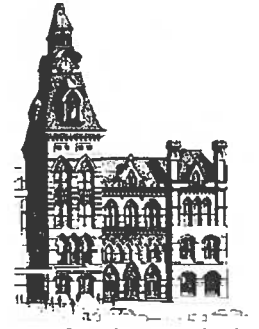




DEPARTMENT OF LABOR RELATIONS
CITY OF NEW HAVEN
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NEW HAVEN, CT 06510
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JUSTIN ELICKER
MAYOR

Department of Labor Relations
Wendella Ault Battey, Director

Alder Cupo
Chair, Legislation Committee
Board of Alders
City of New Haven
165 Church Street
New Haven, Connecticut 06510

November 15, 2023

Alder Cupo and members of the Legislation Committee,

I would like to address concerns that the Office of Labor Relations (OLR) has with respect to changes of the ordinances related to the Civilian Review Board (CRB).

The City of New Haven is required, as all Connecticut municipalities are, to comply with the Municipal Employees Relations Act (MERA) in the City's dealings with the unions representing City employees including the Police Department employees represented by Elm City Local.

The OLR is primarily responsible for the City's relationship with Elm City Local including negotiations, responding to grievances, and to Municipal Prohibited Practice charges filed by Elm City Local. It is as the primary City Department responsible for the City's relationship with its employees' unions that the OLR raises the concerns in the following paragraphs.

Several provisions in the proposed ordinance expanding the power of the CRB and altering the Board's relationship with the Police Department are expected to have a substantial impact on the City's relationship with the police union and on the terms and conditions of employment of Police Department employees. The City has an obligation to negotiate with the union about any substantial changes and not to implement changes unilaterally through the ordinance process. To do otherwise would put the City in violation of the MERA.

Taking the provisions in the proposed ordinance in order, Section 2-796(b) would require the Police Chief to wait for the CRB to issue a report before making any disciplinary decision affecting a member of the Police Department. In addition to increasing the wait for a decision by the Chief, it would inject a new entity into the process of evaluating police employees. Both

these would be expected to attract a charge that they represent substantial changes in the terms and conditions of employment without bargaining those changes thereby violating MERA.

The proposed change to Section 2-798(f) is at variance with the standards that resignations are made to the original appointing authority and that resignations related to moving out of the City are effective as soon as the member is no longer a City resident. This proposal reinforces the existing concern that the Board is illegally constituted and therefore not entitled to act. Section 2-798(g) similarly raises concerns about whether the Board is legally constituted and capable of acting.

The proposed changes to Section 2-801(a) raises the same concerns at the proposed changes to Section 2-796(b) making any of the Chief's disciplinary decisions conditional upon and delayed until receipt of a CRB report. This is arguably a unilateral, change (a change without the required bargaining) in terms and conditions of work for employees of the Police Department in violation of the MERA.

The proposed changes to Section 2-801(b) would require the Police Chief to personally review every single redaction of personally identifiable information from police records. The Chief's review of each redaction would add a tedious new step and a delay into the processing of claims against police officers and the employees' representatives will arguably create an unbargained for change in terms and conditions of work.

Proposed Section 2-801(c) provides a new authority of the CRB to be given full (apparently unredacted) access to all discovery materials (even materials that may subsequently be excluded in the internal affairs investigation as not probative or as prejudicial) within 90 days regardless of how soon the material becomes available to internal affairs. This provision could result in the CRB evaluating material, some of which should be excluded, before internal affairs has even received it. If implemented, this will probably attract a charge of violation of the MERA.

Proposed changes to Section 2-801(d) again require that the Chief wait for the CRB before making disciplinary decisions arguably impacting terms and conditions of employment.

Proposed Section 2-801(e) would give the CRB full access to all information given to Internal Affairs to facilitate a simultaneous investigation. This exposes Police Department employees to expanded and simultaneous review by the CRB. This is likely to result in the union complaining that the action is a violation of MERA.

Proposed Section 2-801(g) would provide the CRB with a breathtaking new power to investigate incidents and conduct without there first having been a complaint by anyone. The Board would be empowered to create its own investigation without the foundation of a citizen complaint. This would arguably be a substantial change in terms and conditions of work by essentially adding the CRB as a new potential overseeing and evaluating entity of City employee performance.

Proposed Section 2-801(i) adds a new provision that would REQUIRE the Chief to reopen closed investigations where the Chief had already taken action before the CRB weighed in. This

provision seems likely to attract a charge of unilateral change in the terms and conditions of employment in violation of MERA.

In addition to concerns directly related to the impact on the functioning of labor relations in the City, it should be noted that the proposals do little to address the structural problems of the CRB including concerns about how members are appointed, reappointed, or replaced, and concerns about CRB members keeping the content of investigatory material confidential until a decision is reached. These issues too, have an indirect impact on the functioning of labor relations in the City.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'WAB', with a long, sweeping horizontal line extending to the right.

Wendella Ault-Batley
Director of Labor Relations