



July 5, 2020

VIA EMAIL

The Albany Common Council
City Hall
24 Eagle Street, Room 206
Albany, NY 12207

Re: Recommendations for Policy Reforms

Dear Members of the Common Council:

In anticipation of the upcoming meeting on July 6, 2020 and legislation that has been introduced relating to the Community Police Review Board (CPRB), the CPRB has compiled several proposed changes to the City Code for consideration by the Committee. These recommendations are in addition to the recommendations made in our letter of June 22, 2020, which can be found on the CPRB's webpage at <https://www.albanycprb.org/home/minutes-and-reports/> (scroll to "2020" and select "Letter to Common Council" or "Policy Recommendations"). Please note that the CPRB continues to deliberate and vote on additional measures for change and more proposals will follow shortly.

The CPRB proposes the following for consideration by the Public Safety Committee:

I. INVESTIGATIVE AND SUBPOENA POWER AND AUTHORIZATION FOR CPRB-INITIATED COMPLAINTS

Independent investigations and subpoena power: The CPRB seeks the ability to conduct investigations through an independent investigator and to be granted the ability to compel the testimony of Albany Police Department (APD) employees, victims and witnesses. Such power may be exercised independent of or concurrently with an OPS investigation or after the conclusion of an OPS investigation or further investigation. The CPRB rejects any limitation to the use of its powers that links such use to response to discontent with the OPS, Chief's or Mayor's investigation.

CPRB-initiated complaints: Currently, OPS is required to investigate all complaints, however, there may be certain issues or incidents with which the CPRB or a complainant may not want to involve OPS initially or at all. Presently, nothing in the City Code prohibits the CPRB from initiating a complaint, but it would be preferable (if only to avoid confusion) for the Code to explicitly recognize the CPRB's ability to initiate an investigation for such issues or incidents, to include, incidents captured on video or in images which are publicly shared or privately shared with a member or members of the CPRB or oral or written accounts shared with the CPRB or a member for purposes of initiating an investigation without a requirement that OPS investigate. This measure will serve to address concerns raised by community members regarding fear of interacting with or filing complaints with or about the police and also concerns regarding victims of police brutality in the form of sexual violence.

Accordingly, the Board proposes the following:

Add a New Definition to 42-333 for 'CPRB-Initiated Complaint' to Read as Follows:

CPRB-INITIATED COMPLAINT: A complaint filed by the CPRB, based on information which is given to, or otherwise obtained by, the CPRB, or one or more members thereof, in any form, including but not limited to, written, oral, video recording, or image, concerning police conduct which the giver of such information has requested be investigated by the CPRB without filing with the Albany Police Department or which the CPRB investigates without filing with the Albany Police Department.

Amend Section 42-341(d) to Add:

The fact that a CPRB member was involved the decision to file a CPRB-initiated complaint, or that a member received or possesses information relevant to a CPRB-initiated complaint, shall not require the recusal of any CPRB members from matters related to that complaint.

Amend Section 42-343(A) to Add:

The CPRB, at its sole discretion, may elect to conduct an investigation, concurrent with the Professional Standards investigation or at any point before or thereafter, of any complaint, including CPRB-Initiated Complaints, with the services of one or more independent outside investigators. The CPRB may withhold any or all information about a CPRB-Initiated Complaint from the Albany Police Department and Professional Standards. The CPRB may issue subpoenas to call witnesses and require the production of documents for purposes of conducting any CPRB investigation.

II. AUTHORIZATION TO HIRE AND PROVISION OF FUNDING FOR INDEPENDENT FULL-TIME COUNSEL

We recommend amending the City Code to provide that the CPRB will hire at least one full-time attorney and requisite support staff to provide legal advice and representation for the Board. This is necessary to achieve true independence and cure the conflicts that currently exist for the Corporation Counsel. When necessary, and with CPRB approval, the CPRB's independent attorney would also be able to engage outside counsel when it is unable to represent the CPRB due to lack of expertise, capacity, or other reason. Such attorney could also file amicus briefs, where appropriate, on behalf of the CPRB with CPRB approval. The salary shall be competitive enough to attract candidates with five or more years of relevant experience. This measure will afford the CPRB further independence and address community and CPRB about the inherent conflict of interest in being represented by Corporation Counsel which also represents the City and the APD.

III. AUTHORIZATION TO HIRE AND PROVISION OF FUNDING FOR COMPLAINANT ADVOCATES

We recommend amending the City Code to provide that the CPRB will hire at least one full-time trained advocate who can assist complainants with the filing of a complaint or CPRB-initiated complaint, accompany complainants to interviews with Professional Standards, and provide other support to complainants and potential complainants. This measure serves to address community and CPRB concerns regarding uncertainty about filing complaints and community members' discomfort and fear throughout the investigation process.

Thank you for your consideration.

Respectfully submitted,

/s/

Ivy Morris
Chair
Community Police Review Board