

Oversight Committee Meeting Minutes from December 11th, 2020:

Committee Members Present: P. Bradley, M. Deffet, D. Demmings, M. Ecton, T. Griffith, Chair M. Joseph, M. King, C. Maragaño, Chair B. McClain, A. Pfeiffer, R. Robinson, P. Saunders, T. Wahlrab, R. Walker, J. White

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

Chair Joseph started the meeting at 10:33am. He welcomed the committee into the meeting, and introduced the agenda. He then said he had to step away at 11:00am EST, and would be back shortly afterwards, but that Chair McClain would be managing the meeting in the meantime. He said that an updated version of the investigation process was sent, and went over the listening session with members of PSB to engage in more conversations around the current process, which he said he found to be helpful. He then asked for members of the committee serving on the cross-committee group to share an update.

C. Maragaño shared an update from the cross-committee group, including that the Use of Force committee has passed a recommendation that brandishing a firearm is considered a use of force and that while the policy is still waiting for final approval, there was overlap between our work and that recommendation.

She went on to say that the Community Engagement committee passed an alternative response model recommendation that got approved. She didn't have any other updates, but said at the next meeting the cross-committee group would discuss further updates.

J. White asked in regards to Community Engagement what current work and recommendations were happening, and what we were doing to move forward? He went on specifically to ask about what community members and religious leaders were involved.

C. Maragaño mentioned active Know Your Rights trainings that the group had discussed. J. White asked about establishing a possible call center to have questions answered, and how to distribute and utilize leaders in the community. C. Maragaño said there had been discussion about reaching out to the community and getting more involved, especially by using groups that have a good relationship with the community. J. White concurred this was a good strategy and suggested something similar to Clay Dixon's group.

W. Smith said that in regards to the Know Your Rights training that passed that the group was beginning to meet with Bill Dudley, Clay Dixon and other various groups who do similar work. He went on to say that in the month of December, the City staff was working on developing infographics about the process, and he was aware that in our community there are certain validators of information, so we'd like to be able to work with such community members to spread information about the process. He reiterated that oftentimes, it is not about the message, but can often be the messenger.

Chair Joseph said that there would be an opportunity to spread the word and work of the committees at the end of the process. He then turned it over to Chair McClain for charter updates.

Chair McClain continued on with updates to the charter that were previously mentioned-one being a misspelling and the second extending the period of time the committee would be meeting until late February. He entertained a motion, and it passed. He said those updates would be made, and the most recent charter would be sent to the committee. He then turned it over to Chair Joseph.

Chair Joseph mentioned that due to some feedback from the City under the current complaint process and how it might be related to the committee's recommendations, there were some suggestions he wanted to go over. The committee's goal is to review and revise these complaints based on this feedback, however the committee was under no obligation to do so if they saw fit. The document outlining this was sent to the committee ahead of the meeting.

T. Griffith said that she didn't have it, and M. Schaller re-sent the document.

Chair Joseph walked through the document, beginning with how complaints would be routed. Originally, the recommendation stated that the auditor would route complaints, and the suggestion was for police to continue to route complaints, but that the Auditor could continue to audit or oversee the complaint system.

C. Maragaño and D. Demmings both stated their concerns with routing complaints through any supervisor.

A. Blankenship shared her screen and went over the difference between PSB and supervisors in terms of routing and investigating complaints.

J. White said that the auditor should be able to determine serious vs. non-serious complaints based on their background, and that should be a factor in them determining where complaints go.

Chair Joseph said that was the hope that those decisions would be based on their experiences.

P. Saunders said that the slide covers quite a few of PSB's concerns, but was not all inclusive. Occasionally, complaints will start at the supervisor and move over to PSB or someone higher up could be able to bump it up eventually and then it will end up over in the same place. He underlined that it all gets reviewed by the same people. He said something that the committee should review are the complaints that could automatically get bumped up based on their severity.

D. Demmings said that based on her experience, the auditor should have to do the job of routing complaints, so the committee should have an outline for what they are looking for.

Chair Joseph then began to type the current process.

C. Maragaño then asked about qualifications for the position. Chair Joseph said that we were keeping the description broad, then putting in the work to find the right person.

J. Davis shared his knowledge of the Topeka auditor's background: beginning as a police officer, then going to law school, then serving as a prosecutor and on the City Council. He said that we might want to go a different direction, but that was one example.

Chair Joseph said that it is critical whoever is the auditor will meet the qualifications set out and gain community trust.

T. Wahlrab said that the issue of community trust is hard to pin down, but there's another term we've previously used that might be too vague. He could not remember it at the time.

B. McClain said that pedigree and credentials are important, but so is setting the right tone, and having the right touch of being able to work through critical concerns in the community.

R. Walker apologized for not being immediately on board, but he wanted to know in layman's terms what an individual would be responsible for, specifically related to the "auditor" title.

Chair McClain said that the name of "auditor" came from a previous meeting, and as a title that has more connectivity to other such positions across the country.

R. Walker said that it seems that title is really institutional to him and could be instructive as to how that person would operate.

J. Davis said that the position would be separate from the City Manager and DPD, which provides an extra layer of insulation. He also said that the Citizens Appeal board is yet to come.

R. Walker said that his concern is about how they would be perceived walking down 3rd St.-how would that person be perceived by the community?

Chair McClain reiterated the independence of the auditor.

R. Robinson said regarding concern #2 that while some bullets on other areas need to be addressed, however the most important thing was that the auditor is seen as someone outside the City and having the independence and that they can fulfill the expectations that the investigator be capable of a fair and independent process.

M. Deffet said that, considering the qualifications of a person in similar descriptions, it sounds like they are coming specifically from one side of the criminal justice system so it might be

important to have specific guidelines of community service or serving as a public defender or in legal aid.

Chair McClain said that from an expectations standpoint that was important to consider and should be reflected.

M. King said that he wanted to comment on T. Wahlrab's remarks that we should make sure the auditor is an expert and said he envisioned something, perhaps in title or job description, as a federal inspector general. He said that community trust is vague, and that Dayton is diverse and we should be careful with which communities have that trust, and why they have trust in institutions.

Chair McClain said that was a good point, and a similar structure could be interesting. He said it is also important to think about community trust and its many layers. P. Bradley asked about options 1 or 2 at the top of the proposed changes, and Chair McClain said that the committee was not there yet, and that we still needed to vote on the differences. He continued to read over the document.

T. Griffith requested that we use "they" instead of "he or she" throughout our recommendations. Those changes were made, and Chair McClain continued reading.

P. Bradley said that he was concerned that if the auditor only looks at the investigation once it is completed that they will lack the power to change something mid-stream, so they should be able to do something different in the process.

Chair McClain suggested the change verbally, and P. Bradley requested that he wanted to see it in writing.

T. Griffith asked how realistic a 30-day timeline is for an appeal.

Chair McClain said that this the current timeline of the Appeals process, and that J. Davis could confirm that.

T. Griffith asked whether one person will be able to handle multiple investigations at once. She said that she was concerned about workload.

J. Davis said that the auditor would not be auditing every investigation, and it would be up to them to audit caseload. The 30-day clock begins when the individual receives the letter to file that appeal, and that doesn't really affect the auditor's caseload.

M. Deffet asked what information would be contained in such a letter.

J. Davis said that he has a copy of the letter, and would send it for the committee to look at later.

M. Deffet shared that he has some concerns about the types of cases that the auditor would look at.

J. Davis said that he knows that some cases will have to fall under the auditor's purview, but was unsure about other cases.

Chair McClain said that in discussions with Chair Joseph about the comparisons with other national process (like the current certification of votes that are happening around the country), that an audit consists of looking at a small group of cases to make a larger determination, and that if there are any concerns on a specific area they can then make a determination on how things are investigated.

J. Davis said that in the City of Topeka there were 30 citizen complaints, and the auditor in Topeka did 59 audits in three months. He said we might not want to follow that example, but that was one system that exists.

P. Bradley said that it might be semantics, but it might be important to create an office under which the auditor would sit therefore there could be additional support staff to support the auditor, and that the office could be expanded later on.

Chair Joseph said that it was important to him that there was sufficient staff to assist the auditor.

P. Bradley said that something like that for an office is important as we consider this, and that while we have been thinking about the auditor as just one person, it's clarifying that the office could expand.

Chair Joseph added language to reflect that.

M. King said he agreed with P. Bradley that it was important to have an apparatus to support the work of the auditor.

Chair McClain asked for any more thoughts on recommendations 4, 5 & 6.

P. Bradley asked about the creation of the policy review committee.

Chair Joseph said that PSB has a standing policy review committee that has members of DPD, the Law department, HR, etc., and that this would add the auditor to that seat.

T. Wahlrab read out his comment regarding access to staff and an office for the auditor, and how the city's budget shortfall might affect the long term nature of the position.

Chair Joseph continued reading and agreed with that concern.

T. Wahlrab said that he had concerns over a constant reference to the auditor reporting to the Clerk of Commission, and perhaps there is an implication that they are reporting to the Clerk of Commission instead of the Commission itself.

Chair Joseph said that the Clerk of Commission is the records keeper, and that they are following the precedent that the Clerk of Courts uses as they are the record keepers for the court system.

T. Wahlrab said that historically the clerk's role has changed.

T. Griffith once again suggested changing he/she to they.

Chair Joseph said that he could change it, but is a bit worried about the confusion over the plural.

P. Bradley asked about clarifying the numbering in the doc. Chair Joseph added the qualifications and its numbers from a previous document. He also added a line that the auditor can immediately act to repair or mediate an issue in the course of an investigation.

Chair McClain said that they would also be able to recommend changes moving forward.

Chair Joseph said that he will resend the updated document, and asked if there was anything else to discuss.

P. Bradley asked about adding that the auditor would present their report at a Commission meeting. Chair Joseph said that was a good point and added it.

T. Wahlrab said that he has some concerns about changing things as we go, and said we should go ahead and review. Chair Joseph noted his concerns, though said that it seems that those have been addressed. The committee then began to vote on the wording of the recommendations.

Recommendation #1 passed without objection.

Discussion began on Recommendation #2, whether to pass 2A or 2B. M. Deffet said that he didn't understand why we needed option 2A and believed that it should be deleted. M. Ecton said that this option should remain because police officers have overtime and multiple staff members on shift, as well as access to supervisors that could be unknown to the auditor, allowing PSB to route complaints instead of the auditor.

P. Bradley said that he understands those concerns, however he is worried not just about community perception but also if the auditor looks over this process, and if there oversight is limited might have unseen consequences.

Recommendation 2A passed. M. Ecton and T. Wahlrab voted against.

Recommendation 3 passed.

Recommendation 4 passed.

Recommendation 5 passed.

Recommendation 6 passed. M. Ecton voted against.

Recommendation 7a, 7b, and 7c passed. Recommendation 7d passed and M. Ecton voted against. Recommendation 7e passed. Recommendation 7f passed, and D. Demmings and M. Ecton voted against. Recommendation 7g passed, and M. Ecton voted against.

On Recommendation 8, T. Griffith said that she would be interested in outlining a trained volunteer through the Mediation Center available to individuals, which was noted. Recommendation 8a passed, and Recommendation 8b passed with M. Ecton voting against.

Chair McClain noted that the language of the recommendations is broad as they give room for implementation. He thanked everyone for their votes and adjourned the meeting at 12:25pm.