

**Connecticut Bar Association Policing Task Force (“CBAPTF”) Draft Recommendations
Regarding Section 17 of Bill 6004: Civilian Review Board Considerations**

Background:

In June 2020, the CBAPTF Oversight subcommittee was tasked with providing best practices for creating and implementing a civilian police review board (CRB). Soon thereafter, the Connecticut legislature passed HB 6004/PA-20-1 (An Act Concerning Police Accountability), which became law on July 31, 2020. Section 17 of the law allows for municipalities to establish a CRB by ordinance. Section 17(a) specifically dictates that ordinances establishing CRBs shall, at a minimum, include the following:

1. The scope of authority of the CRBs
2. The number of members of the CRBs
3. The process for the selection of board members, whether elected or appointed
4. The term of office for board members
5. The procedure for filling any vacancy of the membership of the CRBs

The Oversight subcommittee produced and reviewed a document summarizing 24 different CRBs from across the nation (see attached). While this review is not exhaustive, the CRBs that were reviewed varied in size, scope, composition, and authority. The summary includes municipalities and counties ranging in population size of 37,000 from Amherst Town, MA, to nine million from the Los Angeles County Sheriff’s Office. The subcommittee also reviewed the United States Department of Justice document *Citizen Review of Police*. Based on these reviews, comparisons, and analysis, the subcommittee recommends the following for municipalities to consider:

Draft Recommendation # 1:

The CBAPTF recommends that municipalities consider the following minimum standards when creating a CRB pursuant to Section 17(a).

Rationale:

Although Section 17(a) outlines the minimum qualifying standard for a town’s implementing ordinance, the legislation does not offer specific guidance for establishing a CRB. This is understandable, given the variety of communities that a CRB might serve. The following recommendations, therefore, provide guidance for the proposed ordinance and the creation of CRBs.

Sec. 17. (a) The legislative body of a town may, by ordinance, establish a civilian police review board. The ordinance shall, at a minimum, prescribe:

(a) The scope of authority of the civilian police review board

The CBAPTF recommends that the following factors be considered when deciding between an investigatory-based or review-based CRB.

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- Does the police department have a history of being open and transparent with the community?
- Is the police department currently under a consent decree /federal oversight, or does it have a history of being under a consent decree/federal oversight?
- Does the municipality have the funding and resources needed to finance an investigative CRB (including office equipment, investigators, computers, video equipment)?
- What are the implications for failure to comply with subpoenas?
- What are the enforcement measures available to compel subpoena compliance?

These questions will assist a municipality in deciding what type of CRB to choose. A community with a police department with a demonstrated track record of being open and transparent with the community may chose a review-based CRB. Conversely, an investigative-based CRB is better suited for a police department that historically or currently has been under federal consent decrees and/or is working to create stronger trust with the community it serves.

An investigative-based CRB will be labor-intensive, requiring members to have an investigative background/training. It will require subpoena power to compel witnesses or to demand document production for examination by the CRB. This CRB will conduct administrative internal affairs investigations that are not intended to substitute for, or interfere with, related criminal investigations. As provided in Section 17, the Inspector General will have the authority to stay a CRB investigation in order that it not interfere with an ongoing criminal investigation. This form of CRB likely will have significant collective bargaining implications.

A review based CRB, by contrast, will evaluate a department’s internal affairs investigation for being objective, factual, and thorough. The CRB would sustain or reject the findings and make recommendations to the Chief of Police or other individuals who have the authority to discipline officers.

(b) The number of members of the civilian police review board

The subcommittee does not recommend a CRB that contains less than five members or more than eleven members.

The attached CRB summary identifies boards ranging from five to eleven members. To avoid votes ending in a tie, boards should be comprised of an odd number of members. Using 60% of members in attendance as the basis for a quorum, a board consisting of five members would need only have three members in attendance to conduct business. As a common-sense approach, it does not appear productive to have less than three persons deciding the issues coming before a CRB.

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On the other hand, a CRB comprised of too many members may present difficulties in attaining a quorum. Also, too many people on a CRB may lead to lengthy debates or discussions of differing opinions, thereby slowing the review process.

(c) The process for the selection of board members, whether elected or appointed

CRBs must assess interactions between police and civilians, sometimes with conflicting accounts and evidence. CRBs must be viewed as objective and impartial entities so that their findings and proposed recommendations will be respected by all involved.

The process of selecting CRB members, whether elected or appointed, should include a background check. The background check should not be used to unfairly preclude any individual’s participation but rather elicit a diverse collection of lived knowledge or possible implicit biases. Prospective board members should participate in an assortment of training, including citizen’s academy, scenario training, ride-a-long, and confidentiality training. Members should also sign a confidentiality agreement before their appointment. The selection process should yield a diverse CRB mindful of gender, race/ethnicity, background, experience and worldview.

(d) The term of office for board members

We recommend that terms be staggered, thus reducing the likelihood of an entire CRB turning over at the same time. Terms should be for a minimum of two years and be reviewed by the entire board review after five years. There should also be a maximum number of terms that a CRB member could serve before a break in service. Members must recognize the civic commitment attached to the role, and absent hardships and personal emergencies, members should serve their full term. CRBs need consistency to garner adequate collective knowledge to perform the job efficiently.

(e) The procedure for filling any vacancy in the membership of the civilian police review board.

The selection committee or the CRB should fill vacancies either by vote or appointment. Also, based upon the amount of time remaining in the vacated term and the amount of training involved in becoming a board member, it may be in the CRB’s best interest to leave the position vacant. The process of filling a vacancy must include the perspective of the initial selection committee and the existing CRB body’s opinions.

There should also be a process that addresses the removal of a board member. The following factors should be considered as a basis for removal: breach of confidentiality; breach of ethics (*i.e.*, using one’s position of power to coerce another, falsifying information, nepotism, and not disclosing conflicts of interest); a pattern of poor attendance; or other conduct unbecoming of a board member. It is essential to recognize that accountability, trust, and integrity are just as integral to the CRB members as they are for police officers.

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Draft Recommendation # 2:

The CBAPTF recommends that Section 17 be amended so that all communities with police departments as well as those communities under the jurisdiction of the Connecticut State Police Resident Trooper Program be required to have a CRB. For the purpose of this recommendation, communities that have an active police commission with oversight over the police department will satisfy the requirement for a CRB.

Rationale:

An integral purpose of the Police Accountability Bill is to provide standards for and oversight of the officers and departments tasked with keeping communities safe. CRBs exist as an alternative forum that can offer an independent review of police departments and, in the process, provide a healthy check and balance on the exercise of authority that in turn can foster civilian trust, police transparency, and community engagement.

The recommendation to mandate the coverage of Section 17 to all of Connecticut adheres to the spirit of the Police Accountability Bill because it will bring standards, oversight, and consistency to all of our Connecticut communities regardless of police jurisdiction.