

COMMUNITY POLICING COMMISSION*

City Administrator's Recommendations to City Council

September 2018

*Council Resolution 18-0197 uses "Community Policing Commission" and that title is used throughout this presentation. The Advisory Task Force proposed the title "Independent Community Police Oversight Commission."

HOW DO WE DEFINE SUCCESS...

- Improve and strengthen police-community relations...
- Ensure oversight that the Ann Arbor Police Department (AAPD) provides appropriate civil service so the entire community...may live safely and experience just and equitable treatment...
- Enable the community to have an effective, independent voice...that ensures a high quality of police service, improves community/police relations, and influences selection of leadership for AAPD...
- Provides for independent review...

SOURCE: Advisory Task Force on formation of the Ann Arbor Police Commission

ACKNOWLEDGEMENT

I would like to acknowledge the work of the persons who contributed to the development of this document over the past several years. These individuals and organizations include the City Council, members of the Advisory Task Force and the Human Rights Commission, the City Attorney, the Ann Arbor Police Department (AAPD), the City Administrator's Office, and the many members of the Ann Arbor community who contributed their time and expertise on behalf of the City of Ann Arbor. Their diligence and perseverance demonstrates their seriousness of purpose and strong desire to establish a Community Policing Commission (the "Commission") that will ensure a positive and respectful relationship between the Ann Arbor Police Department and the diverse community it serves.

OTHER ACTIONS RESULTING FROM TASK FORCE DISCUSSIONS

- Revised City policies on non-discrimination/anti-harassment.
- Increased outreach/engagement in police hiring.
- Incorporating the Commission into the process of hiring the Police Chief.
- Initiated review of procedures for addressing reports of sexual misconduct.
- Finalizing adjustment of trespass forms and practices.
- Initiating a review of Council policy on reimbursement as it pertains to Commission member child care costs and student stipends.
- Designating an Equity and Inclusion Officer in Human Resources.
- Performed an analysis of traffic-stop analysis based upon race.
- Initiating consideration of community ombudsperson.

Resolution 18-0197, Resolution Creating and Advisory Task Force to Make Recommendations Regarding the Roles and Responsibilities of a Community Policing Commission

- RESOLVED...The recommendation may include discussion of the proposed Commission's roles and responsibilities in the follow areas: Education, Policing Practices, Incident Review, Reporting and Evaluation, Commission Membership...
- RESOLVED, That it is requested that the task force's recommendations be mindful of state law, the City Charter, existing collective bargaining agreements, and the Act 312 binding arbitration process, understanding that it will be with the authority of the Community Policing Commission to recommend that the City seek changes to the foregoing as necessary to achieve the Community Policing Commission goals; and
- RESOLVED, That the City Administrator...bring to City Council a resolution to establish the Community Policing Commission, detailing its roles and responsibilities and describing the anticipated budget and staffing impact...

COUNCIL DIRECTION

- RESOLVED, That it is requested that the task force's recommendations be mindful of state law, the City Charter, existing collective bargain agreements, and the Act 312 binding arbitration process, understanding that it will be within the authority of the Community Policing Commission to recommend that the City seek changes to the foregoing as necessary to achieve Community Policing Commission goals; and
- RESOLVED, That the City Administrator, taking into consideration the advisory task force's recommendations, the November 2017 report, and other relevant information, bring to City Council a resolution to establish the Community Policing Commission, detailing its roles and responsibilities and describing the anticipated budget and staffing impact, with a target date of the September 4, 2018 regular City Council meeting.

Additional analysis is provided in the attached document, "Supporting Analysis for the City Administrator's Recommendation Regarding the Formation of the Community Policing Commission for the City of Ann Arbor."

PURPOSE

- Reconcile the Task Force's efforts with the Council's direction.
- Review impacts of governing documents.
- Review City Administrator's draft recommendations and resolution.
- Discuss the path forward.

RESOLVED...The recommendation may include discussion of the proposed Commission's roles and responsibilities in the follow areas: Education, Policing Practices, Incident Review, Reporting and Evaluation, Commission Membership...

Education

ITEM	COUNCIL AREA OF INTEREST	DISCUSSION
1	Report and make recommendations regarding training and education of AAPD staff.	The Task Force did not specifically address this item (Section 3.2.1.B). The City Administrator recommends the Commission include tasks in its Annual Work Plan.
2	Report and make recommendations regarding the public education and communications efforts of AAPD and the City regarding police matters, including police policies and practices.	The Task Force provided recommendations in Section 3.3 of its work product, including the formation of a Youth Council. These recommendations should be incorporated into the Commission’s by-laws and specific tasks and activities be included in the Commission’s Annual Work Plan (AWP). To the extent that the AWP requires the procurement of outside resources, the City Administrator should reasonably support the Commission’s initiatives.

Policing Practices

ITEM	COUNCIL AREA OF INTEREST	DISCUSSION
3	Receive periodic reports and review pertinent data regarding policing practices (e.g. hiring, discipline, budget, staffing, complaints, training, and compliance).	The Task Force included provisions in Section 3.4 of its work product for the Commission to be engaged with the hiring of the Police Chief, with which the City Administrator concurs.
4	Report and make recommendations regarding policing practices.	Section 3.2.1 of the Task Force work product recommends allowing the Commission to review all policing practices, policies and compliance with such, and making recommendations for improvements. To the extent the policies and practices do not disclose confidential operational information, the City Administrator agrees.

Policing Practices

ITEM	COUNCIL AREA OF INTEREST	DISCUSSION
5	Mutual development with AAPD of a Policing Strategic Plan including community input.	Section 3.3 of the Task Force work product addresses Community Relations, however it should be noted that many of Task Force members felt it was not the role of Commission to endorse/approve a Policing Strategic Plan (Section 3.2.1.N). The City Administrator, however, does recommend that the Commission work with AAPD on its strategic plan, including annual budget collaboration, and that the requirement be included in the formation documents for the Commission.
6	Explore non-law enforcement public safety interventions that complement the actions of AAPD, such as crisis intervention teams.	Although not specifically addressed in the Task Force’s work product (Section 3.2.1.E), there was significant public comment on these topics. The City Administrator recommends the Commission collaborate with AAPD to review current practices and recommend needed improvements.

Policing Practices

ITEM	COUNCIL AREA OF INTEREST	DISCUSSION
7	Receive police department policies and related forms for purposes of review and evaluation.	Section 3.2 of the Task Force work product generally addresses review of policies. This is a core area of Council interest, and the City Administrator recommends that the review of specific policies and procedures be part of the Commission's AWP. The City Administrator also must retain the ability to redact certain aspects of operating procedures and tactics that would jeopardize the safety of the public and police officers if released.

Incident Review

ITEM	COUNCIL AREA OF INTEREST
8	Receive and review reports from AAPD containing data on complaints and disciplinary actions.
9	Report and make recommendations to AAPD and City Council regarding AAPD complaint process and outcomes.
10	Evaluate civilian-AAPD alternative dispute resolution process.
11	Receive and review relevant records of civilian complaints upon Commission request.
12	Create and implement procedure and criteria to receive civilian complaints.
13	Receive civilian feedback regarding complaints, complaint investigation and complaint outcomes.
14	Perform post-action review of complaints and receive additional information regarding complaint outcomes upon request.
15	Review incidents that resulted in complaints, injuries, or death for the purpose of identifying improvements in AAPD training, policies, procedures, or practices

Comment: The Task Force provided a detailed process in **Section 3.1**. The process includes steps and actions that are contradictory to statute, charter, and other requirements. The impacts of governance documents on this process are addressed separately in subsequent slides.

Reporting and Evaluations

ITEM	COUNCIL AREA OF INTEREST	DISCUSSION
16	Drafting and delivery of reports and evaluations that support Commission recommendations to AAPD, City Administrator, and City Council.	Section 3.2 (Reports and Recommendations Concerning Policies, Practices, and Compliance) of the Task Force’s work product addresses Council’s intent in most areas. However, there are some concerns about the Commission’s abilities to maintain confidentiality and the imposition of mandatory response times to the extent that they would interfere with operations. The City Administrator recommends that these issues be resolved through collaboration among the Commission, the City Attorney, and the City Administrator.
17	Review of best practices and recommendations of data analytics to measure outcomes of policing initiatives, including the community policing strategic plan.	The Task Force did not specifically address the use of data analytics (Section 3.2.1.I), however the use of data is inherently a part of providing information and reports. The strategic plan has been previously mentioned.

Commission Membership

ITEM	COUNCIL AREA OF INTEREST	DISCUSSION
18	Members of the commission should represent a broad cross section of the community that includes residents from communities most impacted by policing, as well as representatives from relevant fields such as mental health, restorative justice, and social work. Members of the commission should be residents of the City of Ann Arbor who are not employed by the City	The Task Force provided input and recommendations on the composition of the Commission in Article 2 . The City Administrator’s recommendations are provided on subsequent slides.
19	Member responsibilities, including solicitation of community input.	
20	Required member training, including consideration of the Ann Arbor Citizens Academy, Citizens’ Police, Fire, and Courts Academy, and AAPD ride-alongs.	

RESOLVED, That it is requested that the task force's recommendations be mindful of state law, the City Charter, existing collective bargaining agreements, and the Act 312 binding arbitration process, understanding that it will be with the authority of the Community Policing Commission to recommend that the City seek changes to the foregoing as necessary to achieve the Community Policing Commission goals;

FAMILY OF GOVERNING DOCUMENTS

- State Statute
- City Charter
- Collective Bargaining Agreements
- Code of Ordinances
- Council Resolution
- Commission Bylaws
- City/Policies and Procedures
- Departmental Policies and Procedures

CITY CHARTER

Boards and Commissions

- The City Charter provides the Council with the ability to create citizen boards (Section 5.17(a)).
 - The purpose of a citizen board is advisory, and provides counsel and advice and make recommendation to the head of the department and the City Administrator in respect to all such matters coming within the authority of its department as the Council prescribes.
 - The City Administrator, the Mayor and Council Members shall be privileged to attend the meetings of such boards and to take part in their discussions.
 - The creation of any such board shall not serve to impair the authority and responsibility of the department head, the City Administrator, and the Council as otherwise provided in the charter.

CITY CHARTER

Commission Membership

- Section 12.2(b) states, “an unpaid appointive officer to a board or commission established pursuant to law...shall be eligible for appointment if he/she is a registered elector of this City, unless the requirement is waived by a resolution concurrent in by not less than seven members of the Council.

Legal Representation

- Hiring of outside counsel would need to be done by the City Council pursuant to City Charter Section 5.2.c. The contract would be between the City Council and the outside counsel. Therefore, the “selection” of outside counsel by the Commission should be reviewed further with the City Attorney.

CITY CHARTER

Contracting

- Section 14 of the Charter addresses Contracts. Contracting authority is vested with Council, however the City Administrator may award certain types of contracts for >\$25,000. Contract administration responsibilities are vested with the City Administrator, the City Attorney and the City Clerk.

Personnel

- The Charter establishes responsibility for personnel matters with the City Administrator. The hiring of staff (temporary or permanent) is accomplished by the Human Resources Department through standard hiring procedures to ensure the hiring is done in accordance with applicable federal, state, and local law.

STATE STATUTES

Freedom of Information Act (FOIA)

- FOIA regulates and sets requirements for the disclosure of certain public records of certain public bodies in the state.
- FOIA includes a city commission, or any other body which is created by state or local authority.
- Provides for actual, compensatory, and punitive damages.
- FOIA has impacts on both the Commission's access to information and its abilities to maintain confidentiality. These matters need further review by the City Attorney.

STATE STATUTES

Open Meetings Act (OMA)

- The OMA strengthens the right of all Michigan citizens to know what goes on in government by requiring public bodies to conduct nearly all business at open meetings.
- City Council Resolution R-642-11-91 requires all boards, task forces, commissions, committees and their subcommittees hold their meetings open to the public to the best of their abilities in spirit of Section 3 of the Open Meetings Act.
- The Task Force's proposals concerning closed sessions do not appear to comply with OMA, and require further review.

OTHER LEGAL MATTERS

Collective Bargaining Agreement (CBA)

- The CBA establishes requirements for addressing complaints against officers, including timeframes for reporting incidents and compelling officers to appear.
- While AAPD may receive anonymous complaints, the CBA requires the officer to be informed of the nature of the accusation and the identity of the complainants.
- Officers must be notified of complaints within 14 days of receipt. Failure to comply with the established timeframes may preclude the City from taking disciplinary action.
- Compelling an officer to appear before a commission for questioning creates challenges in terms of the CBA and will most likely result in grievances.

OTHER LEGAL MATTERS

Time Limitations

- Timely reporting of incidents is necessary to ensure fairness to all parties involved and to comply with the CBA.
- Statute of limitations may apply, and additional legal review is required.

Relation to Other City Law

- Section 4.9 of the Task Force document states that its proposed ordinance prevails over all other City ordinance. This is a matter for further legal review.

OTHER LEGAL MATTERS

Dispute Resolution (Section 4.10.1)

- The draft ordinance requires mandatory arbitration to resolve disputes. This appears to contradict the provisions of FOIA and the Charter, and requires additional legal and administrative review.

Subpeona Power (Section 4.10.2)

- The authority of Council and its ability to grant subpoena power is a question for further legal and administrative review.

RESOLVED, That the City Administrator...bring to City Council a resolution to establish the Community Policing Commission, detailing its roles and responsibilities and describing the anticipated budget and staffing impact...

COMMISSION STRUCTURE & MEMBERSHIP

City Administrator's Recommendation

- Eleven voting commissioners and two non-voting advisory members.*
- One of the voting members shall be a sitting City Councilmember.*
- One of the voting members shall be a sitting member of the Human Rights Commission.*
- Nine members appointed by the City Council.
- Two advisory non-voting members, at least one of which shall be a youth member designated by the Commission.*
- Staggered three-year terms for Council-appointed members.

*Differences from the Task Force proposal.

COMMISSION STRUCTURE & MEMBERSHIP

Council shall consider the purpose of the Commission in appointing members. In making appointments, the Mayor and Council shall ensure that the overall membership of the Commission reflects the City's diverse population. They will ensure that segments of the community that are vulnerable and have been marginalized are amply represented, and that the Commission includes members with a variety of skills, expertise, and life experiences bearing on the work of the Commission, such as people who have work or have worked in the fields of mediation, conflict resolution, mental health, housing, homelessness, anti-racism, transformative justice, municipal law*, and law enforcement*, and people who have had significant encounters with the police.

*Different from the Task Force proposal.

COMMISSION STRUCTURE & MEMBERSHIP

- Persons who have been engaged in law enforcement within the last three years preceding consideration, either as sworn officers or in a non-sworn role directly involved in police operations, shall not be considered for appointment unless concurrence from a majority of the sitting members is provided.
- Members shall be registered electors in the City of Ann Arbor unless Council waives the residency requirement in accordance with applicable rules and regulations.
- Current City employees are not eligible to be appointed to the Commission.

ROLES AND RESPONSIBILITIES

- The Commission shall have the authority to receive complaints against AAPD and forward them to AAPD for investigation and resolution, including developing processes to protect the anonymity of individuals as allowed under applicable, federal, state, and local law and documents.
- The Commission shall have the authority to independently review AAPD's resolutions of complaints and investigations, and produce independent reports of its findings. These reports will be advisory in nature and will not be binding on the City. The City Administrator shall ensure the Commission is provided with access to the information and resources necessary for the Commission to perform its review, consistent with applicable laws, rules, and governing documents, and in a reasonable time and format.

ROLES AND RESPONSIBILITIES

- The Commission shall receive and review recurring reports on AAPD activities from the Police Chief. The form and substance of these reports shall reflect community interest and will be based upon information that is available or can reasonably be provided.
- The Commission shall review community policing policies and procedures and make recommendations to the City Administrator and the Police Chief that consider best practices nationally and from peer cities, and reflect the concerns and input from community members.

BUDGET AND STAFFING IMPACT

- The City Administrator shall provide administrative and logistical support to the Commission, including designation of a staff liaison to assist in the scheduling and conduct of Commission meetings and activities and ensuring appropriate AAPD participation in Commission proceedings.
- The City Attorney shall designate a staff attorney with appropriate and relevant experience to support the Commission.
- The Commission shall develop a work plan that includes its biannual goals and objectives as input for the AAPD two-year financial plans. The Police Chief and City Administrator will reasonably accommodate the Commission's resource requests as part of the preparation of the AAPD budget.

PATH FORWARD

- The City Administrator shall propose a process for recruiting the initial members of the Commission and a schedule for forming the Commission to the Council within 30 days of Council's adoption of the [formation] resolution.
- The Commission shall develop by-laws for its operation and present these to City Council not later than six months after its initial meeting.
- The Commission shall develop a work plan that includes its biannual goals and objectives as input to AAPD for its two-year financial plan.
- **Not later than** the one-year anniversary of its initiation, the Commission shall provide recommendations for an organizational ordinance to be adopted into City code.

PATH FORWARD

- Target date for Council action on the resolution is the October 1st Council meeting.
- Contract for recruiter for Police Chief presented to Council in October. Establish outreach and engagement plan and present to Council in November.
- Develop approach to recruiting Commission members presented to Council not later than November 1st.
- Recruit members and prepare appointment resolution in January 2019.
- Proposed target date for seating Commissioners in January 2019.