



The City Council Chronicle



POLICE ACCOUNTABILITY BOARD LEGISLATION PUBLIC FORUM REPORT



Seated

Malik D. Evans, At-Large | Jacklyn Ortiz, At-Large
Loretta C. Scott, President, At-Large;
Mitch Gruber, At-Large | Willie J. Lightfoot, At-Large

Standing

Michael A. Patterson, Northeast | Elaine M. Spaul, East
Molly Clifford, Northwest | Adam C. McFadden, VP, South

From the President's pen: A note from Loretta Scott

On behalf of the City Council, I wanted to extend my sincere thanks to the community for their input and feedback relating to the Police Accountability Board (PAB) Legislation. This report summarizes the feedback that we heard at the three public forums where citizens discussed key elements of the legislation: the Composition of the Police Accountability Board, the Investigation Process, Subpoena Power and Legal Representation, Disciplinary Authority and any Miscellaneous topics they found relevant.



City Council held three Public Forums around the City to engage the public and hear their suggestions and recommendations for legislation to create a Police Accountability Board. These sessions were held on:

*Wednesday, January 23, 2019
South Avenue R-Center (Eastside)*

*Monday, January 28, 2019
Danforth R-Center (Westside)*

*Thursday, February 21, 2019
City Hall (Center City)*



This legislation will create a PAB and we will consider the suggestions outlined in this report as we amend the legislation. However, it is important to note that some of the ideas discussed at the Public Forums (listed in this report) will not be part of the final legislation that the Council passes. A number of ideas shared at the Public Forum were not pertinent to the legislation, but rather the implementation of the PAB. Those ideas will be shared with the appointed members once this Board is established.

This report shares the opinions expressed by those in attendance at our public forums. On the back page the next steps are outlined along with a glossary of abbreviations that are used. This legislation will be historic, and I thank everyone who has participated in creating the legislation before the Council and all those that took the time to come to these forums, sent us emails or signed up to Speak to Council. I look forward to continuing to move this process forward and ultimately creating Rochester's Police Accountability Board.

Sincerely,

The Composition of the Police Accountability Board

- Increase the membership of the board to 11 or 13 members: 6 or 8 selected by PABA, 4 selected by Council, 1 per District, 1 selected by Mayor**
- Important to have a community select majority of the Board**
- Compensate PAB members*
- Terms should be staggered and longer than 4 years
- Clarify specifications on what disqualifies a person from being appointed to the Board
- Keep composition of Board as it is written in the current legislation*
- PABA should be able to appoint their own members without Council confirmation
- The Board should have access to police training
- Add language that requires Council to explain why a PABA nominee was not selected
- Mechanism should be put in place to ensure diversity on the PAB



Subpoena Power and Legal Representation

- PAB must have subpoena power
- A majority of the Board should vote to use the subpoena*
- The Board should have its own outside legal representation. Stipulations for PAB membership should also be applied to legal representation for the Board*
- Budget for the PAB should be increased to pay for independent legal representation**
- The Board needs to identify if it is ever appropriate for the City's Corporation Counsel to answer any legal questions
- Conflict for City's Corporation Counsel to represent both the Board and RPD**
- The Board should decide if the City's Corporation Counsel has a conflict of interest on any matter related to the PAB
- The Board should select outside counsel and it should be clear that they cannot represent the RPD in any other lawsuits
- The Board should recommend subpoena use, not the staff
- If the panel declines to issue a subpoena in a non-unanimous vote the full Board will vote to determine if a subpoena should be issued
- If the Board majority is not appointed from the community then the PABA should select legal representation for the Board or the PABA should recommend candidates for selection
- The legislation should have language that clarifies how Board member disagreements are settled
- Independent Counsel is important because of their ability to enforce subpoena



* indicates idea shared at 2 of the Public Forums

** indicates an idea shared at all 3 Public Forums

The Investigation Process

- Must have independent investigations and should be able to investigate with or without PSS investigation coinciding
- Complaints should be investigated even if victim does not want to participate or a complaint is not filed*
- The Board should develop best practices to ensure privacy and safety
- Need to ensure that retaliation does not occur regardless of case outcome
- All complaints are important; severity should not determine investigation*
- There is still a need for the PSS
- PAB needs to have the proper resources in order to effectively investigate cases
- PSS should be eliminated and the money should be used for the PAB
- Civilians should be in charge of investigations
- Specifying what the PAB should investigate creates loopholes
- Only the PAB should have the power to decide what is investigated and what hearings are held
- History of offenses for officers should be available to the public



- Officers under investigation should not be able to serve in the PSS
- Retired law enforcement shouldn't serve as investigators
- There should be language in the legislation that specifies when and if the PAB should investigate

Disciplinary Authority

- There should be an opportunity to revise or review the matrix
- The matrix should take into account past complaints against an officer
- Important to keep the matrix and the process of creating the matrix transparent
- A report should be done to study if there is a change in officer behavior once the matrix is implemented
- Important that discipline is in proportion to the offense
- Policy and procedure recommendations by the PAB should be binding for the RPD*
- The matrix should take into account if an officer has multiple offenses for the same behavior
- The legislation should only apply to uniformed personnel of RPD
- Better define the “standard of proof” as stated in the legislation
- The matrix should address if something is not captured on body camera video
- Should the standard for discipline be “beyond a reasonable doubt”



- The matrix should include a restorative, rehabilitative and/or educational aspect, not only discipline
- The legislation should state that if you were invited to participate in the creation of the matrix and choose not to participate the process will not be delayed.
- When a complaint is sustained, psychological metrics should be taken on the officer
- Discipline has to stay with the Board**
- The Board should have access to personnel files to determine if the behavior is a pattern
- The matrix should include language that removes officers from law enforcement after three strikes

Miscellaneous

- Have the ability for the public to see the progress of complaints
- Specifically state what complaints go to the PAB
- Look at how communities have implemented a PAB and how they have engaged their residents for input
- Consideration should be given to setting aside funding to defend the ordinance
- Training and outreach should be a component of the legislation
- The budget should be increased, and the board should be adequately staffed
- All assets seized should have to be returned within 30 days or the police should be personally liable
- Concern expressed on the legality of aspects of this ordinance, relating to discipline and how it would impact the collective bargaining agreement*
- The PAB should do outreach to the community by utilizing Pathways to Peace
- Include in Subsection 18-4 “language and communication diversity”
- Police should have their own legal representation
- Preventative measures should be put into place including training around implicit bias and structural racism
- Efforts should be made to change New York State Civil Service Law 50-A
- Determine if past complaints can be reopened and reviewed by the PAB
- A mechanism should be in place if people make continuous false complaints to the PAB
- There should be an appeal process



Next Steps & Glossary

The City Council will be reviewing the comments from the Public Forums and will discuss any potential amendments to the proposed PAB legislation. Any potential amendments will be shared publically for review before they are voted on by the City Council. Once shared with the public, the City

Council will then vote on amending the proposed legislation. Votes on amendments could take place at Committee Meetings or at a City Council Meeting. A scheduled date to vote on this legislation is not yet established.

ACRONYMS USED IN THIS REPORT

The Board - refers to the Police Accountability Board
 RPD - Rochester Police Department
 PAB - Police Accountability Board
 PABA - Police Accountability Board Alliance
 PSS - Professional Standards Section

2019 City Council Meetings

The City Council holds a monthly meeting in the Rochester City Council Chambers which is located at 30 Church Street in Downtown Rochester. Prior to the City Council meetings, the Council hosts Speak to Council starting at 6:30 PM. At this meeting the public can address the Council on items the Council will vote on that night, or any other comments or concerns they would like to share (sign up is required). The General meeting is at 7:30, and the 2019 meeting schedule is:

January 15, 2019	February 19, 2019	March 19, 2019
April 16, 2019	May 21, 2019	June 18, 2019
July 23, 2019	August 20, 2019	September 17, 2019
October 15, 2019	November 12, 2019	December 17, 2019

Do you want to:
Speak to Council?

To sign up call:
 (585) 428-7421

Speakers start at:
 6:30 PM

Speak to Council is held immediately prior to Council Meetings and to speak you must sign up by 5:30 PM on the meeting day.