



Legislation Text

File #: Int 0174-2002, **Version:** *

Int. No. 174

By Council Members Perkins, Jennings, Foster, Comrie, Gerson, Martinez, Reed, Sanders, Seabrook and Vann;
also Council Member Clarke

A Local Law to amend the New York City Charter to give the Civilian Complaint Review Board the authority to prosecute cases.

Be it enacted by the Council as follows:

Section 1. Paragraphs (a), (c) and (d) of section 440 of the New York City Charter are hereby amended to read as follows:

§ 440. **Public complaints against members of the police department.** (a) It is in the interest of the people of the city of New York and the New York city police department that the investigation and prosecution of complaints concerning misconduct by officers of the department towards members of the public be complete, thorough and impartial. These inquiries and prosecutions must be conducted fairly and independently, and in a manner in which the public and the police department have confidence. An independent civilian complaint review board is hereby established as a body comprised solely of members of the public with the authority to investigate and prosecute allegations of police misconduct as provided in this section.

(c) Powers and duties of the board.

1. The board shall have the power to receive, investigate, hear, make findings, prosecute 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, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The findings and recommendations of the board, and the basis therefor, shall be submitted to the police commissioner. No finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such finding or recommendation.

2. The board shall promulgate rules of procedure in accordance with the city administrative procedure act, including rules that prescribe the manner in which investigations and prosecutions are to be conducted and recommendations made and the manner by which a member of the public is to be informed of the status of his or her complaint. Such rules may provide for the establishment of panels, which shall consist of not less than three members of the board, which shall be empowered to supervise the investigation of complaints, and to hear, make findings and recommend action on such complaints. No such panel shall consist exclusively of

members designated by the council, or designated by the police commissioner, or selected by the mayor. The Board shall supervise the prosecution of a complaint. Such rules shall also provide that where the prosecution of a complaint includes the filing of Charges and Specifications against the subject officer, the Office of Administrative Trials and Hearings (OATH) shall conduct any hearing necessary to the prosecution of the case and issue a report containing proposed findings of fact and a recommended decision to the Police Commissioner.

3. The board, by majority vote of its members, may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation and prosecution of complaints submitted pursuant to this section.

5. The board is authorized, within appropriations available therefor, to appoint such employees as are necessary to exercise its powers and fulfill its duties. The board shall employ civilian investigators to investigate all complaints and civilian prosecutors to prosecute all complaints.

(c) Cooperation of police department.

1. It shall be the duty of the police department to provide such assistance as the board may reasonably request, to cooperate fully with investigations and prosecutions by the board, and to provide to the board upon request records and other materials which are necessary for the investigation and prosecution of complaints submitted pursuant to this section, except such records or materials that cannot be disclosed by law.

2. The police commissioner shall ensure that officers and employees of the police department appear before and respond to inquiries of the board and its civilian investigators and prosecutors in connection with the investigation and prosecution of complaints submitted pursuant to this section, provided that such inquiries are conducted in accordance with department procedures for interrogation of members.

3. The police commissioner shall report to the board on any action taken in cases in which the board or OATH submitted a finding or recommendation to the police commissioner with respect to a complaint.

§ 2. Any previous enactments or agreements between the New York City Police Department and the CCRB with respect to the subject matter of prosecution by the CCRB are hereby expressly superseded by this enactment.

§ 3. This local law shall take effect immediately.