

This is the RPD/City response from Jim McKibben.

I was very disappointed in your e-mail I received March 5th. The City had expected something along the lines of your number 6 with specifications based on the offer in your e-mail of February 13th, not a litany of insults.

The following is a response to your items as they are listed:

1. The City does not agree with your premise that the Police Department does not follow the law, that there is internal dissention that is manipulative and divisive, or that there has been unlawful behavior by the Chief or "an officer". Further, the City does not agree that the Police Department lacks a knowledge of the law. Rockport's Police Department has been recognized for following Best Practices in the field. Incidentally, has the District Attorney's office received such approval from any of its peers? We do not agree with the conclusion about the Board of Disciplinary Appeals. The only reported case involved an Assistant District Attorney who, after having interviewing a witness, did not disclose exculpatory information to the defense. The police department was not implicated in any withholding of information. As you know, that transgression resulted in a probated suspension.
2. On February 15, the City informed you that "*The city is not willing to agree to the proposal involving a neutral third-party consultant.*" There has been no evidence to warrant a consultant review, and that is why, the City, at the mediation and following mediation, rejected this proposal. The City does not feel like it is necessary, particularly based on the Department's recent approval and certification by the Texas Police Chief's Association Foundation.
3. It is not clear from your proposal who would select this suggested "team" and what their authority would be, but in any event, the City does not agree that a team to oversee any actions by the Police Department is required or justified. The creation of a policy by persons who are not involved in the Department to determine the discipline of an officer is contrary to state law. Complaints made by citizens are logged and reviewed currently. The City is not opposed to making that information available to the District Attorney's office. Claims or instances of excessive force are currently reviewed and logged, and there are currently provisions for discipline, if warranted. To involve outside parties in officer discipline violates current law. There seems to be some difference in the view of the District Attorney's office between use of force and what would be considered use of excessive force.
4. The City does not accept the premise of item 4.
5. This seems to require that the Chief be the only person in the department to communicate with the District Attorney's office. The Chief, as administrative officer of the department, has designated those within the department that have the duty to communicate and respond to the ACDA office. Only if there is a problem with that designation and/or the fulfillment with those responsibilities would the chief get involved.

6. This is the only item reasonably responsive to the last correspondence and is the item, with specification, that the City has been asking for since the summer of 2017, and was prepared to respond and commit to. Like Tarrant County and the DPS, there have to be guidelines/procedures formulated by the ACDA in order for there to be a letter swearing to the compliance with the procedures. The ACDA can surely review other department procedures and adopt any or all that she feels appropriate for her department.

7. The City is not prepared to adopt a policy that the District Attorney can effectively select, and terminate, employees of the Rockport Police Department.

8. The Rockport Police Department is prepared to certify that it has provided all information required under the ACDA's guidelines/procedures, if they are provided, as stated under #6 above.

In conclusion, as this "list of actions" far exceeds anything requested at any point in the mediation, it appears the District Attorney's demands are increasing. The City finds this unreasonable and only requests the District Attorney to do the job she has taken an oath to perform. The City has repeatedly asked the ACDA for guidelines for compliance with Brady and the Michael Morton Act, like the ones utilized in cities all over the state, and the ACDA continues to refuse. In light of the broadening of requests by the ACDA [outside consultant to review entire department, form a team with oversight, requiring exclusive communication with Chief, adopt a policy that allows ACDA to select and effectively terminate officers], the City unfortunately, asks the mediator to declare an impasse has been reached.