



THE COUNCIL OF THE CITY OF NEW YORK

Christine C. Quinn, Speaker

**BRIEFING PAPER
OF THE
COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS**

Joel Rivera, Chairperson

February 27, 2013

***Topic:** New York City Civilian Complaint Review Board – (Candidate for designation by the Council)*

- **Joseph A. Puma [Preconsidered-M]**

New York City Charter (“Charter”) § 440 created the New York City Civilian Complaint Review Board (“CCRB” or “the Board”) as an entity independent of the New York City Police Department (“NYPD”). Its purpose is to investigate complaints concerning misconduct by officers of NYPD towards members of the public [*Charter* §440(a)]. The Board’s membership must reflect the City’s diverse population, and all members must be residents of the City [*Charter* §440(b)(1)].

The CCRB consists of a board of thirteen members of the public as well as a civilian staff to assist the CCRB exercising its powers and fulfilling its duties. The members are appointed by the Mayor as follows: five members, one from each borough are designated by the City Council; five members, including the chair, are selected by the Mayor; and three members having law enforcement experience are designated by the Police Commissioner [*Charter* §440(b)(1)]. Only those appointees to the CCRB designated by the Police Commissioner may have law enforcement experience [*Charter* §440(b)(2)]. Experience as an attorney in a prosecutorial agency is not deemed law enforcement experience for purposes of this definition [*Charter* §440(b)(2)]. The CCRB is

authorized to appoint employees that are necessary to exercise its powers and fulfill its duties [*Charter* §440(c)(5)].

All appointees to the CCRB serve three-year terms [*Charter* §440(b)(3)]. Vacancies on the CCRB resulting from removal, death, resignation, or otherwise, are filled in the same manner as the original appointment; the successor completes the former member's unexpired term [*Charter* §440(b)(4)]. Board members are prohibited from holding any other public office or public employment [*Charter* §440(b)(2)]. All CCRB members are eligible for compensation for their work on a per-diem basis. The current per-diem rate is \$315.

The CCRB is authorized to "receive, investigate, hear, make findings and recommend action" upon civilian complaints of misconduct by members of the NYPD towards the public. Complaints within the CCRB's jurisdiction are those that allege excessive force, abuse of authority, discourtesy, or use of offensive language, including but not limited to slurs relating to race, ethnicity, religion, gender, sexual orientation or disability [*Charter* §440(c)(1)].

The CCRB has promulgated procedural rules pursuant to the City's Administrative Procedural Act ("CAPA"). These rules regulate the way investigations are conducted¹, recommendations are made, and members of the public are informed of the status of their complaints. The rules also outline the establishment of panels consisting of at least three (3) Board members; provide that no panel may consist exclusively of Mayoral appointees, Council appointees or Police Commissioner appointees; and authorize panels to supervise the investigation of complaints and hear, make findings and recommend action with respect to such complaints [*Charter* §440(c)(2)]. The CCRB, by majority vote of all its members, may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of complaints [*Charter* §440(c)(3)].

The CCRB's findings and recommendations with respect to complaints, and the basis thereof, must be submitted to the Police Commissioner. In all such cases where a finding or recommendation has been submitted, the Police Commissioner is required to report to the CCRB on any action taken with respect to that complaint [*Charter* §440(d)(3)]. The law prohibits the CCRB from making any finding or recommendation solely on the basis of an unsworn complaint or statement. In addition, the law prohibits the CCRB from using prior complaints against a member of the NYPD that have been unsubstantiated, unfounded or withdrawn as the basis for any finding or

¹ The CCRB employs civilian investigators to investigate all complaints against members of the NYPD.

recommendation regarding a current complaint [*Charter* §440(c)(1)].

It should also be noted that the CCRB has established a voluntary mediation program in which a complainant may choose to resolve his or her complaint through informal conciliation. Both the alleged victim and the subject officer must voluntarily agree to mediation. Mediation is offered as an alternative to investigations to resolve certain types of complaints, none of which can involve physical injury or damage to property. If the mediation is not successful, the alleged victim has the right to request that the case be investigated fully [*Charter* §440(c)(4)].

Also, the CCRB is required to issue to the Mayor and to the City Council a semi-annual report describing its activities and summarizing its actions, and is mandated to develop and administer an ongoing program to educate the public about the CCRB [*Charter* §440(c)(6)].

If designated by the Council and subsequently appointed by the Mayor, Mr. Puma, a resident of Manhattan, will serve the remainder of a three-year term that expires on July 4, 2015. A copy of Mr. Puma's résumé and report/resolution are annexed to this briefing paper.

Attachments

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