

**TOWN OF HAMDEN, CONNECTICUT
CHARTER REVISION COMMISSION
MINUTES OF MEETING**

April 14, 2021

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A meeting of the Charter Revision Commission was held on Wednesday, April 14, 2021 via Zoom due to the Covid-19 Pandemic. The meeting was called to order at 7:00 PM by the Chair, Mr. Dixon. The Secretary took the roll.

MEMBERS PRESENT: Frank Dixon, Chair, Jackie Downing, Vice Chair, Lamond Battle, Secretary, Jeffrey Cohen, Thomas Figlar, Todd Moler, Myron Hul, Nancy Olson, Sarah Gallagher, Jay Kaye, Joshua Sprague-Oliveira, Todd Berton, Marnie Hebron

ALSO IN ATTENDANCE: Steve Mednick, Counsel; Michael McGarry, Panelist; Michael J. Freda, Panelist; Jorge X. Comacho, Panelist; Addys Maria Castillo, Panelist; Caroline Nobo Sarnoff, Panelist; Melvin Medina, Panelist

MEMEBRS ABSENT: Tiffany Artis-Wilson, Frank LaDore

Mr. Dixon called the meeting to order at 7:00 PM.

Mr. Dixon turned the meeting over to Mr. Mednick for Agenda Item 2. **Panel: the Role and Responsibility of the Police Commission: Impact of Collective Bargaining Agreements and Civilian Review**

Mr. Mednick pointed out Civilian Review is probably not something we will adopt in the Charter, but the issue is whether or not we want to mandate a Civilian Review Board within the Town. Mr. Mednick introduced Panelist Mr. Michael McGarry, President of the Hamden Legislative Council. Mr. Mednick said the proposal Mr. McGarry will be discussing stems from the unfortunate incident which occurred in Hamden two years ago, the shooting of Stephanie Witherspoon. One of the pre-eminent provisions in a resolution adopted under Mr. Garry's leadership two years ago was a request to the General Assembly to enable municipalities to create Civilian Review Boards. He will also address the composition of the Police Commission.

Mr. McGarry indicated that when the shooting incident occurred many issues became apparent. Some were worked on in real time. He noted an issue with communication with the Police Commission: if someone had a complaint for the Police Commission about the Police, they had to go through the Police to get to the Police Commission which could be uncomfortable. They were

able to create lines of communication with the Police Commission. Another concern was representation on the Police Commission. It is not representative of Hamden demographics. Also, currently there are no qualifications required to be on the Police Commission. In the resolution they created they called for the Charter to be amended to create qualifications for membership. Mr. McGarry said they discussed having a representative from each of Hamden's nine districts on the Police Commission thus making the Commission more reflective of Hamden demographics. In terms of qualifications, they believe that background in law or enforcement, social work, psychology, public policy, mental health, civil rights advocacy, community organizing, advocacy on behalf of LGBTQ people, advocacy on behalf of immigrants - the large array of issues which come before the Police Department and Commission. Mr. McGarry said the biggest "ask" here to the Charter Commission is to consider changing the Police Commission to a nine member commission, one person from each of the nine districts, with wording providing for the possibility ever, of redistricting, that it would still remain representative of all geographic areas of the Town. Referencing the Civilian Review Board, CRB, he said they did ask the state to consider a CRB that would have oversight function. He noted some people will argue that the Police Commission has the function of the CRB. He pointed out, the two have different functions. Having the Police Commission and the CRB, more civilian oversight, is not something he sees as a problem. Next, he said on the topic of the effects of union contracts on Legislative ability, that they are wide reaching and powerful. There is a resolution at the State level which states the local authority is superseded by the contracts. Mr. McGarry wished to point out that the idea of the nine district representation on the Police Commission was presented to him by Councilman Justin Farmer, and he agrees with it. He urges the charter Revision Commission to consider this idea.

Next, Mr. Mednick introduced the next speaker - First Selectman of North Haven, Michael Freda. Municipal representative to the Connecticut Police Officers Standards and Training Council Post here to discuss the role of Police Commissions in the State of Connecticut. Mr. Freda began by saying that the idea presented by Mr. McGarry regarding expanding the Police Commission representation to include all nine districts is an outstanding idea. Mr. Freda pointed out that North Haven has a different type of government than Hamden - Selectman and Public meetings, not a Legislative council. He said in North Haven they have a five member Police Commission. They are elected officials so their role and responsibilities are governed by state statutes such as hiring, firing and disciplinary issues. They work closely with the Police Department and Mr. Freda works closely with the Chair of the Police Commission to exchange information about what may be transpiring. This is important. Members of a Police Commission, whether elected or appointed, are not constantly around and so are not involved in the daily events. This makes communication critical. Communication between the Mayor/First Selectman, Police Chief and Chair of the Police Commission is very important/critical. He believes the format being considered, with nine districts represented is very good and strongly suggests linking the Police Commission district person with the Legislative Councilperson in the same district. Connecting them with the Council Person in the same district will create a very cohesive communication network. Next Mr. Freda referenced Civilian Review Boards, CRB's. He indicated that in all of the organizations he works with including the CT Police Officers Standards and Training Council Post, the local Council of Governments, CCM and more, opinions on CRB's vary widely. The opinions are based on this: no one yet seems to be able to crystalize and define what the role of the CRB would be. Also, once it is crystalized, how does it match up with the statutory authority of the Police Commission? As a result of this ambiguity, he does not see North Haven moving forward with a CRB. What they are creating is District Neighborhood Block Watch Organizations who funnel information to the Police Department.

Mr. Freda said he thinks the question for Hamden is, who would oversee whom, and what would the roles be so there is no redundancy between a CRB and a Police Commission. This point of how to organize and program it correctly, with lines of authority established and good communication between the two, with these, it could perhaps work. This is the key issue. Many municipalities will not have a CRB because of these issues, but he believes Hamden is laying a good groundwork for a CRB by considering this way of creating districts with the Police Commission, connecting them to Council People and having good communication between all groups.

Here, Mr. Dixon said Mr. McGarry and Mr. Freda would take questions so they could leave as necessary for their next meetings.

Mr. Moler asked Mr. McGarry in regard to the qualifications and backgrounds he spoke of earlier for Police Commissioners, in terms of “broadening’ the net”, how would someone be selected as a commissioner?

Mr. McGarry explained that the Police face so many challenges these days and there is such a wide area of expertise, he is fairly certain they can find people in the districts who can fit into some of the background categories he mentioned earlier. He said social work, mental health and so many things fall under the purview of the police on a day to day basis, he thinks we can find enough people to fit the categories. Mr. Moler asked “how are they chosen?” Mr. McGarry said it could be Mayor or Council appointments, perhaps six and six, or as decided by this Charter Commission. Perhaps these could be based on recommendations from the District Councilperson.

Mr. Cohen asked the speakers in regard to subpoena power, is there a town that has a CRB with subpoena power, how is that regulated? Mr. McGarry replied there would have to be a close link to the Town Attorney’s office or an independent attorney to advise on this, and all agreed subpoena power is a very serious power to be handled judiciously. Mr. Cohen asked again if there is a town that has a CRB with subpoena authority. Mr. Mednick offered at this point, that they are not going to be recommending the creation of a CRB, so the topic of subpoena power would be debated later on by the Council. He commented on the ambiguous nature of the State Statute which could impact the issue of subpoena authority. Mr. Mednick knows of a few municipalities that have CRB’s but the CRB’s do not have subpoena authority. Mr. Mednick will create a chart of towns with CRB’s for the upcoming Saturday meeting.

Mr. Kaye asked Mr. Freda in regard to the North Haven Police Commissioners being elected, are they elected by district? Mr. Freda said no, but when there is a problem in any district, they are disseminated into the district, often with he, himself also, to address issues. Mr. Kaye said he is wondering about the pros and cons of appointed vs. elected Police Commissioners. Mr. Mednick pointed out that North Haven is a statutory Police Commission and Hamden is Home Rule Police Commission which does not follow statute. He has to look to see if there is authority for elected Police Commissions under the Home Rule standard. Mr. Mednick then pointed out for the record, there is a provision for elected CRB’s. Mr. Freda said that is a critical point for Hamden in its process. Mr. Kaye said he would like to keep elected vs. appointed in the topic going forward.

Next, Mr. Mednick introduced two panelists: Jorge X. Comacho, Clinical Lecturer in Law and Policing, Law and Policy Director of the Justice Collaboratory Yale Law School, and, Caroline Nobo Sarnoff, Research Scholar in Law and Executive Director of the Justice Collaboratory at Yale Law School.

Ms. Sarno began by saying they would make a few points and share their opinions but were really there to answer questions, tonight or in the future. She continued by pointing out that this conversation on CRB's had contained a lot of language such as 'ambiguous', 'not crystallized', "what are the roles?" etc. and that this language actually highlights America's conversation about CRB's right now. There is not a lot of evidence about what works best when it comes to CRB's. Due to this lack of evidence, she/they cannot provide an example of a CRB to the group as a model. What they can share is what they do know about interactions between Police and the community and what works and creates the best environment. First and foremost, if Hamden decides to move forward with a CRB, the process must very be extremely transparent and very clear on what the mechanisms are for this board, and how these mechanisms were reached. She said there is a body of literature suggesting that when governments create a gesture which they think is going to embody something, such as a CRB, if the community does not perceive the creation of this as legitimate, a good idea, well thought through and transparent, having very clear goals, sometimes it actually backfires completely and has the opposite effect. Ms. Sarno said Hamden is actually ahead of the curve because we do have a Police Commission. She advises we look at- What are the powers of the Police Commission? What are the gaps? Does it make sense for a CRB to fill in some of the gaps or does it make more sense to amplify/augment the power of the Commission. The Hamden Police Commission does not have subpoena power. She said getting the Police Commission subpoena power is the low hanging fruit, a great way to augment the power of the Police Commission without needing a CRB. Ms. Sarno referenced Mr. Freda explaining about the Neighborhood Watches being a way to funnel information to the Police. She likes this idea because it is creating a relationship between the community and the Police to share information. She said this all hinges on something she wished to flag for this Charter Commission called "procedural justice." If we want people to share information with the law, comply with the Law, work with the Police, they must perceive the Police as trustworthy and legitimate. This is a great idea here under discussion, but it will go nowhere if the relationship between the Police and the community isn't already super solid. There is an opportunity to do something in Hamden, but she indicated that while a CRB is great, there are better opportunities to create community engagement and centeredness in the work being done here, that would not be just as symbolic as a CRB. Ms. Sarno said pertaining to collective bargaining, she is providing the commission with a link to an article about an organization of Police Unions called the Ethical Society of Police. She does not know if this exists in this State, but it could be useful to look at.

Next, Mr. Camacho joined in and said they would be there for Q and A, but wished to point out that he agrees with Ms. Sarno that Hamden is ahead of the curve in that we already have a Police Commission and have been discussing the possibility of a CRB. Other municipalities may just be beginning this discussion.

Next, Mr. Mednick introduced Panelist, Addys Maria Castillo, Executive Director, Citywide Youth Coalition and Anti-Racist Community Organizer.

After being introduced, Ms. Castillo indicated that Mr. Mednick's introduction was very nice, but describes what she does for work, not about who she is as an individual and why she is here. She said titles that fit her better and with which she is comfortable - she is a Mother, a mother with two children attending school in Hamden. She said she did not get into this business by happenstance and she is a Career Public Servant and has worked for the Department of Children and Families, the Connecticut Juvenile Training School and Long Lane School. Ms. Castillo said she comes into this space as an Organizer, but from a different perspective as someone who has actually worked in the Criminal Justice System. She has lived in Hamden for a long time and has never really gotten

involved in Hamden politics, because she didn't see herself in any of the spaces. Also, as someone who has worked inside of locked facilities and someone who has provided services for people, she has a passion for what it is to be accountable to community. Ms. Castillo said her reason for being here today is to talk about community engagement. After the Stephanie and Paul shooting she was appalled by the way the Police Commission acted during that time. Ms. Castillo said they refused to actually sit through and listen to community demand and shut down meetings whenever it was convenient for them because it was uncomfortable. Ms. Castillo said the existing Police Commission is there to protect the Department, not the community. She said, being here to talk about community engagement, you, (the Commissioners), must understand it cannot be transactional. You cannot tokenize people in community and just ask them to show up for commissions like this to talk about things that we all have to live through. She said the best thing she heard here so far, was to expand the Police Commission to nine and be reflective of the people who live in those communities. She said Hamden is a heavily white town, but has a great deal of diversity that is not even represented here and she believes, not in any other town commissions. So if we are talking about community, doing real work in community and having folks be accountable, Begin with: Who exactly is the Police Commission accountable to? The Mayor or the community? Ms. Castillo indicated, a Police commission accountable to the Mayor, indicates not caring about community. It doesn't matter whether CRB or Police Commission, it must be reflective of the community. She said we/you need to be critical lovers of our institutions and be willing to tear apart what is wrong with it. Ms. Castillo added that she has never been invited into Hamden politics and no one has ever knocked on her door to discuss Hamden politics and it is as if Southern Hamden does not exist. Whether a CRB or a Police Commission it needs to be accountable to the community and to be reflective of the actual community it serves.

Next, Mr. Mednick introduced Panelist Melvin Medina, National Campaign Strategist, American Civil Liberties Union.

Mr. Medina said we are having a conversation about policing in America because there is a conversation about black men, black women and black children dying at the hands of the Police. He said he imagines that part of the reason for this Charter Revision process is to figure out a better process and system due to what Ms. Castillo has spoken about –the often unpaid grassroots organizers at the local level organizing and building community and trying to achieve justice in a system which is not necessarily designed, as Lawyers on this Panel know, for justice, but in many ways municipalities are more concerned about liability, exposure, protection and there are reasons for that. The re-set this commission is trying to do here, really matters, because you have an opportunity to take a step back and ask “What is the goal of the Police Commission”? What should the approach of the Police Commission be? That decision helps to begin to answer lot about issues he hears of such as complaint processes, qualifications, representation, budget etc. He said in his work with elected officials he is struck by their concern about exposing officers to an adversarial process when an officer violates a policy or harms someone. He said he learned that elected officials sign off a collective Bargaining Agreement, but many have not read it. He said the Collective Bargaining Agreement sets the core of relations between a city and its employees in moments of grievances and discipline and, that it is already set up to be an adversarial system. Mr. Medina continued saying, Police have a lot of protection and, in Hamden's Collective Bargaining Agreement, Police are guaranteed Counsel when they go before the Police Commission. He said this is important for this Commission to know and, this actually siphons away power from the town. He indicated that what is missing in the conversation is the person harmed by the Police and going to the Police Commission and likely not to have Counsel. Mr. Medina said this is an asymmetrical power system and not a system in which people are stepping forward. He said Ms.

Castillo raised the very important question of who is the Police Commission serving. He said if the Police Chief is working on behalf of the Mayor, then the Police Commission should be working on behalf of the Legislative Council which is beholden to the people. Mr. Medina referenced difficulties regarding when the shooting happened two years ago. He indicated that he and the other organizers found an unclear path in operations to bringing complaints to the Police Commission. He said the Police Commission did not have an email address and he said it never has. He indicated that as a result of 70 or more organizers were trying to submit complaints and were calling the Town asking where to provide them. Mr. Medina said that only then, they had to create a process by which they could receive complaints. He said they had never investigated complaints and had no budget and relied on the Police Department to do so. He said the Police Commission was just an appointment you got. He said it is a board of volunteers that follow what the Police Department wants to do. He said this is the case in many communities.

Mr. Medina said CRB is an advocacy conversation which has been going on since the 70's. During this time we have already had in existence Police Commissions, meant to be an external oversight body, with subpoena power that could regulate a Police Department and be held accountable to the people. The real question here is: How do we create an external process that the community can believe in? That has power? That cannot be co-opted? He said the real question is not about CRB's. The real question is how can Hamden create a complaint process that is well funded so that you are getting a proper investigation separate from the Police Department? Also, an issue he said he has seen, is that often the Mayor, the Council and the Police Commission share the same legal counsel. This is a problem if you have differing opinions about what needs to happen. The city attorney has to do their job in considering city exposure, but it is the same attorney guiding the Council/Commission, this is a conflict. In regard to nine member representation, Mr. Medina indicated he is in favor of expanding representation as has been under discussion here. He suggests if appointing is adopted, it should be split, apportioned by the Mayor, a portion by the Council, and a portion by the minority party. Mr. Medina said also important for this commission to know regarding Union contracts, The Charter very broadly discusses the Police commission's power to investigate. He said the Police union contract narrows that to a sixty day period. The Commission has sixty days to investigate complaints. If it does not, time has run out and nothing can be done. This is not reflected in the current Town Charter at all and needs to be discussed. Mr. Medina added regarding personnel files, this Commission should consider that the contract says unless a complaint results in discipline, it does not get included in the personnel file. Mr. Medina indicated this can be a problem because if there has been a repeated problem of discourteous behavior and it is escalating, it can be a predictor of another problem. Also, if an investigation ever were to happen, it is not there for reference. Mr. Medina next pointed out that by Union contract, if there were discipline for example from the Police commission, serious discipline which is more than 10 days, can be staid until arbitration takes over. Mr. Medina concluded the key to all of this being discussed is accountability.

Mr. Dixon began taking questions.

Mr. Kaye asked Mr. Medina to expand upon Title VII and Home Rule, and he asked Ms. Sarnoff if she knew of a municipality where residents talk with either a Police Commissioner or CRB member if they have an issue or complaint in order to have them bring it forward and assist the resident, by bringing it to their Legislative Council person - Does she think this would be a role for a Commissioner or CRB member to have, thus making it more comfortable for the resident to speak.

Ms. Sarnoff said the broad answer is she is not sure, and she will find out. She said anytime you create a mechanism where there is confidence in a communication structure that is bi-directional, you are moving in the right direction. It is about creating systems of trust that allow for open dialogue and transparency. Mr. Kaye then referenced the idea of having an appointed Police Commission with District Representation, possibly three appointed by Mayor, three by Council and three by the minority party of the Council, in which they were connected to the District Council Person. He indicated he thinks that is a good idea rather than having a Police commission that answers only to themselves. He asked Mr. Medina to expound.

Mr. Medina said he will review the Charter regarding the Commission. Regarding the districting of the commissioners, he believes it would be difficult to do that by appointment and it sounds like that is more elections territory rather than appointment. He suggested and said he thinks it is more Democratic when it is the Council President because usually, the Council is more accessible than the Mayor.

Mr. Mednick pointed out the Statute 7-276, are the Town Statutes. It is strictly an elected process under Title IX. Hamden is not operating under that.

Mr. Comacho offered regarding the issue of representation and legitimacy, pertaining to the discussion of appointed vs. election/districts, the way that you get the best buy in into the Commission itself is if it hits upon the three key pillars:

1. Access
2. Visibility
3. Legitimacy.

If you want to have an effective Commission seen by the residents of Hamden as really speaking to the issues and community wide concerns, it must have the three pillars. He cautioned against “falling into the trap” of thinking that moving to an elected system or nine appointees from all the districts automatically improves the representativeness of the Commission. It could happen that if you make this an elected commission, the same political machinery that may already determine local elections, would determine the outcome of these elections, which would just further entrench those interests. He does not know what would be the right process for Hamden. He shared one model that he has seen regarding appointments in this process. In this model, the Mayor or the Council appoints/has the power to appoint, but there could be certain limitations put on that appointment. The appointee according to certain local law would have to meet with certain qualifications.

Mr. Medina said regarding CRB’s, that they have a 30 year history. This is important as it is tied to Police Commission with regard to set policy and to receive and investigate complaints. CRB’s have failed because they don’t have resources to do what they are empowered to do. One solution is tying a percentage of the Police budget to the commission. Perhaps 5%. This gives the commission the ability to contract with an Attorney if necessary to advise on policy, or to hire an external investigator or other needs.

Mr. Hul said he has a series of questions but first wishes to point out, and it is not just semantics: The Mayor actually does not appoint anyone to the boards, he “recommends”. The Council appoints and approves the recommendation. The Council has the authority to reject, or not even bring forward the recommendation. Mr. Hul asked Ms. Sarnoff, what should the responsibilities of a CRB be in Hamden and how should they accomplish those responsibilities? How does that differ from our current Police Commission? Ms. Sarnoff pointed to accountability, a trusted mechanism for accountability, and that the voice that is leading these conversations is not directly tied to the Police force. She directed this question to Mr. Comacho. Mr. Comacho said his best guess, and as he understands it, the power to create CRBs was given to localities in Connecticut, precisely because it is possible that many towns in Connecticut do not want to create a Police

Commission. They want to designate the powers that a Police Commission would typically wield to a Mayor or Police Chief or individual Commissioner, rather than creating a separate civilian body, and that allowing for the creation of CRB's would retain some of that authority in the Mayor or the Police Chief while allowing for more limited civilian oversight of certain Police functions, namely, it appears, individual complaints regarding officers and allegations of misconduct.

Mr. Hul said disciplinary hearings are usually held in Executive Session, but actually, the person being discussed can decide if it is open to the Public or Executive Session. Mr. Hul asked, How does that impact the trust, accountability, transparency we have been discussing. Mr. Comacho replied, an immediate sense is that it could erode faith in the perceived legitimacy of the process. However, a mitigating point against that potential negative impact is if the membership of the commission itself is trusted to be representative and have legitimacy it could mitigate some of the perceived illegitimacy of having an Executive Session. Mr. Medina said there are cities and towns in Connecticut that where the process is actually open and transparent are proceeding in this without Executive Session unless the Collective Bargaining Agreement does not allow for that. He encourages this commission to reach out to those towns and ask what that process look like. Mr. Mednick asked Mr. Medina "What towns"? Mr. Medina said he would have this info emailed to Mr. Mednick.

Mr. Hul asked Mr. Medina (in regard to his earlier comments regarding saying that he had, two years earlier, submitted complaints to the Hamden Police Commission), could he describe in generalities, the nature and disposition of those complaints and how long it took. Mr. Medina said these complaints were about the shooting and because the Police section of the Hamden Charter is so broad, accepting any complaint from any resident, they organized Hamden residents to write in complaints about the shooting. He said the Police Commission refused to accept complaints, that "organizers had them in hand", trying to submit them, the commission would not take them. He is unsure whether the commission ever actually took the complaints, but his recollection is that they did not. He said time expired and there was no investigation, because the time elapsed. Mr. Hul referenced Mr. Medina's earlier comments regarding the opening of the officer's personnel file. He asked, under a CRB or Police Commission, how would opening up the personnel file protect the individual from unfounded, malicious charges that are unsubstantiated?

Mr. Medina said it is part of a larger early warning system, collecting data, to use the data itself as a weapon to fire officers, but really to provide Police Managers with information which may be really necessary for them to see early indicators that an officer might be headed in the wrong direction. He believes it is important to catalogue all complaints, whether acted upon or not and anonymous or not. He said CT law requires that Police Departments accept anonymous complaints, but he said Hamden's Collective Bargaining agreement with the Police allows them to not do that. it is cataloging a record of community interaction. He believes providing the information is will more promote faith, rather than hiding it or not making it accessible.

Mr. Dixon asked Mr. Mednick how the state could have a statute that the Town did not follow. Mr. Mednick said those are the State-Town Statutes that don't apply to towns that have Home Rule and Charters.

Ms. Gallagher asked if someone could clarify for her whether They can give the Police Commission subpoena authority in the Charter. Mr. Mednick explained we are Title VII under Home Rule but we don't have an express grant of authority to do that. Mr. Mednick pointed out that the CRB legislation specifically grants the municipality the ability to have subpoenas for CRB's. Mr. Mednick briefly explained that he has thoughts of a "fix" in which they would fortify

the Police Commission and grant CRB authority to the Police Commission and they will have subpoena authority by State Statute, clear charter authority and authority under the State Statute. Ms. Gallagher asked for clarification on how Collective Bargaining would affect a Police Commission going forward and also given the history of things, would keeping a Police commission going forward even work, or, do we need a whole new body with a new face and new structure. There was a brief discussion.

Mr. Kaye asked Mr. Medina and Mr. Comacho to reference back to the idea of centralization. A discussion followed reviewing the advantages and disadvantages of having either the Mayor, or the Council be the central source of the appointments to the Commission, and whether the appointments should be staggered.

The Commission reviewed their upcoming meeting schedule and topics to be discussed, possibly boards and commissions, The Preamble, and the Town Clerk and follow up on tonight's Panel discussion.

With no more business Mr. Dixon requested a motion to adjourn. Moved by Ms. Gallagher, seconded by Mr. Moler and the meeting adjourned at 10:00 PM.

This meeting had no clerk. Meeting starting/ending times and attendance were best guessed by watching the video.

Discussion summary typed while viewing the video and submitted by Rose Lion, Secretary to the Legislative Council

Ms. Renta, Legislative Council Administrator/Clerk reviewed the minutes and added any additions necessary and the video link before filing.