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# **Draft Resolution to Establish Guidelines and Practices Relating to the Kingston Police Commission**

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**Purpose:**

Whereas the members of the Police Commission must deal with some of the most fraught community and safety issues in Kingston;

Whereas the members of the Police Commission must represent a wide constituency of groups and individuals;

Whereas a great deal of recent research has demonstrated the potential dangers of both explicit and implicit bias and, further, the KPD has endeavored to understand the effects of such bias;

**Therefore, the following terms and conditions should apply to the Kingston Police Commission, who shall do everything in their power to:**

- A. *Commission Composition, Appointment, Vacancy and Removal*
  - a. *Members of the Commission shall reflect the City's diverse community, including, but not limited to: age, race, creed, color, national origin, gender, gender identity or expression, sexual orientation, disability, marital status and source of income.*
  - b. Be appointed by the Mayor with advice and input from the Common Council in concert and with the former having the power of approval of each member.
  - c. **The appointment process will be transparent, careful, and deliberate.** Be recruited through a process that is inclusive, is open to public scrutiny done in a timely manner publicly and widely announced, *Members of the Commission and their immediate family shall not be currently or formerly employed by the KPD or any other local, state, or federal law enforcement agencies.*
  - d. Serve staggered terms of three years each ending on March 31,
    - i. *Except for the initial Commission, each term shall commence on April 1st and end on March 31st. If a person is appointed to complete the unexpired term of a former Commission member, they shall complete the term.*
      - 1. First appointment:  $\frac{1}{3}$  receive one year,  $\frac{1}{3}$  receive two years, and  $\frac{1}{3}$  receive three years by random drawing.
  - e. Receive reappointment only after evaluation and re-application utilizing the recruitment guidelines noted above,
  - f. Be removed for cause as determined by the Mayor,
  - g. **Additional considerations for Commission Composition:**
    - i. *Conflict of Interest*
      - 1. *No Commission member or Commission employees shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of their duties in the public interest. A conflict of interest shall include, but is not limited to: if they have reason to believe or expect that they will derive a direct monetary gain or suffer a direct monetary loss, by reason of their official activity; or if any benefit or detriment accrues to them as a member of a business, profession, occupation, or group to a greater extent than any other member of the business, profession, occupation, or group. Commission members may not represent a complainant or an KPD sworn member before the Commission. If a Commission member has a personal, business or other relationship or*

*association with a party to or a witness in a matter before the Commission, the member shall disclose the situation to the Chairperson, and shall recuse themselves from deliberations or action in connection with that case.*

## **B. Powers and Duties**

- a. *The Commission and staff shall seek and participate in a broad range of training annually. Training resources will be selected by the Commission and may include individuals and organizations such as social justice organizations, attorneys, and any national, state, or local resources with expertise and experience in civilian complaints, investigation, police policies, auditing/monitoring, and other appropriate skills and knowledge. The Commission and staff orientation and ongoing training shall include but not be limited to, the following:*
  1. *All relevant local, state, and federal law*
  2. *implicit bias and anti-racism*
  3. *gender identity and sexuality*
  4. *disability rights, including but not limited to physical disabilities, intellectual and developmental disabilities, psychiatric disabilities and traumatic brain injuries;*
  5. *classism, poverty and homelessness*
  6. *trauma-informed policing and crisis intervention*
  7. *KPD employee patterns, practices, policies,*
  8. *Procedures of the KPD Police Commission and Local Law X*
  9. *civilian oversight history, models, trends, theories, standards and best practices*
  10. *how to conduct independent and objective civilian complaint investigations, e.g. interviewing, collection and preservation of evidence;*
  11. *community outreach to inform how the Commission functions and serves the community and public reporting;*
  12. *discipline and remediation, education-based discipline, early warning systems, processes of arbitration/grievance*
- b. *Make recommendations to the Police Chief and Mayor regarding practices, procedures, policy & planning and will also establish guidelines, directives, and mandatory training for city employees responsible for taking and handling complaints.*
- c. *Conduct investigations into the conduct of members of the KPD concerning any investigative category, even in the absence of a civilian complaint,*
  - i. *It will put in place multi-language reporting lines, forms, and other methods of complaint submission, discussion, and review, including in-person, online, and over the phone.*
  - ii. *Complaint forms and instructions shall be made available by KPD employees and at the Commission office, at Commission meetings, libraries, recreation centers, police stations, public safety building, courts, and all other government buildings, and on the City, KPD, and Commission websites.*
- d. *In addition to regular monthly business meetings that include review of complaints, the Commission shall hold public meetings in each City district a minimum of at least once annually, to invite public input or comment, and to provide information education about the Commission process and its work.*

- e. Possess full administrative access to all databases maintained by the Kingston Police Department,
  - i. *The KPD and the City shall provide to the Commission, as requested: access to all documents and evidence, including but not limited to KPD personnel files, all other KPD databases, criminal and civil case files, disciplinary hearing records, video and audio recordings from body cameras or other sources, all KPD policies, procedures, and practices, the General Manual, and any other documents that pertain to policies, tactics, complaints, or charges against KPD employees and their subsequent investigation and adjudication, or other sources of information deemed appropriate by the Commission.*
- f. Have input in the interviewing and hiring of all police officers.
- g. **Additional Powers and Duties:**
  - i. **Accessibility:**
    - 1. *The Commission shall provide language access for limited or non-English proficient complainants and witnesses at all stages of the investigative and adjudicative process. Language access shall be available during all operating hours of the Commission.*
    - 2. *The Commission shall provide reasonable accommodations in accordance with the federal, state and local law to individuals with disabilities at all stages of the investigative and adjudicative process. Such accommodations shall be available during all operating hours of the Commission and shall include but not be limited to: accessible means of egress, accessible means of communication via auxiliary aids or services giving primary consideration to preferences of the individual deserving such services, and access to ASL interpreters.*
  - ii. **Initiation of Complaints:**
    - 1. *Complaints may be received directly by the Commission, or upon referral from the Mayor, the Council, any Councilmember, or the Chief.*
    - 2. *The Commission shall receive complaints by telephone, in person, by mail, email or web form. Complaints shall be received and considered whether submitted with a signature or anonymously. Efforts to simplify the procedure shall be made to encourage filing. Professional standards of confidentiality with regard to the written release of information and informed consent will apply to all complaints filed. With respect to the confidentiality of all interested parties, the Commission shall comply with all local, state, and federal law, including Civil Rights Law Section 50-a.*
    - 3. *Before proceeding with the complaint process, the complainant shall be made aware of and referred to organizations that advocate for people who have experienced police misconduct and can explain the process of the Commission and complainant may, at any time, decline to have their complaint investigated and reviewed by the Commission. Such declination must be made in writing by the complainant, and shall be forwarded to the Chief by the Commission.*

### C. Complaint Process

- a. The process will incorporate supportive initial interviews and follow-ups, access to and for relevant community groups for complainant support
- b. Reporting of complaints alleging criminal actions by officers to the District Attorney for investigation
- c. Implementation of an appeals process for complainants to decisions by the Commission regarding complaints
- d. After disposition of complaint - record is public about category of complaint, disposition of case (with training and disciplinary actions in place to prevent this need)
  - i. *All complaints shall be issued a public tracking number, which shall be included in the quarterly and annual reports.*
- e. Complaints and all evidence *must* be reviewed by commissioners at next meeting prior to questioning of complainants, victims, and witnesses, if they are willing
  - i. *The panel shall report its findings and decisions to the Commission at its next scheduled meeting.*
- f. Process for evidence to be submitted by community
- g. Decision by quorum
  - i. *A quorum of six (6) Commission members must be present to conduct Commission business, regardless of vacancies. No business shall be transacted by the Commission without a quorum being present. Commission action shall be decided by a simple majority of Commission members present.*
- h. Identify ways to ensure all commissioners have access to all evidence and resources
- i. Emergency meeting must be called after complaints that include Bodily Harm or Sexual Assault.
- j. Emergency meetings can be called by three (3) Commissioners within 48 hours (can take place via video call)
- k. *The actions of the Commission shall not preclude action by the criminal or civil justice system.*

#### D. Policy Review

- a. *At least annually, the Commission shall review and assess KPD policies, procedures, patterns and practices and recommend changes with input from the community.*
- b. *The Commission shall send its policy recommendations to the Chief, the Mayor, and City Council.*
- c. *The Commission shall publish its policy recommendations on the Commission website.*

#### E. Commission Reports

- a. *The Commission shall publish on its website monthly data on the receipt and disposition of complaints. All complaints shall be issued a public tracking number, which shall be included in the quarterly and annual reports. The Commission shall publish on its website for the public and deliver hard copy to the Office of the Common Council and the Office of the Mayor public quarterly and annual reports that shall document:*
  - i. *The total number and type of complaints and the City districts in which they happened;*
  - ii. *The categories of each complaint;*
  - iii. *The public tracking number of each complaint;*

- iv. *Detailing information that legally available to the Commission, including but not limited to: the date, time, and location of each incident, whether there is a video of the incident or not, age, race, and gender of adult complainant(s), rank(s), gender(s), section(s), and race(s) of the KPD employee(s) and if there were witnesses, how many, and whether they are employed by any local, state, or federal law enforcement agency and which agency; the Commission shall comply with local, state, and federal law and redact any information that may not be disclosed publicly. The number of previous complaints against the KPD employee(s) within ten (10) years of the incident and whether or not those complaints were sustained.*
  - v. *The number of times and the types of use of force used per complaint and the total number of times and types of use of force used;*
  - vi. *The number of times pepper spray was deployed per complaint and the total number of times pepper spray was deployed;*
  - vii. *The number of times and types of pain compliance tactics used per complaint and the totals for each use of pain compliance tactic;*
  - viii. *The number of times and types of use where a Taser was deployed;*
  - ix. *Complaint and sustain rates for each KPD section;*
  - x. *In the event where an KPD employee uses their firearm:*
    - 1. *the type of weapon used (firearm, brand, type);*
    - 2. *number of shots fired;*
    - 3. *the range from which the firearm was fired;*
    - 4. *injuries sustained by the complainant, animal(s), KPD employee(s), and/or any bystanders;*
    - 5. *any medical care provided and what type; whether the person or animal was killed.*
  - xi. *The number of cases where the Commission's disciplinary decision was enforced by the chief*
  - xii. *The number of cases where the Chief disputed the disciplinary decision of the panel;*
  - xiii. *The type of sanctions imposed;*
  - xiv. *The type of sanctions decided upon;*
  - xv. *The number of cases reviewed by the Commission;*
  - xvi. *The number of complaints found not to have reasonable cause to be heard;*
  - xvii. *The number of complainants contacting the Commission but not following through with a formal signed complaint;*
  - xviii. *The length of time each case was pending before the Commission;*
  - xix. *The number of complainants who filed a notice of claim against the City while their complaint was being considered by the Commission.*
- b. *The annual report is to be published on the Commission's website for the public and delivered as a hard copy to the Office of the City Council and the Office of the Mayor and shall contain:*
- 1. *The recommendations related to changes in KPD patterns, practices, policies, and procedures;*
  - 2. *Whether the prior year's recommended changes have been implemented;*
  - 3. *A summary of complainant and public survey data with an assessment of if and how Commission policies should change to accommodate concerns.*

4. *Quarterly and annual reports shall be publicly available on the Commission's website.*
5. *Any video associated with the complaint that can be made public, shall be made publicly available.*