

## **Oversight Committee Meeting Minutes from November 24<sup>th</sup>, 2020**

Committee Members Present: P. Bradley, B. Brown, D. Demmings, M. Ecton, A. Gillig (on behalf of P. Saunders), Chair M. Joseph, C. Maragaño, Chair B. McClain, A. Pfeiffer, T. Wahlrab, R. Walker, J. White

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

Chair Joseph started the meeting at 5:04pm. He noted that A. Gillig was filling in for P. Saunders for this meeting. He then turned the meeting over to Chair McClain to give an overview of the criteria for the complaint investigation process and wanted to committee to go through it thoroughly.

Chair McClain then walked through the criteria.

For the first section of criteria related to transparency, accountability and fairness (see below), there were no comments from the committee.

1. The complaint investigation process is transparent and accountable. Records will be made available as legally permitted, and complainants can get status reports.
2. The investigation process will have the proper checks and balances to render a fair investigation
3. The complaint investigation process is designed to proceed without undue interference.
4. The investigation process informs and educates people, is easy enough to explain for citizens to gain confidence in it and perceive it as fair, and therefore invokes trust.
5. The investigation process is clear.
6. The investigation process will allow reporting findings and proposing recommendations directly to the approving official.
7. The complaint investigation process is fair and just to complainants and city employees.
8. The complaint process involves the possibility of the complainant being interviewed.
9. The complaint process includes doing the right thing by our citizens, even if technicalities might try to get in the way, perhaps by inserting a mandatory check process before closing the case to confirm that this has been done to the greatest extent possible.

For the second section of criteria related to timeliness (see below), there were no comments from the committee.

1. The investigation process allows investigators to quickly resolve simple cases and devote more time to the cases that need attention. To streamline the process, the investigator may set tiers based on the seriousness of the complaint and handle different tiers in different ways.
2. The investigation process leads to a natural point of finality
3. The investigation process makes it clear to people making complaints when there are no more avenues to pursue and when their case is at an end.

For the third section of criteria related to accessibility and safety (see below), there were no comments from the committee.

1. The investigation process is welcoming and safe for all citizens, especially those in demographic groups likely to have complaints, or those likely to have difficulty or reluctance to complain

For the fourth section of criteria related to sustainability (see below), there were no comments from the committee.

1. The investigation process uses resources wisely and be able to last for the long term.

T. Wahrab then said that he felt the committee was moving too quickly through the criteria and wanted clarification on what the criteria would be used for and where it came from.

Chair McClain clarified that these criteria would be used to evaluate the investigation process, and that the criteria were based on conversations from previous meetings.

T. Wahrab then said that he had a comment/suggestion, which was that due to his experiences at HRC (which others in the room might share), he found that complainants can often “disappear” after their complaint is filed and after they are within the system. He then asked if there was a mechanism to withdraw from the process, as well as if there were any “choice points” for complainants, whether those are through interviews or otherwise.

Chair McClain clarified that we would flesh out what the model would look like once we went over the criteria, and that we were currently clarifying the criteria to evaluate that model.

T. Wahrab then asked that related to the criteria regarding sustainability and training (see below) if this meant the City would financially support this process.

1. The investigation process uses resources wisely and be able to last for the long term.
2. The investigation process includes adequate training for the people involved.

Chair Joseph confirmed that would be the case.

T. Wahrab then said for the sustainability piece there should be something regarding a constant self-reflecting process, and suggested building in a principle and/or process for self-reflecting on how the process is going either formally or informally. Chair McClain agreed on the self-reflection portion. He then asked for any additional comments and did not receive any.

Chair Joseph added such a provision to the final criteria regarding training. There were no objections from the committee.

Chair Joseph then introduced the proposed model by saying that city staff meet at length and there were a lot of discussions regarding feedback from the committee, including ongoing interest in Eugene, Oregon's current process. He went on to say that this proposed model took pieces from different processes that have come up during our discussions and included specific interest in practicality and speed. He said that many of the models the committee discussed have shown that there are limited approaches in general, and that allowed the city team to isolate these approaches into one model. He wanted to make sure to get all input from the committee on this process. He then shared his screen and walked through the proposed investigation process.

T. Wahlrab then asked for the last item to be repeated involving independence from the administration.

C. Maragaño asked if it was discretionary as to what the auditors looked over. Chair Joseph confirmed that would be the case.

C. Maragaño said that if we are going for transparency, how would we clarify what the independent auditor picks and chooses what to look at? She said that she was unsure how to phrase it, but there could be a way that if a citizen feels harassed or swept under the rug to special request their case be reviewed by the Auditor.

Chair Joseph said that this is the first part of two, so making sure that this process was correct would hopefully lead to fewer appeals.

A. Blankenship used the analogy previously stated to her that the Independent Auditor would be like a buzzard circling over an investigation and that they could "swoop down" and look closely at whatever cases they chose, though there could be a request mechanism through the City Commission to look more closely at a case.

Chair Joseph said that if we get this step right and shed more sunshine and transparency over this process, that we don't have to resolve all of it here.

A. Pfeiffer said that it was a little dangerous to assume that this process would encourage fewer appeals, as there are not that many to begin with and they are not happening largely in Dayton. The second thing that concerned her was that the ability of the Independent Auditor to dive in and out of cases, which could set up and bring more distrust. She said that she definitely wanted to look at the Eugene, Oregon model and that she would want to look more closely at this model for the next meeting.

Chair Joseph asked a clarifying question for A. Blankenship regarding the Auditor being able to "dive in and out" of cases.

P. Bradley said that he had the comment that one of the reasons he gravitated towards the independent investigation model is that they add not just accountability but also the perception

of accountability. He said he is worried how effective this model would be for that reason. He also had a question regarding sustainability that if that was the reason to not have an independent process but have an Independent Auditor instead.

Chair McClain said that the executive committee talked about that direction, and that this seemed like what we could accomplish at this stage and that the goal is to further beef up the appeals process. He highlighted that it was critical that the Independent Auditor is not a member of the police department but a separate entity entirely.

A. Pfeiffer clarified whether the Independent Auditor would report to the Commission and not the City Manager.

Chair McClain said that would be the case. He also said that we could change the name of the position.

D. Demmings said that changing the name would be helpful and would be curious to know as far as the appeals process would go. She said she wanted to look this over in more detail and compare it to the current criteria.

Chair Joseph said that the goal is to give the Independent Auditor complete freedom to choose the cases they oversee, having no input from the Commission so they are not influenced by the Commission. He said the goal is for the Auditor to have full room to make their decisions.

D. Demmings then introduced a hypothetical scenario in which there is some sort of money related strife in which people might lose money or their jobs based on the consequences of an investigation and the Auditor would be under pressure to take or not take a case. She asked whether those type of scenarios would influence the Independent Auditor in a negative light.

Chair Joseph said that was a good point, and we should establish some sort of criteria for the Auditor to stick to.

D. Demmings said it would keep people from the process if people feel like they are not taken seriously or if they are not seen to be important enough to be overseen by the Auditor.

Chair Joseph said that should be something we are keeping an eye on because we are hopefully improving the process overall.

M. Ecton said that there seemed to be some confusion with D. Demmings' question and Chair Joseph's answer. He said that the idea that someone would be choosing whether someone would have their complaint investigated or not is actually not up for debate, as all complaints will be investigated.

D. Demmings asked for clarification.

T. Wahrab said that this went back to P. Bradley's comment regarding community trust and that how we chose cases and who meets the criteria could be indicative of a history of our systems showing bias if we are not careful. He shared that Michelle Zaremba from the Mediation Center had previously done a study that said that juveniles who needed the Mediation Center most were the least likely to be referred for its services.

M. Schaller added that many of the European models she looked at had an option throughout every step of the process for complainants to have access to mediation and that might be something to include in the final process. She underlined that this might cause complications, as people could think because they are referred to mediation their claim isn't being taken as seriously, but it still might be something for the committee to think about.

Chair Joseph said asked if we should go back to the drawing board and asked for feedback for the city team about the process.

A. Blankenship then talked about the current police procedure for reference.

A. Gillig said that there is an early warning system within the policies and procedures for policy, so if there are triggers for an officer to be investigated that pops into the system.

Chair Joseph said it might be good to get feedback from other processes that the committee was looking at and clarified that the audit system would be parallel to any investigation.

L. VanderKaay said that she had been talking with P. Saunders about the mediation option and suggested that it be offered regardless of the process and be much more extensive, however in a way that doesn't interfere with the investigation process itself.

Chair Joseph shared that he liked that being optional.

P. Bradley said that he understood the necessity for the system to be sustainable, but that he still struggled with not having the full investigation process be independent. He then offered the suggestion that in order to create more trust in the system that the Independent Auditor should be able to determine the routing of all investigations and whether they go to the officer's supervisor or to PSB. He said that the perception that your "buddy" is looking out for you (i.e., your supervisor) is concerning to many citizens and might be a good thing to consider as we are looking to reform the process.

M. Ecton said that as we are talking about complaints and the Auditor deciding where complaints go, he recommended that all complaints instead be forwarded to PSB and then sent out to the various divisions by PSB. Then once the investigation is completed then it could go to PSB to look at all of the information and instead have them as the clearing house of complaints. He reiterated that he saw the whole purpose of the Auditor to make sure that investigations are complete and thorough, and that while the Auditor might have some other concerns, if it's minor it can be considered separately from the investigation process.

Chair Joseph said that the executive team talked for a long time about the routing of complaints, but that the confidence of the community might be most effective if the Auditor has more control/leeway.

M. Ecton said that all the complaints could be received by the Auditor, then have PSB send them where they need to go so that there are not two different routes for complaints, so things don't get missed. He also said that PSB knows to assign it to someone else if necessary.

Chair Joseph said that is a process standpoint that the committee should consider.

A. Pfeiffer said that we are talking about two separate things and trying to do too many things at once. She said that a parallel investigation limits the scope and ability of the Auditor to independently look at the culture of investigations, and that she has some reservations that the Auditor will not be given a true and complete picture of the nature of investigations.

Chair Joseph asked what the possible solve for that problem could be.

A. Pfeiffer said that the supervisor could be supervising the team investigating, and then the audit is the last check, so it could be sent back and flagged if there are concerns.

A. Blankenship said that this process had been sketched out in this way because the collective bargaining and discipline processes through FOP, and that if we changed the process to be that way, there won't be time after an investigation for discipline. She then shared another thing from Eugene, Oregon which is that the Auditor still has access to all the investigations after the fact to look at.

T. Wahlrab said he wanted a confirmation of the number of cases and the possible criteria for investigation currently. M. Ecton attempted to walk through the current criteria. T. Wahlrab thanked him and said this changed the scale of what the Auditor is able to oversee, and this was a lot to look over and think about.

Chair Joseph then turned it over to C. Maragaño and P. Bradley to give an update from the cross-committee group they both attended the previous week.

C. Maragaño shared that it was great to talk to the other groups about their progress, and specifically a discussion regarding the discipline group and the internal investigation process. They had concerns about the internal investigation process, and that we should discuss this as some point so the discipline group can also look at their side of the issue. She also mentioned the data that they were looking at regarded exonerated officers' verses officers that violated policy. The data the cross-committee group mentioned 841 exonerated officers, 6 that were looked into more closely, and two that eventually violated policy, and that this is something we should look further into.

P. Bradley reiterated that this group is made up of the five committee groups with five different tasks and that so that groups are not proposing things separately that they are instead collaborating with each other to open up dialogue with other groups to make sure that the work is consistent so that at the end the full process is cohesive.

Chair Joseph thanked both of them for attending and said he would leave time at every meeting for them to update our committee on the cross-committee communication. He then asked for any contributions from W. Smith.

W. Smith thanked the committee for their work, and for moving forward and said that he could not wait for the cross-committee group to meet last week and that the purpose was to have everyone in the same room, and to make sure that we know what people were thinking. He then said that they could continue to email and share updates and that everyone talking to everyone would be a positive step as we go into December and he appreciated for all the committees continuing to plug along.

Chair Joseph thanked everyone for their work on the committee. He also said that the group would have to amend the charter at the next meeting that stated previously the committee's work end date was in January, and it is looking like that will be closer to mid-February and that would be introduced at the next meeting.

Chair McClain said reminded everyone to be safe and enjoy their holidays and went over the member tasks before the next meeting: the committee members should review their notes and the drafted investigation process and said that it is never too early to start looking at the appeals process. He thanked everyone for their attendance and adjourned the meeting at 6:27pm.

**Next Meeting: Friday, December 11<sup>th</sup>: 10:30am-12:00pm**