

# PAB's authority to probe police misconduct challenged

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Rochester's police union is again taking the city to court to determine the scope and power of the Police Accountability Board.

The Rochester Police Locust Club filed a new lawsuit this month claiming the PAB does not have the authority to investigate allegations of police mis-

conduct and illegally released the results of 31 cases this fall. The police union said the PAB is acting in violation of a previous court order that stripped the oversight agency of its disciplinary power last year.

Since that ruling, the PAB has continued its investigations with the understanding that completed cases sent to the Rochester Police Department for review would be considered recommendations. The Locust Club argues that

the court decision entirely abolished the PAB's investigatory power.

"The Locust Club submits that there is very clearly a dispute between the parties concerning which specific sections within Article 18 of the City Charter have been judicially invalidated and which survived the decision of the Court of Appeals, and that this requires a judicial determination outside the authority of PERB or a grievance arbitrator," the lawsuit reads.

Union officials asked the court to issue an injunction to halt the PAB's investigations until the court can clarify which sections of the PAB charter remain in effect. An injunction would cause further delays for civilian complaints that have already languished while being investigated by the PAB because of information constraints and other legal challenges.

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# PAB authority

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The PAB did not respond to a request for comment before publication. A city spokesperson said the city does not comment on pending litigation.

## Locust Club vs. PAB: Rochester's fight to define police oversight

Rochester voters overwhelmingly approved the PAB in 2019 to handle discipline within the Rochester Police Department. Its charter included some of the broadest oversight powers in the country, including the ability to investigate, compel witnesses and make public its findings on complaints of police misconduct.

The same year, the Locust Club sued the city over a charter provision that granted the PAB exclusive disciplinary power over RPD officers.

The police union argued that the charter violated the state's Taylor Law, which compels the city to negotiate disciplinary procedures with the union.

Several courts, including the state's highest court — the Court of Appeals — agreed with the police union and struck down the PAB's disciplinary powers. Sole discretion over discipline is left to the police chief. The ruling, however, does not explicitly state which sections of the charter are now invalid beyond "portions ... addressing police discipline."

The Locust Club claims the PAB is no longer authorized to investigate "individual allegations of officer misconduct."

The PAB clearly disagrees. The oversight agency has continued its work investigating complaints, though not without further challenges. City officials and PAB investigators continue to clash on questions of information access, including whether the PAB can subpoena interviews from police officers. This fall, the PAB published redacted case reports from 31 completed investigations against the advice of city lawyers. (Seeking outside legal advice, the PAB said it has the authority to do so in its charter.)

Still, RPD Chief David Smith agreed to receive the PAB's investigatory findings as advisory opinions. Earlier this summer, RPD said police supervisors would review any PAB case the department received.

The police union said it has filed an improper practice charge and a labor grievance against the city, claiming the PAB violated the union's collective bargaining agreement by contacting more than 100 officers for interviews and illegally releasing case closure reports.

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