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**THE NEW YORK EXPERIENCE: EXISTING
MODELS OF CITIZEN OVERSIGHT**

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THE NEW YORK EXPERIENCE: EXISTING MODELS OF CITIZEN OVERSIGHT

**Justina R. Cintrón Perino, Esq.
Senior Staff Attorney**

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The New York Experience: Existing Models of Citizen Oversight

By Justina R. Cintrón

I. Background and Introduction

Citizen oversight of law enforcement is not a novel concept. In fact, the notion that citizens should have some level of involvement and input into the process through which complaints of police misconduct are received, handled, investigated and disposed of “first emerged as a radical idea” in the late 1920s.¹ Between the late 1920s and the mid 1950s, the idea of citizen involvement in the complaint process slowly spread; following World War II, citizen oversight “was eventually embodied in a few experimental agencies.”²



Beginning in the late 1950s through the 1960s, citizen oversight of the police was “a highly controversial idea, dismissed as radical and dangerous.”³ While it drew its primary support from the civil rights and civil liberties communities, the post-civil rights movement coupled with the community-police relations crisis of the 1960s “thrust the issue of citizen oversight of the police into national prominence.”⁴ Bitter conflicts erupted over this issue and ultimately led to the dissolution of the citizen review boards in New York City and Philadelphia. By the end of the 1960s, the citizen oversight movement appeared to be dead.⁵

The creation of the Kansas City Office of Citizen Complaints in 1969 marked the revival of the oversight movement in the United States.⁶ With little publicity, the oversight movement quietly grew in the 1970s, picked up momentum in the early 1980s, and became “a full-fledged national movement” by the mid-1980s through the 1990s.⁷

Today, there are more than one hundred oversight agencies in the United States.⁸ These agencies cover over eighty percent of the largest U.S. cities and “serve nearly one-third of the American population.”⁹ Citizen oversight is also part of the international landscape. There are citizen agencies that oversee police departments in the United Kingdom, Australia, New Zealand, Canada, Ireland, Scotland and Hong Kong.

By the end of 2002, eleven citizen oversight bodies had been established in the state of New York. These

agencies include: the Albany Citizens’ Police Review Board; the Binghamton Police/Community Relations Advisory Board; the Buffalo Commission on Citizens’ Rights and Community Relations; the town of Clarkstown Civilian Complaint Review Board; the Ithaca Community Police Board; the village of Ossining Civilian Police Complaint Review Board; the New York City Civilian Complaint Review Board; the Rochester Civilian Review Board; the Schenectady Civilian Police Review Board; the Syracuse Citizen Review Board; and the Yonkers Police Professional Standards Review Committee. Although more than half of these agencies cover New York’s largest cities, citizen oversight is now emerging in villages and towns across the state.

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II. Models of Citizen Oversight

Citizen oversight is defined as “a procedure through which the investigation and disposition of citizen complaints against police officers involves some input from individuals who are not themselves sworn officers.”¹⁰ According to Professor Samuel Walker, the leading expert in the field, there are several different models of citizen oversight that currently exist.

Class I Agencies are oversight entities responsible for receiving and investigating citizen complaints.¹¹ These agencies are separate and external to the police department, and are staffed by non-sworn persons who conduct the initial fact-finding investigation of individual complaints.¹² The New York City Civilian Complaint Review Board, town of Clarkstown Civilian Complaint Review Board, and the Ithaca Community Police Board are examples of *Class I Agencies*.

Class II Agencies review complaint investigations conducted by the police department.¹³ While there is citizen input in the review of investigative reports, these agencies rely upon the investigations conducted by the police.¹⁴ The Albany Citizens’ Police Review Board, the Ossining Civilian Police Complaint Review Board, the Rochester Civilian Review Board, Schenectady Civilian Police Review Board, the Syracuse Citizen Review Board, and the Yonkers Police Professional

Standards Review Commission are examples of *Class II Agencies*.

Class III Agencies provide appellate review.¹⁵ While “police departments remain responsible for receiving, investigating, and disposing of complaints,”¹⁶ these agencies hear appeals of complaint investigations and dispositions made by the police department.¹⁷ *Class III Agencies* generally have “the least independen[ce] and the lowest level of citizen involvement.”¹⁸ The Binghamton Police/Community Relations Advisory Board is an example of a *Class III Agency*.

Class IV Agencies “review, monitor, or audit the police department’s complaint process.”¹⁹ These agencies “do not investigate individual complaints.”²⁰ However, they often “play a larger role in reviewing police department policies and procedures and making recommendations for change.”²¹ Most citizen police oversight entities in New York possess *Class IV Agency* powers.

Finally, *Class V Agencies*, the newest model of oversight, involve “non-sworn persons who are employed by the police department and who have some input or control over the complaint process.”²² These agencies are considered hybrids, representing an “insider/outsider” approach to citizen oversight.²³ This model of citizen oversight does not yet exist in New York.

Although an agency may be classified as one model of oversight versus another, many citizen oversight agencies that exist both in New York and around the country incorporate aspects of more than one model.

III. Citizen Oversight in New York

A. Citizens’ Police Review Board (Albany, New York)

A creature of local law enacted in July 2000, the city of Albany Citizens’ Police Review Board (CPRB) was established for the purpose of providing “an independent mechanism to fairly review the conduct of law enforcement officials” in the city of Albany.²⁴ In creating the Albany CPRB, the Albany Common Council sought “to improve communication between the Police Department and the community, to increase accountability and credibility with the public, and to create a complaint review process that is free from bias and informed of actual police practices.”²⁵ The Council found that “an effective program to improve the relationship between the community and the Albany Police Department require[d] certain independent authority and power to review the handling of citizen complaints of police misconduct.”²⁶

The Albany CPRB is a nine-member independent body comprised of five members appointed by the city’s Common Council and four members appointed by the Mayor.²⁷ Members serve three-year staggered

terms,²⁸ and serve without compensation. Unlike other citizen oversight bodies in New York that are required to have members representative of certain designated community interests or constituencies to ensure diversity, the only requirements of the members of the Albany CPRB are that they reside in the city of Albany; possess a reputation for fairness, integrity and responsibility; have a demonstrated and active interest in public affairs and service; and not be an officer, employee or relative of an officer or employee of the city.²⁹ However, in appointing members to the Board, the legislation directs that the Common Council and Mayor “endeavor to reflect community diversity in their appointments, including income level, race, ethnicity, age, gender, sexual orientation, and experience, and . . . solicit recommendations from the community.”³⁰

Outside of the enabling legislation, the Albany CPRB operates under self-created procedures and bylaws, which govern the transaction of Board business.³¹ Seven members of the CPRB constitute a quorum for the purpose of conducting public business, and five votes are required for the Board to take any action.³² A member of the Board may not participate as a voting member until he or she has completed an orientation program and has graduated from the Albany Police Department’s Citizen’s Police Academy within six months of the start of the member’s term.³³ CPRB members are required to continuously participate in training,³⁴ and maintain “an ongoing program for the education of the public as to the mission and purposes of the CPRB process and the law.”³⁵

The Albany CPRB is a *Class II Agency*. Under the enabling legislation, the Albany CPRB is empowered to review and comment upon completed investigations of complaints made by citizens against members of the Albany Police Department for alleged misconduct. While investigations of citizen complaints are conducted by the police department’s Office of Professional Standards (OPS), the Board has the authority, after review and deliberation of the department’s preliminary report of its findings, to: 1) render a finding on the complaint; 2) request that OPS conduct further investigation of the complaint; 3) obtain further case-specific information from the Chief, including written materials, audio or video tapes, and related documents; or 4) refer the complaint to mediation.³⁶

In addition to its complaint review authority, the CPRB maintains the power to “conduct public and closed meetings”³⁷ for the review of complaints, and “may make recommendations to the Common Council and to the Mayor regarding police policies and practices relevant to the goals of community policing and the exercise of discretionary authority by police officers.”³⁸

Like many oversight agencies in New York and across the country, the scope of the CPRB's authority does not include the power to subpoena testimony or the production of evidence. Under the legislation, the CPRB may seek authorization from the Common Council to conduct an independent investigation on the Council's behalf, and may request that the Common Council use its subpoena power to call witnesses and require the production of documents.³⁹ However, the exercise of this expanded authority is limited to those complaints alleging use of excessive force or a violation of civil rights, and may only be invoked in cases where the Board has returned the complaint to OPS for further investigation; is dissatisfied with the outcome of the additional investigation; has forwarded the complaint to the Mayor and the Police Chief for review of the investigation; and is dissatisfied with the extent and/or quality of the Mayor's and the Chief's review.⁴⁰

Unique to the Albany CPRB is its power to appoint individuals to observe and monitor OPS's investigation of those complaints that allege the use of excessive force or a violation of civil rights.⁴¹ Although "monitors" maintain no independent investigative powers, their presence during the investigation of a complaint serves to ensure that the Board has some level of oversight and input during the investigation of those complaints alleging more serious incidents of misconduct.

Also unique to the Albany CPRB is the relationship it shares with the Government Law Center of Albany Law School (GLC). When the Board was created, the GLC was retained by the city of Albany to provide, among other things, substantial administrative support services to assist the Board in fulfilling its duties and responsibilities under the law. These services include: training board members; assisting with the coordination of the Board's ongoing program of public education; preparing quarterly and annual reports; assisting with drafting the Board's bylaws and procedures; compiling and retaining a list of independent investigators for assignment to cases alleging excessive use of force; coordinating the Board's mediation program; and overseeing all aspects of the CPRB's day-to-day operations. The unique partnership between the GLC and the Albany CPRB is the only one of its kind in the country.⁴²

B. Police/Community Relations Advisory Board (Binghamton, New York)

In February 1990, the Binghamton City Council enacted a local ordinance recognizing and acknowledging the establishment of the Police/Community Relations Advisory Board (PCRAB).⁴³ According to the ordinance, the Binghamton PCRAB was created for the "purpose of working with the police and the community."⁴⁴ Its mission, in part, is to "help the police depart-

ment meet the needs of the community and to help the community meet the needs of the police department."

The Binghamton PCRAB, like the Albany CPRB, is in an "independent, autonomous body," which operates under self-created bylaws.⁴⁵ It is comprised of nineteen members, all of whom are appointed by the Mayor and serve three-year staggered terms.⁴⁶ Of the nineteen PCRAB members, fifteen are classified as voting members and four are classified as non-voting members. In addition to the requirement that voting members reside in the city of Binghamton,⁴⁷ the bylaws provide that voting members be represented as follows: four members-at-large; one businessperson; one clergy member; two high school students; one Police Benevolent Association (PBA) member; the Chief of Police; two school district administrators; one senior citizen; one tenant representative; and one Urban League representative.⁴⁸ Representation of non-voting members, pursuant to the bylaws, consists of: the Mayor of the city of Binghamton; two members of the steering committee of the Sky Lake Retreats; and the President of the Urban League.⁴⁹ According to the bylaws, two-thirds of the regular voting Board members constitute a quorum for the purpose of transacting the business of the Board.⁵⁰

While the ordinance establishing the Binghamton PCRAB does not specifically enumerate the power and authority of the Board, its bylaws provide that the PCRAB shall focus its efforts in five major areas: 1) personal interaction; 2) education; 3) advocacy; 4) conflict resolution; and 5) monitoring of the Action Plan.⁵¹ According to the Mission Statement contained within the Board's bylaws, the PCRAB is empowered to serve as "an advocate for improved cooperation and communication between police officers and members of the community by welcoming any grievances or complaints from the police department or members of the community," and "shall strive to be a conciliatory and healing influence should conflict and crisis arise."⁵²

Although the Binghamton PCRAB possesses the review authority traditionally held by a *Class II Agency*, the Board primarily functions as a *Class III Agency*. Like the Albany CPRB, the Binghamton PCRAB has the authority to review and comment upon completed investigations conducted by the police department's Internal Affairs Division. However, it is *only* when a complainant is unsatisfied with the outcome of the Internal Affairs investigation that the PCRAB is empowered, through an appointed committee from its membership, to review the investigation and report of Internal Affairs, and determine if proper procedures and laws were followed.⁵³ At the completion of its review, the committee is authorized to make a recommendation to the Mayor, the Chief of Police and the Board,⁵⁴ and the complainant is advised of the finding.⁵⁵

In addition to its review and advisory authority, the Binghamton PCRAB may hold public meetings and refer complainants to mediation if the complainant wishes to resolve his or her complaint through a less formal process.⁵⁶ The Binghamton PCRAB is also authorized, through its bylaws, to suggest, welcome and assist in implementing programs to: achieve personal interaction, achieve the exchange of basic information, and maintain a mutual understanding of the needs, feelings and aspirations among the police department, city administration and members of the community, particularly members of the minority community.⁵⁷

C. Commission on Citizens' Rights and Community Relations (Buffalo, New York)

The Buffalo Commission on Citizens' Rights and Community Relations (CCRCR) was created in 1999 as part of a revision to the city's charter, replacing the then existing Commission on Human Relations.⁵⁸ The Commission "was established to research, investigate and facilitate the filing of complaints; review police investigations of police misconduct; and report and make recommendations to the Mayor and the Common Council."⁵⁹ According to the city charter, the mission of the CCRCR is three-fold: 1) "to eliminate prejudice, intolerance, bigotry and discrimination"; 2) "to encourage equality of treatment and prevent discrimination against persons based upon race, ethnic background, cultural background, language, religion, gender, sexual orientation, disability, nationality and age"; and 3) "to assure respect for the civil liberties of all citizens."⁶⁰

The Buffalo CCRCR is comprised of eleven members, appointed by the Mayor and confirmed by the Common Council, who serve four-year staggered terms and serve without compensation.⁶¹ Other than the requirement that one member of the CCRCR have law enforcement experience,⁶² the city charter provisions governing the Buffalo CCRCR do not require that Commission members be representative of certain designated groups or constituencies. The charter does, however, impose residency⁶³ and age⁶⁴ requirements on all members of appointed boards, commissions, committees, councils and other like bodies of the city of Buffalo.

Under the city charter, a quorum of the CCRCR is required to conduct business and hearings, and all matters before the Commission shall only be decided by a majority vote of the members present.⁶⁵ Like many oversight agencies that operate under self-created rules and guidelines, official business of the CCRCR is conducted according to its Protocols for Conduct, adopted and enacted in April 2002.⁶⁶

Unlike its predecessor, the Buffalo CCRCR has the power to appoint an executive director, a field representative (or community relations advocate) and a secretary to assist in administering the Commission's busi-

ness and carrying out its day-to-day responsibilities and duties.⁶⁷ In addition, the CCRCR may "expend, contract for, or direct the expenditure" of sums "appropriated by the common council or otherwise made available by grants" for facilities, supplies, materials and personnel.⁶⁸

The Buffalo CCRCR is a hybrid model of citizen oversight, incorporating aspects of *Class I*, *Class II*, and *Class IV Agencies*. Under the city's charter, the CCRCR is empowered to "hold public and private hearings and take testimony under oath, and to issue subpoenas requiring attendance of persons [at hearings] and the production of books, papers and other things."⁶⁹ The Commission may "request the cooperation of other agencies of city government,"⁷⁰ and has the authority to "investigate . . . incidents, patterns and causes of discrimination on grounds of race, ethnic background, cultural background, language, religion, gender, sexual orientation, disability, nationality and age."⁷¹ In these respects, the Buffalo CCRCR functions as a *Class I Agency*.

The charter, however, also authorizes the Buffalo CCRCR to review the police department's completed investigation of a complaint of police misconduct, and "review, monitor, report on, and recommend action . . . concerning the police department's (I) initial and continuing training program in community relations and respect for citizens' rights; and (II) standards and procedures for investigating, acting upon, and resolving complaints of police misconduct."⁷² In these respects, the Commission functions as both a *Class II Agency* and *Class IV Agency*.

Outside of its investigatory, review and monitoring functions, the Buffalo CCRCR also maintains the power to "assist citizens with filing and pursuing complaints of police misconduct;"⁷³ to "develop programs in cooperation with civic, community and civil rights organizations and state and federal agencies to improve relations among [the] city's racial, religious, ethnic, and other communities and build an inclusive sense of community throughout the city;"⁷⁴ and to "examine, assess and recommend action on issues of equal opportunity and respect for cultural diversity within city government and its services and programs."⁷⁵

Unique to the Buffalo model of citizen oversight is its highly organized committee structure. In addition to its Executive Committee, which is comprised of the Commission's Chairperson, Vice-Chairperson and Subcommittee Chairpersons, the Buffalo CCRCR is organized into seven committees that carry out the mission, duties and powers of the Commission as set forth in the city charter.⁷⁶ The committee structure consists of: The Citizens' Rights Committee, The Community Relations Committee, The Budget Committee, The Communications Committee, The Police Oversight Committee, The

Personnel Committee, and The Special Ad-Hoc Committee.⁷⁷

Two of the seven committees focus in areas directly related to citizen oversight of police. The Citizens' Rights Committee reviews citizen complaints, initiates investigations and makes recommendations regarding findings and patterns, while the Police Oversight Committee reviews police training and policy for all local law enforcement, researches training and policy in other like cities, and makes recommendations.⁷⁸ The Community Relations Committee, while not directly engaged in activities related to the process of oversight, develops strategies and activities, improves awareness and communication, and makes recommendations that increase the quality of life for citizens of the city of Buffalo.⁷⁹

The Buffalo CCRCR, unlike any other police oversight agency in New York, is not limited to oversight of the city's police department. Through its Special Ad Hoc Committee, the Commission also oversees the fire department.

D. Civilian Complaint Review Board (Town of Clarkstown, New York)

Established by the town police department in October 1989, the town of Clarkstown Civilian Complaint Review Board (CCRB)⁸⁰ was created "in order to assure swift and fair review of complaints against police officers."⁸¹

The Clarkstown CCRB is a nine-member body comprised of six civilian members and three police administrators, or alternates of the rank of lieutenant or higher, all appointed by the police commission.⁸² Members sit in panels of three for the purpose of conducting Board business.⁸³ The Board is composed of three panels,⁸⁴ and each panel is comprised of two (2) civilian panelists and one (1) police administrator or alternate person of the rank of lieutenant or higher.⁸⁵ Members are authorized to vote,⁸⁶ serve two-year terms,⁸⁷ and serve without compensation.⁸⁸

To be eligible to serve as a civilian member of the Clarkstown CCRB, members must: 1) be citizens of the United States; 2) reside in the town of Clarkstown; 3) be 18 years of age or older; 4) be neither former members of the Clarkstown Police Department nor present members of a police or law enforcement agency; 5) have no professional, business or financial relationship with any member of the Clarkstown Police Department or with the Clarkstown Police Department as a whole; and 6) have not been convicted of any offense where such conviction would prohibit them from holding public office.⁸⁹ In addition, members of the Clarkstown CCRB are required to undergo appropriate training prior to assuming their responsibilities on the Board.⁹⁰

The Clarkstown CCRB is a *Class I Agency*. Under the enabling order, the Clarkstown CCRB is empowered to "act as an investigative body."⁹¹ In this capacity, the CCRB is authorized "to investigate and make recommendations . . . with regard to complaints . . . [filed] by individuals against a member or members of the Clarkstown Police Department."⁹² The CCRB's role, however, is limited to the investigation of those complaints "defined as an allegation of police harassment, [a] violation of law which would not constitute a crime and the use of language likely to demean the inherent dignity of any person to whom it was directed and tending to incur disrespect for law enforcement officers."⁹³ Complaints that allege "excessive use of force or an act or acts which would constitute a crime or crimes" fall outside of the jurisdiction of the Board, are investigated by the police department's Internal Affairs Division, and are subsequently turned over to the Police Chief and Police Commission.⁹⁴ The Chief of Police reviews complaints and thereafter, refers the appropriate complaints to the CCRB for review.⁹⁵

In addition to the duties and responsibilities specified in the enabling order, the Clarkstown CCRB is governed by self-created rules and regulations.⁹⁶ As part of its investigative authority, the Clarkstown CCRB has power under those rules and regulations to conduct informal hearings in order to review completed investigative reports pertaining to complaints.⁹⁷ While the CCRB is required to hold these hearings in "Executive Session," the complainant and investigating officer are charged with providing statements and pertinent information concerning the events that gave rise to the complaint. In addition, members of the Board may ask questions of the complainant, the investigating officer and the member or members of the police department who are the subject of the complaint.⁹⁸

While the Clarkstown CCRB maintains significant authority as an investigative body, it does not maintain true subpoena power. Statements made during a hearing are not required to be given under oath,⁹⁹ and there is nothing in the enabling order or the rules and regulations granting the Board the power to request the production of documents or other types of evidence relating to a complaint. In addition, the Clarkstown CCRB, like most oversight agencies in New York, does not have the authority to make any recommendations for discipline or sanctions against officers who are the subject of substantiated complaints.¹⁰⁰ The Police Commission maintains this authority.¹⁰¹

A significant and important provision of the Board's rules and regulations is the police union's agreement to "waive the contractual and/or statutory time limits for the commencement of disciplinary charges by the police department when the charges are based on an act . . . which is the subject of a civilian

complaint and the CCRB determines that the complaint is substantiated.¹⁰² This waiver is *only* effective, however, when the officer(s) and the union have been timely served with a copy of the complaint in accordance with the CCRB's rules and regulations.¹⁰³

E. Community Police Board (Ithaca, New York)

Established by local law subsequently incorporated into the city's charter,¹⁰⁴ the Ithaca Community Police Board (CPB) was created for the purpose of serving "as [a] community liaison to the Police Department, actively fostering positive communication between the police and all segments of the community."¹⁰⁵

The Ithaca CPB is comprised of nine Commissioners appointed by the Mayor with the approval of the Common Council.¹⁰⁶ Commissioners must "be chosen from a range of culturally and economically diverse community groups with consideration given to the effect each appointment will have on the diversity of representation, including geographic representation on the Board."¹⁰⁷ They serve three-year terms and cannot receive a salary for their service on the Board.¹⁰⁸ In addition to the requirement that the CPB be composed of eight Adult Commissioners and one Youth Commissioner,¹⁰⁹ members of the Ithaca CPB are required to be residents of the city of Ithaca for at least two years immediately preceding their appointments and cannot be elected city officials.¹¹⁰

Although the Ithaca CPB functions primarily as a *Class I Agency*, it maintains powers often exercised by a *Class IV Agency*. Under the city charter, the Ithaca CPB is empowered to "make provisions for resolving complaints by citizenry related to the delivery of police services."¹¹¹ These provisions are embodied in the Board's complaint procedures,¹¹² which authorize the CPB to investigate formal complaints filed by citizens against members of the Ithaca Police Department "for work and actions performed in the line of duty."¹¹³ Such investigations include an interview with the complainant, witnesses and the officer(s) involved.¹¹⁴ At the conclusion of its investigation, the CPB "forwards its findings and recommendations to the Chief of Police" with the expectation "that appropriate action(s) [will] be taken to resolve the complaint to the mutual satisfaction of all parties."¹¹⁵ In these respects, the Ithaca CPB functions as a *Class I Agency*.

The Ithaca CPB, however, "may recommend rules, bylaws and regulations for the government of the Police Department of the city, not inconsistent with the laws of th[e] state"¹¹⁶ and is required to "recommend, on its own initiative or at the request of the Mayor, the Common Council or the Police Chief, on any matter affecting the policy or performance of the Police Department."¹¹⁷ The CPB maintains the power to "recommend action against any member of the Police Department"¹¹⁸

and "may also "recommend that certain steps be taken to prevent recurrences of similar complaints."¹¹⁹ In these respects, the CPB functions as a *Class IV Agency*.

In addition to the city's charter, the Ithaca CPB's own bylaws and procedures dictate its manner of operation. Under the charter, the CPB is required to hold meetings at least once a month.¹²⁰ Meetings may be open to the public or held in executive session.¹²¹ The bylaws, however, provide that a quorum consisting of a majority of the seated CPB members is necessary for the transaction of the Board's business, and decisions of the CPB may only be made by a majority of the quorum.¹²² Under CPB procedures, the CPB may refer complaints to mediation and Commissioners may serve as mediators.¹²³

Unique to the Ithaca CPB is its provision of a procedure for appealing final board determinations.¹²⁴ Under the CPB's procedures for reviewing a final determination, a board finding may be reviewed upon the submission of a written request made by the complainant and a majority vote of the Board. Review may *only* be requested if the complainant can show a clear likelihood of success on the merits based on one of the following grounds: 1) new evidence advanced by the complainant; 2) evidence of prejudicial treatment toward the complainant; or 3) failure by the Board to have observed its procedures.¹²⁵ Any members involved in the original investigation are excluded from voting on the request for review.¹²⁶

F. Civilian Police Complaint Review Board (Village of Ossining, New York)

In 2000, the village of Ossining passed local legislation creating the Civilian Police Complaint Review Board (CPCRB).¹²⁷ In establishing the CPCRB, the village of Ossining sought to "promote public confidence in the ability of the Village . . . to provide a governmental structure to fairly investigate, review and dispose of civilian complaints made against its police officers."¹²⁸ The CPCRB was thus considered "one step in building a partnership between the police and the community based on trust and mutual respect."¹²⁹

The Ossining CPCRB is a seven-member independent body¹³⁰ whose mission "is to conduct a complete review of police department investigations of [every] complaint[] filed against police officers."¹³¹ Of those seven members, three are appointed by the Village Board from a list of nominees selected by the village's Police Community Relations Advisory Council; two are appointed from nominees selected by the Chief of Police; and the Village Board appoints two.¹³² In addition to the seven members, the legislation directs that "an alternate member . . . be appointed from each of the selection categories . . . [to] serve on the CPCRB when a member is unable to participate due to a conflict of

interest.”¹³³ Members of the CPCRB serve two-year staggered terms,¹³⁴ and serve without compensation.¹³⁵

To be eligible to serve as a member or alternate member of the Ossining CPCRB: 1) civilian members must be residents of the village of Ossining; 2) police members must be employed full-time by the village’s police department; 3) members must agree to a fingerprint check for the purpose of determining the existence of any criminal convictions; 4) members must sign an oath of confidentiality; 5) members must comply with all training requirements; and 6) members must be eighteen years of age or older.¹³⁶ Any person who is an elected official of the village or town of Ossining or the Ossining Free School District who is a member of the Police Community Relations Council, or who has any criminal convictions is disqualified from serving as a member of the Board.¹³⁷

The Ossining CPCRB operates in accordance with the policies, procedures, rules and regulations set forth in its enabling legislation. While it is required to hold monthly meetings,¹³⁸ these meetings are held in closed session “in order to protect the privacy rights of both the complainant(s) and the police officer(s) who may be the subject of the complaint or allegation.”¹³⁹ Five of the seven sitting members, with at least one from each selection category, must be in attendance in order for the CPCRB to conduct business. A majority of four votes is required for the Board to render a finding on a complaint.¹⁴⁰

The Ossining CPCRB is a *Class II Agency*. Under the enabling legislation, the Board is empowered to “conduct a complete and independent review of the police department’s investigation of every complaint” filed by citizens against members of the village of Ossining Police Department.¹⁴¹ Following the initial investigation conducted by the Chief and/or the police department investigator, the CPCRB is provided with the completed investigation, which includes the investigator’s recommendations for command discipline, if any, and all supporting documents. In conducting its review, the CPCRB has the authority to determine if the investigation was sufficient and is required to “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.”¹⁴²

The Ossining CPCRB, after a complete review of the police department’s investigation, is required to render a finding on the complaint or communicate its recommendations regarding further investigation. Any decisions as to whether to pursue disciplinary charges, however, rest solely with the Village Board.¹⁴³ Under the legislation, the CPCRB’s review does not “impede or otherwise prevent the filing of disciplinary charges within the applicable statute of limitations.”¹⁴⁴

Outside of its review authority, the Ossining CPCRB “may issue reports and recommendations, at its discretion, to the Chief of Police and the Village Board regarding [practices,] policies and procedures of the police department, based on the [Board’s] review of civilian complaints.”¹⁴⁵

Unique to the village of Ossining model of oversight is the broad application of the CPCRB’s enabling legislation. The Ossining CPCRB legislation functions not only to set out the duties and responsibilities of the Board, but it also directs that certain duties and responsibilities be assumed by the Village Board, the Police Department, and the Police Community Relations Advisory Council. For example, under the law the Police Department and the Police Community Relations Advisory Council are charged with conducting an ongoing general training program in the community about the complaint process, the function of the CPCRB, and the investigative role of the police department.¹⁴⁶ Under the legislation, the Village Board determines whether or not to pursue disciplinary charges,¹⁴⁷ and the Police Department, in cooperation with the CPCRB, is required to produce an annual report, summarizing: the number of complaints received; the types of complaints received; the findings made by the Board; the breakdown of the types of complaints resulting in disciplinary or remedial action; the number of times the CPCRB and Police Chief’s recommendations differed; the number of complaints against individual officers; and a comparison of statistics from previous years.¹⁴⁸

G. Civilian Complaint Review Board (New York, New York)

Created in 1953,¹⁴⁹ abolished in 1966¹⁵⁰ and re-established in 1993,¹⁵¹ the New York City Civilian Complaint Review Board (CCRB) is the oldest citizen oversight agency in the state of New York. In creating the CCRB, the New York City Council declared that “[i]t is in the interest of the people of the city of New York and the New York city police department that the investigation of complaints concerning misconduct by officers of the department towards members of the public be complete, thorough and impartial.”¹⁵² The Council found that “[t]hese inquiries must be conducted fairly and independently, and in a manner in which the public and the police department have confidence.”¹⁵³ Thus, the New York City CCRB was “established as a body comprised solely of members of the public with the authority to investigate allegations of police misconduct.”¹⁵⁴

The New York City CCRB is an independent, non-police city agency comprised of thirteen members: Five are selected by the City Council as representatives of each of the five boroughs; three are selected by the Police Commissioner and have experience as law enforcement professionals; and five are selected by the

Mayor.¹⁵⁵ All appointments to the New York City CCRB must reflect the diversity of the city's population.¹⁵⁶

Members of the New York City CCRB are appointed for three-year staggered terms,¹⁵⁷ and receive per diem compensation for the time they spend in board meetings and reviewing cases on board panels.¹⁵⁸ To be eligible to serve on the Board, members must "be residents of the [C]ity of New York;"¹⁵⁹ may not hold any other public office or employment; and must not have any experience as a law enforcement professional or be a former employee of the New York City Police Department.¹⁶⁰ Experience as a law enforcement professional does not include experience as an attorney in a prosecutorial agency.¹⁶¹

Outside of the local law creating the Board, the New York City CCRB operates under self-promulgated rules of procedure¹⁶² as directed by the enabling legislation and in accordance with the New York City Administrative Procedure Act.¹⁶³ The CCRB's Rules not only provide methods and procedures for the investigation of complaints, they also contain procedures for filing complaints; guidelines for the Board's review of investigations and recommendations; and rules for the transaction of Board business. The CCRB is required to hold monthly meetings for the purpose of conducting business and reviewing cases that have been referred for consideration.¹⁶⁴ To register their votes, CCRB members must be present at a meeting of the full Board or a panel of the Board.¹⁶⁵

The New York CCRB is a *Class I Agency*. The scope of the New York CCRB's investigatory authority is the most expansive and effective in the state. Under the enabling legislation, the CCRB is empowered to "receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language."¹⁶⁶ The CCRB is authorized to compel the attendance and testimony of witnesses, including police officers who are the subject of a complaint, at interviews and board hearings, and maintains the power to require the production of records, including records from the New York City Police Department, and other materials necessary to the investigation of a complaint.¹⁶⁷ The Board also has the authority to employ civilian investigators to investigate all complaints.¹⁶⁸

In addition to its significant investigatory authority, the New York CCRB is authorized to review completed investigations conducted by CCRB staff investigators and review recommendations made by the Executive Director of the Board.¹⁶⁹ Such completed investigations and recommendations are assigned to a panel consisting of at least three Board members or may be assigned to the full Board for review.¹⁷⁰ The CCRB's Rules

require that either the panels or the Board employ a "preponderance of the evidence standard" in evaluating cases.¹⁷¹

After its review, the panel or Board is required to prepare a report of its findings and recommendations.¹⁷² Such findings and recommendations constitute the findings and recommendations of the Board.¹⁷³ Under appropriate circumstances, "the panel or Board may . . . return the case to investigative staff for further investigation or a panel may, upon approval of the Board, conduct additional fact-finding interviews."¹⁷⁴ A report of the findings and recommendations made with respect to each case reviewed must be prepared and transmitted to the Police Commissioner.¹⁷⁵

The duties and responsibilities of the New York City CCRB extend beyond the investigation and review of complaints of police misconduct. The CCRB maintains a mediation program, required by its enabling statute, where "a complainant may voluntarily choose to resolve his or her complaint by means of informal conciliation."¹⁷⁶ The purpose of the CCRB Mediation Program "is to provide a quick and voluntary resolution of disagreements between the parties."¹⁷⁷ The CCRB also maintains "the responsibility of informing the public about the [B]oard and its duties,"¹⁷⁸ and is charged with developing and administering an ongoing public education program.¹⁷⁹

The New York City CCRB is the only citizen oversight agency in New York with the power to prosecute police officers for misconduct.¹⁸⁰ In January 2003, the Appellate Division held that "expanding the role of the CCRB to prosecute civilian-initiated complaints would not improperly expand the sphere of the Board's influence . . . [or] diminish[] the Police Commissioner's authority to make the final determination as to appropriate disciplinary sanctions."¹⁸¹

H. Civilian Review Board (Rochester, New York)

The Rochester Civilian Review Board (CRB) was created by a resolution of the City Council in 1992 to replace the then existing Complaint Investigation Committee (CIC).¹⁸² The CRB was the city council's response to a "need for changes to the . . . process of reviewing citizen complaints against the police."¹⁸³ This need was suggested following the council's "thorough and analytical evaluation of police/community relations" in the city of Rochester, as well as in a variety of other cities in New York State and other sections of the country.¹⁸⁴

The Rochester CRB, like the Clarkstown CCRB, is comprised of three-member panels. The CRB panels, however, consist of civilian panelists who are selected on a rotating basis "from a pool of qualified individuals who have been trained by the Center for Dispute Settlement, Inc. (CDS) for such services."¹⁸⁵ From the pool of qualified individuals, the Mayor selects a group of ten

individuals to serve as chairs of the CRB.¹⁸⁶ The Resolution creating the Board directs that the pool of eligible panelists and CRB Chairs, “reflect the overall population of Rochester in its ethnic and racial diversity.”¹⁸⁷

To be eligible to serve as a member of the Rochester CRB, panelists must: 1) reside in the city of Rochester; 2) be a United States citizen; 3) be competent to read and write; 4) be at least eighteen years of age; 5) be committed to completing and abiding by all CDS-required trainings, certifications, rules and procedures; and 6) be recommended by the CRB Screening Committee.¹⁸⁸ In addition, panelists cannot be affiliated with any law enforcement agency and cannot be involved in the criminal justice system.¹⁸⁹

The Rochester CRB, like the Albany CPRB and the Ossining CPCRB, is a *Class II Agency*. Under the resolution creating the Board, the CRB is empowered to review completed investigations conducted by the Professional Standards Section (PSS) of the Rochester Police Department “on all cases involving charges of excessive use of force; any conduct which, if proven, would constitute a crime; and any other matter referred by the Chief of Police.”¹⁹⁰ The purpose of the Rochester CRB’s review is fourfold: 1) to determine whether or not the investigation process was timely, thorough and fair; 2) to recommend a finding with respect to the complaint; 3) to identify and present recommended findings as to any satellite issues; and 4) to make recommendations to the Police Chief.¹⁹¹ The Rochester “CRB is authorized to make any appropriate recommendation to the Chief in regard to revisions to police policies and/or procedures;”¹⁹² the thoroughness, timeliness and fairness of an investigation; and case-related remedial training. However, final determinations and decisions to impose discipline or sanctions ultimately rests with the Police Chief.

Although the Rochester CRB has “the power to interview any witness [civilian or police officer] to a particular complaint,”¹⁹³ this power does not have the force and effect of subpoena power held by *Class I Agencies* like the New York City CCRB.¹⁹⁴ The appearance of any witness before the Rochester CRB is strictly voluntary and the Board may draw no negative inference should a witness decline to appear.¹⁹⁵

In order to obtain a full and adequate investigation of a citizen complaint, the Rochester CRB may request that the City Council conduct its own independent investigation, using its “full subpoena authority to call witnesses and require the production of documents.”¹⁹⁶ This authority may only be exercised in those cases where the CRB has returned the complaint to the PSS for further investigation; is dissatisfied with the outcome of the additional investigation; has forwarded the complaint to the Police Chief and the Mayor for review and additional investigation; and is dissatisfied with

the extent and/or quality of the Chief’s and the Mayor’s review and additional investigation.¹⁹⁷ With some variations, this authority is similar to that which is conferred to the Albany CPRB under its enabling legislation.

Mediation is available to resolve those complaints that fall outside of the jurisdiction of the Rochester CRB.¹⁹⁸ Although it is voluntary for the complainant and the officer, it is encouraged by the City Council as an “important process” that “offers the greatest opportunity to resolve misunderstandings and to build trust between citizens and the police.”¹⁹⁹

Unique to the Rochester CRB is the relationship it shares with the Center for Dispute Settlement, Inc. When the CRB was established, the CDS was retained by the city to provide staff support services to aid the Board in fulfilling its duties and responsibilities under the Resolution. These services include training CRB members and mediators; coordinating the CRB’s outreach and public education programs; preparing annual reports; and overseeing the day-to-day operations of the Board.²⁰⁰

I. Schenectady Civilian Police Review Board (Schenectady, New York)

Modeled after the Albany CPRB, the Schenectady Civilian Police Review Board (CPRB) was established by local legislation adopted in June 2002 to replace the then existing Police Objective Review Committee and Police Community Advisory Board.²⁰¹ In creating the CPRB, the Schenectady City Council, like the Albany Common Council, sought “to improve communication between the Police Department and the community, to increase accountability and credibility with the public, and to create a complaint review process that is free from bias and informed of actual police practices.”²⁰²

The Schenectady CPRB is an eleven-member independent review body.²⁰³ Members of the CPRB are appointed by the Mayor and serve two-year staggered terms.²⁰⁴ The legislation creating the Board directs that appointments to the CPRB “be made with regard to composing a body of members who are involved in community activities, represent diverse constituencies and possess a reputation for fairness, integrity and responsibility.”²⁰⁵ It further directs that appointments be made from recommendations submitted by various local organizations including: 1) the NAACP; 2) the Human Rights Commission; 3) the Chamber of Commerce; 4) the AARP; 5) the League of Women Voters; 6) the Municipal Housing Authority; and 7) the City Council.²⁰⁶ The legislation also requires that one member of the general public be appointed upon recommendation of the citizenry,²⁰⁷ and that the Board include two ex-officio, non-voting members.²⁰⁸

To be eligible to serve on the Schenectady CPRB, members must reside in the city of Schenectady and may not be a member of the Schenectady Police Department, an elected official, a city officer, or an employee of the city.²⁰⁹ In addition, no member may serve or remain on the Board if he or she has been convicted of a felony.²¹⁰

The Schenectady CPRB, like the Albany CPRB, operates under its enabling legislation and maintains the authority to establish its own rules and regulations.²¹¹ Six members of the Schenectady CPRB constitute a quorum for the purpose of transacting Board business. The Board is required to hold regular monthly meetings,²¹² and all meetings must be open to the public, unless an Executive Session is warranted under the state's Open Meetings Law.²¹³ Members are required to participate, within the first year of appointment, in a training provided by the Schenectady Police Department, its Office of Professional Standards and the city of Schenectady's Law Department, and may participate in additional training as agreed upon by the Board.²¹⁴ Unlike its predecessor, the Schenectady CPRB exists independent of the city administration and may hire its own Executive Director²¹⁵ and paid staff to oversee its day-to-day operations and its duties and responsibilities under the law.²¹⁶

The Schenectady CPRB is a *Class II Agency*. Under its enabling legislation, the Board is empowered to review investigations of civilian complaints conducted by the Office of Professional Standards (OPS) of the Police Department.²¹⁷ While members of the Schenectady CPRB may not "participate in an internal affairs investigation or issue subpoenas concerning the same," the legislation requires that the Board "be provided with all documents relating to an investigation."²¹⁸ In cases where the complainant has alleged a violation of civil rights or use of excessive force, "the Board may hire an independent investigator to review the Professional Standards investigation."²¹⁹ After review and deliberation of the investigation of a complaint, the Schenectady CPRB has the power to 1) render findings of approved, disapproved, or unable to be determined; 2) return the complaint to OPS for reevaluation; or 3) refer the complaint to the Mayor or the Common Council.²²⁰

Outside of its review authority, the Schenectady CPRB has the power to "recommend changes to the city policy and procedures to the Mayor, City Council and Public Safety Commissioner, and to review the effectiveness of local policies, laws and ordinances concerning police function and recommend changes as it deems fit."²²¹ In addition, the enabling legislation charges the Board with encouraging and facilitating mediation of complaints as a first step. In doing so, the Board is empowered to establish a list of approved mediators,

detailing their qualifications, for approval by a majority of the Board.²²²

Unique to the Schenectady model of oversight is "the [CPRB's] power to independently review complaints made to [the Board] concerning the policies and procedures of the Schenectady Police Department."²²³ In cases where a complaint about a policy or procedure alleges a violation of civil rights or the excessive use of force, the CPRB may hire an independent investigator to not only review, but also to investigate such complaint.²²⁴ In addition, the Board maintains the authority "to make findings . . . concerning policies and procedures in whatever form it deems necessary, including reports and referrals to any other agency or institution of competent jurisdiction."²²⁵

J. Syracuse Citizen Review Board (Syracuse, New York)

The Syracuse Citizen Review Board (CRB) was created by local legislation enacted in 1993 for the purpose of establishing "an open citizen-controlled process for reviewing grievances involving members of the Syracuse Police Department."²²⁶ In creating the CRB, the Syracuse Common Council sought to "insure public accountability over the powers exercised by members of the Syracuse Police Department while preserving the integrity of the agency that employs them."²²⁷ Thus, the CRB was established "independent of the Syracuse Police Department . . . to hear and review complaints and recommend action regarding police misconduct."²²⁸

The Syracuse CRB is an eleven-member independent body comprised of three members appointed by the Mayor and eight members appointed by the Common Council.²²⁹ Members serve three-year staggered terms.²³⁰ Like members of the Clarkstown CCRB and the Rochester CRB, members of the Syracuse CRB sit in panels of three for the purpose of reviewing investigated complaints.²³¹ Panel membership must be representative of the CRB as a whole, and membership on panels rotates every three months.²³² The three mayoral appointments may not serve on the same panel.²³³

In addition to age and residency requirements,²³⁴ to be eligible to serve on the Syracuse CRB, members of the Board, or their immediate family cannot be employed by the Syracuse Police Department or any local, state or federal law enforcement agency.²³⁵ In addition, members of the Board cannot be the immediate family of any incumbent elected official of the city of Syracuse and cannot have any financial ties with either members of the Syracuse Police Department or any elected city official.²³⁶ Members of the Board cannot have a felony conviction.²³⁷ A practicing attorney, or a member of his or her immediate family, who represents a plaintiff or defendant in a police misconduct lawsuit initiated against the Syracuse Police Department, the

Police Chief, or the Syracuse police union, is ineligible to serve on the Board.²³⁸

The Syracuse CRB primarily operates in accordance with its enabling legislation, which sets forth the Board's powers, duties and responsibilities. Under the legislation, the CRB is required to hold monthly meetings and must hold at least one meeting in each common council district each year.²³⁹ Six members of the CRB constitute a quorum for the purpose of conducting board business,²⁴⁰ and a vote of the majority of the entire Board is required to take action.²⁴¹

The legislation directs the CRB to appoint a Board Administrator who is responsible "on a full-time basis, for the daily administrative work of the Board," which includes, among other things, interviewing citizens making complaints or seeking information about the complaint process; making referrals; representing the Board; assisting in interviewing witnesses and taking statements; advising complainants regarding requests for subpoenas from the Board; offering conciliation services to complainants as an alternative to hearings; researching and seeking out ongoing training for the Board; and recommending and designing public education programs.

Although the Syracuse CRB is a *Class II Agency*, it possesses authority traditionally reserved for a *Class I Agency*. Under the enabling legislation, the CRB is empowered to review completed investigations of complaints made by citizens against members of the Syracuse Police Department. The Internal Affairs (IA) division of the police department conducts initial investigations.²⁴² At the conclusion of its investigation, IA forwards its results to the CRB, who secures the records unless the complainant has requested a board hearing or until such time as the complainant requests a board hearing.²⁴³ The CRB may begin its review after receipt of IA's initial investigation or after the statutory time period has elapsed for IA's completion of its investigation.²⁴⁴ In these respects, the Syracuse CRB operates as a *Class II Agency*.

At the complainant's request, the Syracuse CRB has the power to conduct a full fact-finding hearing.²⁴⁵ Hearings are open,²⁴⁶ held before board panels, and include "testimony by the complainant and any witnesses the complainant or police may want to call."²⁴⁷ By majority vote, the Board may exercise subpoena power to "compel the attendance of witnesses and require the production of such records and materials as are necessary for the investigation and hearing of complaints including records of the SPD and other city agencies."²⁴⁸ The substantial evidence standard is applied during hearings and both the complainant and officer have the right to obtain counsel and cross-examine witnesses.²⁴⁹ Decisions of the panel must be made by majority vote,²⁵⁰ and may be appealed to the full

Board.²⁵¹ In these respects, the Syracuse CRB functions as a *Class I Agency*.

In addition to its review and investigatory authority, the Syracuse CRB "may engage in educational programs designed to promote public awareness of the Review Board process, give citizens information about their rights regarding encounters with the police and publicize the procedure for filing complaints with the Board."²⁵²

Unique to the Syracuse model of citizen oversight is the remedial authority granted to the CRB through its enabling legislation. If, during its review, the CRB finds potential criminal charges, it is required to recommend criminal prosecution and turn its findings over to the District Attorney.²⁵³ Additionally, if misconduct is found the Board is permitted to make written recommendations for sanctions by means of reprimands, suspensions or dismissal.²⁵⁴ The Board may also recommend to the Corporation Counsel that restitution be made "for damage caused to real or personal property, or for medical treatment causally related to the incident."²⁵⁵

Also unique to the Syracuse model of oversight is its incorporation of a Youth Advisory Committee (YAC).²⁵⁶ Members of the YAC are residents of the city between the ages of sixteen and eighteen who serve for a one-year term. The YAC participates in the educational aspects of the CRB; advises the CRB "regarding youth perspectives on the Board's policies and on-going activities and initiatives;" and "may be called upon to assist other youth in their interactions with the CRB."²⁵⁷ The YAC may also "be called upon to advise Hearing Panels in cases involving youth[,] but do not have voting power on the Board."²⁵⁸

K. Yonkers Police Professional Standards Review Committee (Yonkers, New York)

In 1993, the city of Yonkers Police Department adopted a department policy and procedure instituting the Police Professional Standards Review Committee (PPSRC).²⁵⁹ In creating the Yonkers PPSRC, the police department "recognize[d] that the general public has a vested interest in its police department" and that the PPSRC "afford[s] the community an opportunity to review internal investigations that significantly impact [its] interests."²⁶⁰ The mission of the PPSRC is two-fold: 1) "to preserve the integrity and reputation of the department against unjust accusations;" and 2) to "maintain[] the public's trust and sense of security by reviewing completed investigations of alleged misconduct involving department members . . . thereby ensuring a fair, thorough and timely process for all parties."²⁶¹

The Yonkers PPSRC is an eight-member body comprised of Yonkers Police Department members of the rank of sergeant or above who are not supervising offi-

cers,²⁶² one Yonkers Police Officer,²⁶³ and four citizens from the Yonkers community who are selected by the Police Commissioner²⁶⁴ and serve two-year terms.²⁶⁵ In making civilian appointments, the policy and procedure provides that the Police Commissioner will consult with various community and civic organizations, including the Task Force on Police-Community Relations.²⁶⁶

To qualify to serve on the Yonkers PPSRC, members must: 1) reside in Yonkers for a continuous period of one year; 2) have no felony or misdemeanor criminal convictions; 3) be willing to sign a confidentiality agreement and maintain the confidentiality of all records reviewed; and 4) within one year of being selected to serve on the PPSRC, attend and successfully complete the Yonkers Civilian Police Academy and a series of workshops on civil rights and civil liberties of civilians during encounters with law enforcement representatives. Members of the PPSRC may not have any prior professional law enforcement experience (not including experience as an attorney in a prosecutorial agency) or be a present holder of any public office.²⁶⁷ Police department members may not serve on the PPSRC if they are otherwise subject to disqualification because of personal bias or prejudice.²⁶⁸

“One common element of these agencies, however, is the overriding purpose and critical role in improving police/community relations.”

The Yonkers PPSRC is a *Class II Agency*. Under the department’s policy and procedure creating the Committee, the Yonkers PPSRC is authorized to “review the fairness, thoroughness, completeness, and timeliness of completed investigations”²⁶⁹ of allegations of police misconduct. While investigations are conducted by the department’s Office of Professional Standards (OPS), the PPSRC maintains the authority, after review and deliberation of a complaint investigation, to: 1) identify other potential areas for further investigation; 2) return any investigation that the committee feels is deficient; and 3) vote as a Committee on conclusions reached by OPS and prepare and submit a report of its findings to the Police Commissioner.²⁷⁰ Additionally, although the policy and procedure limits the PPSRC’s review of completed investigations related to complaints of misconduct that allege: 1) use of excessive force; 2) abuse of authority; 3) discourtesy; and/or 4) use of offensive language, the Committee has the power to “review other selected cases as requested by the Commissioner of Police.”²⁷¹

Outside of its complaint review authority, the Yonkers PPSRC, like most New York oversight entities,

may “recommend changes or review of policy, procedures, or training for forwarding to the Commissioner of Police.”²⁷² The Committee is also required to institute a public education campaign for the purpose of: 1) informing the public of the existence of the PPSRC; 2) educating the community as to their rights in encounters with police officers and procedures for filing complaints; and 3) updating the public regularly about activities of the Board.²⁷³

IV. Conclusion

Models of citizen oversight of law enforcement in New York vary considerably. They differ in a host of basic characteristics, functions, operations, and objectives. One common element of these agencies, however, is the overriding purpose and critical role in improving police/community relations.

Endnotes

1. In 1928, the Los Angeles Bar Association created the Committee on Constitutional Rights, which was staffed by volunteer attorneys who received and investigated complaints of police misconduct, and thereafter referred those complaints to the Los Angeles Police Department for official investigation. Samuel Walker, *Police Accountability: The Role of Citizen Oversight* 19 (2001) [hereinafter “Police Accountability”].
2. The post World War II era changed the political landscape and gave rise to the civil rights and the police-community relations movements. Citizen oversight emerged as part of both movements and was the impetus for the creation of the Complaint Review Board (CRB) in Washington, D.C., the Philadelphia Police Advisory Board (PAB), and review boards in Minneapolis, Rochester and York, Pennsylvania. *See id.* at 20–25.
3. *Id.* at 6.
4. *Id.* at 25.
5. *Id.* at 31.
6. *Id.*
7. *Id.* at 34.
8. *Id.* at 6.
9. *Id.* (citing Samuel Walker, *Citizen Review of the Police-1998 Update* (1998)).
10. Samuel Walker, *Citizen Oversight of Police, Definition of Citizen Oversight*, at <http://www.policeaccountability.org/defoversight.htm> (last visited Aug. 5, 2003); *see also* Police Accountability, *supra* note 1, at 5.
11. Samuel Walker, *Citizen Oversight of Police, Models of Citizen Oversight*, at <http://www.policeaccountability.org/modelsco.htm> (last visited Aug. 5, 2003) [hereinafter “Models of Citizen Oversight”].
12. Police Accountability, *supra* note 1, at 62.
13. *Id.*
14. *Id.*
15. *Id.*
16. *Id.*
17. Models of Citizen Oversight, *supra* note 11.
18. Police Accountability, *supra* note 1, at 62.
19. *Id.*

20. *Id.*
21. *Id.*
22. Models of Citizen Oversight, *supra* note 11.
23. Under this approach to citizen oversight, the head of the agency is a police department employee, an “insider,” however; the law creating the oversight agency generally requires this individual to be a non-sworn officer, an “outsider.” *See id.*
24. Albany, N.Y., Code § 42-332(B) (2000).
25. *Id.* at § 42-332(E).
26. *Id.* at § 42-332(D).
27. *Id.* at § 42-334(A).
28. *Id.* at § 42-334(B)(1)-(2).
29. *Id.* at § 42-336.
30. *Id.*
31. *Id.* at § 42-338. The Common Council was required to approve the rules and bylaws adopted by the Board.
32. *Id.* at § 42-337.
33. *Id.* at § 42-339.
34. *Id.*
35. *Id.* at § 42-350.
36. *Id.* at § 42-343(F)(1)-(4).
37. *Id.* at § 42-347(B).
38. *Id.* at § 42-340(A).
39. *Id.* at § 42-343(H).
40. *Id.*
41. *Id.* at § 42-343(B)(1).
42. By 2001, there were more than 100 documented citizen police oversight entities in the United States. Based upon the Government Law Center’s research and clearinghouse of information on these other police oversight entities, we have found that the Albany CPRB is the only citizen oversight entity in the country to be staffed by a law school.
43. Binghamton, N.Y., Ordinance 90-11 (1990).
44. *Id.*
45. Police/Community Relations Advisory Board, Binghamton, N.Y., Bylaws, Mission Statement, 1 (1990).
46. *Id.* at art. IV, §§ 1, 1B & 2. Initial members were appointed for one, two or three year terms.
47. *Id.* at art. IV, § 1A.
48. *Id.* at art. IV, § 2. It is worth noting that the Police Chief is the *only* permanent member of the Board. According to the PCRAB brochure revised Aug. 1995, the membership of the PCRAB consists of: 4 members at large; 1 businessperson; 1 clergy member; 2 school district administrators; 2 high school students; 1 senior citizen; 1 PBA member; 1 tenant representative; 1 Urban League representative; 1 NAACP representative; 2 immigrant/refugee representatives; the Mayor; the Chief of Police; and the President of the Urban League.
49. *Id.*
50. *Id.* at art. VI, § 3.
51. *Supra* note 47. According to the bylaws, the Board is charged with encouraging and monitoring the progress toward full implementation of the Plan of Action resulting from the Sky Lake Retreats between the police department and black members of the community, which laid the foundation for the Board and set the parameters that were to be achieved by the Board. Telephone interview with Richard A. Bucci, Mayor, City of Binghamton, N.Y., June 29, 2003.
52. *Supra* note 47.
53. Police Community Relations Advisory Board, Binghamton, N.Y., Brochure, Ways in Which the Board Functions, subparts 3 & 4 (1995).
54. *Id.* at subpart 5.
55. *Id.* at subpart 6.
56. Telephone interview with Roger Shaller, Captain, Police Department, Binghamton, N.Y. (June 2001). It should be noted that members of the Police Community Relations Advisory Board conduct mediations.
57. Police Community Relations Advisory Board, Binghamton, N.Y., Bylaws, Mission Statement, subparts 1 & 2 (1990).
58. Buffalo, N.Y., Charter, art. 18, §§ 18-20–18-22 (2000).
59. Commission on Citizens’ Rights and Community Relations, Buffalo, N.Y., Annual Report, at 3 (July 2001-May 2003).
60. *Supra* note 58, at § 18-20.
61. *Id.* at § 18-4. Members “may receive reimbursement from the city for reasonable and necessary expenses incurred in the performance of their official duties subject to terms and conditions stipulated by the mayor.”
62. *Id.* at § 18-21.
63. *Id.* at § 18-5(a)(ii). This section provides that “no person shall be eligible for . . . appointment as a member of a . . . commission who is not a resident of the city.”
64. *Id.* at § 18-5(b). This section provides that “no person shall be capable of holding a civil office who shall not, at the time he [or she] shall be chosen thereto, have attained the age of eighteen years.”
65. *Id.* at § 18-21.
66. Commission on Citizens’ Rights and Community Relations, Buffalo, N.Y., Annual Report, at 7.
67. *Supra* note 58, at § 18-21.
68. *Id.* at § 18-22(i). According to a memorandum issued by the City in 1999, one of the reasons the Commission on Human Relations was not effective was that it has lacked staff and budgetary support.
69. *Id.* at § 18-22(g).
70. *Id.* at § 18-22(h).
71. *Id.* at § 18-22(b).
72. *Id.* at § 18-22(e).
73. *Id.* at § 18-22(d).
74. *Id.* at § 18-22(a).
75. *Id.* at § 18-22(c).
76. Commission on Citizens’ Rights and Community Relations, Buffalo, N.Y., Annual Report, at 6.
77. *Id.*
78. *Id.* at 6–7.
79. *Id.* at 6, 12.
80. Clarkstown, N.Y., Police Gen. Order 305 (1989).
81. *Id.* at § I, Policy.
82. *Id.* at § II(A). The six civilian members are appointed by the Police Commission upon the recommendation of each member of the Town Board and the civilian member of the Police Commission. The three Police Administrators or alternates are designated by the Chief of Police and approved by the Police Commission. *Id.* at (1).
83. *Id.* at § II(A).
84. *Id.*

85. *Id.*
86. *Id.* at § II(C)(4).
87. *Id.* at § II(C)(3).
88. *Id.* at § II(C)(2).
89. *Id.* at § II(B)(1)-(6).
90. *Id.* at § II(C)(2).
91. *Id.* at § II(C)(2).
92. *Id.* at § III(A).
93. *Id.* at § III(A)(1).
94. *Id.* at § III(A)(2).
95. *Id.* at § III(B)(1) & (3).
96. Clarkstown, N.Y., Civilian Complaint Review Board Rules and Regulations (adopted Mar. 11, 1996).
97. *Id.* at 1.
98. *Id.* at 3.
99. *Id.*
100. *Supra* note 82 at § III(3)(B)(3)(c).
101. *Id.* at § III(3)(B)(3)(c)(1). It is worth noting that in most jurisdictions in New York, the authority to discipline and sanction an officer is reserved to sworn members of the department and covered by the officers' labor agreement.
102. *Supra* note 96, at 5.
103. *Id.*
104. Ithaca, N.Y., Charter, art. II, § C-16 (1984).
105. *Id.* at (C).
106. *Id.* at (A).
107. *Id.*
108. *Id.*
109. *Id.* The law requires that Adult Commissioners be 18 years of age or older and that Youth Commissioners be between 16 and 17 years of age.
110. *Id.* at (A).
111. *Id.* at (C).
112. Ithaca, N.Y., Complaint Against Police Personnel, 1 (revised August 1998).
113. Community Police Board at http://www.cityofithaca.org/index.asp?Type=B_BASIC&SEC={2EAD3CB7-DA0C-4D24-831A-8894D49863B5}&DE={76CB5B5A-B99B-4853-8EFC-D3B1C3AE8F75} (last visited Aug. 5, 2003).
114. Ithaca, N.Y., Complaint Against Police Personnel, Complaint Forms and Procedures, at subpart 6.
115. *Supra* note 104, at (C).
116. *Id.* at (B).
117. *Id.* at (C).
118. *Id.*
119. *Id.*
120. *Id.* at (D).
121. Telephone interview with Nancy Falconer, Staff Member, Ithaca Community Police Board (July 7, 2000). Meetings are conducted in Executive Session when actual names of the affected parties are used and are open to the public when general issues are discussed. *Id.*
122. Ithaca, N.Y., Ithaca Community Police Board, By-Laws, art. V, §§ (A) & (B).
123. *Supra* note 104, at (C). While mediation is made available to complainants and officers, it is rarely chosen as an alternative to a complaint investigation.
124. Ithaca, N.Y., Procedure for Review of a Final Determination made by the Ithaca City Community Police Board (Aug. 24, 1999).
125. *Id.*
126. *Id.*
127. Ossining, N.Y., Code ch. 8 (2000).
128. *Id.* at § 8-1.
129. *Id.* at § 8-1.
130. *Id.* at § 8-5(A).
131. *Id.* at § 8-3.
132. *Id.* at § 8-5(A). A list of no fewer than seven (7) nominees must be put forward by the Police Community Relations Advisory Council, from which three (3) members will be selected for membership on the Board. Appointments made by the Chief of Police must be made from the personnel of the Village's Police Department and must include one representative that is a line officer and one representative that is a senior officer. The Village Board may consider any resident of the Village meeting the legislation's eligibility criteria for membership on the CPCRB, including, but not limited to those persons whose names have been included on the list of nominees forwarded by the Police Community Relations Advisory Council.
133. *Id.*
134. *Id.* at § 8-5(D)(1).
135. *Id.* at § 8-5(D)(3).
136. *Id.* at § 8-5(C).
137. *Id.*
138. *Id.* at § 8-7.
139. *Id.* at § 8-8(A).
140. *Id.* at § 8-8(B).
141. *Id.* at § 8-3(E).
142. *Id.* at § 8-11(11) & (12).
143. *Id.* at § 8-12(J).
144. *Id.* at § 8-12(L).
145. *Id.* at § 8-3(H).
146. *Id.* at § 8-13(E).
147. *Id.* at § 8-12(J).
148. *Id.* at § 8-14.
149. See Police Accountability, *supra* note 1, at 29 (citing Ronald Kahn, "Urban Reform and Police Accountability in New York City, 1950-1974," in R. Lineberry & L. Masotti, eds., 107-27 (1975) and Cheryl-Ann Beattie Repetti, "The Politics of Civilian Review: Police Accountability in Washington, D.C., and New York City, 1948-1974," unpublished Ph.D. dissertation, George Washington Univ. 1997).
150. See Police Accountability, *supra* note 1, at 30.
151. New York, N.Y., City Charter, ch. 18-A (1993).
152. *Id.* at § 440(a).
153. *Id.*
154. *Id.*
155. *Id.* at § 440(b)(1)(i)-(iii).
156. *Id.* at § 440(b)(1).
157. *Id.* at § 440(b)(3).

158. Telephone interview with Andrew Case, Outreach and Research Staff Member, New York City Civilian Complaint Review Board (July 31, 2003).
159. *Supra* note 151, at § 440(b)(1).
160. *Id.* at § 440(2).
161. *Id.*
162. New York, N.Y., Rules of the Civilian Complaint Review Board, tit. 38A, ch. 1.
163. *Supra* note 151, at § 440(c)(2).
164. *Id.* at subchapter E, § 1-41(a).
165. *Id.* at § 1-41(b).
166. *Id.* at § 440(c)(1).
167. *Id.* at § 440(c)(3).
168. *Id.* at § 440(c)(5); *See also* Rules of the Civilian Complaint Review Board, at § 1-24 & § 1-23.
169. *Supra* note 151, at subchapter D, § 1-31.
170. *Id.* A panel may not “consist exclusively of members designated by the City Council, Police Commissioner, or selected by the Mayor.”
171. *Id.* at § 1-33(b).
172. *Id.* at § 1-32(b) & (c).
173. *Id.* at § 1-32(d). It should be noted that “upon request of a member of the panel or upon the direction of the Chair at the request of a member of the Board, the case [will] be referred to the full Board for action.” *Id.* The Board “may take such action as it deems appropriate, including, but not limited to, making its own findings and recommendations, remanding the case to a referring panel for further consideration or action, and remanding the case for further investigation.” *See id.* at § 1-41(b).
174. *Id.* at 1-32(c).
175. *Id.* at 1-33(c).
176. *Supra* note 151, at § 404(c)(4). Mediation can only take place if the subject officer agrees and the panel or Board has not made a determination that mediation is inappropriate.
177. The City of New York, Civilian Complaint Review Board, “A Guide to Mediation” 1 (revised August 1999).
178. *Supra* note 151, at § 404(c)(7).
179. *Id.*
180. *Lynch v. Giuliani*, 301 A.D.2d 351 (1st Dep’t 2003).
181. *Id.* at 358.
182. Rochester, N.Y., Resolution 92-40, § 1 (1992). Note that the CIC, which was established in 1977 and expanded in 1984, was abolished by this act.
183. *Id.* at 731.
184. *Id.*
185. *Id.* at § 2.
186. *Id.* at § 3.
187. *Id.*
188. Center for Dispute Settlement, Rochester, N.Y., “Overview of the Civilian Review Board,” VI(A) & (B), (D) & (E), (G) & (H).
189. *Id.* at VI(C) & (F).
190. *Supra* note 182, at § 4.
191. *Id.* at 731, VIII(A)-(D).
192. *Id.* at § 5; *see* Center for Dispute Settlement, Rochester, N.Y., “Overview of the Civilian Review Board,” at IV(F).
193. *Supra* note 182, at § 8.
194. Under New York City’s CCRB Rules, an officer’s refusal to testify before the Board will be reported to the Police Commissioner and is grounds for department charges that could result in the officer’s dismissal. New York, N.Y., Rules of the Civilian Complaint Review Board, tit. 38A, ch. 1, subchapter C, § 1-24(d).
195. *Lynch v. Giuliani*, 301 A.D.2d 351, at 16–17 (1st Dep’t 2003).
196. *Supra* note 182, at § 9. Following the CRB’s request, “the City Council may vote to conduct a full review of the extent and quality of the investigation.” The result of the City Council’s review becomes a matter of public record.
197. *Id.*
198. Telephone interview with Todd Samolis, Director of Special Programs, Center for Dispute Resolution, Rochester, N.Y. (July 5, 2000).
199. *Supra* note 182, at 733.
200. *Supra* note 198.
201. Schenectady, N.Y., Code ch. 93 (2002).
202. *Id.* at § 93-2(D).
203. *Id.* at § 93-3(1). (amended by Ordinance 2002-16 (2002)).
204. *Id.*
205. *Id.*
206. *Id.*
207. *Id.*
208. *Id.* at § 93-4. The Schenectady Public Safety Commissioner and a citizen-at-large appointed by the City Council shall serve as the ex-officio members.
209. *Id.* at § 93-5.
210. *Id.*
211. *Id.* at § 93-10.
212. *Id.* at § 93-9.
213. *Id.* at § 93-20.
214. *Id.* at § 93-7.
215. *Id.* at § 93-20.
216. *Id.* at § 93-17.
217. *Id.* at § 93-13(A).
218. *Id.* at § 93-13(B).
219. *Id.*
220. *Id.* at § 93-14.
221. *Id.* at § 93-16.
222. *Id.* at § 93-11.
223. *Id.* at § 93-12.
224. *Id.*
225. *Id.* at § 93-15.
226. Syracuse, N.Y., Local Law 11 (1993).
227. *Id.* at § 1.
228. *Id.* at § 3.
229. *Id.* at § 5(1). Of the eight Common Council appointments, each district councilor nominates one member and the at-large councilors jointly nominate a total of three members.
230. *Id.* at § 5(3).
231. *Id.* at § 6(2).
232. *Id.*
233. *Id.*
234. *Id.* at § 4(1) & (2). Members must be at least eighteen years of age at the time of their appointment and reside in the City of Syracuse.

235. *Id.* at § 4(3).
 236. *Id.* at § 4(4).
 237. *Id.* at § 4(6).
 238. *Id.* at § 4(7).
 239. *Id.* at § 7(1).
 240. *Id.*
 241. *Id.* at § 6(1).
 242. *Id.* at § 7(3)(a)(i). The complainant may opt to cooperate with IA's investigation or seek review directly from the CRB pending completion of IA's investigation of the complaint.
 243. *Id.* at § 7(3)(a)(iii).
 244. *Id.* at § 7(3)(a)(iii) & (iv).
 245. *Id.* at § 7(3)(a)(v).
 246. *Id.* at § 7(4)(a).
 247. *Id.*
 248. *Id.* at § 7(3)(a)(vi).
 249. *Id.* at § 7(4)(a)(i).
 250. *Id.* at § 7(3)(b).
 251. *Id.* at § 7(5). An appeal may be taken upon the written request of any participating member of the Panel, the complainant or the police officer.
 252. *Id.* at § 7(1)(c).
 253. *Id.* at § 7(6).
 254. *Id.* § 7(6)(a).
 255. *Id.*
 256. *Id.* at § 8(1).
 257. *Id.*
 258. *Id.*
 259. Yonkers, N.Y., Police Policy & Procedure 1.06.03 (effective Nov. 4, 1993).
 260. *Id.* at II.
 261. Professional Standards Review Committee, Yonkers, N.Y., Mission Statement.
 262. *Supra* note 259, at 1.06.03, III(A).
 263. *Id.* at III(B).
 264. *Id.* at III(C).
 265. *Id.* at IV(E).
 266. *Id.* at III(C).
 267. *Id.* at IV(A)-(D), (F) & (G).
 268. *Id.* at III (A) & (B).
 269. *Id.* at V(C).
 270. *Id.* at V(C)-(E).
 271. *Id.* at V (A) & (B).
 272. *Id.* at V(F).
 273. *Id.* at VI.

Justina R. Cintrón, a Staff Attorney at the Government Law Center of Albany Law School, coordinates the Center's program on citizen oversight of law enforcement and has staffed the Albany Citizens' Police Review Board since November 2000. Ms. Cintrón acknowledges the research assistance of law students Paul Dontenville, Michael Kenneally, Sara Le Cain, and Kyle McCauley.

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