

## **Proposed Legislation City of Olean Civilian Review Board (CRB)**

### Draft CITY OF OLEAN CIVILIAN REVIEW BOARD

#### A. Public complaints against members of the police department.

The people of the City of Olean require a mechanism for the investigation of complaints of misconduct and possible uses of excessive force by Olean, New York Police Department officers and employees toward members of the public.

As a means of increased civilian transparency and oversight, the Civilian Review Board (“CRB” or “Board”) is hereby established as a body composed solely of members of the public with the authority to review complaints of police misconduct or excessive force as provided in this Section. The CRB will act as a community liaison to foster positive communication between the public and the Olean Police Department.

#### B. Appointment of Members.

1. The Civilian Review Board shall consist of seven (7) volunteer members, appointed by the Mayor of the City of Olean and confirmed by majority vote of the Common Council. Maximum effort shall be made to ensure that one member is chosen from each ward and the members are both culturally and economically inclusive and diverse.

The members should reflect the City’s diverse community with respect to age, disability, ethnicity, race, gender, sexual orientation, income level, and experience.

Initial appointments from Wards 1, 3, and 5 shall serve two year terms; initial appointments from Wards 2, 4, 6, and 7 shall serve four year terms. All subsequent terms will be 4 year appointments.

No member of the CRB shall be a City of Olean official or employee.

2. In order to stand for appointment to the CRB, a prospective candidate must be 18 years of age or older and is required to have resided continuously in City of Olean, New York for the preceding one (1) year.

3. In the event of a vacancy on the Board during the term of office of a member by reason of recall, death, resignation, or other, a successor from the same ward, if possible, shall be selected by the Mayor and confirmed by majority vote of the Common Council.

The position will be filled as described in Sections B1, B2, & B3 and the successor shall serve the remaining term of the replaced member.

4. Training is a mandatory requirement for membership on the committee. A comprehensive training course will be provided to each committee member prior to reviewing any cases. All members will receive training and a manual that includes pertinent information including, but not limited to:

- i. The City Police Department's disciplinary process;
- ii. The City Police Department's policies and procedures related to the investigation of complaints;
- iii. New York Penal Law Article 35, Defense of Justification;
- iv. Civil Service Law regarding the employment and selection process;
- v. Union contract disciplinary and grievance procedures;
- vi. The recruitment and training process;
- vii. Section 50-a, Subdivision 1, of the New York Civil Rights Law regarding privacy rights;
- viii. Selected sections of New York's Vehicle and Traffic Law, Penal Law, and Criminal Procedure, Law.

5. The comprehensive training course all members will receive prior to reviewing any cases will include training on the proper procedures and techniques related to:

- i. The use of force;
- ii. "Stop and frisk";
- iii. Vehicle stops;
- iv. Warrantless arrests;
- v. Search and seizure;
- vi. Relevant civil rights and constitutional law issues;
- vii. 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;
- viii. Response to domestic violence complaints;
  - ix. Other issues related to civilian/police contacts deemed relevant by the Board President, the Police Chief, or the Mayor.

6. A Board President shall be elected by simple majority of CRB members at the first meeting in January.

7. The mayor may remove any CRB member for good cause which includes, but not limited to, lack of attendance, conflict of interest, breach of confidentiality, and failure to complete training courses.

8. CRB funding shall be set at a minimum of \$1,000 annually in the budget.

#### C. Powers and duties of the Civilian Review Board.

1. The board will be responsible for reviewing police policies and procedures, assist in carrying out the City of Olean Police Department's Mission Statement, along with the Department's goals and objectives. The Board shall recommend any changes that may be made to further enhance the relationship between the police and the community.

2. The Board shall receive copies of complaints of alleged misconduct and the subsequent investigation, which will be conducted internally by the Olean Police department; make recommendations regarding discipline to the Chief of Police based upon the Sec. 5.5 of the CBAs and Taylor Law; and review the findings of the investigatory process and outcome.

Once the Chief of Police determines to issue a notice of dismissal or disciplinary action, and the disciplinary process set forth in the applicable current collective bargaining agreement has concluded, the CRB shall create a review report on the investigation and subsequent outcome. Finally, the CRB will provide the report to the Mayor and the Common Council President.

3. The Board shall review the complaint process and make policy recommendations to the Police Chief on how to ensure that all citizens may file a complaint.

4. The Board shall have the responsibility of informing the public about the Civilian Review Board and its duties and shall develop and administer an ongoing program for the education of the public regarding the provision of this section.

5. The Board shall hold a public meeting once a month in order to increase communication with the public. These meetings will offer an opportunity for community members to discuss police-community relations as well as offer proposals or concerns.

This will allow members of the Community to share their experiences with the Board and the police as well as facilitate the exchange of ideas how to improve relations.

- i. During these meetings, the President shall present a report on the CRB's work, including information and statistics on the number and type of complaints received by the Board.
- ii. Minutes of each Board meeting shall be taken and made available to the public.
- iii. Meetings for ongoing investigations may be subject to confidentiality, executive session, and attorney-client privilege.

6. The Board shall issue a semiannual report to the Mayor and Common Council describing its activities.

7. The Board, as an administrative body of the City, has access to the City Attorney.

8. In the event that the CRB is dissatisfied with the extent and/or quality of the Chief's investigation, it shall promptly inform the City Council in writing of the specific deficiency of the investigation. In such event, the CRB may seek authorization from the City Council to employ an outside, independent investigator or legal consultant. This appropriation must take Council resolution.

9. The Board shall act as the primary communication and advisory committee to the Olean Police Department for the residents of the City of Olean. As such, the CRB shall focus on enhancing the current Community Policing Program, support neighborhood watch groups, and suggest initiatives to improve police service to the community.

10. The Board shall suggest training and policy improvements that would enhance the relations between the community members and the OPD, e.g., diversity training, conflict resolution, de-escalation tactics, etc.

11. It shall be the duty of Board members to:

- i. Obey all laws protecting individual rights to privacy and confidentiality of records;
- ii. Recuse themselves from participating in the review of any complaint in which they have a personal, professional, or financial conflict of interest;
- iii. Avoid ex parte discussions of any matter that comes before the board;
- iv. Conduct themselves at all times in a manner that will maintain public confidence in the fairness, impartiality, and integrity of the Board;
- v. Obey all laws and ordinances of the City, and all CRB policies and procedures.

#### D. Cooperation of the Police Department and Authority of the Police Chief

1. The police department shall share the internal investigation of complaints and findings to the Board, so the Board can make its recommendations to the Police Chief, unless prohibited by law. Upon rendering of his/her determination, the Police Chief shall share case-specific information, including but not limited to written materials, audio or video recordings, and related documents to the Board for completion of the review report, unless prohibited by law.

2. The Police Chief shall take into consideration the recommendations made by the CRB pursuant to their review, but is not required to implement or follow any recommendation. Nor is the Police Chief required to wait for a CRB recommendation before making a determination regarding discipline. (Where is the police chief required to issue a judgement within specific timeframe in the current CBA? Please provide source.)

The Police Chief shall issue a notice of dismissal or other disciplinary action if he/she determines it is warranted in accordance with the applicable current collective bargaining agreement after receiving the Board's recommendation, if possible, unless such notice was issued prior to receipt of the Board's recommendation.

The Police Chief shall provide the Board with his/her determination whether to issue discipline regarding a complaint, in writing, within 14 days of issuing a notice of dismissal or other disciplinary action.

3. The provisions of this Section shall not be construed to limit or impair the authority of the Police Chief to discipline members of the Olean Police Department. Nor shall the

provisions outlined in this Section be construed to limit the rights of members of the OPD with respect to disciplinary action, including, but not limited to the right to notice and hearing as well as all other rights afforded and governed by the applicable Collective Bargaining Agreement, Taylor Law of the State of New York, Civil Service Law of the State of New York, and any other Laws of the State that would be applicable in regards to the alleged misconduct complaint.