

Police Transparency and Accountability Task Force
Logistics Subcommittee- Endorsed Recommendations
04/06/2021

The Connecticut Bar Association Policing Task Force shared a draft recommendation regarding citizen complaints and civilian review boards with the Logistics Subcommittee. They were shared with the Logistics Subcommittee to help facilitate our discussion. After careful consideration, the subcommittee endorsed the recommendations outlined below. The recommendations reflect the consensus of the subcommittee.

Recommendation #1: Citizen Complaint Process

It is recommended that the POSTC be tasked with updating the current model form and develop a standardized, statewide reporting form and process for reporting citizen complaints. The complaint form should make clear that those reporting can do so anonymously, do not need to have the form notarized and the form should ask for information about the race, ethnicity and gender of the officer and complainant among other categories. The complaint form must be easy to find, be available electronically, but hard copies should be maintained at the police station and at other municipal buildings, including the library in the town or city, with versions in languages that reflect the needs of the local population. POSTC should collaborate with the Commission of Human Rights and Opportunities (CHRO) to include information that informs the complainant of their right to also file a complaint with the CHRO.

The data from the complaints must then promptly be submitted by each police department to a database maintained by the Police Officer Standards and Training Council without the names or other identifying information of complainants or officers but tracked through a number system so that it is possible to determine whether the same officer or complainant are being reported against or reporting. POSTC should determine which categories of complaints must be submitted by all departments (to include racial profiling, discourteous behavior and excessive force), but should not permit police departments to wait and submit only those complaints, which are investigated and determined to be substantiated. POSTC must also develop an auditing policy to ensure that each police department is making the complaint form widely available and regularly and correctly submitting the data. The POSTC would maintain the database (which could be outsourced to a university) and, on a bi-annual basis, a report of the complaints received would be made public. This system would provide transparency to the public and would more easily permit problems and patterns of behavior to be identified or provide assurance that such problems are not being reported.

Rationale:

An Act Concerning Police Accountability, Bill 6004, does not cover citizen complaints. Currently, there is no standardized practice across the state for reporting all complaints and no central repository for collecting complaints, database for analyzing them, or method of reporting data. The model complaint form developed by POSTC in 2015 has certain problems, including not

making clear that the form is anonymous, and it needs to be updated so that more information is regularly collected. For at least certain categories of citizen complaints, to include excessive force, any complaints of racial profiling or discourteous behavior, this lack of standardized, fulsome reporting and collection of data is particularly problematic.

POSTC has developed certain minimum standards for the reporting of complaints and police departments are required to make hard copies available at the town hall or other municipal building and to make electronic copies available on their websites. However, a detailed form for gathering all the data is not uniform across the state and it is easier to find for some police departments than for others. If POSTC creates a standardized form (with specific information that would be useful for assessing patterns), the data collected should be submitted to a centralized data collection center without names or any identifying information of either complainants or officers. The analysis of the data could be outsourced to a university but should be reported on a bi-annual basis and should be maintained in a database that is easily searchable and publicly accessible.

Recommendation #2: Civilian Review Board Standards:

It is recommended that municipalities consider the following minimum standards when creating a CRB pursuant to Section 17(a) of Public Act 20-1.

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

It is recommended that the following factors be considered when deciding between an investigatory-based or review-based CRB.

- 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 choose 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

It is recommended that a CRB that not contain less than five members or more than 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.

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.

Recommendation #3: Civilian Review Board Requirement:

It is recommended 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.

Recommendation #4: Internal Affairs Training

It is recommended the Police Office Standards and Training Council establish pre-service and in-service training courses for police officers conducting and supervising internal investigations. The core course curriculum shall include but not be limited to:

- Intake, acceptance, and review of complaints;
- Notification of officer, complainant, and witnesses;
- Administrative versus criminal complaint procedure;
- Investigation steps and timeframes and use of other investigators;
- Use of *Miranda* and *Garrity* warnings and use of union representation or legal representation;
- Statutory and constitutional legal issues pertaining to investigation of governmental employees;
- Advanced interview and interrogation technique and management;
- Collection of evidence and exculpatory material;
- Identification of bias against persons or groups;
- Labor agreements;
- Dispositions and disciplinary outcomes;
- Report writing and summaries; and
- Objectivity and accountability issues.

All police officers of any rank assigned to conduct or supervise internal investigations shall be required to successfully complete the POSTC pre-service internal investigator training program and complete in-service training in internal investigations during active assignment to conduct or supervise internal investigations. POSTC shall determine the content, curriculum, and credit hours of the pre- and in-service training modules.

Rationale

Training of officers and accreditation of police departments are methods to ensure standardization and accountability in practice. The training requirements are designed to orient police officers to the unique investigative and legal aspects of conducting internal investigations, both administrative and criminal.

POSTC is responsible for providing guidance and administering a state accreditation program for police departments. PTATF recommended state and municipal law enforcement units to obtain and maintain the POSTC Tier 1 state accreditation by 2022, Tier II accreditation by 2023, and Tier III accreditation by 2025. This recommendation is intended to ensure standards and policies, including policies governing internal investigations processes, are more uniform across departments in Connecticut. Given the scope of the POSTC accreditation standards and the robust nature of the accreditation process, no recommendations are made pertaining to the internal investigation policies of state or municipal police departments.