

### **Proposed Local Law 13-2021**

A local law amending Chapter 8 (Civilian Police Complaint Review Board) of the Village of Ossining Code.

**BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:**

**Section 1.** Chapter 8 (Civilian Police Complaint Review Board) is amended with new matter underlined and deleted matter in [brackets].

#### **§ 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. In 2000, the Board of Trustees [has] determined that in order to provide for civilian participation in the complaint review process it [is] was 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] was adopted as Local Law 1-2000 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] was one step in building a partnership between the police and the community based on trust and mutual respect.
- B. In June, 2020, former Governor Cuomo issued Executive Order 203, "New York State Police Reform and Reinvention Collaborative." The Executive Order directed each local government with a police agency to perform a comprehensive review of practices and policies to promote fair and transparent community-oriented policing strategies designed to eliminate racism and racial disparities. In Ossining a working committee consisting of members of the public, police department and elected officials met to discuss and propose changes to be included in the reform plan. The plan, which was reviewed and adopted in large part by the Board of Trustees included proposed revisions to the Civilian Police Complaint Review Board. As noted in Recommendation 1 of the working committee, "External oversight is effective because it builds trust in and further legitimacy in [the Police Department's] own internal accountability process, while retaining officer due process. The idea behind a civilian board's effectiveness is simple: If a community member's own peers independently come to the same conclusion as the police department, then doubts as to whether [the investigation of a complaint] was conducted appropriately and fairly are greatly reduced."

[B.] **C.** 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 **and the rules of procedure adopted by 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" **or "Board"**) to provide for civilian participation in the review of **investigation of** complaints made against Village of Ossining police [officers] **personnel** in accordance with [the policies, procedures, rules and regulations hereafter set forth.] **this chapter, any amendments thereto and rules of procedure adopted by the CPCRB.**

**§ 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] **CPCRB** is to conduct a complete review of Police Department investigations of complaints filed against police [officers] **personnel, as that term is defined herein, regarding violations of the Police Department's rules, regulations and procedures set out in the Police Department Manual which manual may be revised, amended and/or supplemented from time to time.**
- C. The [policies and] procedures set forth in this [manual] **local law** 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 **as detailed herein.**
- E. The CPCRB shall conduct a complete and independent review of the Police Department's investigation of every complaint **pursuant to section 8-11 and the board's rules of procedure.**
- F. The CPCRB will advise the Chief **of Police** whether or not, in [its] **the board's** opinion, a complaint should be [deemed] **found** [either] substantiated, [or] unsubstantiated, [or] unfounded **or exonerated or if the board issues No Finding as those terms are defined herein..**
- G. Prior to any final determination by the Chief regarding possible disciplinary action, such

advice **by the CPCR** 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 **pursuant to section 5711-q of the Unconsolidated Laws of the State of New York.**

- H. The CPCR 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 CPCR'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 CPCR members shall become familiar with the policies and procedures described in this [manual] **local law and the rules of procedure** 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 CPCR who serves when a **voting** member [from the same selection category] is unavailable to review a case based on a conflict of interest, **absence, disqualification or otherwise cannot vote on a matter before the CPCR.** Alternate members will undergo the same training described herein as **required for** [other] **voting** CPCR members. **An alternate member shall have all of the rights, privileges and responsibilities of a voting member of the CPCR. When an alternate member is voting or counting toward the calculation of a quorum, that circumstance shall be noted in the meeting minutes. Alternate members shall attend all meetings of the CPCR including executive sessions and shall participate in all presentations to and deliberations by the CPCR and shall substitute for a voting member who has recused himself or herself or is otherwise precluded from consideration of a complaint or otherwise unable to participate in a meeting, but an alternate member shall not vote or count toward the calculation of a quorum unless he or she is substituting for a voting member. Insofar as practicable, service by an alternate member shall rotate among the alternate members.**

##### **CHAIR**

A [civilian] **voting** member of the CPCR [elected by a majority vote of the CPCR members] **appointed by the Board of Trustees** to chair the CPCR **for one year effective January 1.** [The Chair, with the assistance of the Vice-Chair, is responsible for enforcement of all the policies and procedures set forth in this manual]. **A member may be appointed as chair for no more than two consecutive one year terms. The Chair shall be the presiding officer at all regular and emergency meetings of the**

**CPCRB and shall perform all duties as prescribed in this chapter and the rules of procedure adopted by the CPCRB.**

#### **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.]

#### **COMMAND DISCIPLINE**

**Any penalty imposed directly by the Chief of Police or designee to sanction officers under his/her command for the purpose of correcting minor offenses or infractions of department rules, regulations and procedures and to maintain discipline within the Police Department. Discipline may include counseling, reprimand or a loss of time not to exceed five days.**

#### **COMPLAINANT**

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

#### **COMPLAINT**

A written [allegation] **statement**, signed by the complainant, regarding the conduct of police personnel. The form of complaint shall contain the **following** 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."], **"A person is guilty of making a punishable false written statement when he knowingly makes a false statement, which he does not believe to be true, in a written instrument bearing a legally authorized form notice to the effect that false statements made therein are punishable. Making a punishable false written statement is a class A misdemeanor."**

#### **EXONERATED**

**By a preponderance of the credible evidence the CPCRB determines that the alleged act(s) occurred but did not constitute a violation of the Police Department's rules, regulations and procedures.**

#### **FINDING**

[The] **The written** [outcome] **determination by** [of] the CPCRB[is review] of the Police Department's investigation [and its] **which** determination [as to whether or not a complaint is] **will be** [either] **that the allegations in the complaint were** substantiated, [or] unsubstantiated, [or] unfounded, **exonerated or that the board issued a "No Finding"**.

#### **IMMEDIATE FAMILY MEMBER**

**A parent, sibling, spouse or child of a person or any members of a person's**

immediate household.

#### **MEMBER**

An appointed **voting** member of the CPCRB.

#### **NO FINDING**

Where CPCRB reports that it is unable to reach a finding where, for example, the complainant failed to produce requested information to further the investigation; where the investigation revealed that another agency was responsible for the handling of the complaint or the complainant was referred to that agency; where the complainant withdrew the complaint; where the complainant was unable to clarify issues relating to the complaint; or where the police personnel who was the subject of the complaint is no longer employed by the village.

#### **PREPONDERANCE OF THE CREDIBLE EVIDENCE**

A preponderance of the evidence means the greater part of credible evidence. Credible evidence means the testimony and/or exhibits that are found worthy to be believed. Preponderance does not mean the greater number of witnesses or the greater number of exhibits presented to the finder of fact. The definition refers to the evidence, that is, its convincing quality, the weight and effect that it has on the finder of fact. In order to establish a preponderance of the credible evidence, it must more nearly represent what took place than the evidence opposed to it. In the event that the credible evidence weighs so evenly that the finder of fact is unable to say that there is a preponderance of evidence on either side, then no preponderance has been established.

#### **POLICE PERSONNEL**

[Includes] Sworn police officers and members of the auxiliary police of the Village of Ossining.

#### **SECRETARY**

Selected by the Board of Trustees, this individual shall prepare meeting minutes, schedule meetings, prepare agendas, take attendance, maintain documents regarding required training for members and alternate members secure written documents prepared by the CPCRB, ensuring that only CPCRB members attend meetings and perform other responsibilities at the direction of the Board of Trustees and/or CPCRB Chair.

#### **SUBSTANTIATED**

[The CPCRB has determined, upon review of the investigation that sufficient evidence

exists to support the allegations of the complaint.] **By a preponderance of the credible evidence the CPRB determines that the alleged act(s) in a complaint occurred and that the alleged act(s) violated the Police Department's rules, regulations and procedures.**

#### **UNFOUNDED**

[There is no objective evidence to support the allegations of the complaint.] **By a preponderance of the credible evidence the CPRB determines that the alleged act(s) in a complaint did not occur.**

#### **UNSUBSTANTIATED**

[The CPRB has determined, upon its review that the investigation failed to disclose sufficient evidence to support the allegations in the complaint.] **By a preponderance of the credible evidence the CPRB determines that the alleged act(s) in a complaint constitute a violation of the Police Department's rules, regulations and procedures but there is insufficient evidence to establish by a preponderance of the credible evidence that the alleged act(s) occurred.**

#### **VICE-CHAIR**

[An individual] **A voting member appointed by the Board of Trustees for one year effective January 1** [appointed by a majority vote of the full CPRB] 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] **local law and rules of procedure adopted by the CPRB. A member may be appointed as vice-chair for no more than two consecutive one year terms. In the absence of the Chair or in the event of the Chair's resignation, death, disqualification, recusal or inability to perform the duties and responsibilities as Chair, the Vice-Chair shall perform those duties and responsibilities.**

#### **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 CPRB shall [consist of seven] **have five voting members and two alternate members** appointed by the Village Board [and selected in a manner to ensure diverse and representative participation for the entire community of the Village:]. **The Village Board shall endeavor to reflect the diversity of the Village of Ossining in the appointments to the CPRB including income level, race, ethnicity, age, gender, sexual orientation and experience. The members and alternate**

members shall be residents of the Village of Ossining. Police personnel may not be appointed as members or alternate members of the CPCRB. The Chief of Police shall appoint two police personnel to the CPCRB to provide assistance to the CPCRB. The appointed police personnel shall attend all meetings of the CPCRB and shall sit with and participate in the presentations to and deliberations of the CPCRB if not otherwise disqualified from hearing a particular matter. The appointed police personnel shall not vote on matters considered by the CPCRB nor count toward the calculation of a quorum.

- (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.
  - (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 CPCRB only when a member is absent or unable to participate due to a conflict of interest.]
- B. Responsibilities of the Chair. [One civilian member will be selected by a majority vote of the CPCRB to serve as Chair.] The Chair shall call meetings of the CPCRB, preside at meetings, communicate with the Chief as necessary and otherwise follow this local law and such rules of procedure as are adopted by the CPCRB. Should the Chair be unavailable to perform his/her responsibilities, the Vice-Chair shall perform such duties. [will be responsible for the enforcement of all policies and procedures contained in the CPCRB 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 CPCRB and its members and ensuring that only CPCRB members are in attendance prior to commencement of a meeting].
- C. Criteria for members, [and] alternate members, and appointed police personnel to [of] the CPCRB.
- (1) Qualifications.
    - (a) [Civilian] Members and alternate members must be residents of the Village of Ossining.
    - (b) Appointed [Police [members] police personnel] 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]C(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) **Members and alternate** members [Must] **shall** not have any criminal convictions.
  - (b) **Members and alternate** members [Must] **shall** not be [an] elected officials, **or employees** of the Village **of Ossining**, [or] Town of Ossining or the Ossining Union Free School District **or an immediate family member of such elected official or employee.**
  - (c) **Members and alternate** members [Must] **shall** not be a member of the Police Community Relations Council **(Chapter 37 of the Village of Ossining Code)** on the date of appointment to the CPRB.
- D. Terms of appointment.
  - (1) Members **and alternate members** [of the CPRB] shall be appointed for two-year terms beginning [from the date of appointment] **on January 1.** [A member] **Members and alternate members** may be appointed to a maximum of four consecutive terms (eight years). If the member **or alternate member** has served for four consecutive terms, the member **or alternate member** must be off the CPRB for one year before applying for **re-**appointment to the CPRB.
  - (2) **If the Board of Trustees is unable to appoint a new member or alternate member to the CPRB as a result of a lack of qualified candidates or an insufficient number of qualified candidates, the Board of Trustees, by resolution may: a) waive the term limit requirement and allow for the reappointment of a then-sitting member or alternate member or b) waive the requirement for a one year hiatus between terms and allow the appointment to a new term of a former CPRB member or alternate member whose term ended less than one year before.**
- [(2)] (3) Members **and alternate members** shall hold office until [their successors are appointed.] **the member and alternate member is reappointed, resigns or another individual is appointed to replace the member or alternate member.**
- [(3)] (4) Members **and alternate members** shall serve without compensation.



[(4)] **(5)** If a member resigns or is [dismissed] removed from the CPCRB, [the] an alternate member [from the appropriate selection category] will be appointed by the Village Board to serve for the remainder of the member's term.

**(6)** If an alternate member resigns, is removed from the CPCRB or is appointed by the Board of Trustees to complete the term of a voting member, the Board of Trustees shall appoint a new alternate member to serve for the remainder of the alternate member's term.

[(5)] **(7)** All members and alternate 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.

[(6)] **(8)** Notwithstanding the foregoing attendance requirements, the failure of a CPCRB member or alternate member to attend the required percentage of meetings shall not affect the member's or alternate member's authority to consider and vote on [applications to] complaints considered by the CPCRB or the validity of such member's or alternate 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 or alternate member's failure to comply with the annual attendance requirement.

E. Grounds for dismissal.

(1) Members and alternate members of the CPCRB are appointed by the Village Board and may be removed by a majority 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 written recommendation [by] of the Chair or Vice Chair and two [additional] CPCRB members or alternate members or by direct motion of the Board of Trustees. The member or alternate member for whom a recommendation of removal has been presented to the Board of Trustees, will be afforded an opportunity to be heard at the hearing and to be represented by counsel. The member or alternate member will be given no less than seven (7) days' notice of the hearing to be conducted in executive session.

**(2)** Grounds for removal include, but are not limited to failing to comply with confidentiality requirements, breach of any of the membership criteria listed in section 8-5C, failing to comply with the requirement of this chapter and/or the rules of procedure promulgated by the CPCRB, failing to meet attendance requirements, and other reasons for cause.

[(2)] A breach of the confidentiality of any information regarding an investigation under

review by the CPCRБ 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 CPCRБ, shall be grounds for dismissal by the Village Board, following a hearing on the allegations.
- (4) Members **and alternate members** of the CPCRБ [may] also **may** be removed for reasons other than listed above, for just cause, **following a hearing** 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] **CPCRБ**.
- B. A comprehensive **core** training [course] **curriculum** will be provided to each [committee] **CPCRБ** member, and alternate member[s] **by the Ossining Police Department**, prior to **the member or alternate member** reviewing any cases. **The core training curriculum shall include the topics of use of force, stop and frisk, warrantless arrests, search and seizure, vehicle stops and relevant constitutional issues.**
- C. [All members and alternate members will receive training, and a manual, that includes pertinent information,]**In addition to the comprehensive core training curriculum, members and alternate members will be provided with training by the Ossining Police Department on topics** including, but not limited to:
  - (1) The [Village] **Ossining** Police Department's disciplinary process.
  - (2) The [Village] **Ossining** Police Department's policies and procedures related to the investigation of complaints.
  - (3) New York Penal Law Article 35, Defense of Justification.
  - (4) **New York** Civil Service Law **and applicable rules of the Westchester County Department of Human Resources** 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]8)** Selected sections of New York's Vehicle and Traffic Law, Penal Law and Criminal Procedure Law.

**(9) Community policing.**

**(10) Human relations training, with particular focus on cultural diversity issues.**

**(11) Response to domestic violence complaints.**

**(12) Issues related to allegations of police misconduct.**

**(12) Other issues related to civilian/police contacts deemed relevant by the Chair in consultation with the Chief.**

**(D) The training listed in this subsection C should be completed within six (6) months after the member or alternate member is appointed to the CPCRB or as soon thereafter as is practical. Noncompliance with the above-described training requirements shall be deemed a proper cause for removal from the CPCRB by the Board of Trustees.**

[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 CPRB 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 CPRB members **and alternate 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 **and alternate members** will accompany police officers on patrol, shall be agreed upon by the Chair [and Vice Chair of the CPRB] 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 CPRB and enable CPRB 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 CPRB at the discretion of the Village Board of Trustees.]
- [I]F. The Chair[**person** of the CPRB] shall notify the [Village Manager] **the Board of Trustees** in writing on or about December 1 [in any year], or at any other time if so warranted, of any CPRB member **or alternate member** who fails to comply with the minimum requirements for meeting attendance and/or training in any calendar year.

§ 8-7 Schedule of meetings.

- A. **Meetings of the CPRB will be held upon the call of the Chair following consultation with the Corporation Counsel.** [The CPRB will meet at least monthly, on a schedule determined by the Chair.] A minimum of [24 hours'] **ten (10) calendar days' notice** [notice of meetings] will be provided to all CPRB members **including alternate members and non-voting police personnel**; 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 **voting members** 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.
- C. **The Corporation Counsel or designee shall attend every meeting of the CPRB and shall serve as the legal advisor to the CPRB. In addition, the Corporation Counsel or designee shall serve as the Secretary of the CPRB. If a stenographer or recording device is used, the Corporation Counsel, as Secretary shall review the record of**

discussions and prepare minutes that accurately summarize the essential and material matters discussed and determined by the CPCRb. The minutes shall recite the votes of each member taken by roll call vote.

- D. The CPCRb may conduct its meetings remotely via a secure internet connection or at village-owned locations, including, but not limited to Ossining Police Department Headquarters, the Municipal Building, Community Center and Operations Center.**

**§ 8-8 Confidentiality.**

- A. The CPCRb 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 CPCRb, but no copies will be retained by Board members and **alternate members**.
- C. Any documents related to the deliberations and recommendations of the CPCRb, including notes of CPCRb members **and alternate members**, shall be collected and secured by the [Chair and Vice Chair] **Corporation Counsel or designee** at the end of each meeting.
- D. Members **and alternate members** of the CPCRb shall not discuss complaint investigations with any nonmember, nor allow any nonmember to discuss any information relevant to a pending complaint with them. **When meetings are conducted remotely, the members, alternate members and police personnel shall take such measures to insure that nonmembers shall not observe or listen to the meetings.**
- E. A violation of the confidentiality of the CPCRb shall be grounds for dismissal by the Village Board **following a hearing as detailed in section 8-5E(1)** 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 CPCRb, Village Board members shall not attend meetings of the CPCRb when investigations are under review.

**§ 8-9 Conflict of interest.**

- A. When a complaint **investigation** before the CPCRb [for review] presents an actual or potential conflict of interest for a Board member **or alternate member**, as determined by the Board member **or alternate member** or **by** the Chair or Vice Chair and two [additional] Board members **including alternate members following discussion with**

the Corporation Counsel, the Board member or alternate member shall [be excused] recuse himself or herself from discussion and consideration of the particular complaint investigation [the meeting and the] and an alternate member shall be designated [appointed] to serve in [his or her] the recused member's place. Where a member has recused himself or herself, the recusal shall be noted in the meeting minutes along with the name of the alternate member who replaced the recused member. A conflict of interest occurs in instances that include, but are not limited to, [those whereby] where a CPCRB member is: the complainant; a witness to an incident that is the subject of a complaint; the attorney or other legal representative for the complainant or the officer who is the subject of the complaint; or an officer in an organization that has assumed an advocacy position in the specific incident under review.

- B. CPCRB members and alternate members are required to immediately disclose to the Chair and Corporation Counsel any professional, personal or financial relationship with any complainant, witness or police officer involved in an incident under review by the CPCRB that may be the basis for a conflict of interest.

**§ 8-10 Quorum.**

In order for the CPCRB to conduct its affairs, [five] four of the [seven] five members must be in attendance. All actions taken by the [Review Board] CPCRB shall require a majority of [four] three 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] complaints during an ongoing criminal investigation against [a] the police officer who is the subject of the complaint or complainant.
  - (b) It shall not review [cases] complaints while criminal charges are pending.
  - (c) When a filed civil action is pending.
- (2) However, some [cases] complaints in Subsection A(1)(a), (b) and (c) above may be reviewed by the CPCRB upon request of the Chair if the Chief has commenced an internal departmental investigation and [/or] review has been deemed appropriate by the [Village Attorney] Corporation Counsel.

(3) In the event that a complaint is not subject to review for the reasons stated in subsection A (1), the complaint will be logged in as detailed in subsection B and a letter will be sent to the complainant as soon as practicable advising that the CPCRB will not be reviewing the complaint at that time and specifying the reason why the

**complaint is not being reviewed.**

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

[(1)] (1) Complainants may submit a written complaint either directly to the CPCRB or the Police Department.]

[(2)] (1) Complaints must be submitted within [90] **120 calendar** days of the underlying incident.

[(3)] (2) The CPCRB **by Corporation Counsel** shall enter all complaints [it receives] **received** in a log prior to forwarding the complaint to the Chief of Police for commencement of the investigation.

[(4)] (3) The Chair shall forward any complaints submitted to the CPCRB to the Chief of Police no later than three business days after [their submission] **receipt**.

[(5)] (4) The Chief of Police will advise the CPCRB Chair of all complaints received directly by the Police Department within three **business** days of [submission] **receipt**, and said complaint shall also be entered in the CPCRB log.

[(6)] (5) A complaint number shall be assigned to every logged complaint.

[(7)] (6) The CPCRB will review the log book entries at every monthly meeting to ensure that [they] **complaints** are being investigated and reviewed in a timely manner.

(7) **Within three business days of receipt of the complaint, the Corporation Counsel shall notify the complainant in writing at the address provided on the complaint form that the complaint has been received and that inquiries as to status should be directed to the Corporation Counsel.**

(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 investigation of complaints by the Chief of Police and/or Department investigator shall begin within ten (10) calendar days of the receipt of the complaint by the Police Department. The Police Department's investigation shall be concluded within thirty (30) calendar days of the receipt of the complaint by the Police Department. If additional time to complete the Police Department's investigation is needed, the Chief and/or Department investigator shall advise the Chair in writing that additional time is needed to complete the investigation and provide a date by which it is expected that the investigation will be completed.**

[(9)] (10) The Chief and/or the Police Department investigator shall present the results of the

Department's investigation, including [his] **any** recommendation for command discipline [, if any,] to the CPCRb, along with all supporting documents.

([10]**11**) 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]**12**) The CPCRb shall review the investigation conducted by the Police Department [to determine if the investigation is sufficient] **employing a “preponderance of the credible evidence standard” in evaluating the complaint and whether the officer involved committed the alleged act(s).**

([12]**13**) 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.

**(14) Police Department record retention policies should provide that department records including, but not limited to reports, bodycam footage, etc. shall be maintained for one hundred twenty (120) days from the incident to allow for records to be available should a complaint be filed.**

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] **the** disposition **of any unwritten or anonymous complaints.**

#### **§ 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, **exonerated or that no finding can be issued.**

B. If the CPCRb believes further investigation is required, the [Chair] **Corporation Counsel** shall communicate the [Board's] **CPCRb's** recommendations regarding further investigation to the Chief.

C. The Chief [may] either **may direct** [conduct] the further investigation [suggested] **recommended** by the CPCRb or advise the CPCRb [no later than the next scheduled meeting] **no later than three business days following receipt of the CPCRb's recommendation** that no additional investigation will be [taking place] **undertaken.** 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 **direct the requested further investigation** [further investigate], the CPCRb may proceed to vote [on a recommendation] **that the complaint is**



**substantiated, unsubstantiated, unfounded, exonerated or that no finding can be made** or decline to do so on grounds of insufficient investigation. In the event that the CPCRБ 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 CPCRБ shall reconsider the [case] **complaint** for the purpose of issuing a final recommendation.
- F. The CPCRБ shall issue [a] **its** recommendation to the Chief within [30] **thirty** 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, **exonerated or that no finding can be made** shall require a majority vote of [four] **three** members.
- H. The recommendation of the CPCRБ shall be in writing and shall be communicated to the Chief of Police by the Chair.
- I. The CPCRБ's written [report] **recommendation** 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 CPCRБ's recommendation. The decision as to whether to pursue disciplinary charges shall be the Village Board's.
- K. In cases where the CPCRБ'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 executive session as soon as practicable** [In order] to clarify why different [conclusions] **recommendations** have been reached [.,]. The Village Board may question the Chair [in a manner consistent with the questioning of] **and** the Chief [.,] **which** [The] questioning will take place under the supervision of the Village's Corporation Counsel.
- L. In no event shall the review by the CPCRБ impede or otherwise prevent the filing of disciplinary charges within the applicable statute of limitations.
- M. The Chief shall advise the CPCRБ of the resolution of every complaint [and allegation] that has been reviewed by the CPCRБ **and every complaint that has been withdrawn. It is preferred that where a complainant has withdrawn his/her complaint, that the withdrawal be noted in writing signed by the complainant.**

N. The CPCRB may also issue recommendations to the Chief of Police regarding practices, policies and procedures of the Police Department.

**O. The complainant shall be provided with the results of the CPCRB's review no later than five business days after the matter is concluded.**

**§ 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. Complainants may submit a written complaint either directly to the CPCRB **via the Corporation Counsel** or the Police Department. **The CPCRB will accept complaints submitted through the CPCRB's website and by such other methods as the CPCRB may determine. All complaints shall include the notice pursuant to Penal Law section 210.45. Complaints shall be acknowledged by a letter from the Corporation Counsel on behalf of the CPCRB. The letter shall be mailed to the complainant at the address provided on the complaint within three business days of receipt.**
- B. Complaint forms that [clearly state] **detail** the complaint review process shall be available at the [Village] **Ossining** Police Department and must be offered to every person with a complaint regarding [Department] **police** personnel.
- C. Complaint forms [shall] also **shall** 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] **shall be** 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 CPCRB.
- E. An ongoing general training program shall be conducted in the community by the [Council] **CPCRB** and the Police Department regarding the complaint process, the function of the CPCRB and the investigative role of the Police Department.
- F. CPCRB members **and alternate members** [will] **shall** not have direct **or indirect** contact with complainants regarding the details of their complaint. Members **and alternate members** [will] **shall** refer any complainant who contacts them to a community organization, [or] the Police Department, **or the Corporation Counsel** to obtain a complaint form and begin the **complaint** process. **Such direct or indirect contact with complainants may result in the member or alternate member's removal from the CPCRB.**

§ 8-14 **[Annual report] Reporting.**

**On or before March 1** [The] **the** Chief of Police and the CPRCB will issue [an] **a** [annual] report **to the Board of Trustees for the preceding calendar year** summarizing:

- A. The number of complaints received during the past year.
- B. The number of complaints [either] **found to be** substantiated, [or] unsubstantiated, [or] unfounded, **exonerated, resulted in a No Finding or where the CPRCB declined to vote due to insufficient investigation.**
- 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 **or exonerated** complaints and the remedial or disciplinary steps which resulted.
- E. The number of times the Chief and CPRCB's recommendations differed.
- F. A summary of the number of complaints against individual officers, without naming the officers who [is] **were** the subjects of the complaints.
- G. Comparisons of statistics from prior years' annual reports.
- H. **On a quarterly basis the Chair and Corporation Counsel shall report to the Board of Trustees on the CPRCB's activities.**

**8-15 Mediation Process**

- A. **A mediation process shall be established and coordinated by the Corporation Counsel in accordance with this section.**
- B. **Mediation shall be conducted at no cost to the complainant or officer by trained and experienced mediators selected from a list compiled by the Corporation Counsel and approved by the Board of Trustees. The Board of Trustees and Corporation Counsel shall endeavor to reflect community diversity in the list of mediators. The mediators shall be required to complete an appropriate training curriculum to be determined by the CPRCB, in consultation with the Corporation Counsel. The mediators shall undergo continuing education on issues related to the interaction between civilians and police officers from the perspectives of both a complainant and police officer.**
- C. **Upon receipt of the complaint, unless the matter involves an allegation of excessive force, an alleged violation of civil rights, and an allegation of criminal conduct against the officer or if there was an injury to a party or property damage by an officer, the complaint will be considered appropriate for mediation.**

- D. An eligible complaint shall be reviewed for potential recommendation for mediation by the CPRB Chair in consultation with the Corporation Counsel. The CPRB members will be contacted and a decision as to appropriateness for mediation to be made by a majority of the five voting members. If a majority of the board finds that the complaint is inappropriate for mediation then the matter will be referred back to the police department for investigation.
- E. If a majority of the CPRB recommends a complaint for mediation, both the complainant and officer will have the option of continuing with the mediation process. If either party declines mediation, then the matter shall be referred back to the police department for investigation.
- F. If the parties agree to mediation, the process shall follow the procedures adopted by the CPRB and set out in the CPRB's adopted rules of procedure.
- G. Every reasonable effort shall be made to schedule mediation sessions during the officer's normal working hours and also at a time convenient for the complainant.
- H. Written notice of the mediation session shall be provided to each party by the Corporation Counsel. The notice shall include a description of the CPRB's rules of procedure relating to mediation of complaints.
- I. The mediator may not impose an outcome on the parties.
- J. Mediation sessions are closed to the public and all matters discussed therein are to be held as confidential. The mediator and parties shall agree in writing to maintain such confidentiality. There shall be no recording by any means of the mediation sessions by any party.
- K. Statements and records disclosed during mediation may not be disclosed or introduced in evidence during any judicial or administrative proceeding and mediators may not be compelled by subpoena to give testimony or produce anything documents related to the mediation.
- L. If the mediation is successful, the parties may, but are not required to sign an agreement that each believes that the issues have been satisfactorily resolved. If the mediation is successful, the CPRB shall issue a finding of "Mediated."
- M. If the mediation is not successfully resolved, any party may ask for the complaint to be investigated and the complaint will then be returned to the police department for investigation.

**8-16 Rules of procedure.**

**The CPCRB shall adopt rules of procedure for the conduct of its business by a majority vote of its voting members. Such rules and any amendments thereto shall be a part of the CPCRB's written record and be made available to the public. The CPCRB's rules of procedure and any amendments thereto shall not conflict with the provisions of this chapter. Such rules of procedure shall published in the village's official newspaper, posted outside of the Village Clerk's office and provided to the Board of Trustees no later than ten calendar (10) days after adoption by the CPCRB. The rules of procedure and any amendments thereto shall become effective forty-five (45) calendar days after adoption unless revoked, suspended or modified by the Board of Trustees upon request of an aggrieved party or upon the Board of Trustees' own motion.**

**Section 2 Effective date.**

**This local law shall take effect immediately upon filing with the Secretary of State.**