

Local Law 1-2020 as of 11-19-20

CITY OF GENEVA LOCAL LAW NO. 1-2020

**Local Law Amending the Geneva City Charter
To Establish a Police Accountability Board**

BE IT ENACTED, by the City Council of the City of Geneva as follows:

The Geneva City Charter, as amended, is hereby further amended by adding the following new Article XV entitled “**Police Accountability Board**”.

ARTICLE XV

POLICE ACCOUNTABILITY BOARD

§ 15-1. Definitions.

For purposes of this chapter, the following words and phrases used therein shall have the meaning described in this section:

“Chief” — Chief of the Geneva Police Department.

“Complaint” — A written statement concerning police conduct which is submitted by a member of the public to the PAB or the GPD.

“GPD “ -- The Geneva Police Department.

“Immediate family” — Spouse, domestic partner, child, stepchild, mother, father, mother-in-law, father-in-law, aunt, uncle, and grandparent.

“Officer” — Sworn member of the City of Geneva Police Department.

“PAB” or “Board”— Police Accountability Board.

“Review—PAB Review of GPD investigations.

§ 15-2. Findings, Goals, and Purpose.

1. The Geneva City Council finds the best interests of Geneva’s citizens will be furthered by establishing a PAB with authority to review GPD investigations of public complaints of officer misconduct and to engage in other activities set forth in this Chapter.
2. The goals of this Chapter are to reduce racial inequities in policing in the City, to assure accountability of GPD officers, to increase transparency of GPD operations, and to improve GPD’s credibility.
3. The Geneva City Council finds establishing an open, fair, and impartial process for review of investigations will further these goals.
4. The Geneva City Council finds that the PAB may create and employ a disciplinary matrix in making recommendations to the Chief for discipline

subject to the applicable collective bargaining agreements and New York State Law.

5. The Geneva City Council finds that the PAB should have authority to assess GPD patterns, practices, policies, and procedures and make recommendations to improve its operations.
6. The establishment of a PAB in this Chapter notwithstanding, the sole authority to discipline Officers shall remain vested in the Chief or his or her delegates, under the supervision of the City Manager pursuant to City Charter section 9.2 or amendments thereto, the New York State Constitution, the New York State Civil Service Law, Section 891 of the Unconsolidated Laws of the State of New York and Collective Bargaining Agreements between the City and the officers.

§ 15-3. PAB Composition, Appointment, Removal and Vacancy.

The PAB shall consist of nine (9) members appointed by City Council. Members of the Board shall serve terms of three (3) years except for the initial Board, which shall serve staggered terms, as set forth in subdivision 3 below.

1. Qualifications

- A. Members of the Board shall be residents of the City of Geneva for a minimum of twelve (12) months at the time of appointment to the Board.
- B. Membership of the Board shall aspire to 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.
- C. The Board shall endeavor to have no more than one (1) member at a time who is a former law enforcement employee with an agency other than the GPD or an immediate family member of a person formerly employed in non-GPD law enforcement.
- D. Board members shall not be current (or within the immediately preceding three (3) year period) City elected officials or immediate family of any incumbent elected official representing/serving any district or municipality in the State of New York. No practicing attorney or their immediate family who represents or has represented a plaintiff or defendant in a police misconduct lawsuit initiated against the GPD within the past ten (10) years shall be a member of the Board. Board members may not represent a complainant or a GPD Officer at Board hearings.

- E. The City Council shall aspire to to appoint at least two (2) licensed mental health professionals, and at least one (1) duly licensed attorney in good standing, and one member of the clergy.
- F. Upon a PAB member moving out of the City, the City Clerk shall notify him/her that his/her status as a Board member is vacant.
- G. The provisions of Article 2, Section 5 and Article 3, Section 30 of the Public Officers Law of the State of New York, regarding vacancies, shall apply to all members of the Board.

2. **Appointment Process**

A. Appointments to the initial Board by the City Council shall be made within ninety (90) days from the effective date of this Local Law as follows:

- 1) One (1) member nominated by the Mayor.
- 2) Three (3) members; one (1) appointee from each of the three Supervisory Districts: District 1 (Wards 1 & 2); District 2 (Wards 3 & 4); District 3 (Wards 5 & 6).
- 3) Five (5) members from the community at large. Individuals and community groups, including the Geneva Community Compact, may submit proposed members for appointment.

B. The City Council retains full authority to appoint members of the Board. The City Council must consider, but is not required to appoint individuals nominated by the Mayor or by individuals or community groups.

C. No individual shall be appointed to the Board without having submitted an application for appointment and having been interviewed by the City Council

3. **Terms**

- A. The first term of the initial Board commences when all nine (9) Board members are appointed and ends on December 31st of the following year.
- B. Except for the initial Board, members shall serve staggered three (3) year terms and may be reappointed for another three (3) year term, for a total of six (6) years, after which, the member shall not be reappointed for at least six (6) years.

- C. Except for the initial Board, each term shall commence on January 1st and end on December 31st. The members shall be appointed by the City Council for terms of three (3) years, except the first nine (9) members shall be appointed for staggered terms.. Of the first nine (9) members appointed: a) three (3) members shall be appointed for terms of one (1) year, of whom one (1) shall have been appointed by the City Council pursuant to § 15-3 subd. 2. A 2), and two (2) shall have been appointed from the community at large ; b) three (3) members shall be appointed for terms of two (2) years, of whom one (1) been appointed by the City Council pursuant to § 15-3 subd 2. A 2), and two (2) shall have been appointed from the community at large; c) three (3) members shall be appointed for terms of three (3) years, of whom one (1) shall have been nominated by the Mayor, one (1) shall have been appointed from the community at large, and one (1) shall have been appointed by the City Council pursuant to § 15-3 subd. 2. A 2).

4. **Vacancies and Removal**

- A. After the initial nine (9) member Board has been established, the Board shall notify the Mayor, the City Council, the City Manager, and the Community Compact Committee if a board position is vacant. The vacant position shall be filled in the same manner by which it was initially filled, within sixty (60) days of the vacancy. The Board member appointed shall complete the unexpired term of a former member whose term has become vacant prior to the expiration thereof.
- B. A Board member seeking public office shall resign their seat at the time they announce their candidacy or file their candidacy petitions, whichever happens first.
- C. Inadequate attendance at meetings shall be defined as failure to attend three (3) consecutive board meetings or four (4) meetings in total during a one year period, without good cause as good cause is applied for City Council meetings and absences.
- D. The City Council may remove a PAB Board member by a majority vote for failure to adhere to PAB policies and/or inadequate attendance at PAB meetings.

§ 15-4. PAB Member Responsibilities

PAB members shall:

1. Conduct themselves at all times in a manner that will maintain public confidence in the fairness, impartiality, and integrity of the PAB.
2. Obey all laws and ordinances of the City.
3. Obey all laws protecting individual rights to privacy and confidentiality of records.
4. Recuse themselves from participating in the review of any complaint in which they have a personal, professional, or financial conflict of interest.
5. Avoid ex parte discussion of any matter that comes before the PAB.

§ 15-5 Conflicts of Interest

1. No Board Member 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. Any conflict of interest prohibited by Article 18 of the General Municipal Law or by the City of Geneva Code of Ethics shall disqualify a member. Board members may not represent a complainant or a GPD Officer before the Board.
2. If a Board member has any personal, business or other financial relationship with a party to or a witness in a matter before the Board, the member shall disclose the situation to the Chairperson and shall recuse themselves from deliberations or action in connection with that case.

§ 15-6. PAB Training, Procedures, Recommendations and Reports, and Outreach.

1. **Training.** The PAB shall seek and participate in a broad and independent range of training necessary to pursue the duties and responsibilities of the PAB as approved and funded by the City.

Training resources will be recommended by the City Manager in consultation with the PAB. Such Training resources may include individuals and organizations such as law enforcement entities, 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 PAB training and orientation may include but not be limited to, the following subjects:

- A. Federal, state, and local law and regulations relevant to law enforcement operations, investigation of police misconduct, and discipline of law enforcement officers.
- B. Racial Profiling;
- C. Implicit bias;
- D. Anti-racism;
- E. Gender identity and sexuality;
- F. Disability rights, including but not limited to physical disabilities, intellectual and developmental disabilities, psychiatric disabilities and traumatic brain injuries;
- G. Classism, poverty and homelessness;
- H. Trauma-informed policing and crisis intervention, including GPD Officer well-being;
- I. Patterns, practices, policies, and procedures of the GPD;
- J. Discipline and remediation, education-based discipline, early warning systems, processes of arbitration/grievances;
- K. GPD "ride-alongs"; and
- L. Access to GPD training procedures and manuals.

2. PAB Procedures.

- A. The PAB shall have the authority to decide its rules of operation and its manner of transacting business, subject to City Council Review and approval, federal, state, and local laws, and to the rules set forth in B, C, D, E and F below.
- B. The PAB shall hold regular monthly business meetings.
- C. Five members of the PAB shall constitute a quorum. A quorum must be present to conduct business. Five votes shall be required for any action by the PAB.
- D. The PAB shall hold its initial meeting within sixty (60) days after the initial appointments are made. At its initial meeting, the PAB shall select a chairperson and a vice-chairperson and fix the time and place for its regularly scheduled meetings.
- E. The PAB shall hold an annual meeting in January of each year to select a chairperson and a vice-chairperson, and conduct such other business as may be required.
- F. The PAB may conduct both public and closed meetings as allowed or required by the New York State Public Officers Law, Article 7, known as the "Open Meetings Law."

3. PAB Recommendations and Reports.

- A. The PAB shall file annual reports with the City Council, the City Manager and the Police Chief which contain statistics and summaries of

citizen complaints, including a comparison of the PAB's findings with the final determination of the GPD.

- B. The PAB may make recommendations to the City Council and the Police Department regarding law enforcement, crime, crime prevention, and improved relations between the GPD with the community.
- C. The PAB's first annual report shall be filed within twelve (12) months of its initial meeting, and subsequent annual reports shall be filed every twelve (12) months thereafter.

§ 15-7. Initiation of Complaints.

1. Every effort shall be made to simplify the procedure for submitting complaints.
2. Complaints may be submitted anonymously.
3. Complaints will be received, processed, investigated, and assigned a tracking number, notwithstanding procedural errors.
4. Complaints may be submitted directly to the PAB, or referred to the PAB by the Mayor, the Council, any Councilmember, or the Chief.
5. Complaints may be submitted by telephone to a number to be publicized, in person by delivery to a member of the PAB, or other persons designated by the PAB, by mail addressed to the PAB,, 47 Castle Street, Geneva, New York 14456, or by email or web form.
6. All complaints shall be reduced to writing. If the complainant does not wish to or is unable to do so, the PAB, or the person receiving or referring the complaint shall prepare a summary of the complaint on the complainant's behalf. In such event, the person preparing the summary of the complaint shall allow the complainant to read it or have it read it to him or her and shall provide the complainant with a copy.
7. **Formal PAB review procedures concerning a complaint of misconduct will commence when a PAB member confirms receipt of the complaint or the complaint having been signed by the complainant.**
8. Complaints shall be dated stamped on receipt by the PAB, and an acknowledgement shall be provided to the complainant.

9. The provisions of the New York State Civil Service Law, GPD General Orders, and applicable Collective Bargaining Agreements concerning the timeliness of investigations and discipline shall apply. Complaints of misconduct filed more than eighteen months after the occurrence of the misconduct described in the Complaint shall be logged in and forwarded to the Chief nonetheless for proper review and possible investigation by the GPD with a notation concerning the possible untimeliness the complaint. The GPD shall make an independent determination of the timeliness of the Complaint and report its finding to the PAB within fifteen (15) days of receipt of the Complaint. Such determination shall not be subject to PAB review
10. The PAB shall comply with all local, state, and federal confidentiality, privacy and informed consent laws concerning complaints.
11. The PAB shall inform complainants of their legal assistance options and the procedure for filing a Notice of Claim against the City pursuant to Article VII of the City Charter.

§ 15-8. GPD Procedure for investigating Complaints.

1. Within five (5) days after the PAB receives a complaint, it shall provide a copy, with all documentation, to the Chief who shall immediately commence an investigation. The GPD investigation shall be completed within forty-five (45) days of receipt by it. For good cause shown, and on notice to the PAB, the City Manager may grant extensions of the time to complete the GPD investigation. The PAB shall conduct no investigation pending completion of the GPD investigation.
2. If the Chief finds that the GPD Officer(s) may have engaged in criminal conduct, he or she shall refer the matter to the Ontario County District Attorney's Office or the New York State Attorney General's Office and request that their office(s) initiate an investigation.
3. The Chief shall share with the PAB all evidence considered by the GPD with the findings and determinations of the GPD internal investigation, unless prohibited by law.
4. The Chief may suspend an Officer pursuant to the New York State Civil Service Law and applicable Collective Bargaining Agreements, pending completion of the procedures set forth in this Chapter.
5. Within five (5) days of completion of the GPD investigation, the Chief shall provide a copy to the PAB of the results of the GPD investigation, including all documentation relied on. Notwithstanding any of the above, the Chief's actions shall comply with the New York State Civil Service Law, and applicable Collective Bargaining Agreements between the City and the officers.

§ 15-9 PAB Procedure for Review of GPD Determinations of Complaints.

1. After the PAB receives the Chief's determination referred to in section 15-8 subd "5", the PAB may, by majority vote, decide to conduct its own supplementary investigation. The PAB shall provide the Chief prompt notice of the outcome of this vote, including, whether the PAB will conduct its own supplementary investigation
2. The PAB is empowered to interview complainants, witnesses, and GPD Officers (subject to *Garrity v. New Jersey*, 385 U.S. 493), and gather other relevant evidence.
3. In conducting its investigation, the PAB shall avoid, as much as practical, repeating or duplicating the GPD investigation.
4. In furtherance of its investigation, the PAB, may, by majority vote, issue subpoenas signed by the chairperson directing witnesses to appear for interviews and evidence to be produced regarding the Complaint. PAB subpoenas are enforceable pursuant to relevant provisions of Article 23 of the New York Civil Practice Law and Rules.
5. Interviews of witnesses and GPD Officers shall be recorded.
6. All due process rights, including the right of any witness to have legal counsel present, shall be respected.
7. In deciding whether to subpoena witnesses and documents, the PAB shall consider avoiding unnecessary duplication and cost.
8. After its investigation is complete, the PAB shall make a determination regarding the Complaint to the Chief.
9. The Chief shall await completion of the PAB investigation, determination and recommendation for discipline, if any, before imposing discipline on an officer, unless the law GPD General Orders, or exceptional circumstances requires discipline to be imposed earlier. The Chief may consider but is not bound by the PAB recommendation. Notwithstanding any of the above, the Chief's actions shall comply with New York State Civil Service Law, and Collective Bargaining Agreements between the City and the officers.

§ 15-10. PAB Determinations:

1. After completing its review of the Chief's determination and its own review and investigation, if any, the PAB shall make a determination as follows:
 - A. **EXONERATED:** The act alleged occurred and was legal, proper and justified.
 - B. **UNFOUNDED:** The act alleged did not occur.
 - C. **NOT SUSTAINED:** Insufficient evidence exists to prove or disprove the allegation.

- D. **SUSTAINED:** The act complained of did occur and constituted a violation of policy, procedure, rules, regulations, or statute.
 - E. **MISCONDUCT NOTED:** Act(s) of misconduct that were discovered during the investigation that were not alleged in the complaint.
 - F. **TRAINING ISSUE:** Act occurred due to lack of or insufficient training.
 - G. **WITHDRAWN BY COMPLAINANT:** The Complainant expresses a desire to terminate the investigation and no longer pursue the complaint. Whenever possible, a written signed statement withdrawing the complaint will be obtained from the Complainant.
 - H. **NO FINDINGS/CLOSED (OFFICE):** An allegation is closed because the complainant failed to cooperate with the investigation or other circumstances exist that prevent the investigation from being properly completed.
 - I. **POLICY ISSUE/POLICY FAILURE:** Act occurred due to lack of, poorly designed, or outdated police policy. This finding will be used when the employee followed existing departmental policy or procedure but, upon review, that policy or procedure appears flawed or needs revision.
2. The PAB determination shall be completed within thirty (30) days of receipt of the Chief's determination. Extension of the time to complete the PAB determination may be granted by the City Manager on notice to the Chief and for good cause shown.
 3. Decisions of the PAB shall be made by a majority vote of the entire Board.
 4. Deliberations of the PAB shall be confidential and confined to the PAB members and their legal advisor(s).
 5. The PAB shall issue a Notice of Decision as described in Section § 15-11.

§ 15-11. Procedures After PAB Determination Is Made.

1. Complaint determinations made by the PAB will be documented in a Notice of Decision setting forth the findings of fact and reasoning of the PAB. If a PAB member dissents from the majority's decision, the dissenter(s) may provide a written statement of his/her/their findings of fact and reasoning.
2. PAB Notices of Decision shall be provided to all parties with any confidential information redacted pursuant to all local, state, and federal law.
3. If the PAB finds that the GPD Officer(s) may have engaged in criminal conduct, it shall refer the matter to the Ontario County District Attorney's Office or the New York State Attorney General's Office and request that their office(s) initiate an investigation.
4. The PAB shall notify the complainant and the Chief, in writing within five (5) business days, of the PAB's findings and recommendations. It shall be the responsibility of the Chief to notify the GPD Officer(s) who were the subject(s) of the PAB's findings and decision.

5. PAB determinations may include disciplinary recommendations to the Chief, including but not limited to counseling, reprimand, retraining, suspension, demotion, or dismissal.
6. There shall be no appeal from the PAB determination.
7. Within ten (10) days of the receipt of a PAB Notice of Decision, the Chief shall make his or her final determination, including regarding disciplinary action, if any.
8. The Chief shall provide the PAB with a written explanation of his or her decision to discipline or not discipline any Officer(s) and a description of the discipline imposed, if any, and shall explain why, if said disciplinary action differs from that recommended by the PAB, his or her decision differs from the PAB recommended discipline. Notwithstanding any of the above, the Chief's actions shall comply with the New York State Civil Service Law, Section 891 of the Unconsolidated Laws of the State of New York. and Collective Bargaining Agreements between the City and the Officers.
9. Upon provision of the written explanation referred to in subdivision 7 above, the Chief may initiate disciplinary proceedings, if any, pursuant to the City Charter, the New York State Civil Service Law, and applicable Collective Bargaining Agreements.
10. In matters of Police Discipline, the Chief maintains full authority to decide discipline subject to the City Charter, the New York State Civil Service Law, and Collective Bargaining Agreements between the City and the officers. The authority of the PAB is at all times limited to an advisory role.

§ 15-12. Suspension of proceedings.

All proceedings on the Complaint by the GPD and the PAB shall be suspended upon notice of an investigation of the circumstances of the Complaint by the Ontario County District Attorney's Office or the New York State Attorney General's Office until completion of such investigation at which point GPD and/or PAB can restart proceedings if appropriate as provided for in this Article XV.

§ 15-13. Review of GPD Policies and Procedures

1. From time to time, the PAB may send its policy recommendations to the Chief, the City Manager, and City Council, including any recommendations related to procedures, patterns, practices, and disciplinary matrix.
2. The PAB's recommendations may address, but are not limited to: conduct and policies exhibiting bias against individuals based on race, gender, sexual orientation, perceived sexual orientation, gender identity, disability and perceived disability; use of force both lethal and non-lethal; de-escalation

policies; vehicle and foot pursuits; use of canines; failure to acknowledge and/or accommodate the needs of people with disabilities including but not limited to physical disabilities, intellectual and developmental disabilities, psychiatric disabilities, traumatic brain injuries; and human rights issues.

3. Within thirty (30) days of receiving the recommendations, the Chief shall provide the PAB, the Mayor, and Council with a written explanation of why the Chief agrees or disagrees with the policy recommendations.
4. The Chief shall provide a timeline to the PAB indicating implementation of each recommendation or an explanation of the determinations not to implement said recommendation.
5. The PAB may make public whether its recommended policy recommendation(s) and/or matrix(s) have been implemented.
6. Subject to confidentiality laws and regulations, the PAB, upon a majority vote, may request specific GPD Body camera footage in order to review active complaints and repetitive, related previous complaints that may have policy implications and such access shall not be unreasonably withheld.

§ 15-14. Public Reporting.

1. The PAB shall publish monthly data on the receipt and dispositions of complaints.
2. All Complaints shall be issued a public tracking number, which shall be included in the annual report.
3. The PAB shall provide an annual report to the City Council, made available to the general public on the City's website, documenting:
 - A. The total number and type of complaints and the Wards in which they occurred;
 - B. The public tracking number of each complaint;
 - C. Detailed information that is legally available to the PAB, not subject to privilege or privacy protection, including the number of previous complaints against the GPD Officer(s) named therein within ten (10) years of the incident and whether or not those complaints were sustained; the PAB shall comply with local, state, and federal law and redact any information that may not be disclosed publicly;
 - D. 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, the number of times pepper spray was deployed, the number of times and types of pain compliance tactics used, the number of times and types of use where a Taser was deployed;
 - E. In the event that a GPD Officer uses his/her firearm, the report shall include:

- i.) the type of weapon used (firearm, brand, type); ii.) the number of shots fired; iii.) the range from which the firearm was fired; iv.) injuries sustained by the complainants or GPD Officer(s), and/or any bystanders or animals; v.) any medical care provided and what type; and vi.) whether the person or animal was killed;
- F. The number of cases where the PAB's disciplinary recommendation was enforced by the Chief and the sanctions imposed by the Chief;
- G. The number of cases where the Chief rejected the PAB's disciplinary recommendation;
- H. The number of cases reviewed by the PAB; the number of complainants contacting the PAB but not following through with the complaint; the length of time each case was pending before the PAB; and, the number of complainants who filed a notice of claim against the City while their complaint was being considered by the PAB.
- I. The PAB's recommendations related to changes in GPD patterns, practices, policies, and procedures;
- J. Whether the prior year's recommended changes have been implemented; and
- K. A summary of complainant and public survey data with an assessment of if and how GPD policies should change to accommodate concerns.

§ 15-15. Legal Representation.

1. The City Attorney shall advise and represent the PAB as it would other City Departments and Boards in accordance with its duties under Section 7.5 of the City Charter.
2. If a conflict of interest arises regarding representation of the PAB by the City Attorney, it may request assignment of special counsel to advise and represent it.

§ 15-16. Retaliation Prohibited

1. Retaliation by GPD Officers and employees against complainants, witnesses, PAB members, GPD Officers and employees, or any other person related to their participation or involvement with the PAB shall be prohibited. Retaliation includes but is not limited to: disparate treatment, harassment, intimidation, stalking, threats, and assaults.
2. Retaliation by complainants, witnesses, PAB members, GPD Officers and employees, or any other person against complainants, witnesses, PAB

members, GPD Officers and employees, or any other person related to their participation or involvement with the PAB shall be prohibited. Retaliation includes but is not limited to: disparate treatment, harassment, intimidation, stalking, threats, and assaults.

3. Complaints of retaliation shall be provided to the Chief and the City Manager for investigation and possible discipline

§ 15-17. Severability.

If any clause, sentence, paragraph, section or part of this Article shall be adjudged by any court of competent jurisdiction to be invalid or otherwise unenforceable, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 15.18. Effective Date.

This local law shall take effect twenty (20) days after it is filed as provided in Section Twenty Seven of the New York State Municipal Home Rule Law.