



POLICE DEPARTMENT

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HAND DELIVERED

September 13, 2023

QuanTez Pressley, Chairperson
Board of Police Commissioners
1301 Third Street, Suite 7S-767
Detroit, Michigan 48226

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BOARD OF POLICE COMMISSIONERS

SUBJECT: READING OF OCI INVESTIGATIONS DURING BOPC MEETINGS

Dear Chairperson Pressley:

On September 7, 2023, during the community impact portion of the Board of Police Commissioners (BOPC) meeting, Chief Investigator Jerome Warfield read into the record an allegation of misconduct against members of the Detroit Police Department. This is not the first time that this has happened. This continued reading and releasing of active investigations is a violation of law and the collective bargaining agreement and must cease immediately.

Pursuant to Section 802, Chapter 8 of Article 7 of the Detroit City Charter, "The Board of Police Commissioners has supervisory control and oversight of the Police Department as set forth in this Chapter." The Board's authority is limited as set forth in Chapter 8. Under Section 7-808, the Chief Investigator for the Board shall investigate a complaint immediately and file a report of findings with the Board within sixty (60) days. Prior to 2014, the Collective Bargaining Agreements (CBAs) of the respective unions provided an option for the member to appeal the discipline to the Board or to arbitration. After 2014, the CBAs removed the option for the member to appeal to the Board. When the Charter and the CBAs are inconsistent, case law is clear that the terms of the CBAs prevail. The Michigan Supreme Court ruled in *Pontiac Police Officers Ass'n v City of Pontiac*, 397 Mich 674, that the collective bargaining agreement prevailed over conflicting provisions of charter of home-rule city. Therefore, the Board no longer has authority over discipline.

That being said, once the Chief Investigator's Office has completed the investigation, it can report the findings to the Disciplinary Section for adjudication. Under the Detroit Police Officers Association Master Agreement, Article 9.B.1, if discipline is warranted after the completion of the investigation, the Department must provide written notice of discipline to the member. "Except as set forth in Sections F, H, and I below, no discipline will be implemented or incorporated into an Employee's file until the completion of the applicable procedures set forth below." Adjudication and notice of discipline is reiterated in Article 16.M and N, respectively.



**CITY OF DETROIT
POLICE DEPARTMENT**

Chairperson Quan Tez Pressley
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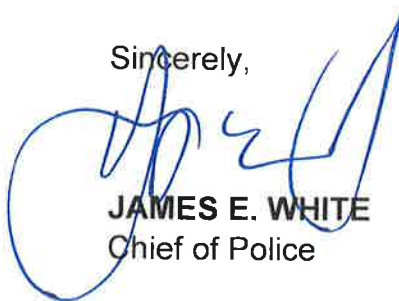
BOARD OF POLICE COMMISSIONERS

Reading the allegations of the investigation prior to the adjudication of the disciplinary penalty pursuant to the collective bargaining agreement would be a clear violation. Therefore, it goes without saying that the reading of the allegations of investigation prior to the completion of the investigation is equally if not more important. By doing either, this would be a violation of the collective bargaining agreement.

Furthermore, under the *Bullard-Plawecki Employee Right to Know Act*, MCL 423.501 et seq., an employee has the right to review their records and file written statements to clarify or protest any documents in the file. The Act also regulates the use and disclosure of records by employers. By simply reading the allegations into the record without complete investigation and disciplinary adjudication pursuant to the collective bargaining agreement is a violation of the member's notice rights and due process rights. Additionally, you should also note that the BOPC is neither a party to the collective bargaining agreement nor an employer; thus, there is no right for the BOPC to be reading allegations and opining as to investigations on the record.

If you have any additional concerns regarding this matter, please feel free to contact Mr. Adam Saxby, of the Detroit Law Department, at (313) 224-4550, Monday through Friday, 9:00 a.m. to 5:00 p.m.

Sincerely,



JAMES E. WHITE
Chief of Police

JEW//

cc: Victoria Shah, Board Secretary
Adam Saxby, City of Detroit Law Department
Detroit Police Officers Association
Detroit Police Lieutenants and Sergeants Association
Detroit Police Command Officers Association