

MEMORANDUM

To: The Peekskill Chapter of the NAACP

From: Prof. Kirk D. Burkhalter, New York Law School; Director, The NYLS 21st Century Policing Project

Date: March 7, 2021

RE: Proposed Civilian Complaint Review Board Statute

Attached to this memorandum please find the final draft of the **proposed Civilian Complaint Review Board statute for the City of Peekskill**. During January and February of 2021, I met with a subgroup of the Peekskill chapter of the NAACP for the purpose of discussing a proposed Civilian Complaint Review Board (“CCRB”) statute for the City of Peekskill, New York (“Peekskill”). The proposed statute was adopted from the Village of Ossining, New York’s CCRB statute (see Village of Ossining, NY Code, Part I, Administrative Legislation, Chapter 8, “Civilian Complaint Review Board”, <https://ecode360.com/6422318>). During our meetings, you articulated the following goals for the proposed Peekskill CCRB statute:

- Community engagement
- Empower the black, brown, and disadvantaged in Peekskill community
- Maximize communication and understanding between the police and the community
- "Strengthen the arc towards justice."
- Public confidence
- Facilitate investigation and action upon complaints of police misconduct
- Civilian involvement in the investigative process
- Civilian involvement in the decision-making process
- Police accountability

As a result of our meetings, and as per your request, I conducted a review of the Village of Ossining with the aforementioned goals in mind. The attached proposed City of Peekskill CCRB statute reflects the goals for a CCRB, as articulated by the Peekskill NAACP, using the Village of Ossining as a template. Please let me know if you have any questions. Thank you.

Chapter X**CIVILIAN COMPLAINT REVIEW BOARD****GENERAL REFERENCES**

Police Community

Relations Advisory Police Department — See Ch. XX. Council — See Ch. XX.

§ X-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 strictly internal within the Police Department may be expedient, it can leave its community with concerns about the effectiveness and integrity of existing investigations. The Peekskill Common Council has determined that to provide for civilian participation in the complaint review process, it is in the best interest of Peekskill to establish its own Civilian Complaint Review Board (hereinafter designated as the "CCRB") and promulgate policies, procedures, rules, and regulations for the operation thereof. This chapter is adopted to promote public confidence in the ability of Peekskill 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 CCRB is one step in building a partnership between the police and the community based on mutual trust and respect. The purpose of CCRB is to increase community engagement, empower all members of the Peekskill community, inspire public confidence in Peekskill's law enforcement, maximize communication and understanding between the police and the community, facilitate and foster civilian participation in the process of the investigation, strengthen the decision-making process and ultimate action upon complaints of police misconduct and to improve police accountability. The aforementioned presumes that the City Manager, the Chief of Police, the CCRB, the Civilian Investigator, and all members of the Police Department will act in good faith and make all possible best efforts in the administration of said statute.
- B. Nothing contained herein shall in any way limit the ability of the Peekskill Common Council to amend or repeal this manual or the local law creating the CCRB.

§ X-2. Civilian 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 Peekskill a CCRB to provide for civilian participation in the review of complaints made against its police officers in accordance with the policies, procedures, rules, and regulations hereafter set forth.

§ X-3. Purpose.

- A. The Peekskill City Manager has created a CCRB comprised of a diverse membership, with respect to age, sex, race, religion, sexual orientation, education, and national origin. The board members will conduct the business of the CCRB in a comprehensive, fair, and impartial manner.

- B. The mission of the CCRB is to conduct a complete review of the investigation of civilian complaints filed against its police officers and forward recommendations to the City Manager and the Chief of Police on the resolution of civilian complaint cases and methods for the minimization of civilian complaints against members of the Police Department generally.
- C. The policies and procedures set forth in this statute have been created to provide an impartial, prompt, and independent review of the internal investigations of the Peekskill 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 complaint.
- E. The CCRB shall conduct a complete and independent review of complaints filed by civilians against members of the Peekskill police department.
- F. The CCRB will advise the Peekskill Chief of Police whether, in its opinion, a complaint should be deemed either SUBSTANTIATED, 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 to forward the complaint to Peekskill's City Manager, acting as CCRB's oversight committee, for official inter-police departmental disciplinary proceedings.
- H. The CCRB may issue written reports and recommendations, at its discretion, to the Chief of Police and the Peekskill City Manager regarding the policies and procedures of the police department, based on the CCRB'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 CCRB members shall become familiar with the policies and procedures described in the CCRB Manual and shall be responsible for strictly basing their opinions and judgements on the same.

§ X-4. Definitions.

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

CCRB — The Civilian Complaint Review Board of the City of Peekskill

CHAIR — A civilian member of the CCRB elected by a majority vote of the CCRB members.

VICE-CHAIR — An individual appointed by a majority vote of the full CCRB.

CCRB MEMBERS — The Chair, Vice-Chair, members of the CCRB, and Alternate Members.

MANUAL — Each member will be responsible to comply with the CCRB training materials and guidelines, as established by this statute.

CHIEF OF POLICE — The Chief Executive Officer of the Peekskill Police Department. The Chief of Police shall not be a member of the CCRB.

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CIVILIAN INVESTIGATOR – An individual hired by the Chief of Police and/or the City Manager to investigate complaints along with the Peekskill Police Department Investigator..

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" underneath the signature line in open view in either English or Spanish. That statue can be fully enforced should the complaint being signed by the complainant be proved to be fictitious.

FINDING — The outcome of the CCRB's review of the police department's investigation and its determination as to whether or not a complaint is either **SUBSTANTIATED, UNSUBSTANTIATED OR UNFOUNDED**.

MEMBER — An appointed member of the CCRB.

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

POLICE DEPARTMENT — The Peekskill Police Department.

POLICE PERSONNEL — Includes sworn police officers and members of the auxiliary police and parking enforcement of the Peekskill Police Department.

SUBSTANTIATED — The CCRB has determined, upon review of its investigation, that sufficient evidence exists to support the allegation(s) of the complaint.

UNFOUNDED — The CCRB has determined, based upon its review and the rules and regulations set forth in the CCRB Manual, that there is no objective evidence to support the allegation(s) of the complaint.

UNSUBSTANTIATED — The CCRB has determined, based upon its review and the rules and regulations set forth in the CCRB Manual, that the investigation failed to disclose sufficient evidence to support the allegation(s) in the complaint.

CITY — The City of Peekskill.

PEEKSKILL'S CITY MANAGER - The City Manager of Peekskill will also serve as CCRB's oversight committee, pursuant to New York Unconsolidated Laws § 5711-q.

§ X-5. Selection and appointment.

A. **Membership.** The CCRB shall consist of seven members, five (5) of which will be civilians appointed by Peekskill's City Manager and selected in a manner to ensure diverse and representative participation for the entire community of Peekskill. Best efforts will be made to ensure CCRB members include, but not be limited to, members from the White, Black, Latinx, LGBTQ+, Asian, and other ethnic and religious communities, as well as those diverse in age, sex, and socioeconomic background.

(1) Five (5) civilian members shall be selected by the Peekskill City Manager, who may consider any eligible resident of Peekskill who, after a full criminal background check, meets the criteria specified in § X-5C.

- (2) Two (2) members in good standing with the Police Department who are not under suspension, assigned to any form of limited capacity due to health or disciplinary reasons, on probation, involved in any pending criminal matter, or under investigation for a CCRB complaint, shall be appointed from nominees selected by Peekskill's Chief of Police from the personnel of the Peekskill Police Department. One (1) police representative shall be a line officer and one (1), a supervisory officer.
- (3) In addition to the seven members, one (1) alternate member shall be appointed from the two selection categories. Alternates will serve on the CCRB only when a member is absent, or unable to participate due to a conflict of interest.
- (4) Members shall serve without compensation or reimbursement for personal expenditures.
- (5) The Chief of Police and/or the City Manager shall hire a Civilian Investigator. The Chief of Police and/or the City Manager shall consult with and seek the input of the CCRB prior to the appointment of the Civilian Investigator on the candidates for the position of Civilian Investigator. The Civilian Investigator shall be compensated for his/her work. The amount of said compensation will be at the discretion of the City Manager. The Civilian Investigator shall investigate complaints with the Police Department. The Civilian Investigator shall in no manner impede or interfere with the operations of the Police Department or its ability to conduct civilian complaint investigations. The Civilian will be a person with investigative experience such as, but not limited to, a New York State licensed Private Investigator, or a former law enforcement official who separated from such service in good standing. The Civilian Investigator must adhere to the same qualifications and training as CCRB members. The Civilian Investigator shall report to the Chief of Police, the City Manager and the CCRB members on the status of pending investigations as the Civilian Investigator and the CCRB Board sees fit. The Civilian Investigator shall work under the direction of the Chief of Police, the City Manager, and the CCRB members.

B. Responsibilities of the CHAIR. One civilian member will be selected by the majority vote of the civilian members of the CCRB to serve as CHAIR. The CHAIR will be responsible for the enforcement of all policies and procedures contained in the CCRB manual, including, but not limited to, scheduling and presiding over meetings, training, communications with the Chief, confidentiality of all cases, securing of any written documents generated by the CCRB and its members, and ensuring that only CCRB members are in attendance prior to the commencement of any meeting.

C. Responsibilities of the CHAIR. One civilian member will be appointed by a majority vote of the full CCRB to assist the CHAIR and fulfill the CHAIR'S functions when required. The VICE-CHAIR, along with the CHAIR, are responsible for enforcement of all policies and procedures set forth in this manual.

D. Criteria for members and alternate members of the CCRB.

- (1) Qualifications.

- (a) Civilian members must be permanent residents of Peekskill.
- (b) Police members must be employed full-time by the Peekskill Police Department.
- (c) CCRB Members and Alternate Members must agree to a full background check.

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- (d) CCRB Members and alternate members must swear to and sign the following confidentiality oath, "I _____ hereby swear to keep all matters pertaining to the work of the Peekskill Civilian Complaint Review Board confidential, and to never communicate said matters with any person other than the Peekskill Civilian Complaint Review Board while an active member, or at any point after my membership on the Peekskill Civilian Complaint Review Board."
- (e) CCRB Members and alternate members must comply with all training requirements as determined by the Chief of Police.
- (f) CCRB Members and alternate members must be 21 years of age old or older.
- (g) Anyone who has been convicted of a crime constituting a Felony or any sex offense under any jurisdiction within the United States may be excluded from serving on the CCRB at the discretion of the City Manager and CCRB, with the exception that no person will be precluded from CCRB membership if a prior conviction for any the aforementioned crimes has been overturned by a court of law within the United States. Where appropriate, the City Manager and CCRB will consult with community leaders on the qualifications or possible exclusion of a potential CCRB member.

(2) Disqualifications. Members and alternate members:

- (a) Must not be an elected official in Peekskill or be a member of the Peekskill School Board.
- (b) Must not be a member of the Police Community Relations Board on the date of appointment to the CCRB.
- (c) Must not be related by blood or marriage to any uniform or civilian member of the Peekskill Police Department.

D. Terms of appointment.

- (1) Members of the CCRB shall be appointed for a two-year term beginning from the date of appointment. A member may be appointed for a maximum of three consecutive terms (six years). If the member has served for three consecutive terms, the member must be released from the CCRB and wait for at least two years before applying for re-appointment.
- (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 Peekskill City Manager to serve for the remainder of the term and the Peekskill City Manager will appoint a new alternate member. If the resigning or dismissed member is the Chair or Vice-Chair, a new Chair or Vice-Chair will be selected by a majority vote of the CCRB members.
- (5) All members of the CCRB shall be required to attend a minimum of 75% of the CCRB scheduled meetings within a calendar year. Non-compliance with minimum requirements relating to attendance of CCRB meetings shall be deemed a proper cause for removal by the Peekskill City Manager, in addition to the grounds for dismissal set out in § X-5E.
- (6) Notwithstanding the foregoing attendance requirements, the failure of a CCRB member to attend the required percentage of meetings shall affect the member's authority to consider

and vote on applications to the CCRB. No action of the CCRB will be voided or declared invalid as a result of a member's dismissal due to failure to comply with the annual attendance requirement.

E. Grounds for dismissal.

- (1) Civilian members of the CCRB appointed by the Peekskill City Manager may be removed by the Peekskill City Manager, following a hearing on the allegations for failure to comply with the policies and procedures set forth herein, upon a recommendation by the either the CHAIR or VICE-CHAIR and two additional CCRB members.
- (2) A breach of the confidentiality of any information regarding an active investigation under review by the CCRB shall be grounds for dismissal by the Peekskill City Manager following a hearing on the allegations and possibly 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 CCRB, shall be grounds for dismissal by the Peekskill City Manager following a hearing on the allegations.
- (4) Any member of the CCRB may also be removed for reasons other than listed above, for just cause by a vote of the CCRB upon the recommendation by the CHAIR or VICE CHAIR and two additional members following a hearing on the allegations.

§ X-6. Training.

- A. Training is a mandatory requirement for membership on the committee. Training will be given by qualified training officers appointed by Peekskill's Chief of Police or other police municipality within Westchester County fully knowledgeable of the rules and regulations in the Police Department Manual.
- B. A comprehensive training course will be provided to every civilian committee member and civilian alternate member prior to reviewing any cases.
- C. All civilian members and alternate civilian members will receive training and a training manual that includes pertinent information, including, but not limited to:
 - (1) The Police Department's disciplinary process.
 - (2) The Police Department policies and procedures related to the investigation of any complaints.
 - (3) New York Penal Law Article 35, Defense of Justification.
 - (4) Westchester County Civil Service Law regarding the employment and selection process.
 - (5) Police Department union contract disciplinary and grievance procedures.
 - (6) The Police Department's recruitment and training process.
 - (7) Selected sections of New York's Vehicle and Traffic Law, Penal Law, and Criminal Procedure Law.
- D. The comprehensive training course all civilian members will receive prior to reviewing any cases will include training on the proper procedures and techniques related to:

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- (1) The Police Department's Use of Force guidelines and procedures.
- (2) The Police Department's Use of Deadly Physical Force guidelines and procedures.
- (3) 'Terry stops' and "Stop, Question and Frisk."
- (4) Vehicle Stops.
- (5) Warrantless Arrests.
- (5) Search and Seizure.
- (6) Search and Arrest Warrant application and execution procedures.
- (7) Procedures for the handling of Emotionally Disturbed Persons.
- (8) Procedures for the handling of Bias and Hate crimes.
- (9) Relevant Civil Rights and Constitutional Law.
- (10) Community Police Training.
- (11) Human Relations Training, with particular focus on cultural diversity issues, such as, but not limited to those contained in the training models created by the National Organization of Black Law Enforcement Executives (NOBLE), the Police Executive Research Forum (PERF), the Martin Luther King Institute for Non-Violence and March 4, 2015 report of United States Department of Justice Civil Rights Division detailing their Investigation of the Ferguson Police Department.
- (12) 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) Non-compliance with the above-described training requirements shall be deemed a proper cause for removal from the CCRB by the Peekskill City Manager detailed in § X-5E.

E. All civilian CCRB 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 previously agreed upon by the CHAIR, VICE-CHAIR and the Chief.

F. All members will attend a community orientation session sponsored by the Peekskill City Manager that will further educate members of the public on the role of the CCRB and enable CCRB 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, Peekskill's legal consultation or corporation counsel will be provided to the CCRB at the discretion of the Peekskill City Manager.

I. The CHAIR of the CCRB shall notify the Peekskill City Manager in writing on or about December 1, in any year, of any CCRB member who fails to comply with the minimum requirements for meeting attendance and/or training of that respective calendar year.

§ X-7. Schedule of meetings.

- A. The CCRB will meet at least once (1) monthly, on a schedule determined by the CHAIR. A minimum of 24 hours' notice of meetings will be provided to all CCRB members, with the exception of emergency meetings, which may be called by the CHAIR when necessary and that such minimum notice may be waived in the event that the CHAIR and a majority of the CCRB members determine that such an emergency exists making such notice impractical.
- B. In the absence of any complaints to review, the monthly meeting will be used for the continuance of education purposes.

§ X-8. Confidentiality.

- A. The CCRB 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 furnished by the Chief and reviewed by the CCRB, **but no copies** will be retained by Board members.
- C. Any documents related to the deliberations and recommendations of the CCRB, including notes of CCRB members, shall be collected and secured by the CHAIR and VICE-CHAIR at the end of **each** meeting.
- D. Members of the CCRB shall not discuss complaint investigations with any non-member, nor allow any non-member to discuss any information relevant to a pending complaint with them.
- E. A violation of the confidentiality of the CCRB shall be grounds for dismissal by the Peekskill City Manager and possibly constitute a violation of local law that **may** subject the member to civil and/or criminal liability.
- F. Because the Peekskill City Manager will serve as the CCRB overseer, he/she is required to conduct any disciplinary hearings arising out of complaints reviewed by the CCRB. Therefore, the Peekskill City Manager **shall not** attend meetings of the CCRB when investigations are under review.
- G. The City Manager will develop and implement a system for the electronic retention of all CCRB records and ensure that CCRB will have complete and unfettered access to all CCRB records contain therein.

§ X-9. Conflict of interest.

- A. When a complaint before the CCRB for review presents an actual or potential conflict of interest for a civilian or Police Department Board member, as perceived by the Board member, CHAIR, VICE-CHAIR and two additional Board members, the Board member shall be excused from meetings on the case(s) and the alternate appointed will serve in his/her place and resume his/her duties. A conflict of interest occurs in instances that include, but are not limited to, those whereby a CCRB member is the actual complainant, witness to an incident that is the subject to a complaint, related to either the complainant or officer involved in the specific incident under review, or any other conflict that the majority of CCRB determines by majority vote constitutes a conflict of interest.

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B. CCRB 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 CCRB that may become the basis for a conflict of interest.

§ X-10. Quorum.

In order for the CCRB to conduct its affairs, at minimum, five (5) of the seven (7) members must be in attendance as all official actions taken by the CCRB shall require a vote majority.

§ X-11. Scope of review.

A. Review of complaints.

(1) Exceptions. The CCRB shall review all complaints, **except**:

(a) Cases during an ongoing criminal investigation against a police officer or complainant.

(b) Cases while matters or criminal investigations are pending.

(c) Cases involving a filed and pending civil action.

(2) However, some cases in Subsection A(1)(a), (b) and (c) above may be reviewed by the CCRB if the Chief has commenced an internal departmental investigation and/or review has been deemed appropriate by the Peekskill Attorney or Westchester District Attorney.

B. The CCRB shall review all written complaints, including those submitted electronically, in the following manner:

(1) Complainants may submit a written or anonymous complaint either directly to the CCRB or the Police Department.

(2) Complaints should be submitted within 60 business days of the underlying incident. Should any anonymous or written CCRB complaint be received after 60 business days, it will be accepted but not investigated. However, it should be filed into the police officer's departmental file for internal information to monitor future behavioral patterns.

(3) The CCRB shall enter all complaints it receives into the "CCRB Command 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 CCRB to the Chief of Police no later than five (5) business days of its submission.

(5) The Chief of Police will advise the CCRB CHAIR of all complaints received directly to the Police Department within five (5) business days of its submission, and said complaint shall also be entered in the CCRB Command Log.

(6) A chronological complaint number shall be assigned to every logged complaint.

(7) The CCRB will review the CCRB Command Log entries at every monthly meeting to ensure that they are being investigated and reviewed in a timely manner.

(8) All CCRB investigations must be resolved within three (3) months of the date of the complaint unless extenuating circumstances prevent the completion of said investigation,

(9) The Police Department and the CCRB investigator will commence an investigation within seven (7) business days upon the receipt of a complaint.

(10) The Chief and/or assigned Police Department Investigator and a civilian investigator shall conduct the initial investigation of all personnel complaints in accordance with this statute and the policies and general orders of the Peekskill Police Department.

(11) The Chief and/or assigned Police Department Investigator and a civilian investigator shall present the results of the department's investigation, including their recommendation for command discipline, if any, to the CCRB, along with all supporting documents.

(1) The complete file of the Peekskill Police Department's investigation related solely to the complaint being investigated, shall be presented to the CCRB for its review.

(2) The CCRB shall review the investigation conducted by the Police Department to determine if the investigation is sufficient.

(3) The CCRB shall assess whether the conclusions reached by the assigned Police Department Investigator are consistent with the information gathered during 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 CCRB all unwritten and/or anonymous complaints regarding sworn police officers, members of the police auxiliary and members of parking enforcement received by the Police Department and their disposition within seven (7) business days of their submission.

D. CCRB shall have complete access to all body camera footage and any other video, audio or any other recordings related to the investigation of any complaint.

§ X-12. Recommendations.

A. After a complete review of the Police Department investigation of a written complaint, the CCRB shall deliberate and vote on whether to find the complaint(s) or allegation(s) as either SUBSTANTIATED, UNSUBSTANTIATED, or UNFOUNDED.

B. If the CCRB 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 CCRB or advise the CCRB no later than the next scheduled meeting that no additional investigation will be taking place. The Chief and the CCRB 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 CCRB may proceed to vote on a recommendation or decline to do so on grounds of an insufficient investigation. In the event that the CCRB declines to vote on grounds of an insufficient investigation, the Peekskill City Manager shall be so advised.

E. If the CCRB believes unacceptable results to the investigation of a case is caused due to lack of necessary but existing evidence, such as access to private civilian-owned video footage or necessary video footage from a police body-camera, dash-camera, or personal police records (memo book, notes), the CCRB Chair can consult with the City Manager and Corporation Counsel to request a subpoena(s) to have such evidence retained.

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- F. Upon completion of any additional investigation requested by the Board, and the reporting of any additional information by the Chief and/or assigned Police Department Investigator, the CCRB shall reconsider the case for the purpose of issuing a final recommendation.
- G. The CCRB shall issue a recommendation to the Chief within 30 days of the presentation of the completed investigation by the Chief and/or assigned Police Department Investigator.
- H. The recommendation that the charges are either SUBSTANTIATED, UNSUBSTANTIATED, or UNFOUNDED shall require a majority vote of four members.
- I. The recommendation of the CCRB shall be in writing, logged into the CCRB Command Log and shall be communicated to the Peekskill Chief of Police by the CHAIR.
- J. The CCRB's final written report shall include a narrative of the discussion, reflecting the concerns and considerations of the members in reaching their recommendation. The written summary will also reflect any dissenting opinions presented during deliberations.
- K. The Chief of Police shall advise the Peekskill City Manager acting as CCRB's Oversight, of the CCRB's recommendation. The decision as to whether to pursue disciplinary charges shall be upon the discretion of the Peekskill City Manager.
- L. In cases where the CCRB's recommendation differs from the Chief's, the CHAIR (or if unavailable the VICE-CHAIR) will accompany the Chief to meet with the Peekskill City Manager in order to justify why contrasting conclusions were reached. The Peekskill City Manager may question the CHAIR in a manner consistent with the questioning of the Chief and that inquiry will take place under the supervision of the Peekskill's Corporation Counsel.
- M. In no event shall the review by the CCRB impede or otherwise prevent the filing of disciplinary charges within the applicable statute of limitations.
- N. The Chief shall advise the CCRB of the resolution of every complaint and allegation made to the Police Department and every final resolution of those respective cases will be added into the CCRB Command Log.
- O. If the Westchester DA's office or the Chief upgrades an active CCRB to a Westchester DA's Office and/or criminal investigation, the Chief shall notify CCRB within five (5) business days. The case shall no longer be considered reviewable by CCRB and the CCRB Command Log shall be notated accordingly.
- P. The CCRB may also issue recommendations to the Chief of Police regarding the practices, policies, and procedures of the Peekskill Police Department.

§ X-13. Complaint process.

- A. Complaints or allegations of misconduct to be considered for review by the CCRB should be in writing and signed by the complainant(s). In instances where the civilian making the complaint is unable to write and/or sign the complaint due to physical disability or any other inability to read, write, or communicate in English or Spanish, the Police Department member intaking the complaint will make all possible efforts to accommodate said complainant by, but not limited to, recording the complaint as verbally dictated to the intaking member of the Police Department and attesting as to the veracity of the information contained therein.

- B. The Police Department will institute provisions for the submission and receipt of complainants via electronic submission.
- C. The Police Department will ensure the complaint submission process complies with the Americans with Disabilities Act.
- D. The Police Department shall only accept complaints from a third party where the actual complainant is under 18 years of age or is mentally or physically impaired to the extent that the complainant is under the guardianship of the third party.
- E. All civilian complaint forms shall be in duplicate. After completed by a complainant, the top copy of the civilian complaint form shall become the property of the Police Department and the duplicate copy shall become the property of the signing complainant.
- F. The civilian complaint form 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" underneath the signature line in open view in English, Spanish or language the civilian complaint report is translated to. That statute can be fully enforced should the complaint being signed by the complainant prove to be purposely fictitious.
- G. Complaint forms that clearly state the complaint review process shall be available at the Police Department and must be offered to every person with a complaint regarding department personnel.
- H. Complaint forms shall also be available at various community organizations throughout Peekskill, where people associated with these organizations have been trained to assist complainants with filling them out.
- I. Complaint forms are available in English and Spanish. Complaint forms may become available in additional languages in the future, as required by changes in Peekskill's racial demographics, however complaint forms in other languages will be provided upon request. Written statements by complainants and witnesses are not required to be completed in English and will be translated to English prior to review by the Police Department and CCRB.
- J. The Peekskill City manager and the Police Department will be responsible for conducting general training programs in the Peekskill community regarding how the complaint process works, the function of the CCRB, and the investigative role of the police department.
- K. CCRB members may only have direct contact with complainant(s) to discuss the details of their complaint after the complainant(s) have been interviewed by the Chief and/or the assigned police Investigator and civilian investigator. However, the CCRB member must advise the Peekskill City Manager and Chief of Police of their intention to interview the complainant(s) prior to doing so.
- L. CCRB members may also refer any complainant(s) who contact them directly to the Police Department or a community-based organization to obtain a complaint form to begin the process.
- M. After the conclusion of the investigation, a CCRB member will contact the complainant and notify them of the disposition of the complaint and judgement of the officer (if any).

§ X-14. Annual report. The Chief of Police and the CCRB will develop and issue a **public** annual report to summarize:

- A. The number of civilian complaints received during the current year.
- B. The number of civilian complaints either SUBSTANTIATED, UNSUBSTANTIATED, or UNFOUNDED during the current year.
- C. Statistical analysis of the classifications of civilian complaints received, e.g., excessive force, verbal disrespect.
- D. Statistical break-down of the total number of SUBSTANTIATED, UNSUBSTANTIATED, or UNFOUNDED civilian complaints accompanied by the remedial and/or disciplinary steps which followed.
- E. The number of times when the Chief and the CCRB's recommendations differed.
- F. Statistical analysis as to the sex, age, racial and ethnic demographics and length of time employed by the Police Department of the police personnel who were the subject of complaints during the reporting period.
- G. Statistical analysis as to the sex, gender, LGBTQ+ status, age, and racial and ethnic demographics of the persons who filed complaints during the reporting period.
- H. Statistical comparisons of the prior years' annual reports.
- I. A summary of the total number of complaints against individual officers who have more than one (1) SUBSTANTIATED civilian complaint during that calendar year. CCRB will review all data and outcomes and make yearly recommendations, or recommendations as needed to the City Manager and/or Chief on methodologies to reduce civilian complaints.
- J. CCRB will publicly publish a yearly summary of its work and findings for the calendar year on the City of Peekskill website and any other medium that the City Manager and the CCRB deem appropriate. The publication of the yearly summary will exclude the names of specific members of the Police Department that are the subject of complaints. The manner and medium of publication will be at the discretion of the CCRB.