

Draft Minutes Detroit Board of Police Commissioners

Date of Meeting: January 3, 2019 – 3:00 PM

Location: Detroit Public Safety Headquarters, 1301 Third Street, Detroit MI 48226

BOPC Chairman Willie Bell called the BOPC Board Meeting to order at 3:00 PM (January 3, 2019)

Detroit Police Commission Membership / Attendance	Attend	Not-Attend
Willie E. Bell, Chairperson	Yes	
Darryl D. Brown, Vice Chairperson (6:50 PM)	Yes	
Lisa Carter	Yes	
Elizabeth Brooks	Yes	
Eva Garza Dewaelsche	Yes	
Shirley A. Burch	Yes	
Willie E. Burton (3:03 PM)	Yes	
William M. Davis	Yes	
Jim Holley	Yes	
Evette Hollins-Griffie	Yes	
Vacant	N/A	
Quorum (Yes)	10	

The Board acting in accordance with its rules approved the Agenda for January 3, 2019.

The Board acting in accordance with its rules approved the following Board Minutes:
Thursday, December 13, 2018

BOPC Chairman Willie E. Bell: Welcome, Good Afternoon. I am Police Commissioner Willie Bell, I represent District #4. I serve as Chair of the Board and will be conducting our meeting today. On behalf of the Board, for those in attendance, thank you for joining us. For people viewing this meeting on your government cable channel, thank you for viewing our meeting. This is our first meeting of the New Year. I hope that each of you used the winter holiday season to reconnect with your families and friends. I also hope that as we look back on 2018 and begin 2019 that we will bring the best of each other forward to meet the new challenges of the New Year.

The Board has just received a message from Police Medical that Sergeant Eric Bucy, Badge #0013, assigned to the 2nd Police Precinct has died from a none-work related injury. As information on the final arrangements are made, I will share them with the Board. I request a 15 second moment of silence to honor the passing of Sergeant Eric Bucy.

INVOCATION: We have invited Detroit Chaplain Corp Commander Roy Hill to provide the invocation.

Chairman Bell: Chairman Bell requested each Commissioner in attendance to introduce themselves for the record. Bell also requested introductions of BOPC staff and DPD staff as well as other Elected Officials, VIPs, civic leaders or their representatives

Chairman's Report – Willie Bell said, “On behalf of the Board, I want to express our concern and support for fallen and injured officers. Our concerns for officer safety and citizen protection is ranked as two of the most important priorities of the Board. Our Board receives a weekly report from the Department listing injured officers. I would ask Assistant Chief of Police David LeValley during his remarks to provide us with any additional information related to injured and fallen officers. The Board of Police Commissioners meets every week except for the Thanksgiving and Christmas Holiday periods. We meet at Police Headquarters 3 weeks in the month on Thursdays at 3:00 PM. We also meet in the community every 2nd Thursday of the month at 6:30 PM.

Under the Detroit City Charter, Article 7, Chapter 8, the Board of Police Commissioners is empowered to provide civilian oversight and supervisory control of the Police Department. Our citizens are justified in asking “How does civilian oversight of law enforcement help you as a citizen within our community?” Our answer is, we protect the civil rights of citizens. Oversight organizations like the BOPC are at the forefront of investigating, reviewing and auditing individual cases of citizen

complaints and patterns of operations by police agencies. We serve to eliminate misconduct, discriminatory police practices and unnecessary use of force by police. Our work is based on developing and supporting effective policing. Mutual trust and respect between the police and the community is critical toward increasing the quality of life for residents and visitors to Detroit. The Board of Police Commissioners exists to provide civilian oversight for the work of the Detroit Police Department. As a Board, we receive and investigate non-criminal citizens' complaints, monitor the operations of the Department and work with the Mayor and the Chief of Police to make or modify police policy.

In your Board package today please note several important items. First you have a proposed meeting calendar for 2019. At our November 15, 2018 Board meeting, this calendar was distributed and I asked for each Board member to review the calendar and make recommendations to the calendar. We are required under the Open Meetings Act to approve and publish a calendar to notify the public of the dates, times and places of our meetings. The calendar also serves to organize the work of the Board. Each Board member can anticipate the subject matter associated with each of our meetings and plan accordingly. The new calendar hopefully reflects the will of the Board. I will be asking for a motion under New Business to approve our calendar.

Second, in your package is a draft resolution to release and restore to active duty status officers under suspension. The Detroit City Charter provides for the Chief of Police to run the daily operations of the Detroit Police Department. However, when an officer's action is a serious violation of the Department's rules or the law, so much that the Chief of Police recommends a suspension without pay, this action requires a hearing before the Board and 2/3 majority vote of the Board. The Board's consideration and action on suspensions without pay (SWOP) is one of the clear responsibilities of the Board. We balance the rights of the officer to insure fair command oversight and the rights of the public for compliance with the law and police accountability. In the past, several officers have been returned to active duty and the Board has learned of this change in duty status from the press or from a community person. The resolution seeks to correct this practice by requiring a formal written request from the Chief of Police to lift the suspension imposed by the Board and return officers to active duty status. The written report should include a summation of the past violations and notification that the officer has complied with the corrective conditions of his or her suspension. The Board will then vote to release or remove its action. I will ask Commissioner Lisa Carter, Chair of the Policy subcommittee to read into the record the proposed resolution for consideration and action under New Business.

I also want to report that the National Board of the National Association of Civilian Oversight of Law Enforcement (NACOLE) will be meeting in Detroit at the end of January. The NACOLE Board will be in town to discuss and review preparations for the national conference scheduled to be hosted by Detroit starting September 22nd thru September 26, 2019. We hope to create an opportunity for our Board to join the national NACOLE Board while they are in Detroit. Please check your calendars and anticipate an invitation as soon as we can work out the details of a dinner or some type of gathering. Additionally, we have submitted four proposed workshops for the 2019 conference and we would like to mobilize friends of the Detroit Board of Police Commissioners to help as volunteers during the conference. Over the course of the next few meetings I will report on specific actions to encourage volunteers of our police-community relations network, CB patrols and other law enforcement partners to help us have a successful conference in September. I also want to announce that Commissioner Elizabeth Brooks has agreed to become the Chairperson of our local host committee and Ms. Teresa Blossom will staff the committee.

Next, I would like to spend a little time reporting on an important issue blocking our effective use of our oversight responsibilities. Before leaving for the Christmas holiday recess, the Board convened a study session on Detroit Police Manual Directive 101.2: Department Rank Structure. This section of the manual details the rank and structure of the Department and many of the reporting requirements within the Department. Through our Policy Subcommittee, we have reviewed Directive 101.2 and have resolved that this section needs more definition including a listing of the authority of the Board of Police Commissioners to provide oversight.

Our authority to provide oversight is clear in the Detroit City Charter and in our work as a Board. We believe that this authority should also be clear in the minds of the Department and individual officers as they perform their daily duties. The Department has objected to our including some basic references to our authority and reporting requirements into the directive. The Department has gone as far as to say that the Board's authority is limited and argues that the Board does not have the expressed authority to recommend Department policy. The Department further indicates that it is open to some form of information sharing. The objective of the BOPC recommendations to update Directive 101.2 is to specify the information we want as a Board and delineate the authority that we have.

Following our study session, I ordered that a copy of the PowerPoint presentation and support documents be provided to each member who did not attend the study session. I hope that you received the information, and hopefully by the end of the

month we can take appropriate action on this matter detailing to the Department our authority as the Charter mandated Board of Police Commissioners and our reporting requirements that will enable us to be an effective oversight Board.

I also want to report that the Mayor's appointment of an 11th member to the vacancy in our Board is in process. I understand that this appointment letter was provided to the wrong committee at City Council. I also understand that a correction is to be made and the Mayor's office has requested that the appointment be handled using normal advice and consent protocols at the City Council. Therefore, it is likely that our 11th members will be seated toward the end of January, 2019.

I also want to congratulate the new head of the Detroit Police Officer's Association, Craig Miller. I will be sending him a letter and inviting him to share his views on the operation of the department and the police union. The Board has also transmitted to the new Detroit Charter Revision Commission congratulatory letters. The work of the Charter Revision Commission is important to this Board. The Charter Revision Commission is meeting at the same time as our Board at the Northwest Activities Center, I have asked staff to monitor and attend their meeting to keep us in the loop for developments from this important citizen re-evaluation of the operations of the city.

Finally, as part of your package is a presentation from Executive Manager Melanie White about the organization of the police manual, how you can access it from the DPD intranet and how you can access directives, administrative messages and other department publications from the department. Executive Manager White will address the Board under presentations to the Board.

My last report is under questions and concerns addressed to the Chief of Police. Yesterday, the Chief convened a press conference on 2018 crime stats and homicides. In the press conference the department provided to the press several handouts and explanations supporting a reduction in crime in Detroit. I would ask the Chief to provide the same information to the Board. I am also asking the Chief to report on the 2018 crime stats at today's Board meeting. I hope that he will delineate between raw crime numbers and crime reported on a per 100,000 residents format. Yesterday, I asked staff to transmit to each Commissioner a video copy of the Chief's press conference. In the Chief's press conference, he also talked about a new relationship with Wayne County to fight crime. I hope that he will share some information on this matter.

To the guests and visitors of our meeting, our plan is to have oral communications at the end of the meeting. This section of our agenda allows for people who would like to address the Board, 2 minutes per speaker will be allowed. Please make sure you print your name on a speaker's card. Cards are located in the back on the table or can be obtained by seeing Mr. Robert Brown. He will need your card before the beginning of public comments. We will hold each speaker to the allotted 2 minutes."

COP Police Report: Representing Chief of Police James E. Craig was Assistant Chief of Police David LeValley. AC David LeValley reported on a compilation of crime statistics for 2018. He indicated that crime is continuing to trend downward. AC LeValley reported on CompStat data for 2018 as compared to 2016 and 2017. AC LeValley reported percentage changes between 2017 and 2018, -2% decrease in Homicides, Rape 28% increase (AC LeValley noted a statistical reporting change in reporting 3rd party complaints on rape and sexual assaults), Robbery -13% decrease, Aggravated Assaults -2% decrease (Total Violent Offenses -2% decrease). AC LeValley also reported on property offenses for the same period, Burglary -10% decrease, Larceny -3% decrease, Stolen Vehicle -23% decrease (Total Property Offenses at -10%.) AC LeValley also reported on other offenses including Non-fatal shootings at -10% decrease, Carjacking 3% increase and Aggravated Assaults at a 3% increase. LeValley also reported on the condition of three Detroit Police officers currently recovering from gunshot injuries. LeValley attributed much of the crime reductions to eight of the eleven police precincts that operate the Ceasefire Program. **Commissioner William Davis** inquired if the recent change in reporting of rape represent a standard practice in law enforcement? **Commissioner Rev Jim Holley** opined that much of the reported crime reduction is not the experience of the average citizen in Detroit. Holley called for greater participation in fighting crime by city leaders and restoring a better quality of life. **Commissioner Elizabeth Brooks** ask for clarification on precincts that are without ceasefire programs. **Commissioner Shirley Burch** asked if rape calls and other calls that go unanswered by 911 operators are tracked and a follow-up call provided. **Commissioner Willie Burton** asked if 911 calls are being redirected in high volume reporting periods. Commissioner Burton also reported on two sexual assault incidents at a senior citizens complex and indicated that the police response time was not in keeping with reports by the Department on average response time. **Commissioner Evette Hollins-Griffie** indicated in a recent report some criminologist have question the effectiveness of the Greenlight Program and asked for additional information on the effectiveness of the program.

Presentations to the Board: (A) DPD Manual and BOPC Responsibilities to Make and Modify Police Policy, Executive Manager Melanie White (BOPC)

(A) DPD Manual and BOPC Responsibilities to Make and Modify Police Policy, Executive Manager Melanie White.

Ms. Melanie White, Executive Manager of Policy for the Board of Police Commissioners' Policy Division, presented on the Detroit Police Department's ('Department') Written Directive System. Ms. White explained the general organization of the Written Directive System (Department Manual Directives versus types of Department Publications). She explained the Board's authority to establish policy, which is outlined in the Detroit City Charter Sections 7-802, 7-803, and 7-806. Lastly, she described the Methods to Amend or Impact the Police Manual (Board Policy Approval Process).

The Department's Written Directive System stores and manages all of the Department's policies, procedures, and rules. The system encompasses approximately (9) types of Department Publications as well as the Department Manual that stores all Department directives. Ms. White explained what each type of publication was used for (i.e. Legal Update, Personnel Order, Teletype [General and Administrative Order] etc.). She also explained the Department Manual's organizational format.

Regarding the General Overview of the Board's Policy Approval Process, the following occurs: (1) DPD submits to the Board a Proposed Directive (new or revised); (2) DPD presents directive(s) to Policy Subcommittee [Policy Subcommittee and Policy Division conducts review and evaluation]; (3) DPD Addresses the full Board outlining reasons for the directive and engages the Board; (4) Policy Directive is published on the City's website; and (5) Approved Item is added to Police Manual or other policy/document(s).

In other important policy notes, the Department's Planning and Deployment Section is required to maintain an updated index of all written directives. Directives are reviewed yearly by respective commands. Planning and Deployment is responsible for monitoring the manual, making changes regarding best practices; updates to the law, etc. In addition, the Board's Policy Division regularly reviews the DPD's Policies for major and minor changes made to Department Directives. The Department is allowed to make minor changes to policy (i.e. correct typographical errors, etc.). Major (substantive changes), however, must come before the Board for approval. The Board's Policy Division regularly reviews and evaluates policies stemming from concerns made by the Board, citizen complaint investigative reports, policy recommendations, etc. The Board (Policy Subcommittee/Policy Division) also develops policies and makes recommendations for the full Board's consideration.

BOPC Standing and Ad hoc Committee Reports: None.

Report from the Board Secretary: Mr. Hicks reported on three items including the use of the BOPC Subpoena, a FOIA request and information from the Greenacers Community Association.

Old Business: Commissioner Bell requested Board Attorney Jermaine Wyrick report on a City of Detroit Law department Opinion related to the Questions *"Request for ordinance to require Detroit Police Academy graduate to repay cost of training if the officer leaves City of Detroit Police Department employment within two years."*

Board Attorney Jermaine Wyrick reported, An issue of concern at a recent BOPC is the Issue of Officers that leave DPD within 2 years. Corporation Counsel Garcia gave me a 2017 written opinion authored by the Law Dept, based upon a request that was made then by Council President Brenda Jones for an ordinance to resolve this issue. Legally, however, an employer cannot make an employee reimburse for the costs of mandatory training. A 2000 Michigan Supreme Court case - Sands Appliance decided based upon the Wage and Fringe Benefits Act "a tuition contract" was void and unenforceable which required to reimburse the employer for the value of training unless the employee completed 6 years of employment. Similarly, a 2001 Court of Appeals case prohibited an employment contract that required an employee to reimburse for the costs of training if the employee did not complete 2 years of employment. Thus, the solution would be to seek reimbursement from the municipalities, as opposed to individuals. **Commissioner Griffie** inquired if the city could use a standard approach used in the business community to seek repayment of signing bonuses or other compensation as part of a contractual agreement between the city and the employee. **Commissioner Holley** asked if we have looked at other cities for their practice in this area. **Commissioner Brown** indicated that Detroit Police Academy should become a regional training facility and require payment of all individuals hoping to become a police officer. **Commissioner Carter** in response indicated that the Department has been a regional training facility and that strict requirements for individuals to pay will have an impact on recruitment.

New Business: Chairman Bell discussed the 2019 proposed Calendar as a requirement under the Michigan Open Meetings Act.

Motion by: Commissioner William Davis to approve the proposed 2019 BOPC Calendar. Second by Commissioner Evette Hollins-Griffie.

VOTE: Yes = 10 No = 0; Motion APPROVED

Chairman Bell requested Commissioner Lisa Carter to read into the record a proposed resolution related to SWOP release and restoration of officers to active duty.

Commissioner Carter read the following information into the record.

SWOP release and restoration of officers to active duty.

Whereas, the Board of Police Commissioners is empowered by the Detroit City Charter, Section 7-807 General Discipline to withhold pay and seniority with a 2/3 majority vote of the Board; and

Whereas, the current practice of the Chief of Police is to seek a Change in Duty Status (Suspension without Pay, Administrative Leave With Out Pay) to facilitate a review of the individual member's conduct; and

Whereas, the Board has insisted on information from the Chief of Police in measuring the merits of a Change in Duty Status/ Suspension With Out Pay (SWOP) that is "competent, material and substantial evidence" which complies with Michigan Constitution, United States Supreme Court case, Pickering v Board of Township High School, and Michigan Supreme Court case including, but not limited to Hodge v United States Sec. Associates, Inc.; and

Whereas, the Board's decision on the above matter is binding upon the Detroit Police Department and all of its commands, supervisory and administrative units; and

Whereas, a member of the Department who has been disciplined upon the recommendation of the Chief and a vote to affirm the Chief's recommendation meets the condition to return to work; and

Therefore be It Resolved, that the Chief of Police shall prepare a written report to the Board of Police Commissioners outlining the disciplinary action of the member and the members compliance with the disciplinary action that merits the member's return to duty, and

Be, It Further Resolved, the Board shall receive the written report recommending a Change of Duty Status to ACTIVE and that the Chief of Police and the Human Resources Bureau shall not resume active assignment or compensation (payment) to this member without a simple majority of the Board voting to return the member to active duty.

Motion by: Commissioner Lisa Carter to approve the proposed resolution on SWOP (Release and Restoration of Police Officers to Active Duty). Second by William Davis.

VOTE: Yes = 10 No = 0; Motion APPROVED (BOPC Resolution 2019-1-3)

Announcements: The next Board meeting (Community Meeting) is scheduled for January 10, 2019, 6:30 PM at Unity Temple of the Apostolic Faith, 17376 Wyoming, Detroit, MI 48221. The Community meeting for February is scheduled for February 14, 2019 at the Ford Resources and Engagement Center (9th Precinct) at 6:30 PM.

Oral Communications:

Ms. Fredia M. Butler, Community Activists, said "Commissioners: At your meeting Thursday, December 6, 2018 it was announced the Ms. Evette Hollins-Griffie was appointed, to represent District 2 due to the resignation of Commissioner Conrad Mallett. Ms. Griffie did not run for the office. This gives Mayor Duggan five appointed positions. Mr. Carron Pinkins was second in votes to Commissioner Mallett and he should have been appointed to represent District 2 because the people voted. Commissioners, in my opinion this is voters suppression. Chairman Bell I have nothing against Ms. Griffie. I know neither Ms. Griffie nor Mr. Pinkins. I believe the people have been disrespected by the Mayor appointing Ms. Griffie to an elected position and leaving his at large position left vacant. This reminds me of our leaders not pressing the issue for representation in the Thirteenth Congressional District when Congressman John Conyers resigned. We were without representation for a year. What do you call that? I would say voter suppression and having Governor Snyder as an overseer to control. Not having complete freedom to vote to select our leaders indicates we are still not free. Because some of our politicians have been bought, they are not free to work on behalf of the people. I asked former Attorney General Eric Holder when we will be free to vote without having restrictions. Now Congress must renew the Voting Rights Act every so many years. When we don't have the freedom to vote as other citizens in this country; we are being denied full citizenship no matter what

part of the country we live in. The Supreme Court has gutted part of the 1965 Voting Rights Act and look at what has happened in elections in several states who took advantage of the elimination of Section 5 in the Voting Rights Act. Commissioners, now voter's suppression is rampant and in some instances it is presented in subtle ways; we must stay vigilante because we are not going to return to our darkest past." **Mr. Eric Blount** indicated he has called for the resignation of all appointed Police Commissioners and agreed with the view that poverty is a major driver of crime. Mr. Blount also indicated his opposition to budgetary cuts to the police Department in the face of preferential tax treatment and tax abatements to corporations. **Ms. Michelle George** indicated she has had experience in calling the 911 service and have not been able to report a crime as well as concerns about the city's response time.

Adjournment at 4:55PM.