

Comments on East Lansing Draft Ordinance Creating a Public Safety Review Board

Erick Williams, June 2, 2019

Access to Information

It is important for the Board to exercise independent judgment. To exercise independent judgment, the Board needs independent access to information, such as (a) access to Police and Fire Department complaint and investigation files and the underlying evidence, (b) access to state and federal litigation records and the city's underlying investigations in those cases, and (c) the board needs authority to gather information directly and at its own discretion. Without independent access to information, the Board will be unable to exercise independent judgment.

Ordinances in other jurisdictions contain language to this effect:

Knoxville gives its committee the power to subpoena witnesses.

http://knoxvilletn.gov/UserFiles/Servers/Server_109478/File/parc/ordinance_019401.pdf

New Orleans, gives its police monitor the power to review city records relating to police misconduct lawsuits. The police monitor also has access to officer disciplinary proceedings and all materials in those proceedings. [http://neworleans-](http://neworleans-la.elaws.us/code/coor_ptii_ch2_artxiii_sec2-1121)

[la.elaws.us/code/coor_ptii_ch2_artxiii_sec2-1121](http://neworleans-la.elaws.us/code/coor_ptii_ch2_artxiii_sec2-1121)

St Paul gives its board power to review all police department complaint investigations, to access all investigatory materials and reports. The board also has the power to subpoena witnesses.

<https://www.stpaul.gov/sites/default/files/Media%20Root/Human>

[%20Rights%20%26%20Equal%20Economic%20Opportunity/PCI ARC%20Ordinance.pdf](#)

San Diego allows its board to review the police department's investigations and related material.

<https://www.sandiego.gov/sites/default/files/crb-sop.pdf>

The St Louis ordinance allows the oversight board to monitor police department internal affairs investigations and copy all recordings and evidence. When the police department finishes an investigation, it sends its entire file to the board.

<https://www.stlouis-mo.gov/internal-apps/legislative/upload/Ordinances/BOAPdf/ordinance69984.pdf>

Recommend Changes in Procedure

The Board should be proactive. One purpose of an oversight board is to prevent adverse incidents. Once an incident happens or a lawsuit is filed, it may be too late. The Board needs authority to gather information prospectively and recommend changes in procedure even when a complaint has not been filed.

Ordinances in other jurisdictions contain language to this effect:

In Berkeley, the police review commission has the power to make recommendations regarding law enforcement operations.

https://www.cityofberkeley.info/Police_Review_Commission/Home/Ordinance_4644.aspx

In Cambridge, MA, the board may investigate complaints concerning the police department rules and regulations.

https://library.municode.com/ma/cambridge/codes/code_of_ordinances?nodeId=TIT2ADPE_CH2.74POREADBO

In Seattle (King County, WA), the oversight office has the powder to review and recommend changes to sheriff's office policies, rules, procedures and general orders.

https://www.kingcounty.gov/~media/independent/law-enforcement-oversight/Documents/2019/Ordinance_18500.ashx?la=en

In Knoxville, the committee can make recommendations to improve police policies and activities.

http://knoxvilletn.gov/UserFiles/Servers/Server_109478/File/parc/ordinance_019401.pdf

In New Orleans, the police monitor can make recommendations to the police department to improve upon policies and practices based on national best practices. http://neworleans-la.elaws.us/code/coor_ptii_ch2_artxiii_sec2-1121

St Louis gives its board authority to make recommendations regarding, policy, operations and procedures without reference to a specific complaint. <https://www.stlouis-mo.gov/internal-apps/legislative/upload/Ordinances/BOAPdf/ordinance69984.pdf>

St Paul allows its commission to suggest policy changes for the police department's consideration.

<https://www.stpaul.gov/sites/default/files/Media%20Root/Human%20Rights%20%26%20Equal%20Economic%20Opportunity/PCIARC%20Ordinance.pdf>

San Diego authorizes its board to advocate for policies to promote fair and humane policing. The board can consider issues other than complaints. <https://www.sandiego.gov/sites/default/files/crb-sop.pdf>

Albuquerque requires its board to spend at least half its time working up policy recommendations.

<http://www.cabq.gov/cpoa/documents/amended-cpoa-ordinance.pdf>

Whistleblower Protection

It is important to encourage complaints from city employees, who are in a position to see problems before the public sees them. But employees may be reluctant to cooperate, especially in organizations like police and fire departments with paramilitary cultures. The ordinance should protect employees from retaliation when they choose to provide information to the Board.

Consider adopting something like section 2-78-160 of the Chicago ordinance, which forbids retaliation or intimidation against people who cooperate with the oversight board. <http://www.chicagocopa.org/wp-content/uploads/2016/07/COPA-Ordinance.pdf>

Independent Voice

It is important that the Board have an independent voice. The Board needs authority to publish freely its observations, opinions, and recommendations.

Consider adopting something like section 2-2213 (6) of the Atlanta ordinance, which gives the board discretion to issue public reports and recommendations at any time. https://acrbgov.org/wp-content/uploads/2016/08/16-O-1072_ACRB-ORDINANCE.pdf

Reports

It is important that the community know how the Board is performing. The Board should publish individual complaint summaries. The board should publish annual and historical statistics regarding the numbers and types of complaints and their outcomes.

For example, section 2-1106 (e) of the Knoxville ordinance requires annual publication of complaint summaries and statistics.

http://knoxvilletn.gov/UserFiles/Servers/Server_109478/File/parc/ordinance_019401.pdf

Research Before Adopting Ordinance

The city should do more research in this area -- possibly sponsor a study group – possibly consult with experts. According to the National Association for Civilian Oversight of Law Enforcement, <https://www.nacole.org>, there are more than 150 civilian police oversight agencies in the USA. We should take advantage of those existing models.