

Oversight Committee Meeting Minutes from September 29th, 2020

Committee Members Present: P. Bradley, M. Deffet, D. Demmings, T. Griffith, Chair M. Joseph, M. King, C. Maragaño, Chair B. McClain, D. McDonald, K. Moss, R. Robinson, T. Wahlrab, R. Walker, J. White

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

Chair McClain called the meeting to order at 5:03pm. He then did a brief overview of the agenda, including the overview of how the language of recommendations would be approved by the committee. He asked everyone to familiarize themselves with the Thumbs Up button via Zoom, as that would be the way for the committee to approve recommendations. He then turned it over to Chair Joseph.

Chair Joseph then asked the committee to practice the Thumbs Up via Zoom. He then reminded the committee that there were improvements made by city staff to recommendations #9 and #14 as requested by the committee. He then began reviewing the recommendations.

Chair Joseph brought recommendation one to the floor. T. Wahlrab commented that the phrase “to the fullest extent possible” seemed disingenuous because as he said all complaints should be investigated to the fullest extent possible.

Chair Joseph said this phrase was originally mentioned because there was confusion regarding how anonymous complaints were investigated.

P. Saunders said that the Professional Standards Bureau does investigate anonymous complaints as a rule, but there might be some concerns regarding a blanket statement.

D. Demmings asked that separate from the complaint process, who is monitoring complaints? Is it currently DPD? Demmings agreed with T. Wahlrab and was continuing to make sense of his comment in context.

M. Deffet said that taking out “possible” could make it seem weaker.

P. Saunders clarified that all complaints are fully serviced and that is currently in written procedure and policy standing, and that policy should not change. However, saying that every complaint should be investigated to the fullest extent possible could include problems. Saunders described that complaints are not always made by “model citizens” who might have had trouble with the law, or who have significant mental illness and therefore are harder to investigate, but that identification is not a condition of a complaint being investigated.

J. Davis clarified this is the reason that “fullest extent” was included, as the current PSB website says, “case by case basis”.

T. Wahlrab asked what PSB stood for. J. Davis clarified this is the Professional Standards Bureau. T. Wahlrab thanked Davis for the reminder. He asked what “fully serviced” meant in context of the complaint. He also asked P. Saunders what he meant by saying that we won’t change policy.

P. Saunders clarified that fully servicing every complaint, including anonymous complaints is currently policy and he doesn’t believe this should change, and believed it was unlikely the committee would want this to change. However, Saunders said this doesn’t mean it should not be included in the recommendations. However, some people who have significant mental illness come in to make complaints-for example, a citizen who was convinced that their landlord was jumping through their ceiling and stealing their bread. This was implausible for many reasons. In this context, PSB would seek services for that individual, but likely not a full investigation.

Chair Joseph made the edits to recommendation one as suggested by the committee. He brought recommendation two to the table. There were no modifications.

Chair Joseph brought recommendation three to the table. T. Wahlrab commented that the last phrase in paragraph three, as the last sentence is not necessarily needed. This phrase, commenting on building trust throughout the process, seems to be implied and could undercut this message, though consensus is needed.

Chair Joseph said that people seemed to be supportive of that phrase, but it could be taken out.

Chair Joseph brought recommendation four to the table. T. Wahlrab asked a clarifying question about what it meant specifically to accommodate people with disabilities.

M. Schaller clarified this language and used the example of website design that makes text-to-voice easier to process, and a website that is generally easier to navigate. Schaller said there are also other measures that could be added. Chair Joseph added this as an example.

Chair Joseph brought recommendation five to the table. T. Wahlrab asked for part three, what the number of dispositions and number of appeals could include. Chair Joseph expanded the definition.

C. Maragaño asked why there would be a range of numbers. J. Davis answered that in some cases using a range for a small amount of cases (i.e. 0-10) could be used to protect the privacy for individuals.

Chair Joseph brought recommendation six to the table. D. Demmings asked what other places establishing a timeline goal and other standards are in the organization.

A. Blankenship said that timing in other departments is normally a case by case basis. J. Davis said that the Law Department doesn’t have a timeline, nor do other organizations.

A. Blankenship said that this is because sometimes the Law Department has to let a criminal proceeding place out.

P. Saunders said that it is good to have a goal, but a hard deadline is challenging because there is difference if there is a criminal or admin review of the case. Officers may be compelled to testify in a criminal proceeding, which if could negatively impact a criminal investigation if there is an ongoing administrative investigation. Once an officer is under investigation, this hampers all ongoing criminal investigations they were involved in, and it would not be wise to have a fair investigation and justice for victims.

T. Wahlrab asked if there have been problems regarding completing investigations. P. Saunders said that they are pretty through, and this has not previously been a problem, but if there are criminal cases engaged then it is slightly different.

T. Wahlrab said that it is good to have such a goal, but that a hard line isn't necessary. J. Davis said that this sounded good and compared it to the current HRC civil rights investigation timeline. M. Schaller added that other cities have similar goals and timelines for investigations, and this came up in research that the committee discussed.

Chair Joseph brought recommendation seven to the table and said that this has slight repetition to previous recommendations but is specific to routine updates for people who file complaints.

P. Bradley said he supported having routine status updates that mentioned specifically where complaints are in the process.

P. Saunders said this could be hard at times because there is information that you can't release due to safety issues, perceived safety issues, and anonymity.

T. Wahlrab thanked P. Saunders for reminders of the water in which we're swimming in, and that we don't always know what limits are due to investigative procedure.

Chair Joseph brought recommendation eight to the table. There were no comments, and the committee approved.

Chair Joseph brought recommendation nine to the table. He introduced that this is edited language as requested by the committee, and they also attempted to understand the impact this change would have on young officers.

P. Saunders said that this goal was probably not realistic, as it is a part of the collective bargaining agreement, but in addition he wouldn't agree with this personally either. He said he believed that the City and FOP would be reticent to open that portion of the bargaining agreement and he was sure that the City's perspective would be the same. This would open the door for other language used to be changed, and he believed this part of the agreement has some of the strongest language on both sides in the State of Ohio. He said he believed this was

some of the toughest language on both sides, including the fact that a suspension of a day or greater stays on the officer's record during this time. He said that if the DPD isn't going to fire someone for serious offenses but has such violations on record, that would be someone on the force who has "a thumb on them". The point of discipline is to modify behavior, and the majority of discipline is related to internal department complaints.

A. Blankenship said that staff had anticipated questions regarding this recommendation and shared a prepared slide. There are several different places where information regarding complaints such as this are kept. Every DPD officer has a personnel file with their application, evaluations, and findings from any investigation that occurs. The removal of discipline from an officer's personnel file is currently controlled by the collective bargaining agreement, which says that depending on the findings of the investigation, the discipline can be removed between 2-4 years. This can be removed after three years if the officer is suspended for less than five days and can be removed after four years if they are suspended for more than five days. There is also a discipline file which is separate and is kept for five years. The terms of retention are not under the current collective bargaining agreement terms but is set by the City's record retention policy. And finally, there are the PSB investigation files. This is what recommendation nine is referring to.

Chair Joseph said that these files are not currently under FOP contract, and these records could be maintained longer without going through contracts. Chair Joseph asked if this changed P. Saunders' position.

P. Saunders said this did not change his position, and this was not accurate.

D. Demmings referred back P. Saunders' comments regarding the City holding incidents over an officer's head and said that every other citizen has to deal with their record. So, for officers to not have accountability for their actions this is inconsistent because use of force is not an accident and inconsistent with the notions that someone is just making a mistake. Demmings said that this was just a start, and it would be way worse if it was on the shorter side for records retention.

Chair Joseph said that P. Saunders had said previously that if there is an incident that would be held over an officer's head such as a serious offense i.e. something that would be on someone's record for 10 years or more, then they should be terminated.

D. Demmings asked if that was necessarily true.

P. Saunders clarified that excessive use of force and unnecessary use of force are classified as two different things. Unnecessary use of force is typically grounds for termination. Saunders relayed that as a young officer, he witnessed an inexperienced partner who handled a situation with excessive force due to a lack of training that meant a citizen who was mentally ill got injured. When doing a job, a lack of expertise resulting in a serious consequence would have tainted a career. Saunders said that's not something we want on a 10-year record, we want

officers to be able to move on, and while he understood committee concerns, he imagined there would still be reticence on both sides to open the contract.

D. Demmings said in general, if she hadn't been told the difference, she would not know the distinction between excessive and unnecessary use of force, and this is true generally with citizens. Any such language should be understandable to a teenager and that you don't know what you don't know. Demmings also said as long as there is visible accountability that is great.

D. McDonald said that he agreed with P. Saunders. He was hesitant on timelines, and the most egregious offenses is kept on the record for 5 years and said that is enough time that if they are a repeat offender, they will have an additional offense. In that case, both the City and the union will not want them around, and currently employed by the department. If there's a pattern, that will show up within five years and those people will be terminated in that time as they have not learned to change their behavior.

M. Deffet said that he strongly disagreed with this notion and if this isn't resolved by the committee, nothing else will matter in this process. He said in almost all circumstances where there has been excessive force across the country, these officers have prior offenses and if we only have four years of records that is not the whole picture. He also said that the police union's top priority is to keep cops employed, not necessarily to root out bad officers. He said this was ultimately up to the police union and City's inability to negotiate this issue. Deffet continued that we're either going to keep things going how they are as a farce or make the necessary changes. He said this was the #1 issue and that every cop should have a long record to reference, and this should be used to inform training of new cops.

Chair Joseph again reiterated that recommendation nine would not be affected by the bargaining agreement.

A. Blankenship said that the previously shared slide was specifically to address M. Deffet's comments in a previous session and that this would make clear the distinction between PSB and HR records, These PSB files that are kept are not destroyed in accordance with FOP contract, and they could still be held for a longer period of time.

M. Deffet said that they should be kept for a longer period of time, but the city also has to renegotiate.

J. White said that he knew at some point the collective bargaining agreement comes up every few years, and these negotiations are not based on citizens or the city but are based on the people they are protecting. When they have only 3-4 years of record an officer can have the same issue, but records make not accurate show that. Excessive force is brutal and having a depth of records allows for some standard for officers.

P. Bradley asked to clarify whether the documents were considered in police promotions/discipline or just their personnel records.

C. Maragaño stated she believed that there still should be consequences for excessive force and while she understands officers' concerns, the goal is transparency and it is important for citizens to know if an officer has a history. She said that the committee and the city process has been very proactive so far, but what we want to avoid is a George Floyd-like incident, so citizens should be able to look online for such recommendations.

Chair Joseph said that because the universe of where this would apply-officers who had serious findings whose cases would be kept for an extended period of time-is there any way to narrow the language more effectively to discipline folks.

P. Saunders said that he wanted to address some of the allegations against the union and the force. He believed over the past 12 years he guessed there had been 15 terminations, and just 1 had been overturned. He said that nationally, we know that there are officers we have had a problem with excessive force. He used the example that someone was fired while they were in the academy for similar issues and they were then hired from a neighboring suburb and then fired for similar issues. He then said that the HR department also has limits for what employment verification is going to be-what information could be released about a termination etc., that would open up the City to liability. He said he heard a lot of frustration, but with every discipline change go through the HR and City Manager departments, and they exercise quite a bit of oversight. In the end, he believed that this would still be under collective bargaining, and he disagreed the notion that nothing else the committee would address would matter if this was not sorted.

R. Robinson said that five years was not a long time, and maybe the committee should consider archiving files after five years, but if there is another incident then the archive could be opened up. HR/employment protections could prevent specific questions, but they could be able to find out if anything that has been archived could be relevant.

Chair Joseph thanked the committee for the discussion and that if it was okay that could pull this recommendation out and discuss more or leave it.

T. Wahlrab said that we should set it aside for the moment and that a lot had been said and it is good to let the conversation breathe.

Chair Joseph said that thus far there had been a lot of good will put forward by the committee, thanked the committee for this grace so far, and agreed that the conversation should be tabled for the moment.

T. Griffith said she was not clear on a use of force definition and told a story of a ride-along she participated in that in the midst of a chase in which officers were specifically targeting folks in the search for drugs on Germantown and in the midst of a chase there were two non-police vehicles that collided in a violent way and people involved in the crash were hurt and some were killed. The Fire Department said it was one of the most violent wrecks they had ever seen,

and she wanted to know whether this was considered an excessive use of force, as it has stuck with her for a long time.

Chair Joseph thanked her for sharing her story and asked for the will of the committee to add an additional meeting to the calendar to discuss the recommendations more in depth. The will of the committee was to add a meeting, and he said that staff would be touch shortly regarding that scheduling.

M. Schaller reminded the committee to fill out a survey put forth by folks at the City to understand how committee members are feeling about the process thus far.

Chair McClain thanked everyone for the robust discussion and adjourned the meeting at 6:35pm.

Next Meeting: October 6th, 6:30pm-8:00pm