

Village of Pelham  
Steering Committee on Policing and Inclusion

Phase One Report  
[Preliminary Findings and Recommendations](#)

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## Overall Roadmap for Review

### NYS Police Reform and Reinvention Collaborative

On June 12, Governor Cuomo issued an executive order requiring all municipalities with their own police departments to draft an action plan to ensure that local police departments were operating in a way that built and restored trust within the community. Action plans were to be developed in consultation with various community stakeholders and ratified by local boards no later than April 1, 2021.

In consultation with the Steering Committee on Policing and Inclusion, Mayor Mullen released the following roadmap on September 24, 2020, designed to provide residents a full sense of the process being followed.

#### **PHASE ONE** *(tentative time frame: July 2020 - December 2020)*

*Preliminary Scoping and Desk Review (driven by public via BIPOC focus group / steering committee)*

##### **Goals:**

- Ensure that scope of review is determined by BIPOC members of the public, not Village officials
- Create a space that protects and prioritizes BIPOC perspectives
- Ensure confidentiality and candid dialogue
- Ensure productive and efficient collaboration
- Provide a foundation for broader community discourse in Phase Two

##### **Objectives:**

- Establish initial scope of review (administration serving as facilitators/clarifiers)
- Develop preliminary findings and recommendations
- Release preliminary findings and recommendations
- Organize necessary documentation to support community forums in Phase Two

*TRANSITION: Planning for Phase Two should include input from broader public (1-2 sessions)*

#### **PHASE TWO** *(tentative time frame: December 2020 - January 2021)*

*Community Visioning (driven by public via series of community forums, facilitated by Mayor, Board and Steering Committee)*

##### **Goals:**

- Foster a shared understanding of existing local systems (governance structure, policies, practices, systems of accountability and responsibility, etc.)
- Allow for public participation in identifying gaps and proposing solutions
- Invite and empower community partners (nonprofits, businesses, individuals)
- Transition responsibility from public to Village Board of Trustees

**Objectives:**

- Utilize first phase documentation to present details of existing local systems
- Share preliminary findings and recommendations
- Confirm (or expand) scope of review
- Generate additional recommendations and reactions from the broader community
- Identify areas that require community and individual action
- Identify areas that require action from the Village Board

*TRANSITION: Phase Three should commence with acknowledgement of public feedback*

**PHASE THREE** *(tentative time frame: January 2021 - March 2021)*

*Formalize and implement Village's action plan (driven by Village Board of Trustees via Regular Meetings)*

**Goals:**

- Ensure the Village Board can commence its formal process with understanding of residents' desires
- Create the conditions for enduring change by fostering buy-in and consensus
- Ensure clarity of purpose for Village's action plan
- Promote community commitment to racial equity

**Objectives:**

- Prioritize key commitments
- Identify necessary budget adjustments
- Elicit feedback from Village staff
- Establish timelines for implementation
- Release draft action plan and invite further feedback from public
- Ratify action plan by April 2021
- Implement action plan according to established timelines

## Background

On May 25, George Floyd was killed by a Minneapolis police officer who held his knee on Mr. Floyd's neck for 8 minutes and 46 seconds. This event echoed many other killings that had come before - and others that have happened since, by both police officers and non-police officers (Trayvon Martin was killed by George Zimmerman, a non-police officer who was acquitted under Florida's "Stand Your Ground" laws, and this sparked the creation of the Black Lives Matter movement in 2012). The death of Mr. Floyd led to outrage and protests throughout the United States calling for a renewed focus on the laws, policies, cultural narratives and other American systems that disproportionately impact BIPOC citizens (Black, Indigenous, people of color). Pelham was not immune to the outcry, as residents organized nightly vigils, marches, rallies and art exhibits, sent emails to Pelham governmental leaders and wrote articles published in local newspapers.

On June 1, over 100 residents attended the first vigil organized by local residents, in Wolfs Lane Park. Attendees knelt in silence for 8 minutes and 46 seconds, and speakers were invited to share personal stories of how their lives have been impacted by inequity and discrimination. These vigils continued each evening for 27 consecutive days, and speakers included various local residents and leaders, including the Superintendent of Pelham Schools Dr. Cheryl Champ and Mayor Chance Mullen, among many others.

On June 2, the Progressive Women of Pelham, in collaboration with Pelham United, organized a march in support of equitable policing, where participants practiced social distancing by lining up every 6 feet along the sidewalk in the Village's downtown corridor, prior to congregating at the nightly vigil in Wolfs Lane Park.

On June 12, 500 Westchester County residents marched for justice down Lincoln Avenue from Mount Vernon through Pelham to New Rochelle, chanting "Pelham, Do Better!"

On June 13, Pelham United organized a march and rally that ended in Wolfs Lane Park, in collaboration with leaders from Pelham Together.

On June 18, Mount Vernon residents marched in the "Empower Black Mount Vernon" rally from Mount Vernon City Hall through Pelham to Huguenot Memorial Church in Pelham Manor.

On June 19, the Pelham Art Center sponsored a local art exhibit, entitled "Pelham Laundry," co-curated and organized by Sabrina Harrison, facilitated by Astiney Montiel and produced by Paula Wood. The exhibit included large printed placards containing social media posts that were written using the hashtag #ThanksPelham, which detailed personal accounts of racism in Pelham. Harrison's stated goal for the exhibit was "to better equip Pelham to become an inclusive society for all of those within and around its community." The exhibit was devastating and frank in its delivery. Each anecdote in the exhibit was seen and read by Mayor Mullen,

Police Chief Pallett, Lt. Danny Green, various members of the police department and various members of the Village Board - in addition to residents and visitors to Pelham who learned of the exhibit through local social media forums and from news reports issued by CBS and News 12. The exhibit remained at the Pelham Art Center until July 5.

In addition to these events, letters were sent by local residents and organizations, including a letter from Progressive of Women of Pelham on June 13 and a letter from the Pelham Democratic Committee on June 25. These actions that occurred throughout the summer months of 2020 all expressed a desire for Pelham's local leaders (Town, School, Village, Manor) to engage in honest dialogue about the unjust and inequitable treatment often experienced by people of color, and embrace the need for systemic changes that can ensure racial equity.

Civil action like this requires a response from local government officials, and Village leadership sought to engage at the outset. On June 3, local police officers in the Village of Pelham conducted their final "first responders' tour." These tours had become a nightly ritual for our community to share in our grief and strength as we navigated the devastating impact of COVID-19. This final tour was led by Police Chief Jason Pallett and was conducted in silence, in solidarity with our BIPOC neighbors. This message of solidarity was supplemented by letters from Mayor Mullen and Chief Pallett, promising integrity in local policing and committing to the work of creating a more just society. (Letters from Village leadership are attached as an exhibit to this report).

On June 12, Governor Cuomo issued an executive order requiring all municipalities with their own police departments to draft an action plan to ensure that local police departments were operating in a way that built and restored trust within the community. Action plans were to be developed in consultation with various community stakeholders and ratified by local boards no later than April 1, 2021.

On June 26, Mayor Mullen announced his intention to form the Steering Committee on Policing and Inclusion, which would be the first step in the process of developing an action plan. Rather than following the minimum process required under the Governor's Order, this first phase would not be controlled by the Village Board. Instead, it would be controlled by residents, and it would be designed explicitly to center the experiences of BIPOC citizens to prioritize their voices in the evaluation of local systems that create the conditions for inequitable treatment. While no committee will ever be able to represent all perspectives within the community, and no individual should be expected to speak for everyone who may share their personal characteristics, it was essential that the first phase of this process start with a group of residents who are among those most likely to be impacted by the outcome of the work.

Many of America's systems - our economy, our justice system, zoning laws - were established at a time when black Americans, indigenous peoples and other Americans of color were enslaved or otherwise excluded from participating in our democracy at the same levels enjoyed by white Americans. Mayor Mullen reached out to individuals who had been involved with

organizing local demonstrations, as well as residents who held leadership roles in local POC-led institutions like Bridges of Pelham and Pelham United to seek guidance on how best to conduct this work, just as residents also reached out directly to Mayor Mullen with a desire to participate in this process. This led to the establishment of the Steering Committee on Policing and Inclusion, which includes resident volunteers Krystal Howell, Okey Obudulu, Teisa Salmon, Veronica Stern, Ella Stern and Jeff Watkins. We are proud to have embarked on this journey with a commitment to centering historically-marginalized voices, even as we recognize that many other voices could not be included until now. We look forward to expanding this conversation to include the broader public.

We believe that establishing the first phase of our review in this way also affirmed a unique benefit we enjoy in the Village of Pelham: we are neighbors. In far too many communities, local governments respond to issues like these by erecting barriers that separate executive decision-makers from the people impacted by the decisions made. These barriers prevent the honest dialogue needed to make progress. In the village, our elected officials serve in a mostly volunteer capacity, and even many of our local police officers live right next door to those who organized demonstrations in our park. Our kids go to school together. We shop at the same stores and eat in the same restaurants. Our path is one that we must travel together.

This report is not intended to be conclusive. It is intended to provoke productive dialogue within the community, among members of the Village Board, and among all those who serve in a leadership capacity in our town. It reflects our desire for residents to come together in recognition of the fact that we all want the same things: safety for ourselves and our families, respect from those around us, and to thrive in this wonderful place we all call home.

## Pelham's Governance Structure

It is important to begin this report with a broader view of the governmental structures that maintain statutory responsibility for services provided to Pelham residents.



The Village of Pelham (\$15.8 million annual operating budget) and the Village of Pelham Manor (\$16.3 million) are two separate and distinct municipalities. Each village maintains its own jurisdictional boundaries and provides the following core services to those who reside within its municipal borders:

- Village Administration
- Public Safety (Fire, Police, EMS)
- Buildings Department
- Public Works & Sanitation

In addition to these core services, residents of each municipality “share” services provided by the Pelham Union Free School District, the Town of Pelham and Westchester County.

The Pelham Union Free School District (\$76.7 million annual operating budget) provides educational services for K-12 students who reside in either Village.

The Town of Pelham (\$4.3 million) provides an array of shared services related to:

- Courts Administration
- Ambulatory Services
- Assessor's Office
- Receiver of Taxes
- Recreation
- Library
- Senior Services

Westchester County (approx. \$2.1 billion annual operating budget) provides the following services, as well, which are provided for all county residents:

- Social Services, Mental Health, etc.
- County Police and Public Safety Academies
- Civil Service (regulates hiring practices)
- County Parks and County Land Management (sewers, parkways, etc.)

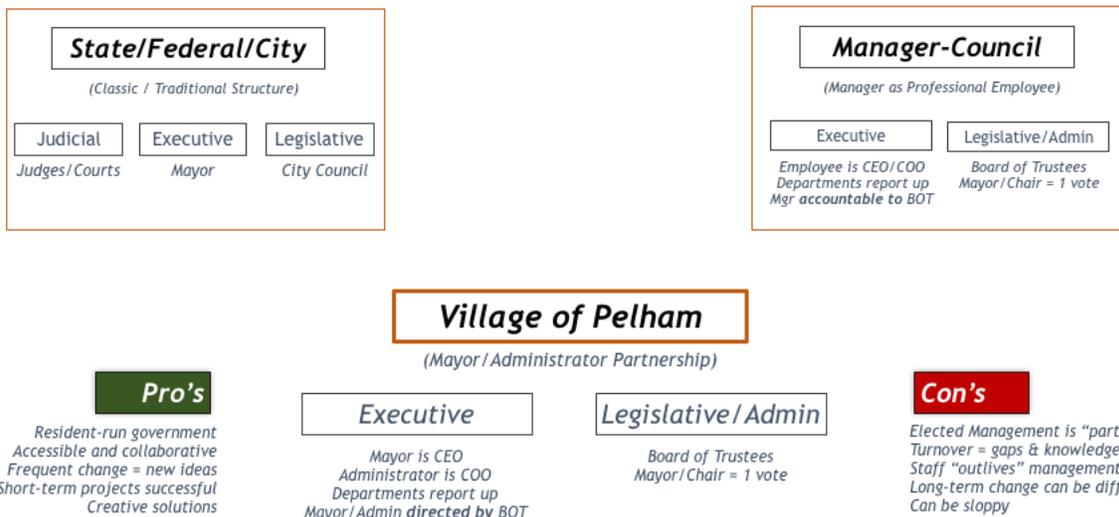
- Additional shared services such as public transportation, etc.
- Elections

Accountability for equitable treatment is decentralized in Pelham, with each governmental entity being responsible for its own policies and practices pertaining to equitable service delivery and personnel conduct. Fiscal authority is similarly decentralized, which makes it difficult (though not impossible) to compare with other municipalities.

The decentralization of leadership in governmental systems throughout Pelham creates potential gaps in accountability. Accountability requires transparency and clarity of responsibility, but the nature of Pelham’s patchwork governmental structure can make it difficult for some residents to know who is responsible for which employees, and where misconduct complaints should be directed. There are also reputational risks that the Village Board of Trustees must keep in mind, since inequitable treatment perpetuated by one jurisdiction is likely to create a negative perception of all local jurisdictions.

In addition to the myriad governmental boards that maintain responsibility for different services within Pelham, the Village of Pelham local government is unique in its own right. The Village of Pelham is an “administrator-style” government. The Mayor serves as Chief Executive Officer and the Village Administrator serves as Chief Operating Officer, both directed and constrained by the Village Board of Trustees, which maintains statutory authority for directing nearly all aspects of Village business. Unlike the forms of government typically utilized in cities, the Mayor does not have absolute authority to hire, appoint, promote, discipline or terminate employees of the Village. Village policy and personnel decisions are determined by majority-vote of the Village Board of Trustees, and the Mayor is afforded only one vote among seven.

### Different Systems of Government



One key benefit to this form of municipal government is that it's essentially "resident-run." The Mayor and Trustees receive a minimal annual stipend (currently \$5,000 for Mayor and \$2,000 for Trustees), intended to offset expenses incurred by elected officials who typically maintain full-time careers while serving the Village on a mostly-volunteer basis. When done well, this type of government has the potential to be more accountable, accessible and collaborative than other forms of municipal government.

As it pertains to oversight, there are also some downsides. Since turnover on the Village Board is relatively high compared to the tenures of Village employees, incoming Trustees may have less knowledge of operational policies and personnel history. Clear policy, consistent practice and routine procedural oversight is essential to ensure that those elected to serve are aware of issues that may exist and will be proactive in carrying out their oversight responsibilities.

### **Consolidation of the Villages**

It is understandable that many residents would view our local governmental systems as overly bureaucratic and duplicative. For many, the existence of two police departments within such a small area can feel like "over policing," even if those departments are minimally staffed. We also believe that the municipal delineation between Pelham and Pelham Manor creates significant social divisions within our school district and within the broader community, since it reinforces cultural and class narratives that are inaccurate and serve no practical purpose. Students often experience the different policies from each municipality as a sign of disagreement, when it may simply be the natural differences that exist between all municipalities, as a byproduct of each municipality's priorities and governing strategies. Consolidating services by merging both villages would help to bridge that divide while ensuring a more efficient way to provide core services to Pelham residents at a discounted price. There's no reason to believe the quality of services would be diminished.

That being said, the Steering Committee on Policing and Inclusion is not recommending consolidation at this time. Our goal is to ensure equitable treatment of Village of Pelham residents and visitors, regardless of structural divisions at the municipal level. The Village of Pelham is a more diverse community and one which is closer to the overall demographic makeup found in most American communities. We are not confident that consolidating services with Pelham Manor would serve our goal, since we have not reviewed the policies that govern Pelham Manor operations. Instead of explicitly endorsing consolidation, we believe that both municipalities should continue finding opportunities to bridge the divides created by our governmental systems, so that Pelham can be unified in its approach to policing. Specifically, we recommend that Pelham Manor officials also adopt the measures contained in this report, including some of the excellent policies already adopted by the Pelham Police Department (if those policies have not already been adopted by the Pelham Manor Police Department).

If members of the community would like to pursue full consolidation, we suggest that the effort be led by Pelham Manor residents, which can be done through referendum, if necessary.

Consolidation is likely to be more complicated for Manor residents, since they are currently the beneficiaries of advantageous tax treatment resulting from an unequal distribution of land value within the town. The Village of Pelham (.8 square miles) is approximately 40% smaller than Pelham Manor (1.4 square miles), which diminishes the potential assessed value of the Village's tax base. It is further diminished by the Village committing significantly more land for townwide purposes. Parcels of land dedicated for public purposes do not generate property tax revenue, and in the Village, many parcels of land are dedicated for parks that are utilized by residents and visitors alike, Town government buildings, the middle school and high school complex, and multiple commuter parking lots that are used overwhelmingly by Pelham Manor residents (commuters pay for parking permits, which offsets some of the lost tax revenue). Since property tax rates are determined by distributing a village's tax levy proportionally across all taxable property values, the depleted cumulative assessed value in the Village of Pelham generates a relatively higher tax rate for Village of Pelham taxpayers when compared to the tax rate enjoyed by Pelham Manor taxpayers. This persists even though the Village's tax levy (the total amount collected through property taxes) is nearly \$1.5 million less than Pelham Manor's tax levy, and the Village's annual operating budget is half a million dollars less. Correcting for this imbalance by consolidating the villages could lead to a slightly higher tax rate for Pelham Manor homeowners, at least temporarily, since savings delivered through employee attrition would take time to materialize. Unfortunately, the current tax benefit enjoyed by Manor residents creates a disincentive for meaningful discussion of consolidation since many may view this loss of advantageous tax treatment as a penalty for cooperation.

The Steering Committee on Policing and Inclusion is focused on ensuring that our village continues to be the best village in Westchester. We recommend that the Village Board of Trustees considers the following when developing the Village's action plan:

- ❑ Policies and interventions related to racial equity should leverage the inherent benefits of “resident run” government, by adopting explicit annual practices to ensure Trustees are proactive in their oversight of personnel conduct
- ❑ Incoming Trustees should review all reports of misconduct from the previous three years to prevent institutional knowledge loss and ensure familiarity with existing personnel issues

The Steering Committee on Policing and Inclusion further recommends that all of Pelham's jurisdictions commit to a similar process of review to ensure racial equity in operational policies, since Pelham's reputation depends on all jurisdictions operating with similar standards of integrity.

**[Potential Community Prompt: What can each jurisdiction do to promote unity and cooperation town-wide?]**

## Police Department Scope and Annual Activity

The Police Department's annual report, available on the Village's website, is a helpful distillation of the department's scope and annual activity. The report includes:

- Department Roster
- Personnel Diversity Metrics vs Community Diversity
- Key Annual activity for each division / unit
- Traffic and Safety information
- List of training opportunities utilized by department personnel
- Crime statistics and calls for service
- Department Vehicle Fleet information

Key responsibilities of the Pelham police department include protecting life and property, enforcing traffic and other village laws (4,719 total violations in 2019), enforcing parking rules (10,900 violations in 2019), conducting walk-thru's of all public schools (PPD does *not* provide onsite security, which is managed by the school district), conducting property checks of residents' homes that are on vacation, erecting traffic barriers daily around school zones & private streets to route traffic, conducting foot and vehicular patrols, conducting nightly checks on storefronts and bars, investigating criminal reports and responding to all emergency situations reported through the 911 system.

In 2019, there were 5,849 calls for service in the Village of Pelham, up from 4,789 in the prior year. The bulk of calls were related to aided cases / medical emergencies (339 calls), auto accidents (251 calls), local law violations (198 calls), suspicious vehicles (131 calls), noise complaints (123 calls), arrests (116 calls), suspicious persons (102 calls), and domestic disputes (60 calls). Arrests made by Pelham Police officers included 34 arrests for unlicensed operation of a motor vehicle, 20 arrests in response to a warrant, 12 arrests for larceny, 12 arrests for suspended registration, 7 arrests for driving while intoxicated, and 6 arrests for harassment, among others.

Despite the high number of calls for service, crime within Pelham remains relatively low compared to the surrounding area. In 2019, there were 39 larcenies, 2 burglaries, 1 aggravated assault, 1 motor vehicle theft and 1 robbery. The vast majority of violations issued by Pelham Police officers are moving violations. In 2019, the highest number of moving violations issued were for Illegal U-Turns (370 violations), usually in the Village's downtown corridor.

### **Race-Based 911 Calls**

It is important for Pelham residents to understand that most interactions our local officers will have with other residents or visitors to Pelham will be the result of a call that came in from a resident. While our officers are trained (and will receive further training) to ensure they are not motivated by implicit bias, this is not a skill most citizens spend time developing. As a result,

even if our local officers operate with integrity, they may still be involved in creating an experience for people of color that does not align with the experience of most white residents and visitors. When officers are called to investigate persons of color who have done nothing unlawful, it also undermines the reputation of the Pelham Police Department. In 2019, over 230 calls were made to report “suspicious” persons or vehicles. Overwhelmingly, these calls did not result in arrests or the discovery of unlawful activity.

On June 12, 2020, Governor Cuomo signed the 'Say Their Name' Reform Agenda package following the killing of George Floyd and an ongoing pattern of police brutality against minority communities across the nation. These policing reforms are intended to reduce inequality in policing and ensure accountability throughout New York State’s criminal justice system. In addition to prohibiting false race-based 911 calls, other reforms include:

- Allowing for transparency of prior disciplinary records of law enforcement officers by repealing 50-a of the civil rights law (currently working its way through the courts);
- Banning chokeholds by law enforcement officers (this has been banned in Pelham for over 20 years); and
- Designating the Attorney General as an independent prosecutor for matters relating to civilian deaths when police officers are involved.

Recent years have shown numerous examples of people making frivolous and false calls to 911 based on the callers' personal discomfort with other people and not for any particular threat. During the summer of 2020, Amy Cooper, a New York City resident, called 911 on a black man in Central Park named Christian Cooper, attempting to “weaponize” local police officers against this man who had done nothing unlawful. The new law makes it a civil rights violation to call 911 to report a non-emergency incident involving a member of a protected class without reason to suspect a crime or an imminent threat. We strongly support this reform, as a protection for both residents of color and police officers.

The Steering Committee on Policing and Inclusion has concerns about the enforceability of this new law, but in an effort to support its implementation, we recommend the following:

- ❑ [Police Officers responsible for dispatch should be proactive when callers report issues unlikely to be related to an actual threat, reminding callers of the penalties included in New York State’s reform package](#)
- ❑ [The Village of Pelham should include a summary of the reforms and penalties for making false 911 calls on the Village’s website](#)

Additionally, there are opportunities to further utilize the annual report, which is a helpful and appropriate repository for key metrics. We recommend that the Village begin to include additional information relevant to race and officer conduct. It is important to note that we do not believe Pelham Police officers should attempt to collect additional demographic data from subjects of 911 calls unless the data is already available through the normal course of the

interaction. The following represents key data we believe should be included in future annual activity reports:

- Demographic data related to arrests and violations issued
- Demographic data of subjects of 911 calls
- Demographic data related to suspicious persons and suspicious vehicles reported
- Demographic data related to new hires, promotions and special assignments
- Total number, nature and resolution of misconduct complaints (more on this below)

**[Potential Community Prompt: What additional data does the public need to know each year?]**

## Police Department Budget

All annual budgets adopted by the Village of Pelham Board of Trustees for the last 19 years are currently available on the Village's website. The FY2020-2021 Adopted Budget of \$15,795,071 includes appropriations for police department operations totaling \$3,864,462, a 6% decrease from the FY2019-2020 adjusted police department budget of \$4,122,723.

Mandatory expenditures for personnel services (salaries, compensated absences and other negotiated benefits, overtime, off-duty training, etc.) for sworn officers, crossing guards and parking enforcement officers account for roughly 95% of all police department expenditures (\$3,658,627). Contractual expenses (computer services, medical testing, education reimbursements, training materials, canine supplies, utilities, phone services, etc.) account for approximately 4.6% of police department expenditures (\$180,835). Equipment and capital outlays constitute the remaining \$25,000 in budgeted expenditures for the police department. It is important to note that this final category represents the only area considered "discretionary" in the police department budget, although other areas in the budget may change from year to year, depending on the circumstances (number of injuries, open headcount positions, adjustments to training regimen, mix of different salary grades among PD personnel, etc.).

The Village of Pelham Police Department is minimally staffed to cover call volume and ensure a safe and efficient response to local emergencies. The overall headcount for the police department is primarily the product of ensuring this minimum coverage for daily work shifts 24 hours a day, 365 days a year. Providing continuous coverage can be particularly challenging for a small municipality since police personnel are entitled to 40-hour work weeks, paid vacation time, sick days, paid training days, and other negotiated time off allowances. Apart from consolidation, it is unlikely that the Village would be able to reduce the headcount lower than its current levels while still being able to respond safely to all emergencies.

It's important to note that there are scenarios wherein reducing headcount may actually cause the budget to increase, not decrease, since a lower overall headcount would not necessarily reduce the number of shifts that need to be filled in a daily tour. For example, the Pelham Police Department is currently operating with diminished capacity due to multiple long-term injuries. Since staffing is already at minimum levels, every time a police officer is injured and unavailable for work, the injured officer's shift needs to be filled by another officer who must cover the shift in addition to their standard tour. Filling an open shift is necessary to maintain service and comply with collective bargaining agreements, but this can create a potential safety risk for the officer who may end up working as much as 24 hours in a single day. It also incurs significant expense for the Village, since overtime is typically paid at 1.5x to 2x the standard rate. Reducing headcount would exacerbate this issue. The FY2020-2021 budget includes \$340,000 for police department overtime. While this number includes salary costs for training during off-duty hours, it is driven mostly by covering absences related to injury and sickness, an issue directly caused by lower staffing levels. The budgeted amount for police department overtime has come down in recent years, due to management changes made in departmental scheduling practices. This

has proven to be a far more effective strategy for reducing expenditures required for police services.

There are other downsides to maintaining such a low level of staffing. Recently, the Pelham Police Department was able to create a dedicated “CPOP Officer” (Community and Problem Oriented Policing), which allowed an individual officer to patrol Pelham’s downtown on foot (or on a bike) and attend local events like Chamber of Commerce meetings and school functions. Creating opportunities for informal, face to face interactions between police officers and community members is a proven and effective way to build and engender trust. Notably, after only a few months, the officer needed to be reassigned to patrol duty, due to a number of injuries that left the department without adequate coverage. Currently, two officers are out on long-term injury, which prevents the department from being able to commit personnel to this important assignment.

### **A Brief Note on Defund the Police**

Over the summer, many proponents of police reform began using the phrase “Defund the Police” as an organizing principle. Those who use this phrase are not monolithic in their views and it has been used to advocate for a wide range of potential reforms. Some use the phrase to advocate for outright abolition of policing as an institution, grounded in the distinctly American tradition of prohibiting taxpayer funding for governmental programs viewed as irretrievably corrupt or unaccountable to the taxpayers footing the bill. Grover Norquist once famously sought to systematically reduce the size of government as a whole, to the point that one could “drag it into the bathroom and drown it in the bathtub.” Abortion opponents have sought to “Defund Planned Parenthood.” Most recently, opponents of federal actions related to immigration enforcement sought to defund ICE (Immigration and Customs Enforcement). America itself was the product of fighting against “taxation without representation.” While there are many relevant interpretations of the phrase, it is most commonly used to reference disparities in how tax dollars are allocated within lower-income communities, typically communities of color.

In many cities and urban neighborhoods, there is a very real disparity in how public funding is allocated. For decades, governments at all levels have prioritized funding for increased policing, while promoting “tough on crime” laws like minimum sentencing standards, “three strikes” laws, the war on drugs, and a general tendency to treat social ills—like poverty, homelessness, unemployment, drug abuse and mental illness—as crimes. At the same time, federal funding to support low-income communities has been systematically diminished to reduce federal income taxes primarily for higher-income earners. Combined, many communities have experienced an increase in policing while also grappling with reduced funding for education, healthcare, after school programs, jobs—the very things that actually address the root causes of crime.

Pelham residents have experienced this trend very differently, since the reduction of funds for low-income communities has generally resulted in tax cuts for higher-income earners living in relatively affluent areas. Since crime is typically lower in communities with higher median

incomes, the increased personal income resulting from these tax cuts has been directed not toward policing, but toward other local priorities like nonprofits and local cultural institutions, parks, recreation programs, and most notably, our schools.

In Minneapolis, which recently committed to “defunding” its police department and replacing it with a new system of law enforcement (which may end up being closer to the minimum-sized institutions seen in places like Pelham), the ratio of school spending to police spending is approximately 3:1. In the town of Pelham, the ratio of school spending (townwide) to police spending (townwide) is almost 10:1.

We live in a well-resourced community. As we consider how we allocate funds equitably, it’s important to remember that Pelham residents have not experienced the same disparities felt by individuals in low-income communities. It would be unwise to assume that solutions proposed for those communities are relevant to Pelham.

Ultimately, our goal is to ensure the equitable treatment of residents and visitors in Pelham, which is not necessarily an issue related to funding. The Steering Committee encourages the Village Board to continue finding efficient ways to deliver police services and recommends the following actions be taken:

- ❑ Separate overtime expenses related to training from overtime expenses related to coverage in the annual budget, in order to ensure that tight fiscal periods do not undercut resources needed for adequate training of police personnel
- ❑ When the department returns to full capacity, the Village should reestablish the CPOP position and find opportunities for informal interactions with the community, and particularly with students in the school district (as suggested recently by local students after the debate involving the Thin Blue Line flag face masks worn by district employees)

## Demographics and Hiring Practices

The 2019 Police Department Annual Activity Report, currently visible on the Police Department page of the Village of Pelham website, identifies the current demographic makeup of sworn members of the department by race/ethnicity, as follows:

- 85% White/Caucasian
- 8% Black/African-American
- 4% Hispanic
- 3% “other”

The demographics of Pelham’s “service population” change from year-to-year, but according to 2019 estimates provided by the U.S. Census Bureau, race/ethnicity in the Village of Pelham is currently as follows:

- 59% White/Caucasian
- 17% Hispanic
- 12% Black/African-American
- 8% Asian
- 4% “other”

Gender is not identified in the 2019 activity report, although it should be noted that while the police department currently employs many female crossing guards, there are no female “sworn” police officers employed by the Village of Pelham. It is generally agreed by members of the Steering Committee on Policing & Inclusion that a more diverse workforce, which more accurately reflects the diversity of the service population, is beneficial to the department’s operations and reputation, but the regulations that govern hiring practices make this more difficult to achieve than it may seem at first glance.

The Civil Service Law Rules and Regulations, next to collective bargaining agreements, are the most important documents affecting the hiring of public sector employees. Civil Service Rules and Regulations, which have the force and effect of law, provide the system for administering Civil Service Law. The Westchester County Department of Human Resources serves as the civil service administrative oversight agency for all divisions of government in Westchester County’s towns, villages, school districts, special districts, and the cities of Rye and Peekskill, as well as Westchester County government and Westchester Medical Center (Public Benefit Corporation). The cities of Mount Vernon, New Rochelle, White Plains and Yonkers are excluded as each has its own Civil Service Commission.

The State Constitution requires that “appointments of all promotions in the civil service of the state and all of the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be ascertained, as far as practicable, by examination which, as far as practicable, shall be competitive.” These rules were created to prevent nepotism, bias or

favoritism in hiring, and with the exception of transfers, all sworn police officers within the Village of Pelham are hired following the “Competitive Class Appointment Process,” as follows:

1. **Examination announcement** - exams are administered once every four years by the Westchester County Department of Human Resources, according to a schedule stipulated by New York State.
2. **Examination appeal process** - there are several types of review and appeal offered to candidates for different examinations, and this process is also governed by the Westchester County Department of Human Resources.
3. **Promotion appointments** - competitive class vacancies must be filled by promotions whenever possible, and require promotion examinations.
4. **Eligible list and the certification process** - eligible lists are created when the names of the candidates who passed the examination (scored 70 or higher) are listed or ranked according to their score on the county-administered examination, highest to lowest.
5. **Canvassing a list** - prior to filling a vacancy in the competitive class, the appointing authority canvasses the eligible list, or a portion of the list, in order to discover which candidates would consider accepting an appointment if offered. Once the list is canvassed, assuming there are at least three candidates who indicate a willingness to accept (binding list), the appointing Authority can then select one of those candidates who is willing to accept, who is among the three who stand highest on the eligible list. If the position is to be filled, the appointing authority is legally bound to appoint one of these candidates.
6. **Selecting candidates from eligible lists** - When a vacancy or vacancies are to be filled, the village requests a certified eligible list from the Westchester County Department of Human Resources. The certified eligible list provides the names of enough candidates who can be canvassed in order to determine if there are at least three willing acceptors. After the canvassing of the list the village is limited to the names of the candidates who expressed a willingness to accept the appointment and who are considered “reachable.” To be reachable, a candidate’s name must be equal to or greater than the name of the candidate who ranks number three on the resulting certified eligible list. For example, if 5 candidates receive a score of 100, and 50 candidates received a score of 95, the village, assuming all candidates were willing to accept the appointment, is required to appoint from among the 5 candidates who scored 100. Candidates who scored a 95 would not be reachable until or unless there were less than three willing acceptors with a score of 100.

In practice, when the Village of Pelham seeks to hire a police officer, there are typically only three candidates to choose from, all provided to the Village on a list developed by the Westchester County Department of Human Resources. There are exceptions, such as when the Village hires a “transfer” from another jurisdiction. Transfers require the approval of the candidate, the acquiring jurisdiction and the Westchester County Department of Human Resources prior to the effective date of such transfer. Transfers - and all new personnel - are

subject to a mandatory probationary period in accordance with Westchester County Civil Service Rules.

For municipalities that seek a more diverse workforce, there are still choice points during this process that can lead to a workforce more reflective of the community:

*Ensuring a more diverse pool of interested candidates* - examinations are administered by the Westchester County Department of Human Resources once every four years, as dictated by NY State agencies. The dates of each examination are publicly released, but municipalities seeking a more diverse workforce are encouraged to better communicate these dates to their local populations alongside a clear and explicit policy that encourages minority candidates to apply.

*Choosing a different eligible list for candidates* - candidates are chosen from two separate “eligible lists,” one that contains only local residents and one that contains candidates from around the county who have indicated interest in working in the Village of Pelham. It is important to note: if the Village chooses a “local list,” the Village must continue to hire solely from the local list until a new exam is administered, or until all candidates on the list have been given consideration. Currently, half of all Pelham police officers live in the Village of Pelham and all but one graduated from Pelham Memorial High School. Hiring locally is a significant benefit to our community, since resident officers often have a personal stake in the success of the community and are more likely to know the population personally. On the other hand, diversity of background and experience is also helpful in a local police force. Finding opportunities to hire from a countywide list of candidates could increase the likelihood of choosing from a more diverse candidate pool.

*Establishing formal positions* - there are two formal positions that could be created by resolution that would allow the Village to hire from different eligible lists specific to those positions. The first position is “female police officer.” This position is allowed under the law, since there are some duties in every department that can only be done by a female officer (ie, guarding a female prisoner). The second position is “spanish speaking officer.” It’s likely that this pool of candidates would include candidates who speak spanish natively, and even though the Village of Pelham currently has one spanish-speaking officer, it would be helpful to have more officers who are capable of speaking spanish to ensure coverage and long-term continuity for this skill.

The Village of Pelham is a wonderfully diverse community and not significantly divergent from our country’s overall diversity. This community characteristic is a point of pride for many residents (of all races and backgrounds). Pursuing a local government workforce that reflects the full diversity of our village should be a strategic priority for the Village Board of Trustees, and should be applied across all Village of Pelham departments.

The Steering Committee on Policing and Inclusion recommends the following:

- ❑ [Adopt a diversity policy and post it on the Village’s website](#)

- ❑ Formalize a strategy for publicizing county test dates (for all civil service positions) and promoting the Village's desire for a diverse candidate pool
- ❑ Establish a "spanish speaking police officer" position, with the goal of hiring at least 2 or more spanish-speaking officers to ensure coverage and long-term continuity
- ❑ Establish a "female police officer" position, with the goal of hiring at least 2 or more female officers to ensure coverage and long-term continuity
- ❑ Consider choosing some candidates from the "county list," which is likely to include a more diverse candidate pool
- ❑ Include gender in the demographics analysis included in the annual PD activity report
- ❑ Work with each department head to identify opportunities to diversify the entire Village of Pelham workforce, since the Police Department is actually more diverse than other departments in the Village
- ❑ Include reference to the diversity policy when advertising open advisory board seats

**[Potential Community Prompt: What communication channels could be utilized locally to ensure public knowledge of upcoming examinations?]**

## Standards for Police Conduct

Conduct expected of Village employees is governed by the Village of Pelham Employee Handbook, the Pelham Police Department Rules, Regulations, Policies and Procedures, and collective bargaining agreements established with each department's bargaining unit. The Village of Pelham establishes a high level of conduct required for police officers, defined most explicitly under "Personal - Professional Business Conduct," which is contained in the PPD Procedural Orders and stipulates that "members of the Department shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Department. Conduct unbecoming an officer shall include that which brings the Department into disrepute or reflects discredit upon the officer as a member of the Department or that which impairs the operation or efficiency of the Department or officer." Forty-five key components are explicitly stipulated, including an expectation that officers:

- Shall maintain a level of "moral conduct in their personal and business affairs, which is in keeping with the highest standards of the law enforcement profession"
- "Shall be courteous and tactful in the performance of their duties and shall demonstrate patience and discretion when dealing with the public."
- "Shall not engage in any type of activity which expresses prejudice concerning race, sex, religion, politics, national origin, lifestyle or similar personal characteristics."
- Shall not "harass any other member of the Department or any member of the public."

Alongside these stipulations related to engagement with the public, PPD personnel are also prohibited from using or possessing marijuana or illegal drugs, engaging in partisan political activities, drinking alcoholic beverages on duty or in uniform, using profane and vulgar language or gestures while on duty, publicly criticizing or ridiculing the official actions of the Department or any of its members, representing the Department before the media, or using their official position in the Department, their identification card or their police shield to obtain privileges not otherwise available to them.

Supervisory personnel are required to "take proper disciplinary action when and where it is evident those members of the Department, under their command, are engaging in conduct characterized as discourteous, prejudicial, or harassing," and that violations "of any law will be considered a departmental disciplinary offense *as well as* an illegal act subjecting the violator to criminal penalties." Members of the Department who have an abusive sick leave record, a pattern of disciplinary problems, or substandard work performance may be barred from the following: (1) Additional compensation assignments, including but not limited to, special detail employment and overtime; (2) Tour switches with oneself or other employees; and (3) Consideration for a specialized unit/assignment.

If an officer violates the Department's Rules, Regulations, & Procedures, or any other expectation set by the Police Chief, the Chief is authorized to suspend an officer up to 20 days (paid). Further disciplinary action requires authorization from the Village Board of Trustees,

which has statutory authority over all personnel matters. This is beneficial for ensuring accountability and is a product of the Village's unique governing structure, as noted above.

## **Social Media Policy**

The Police Department Procedure Order that outlines permissible Use of Social Media is different from the Social Media policy contained in the Village of Pelham Employee Handbook (which generally covers non-represented staff).

Under the current policy, members of the police department are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of the Department for which confidentiality is important, impede the performance of duties, impair discipline and harmony among coworkers, or negatively affect the public perception of the Department. As public employees, members of the department are cautioned that speech, on-duty or off-duty, made pursuant to their official duties, is not protected speech under the First Amendment and may form the basis for disciplinary action if deemed detrimental to the Department. Department members are encouraged in the policy to remember that their speech and related activity on social media sites will reflect upon their office and the Pelham Police Department.

While the language in the policy forbids and cautions against many forms of potential misuse, much of it, as written, is subject to interpretation and difficult to enforce. Members of the police department are cautioned not to disclose their employment for safety and security reasons, but it is not strictly prohibited, which permits officers to identify themselves on social media as a local police officer while simultaneously sharing personal views that may be perceived as official statements. Notably, the Employee Handbook version of the policy requires employees to clearly include language in social media profiles indicating that their views are not the views of the Village of Pelham. This provision is not included in the Police Department Procedure Order.

Village management is currently reviewing this policy to ensure that it is in line with professional standards. Given the fact that many officers live locally and are likely to have personal political opinions that could affect the perceptions held by local residents they are sworn to serve, the policy needs to be more explicit regarding use of social media platforms. Maintaining separation between an officer's role as a public employee and their opinions as a private citizen, is essential to mitigating reputational risk for the Village of Pelham.

## **Recommendations**

Establishing a reliable system for reporting misconduct so that potential violations are known to the Trustees responsible for ensuring corrective action, will be addressed in the next section. To ensure that residents are aware of the conduct they can expect from a Pelham Police officer, we recommend redesigning and organizing the Police Department page on the Village's website to include:

- ❑ A statement indicating that no officer shall engage in any type of activity which expresses prejudice concerning race, sex, religion, politics, national origin, lifestyle or similar personal characteristics
- ❑ A summary of the standards identified in the Police Department's Rules and Procedures, including the stipulations related to an officer's interactions with the public and the legal rights afforded to all people under the law
- ❑ Periodically review all employee conduct policies to identify areas where further guidelines and training are needed to ensure an employee's personal conduct does not interfere with their professional role in the community.

**[Potential Community Prompt(s): What standard of behavior do you expect from a law enforcement officer? What actions could the Village take to communicate these standards to all who live in, and visit, the Village of Pelham?]**

## Misconduct Reporting and Internal Affairs

Current practice requires residents to report police officer misconduct to police department management, either Chief Pallett, Lt. Danny Green or an on-duty Sergeant/supervisor. Upon receipt of a complaint, which can be communicated anonymously, an internal investigation occurs, led by Lt. Danny Green who is responsible for the Internal Affairs function. The investigation is to either substantiate the allegation or gather information for a complainant to provide an understanding of the findings. Complaints may also be reported to the Village Administrator or Village Trustees, but this is not well communicated to the public.

All personnel complaints trigger an investigation and a final report of findings and recommendations are forwarded to the Chief of Police for final review. The Police Chief determines the appropriate disciplinary action, but is only authorized to suspend an officer with pay for up to 20 days. Any misconduct that requires more significant disciplinary action must be referred to the Village Board of Trustees which maintains statutory authority for handling personnel matters, in consultation with outside counsel and in accordance with existing employment laws and collective bargaining agreements. As is appropriate and allowable, the Village Board may issue further disciplinary actions, up to and including termination. The attorney that represents members of the PBA provides support for police officers facing disciplinary action.

There is strong support among the Village Board and Police Department management for ensuring proper conduct of police officers, for reasons related to moral integrity, legal liability and community relations. In 2017, the Internal Affairs policy was formalized by then-Lieutenant Jason Pallett. The Internal Affairs policy is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the agency depends on the personal integrity and the discipline of each employee. To a large degree, the public image of the agency is determined by the quality of the internal affairs function in responding to allegations of misconduct by the agency or its employees. The established procedure provides guidelines for the receipt, prompt recording, investigation, and disposition of complaints and allegations of misconduct made against a member of the department.

Ensuring a high standard of conduct is also essential to protect the reputation of the individual officers within the department. Even a single incident by one officer may undermine the trust needed for all local police officers to do their jobs safely and productively.

In the past two years, there have been three personnel complaints, none of which involved allegations of excessive force or a breach of an individual's civil rights. The anecdotes shared by residents recently indicate that some in our community may have experiences that never get escalated to Village management. To ensure that residents have safe channels for reporting misconduct and to ensure that Village leadership is able to investigate said allegations, this gap must be addressed. The Village Board can borrow from the Village's Anti-Discrimination Policy

in the Employee Handbook, which was adopted in 2019 and includes many ways to protect employees from harassment. Similar protections should be afforded to residents.

Preliminary recommendations from the SCPI include the following key priorities when the Village Board develops its plan to address this item:

- ❑ Residents should be able to report misconduct to someone outside the police department since it can be intimidating to report misconduct to a member of the police department
- ❑ Anonymous complaints are already allowed but this should be explicit [with the disclaimer that anonymous complaints may be more difficult to substantiate and that false statements are punishable as a misdemeanor (article 210 of Penal Law), but claims that are unsubstantiated will not necessarily be considered a false claim]
- ❑ Complainants should be made aware of their protection from retaliation
- ❑ The complaint process should be simple, straightforward, and easily accessible on the Village website
- ❑ All misconduct reports from residents warrant a response, even if the allegations cannot be substantiated
- ❑ Dedicate one Trustee during the annual organizational meeting as an auditor of all employee misconduct incidents so that a member of the Board is aware of all misconduct complaints, in addition to the Mayor (this responsibility could fall under the newly created Liaison to Equitable Affairs role)
- ❑ Include metrics on misconduct (# of reports, category of misconduct, outcome/result) in the annual PD activity report and post the full report on the village website each year so that the public is aware (personally identifying information of the officer and complainant should not be included unless permissible under state law)
- ❑ Publicize relevant external resources available to residents experiencing unlawful treatment by local police personnel

**[Potential Community Prompt(s): To whom would you feel comfortable reporting a complaint related to officer misconduct? What would restore your faith in Pelham's police department if an incident were to occur?]**

## Body-Worn Cameras

Body-Worn Cameras record events and dialogue exactly as they happen and provide an impartial account to law enforcement officials and the public alike. Aside from documenting encounters with the public, body camera technology also helps officers record what they see at accidents and crime scenes.

Currently, Village of Pelham police officers do not wear body cameras while on patrol, relying instead on written documentation of significant incidents prepared afterwards. We believe this represents a gap in accountability and a potential source of liability for the Village. Many incidents involving the police have the potential to create questions of objectivity, and body-worn cameras have been shown to promote accountability, transparency and legitimacy. If a local officer ends up in a situation where misconduct is alleged, a body-worn camera will be essential for ensuring that justice is served, either to provide resolution for an individual who was treated unfairly or to exonerate an officer who made appropriate decisions during the interaction.

Footage captured from a body-worn camera can be used as evidence in arrests or prosecutions, may help document the occurrence and nature of various types of crime, can corroborate evidence presented by prosecutors, has been shown to lead to higher numbers of guilty pleas in court proceedings, and fosters better behavior by both officers and civilians alike. In many police departments where body-worn cameras have been adopted, officers are encouraged to let the public know that the interaction is being recorded and it can result in better behavior (and a stronger sense of personal safety) for all those involved.

From mid-September through mid-October, the Pelham Police Department conducted a 30-day test of Axon 3 Body-Worn Cameras, manufactured by Axon Enterprises, which yielded positive results. Notably, these cameras can be activated to turn on for any reason, using signal units. For example, an officer's camera could be activated by turning on a vehicle's emergency light bar, or if a Taser is turned on.

The cost for 26 cameras and all the various equipment can be spread out over a 5 year period. Initial quotes indicate a year 1 cost of approximately \$49,000 and \$16,944 for years 2-5. Year 1 is higher due to the initial hardware costs, but Axon can also break out hardware costs over the 5 year period to mitigate the budgetary impact in the first year (which is particularly important given the current fiscal environment we are in due to COVID).

We consider body-worn cameras a tool that provides administrative efficiency each day while also acting as an "insurance policy," in case the Village finds itself in need of objective data. The Steering Committee on Policing and Inclusion recommends that the Village Board:

- ❑ Commit to purchasing body cameras by end of year, FY2021-22
- ❑ Draft a policy which ensures equipment activation during all encounters

## Operating Policy: Use of Force

Deadly force must always be used as a last resort. Unfortunately, many communities throughout the United States do not operate under that principle and many do not even maintain proper written policies in their departments. The Village of Pelham has maintained a Use of Force policy since 1997, and in 2019, updated it to reflect New York State's model policy on Use of Force. Over the summer, in the wake of the killing of George Floyd, minor modifications were made to ensure the language was more explicit and Chief Pallett required police department personnel to re-acknowledge the tenets of this critically important policy.

The Village's local policy aligns closely with Campaign Zero's "8 Can't Wait" Project, which champions eight key policy components that are proven to save lives and reduce police officer-involved killings, including:

- requiring de-escalation
- establishing a duty to intervene
- banning chokeholds and strangleholds
- requiring warning before shooting
- prohibiting shooting at moving vehicles
- requiring an officer to exhaust alternatives before shooting
- requiring comprehensive reporting of incidents of force
- utilizing a force continuum

Adopting these provisions was voluntary and we commend Chief Pallett for his leadership on this front. In addition to incorporating the tenets of New York State's policy into the Village's policy, all Village police officers are trained on it twice a year.

Since each municipality is allowed to establish their own policies, It can be difficult for residents to distinguish between departments that operate with integrity and those that do not. Policies like these should be celebrated and communicated by the Village Board. We recommend the following:

- ❑ [Post a brief synopsis of this policy on the Village website along with links to the formal policy documents and the training materials and reference to the semi-annual cadence of training](#)
- ❑ [Urge state and federal representatives to make the Model Use of Force policy mandatory](#)

## Operating Policy: Immigrant Protections

On October 24, 2017, the Village of Pelham Board of Trustees adopted a Resolution Regarding the Consideration of Federal Immigration Status in the Village of Pelham, reaffirming the Village's commitment to civil rights and equal access to Village services, including police and fire protection, and all other services. The purpose of the resolution was to establish procedures to be followed by Village of Pelham departments when encountering persons who actually or are suspected to have entered or remained in the United States unlawfully, and was drafted to align with the New York State Attorney General's "Guidance concerning Local Authority Participation in Immigration Enforcement and Model Sanctuary Provisions."

Key provisions of this policy include a prohibition for any employee of the Village of Pelham to engage in enforcement activities solely for the purpose of enforcing federal immigration law or based solely upon the suspicion that such person has entered or remained in the United States. Procedures stipulate that members of the police department shall not stop, question, interrogate, investigate or arrest an individual based solely on suspected immigration or citizenship status, members shall not inquire about the immigration status of an individual (including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual), and members shall not perform the functions of a federal immigration officer or otherwise engage in the enforcement of federal immigration law. The policy also outlines Village of Pelham procedures for responding to Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) detainer requests and ICE or CBP requests for certain non-public, sensitive information or CBP detainer requests.

The Pelham Police Department is responsible for the enforcement of criminal law, not civil law, and this policy sought to clarify that distinction, since federal immigration policy is predominantly a matter of civil law and it would not be appropriate for local police officers to enforce statutes that fall outside the Village's purview. This clarification of procedure is important for ensuring that local residents are afforded their rights under the law, including the presumption of innocence until proven guilty. Fundamentally, this policy protects not just those who may reside in the United States without proper documentation, but most significantly, those who may end up being mistaken as undocumented.

The enforcement of federal immigration laws by local police departments have been shown to increase strains on already limited local resources, increase racial profiling and litigation, and increase the potential for unlawful detention of persons who have committed no crime. The provisions adopted by the Village of Pelham in 2017, sometimes referred to as "sanctuary" policies, are associated with lower crime rates, reduced litigation risks and stronger relationships with all community members, especially those may be less likely to report a crime if their citizenship status may come into question during the course of their interaction with local officers.

The Steering Committee on Policing and Inclusion strongly applauds the Village of Pelham for its foresight in adopting these provisions and recommends the following:

- ❑ Post a brief synopsis of this policy on the Village website along with links to the formal policy documents
- ❑ Village employees should re-acknowledge this important policy on an annual basis

## Operating Policy: Mental Health Response

The Village of Pelham's commitment to safeguarding those who may be mentally ill or emotionally disturbed is another bright spot in this report. The Village does not manage or provide mental health services. For Westchester residents, these services are provided through the Westchester County Department of Community Mental Health, which plans, oversees and coordinates services for individuals - and their families - with mental illness, developmental/intellectual disabilities and substance use disorders. While services are not provided locally, police department personnel still must be trained in their response, since members will - and do - encounter situations involving apparently mentally or emotionally disturbed individuals who may pose a danger to themselves or others, and who have committed no offense other than disruptive or peculiar conduct.

Crisis Intervention training is a five-day, seven-module, 50-hour course that is mandatory for all new officers who attend the Westchester County Police Academy. The Crisis Intervention Team (CIT) program was founded as a community partnership of law enforcement, mental health professionals, mental health consumers and their families. The goal of the program is to help persons with mental disorders access treatment rather than place them in the criminal justice system for illness-related behaviors.

The training covers the following topics (among others):

- Indicators of Emotional Disturbance
- Information Gathering and Assessment
- Mental Hygiene Law
- Mental Health and Recovery
- Specific Mental Health Issues (psychotic disorders, mood disorders, anxiety disorders, trauma and stress-related disorders, personality disorders) and other causes of emotional disturbance (alzheimer's, dementia, veteran's issues, youth mental health issues)
- Autism and other developmental disabilities
- Responding to High-Risk Situations
- Communication Skills and De-Escalation
- Documentation and Liability
- Interactive Scenario-Based Training

The Village has established clear policy and practice on this front, and has expanded training in recent years to ensure more officers are well-versed in proper Crisis Intervention techniques. Ten police officers received this training as recruits or via in-service training through the Westchester County Police Academy. The county offers this training once-a-year as a refresher for officers (and for those who haven't yet received it), and the Village was able to allocate funding for 5 additional officers to receive the training in 2019 - an effort spearheaded by Trustee Hanan Kamal-Eldahry and Chief Jason Pallett. The number of officers trained on these

techniques surpasses the program's recommendation of having one officer per tour specially trained in these techniques.

Additionally, the Village of Pelham police department is currently partnering with Project Community, a local nonprofit, to create a registry of all autistic residents (approximately 80 adults and juveniles) to ensure awareness and a safer response to any emergency situations that arise.

The Steering Committee on Policing and Inclusion recommends the following:

- ❑ The Village should establish a timeline for training all officers on Crisis Intervention
- ❑ Crisis Intervention training should be prioritized for fire department personnel, as well, since they also respond to medical emergencies and may be a more suitable first-response in situations that are low-risk
- ❑ The Village Board should work with county officials to establish County Crisis Intervention teams that are capable of responding quickly to situations where the presence of law enforcement personnel may be less appropriate
- ❑ A summary of the CIT Training should be included on the Village's website so that residents are aware of the local approach to these issues

## Required Training (Academy and Annual)

Village of Pelham police officers are trained through the Westchester County Police Academy, prior to being placed into service in the Pelham Police Department. Recruits attend the Basic Recruit School, a 20-week training program where officers follow a curriculum specific to policing in the 21st century. Included in the curriculum are the following topics:

- New York State Penal (article 35, Justification)
- Criminal Procedural
- Vehicle and Traffic laws
- Emergency Vehicle Operation
- Firearms
- Physical Fitness
- Professional Communication
- Mental Health/Crisis Intervention
- Role Playing/Reality based training
- Cultural Sensitivity
- Cultural Diversity
- LGBTQ Community
- Procedural Justice
- Implicit Bias
- Police Legitimacy
- Response to persons with disabilities
- Officer resilience/wellness
- Domestic Violence
- Active Shooter
- Use of Force

Additionally, Pelham Police Department personnel are required to complete annual training related to the following core topic areas:

- Firearms requalification
- Use of Force (justification and response to resistance review)
- Taser recertification
- First Aid/CPR
- Anti-Sexual Harassment Policy
- Workplace Violence

The Pelham Police Department embraces opportunities for additional training of PD personnel, although it can be difficult to utilize opportunities for additional training given the budget constraints of the department. In 2019, all members were re-trained on Active Shooter response protocols, and the use of Oleoresin Capsicum. Individual officers elected to be trained on a range of topics which included:

- Instructor Development
- Defensive Tactics
- DWI Recognition
- Crisis Negotiation
- Domestic Violence Response
- Radar operation
- Crisis Intervention
- Emergency Management
- Various FEMA courses
- Canine Training
- Data Master Operation
- Juvenile Officer
- Police Supervision
- Under-age Drinking Party Prevention
- Field Training Officer
- Pedestrian Safety
- Autism Shield
- Sexual Assault
- Colt Armorer and Glock Armorer
- Officer Involved Shootings
- 207-C Law
- TLC Enforcement
- Law Enforcement Command

During the course of this review, Administrator Omar Small and Chief Jason Pallett sought options for additional training related to implicit bias. The Village's insurance carrier recommended an offering from PERMA's Safety Institute (online platform) on 'De-Escalation and Communication Training'. According to the description, "this training is spread over two one-hour courses. Part I will address Managing and Controlling Other People's Behavior, while Part II will look at Managing and Controlling Your Own Emotions and Behaviors. The goal of this training is NOT to tell you WHEN to use verbal or tactical countermeasures, but to equip you to assess human reactions in yourself and in others so that you can determine which countermeasures are appropriate. You will learn de-escalation techniques so you can leverage communication to gain compliance." The Pelham Police Department is scheduled to utilize this opportunity.

Regular and periodic training of police officers ensures local officers are well-versed in relevant topics and committed to personal growth and current best practices. While we do have recommendations for additional learning, the Pelham Police Department's commitment to individual and departmental training is commendable.

The Steering Committee on Policing and Inclusion recommends the following:

- ❑ Officers should receive Implicit Bias training on a periodic basis throughout their careers as they mature in the profession and the curriculum changes (low-cost/high-quality online offerings are well-suited for the department)
- ❑ Dedicate additional funds within the department budget for re-education offerings from the Westchester County Police Academy, such as “Officer Resilience and Wellness” so that officers maintain regular connection to support resources
- ❑ Staff costs related to training are paid under the “PD Overtime” line in the Village budget, which also includes overtime paid for other reasons. As noted earlier in the report, this should be a separate line for tracking purposes, and to ensure that difficult fiscal years do not cut into the funds needed for this important priority

## School Residency Investigations

The Steering Committee on Policing and Inclusion is grateful to Dr. Cheryl Champ for meeting with the committee on Monday, October 19th and providing information about this practice, including data related to the number of investigations that have been conducted in the past five years, and clarification on the scope of the school district's equity audit. The equity audit is currently underway, conducted by the NYU Metropolitan Center for Research on Equity and the Transformation of Schools. The policies and procedures pertaining to school residency investigations were not originally included for review in the school district's equity audit, but Dr. Champ agreed that it should be added to NYU's scope.

School residency investigations are authorized and regulated by the Pelham Union Free School District (PUFSD), and they're intended to ensure that school services funded by resident taxpayers are not utilized by people who do not live in Pelham. These investigations are in addition to the required documentation needed from all families who enroll their children in Pelham's public schools, which includes various documentation to prove residency, such as: two complete copies of a utility bill, a tax bill for existing homeowners, a contract of sale for new homebuyers, a notarized lease and proof of payment for non-homeowners, health records, a completed and notarized application for admittances, and various school forms related to prior school transcripts and pupil records, among other items. Despite these requirements, investigations may be conducted when there is a suspected violation of the district's residency guidelines. It is unclear what triggers an investigation or what the standard is for determining if an investigation is necessary or warranted.

School residency investigations do not fall under the purview of the Pelham Police Department, and are instead conducted by private investigators hired directly, or indirectly, by the school district. As a criminal law enforcement agency, the PPD does not engage in the enforcement and investigation of school district policy or other civil matters, since the standards for undertaking criminal investigations are different with regard to establishing probable cause, protecting an individual's rights, etc. However, because Village employees are permitted to seek outside employment and the Village Board does not have an annual practice of reviewing outside employment agreements that could present a conflict of interest, local police department personnel have, in past years, been hired as private investigators by the school district to conduct residency investigations in an off-duty capacity. This year, the PUFSD decided to end this practice of hiring off-duty local police personnel to conduct residency investigations and PUFSD now contracts with the Boards Of Cooperative Educational Services (BOCES) for this service, but information contained in this report relates to previous years when Village employees had been involved.

Hiring a local police officer to conduct residency investigations in an off-duty capacity represents a clear conflict of interest for personnel employed by the Pelham Police Department and the Village of Pelham. It also creates a potential gap in accountability, since it's likely to be unclear to the subject of an investigation who should be notified if the investigation is not

conducted with integrity. This presents a severe reputational risk, since the PPD is likely to be held responsible for an investigator's behavior, even if the investigation is managed by an outside entity. An officer's relationship with the community must be considered sacrosanct by all involved, and the Village Board must ensure this does not happen again in the future.

The demographics of those investigated for potential residency violations was not readily available, although it is likely that these investigations often focus on non-homeowners, which is a population that is more diverse than Pelham's overall demographic mix.

The total number of investigations has fallen year-over-year for the last five years, which may be a sign of progress, but last year, in 2019, there were still 15 residency investigations. Most importantly, none of the investigations in 2019 led to a determination of non-residence or evidence of a violation. 2 were determined to be homeless (and thereby legally entitled to receive an education in Pelham's schools) and 13 were determined to be residents.

In the past five years, 124 investigations were conducted. Only 35 families were determined to be non-residents and therefore in violation of the district's policy. This means that 72% of all investigations conducted in the last five years involved residents who were fully entitled to attend Pelham schools, but who were subject to private investigation. At no point during the last five years has the number of non-resident violators exceeded even half of those investigated. The number of investigations (and their outcomes) is included below:

**2015-16 school year**

36 investigations - 24 residents, 12 nonresidents

**2016-17 school year**

30 investigations - 22 residents, 8 nonresidents

**2017-18 school year**

24 investigations - 17 residents, 7 nonresidents

**2018-19 school year**

19 investigations - 11 residents, 8 nonresidents

**2019-20 school year**

15 investigations - 15 residents (2 homeless), 0 nonresidents

It was clear to members of the Committee that this was a difficult process for the school district to discuss. Residency verification is a statutory requirement for all school districts, and the committee recognizes the inherently difficult optics of conducting investigations focused on school-aged children and/or their families. Since private investigators often operate with less accountability - and since the bulk of these investigations involve residents who are fully entitled

to attend our schools - we must ensure that our tax dollars are not used to harm our neighbors or create an inequitable experience in our community.

The Committee does not have enough information to make specific recommendations. Instead, we submit the following concerns and questions:

- What is the threshold for triggering an investigation?
- What safeguards exist to ensure a standard threshold for people of all backgrounds?
- What is allowed and/or prohibited behavior by those conducting the investigations?
- What rights exist for subjects of school residency investigations and are they notified of those rights?
- What remedies exist for subjects of investigations who may be unfairly targeted or unfairly treated?
- What happens to a family that is determined to be non-resident and in violation of the residency guidelines?

The annual budgeted amount for these investigations is approximately \$30,000. Since removing a student from the school in the middle of the year is unlikely to reduce actual expenses, it is difficult to justify such a large expenditure. It is particularly difficult to defend this expense as one designed to “protect taxpayer resources” when so few investigations result in any actual evidence of inappropriate behavior. While it may require establishing additional safeguards, we believe the school district should set a goal of not investigating a single local family unnecessarily.

Additionally, we encourage the Board of Education to push back on the local narratives often driving this issue, including the oft-used argument that children in low-income families are trying to “sneak into the school district.” This is a narrative that perpetuates racism and racist stereotypes. There is nothing sneaky about finding an affordable home in a community with good schools. If there is, nearly every parent in Pelham is guilty of the same thing.

Given the prevalence of these myths, one would expect to see far greater numbers of people determined to be nonresidents. Instead, the number is surprisingly low for a student population of nearly 3,000 children. We encourage the community to consider why these narratives are so commonplace in our community.

Our hope is that the Board of Education can address our concerns and work with NYU to determine potential policy revisions by including this topic for review during the equity audit process. While we recognize the temptation to investigate all potential violations, it is important to prioritize, first and foremost, the equitable treatment of our residents. What would it look like to create a policy that prioritizes the need for equitable treatment over the need to prevent violations of the district’s residency guidelines? We believe that should be the centerpiece of the school district’s policy, even if it means that a small number of violations are never investigated.

The Steering Committee on Policing and Inclusion recommends the following actions be taken by the Village Board of Trustees:

- ❑ Adopt a policy for reviewing outside employment arrangements on an annual basis to ensure employees of the Village do not engage in activities that pose a conflict of interest.
- ❑ All Village employees should acknowledge the Village's policy on conflicts of interest annually
- ❑ Each department head should gather all existing outside employment arrangements maintained by employees in their departments so that the Village Board may approve or disapprove any relationships that could pose a liability for the Village of Pelham

**[Potential Community Prompt: What can we do as a community to push back on narratives that perpetuate racism and racist stereotypes?]**

## Housing Protections for Renters

This particular subject does not fall squarely within the scope of this committee, but it represents a significant matter related to equity within the Village of Pelham and affects nearly a third of our local residents. The U.S. Department of Housing and Urban Development (HUD) enforces fair housing laws throughout the country. People often associate HUD with public housing, but the department also plays a role in private property transactions, including rentals.

Housing Standards pertaining to residential properties in the Village of Pelham are established under Chapter 54 “Housing Standards” in the Village of Pelham code. Additional requirements are established by the NYS Department of Health and through the Property Maintenance Code of New York State. The PMCNYS is intended to establish the minimum maintenance standards for basic equipment, light, ventilation, heating, sanitation and fire safety, in the interest of the social and economic welfare of the community. Responsibility is fixed among owners, operators and occupants with regard to code compliance. Chapter 3 of the PMCNYS, in particular, includes a variety of requirements that are intended to maintain a property’s minimum level of safety and sanitation for both the general public and the occupants of a building. It further establishes the responsible parties for exterminating insects and rodents, and maintaining sanitary conditions in all types of occupancies.

The Fair Housing Act, enforced by the U.S. Department of Housing and Urban Development (HUD), was established to protect people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.

The Village of Pelham does not employ a dedicated code enforcement officer on a full-time basis, but the Buildings Department routinely pursues corrective action any time an issue is reported, typically citing the PMCNYS to support the issuance of a violation. Even when there is not technically a violation, the Village has intervened to resolve disputes between landlords and renters on various matters. While complaints and violations are not routinely tracked, a number of local property owners have historically failed to comply with minimum sanitary standards. Unfortunately, many renters may not be aware of the support available to them locally, or the more robust support available through Westchester County or through the U.S. Department of Housing and Urban Development. Given the lack of clarity on this, some violations may not be reported or corrected.

The Steering Committee on Policing and Inclusion recommends the following actions be taken by the Village Board of Trustees:

- ❑ Create a section on the Village Website dedicated to information related to housing support
- ❑ Summarize the key components of the New York State Property Maintenance Code

- ❑ Implement a tracking system for all housing complaints (potentially using the Village's mobile app, MyVOP)
- ❑ Provide information on relief agencies and other non-local support that exists for residential and commercial renters, such as the Westchester County [Eviction Prevention](#) landing page and other support related to COVID-19

## Public Art

The Village of Pelham does not currently have a formal process for proactively curating or adjudicating art for public spaces. In 2016, the Village renovated Wolfs Lane Park, utilizing a grant from the Dormitory Authority of the State of New York, in an effort to revitalize the downtown core by including places throughout the park that would be attractive and engaging for residents and visitors. The “Power of Ten” concept was instrumental in those plans. The idea behind this concept is that places thrive when users have a range of reasons (10+) to be there. These might include a place to sit, playgrounds to enjoy, art to touch, music to hear, food to eat, history to experience, and people to meet. Ideally, some of these activities are unique to that particular place, reflecting the surrounding community’s culture and history.

With this as a guiding principle, the Village’s renovation plan included things like bocce courts, ping pong tables, the Woodland Park Playground donated by the Junior League of Pelham, and the pergola donated by Pelham Preservation & Garden Society. Among these other amenities was a sculpture garden to be curated by the Pelham Art Center. While an agreement has never been formalized, the Art Center has utilized this and other public spaces to display various works of art over the years without input or oversight from the Village Board of Trustees. While this has been a very successful program over the last four years, it also represents the only avenue available to residents who wish to display art in public spaces.

In February of 2020, a resident reached out to Mayor Mullen about the possibility of creating #LovePelham murals throughout the Village. Lacking a formal process for a Village-wide art project, the idea was postponed. In July of 2020, the Village Board received an additional request, this time to install an art exhibit, *Pelham Laundry*, in a small area in Wolfs Lane Park. *Pelham Laundry* had been on display at the Art Center. The exhibit was created to establish a voice for the unheard and to create a safe space for the unseen victims that experienced and witnessed racism in our small town. At the time, the Art Center explained that art can be a vehicle for change and social justice, as well as a platform for conversations, and it hoped that this project would encourage healing and empathy through the recognition of racism.

Unfortunately, the Village still lacked a formal process or guidelines to permit the exhibit in Wolfs Lane Park, and the Village Board felt strongly that a formal process needed to be created. Mayor Mullen tasked Trustee Carpenter to look at best practices in other communities to determine the best way to proceed.

Local government control of art frequently arises. For example, in the regulation of murals as a form of outdoor signage or advertising, in graffiti abatement, or in government selection of artwork for display in public parks or public buildings. These controls present many familiar First Amendment concerns. Because the courts have characterized art as a form of First Amendment-protected speech, regulations pertaining to artwork must be content-neutral, contain adequate procedural safeguards, and may not be unconstitutionally vague. For example, an outright ban on the display of artwork in our park is likely to fail. However, the

Village can set time, place, and manner restrictions, for example, where necessary to limit traffic congestion along public pathways.

In general, the government has wide latitude to engage in the selection of artwork for government properties and relocate or remove that artwork if the government chooses to redevelop or otherwise modify government properties. Given recent case law, artwork selected by the government for display on public property is likely to be considered by a court to be government speech, not private speech.

Many communities that have embraced public art do so by creating boards or councils independent from the legislative body. The City of Columbus created the [Columbus Art Commission](#), the [City of Berkeley utilizes a Civic Arts Commission](#), and closer to home is the [New Rochelle Council on the Arts](#). The Board of Trustees agreed that this approach is best and set out to pass legislation establishing the Pelham Council on the Arts with these goals in mind:

- Draft a local law establishing an art council with statutory authority over the design and placement of all works of art to be acquired by the village, placed on land owned or leased by the Village, placed anywhere in the public right-of-way, or otherwise utilizing public resources such as communications platforms and the village's government access television channel.
- Work with the Council to establish guidelines and procedures for considering temporary and permanent artworks in parks, streetscapes and similar village property, and for broadcast on the village's government access television channel.
- Empower the council to evaluate and alter the established guidelines and procedures to ensure that they correspond to the village's values in the future.

After receiving feedback at Regular Board Meetings on September 8th, September 22nd, and October 13th, a public hearing was held on October 27th, following which the law was adopted unanimously. This law created the Pelham Council on the Arts with a mission to expand the public experience with visual art and the humanities by creating and administering a public artwork program that:

- Encourages the commission of artwork for municipally supported projects;
- Engages the imagination of artists who create artwork for public consumption;
- Supports research and original scholarship;
- Preserves and provides access to cultural and educational resources; and
- Drives interest in the Village's downtown.

The Village intends that the Arts Council members consist of a diverse group of community leaders passionate in their field and the advancement of the arts in Pelham. Members will have experience and interest in the arts of architecture, landscape architecture, sculpture, painting,

performance arts, filmmaking, education, literature, history, or other similar arts and works of art. They will play an active role in the Arts Council's administration and development and serve as stewards of the arts in the community.

The Steering Committee on Policing and Inclusion was able to review the law in its draft form prior to passage. The Council on the Arts has the potential to make a powerful contribution to civic dialogue, and we recommend that the Village Board consider the following in its implementation:

- ❑ Appoint membership that not only provides the council with deep expertise and professional acumen, but also reflects the rich diversity contained in our village to ensure that Public Art is curated by a council representing a range of perspectives and lived experiences
- ❑ Members of the Arts Council should prioritize exhibits that encourage dialogue about topics that may go undiscussed in Pelham
- ❑ Artists deserve compensation and while it may be challenging to fund the public art projects initially, the Village Board and the Arts Council should prioritize securing funds over time

**[Potential Community Prompt: The Village of Pelham Council on the Arts represents an ideal vehicle for public expression on this topic. What types of projects and themes should the council consider for initial exhibits and projects?]**