

City of New Rochelle  
City Manager

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**MEMORANDUM**

TO: Honorable Mayor and City Council

THRU: Wilfredo Melendez, Acting City Manager

FROM: Wilfredo Melendez, Acting City Manager/Public Works Commissioner

DATE: October 15, 2024

SUBJECT: PROPOSED ESTABLISHMENT OF A CIVILIAN COMPLAINT REVIEW BOARD - Resolution establishing a Civilian Complaint Review Board (CCRB) and amending the Code of the City of New Rochelle to add Section 9-110, Establishment, of Chapter 9, Boards, Commissions, Committees, Agencies and Councils.

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**BACKGROUND:**

On April 20, 2021, the City Council established the New Rochelle Community-Police Partnership Board (“CPPB”) as the first component of the New Rochelle’s Police Reform and Collaborative plan and charged it with responsibilities to include, but not be limited to, reviewing training protocols, examining the circumstance surrounding "serious incidents," holding regular meetings with community leaders and interested residents to review data, discuss concerns, receive community comment and maintain ongoing, trust-building dialogue and research and recommend a framework for the creation of a Civilian Complaint Review Board (“CCRB”).

The CPPB held several “listening tours” throughout New Rochelle in order to give residents an opportunity to speak with them about the New Rochelle Police Department; received training in police procedure; examined serious incidents involving the New Rochelle Police Department; met with Internal Affairs; and reviewed civilian complaint data.

The CPPB commissioned The Center for Government Research (“CGR”) to help them better understand the various police oversight models and the particular police oversight model that would best serve New Rochelle. CGR analyzed data on civilian complaints about police, gathered stakeholder input, and conducted a national and state scan of civilian review models. After their interviews, research and data analysis, CGR concluded that the immediate adoption of a review-focused oversight model “will allow the community to play a key role in assessing police investigations, and the development of this independent body can be expected to create transparency and increase trust between city residents and police”.

In this review approach, members of the civilian oversight body examine investigation materials from the police investigation unit. After the review, the oversight group may offer opinions or recommendations about police procedure or policy. Those involved with the review approach have no power to impose recommendations. Final decisions, including those involving any

subsequent discipline and/or policy enhancements will be made by the Police Commissioner.

On December 5, 2023 after discussing the CPPB's recommendation that the framework for police oversight in New Rochelle should be a review-focused oversight model, the City Council directed that the CPPB return with proposed legislation detailing the procedures of the new review-focused oversight body. The recommendation of a review-focused oversight model was subsequently adopted by City Council on December 12, 2023 at the City's Regular Legislative Meeting.

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## LEGISLATION

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### RESOLUTION ESTABLISHING A CIVILIAN COMPLAINT REVIEW BOARD (CCRB). (Rev.)

BE IT RESOLVED, by the Council of the City of New Rochelle, that this City Council hereby establishes the Civilian Complaint Review Board as follows:

**Establishment.**

There is hereby established in the City of New Rochelle the New Rochelle Civilian Complaint Review Board (CCRB).

**Legislative Intent and purpose.**

A. Civilian involvement in the review of police practices has been spreading rapidly throughout the United States. 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 June of 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.

B. In 2021, the New Rochelle City Council established the New Rochelle Community Police Partnership Board ("CPPB") as the first component of the New Rochelle's Police Reform and Collaborative Plan and charged it with responsibilities including, but not limited to, reviewing training protocols; examining the circumstance surrounding serious incidents; holding regular meetings with community leaders and interested residents to review data, discuss concerns, receive community comment and maintain ongoing, trust-building dialogue; and researching and recommending a framework for the creation of a Civilian Complaint Review Board. In December of 2023, the City Council accepted and adopted the CPPB's recommendation to create a review- focused oversight model as the framework for community-police oversight in the City of New Rochelle.

C. The purpose of this chapter is to create an independent review body with respect to complaints of misconduct by officers of the New Rochelle Police Department. The remedies created by this board are in addition to any others provided by common law or statute. Its goals are to improve communication between the Police Department and the community, to increase police accountability and credibility with the public, and to create a complaint review process that is free from bias and informed of actual police practices.

### **Membership.**

The CCRB shall have a total of seven members. Six members, comprised of one member from each Council District selected by the City Council member serving that District, will be appointed by a majority vote of the City Council. One member shall be from the City at large and will be appointed by the Mayor. Members shall be appointed for three-year terms, except that upon initial appointment there shall be four members serving three-year terms and three members serving two-year terms; every person thereafter shall be appointed to a three-year term. The City Council, with the approval of the Mayor, shall select one member to serve as the Chairperson for a one-year term. The Chairperson shall be the presiding officer over all meetings of the CCRB and shall perform all duties as prescribed and adopted the rules of procedure adopted by the CCRB. A member may be appointed as Chairperson for no more than two consecutive one-year terms. The members of the Board shall serve with compensation.

### **Criteria for membership.**

- A. Members must submit to a fingerprint check.
- B. Members must sign a confidentiality oath.
- C. Members must be willing to receive civilian complaints.
- D. No member may be a present or former member of the New Rochelle Police Department or any other police organization, or a current-elected official, a City official, employee of the City, or a member of another City board (other than the Board of Education). No member may be a relative of a present or former member of the New Rochelle Police Department or any other police organization, an elected official, City official or employee of the City. A “relative” is defined as a spouse, parent, stepparent, sibling, step-sibling, sibling’s spouse, child, stepchild, uncle, aunt, nephew, niece, or first cousin.
- E. Members may not serve or remain on the CCRB if they have been convicted of a felony within the past five years (unless such felony has been discharged or expunged); have been incarcerated in the past five years; or have been on probation or parole in the past five years.
- F. Members must be 18 years of age or older and reside in the City of New Rochelle.

**Term limits, holdovers and vacancy.**

A. In accordance with the provisions of the New York State Public Officers Law, any member whose term has expired shall hold over until his or her replacement shall be named; any replacement shall hold office for the balance of the term. Any vacancy shall be filled by replacement appointment in the same manner as the original appointment was made, within sixty days of the vacancy.

B. A member may be appointed to two consecutive terms. Upon the successful completion of two consecutive terms, the member may not be reappointed to membership on the CCRB for at least one year from the end of the last term in office.

**Grounds for removal.**

A member of the CCRB elected by the City Council may be removed by a majority vote of the City Council for cause, which shall include but not be limited to, unexcused absences, violation of confidentiality, failure to complete training and conflict of interest. Members may also be removed for reasons other than listed above, for just cause, by a vote of the City Council, upon a recommendation by the Chairperson and two additional members and following a hearing on the allegations.

**Quorum.**

Four of seven members shall constitute a quorum for the transaction of business.

**Training.**

A. Training is a mandatory requirement for membership on the CCRB.

B. A comprehensive core training curriculum will be provided to each Board member prior to the member reviewing any cases. The core training curriculum shall include training on the following topics, which will be provided by qualified training officers assigned by the Police Commissioner:

- (1) The establishment of the CCRB and the civilian oversight review model.
- (2) Organization, history, and cultural evolution of the New Rochelle Police Department.
- (3) Confidentiality requirements.

(4) The criminal justice process (arrest, booking, arraignment, bail, hearings, trial).

(5) Use of force, stop and frisk, warrantless arrests, search and seizure, vehicle stops, and relevant constitutional issues.

(6) The New Rochelle Police Department's policies and procedures related to the investigation of complaints, including civilian complaint intake, investigation, and disciplinary procedures; evaluating credibility, reaching findings and due diligence requirements; procedures for hearings and meetings; and developing policy recommendations.

(7) New York State Penal Law Article 35, Defense of Justification.

(8) Collective Bargaining Agreements as they related to sworn police officers and civilian members of the New Rochelle Police Department. Additionally, members must complete the New Rochelle Police Department Citizen Police Academy, which provides training on a wide variety of police practices, procedures and techniques.

C. The core training curriculum will also include training on the following topics, which will be provided by representatives of the National Association for Civilian Oversight of Law Enforcement (NACOLE) or other qualified trainers selected by the members of the CCRB:

(1) The history of discrimination and mistreatment of black and African-American citizens dating back to the arrival of the first enslaved Africans in America.

(2) The history of systemic racial bias and disproportionate policing of communities of color in America and elsewhere.

(3) The history of incidents involving the police in New Rochelle and elsewhere that have resulted in the deaths of unarmed civilians, predominantly black and African-American men.

(4) Proposed strategies to better address the particular needs of communities of color to promote public safety, improve community engagement, and foster trust.

(5) The history, culture, and concerns of the community served by New Rochelle Police Department, in particular the public's concern with biased policing and racial profiling.

(6) The expectations the local community and government stakeholders have of the CCRB.

D. In addition to the comprehensive core training curriculum, members will be provided

with training on topics, including, but not limited to:

- (1)Laws governing public records and public meetings.
- (2)State and local laws as they relate to a police officers' rights and privacy.
- (3)Procedures for investigating and reviewing shootings and in-custody deaths.
- (4)Procedures for handling emotionally disturbed individuals and the use of the Mobile Crisis Response Team (MCRT).
- (5)Response to domestic violence complaints.
- (6)Procedures for handling persons under the influence of drugs or alcohol.
- (7)Issues related to allegations of police misconduct.
- (8)Other issues related to civilian/policy contracts deemed relevant by the Chairperson in consultation with the Police Commissioner.

E. All members will spend time in discussion with New Rochelle police officers and may elect to accompany police officers on patrol, subject to prior approval by the Police Commissioner and in consultation with the Chairperson.

### **Meetings and attendance.**

A. The CCRB will meet at least once a month, on a schedule to be determined by the Chairperson. Monthly meetings where complaints are discussed will not be open to the public in order to protect the privacy and rights of the complainants and police.

B. The CCRB will meet with the Internal Affairs Unit Lieutenant on a monthly basis, on a schedule to be determined by the Commissioner and Chairperson. The Lieutenant will present completed internal investigations to the CCRB for review.

C. In the absence of any complaints to review, the meeting will be used for training and continuing education purposes.

D. The CCRB will hold public meetings at least once every quarter at City Hall. These meetings shall be open to the public unless an executive session is warranted under the provisions of the New State Open Meetings Law.

E. The CCRB will conduct an annual meeting to educate members of the public on the role of the Board and to enable its members and the City Council to hear differing perspectives regarding police/civilian interactions.

F. Members must attend a minimum of 75% of the CCRB meetings scheduled within a calendar year. Noncompliance with this attendance requirement shall be deemed a

proper cause for removal by the City Council. No action of the Board will be voided or declared invalid as a result of a member's failure to comply with the annual attendance requirement.

**Confidentiality.**

A. Members shall maintain absolute confidentiality with respect to confidential or privileged information they receive and maintain a thorough knowledge of the legal protection accorded to police records, including the penalties imposed for violations.

B. Members shall obey all laws respecting individuals' rights of privacy and confidentiality of records.

C. Members shall not make copies or remove any Police Department, professional standards, personnel or other files, records or tapes from City offices.

D. Members shall conduct themselves at all times in a manner that will maintain public confidence in the fairness, impartiality and integrity of the CCRB and refrain from making any prejudicial comments with respect to the Board, complainants or police officers.

E. Members shall not discuss complaint investigations with any non-member or allow any non-member to discuss any information relevant to a pending complaint with them. When meetings are conducted remotely, members shall take such measures to ensure that non-members do not observe or listen to the meetings and that the meetings are not recorded.

F. A violation of the confidentiality of the CCRB by a member shall be grounds for dismissal by the City Council.

**Conflicts of interest.**

A. A conflict of interest occurs in instances that include, but are not limited to, where a CCRB member:

(1) Is the complainant.

(2) Is a witness to an incident that is the subject of a complaint.

(3) Has any professional, personal or financial relationship with any complainant, witness or police officer involved in an incident under review by the CCRB.



(4) Is the attorney or other legal representative, or works for the same law firm as the attorney or other legal representative, for the complainant or the officer who is the subject of the complaint.

(5) Is an officer in an organization that has assumed an advocacy position in the specific incident under review.

B. When a complaint investigation before the CCRB presents an actual or potential conflict of interest for a member, the member with the conflict shall recuse herself or himself from the review of the particular complaint investigation. Where a member has been recused, the recusal shall be noted in the meeting minutes.

C. CCRB members are required to immediately disclose to the Chairperson any professional, personal or financial relationship with any complainant, witness or police officer involved in an incident under review by the CCRB that may be the basis for a conflict of interest.

### **Civilian Complaint Review Data**

A. The Internal Affairs Unit Lieutenant will present completed internal investigations for presentation to the CCRB. The review will include:

- (1) The original complaint;
- (2) Any reports, summons or other written materials that may be the nexus of the interaction between the complainant and the Police Officer;
- (3) Media, including audio and video, associated with the investigation, except that media may be redacted when necessary to maintain the confidentiality of witnesses, bystanders, and officers not involved in the investigation;
- (4) Review of the investigation process, including review of all written and recorded documentation of interviews and other information collected as part of the investigation;
- (5) Review of any unreported violations discovered by Internal Affairs during the investigation;
- (6) Review of relevant investigations conducted by outside agencies, such as the office of the Westchester County District Attorney, the New York State Attorney General, or a Special Prosecutor; and
- (7) Review of law, policies, and procedures related to the original complaint, and any unreported violations if applicable.
- (8) The Lieutenant will advise the CCRB on the conclusions of the internal police investigation.

B. Members will discuss the complaint(s), issue the CCRB's opinion(s) to the Police Commissioner, and make a recommendation regarding the imposition of discipline where appropriate, by no later than ninety days following receipt of the relevant data. The CCRB may, in its discretion, submit both majority and minority opinions to the Commissioner when the members are unable to come to a unanimous opinion.

C. The Police Commissioner will make the final decision on the imposition of discipline and will report back to the CCRB on the discipline imposed, if any, including an explanation of any deviation from the CCRB's recommendation(s).

### **Scope of Review**

A. Review of complaints and civilian complaint investigations.

(1) Exceptions. The CCRB will review all written civilian complaints and civilian complaint investigations, except:

(a) Civilian complaints or civilian complaint investigations submitted or completed prior to the CCRB's inception.

(b) Where there is an ongoing criminal investigation against a Police Department member who is the subject of the complaint or the complainant.

(c) Where criminal charges are pending.

(d) Where there is a filed civil action brought by or on behalf of the complainant relating to the allegations in the complaint.

(e) Where the case has been referred directly to the Westchester County District Attorney's Office, to the Office of the NYS Attorney General, or the Special Prosecutor's Office from an agency of the federal government due to the severity of the charges alleged against a member of the Police Department and is under active investigation.

### **Reporting**

A. The CCRB shall issue a public report on every complaint after the Police Department's internal investigation and the CCRB's review are complete.

(1) Each case report shall include:

- (a) A summary of the incident leading to the complaint, the allegations contained in the complaint, and the response of the involved officer(s).
  - (b) A summary of the Police Department's internal investigation.
  - (c) The results of the CCRB's review of the internal investigation, including majority and minority opinions if the CCRB's opinion is not unanimous.
  - (d) The discipline imposed by the Commissioner, if any, and the Commissioner's explanation of any deviation from the CCRB's recommendation.
- (2) Names of the complainant, the involved officer(s), and witnesses may be redacted from public case reports as needed to protect their confidentiality.
- B. The CCRB shall issue semi-annual public reports summarizing the complaints reviewed during the relevant time period and addressing any other matters that have come before the CCRB for discussion or review, including police policies and procedures, public input, etc.
- C. All CCRB case reports and semi-annual reports will be made available on the City's website for public review.

### **Rules of procedure.**

The CCRB shall adopt rules of procedure for the conduct of its business by a majority vote of its members. Such rules and any amendments thereto shall be a part of the CCRB's written record and shall be published on the City's website. The CCRB's rules of procedure and any amendments thereto shall not conflict with the provisions above. Any question of order not governed by the foregoing rules shall be decided in accordance with Robert's Rules of Order Revised. The rules of procedure and any amendments thereto shall become effective 45 calendar days after adoption unless revoked, suspended or modified by the City Council upon request of an aggrieved party or upon the City Council's own motion.