

*Patrolmen's
Benevolent
Association*

Of The City Of New York, Incorporated



OFFICE OF THE PRESIDENT

April 13, 2015

VIA HAND DELIVERY

Richard D. Emery, Esq.
Chairman
Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

**Re: Concerns with the Civilian Complaint Review Board's Proposed Rule to
Require Complainants to Provide Sworn Statements**

Dear Chairman Emery:

We write to raise with you our concerns regarding the Civilian Complaint Review Board's (the "CCRB" or the "Board") proposed amendments to Title 38-A of the Rules of the City of New York (the "CCRB Rules"), which were announced at the Board's recent meetings on March 11, 2015 and April 8, 2015. Specifically, we write to address the Board's proposal to require complainants, alleged victims, and witnesses to provide sworn statements during CCRB interviews, and to respond to the Board's misguided concerns regarding the effect of requiring such statements be provided. As you are aware, the Patrolmen's Benevolent Association of the City of New York, Inc. (the "PBA") has long advocated for such a change in the CCRB's procedures, most recently in a letter to the Chairman dated September 15, 2014, and we believe the time has come to effect its implementation. We plan to address our concerns with the Board's other proposed rule changes in a separate correspondence.

The Board's most recent proposed change to Section 23(l) of the CCRB Rules would require CCRB investigators to administer an oath to complainants, alleged victims, and witnesses prior to conducting CCRB interviews. The oath would require such individuals to swear or affirm under penalty of perjury that all statements provided in connection with the CCRB investigation are true. At the conclusion of the interview, such individuals would be required to sign a verification form stating that they swore under penalty of perjury that the statements made are true. Additionally, the verification form would be signed by a Commissioner of Deeds.

At the CCRB's recent meeting on April 8, 2015, the Board expressed apprehension regarding this proposal, because, according to the Board, it would lead to an inequity, as police



officers are currently not required to swear under penalty of perjury during CCRB interviews. However, such concerns are seriously misguided, as the Board fails to take into account the fundamental unfairness that currently exists in the CCRB's procedures.

Currently, only police officers are held accountable for allegedly making false statements during CCRB interviews. Under existing Departmental procedures, a police officer can be charged by the Department with making false statements during CCRB interviews, and may face consequences up to and including dismissal from the Department. By contrast, complainants face no consequences for lying during CCRB investigations, and the Board acknowledged at its most recent meeting that no attempt has ever been made to punish a complainant for filing false complaints or making false statements. Any argument suggesting that the complainant is "punished" when the Board dismisses their false complaint is patently without merit. Further, contrary to the sentiments expressed by several Board members, including a Police Commissioner appointee, requiring complainants to swear to the truth of their allegations would not deter members of the public from filing complaints, rather it would only deter those individuals who abuse the CCRB process by filing false allegations against police officers. The framers of New York City Charter Section 440 never intended the CCRB to be used for such a purpose.

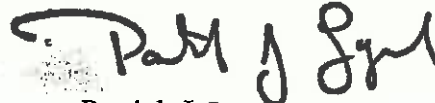
While we believe that the Board's proposal to require sworn statements during CCRB interviews is a step toward leveling the playing field, and holding complainants accountable for filing false complaints against police officers, the proposed change falls short of rectifying the injustice and imbalance that currently exists. As you know, the mere filing of a CCRB complaint, even those that are ultimately unsubstantiated or entirely false to begin with, have harmful consequences on an officer's career. Once a false complaint has been filed against an officer, the damage has been done. An officer will be placed on performance monitoring simply due to the number of complaints filed regardless of the ultimate disposition of those complaints, which has negative employment consequences, including but not limited to a direct effect on his or her ability to be promoted, transferred or receive certain assignments. The Board's current practice reduces a police officer's effectiveness in enforcement, undermines morale, harms police-community relations, and erodes the confidence that police officers have in the CCRB process. I am aware of no analog in employment or in any adjudicative system where harmful consequences are imposed upon a person based on unsubstantiated or false accusations.

Given that the Board's proposal would not adequately address the harm imposed on police officers from the filing of false complaints, we propose that CCRB modify the above-referenced proposal to require complainants, alleged victims, and witnesses to swear to the truth of their allegations before a complaint is accepted for filing. Such a proposal would serve to the address the current inequities in the system and ensure that the CCRB, in accordance with New York City Charter Section 440, is conducting itself "fairly and independently, and in a manner in which the public and the police department have confidence."

In summary, for all of the reasons provided above, the PBA requests that the Board amend the CCRB Rules to require complainants, alleged victims, and witnesses to swear to the truth of their allegations before complaints are accepted for filing.

We thank you for your consideration of this important issue.

Very truly yours,

A handwritten signature in black ink that reads "Patrick J. Lynch". The signature is written in a cursive style with a large initial "P" and "L".

Patrick J. Lynch

cc: Honorable William J. Bratton