

Oversight Committee Meeting Minutes from November 6th, 2020

Committee Members Present: P. Bradley, B. Brown, M. Deffet, D Demmings, M. Ecton, T. Griffith, Chair M. Joseph, C. Maragaño, Chair B. McClain, K. Moss, R. Robinson, P. Saunders, D. Vauls, T. Wahlrab

Staff Present: A. Blankenship, J. Davis, M. Schaller, W. Smith, L. VanderKaay

Chair Joseph called the meeting to order at 10:32am. He went over the commission response to our previous recommendation, and then underlined how a number of models that we discussed might factor in. He specifically noted the responses to recommendations 9 & 13. Recommendation 13 received the response that it did because we are still unsure as to the ongoing structure of HRC, as there is some discourse around changing structure at the moment. Recommendation 9 regarding use of force documentation records being kept for 10 years that the Commission wanted to wait for 90 days. The Mayor's committee is currently looking at a similar subject, discipline, and it is important to create a central top-down process at the end. He underlined that this is why the presence and work of Will Smith is so important to coordinate overall to make sure there aren't major conflicts from each of the committees at the end of the process.

D. Demmings asked for clarification regarding HRC's place long term, and while there is central annoyance with the hesitation, she would like to know moving forward the fate of HRC because she would push hard for its continuance.

Chair Joseph agreed to keep the committee in the loop. He also wanted to go over the Community Engagement recommendation, which is a response unit (non-police) response unit for non-criminal teams, which will affect complaints and types of complaints.

W. Smith elaborated on this recommendation that it is specifically for non-violent calls such as mental health related, homelessness, intoxication, drugs, etc. There was recently a situation in Philadelphia which highlighted mental health as an issue. Police interacted with an individual who had had several calls that day regarding mental health incidents who died in custody, and that it could have been resolved differently if such a unit had existed and it also frees up officers and limits negative exposure. Officers on the Community Engagement team also voted in favor. This took a while to come to fruition, as it was the first recommendation, but the Community Engagement Committee needed a lot of research and talked to a variety of individuals to make the recommendations and what might need to be done.

B. Brown said that the Sheriff's department had a similar idea, and it might be good to coordinate moving forward.

W. Smith said that part of the reason it took such a long time was because ADAMHS, the County and the Sheriff's office were all in coordination because the committee wanted to establish due diligence to connect all of those desires.

Chair Joseph appreciated W. Smith's input on the recommendation and recommended that the everyone look at all of the recommendations from all of the committees at the City of Dayton website. Chair McClain then asked that we continue our discussion of possible recommendations.

T. Wahrab brought up a question of other cities' processes, specifically Austin's Citizen Review Board and whether similar sessions would be public or do they have an ability to go into executive session.

A. Blankenship said that it would likely be a public meeting, though there might be very specific instances where that is not the case. J. Davis affirmed this.

B. Brown as a current member of CAB confirmed that they currently have an open meeting.

Chair Joseph reiterated that we are focusing on the middle part of the process, actual investigation and not currently CAB.

A. Blankenship said that if there are any criminal implications, a meeting could be held back but she would have to look at more closely as this would also affect records requests throughout the process. However, there are many ways records can be held. This is pending complications of the investigations and it depends.

P. Saunders agreed that investigations are entirely on a case-by-case basis, and that any admin case can lead to a criminal referral. If there is a record held back, it can be supported by citing the statute that says why.

Chair McClain brought up the Texas model in which there is a police force monitor system, and we could think about that option, and Albuquerque has a separate police audit.

C. Maragaño cited San Jose, which is similar to Albuquerque or Fairfax (actually based on those systems) and might be really effective. They also have an extensive year-end report, and the team can give recommendations. Chair McClain said he also likes San Jose, which was originally brought to the table by P. Saunders.

P. Bradley, whose contribution of Newark was previously mentioned at our last meeting, and he stated why he brought it up. The system is very new and is just now in its prime. An oversight committee has subpoena power, policy review, discipline review, and an independent investigation process. He pointed that this committee is appointed by the community, not a commission.

Chair Joseph asked if there was a parallel process

P. Bradley said that there seems like there is a full investigation process now.

Chair McClain said that something like an investigation board would be a one stop shop for the whole process.

T. Wahlrab mentioned the current process in Berkeley, which has both an IA and audit process, but it doesn't say exactly what that looks like and they don't know how they are different.

Chair McClain said that Berkeley has a parallel process, and that they do have a recommendation procedure at the end of their process, but it is unclear if it is binding.

M. Deffet apologized as he was kicked off the call for a moment, but he wanted to bring up San Francisco which has an independent department and lean heavily on their independence. He also brought up Albany, where they have law students involved in the process as a potentially neutral party but has no idea if this would be realistic for us.

Chair McClain still adjunct teaches at the law school, so he doesn't know if that would be of interest, but he'd be happy to ask.

M. Schaller asked whether this was still the system in San Francisco, as she had previously looked at their system and seemed to be under edits. Also, she wanted to note that office is housed under the Mayor's office.

M. Deffet clarified that they emphasized their independence, they have a different budget, independent board, friendly and easy to use forms, but was unclear whether you could file anonymously or not. He clarified that this doesn't mean that HRC shouldn't be involved, just that this current system in San Francisco.

Chair McClain asked if investigations were conducted in partnership with law enforcement. M. Deffet said that both can do their own, and the police department can as well. Chair Joseph called for other cities for input.

D. Demmings mentioned Virginia (Fairfax) where they have an office of an independent police auditor, which speaks to the police accountability piece, though it is not effective at the end because the final decision goes back to the police department.

M. Deffet underlined that was a really important because this speaks to the accountability piece.

D. Demmings said that many of the processes she looked at look good but throws accountability back to police at the end.

Chair Joseph underlined that can always mix and match options, if there is a different front end, we like but we want to make something different at the end, for example a back-end process of Commissioners, who are elected by the people and accountable.

D. Demmings said that sometimes elections are two years away, which makes it hard to hold Commissioners accountable, and you have to have something specific in the process.

Chair Joseph said that this is why transparency is key because if people see what's happening, then you can see all of those things put together and how they interact in the system. Transparency is the short form of accountability in the long run.

W. Smith said to that point, the community engagement recommendation of a mental health response team came from looking at a variety of models, being very specific and sparse in language-for example taking out "in-lieu of" for a different term. This means what we're seeing is what committees want to try and make happen, and encouraged the continual evolution of this process, and how we can make it what we'd like.

Chair McClain reiterated points made by D. Demmings and M. Deffet that a police auditor model is good, but where the reports go at the end of the process is the main concern, as well as who the police auditor reports to.

T. Wahrab said that he wanted to go out on a limb regarding the wording about accountability and was reading in between the lines about some of the language around the police being exclusively bad. He used the example that there are three branches of government, that includes checks and balances which make sure that system continues to function and that he when we discuss HRC tries not to be defensive as a member of the board. In the context of HRC, he attempts not to be defensive about checks that should be in place and what might be needed, and while we don't need to take care of the officers on the call as they can take care of themselves but wanted to acknowledge that anyone would be defensive if their work was portrayed as bad at all times.

Chair McClain thanked him for reminding us we were all here for the same process.

M. Ecton said that he looks at it in two ways. First, that a fair and complete investigation is accomplished, like in San Jose, or second that an audit is a completed process where no additional work is needed, and that there is appropriate action taken. If there is no violation, or if there is an action determination in discipline, it now currently goes to the police and they have a list of violations on hand that have occurred over the years. They also work to ensure that there is no bias and that discipline is consistent with the current rungs-if there is something serious, it goes to both the HR and Law departments. He acknowledged that he does sometimes get defensive in this process too, and that like in the San Jose model he believed that the police department needs to be involved ultimately in the process.

Chair Joseph said he would seek insights on how the Mayor's group is going for discipline. W. Smith said that where they are and where we currently are in the process go together, but there shouldn't be any stepping on toes from what he can see.

B. Brown commented on T. Wahlrab's comment on checks and balances, saying that it is important to note that police are a part of the executive branch. To some citizens, this seems like the fox guarding the hen house and that no matter what, in some ways the group has to have some authority, for example someone outside the City Manager's office, the Mayor's office and the Police department who have input on this process.

P. Bradley echoed W. Smith and Chair Joseph that a lot of cities' processes have been around a long time, and that there are critiques in how they function, so newer models are trying to take all that feedback to make an overall better system. He also noticed that we are making decisions not just for people in this group, but what the community would see as new transparency. This is why having an audit review possible for police that have the ability to maintain and review policy, and this bleeds into the conversation about discipline regarding the policy. He clarified he did not mean to pick on them, but certainly a lot of ways to accomplish this goal. For example, a discipline matrix could be structured within the model to protect all parties. He reiterated that if people trust the process, they will eventually trust the officers too.

T. Wahlrab reiterated a comment from a previous meeting of "lawfully but awfully" and that handling this in some ways could be difficult to change and not be problematic, but it might be a quagmire to change such a matrix.

Chair McClain said that it is important to distinguish what is concerned lawfully in agreement with the system.

T. Griffith shared a story of her talking with a poll worker regarding her son who was murdered as she described in an instance of "black on black" crime. In this instance, the police investigated further than the prosecutor and the victim advocates. She mentioned how one of her biggest takeaways in the process was that no one talked about her different options or how she interacted with the system, especially since most people don't understand why the system works the way that it does. She underlined the need for people to be really heard in the process, and not just using the excuse that it's "the law", and that we should find ways to connect people to what the process looked like.

D. Demmings underlined that ultimately, we get to decide what the system looks like. If a kid is suspended in school, the students don't get to decide the punishment for that student, which is why it's important to have someone else, specifically with expertise in the law, to look over and hold police accountable. She said that this was nothing personal to officers on the call, only that we have to be clear what we do as a community to hold police accountable for bad behavior.

R. Robinson was piggybacking on that comment asking in regard to the prosecutor's office. As we are looking on how to address these issues, such as the complaint processes and crimes committed, that this would ultimately go to the prosecutor's office and how they might affect this committee.

A. Blankenship said that they haven't been involved very much, though they have been engaged in the use of force committee, and the discipline part of the process has been picked up by another group.

Chair Joseph said that this is a good point after the disposition of a complaint and appeal that we might need to build something into the system if there's a secondary crime committed in the midst of the process. He continued that this is why fairness should be a part of the process, specifically in content of criteria as it is clearly a priority for the committee that needs to be addressed. He thanked everyone for the independent and interesting discussion, and that the executive committee would boil down criteria priorities for the committee to look over for the next meeting.

P. Bradley said that objectivity and fairness are important, as those have been specific concerns for the community in the past, but that we should also be clear that objectivity and fairness is extended to officers as well.

R. Robinson brought up a system from the military for accountability, and that however you come to a conclusion, you basically have to do a follow-up and confirm that final decision.

Chair Joseph noted being fair and objective.

Chair McClain that that the process should be sustainable and as timeless as possible. He thanked everyone for their contributions, and adjourned the meeting at 11:55pm.

Next Meeting: November 24th, 10:30am-12:00pm