



STATE OF NEW YORK  
DIVISION OF CRIMINAL JUSTICE SERVICES

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Albany, New York 12203-3764  
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COMMISSIONER

MARY B. KAVANEY  
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Office of Legal Services

November 12, 2008

Mary Colligan, Esq.  
Deputy Commissioner/Chief Counsel  
Commission of Investigation  
59 Maiden Lane, 39th floor  
New York, NY 10038

Dear Ms. Colligan:

The enclosed email alleging the establishment of an illegal constabulary by the Village of Patchogue and of improper conduct by its constables was recently received by the Division of Criminal Justice Services. Because, as explained more fully below, the Village of Patchogue is not authorized to establish a constabulary and because the Division is not empowered to investigate such allegations of improper conduct, I am referring this matter to your office for review and further action as the Commission may deem appropriate.

Criminal Procedure Law §2.10 delineates the persons who are peace officers. Included among the persons delineated therein are "[c]onstables or police constables of a town or village, provided such designation is not inconsistent with local law" (Criminal Procedure Law §2.10[1]). Appointment of constables by the Village of Patchogue appears to be inconsistent with the Suffolk County Charter.

The Suffolk County Charter was enacted by the State Legislature in 1958 (see chapter 278 of Laws 1958,) and ratified by the voters in 1960. At the time of such referendum the electors of each of the towns and villages of the County additionally voted on a separate proposition for the creation of a County Police District and the transfer thereto of the police functions of said town or village. The creation of the County Police District was approved by the electorate and, by their votes on this proposition, several towns, and several villages within them, elected to join the County Police District and to transfer their police functions to it. Such election was irrevocable. The Charter provisions regarding the Suffolk County Police District are enclosed.

It appears from our records that the Village of Patchogue was among the towns and villages voting to join the County Police District. Accordingly, the establishment of a constabulary and designation of constables as peace officers would be inconsistent with

the Suffolk County Charter and is not authorized (Incorporated Village of Oldfield v. Cosgrove, 244 A.D.2d 530 [2d Dept. 1997], leave to appeal denied 92 N.Y.2d 806 [1998]).

Notwithstanding its election to join the Suffolk County Police District, the Village of Patchogue has attempted on several occasions in the past to register constables with the Division pursuant to Executive Law §845-a (establishing the central state registry of peace officers). Moreover, in 1994, the Village of Patchogue went so far as to adopt Chapter 7 of the Village Code, creating the Village Constabulary. The Division has repeatedly refused to register individuals submitted by the Village based on its inclusion in the Suffolk County Police District. Nevertheless, recent newspaper articles appear to confirm the existence of a Village of Patchogue constabulary.

I would appreciate it if you would advise me regarding the Commission's course of action in this matter. Please do not hesitate to contact me should you have any question or need further information.

Very truly yours,



Mary Kavaney  
Deputy Commissioner and Counsel