to the CPCRB.

D. Terms of appointment.

- (1) Members of the CPCRB shall be appointed for two-year terms beginning from the date of appointment. A member may be appointed to a maximum of four consecutive terms (eight years). If the member has served for four consecutive terms, the member must be off the CPCRB for one year before applying for appointment to the CPCRB. **[Amended 8-5-2003 by L.L. No. 4-2003; 12-20-2017 by L.L. No. 9-2017]**
- (2) Members shall hold office until their successors are appointed.
- (3) Members shall serve without compensation.
- (4) If a member resigns or is dismissed, the alternate member from the appropriate selection category will be appointed by the Village Board to serve for the remainder of the term.
- (5) All members of the CPCRB shall be required to attend a minimum of 75% of the CPCRB meetings scheduled within a calendar year. Noncompliance with minimum requirements relating to attendance at CPCRB meetings shall be deemed a proper cause for removal by the Board of Trustees in addition to the grounds for dismissal set out in § 8-5E. **[Added 12-20-2017 by L.L. No. 9-2017]**
- (6) Notwithstanding the foregoing attendance requirements, the failure of a CPCRB member to attend the required percentage of meetings shall not affect the member's authority to consider and vote on applications to the CPCRB or the validity of such member's actions as a CPCRB member. No action of the CPCRB will be voided or declared invalid as a result of a member's failure to comply with the annual attendance requirement. **[Added 12-20-2017 by L.L. No. 9-2017]**

E. Grounds for dismissal.

- (1) Members of the CPCRB are appointed by the Village Board and may be removed by a vote of the Village Board of Trustees, following a hearing on the allegations, for failure to comply with the policies and procedures set forth herein, upon a recommendation by the Chair or Vice Chair and two additional CPCRB members.
- (2) A breach of the confidentiality of any information regarding an investigation under review by the CPCRB shall be grounds for dismissal by the Village Board, following a hearing on the allegations, and constitute a violation of local law that may subject the member to civil and/or criminal liability.

- (3) The breach of any of the criteria for membership listed in Subsection C above, subsequent to one's appointment to the CPCRB, shall be grounds for dismissal by the Village Board, following a hearing on the allegations.
- (4) Members of the CPCRB may also be removed for reasons other than listed above, for just cause, by a vote of the Village Board, upon a recommendation by the Chair or Vice Chair and two additional members and following a hearing on the allegations.

#### **§ 8-6. Training.**

- A. Training is a mandatory requirement for membership on the committee.
- B. A comprehensive training course will be provided to each committee member, and alternate members, prior to reviewing any cases.
- C. All members and alternate members will receive training, and a manual, that includes pertinent information, including, but not limited to:
  - (1) The Village Police Department's disciplinary process.
  - (2) The Village Police Department policies and procedures related to the investigation of complaints.
  - (3) New York Penal Law Article 35, Defense of Justification.
  - (4) Civil Service Law regarding the employment and selection process.
  - (5) Union contract disciplinary and grievance procedures.
  - (6) The recruitment and training process.
  - (7) Section 5711-q of New York's Unconsolidated Laws regarding special provisions for Village police departments.
  - (8) Section 50-a, Subdivision 1, of the New York Civil Rights Law regarding privacy rights.
  - (9) Selected sections of New York's Vehicle and Traffic Law, Penal Law and Criminal Procedure Law.
- D. The comprehensive training course all members will receive prior to reviewing any cases will include training on the proper procedures and techniques related to:
  - (1) The use of force.
  - (2) "Stop and frisk."
  - (3) Vehicle stops.
  - (4) Warrantless arrests.



- (5) Search and seizure.
  - (6) Relevant civil rights and constitutional law issues.
  - (7) Community police training.
  - (8) Human relations training, with particular focus on cultural diversity issues, such as those contained in the training models created by the National Organization of Black Law Enforcement Executives (NOBLE), the Police Executive Research Forum (PERF) and the Martin Luther King Institute for Non-Violence.
  - (9) Response to domestic violence complaints.
  - (10) Other issues related to civilian/police contacts deemed relevant by the Chair and Vice Chair, in consultation with the Chief.
  - (11) Noncompliance with the above-described training requirements shall be deemed a proper cause for removal from the CPCRB by the Board of Trustees in addition to the grounds detailed in § 8-5E.  
**[Added 12-20-2017 by L.L. No. 9-2017]**
- E. All CPCRB members will spend time in discussion with line officers and may also elect to accompany police officers on patrol, subject to prior approval by the Chief. The amount of time required for said discussions, and the number of occasions members will accompany police officers on patrol, shall be agreed upon by the Chair and Vice Chair of the CPCRB with the Chief.
  - F. All members will attend a community orientation session sponsored by the Council that will further educate members of the public on the role of the CPCRB and enable CPCRB members to hear differing perspectives regarding civilian/police interactions.
  - G. All members will receive training on legal issues related to allegations of police misconduct, including but not limited to, alleged criminal misconduct.
  - H. Upon request by the Chair, legal consultation or counsel will be provided to the CPCRB at the discretion of the Village Board of Trustees.
  - I. The Chairperson of the CPCRB shall notify the Village Manager in writing on or about December 1 in any year, or at any other time if so warranted, of any CPCRB member who fails to comply with the minimum requirements for meeting attendance and/or training in any calendar year. **[Added 12-20-2017 by L.L. No. 9-2017]**

#### **§ 8-7. Schedule of meetings.**

- A. The CPCRB will meet at least monthly, on a schedule determined by the Chair. A minimum of 24 hours' notice of meetings will be provided to all CPCRB members; provided, however, that emergency meetings may be

called by the Chair when required and that such minimum notice may be waived in the event that the Chair and a majority of the CPRB determine that an emergency exists and that such notice is not practical.

- B. In the absence of any complaints to review, the monthly meeting will be used for continuing education purposes.

#### **§ 8-8. Confidentiality.**

- A. The CPRB meetings will not be open to the public in order to protect the privacy and rights of both the complainant(s) and the police officer(s) who may be the subject of a complaint or allegation.
- B. Police Department documents related to the investigation of the complaint shall be reviewed by the CPRB, but no copies will be retained by Board members.
- C. Any documents related to the deliberations and recommendations of the CPRB, including notes of CPRB members, shall be collected and secured by the Chair and Vice Chair at the end of each meeting.
- D. Members of the CPRB shall not discuss complaint investigations with any nonmember, nor allow any nonmember to discuss any information relevant to a pending complaint with them.
- E. A violation of the confidentiality of the CPRB shall be grounds for dismissal by the Village Board and constitute a violation of local law that may subject the member to civil and/or criminal liability.
- F. Because members of the Village Board serve as police commissioners, and therefore would be required to conduct any disciplinary hearings arising out of complaints reviewed by the CPRB, Village Board members shall not attend meetings of the CPRB when investigations are under review.

#### **§ 8-9. Conflict of interest.**

- A. When a complaint before the CPRB for review presents an actual or potential conflict of interest for a Board member, as determined by the Board member or the Chair or Vice Chair and two additional Board members, the Board member shall be excused from the meeting and the alternate appointed to serve in his or her place. A conflict of interest occurs in instances that include, but are not limited to, those whereby a CPRB member is: the complainant; a witness to an incident that is the subject of a complaint; or an officer in an organization that has assumed an advocacy position in the specific incident under review.
- B. CPRB members are required to immediately disclose to the Chair any professional, personal or financial relationship with any complainant, witness or police officer involved in an incident under review by the CPRB that may be the basis for a conflict of interest.

**§ 8-10. Quorum. [Amended 8-5-2003 by L.L. No. 4-2003]**

In order for the CPCRB to conduct its affairs, five of the seven members must be in attendance. All actions taken by the Review Board shall require a majority of four votes.

**§ 8-11. Scope of review.****A. Review of complaints.**

- (1) Exceptions. The CPCRB shall review all written complaints, except:
  - (a) It shall not review cases during an ongoing criminal investigation against a police officer or complainant.
  - (b) It shall not review cases while criminal charges are pending.
  - (c) When a filed civil action is pending.
- (2) However, some cases in Subsection A(1)(a), (b) and (c) above may be reviewed by the CPCRB if the Chief has commenced an internal departmental investigation and/or review has been deemed appropriate by the Village Attorney.

**B. The CPCRB shall review all written complaints in the following manner:**

- (1) Complainants may submit a written complaint either directly to the CPCRB or the Police Department.
- (2) Complaints must be submitted within 90 days of the underlying incident.
- (3) The CPCRB shall enter all complaints it receives in a log prior to forwarding the complaint to the Chief of Police for commencement of the investigation.
- (4) The Chair shall forward any complaints submitted to the CPCRB to the Chief of Police no later than three business days after their submission.
- (5) The Chief of Police will advise the CPCRB Chair of all complaints received directly by the Police Department within three days of submission, and said complaint shall also be entered in the CPCRB log.
- (6) A complaint number shall be assigned to every logged complaint.
- (7) The CPCRB will review the log book entries at every monthly meeting to ensure that they are being investigated and reviewed in a timely manner.
- (8) The Chief and/or the Police Department investigator shall conduct the initial investigation of all personnel complaints in accordance

with the policies and general orders of the Village and the Police Department.

- (9) The Chief and/or the Police Department investigator shall present the results of the Department's investigation, including his recommendation for command discipline, if any, to the CPCRB, along with all supporting documents.
  - (10) The complete file of the Police Department investigation related solely to the complaint being investigated shall be presented to the CPCRB for its review.
  - (11) The CPCRB shall review the investigation conducted by the Police Department to determine if the investigation is sufficient.
  - (12) The CPCRB shall assess whether the conclusions reached by the investigator are consistent with the information gathered in the course of the investigation and whether the proposed command discipline, if any, is appropriate.
- C. In addition to reviewing all written complaints, the Chief will review with the CPCRB all unwritten and/or anonymous complaints regarding sworn police officers and members of the Police Auxiliary received by the Police Department, and their disposition.

#### **§ 8-12. Recommendations.**

- A. After a complete review of the Police Department investigation of a written complaint, the CPCRB shall confer and vote on whether to find the complaint or allegation either substantiated or unsubstantiated or unfounded.
- B. If the CPCRB believes further investigation is required, the Chair shall communicate the Board's recommendations regarding further investigation to the Chief.
- C. The Chief may either conduct the further investigation suggested by the CPCRB or advise the CPCRB no later than the next scheduled meeting that no additional investigation will be taking place. The Chief and the CPCRB shall act in a timely manner to ensure that a recommendation is made within the applicable statute of limitations.
- D. If the Chief declines to further investigate, the CPCRB may proceed to vote on a recommendation or decline to do so on grounds of insufficient investigation. In the event that the CPCRB declines to vote on grounds of insufficient investigation, the Village Board shall be so advised.
- E. Upon completion of any additional investigation requested by the Board, and the reporting of any additional information by the Chief and/or police investigator, the CPCRB shall reconsider the case for the purpose of issuing a final recommendation.

- F. The CPCRB shall issue a recommendation to the Chief within 30 days of the presentation of the completed investigation by the Chief and/or police investigator.
- G. The recommendation that the charges are either substantiated or unsubstantiated or unfounded shall require a majority vote of four members.
- H. The recommendation of the CPCRB shall be in writing and shall be communicated to the Chief of Police by the Chair.
- I. The CPCRB's written report shall include a narrative of the discussion, reflecting the concerns and considerations of the members in reaching the recommendation. The written summary will also reflect any dissenting opinions presented during deliberations.
- J. The Chief of Police shall advise the Village Board, sitting as police commissioners, of the CPCRB's recommendation. The decision as to whether to pursue disciplinary charges shall be the Village Board's.
- K. In cases where the CPCRB's recommendation differs from the Chief's, the Chair (or if unavailable the Vice-Chair) will accompany the Chief to meet with the Village Board. In order to clarify why different conclusions have been reached, The Village Board may question the Chair in a manner consistent with the questioning of the Chief. The questioning will take place under the supervision of the Village's Corporation Counsel.
- L. In no event shall the review by the CPCRB impede or otherwise prevent the filing of disciplinary charges within the applicable statute of limitations.
- M. The Chief shall advise the CPCRB of the resolution of every complaint and allegation that has been reviewed by the CPCRB.
- N. The CPCRB may also issue recommendations to the Chief of Police regarding practices, policies and procedures of the Police Department.

### **§ 8-13. Complaint process.**

- A. Complaints or allegations of misconduct, to be considered for review by the CPCRB, should be in writing and signed by the complainant.
- B. Complaint forms that clearly state the complaint review process shall be available at the Village Police Department and must be offered to every person with a complaint regarding Department personnel.
- C. Complaint forms shall also be available at various community organizations throughout the Village, where people associated with these organizations have been trained to assist complainants with filling them out.

- D. Complaint forms are available in English and Spanish. Complaint forms may become available in additional languages in the future, as required by changes in Village demographics. Written statements by complainants and witnesses are not required to be completed in English and will be translated prior to review by the Police Department and CPCRБ.
- E. An ongoing general training program shall be conducted in the community by the Council and the Police Department regarding the complaint process, the function of the CPCRБ and the investigative role of the Police Department.
- F. CPCRБ members will not have direct contact with complainants regarding the details of their complaint. Members will refer any complainant who contacts them to a community organization, or the Police Department, to obtain a complaint form and begin the process.

**§ 8-14. Annual report. [Amended 8-5-2003 by L.L. No. 4-2003]**

The Chief of Police and the CPCRБ will issue an annual report summarizing:

- A. The number of complaints received during the past year.
- B. The number of complaints either substantiated or unsubstantiated or unfounded.
- C. A breakdown of the types of complaints received, e.g., excessive force, verbal disrespect.
- D. A breakdown of the types of substantiated or unsubstantiated or unfounded complaints and the remedial or disciplinary steps which resulted.
- E. The number of times the Chief and CPCRБ's recommendations differed.
- F. A summary of the number of complaints against individual officers, without naming the officer who is the subject of the complaints.
- G. Comparisons of statistics from prior years' annual reports.