

Attachment A

Comments and Recommendations on Pelham Manor's Draft Report on Police Reform Under Executive Order 203, Submitted by Ramsey McGrory, Andrea Ziegelman and Lance Koonce

We urge immediate action to address community concerns and provide the police with the techniques and tools to do their job to the highest ethical standards.

In order to provide these comments and recommendations, we have reviewed draft Executive Order 203 ("EO203") reports and process from many municipalities throughout Westchester County and the state. The Village of Pelham Manor's draft report, found [here](#)¹ ("Draft Report"), is materially deficient by comparison to our peers. If not revised and strengthened (see our suggestions below), it will reflect poorly on our entire community and will be a missed opportunity to strengthen bonds between the community and our police force.

Below, we set forth in some detail our thoughts on (1) the process followed by the Village in addressing the requirements set forth in EO203; (2) the Draft Report and Plan under Executive Order 203 prepared by the Village; and (3) finalization of the Village's plan.

I. Background on Executive Order No. 203 and Its Requirements

The Governor issued EO203 on June 12, 2020 in the wake of the death of George Floyd in Minnesota. In the Order, the Governor noted the "long and painful history in New York State of discrimination and mistreatment of black and African-American citizens dating back to the arrival of the first enslaved Africans in America," including "recent history" "of incidents involving the police that have resulted in the deaths of unarmed civilians, predominantly black and African-American men, that have undermined the public's confidence and trust in our system of law enforcement and criminal justice" and that "urgently needs to be rectified. EO203 explicitly identified deaths in New York State including Anthony Baez, Amadou Diallo, Ousmane Zango, Sean Bell, Ramarley Graham, Patrick Dorismond, Akai Gurley, and Eric Garner.

In light of the foregoing, EO203 states that "urgent and immediate action is needed to eliminate racial inequities in policing, to modify and modernize policing strategies, policies, procedures, and practices, and to develop practices to better address the particular needs of communities of color to promote public safety, improve community engagement, and foster trust."

The Executive Order then requires municipalities with police forces to:

- Perform a comprehensive **review** of current police force deployments, strategies, policies, procedures, and practices;
- Convene the police chief and community stakeholders to **develop policies** to improve same, to address the particular needs of the communities served by such police force and promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color;
 - In developing these policies, consider evidence-based policing strategies, including but not limited to, use of force policies, procedural justice; any studies addressing systemic racial bias or racial justice in policing; implicit bias awareness training; de-escalation training and practices; law enforcement assisted diversion programs; restorative justice practices;

¹ www.pelhammanor.org/sites/g/files/vyhlf1056/f/news/draft_village_of_pelham_manor_eo_203_report_and_plan_-_january_2021.pdf

community-based outreach and conflict resolution; problem-oriented policing; hot spots policing; focused deterrence; crime prevention through environmental design; violence prevention and reduction interventions; model policies and guidelines promulgated by the New York State Municipal Police Training Council; and standards promulgated by the New York State Law Enforcement Accreditation Program.

- Create a **plan to adopt and implement the policy recommendations** resulting from the foregoing review and consultation by further consulting with stakeholders, including the local police force, community members (with an emphasis in areas with high numbers of police and community interactions), non-profit and faith-based community groups, the district attorney and public defender, and elected officials
 - This plan should include any modifications, modernizations, and innovations to policing deployments, strategies, policies, procedures, and practices, tailored to the specific needs of the community and general promotion of improved police agency and community relationships based on trust, fairness, accountability, and transparency, and which seek to reduce any racial disparities in policing.
- **Offer the plan for public comment to all citizens**
- After consideration of public comments, **present the plan to the local legislative body for approval by April 1, 2021.**

In issuing further guidance on the implementation of EO203 in August 2020, which runs to 139 pages, the Governor noted that “[w]ith more than 500 law enforcement agencies in our large and diverse state, there is no ‘one size fits all’ solution and that ‘each local government must convene stakeholders for a fact-based and honest dialogue about the public safety needs of their community.’” The document provides an extensive outline of suggested steps that may be taken by municipalities in implementing EO203.

II. The Process Followed By The Village To Implement EO203 Was Flawed

A. Comprehensive Review of Police Force Policies and Procedures

The first step under EO203 is for a municipality to conduct a comprehensive review of current police force deployments, strategies, policies, procedures, and practices with the aim of addressing racial inequities. According to the draft report recently published by Pelham Manor, the Village’s Police Chief was tasked with this review of the Pelham Manor Police Department (“PMPD”), and it consisted of a review of the Village’s one-sentence Vision Statement, one-sentence Mission Statement, and its Use of Force policy. The Draft Report does not indicate that any changes to PMPD’s policies were determined to be needed, nor that any other party participated in this review to provide neutrality and to avoid putting the Chief in the awkward position of reviewing his own department’s policies, many of which he had drafted. ***Most importantly, there is no mention of a specific review of policies and procedures with the issue of potential racial bias in mind.***

Separately, the Draft Report indicates that the Police Chief “performed a department-wide analysis of police training needs” and determined that the PMPD would benefit from a certified implicit bias training officer, which he fulfilled by enrolling in and completing Westchester County’s Principled Police Training program. However, the Draft Report does not propose to implement implicit bias training on an ongoing basis for existing and incoming members of the department, nor is implicit bias training even listed among the many types of training provided or offered to officers on Pages 19-20 of the Draft Report. ***In our opinion, this absence of police-wide implicit bias training to ensure that our officers are afforded the most comprehensive***

training possible, while also satisfying the highest standards of nondiscriminatory policing, fails to address a guiding principle underlying EO203.²

The Draft Report makes no mention of most of the evidence-based policing strategies identified in EO203 (other than use of force and limited implicit bias awareness training) during the internal review, such as procedural justice, systemic racial bias or racial justice in policing; de-escalation training and practices; law enforcement assisted diversion programs; restorative justice practices; community-based outreach and conflict resolution; problem-oriented policing; and the like. Some municipalities have performed much more extensive evaluations of existing and potential policies and procedures, going well *beyond* the categories noted in EO203, which were not intended to be exhaustive. ***The Draft Report does not identify any new strategies, policies, procedures or practices that were considered, much less initiated, as part of the above review.***

There also is no indication in the Draft Report whether input was sought from members of the PMPD during this initial review. For instance, some municipalities have undertaken surveys of the members of their police forces. As an example, a survey taken of officers in the Town of Bedford, New York (which currently has 34 sworn police officers to Pelham Manor's 27 officers) revealed that 64% of the force wanted additional training specific to conflict resolution, people with disabilities or mental health issues, day-to-day operations and investigation techniques, and 78% want more opportunities to meet and to interact with residents.³ ***This type of information can suggest possible changes in policies that may not otherwise be revealed with a top-down review, but Pelham Manor chose not to undertake such a survey.***

2. Convening Police and Stakeholders to Develop Policies

The Draft Report indicates that meetings were held between multiple stakeholder groups and four Village officials (the Mayor, Police Chief, Village Superintendent, and one Trustee). No details of those meetings are provided in the Draft Report, including the number of attendees, the dates of meetings, or the issues discussed. In particular, the Draft Report contains no information from any resident or non-resident on any personal interactions with the police (whether positive or negative). In other municipalities, at least some stakeholder meetings have been recorded and made available to the public.⁴ Other municipalities also held town-hall style virtual meetings to elicit feedback.⁵ Some municipalities conducted community-wide surveys to gather input about interactions.⁶

We are aware that a large group of Village residents engaged in a series of letters to the Village in the summer of 2020 seeking input into police reform and the EO203 process. To our knowledge, despite this affirmative outreach by concerned residents, ***the Village did not seek further input from any of these concerned residents or expressly include them in the stakeholder group meetings being held with Village officials. Nor were any such concerned citizens asked to help facilitate the EO203 process or the Draft Report.***

The Draft Report then discusses the establishment of a Stakeholder Working Group of five individuals ("SWG"). Our understanding from past Board of Trustees meetings and the Draft Report is that the SWG was intended to act as advisory group alongside the other stakeholder groups with which Village officials met in

² We received a public announcement just before finalizing this letter that the PMPD will now have its own in-house procedural justice/implicit bias instructor. We look forward to seeing more details about this.

³ www.bedfordny.gov/wp-content/uploads/2021/02/PRRCC-DRAFT-Report-v2.18.21.pdf.

⁴ www.pleasantville-ny.gov/police-reform-reinvention-collaborative.

⁵ www.ryeny.gov/services/remote-city-services-new/police-review.

⁶ The Draft Report states that the Village distributed a questionnaire for residents who called the police for service, but does not say how many questionnaires were distributed, or during what period. The report notes that the questionnaire sought feedback on "the levels of service and professionalism" of the PMPD, but does not provide the questions asked. Less than 10% of residents responded, and the Draft Reports states only that "comments are positive."

order to solicit feedback, but was *not* responsible for driving the overall EO203 process or authoring the Draft Report. Those functions remained at all times with Village officials.

This represents a sharp contrast to work performed by similar entities formed in other municipalities, which took seriously EO203's mandate requiring that the "chief executive of such local government shall convene the head of the local police agency, and stakeholders in the community to develop such plan." In those municipalities, broader committees were formed that were responsible for directing the EO203 implementation process, including drafting and submitting a final plan. In many cases, residents submitted formal applications for inclusion on such committees or groups.⁷

For instance, the Village of Ossining created a committee expressly tasked with coordinating the overall process of developing the Village's police reform plan, with members including two Village elected officials, one Town Councilmember, three representatives from the Ossining Police Department, and nine members of the community representing stakeholder groups including the NAACP, the Briarcliff Ossining Ministerial Association, the Community Equity Task Force, the Ossining LGBTQ Alliance and the Civilian Police Complaint Review Board.⁸

The Village of Larchmont created an "Ad Hoc Police Reform and Reinvention Collaborative" with the stated goal of reviewing "information regarding the operations, policies, procedures and practices of the Larchmont Police Department, the results of both Collaborative and Community Surveys, as well as any relevant statistics, data, or other documents which it deems necessary, in order to identify areas for change and to create short and long term goals to enact such change." Volunteers for that Collaborative were required to submit an application, and the final complement of members included Village officials, members of the police department, school officials, clergy, a representative of the chamber of commerce, and five citizen members.⁹

As another example, the Town of Bedford formed a Police Reform Reinvention Collaborative Committee tasked with implementing the Town's program, which was to have up to eighteen members. The committee was designed to have members that included in leaders and officers of the police force; community members with emphasis on areas with high numbers of police and community interactions; interested non-profit and faith-based groups; the local public defender; local elected officials; residents who had had interactions with the police; residents who had been incarcerated; local police unions; local education officials and educators; local neighborhood, homeless, and housing advocates; LGBTQIA+ leaders and advocates; local healthcare leaders and advocates; mental health professionals; business leaders; transportation and transit officials; and legal and academic experts.

We believe that the Village missed an opportunity to create a committee or group responsible for driving development of an EO203 plan. By forming the SWG as an advisory group to provide comment but maintaining full control of the creation of the Draft Report among Village officials, the Village failed to create a process in which independent, neutral or even adverse voices played a role.

After briefly describing the SWG, the Pelham Manor Draft Report then turns to four "pillars" assessed as part of the EO203 plan for the Village of Pelham Manor: (I) Transparency; (II) Community Policing and Familiarity; (III) Training Policies and Procedures; and (IV) Human Resources and Hiring. No explanation is provided as to why these four pillars were chosen. We would note that as a general matter (and discussed more specifically below as appropriate), the discussions under each "pillar" in the Draft Report are more descriptive

⁷ www.townofpoundridge.com/sites/default/files/fileattachments/police/page/31501/cjr_committee_description_v2.pdf

⁸ www.villageofossining.org/police-reform-and-reinvention-collaborative/pages/prr-collaborative-police-draft-report-translatable

⁹ www.villageoflarchmont.org/police-reform-and-reinvention-collaborative/

than prescriptive – that is, *they contain extensive information about the current status of Village government and the PMPD, and very little by way of specific plans for improvement.*

II. The Draft Report Prepared By The Village Has Multiple Shortcomings

A. Lack of Context

The Draft Report’s introduction provides little context for the report, other than to recite that it is mandated by the Governor’s Executive Order. Rather than exploring the potential need for a comprehensive review of policing in the Village, the introduction indicates that the Village is “proud to restate its commitment to promoting public safety through a collaborative approach with the community. Our fundamental policy objectives include treating each person respectfully and equally under the law. The Pelham Manor Police Department (PMPD) remains open to dialogue and departmental reassessments in furtherance of our stated objectives.”

By contrast, other municipalities have undertaken a more thoughtful approach to the reassessment called for by EO203. For example, here is a portion of the Foreword to Scarsdale’s draft report:

Importantly, the Scarsdale community is blessed with one of the best trained and highly credentialed police forces in Westchester County and the State of New York, if not the Nation. However, maintaining that status is an iterative process involving critical self-reflection, community engagement, and continuous learning. This report synthesizes the results of a months-long initiative involving resident members of the Scarsdale community, recognized professionals in law enforcement and justice, Scarsdale Police Department leadership, Village elected leadership, and Village administration. ... We have left no stone unturned in our efforts to examine the effectiveness of our policing ecosystem and identify opportunities for further enhancements to help shield against policies, procedures, or practices that fail to fully support our firm commitment to supporting a safe, inclusive, and welcoming community for all people. In the interest of an informed public, which necessarily involves confronting the reality of chronic police brutality and the organizational cultures that fail to control for such behavior, regardless of its frequency or prevalence, events and background information leading up to the need to undertake our examination of Scarsdale policing are provided below.

We believe that adoption of a tone of complacency in the introduction to Pelham Manor’s Draft Report represents *a missed opportunity for the Village to publicly demonstrate a willingness to engage in critical self-evaluation – a shortcoming found throughout the report.*

B. Pillar One: Transparency

The first section of the Draft Report’s “four pillars,” addressing transparency, first discusses the ways in which the Village government, including the PMPD, communicates with residents. As pertains to the PMPD, the report notes that it posts on social media, disseminates key information through Nixle, and that the Police Chief has an open door policy. The Draft Report notes that the SWG and other stakeholders, however, specifically requested a *more* visible media presence by the PMPD.

In response, the Draft Report does not outline any specific actions to be taken by the PMPD, but rather highlights an update to the Village website completed several years ago, and an effort to make Village Board meetings available through streaming platforms and on more television channels, and discusses increased social media communication by the Village Board. As to the PMPD specifically, the Draft Report states only that “the Village commits to continue to review communication options going forward in order to maintain

and improve upon communication regarding the PMPD.” ***The lack of specific plans to improve communication in response to a request from the SWG and other stakeholders is troubling. Moreover, the Draft Report points to neither existing communications or proposed communication options designed to reach, and ensure ongoing dialogue with, communities of color specifically.***

The Draft Report also notes that the SWG and other stakeholders “requested that officers interact informally among the public as much as possible, as time permits.” It is unclear from the report whether the stakeholders meant this generally, or were specifically seeking more informal interactions with communities of color (in line with the purpose of EO203). In any event, in response, the PMPD has increased its presence in the Four Corners business area and is now conducting foot patrols on Saturdays and Sundays. However, the Draft Report does not indicate whether or how this increased presence will positively impact communities of color in particular. And, it appears to be the only such step considered under the Draft Report, which states that otherwise “the Village will continue to evaluate options for facilitating direct communication with residents.” ***Again, the lack of any other specific plans to address a concern raised by the SWG and stakeholders in the context of EO203 is troubling.***

The next eight pages of the Draft Report consist of data about the issuance of tickets, and arrests, during a recent 10-month period in Pelham Manor. The Draft Report states that the reason for inclusion of this information, which comprises over a third of the entire report, is to provide clarity around tickets and arrests. The only conclusions the Draft Report purports to draw from this information is that 75% of arrests were made in the Business District west of the Hutchinson River Parkway, the Four Corners shopping area and along the Boston Post Road, and that 50% of tickets were issued along the Boston Post Road. The Draft Report then states that “[t]he Village will continue to review this and other police data in accordance with the Order and our law enforcement goals and objectives.”

We would note that the data shows that of the 68 arrests made in 10 months in the Village, 55 of those arrested were of persons of color, or approximately 80% of all arrests. Most of the arrests were made as a result of a call to the PMPD; nine were made as a result of proactive policing (patrol). Of the 68 arrests, all but three of the individuals arrested were from outside of Pelham. The Draft Report includes no data or information relating to police calls or interactions that do not lead to tickets or arrests, even anecdotally.

Despite the significant number of interactions between the PMPD and persons of color cited in the Draft Report, ***unfortunately the report contains no insight whatsoever into (1) whether or how this data relates to the possibility of inequitable policing including bias-based profiling; (2) the perceptions or experiences of non-resident people of color who encounter the PMPD; or (3) police interactions not leading to tickets or arrests.***

It is worth reiterating that EO203 explicitly calls for consideration of “evidence-based policing strategies.” ***By providing data but failing to tie it to any review, proposal or reform, the Draft Report fails to demonstrate that the Village has considered how this data plays into policing strategy.***

Finally, we would note that while the Draft Report states that “the Village is committed to evaluating PMPD data on tickets and arrests,” it makes no mention of providing such data to residents on an ongoing basis. Other municipalities who have participated in the EO203 process have committed in their draft reports to providing more transparency around policing data, including for instance the Village of Bronxville,¹⁰ the Village of Scarsdale, and many others. ***The Village’s Draft Report makes no such commitment. It should.***

B. Pillar Two: Community Policing and Familiarity

¹⁰ www.villageofbronxville.com/sites/g/files/vyhlf336/f/uploads/pcrc_policy_recommendations_feb_5_2021.pdf.

The next section of the Draft Report devotes four paragraphs to preexisting efforts by the PMPD to build relationships and familiarity with the elementary school children and their families, and with elderly residents (including more recent efforts to reach out to such residents during the COVID pandemic). We applaud the PMPD for these actions.

The Draft Report states that meetings with youth, particularly Pelham United (no mention is made of meetings with any other groups), focused on the relationships between middle and high school students and the police, although no details are provided in the report of the context or specifics of these discussions. The Draft Report then states that the Village and PMPD “will continue working with Pelham United, as well as the Pelham Public Schools, to enhance relationships between this age group and our police officers.” ***No specific plans are identified for doing so, and in particular no plans are identified to reach and continue dialogue with youth in communities of color.*** Other municipalities have proposed concrete steps for engaging youth; for instance, the Bronxville draft plan calls for reinstating a “Village Government, BPD and Student Government Committee” with parental representation “to help develop and strengthen the bonds between our younger residents and the BPD”;

The Draft Report indicates that the SWG and other stakeholders indicated that they would welcome more of a police presence in the community. In response, the Draft Report repeats that the PMPD is conducting foot patrols in the Four Corners area on weekends, and states that “when possible” the Village will increase the foot patrols to include more days of the week and other areas, and that the Village is “exploring” possible community-wide events such as a picnic or “Meet an Officer Day” to foster relaxed interactions with officers. ***We are concerned that the references to exploratory discussions may not lead to concrete actions, and that no analysis appears to have been made of the impact of increased police presence on communities of color.***

In response to requests from religious leaders for more opportunities to interact with the PMPD, the Draft Report states that “the Village will encourage more open and robust interaction between officers and the community at [religious] events” where the PMPD is called to assist with traffic control. ***We would encourage the Village to identify more opportunities for PMPD to connect with religious leaders and congregants outside of specific events where the PMPD is already providing assistance. We would also suggest that the PMPD consider connecting with clergy in neighboring communities that have larger populations of persons of color.***

Perhaps the most troubling aspect of this section of the Draft Report is the following statement: “Community groups such as the Bridges of Pelham, a parent organization formed to address the challenges of raising Black children in a predominantly White community, and the youth group Pelham United, provided enlightening information and earnest impressions about the PMPD and residents of color. The Village has continued dialogue with these groups and will continue to collaborate with these groups beyond the Order timeframe to address any remaining concerns.”

It is not entirely clear from the report that the above references to “enlightening information” and “earnest impressions” are meant to convey that negative comments or criticism of Pelham Manor’s was received, as no details are provided about this information or impressions. However, assuming that this was indeed criticism, the failure to discuss it in the report would be a significant omission, given that the feedback appears to have been provided by some of the residents whose views are likely most relevant to a report on addressing racial inequalities in policing. ***A generalized plan to continue a dialogue is simply insufficient where EO203 calls for transparency around any criticism voiced by residents, and concrete plans to address such concerns.***

C. Pillar III: Training Policies and Procedures

This section of the report contains no plans or recommendations for improvement, but instead sets forth the extensive training that PMPD officers receive, while noting that additional training is expensive. It notes that

“the Village received universally positive feedback from community groups and other stakeholders with respect to the quality and quantity of training that our officers receive,” and concludes that the Village “will continue to explore ways to provide the most current and varied police training available.”

While we strongly support the training currently provided to PMPD officers, our concern with this portion of the report is the apparent lack of consideration of other options not just for training, but for updated policies and procedures to ensure best practices. It may be that the Village considered such options, as well as additional training, but *the Draft Report does not reflect any such consideration, and thus fails to demonstrate the type of introspection we believe that EO203 calls for.*

Other municipalities have set forth extensive recommendations or plans for updating police policies, in their EO203 reports. For just one example, see the draft report from the Village of Ossining: www.villageofossining.org/police-reform-and-reinvention-collaborative/pages/prr-collaborative-police-draft-report-translatable. In Ossining’s report, for instance, its committee recommends development of “a police officer mental health program that includes officer counseling with a tele-therapy option, and an early intervention program”; in Pelham Manor’s draft report, reference is made to two mental health “first aid” officers trained to recognize early warning signs within the PMPD, but *we would like to see more support provided to officers relating to mental health needs.*

Although we are aware that the issue of body cameras may have been discussed in connection with the Village’s EO203 review, the Draft Report – unlike that of many other municipalities¹¹ – makes no mention of body cameras. A number of municipalities with police forces similar in size to that of Pelham Manor are recommending the implementation of body cams for all officers. We were struck as well by the comments of Officer Kevin To on the benefits of body cameras, expressed at the recent community forum. Unfortunately, because the Draft Report does not include any discussion of the pros and cons of such technology at all, or any estimate of costs, it is impossible to determine from the Draft Report whether the absence of a recommendation on this issue is backed by sound reasoning. *At the very least, the residents of the Village should be able to assess the decision-making process around the body camera issue.*

D. Pillar IV: Human Resources and Hiring

The final section of the Draft Report primarily covers hiring for the PMPD, first reaffirming the Village’s non-discrimination policy. The report does not discuss the current racial make-up of the PMPD. Notably, in the draft EO203 reports from other municipalities, this data is often set forth.

In response to input from the SWG seeking to encourage more diversity within the PMPD by remaining open to hiring qualified female officers and officers of color, the Draft Report notes that hiring is constrained by the requirements of the State’s Civil Service Law and other unspecified laws, which can limit access to qualified candidates. The Village’s plan to address this concern is to communicate with elected officials at the State level to recommend that New York review and revise the Civil Service process to make available a broader range of qualified applicants, and to ask Pelham Manor residents to contact state representatives on this topic. Other municipalities have expressed a similar frustration with the constraints of the Civil Service Law in their reports.

Putting aside hiring, it is troubling to us that in the context of the entire EO203 process, the Village was unable to identify a single area for improvement to human resources with the PMPD that was within its control.

¹¹ https://www.pelhamgov.com/sites/g/files/vyhlf3661/f/news/phase_1_key_findings_and_recommendations.pdf.

III. Conclusions

In summary, we would make the following observations:

- The Village's final report and plan must not sidestep, as does the draft report, the central mandate of EO203: To assess and adopt concrete reforms to address the potential for racial bias in policing.
- As many residents affirmatively expressed an interest in participating in the EO203 process but were not consulted, the Village Board should take immediate steps to fully include the range of voices and perspectives in the community, in particular residents who had already reached out to provide input.
- As the EO203 review was conducted solely by Village officials, unlike other municipalities, a broader committee should be engaged to author a final, credible report for the Village.
- The final report should include examples of actual police interactions with persons of color in Pelham Manor, and perspectives provided by persons of color coming into contact with police in the Village.
- The final report should provide national or local context for why the report was necessary and why this is an important conversation for residents to be having.
- The final report should detail or recommend services provided to officers that help them ensure their own well-being, such as mental health support.
- The final report should detail or recommend training, such as implicit bias training, that will be provided to PMPD officers.
- The final report should be clear that policing data will be provided to residents in the future, with an explanation as to how it will be used by the PMPD.
- The final report should include specific plans for improving communications and opportunities for meaningful engagement between the PMPD and communities of color.
- The final report should address technology solutions such as body cameras that may help protect both officers and community members, and include the costs, benefits and risks.

We urge the Board to take action to remedy these deficiencies now.

Ramsey McGrory
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Pelham Manor, New York