

**RESOLUTION 116 of 2020**

**RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, AUTHORIZING THE ADOPTING OF GUIDE LINES AND PRACTICES FOR POLICE ACCOUNTABILITY PROCESS AND COMMUNITY REPRESENTATION ON THE POLICE COMMISSION OF KINGSTON, NEW YORK**

Sponsored By: Laws & Rules Committee: Alderman: Ventura Morell, O'Reilly, Scott-Childress, Tallerman, Worthington

**WHEREAS**, a request has been made for the adoption of guide lines and practices for police accountability process and community representation of the Police Commission of Kingston, New York.

**NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK AS FOLLOWS:**

**SECTION 1.** That the City of Kingston Common Council hereby adopts the guide lines and practices for police accountability process and community representation on the Kingston Police Commission of Kingston, New York, as per the attached.

**SECTION 2.** This resolution shall take effect immediately.

Submitted to the Mayor this 8<sup>th</sup> day of

July, 2020

Elisa Tinti

Elisa Tinti, City Clerk

Approved by the Mayor this 8<sup>th</sup> day of

July, 2020

Steven T. Noble

Steven T. Noble, Mayor

Adopted by Council on July 7<sup>th</sup>, 2020

**THE CITY OF KINGSTON COMMON COUNCIL**

**LAWS & RULES  
COMMITTEE REPORT**

DEPARTMENT: Common Council                      DATE: 6-17-20

Description: Resolution to adopt guidelines and practices for police accountability process and community representativeness of the Kingston New York Police Commission as per attached.

Signature: \_\_\_\_\_

Motion by RSC

Seconded by RW

Action Required: \_\_\_\_\_

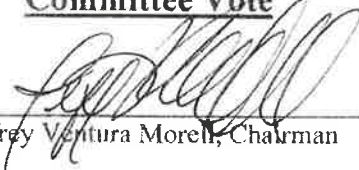
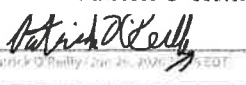
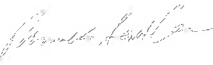
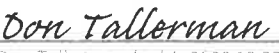
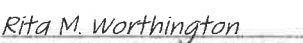
SEQRA Decision:  
 Type I Action \_\_\_\_\_  
 Type II Action \_\_\_\_\_  
 Unlisted Action \_\_\_\_\_

Negative Declaration of Environmental Significance: \_\_\_\_\_

Conditioned Negative Declaration: \_\_\_\_\_

Seek Lead Agency Status: \_\_\_\_\_

Positive Declaration of Environmental Significance: \_\_\_\_\_

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
 Jeffrey Ventura Morell, Chairman	✓	
Patrick O'Reilly Ward 7  <small>Patrick O'Reilly (Jul 21, 2020 12:16 EDT)</small>	☑	
Rennie Scott-Childress, Ward 3 	☑	
Don Tallerman, Ward 5  <small>Don Tallerman (Jul 1, 2020 18:32 EDT)</small>	☐	
Rita Worthington, Ward 4  <small>Rita M. Worthington (Jun 19, 2020 14:16 EDT)</small>	☑	

# **Guidelines and Practices for Police Accountability Process and Community Representativeness of the Kingston, New York, Police Commission**

We, the members of the Kingston Common Council, do hereby call on the Mayor of the City of Kingston in concert with the members of the Kingston Police Commission to endeavor to establish all powers and practices listed below that comport with current state and local law.

- A. The Kingston Police Commission (KPC) shall enact and make easily accessible to the public bylaws that govern its practices and procedures.
- B. The City of Kingston shall create and maintain a publicly accessible website, with easy-to-find links on the City's main website, for the Police Commission that clearly lists current members, presents KPC bylaws, makes available KPC quarterly and annual reports, provides all data regarding KPC arrests, complaints, use of force, and all other information deemed important for the public to know about policing in the City of Kingston.
- C. Commission Composition, Appointment, Vacancy, and Removal
  - a. Members of the Commission shall reflect to the fullest extent possible 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. Members of the Commission shall 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 shall be transparent, careful, and deliberate.
  - d. KPC members shall be recruited through a process that is inclusive, is open to public scrutiny, is done in a timely manner, and is 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.
  - e. KPC members shall receive reappointment only after evaluation and re-application utilizing the recruitment guidelines noted above,
  - f. Commission members may be removed for cause as determined by the Mayor.
  - g. Additional considerations for Commission Composition:
    - i. Conflict of Interest:
      1. All Commission members and Commission employees shall comply in all respects with the provisions of Chapter 49 of the Ethics Code of the City of Kingston. In addition, no Commission member or employee hired by the Commission 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 as a member of KPC. 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 a 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.

#### D. Powers and Duties

- a. The Commission and any staff it may hire shall seek and participate in a broad range of training annually. Training resources will be selected by the Commission in consultation with the Common Council and Mayor 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. Orientation and ongoing training of the Commission and its staff should endeavor to include, but not be limited to, the following:
  - i. all relevant local, state, and federal law;
  - ii. implicit bias and anti-racism;
  - iii. gender identity and sexuality;
  - iv. disability rights, including but not limited to physical disabilities, intellectual and developmental disabilities, psychiatric disabilities and traumatic brain injuries;
  - v. classism, poverty and homelessness;
  - vi. trauma-informed policing and crisis intervention;
  - vii. KPD employee patterns, practices, policies;
  - viii. Procedures of the KPD Police Commission and Local Law;
  - ix. civilian oversight history, models, trends, theories, standards and best practices;
  - x. methods for conducting independent and objective civilian complaint investigations, e.g. interviewing, collection and preservation of evidence;
  - xi. community outreach to inform how the Commission functions and serves the community and public reporting;
  - xii. discipline and remediation, education-based discipline, early warning systems, processes of arbitration/grievance.
  
- b. KPC shall have the authority to:
  - i. make recommendations to the Police Chief and Mayor regarding practices, procedures, policy & planning;
  - ii. establish guidelines, directives, and mandatory training for city employees responsible for taking and handling complaints.

- c. KPC shall 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. KPC shall possess full administrative access to all non-confidential databases maintained by the Kingston Police Department which are not otherwise protected from disclosure by Federal, State or Local Law or Regulation.
  - f. KPC shall have input in the interviewing and hiring of all police officers.
- E. Additional Powers and Duties:
- a. Accessibility:
    - i. 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.
    - ii. 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.
  - b. Initiation of Complaints:
    - i. Complaints may be received directly by the Commission, or upon referral from the Mayor, the Council, any Councilmember, or the Chief, or any other community authority as authorized by the Police Commission.
    - ii. 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.

- iii. Before proceeding with the complaint process, the complainant shall be made aware of and referred [WHO WILL DO THIS “MAKING AWARE” AND REFERRING?] to organizations that advocate for people who have experienced police misconduct and *to available community support groups. The complainant will also be provided with an explanation of the process of the Commission.*
- iv. *While the complainant reserves the right to decline to cooperate with the investigation, once initiated, the Commission's investigation will continue until conclusion.*

#### F. Complaint Process.

##### a. The complaint process will

- i. require KPC to report complaints alleging criminal actions by officers to the District Attorney for investigation;
- ii. establish an appeals process for determinations by the KPC for both complainants and subjects of investigations both of whom shall be made aware of such processes at the outset of any investigation;
- iii. make public, after disposition of complaint, the record of the case including the category of the complaint and the disposition of the case;
- iv. issue a public tracking number for each and every complaint, which shall be included in the quarterly and annual reports issued by the Police Commission;
- v. *Upon receipt, copies of complaints will be forwarded to the Office of the District Attorney with notice of the Commission's intent to investigate. The Office of the District Attorney shall have thirty days to raise any objections or identify concerns regarding the Commission's access to witnesses and/or evidence so as not to compromise the District Attorney's ability to prosecute any criminal conduct;*
- vi. provide to the complainant and the subject of the investigation the opportunity to submit competent evidence for consideration by the Commission. In addition, the Commission shall establish procedures for competent evidence to be submitted by community;
- vii. *require that all sitting commissioners have access to all evidence that is part of the record;*
- viii. requires that emergency meetings be called after receiving complaints that include bodily harm or sexual assault and that KPC establish clear criteria—for the purposes of calling an emergency meeting—for what constitutes bodily harm and sexual assault;
- ix. allows that emergency meetings can be called by three (3) Commissioners agreeing to hold such a meeting within 48 hours;
- x. affirms that the actions of the Commission shall not preclude action by the criminal or civil justice system.

#### G. Policy Review

- a. On an annual basis, before December 31 of every calendar year, the Commission shall review and assess KPD policies, procedures, patterns and practices and recommend changes—the KPC shall solicit input from the community as part of its annual review process.

- 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.

#### H. Commission Reports

- a. The Commission, through the Mayor's staff, shall publish on its website monthly data on the receipt and disposition of complaints. As noted above, 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 a 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:
- i. The recommendations related to changes in KPD patterns, practices, policies, and procedures;
  - ii. Whether the prior year's recommended changes have been implemented;
  - iii. A summary of complainant and public survey data with an assessment of if and how Commission policies should change to accommodate concerns.
  - iv. Quarterly and annual reports shall be publicly available on the Commission's website.
  - v. Any video associated with the complaint that can be made public, shall be made publicly available.

The Mayor shall report to the Common Council on a quarterly basis (January 1, April 1, July 1, October 1) progress on the achievement of these changes until all have been successfully and permanently implemented. The Common Council urges that the changes be made with all deliberate speed.