

Oversight Committee Meeting Minutes from October 6th, 2020

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

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

Chair McClain called the meeting to order at 6:35pm.

Chair Joseph then resumed discussion regarding the recommendations by bringing recommendation 10 to the table. P. Bradley suggested that such reports should be published annually, and that there should also be a printed form available for individuals who want so. T. Wahlrab said that procedure should likely include an s. Chair Joseph added both.

Chair Joseph brought recommendation 11 to the floor. He said that this recommendation was something he wanted to bring forward, and that there was an old adage regarding metrics that “if you didn’t measure it, it didn’t happen.” He said that while this wasn’t necessarily true, but it is helpful. There were no other comments.

Chair Joseph brought recommendation 12 to the floor. T. Wahlrab said that language regarding “people of all background” seems to be very similar to a previous recommendation, especially that it would be user friendly and easy to use and should perhaps be combined.

Chair Joseph explained that the origin of this language was specifically to include second-language users. R. Walker said that we should use more specific language in that case.

M. Schaller said that this also came from T. Griffith’s previous comments regarding inclusivity to people of all socioeconomic backgrounds. T. Griffith affirmed this.

R. Walker shared his concern that both recommendation 12 and 4-regarding either language access and disability are critical enough to be sperate and that committee to speak to those separately and we should be clear in their instructions. Chair Joseph made the appropriate changes to be more specific to both recommendation 4 and 12.

M. Deffet said he appreciated streamlining and keeping them both in the same recommendation could make more sense. Chair Joseph said he is usually an enthusiastic editor, but for this process that matters less.

Chair Joseph brought recommendation 13 to the floor. He said that he had been excited for the committee to discuss this, as this is a major recommendation and a major point of contention in shaping any possible new systems or recommendations. He walked through the several options that this recommendation could be.

T. Wahlrab wanted more information regarding the last line, which would be utilizing the single point system. M. Joseph said that this called back to previous recommendations, specifically 5 and 8.

M. Ecton said that a problem in the past is that people make complaints at all hours of the day and night, usually after an incident with an officer.

M. Joseph said that he envisioned multiple options including online, text message, email or leaving a voicemail to be available to citizens. M. Schaller said in her previous legal aid experience there was a voicemail line that community members used.

J. Davis said that the recommendation could be specific to be centralized and must be followed up within 24 hours.

M. Ecton said that the problem it often citizens want to talk to someone immediately after an incident, that if you can, it's important to talk to someone and reason with them in the moment. Often times if someone can talk to a supervisor for content, the complaint stops when someone works their way through the system. One of the things that happens if it's not handled more quickly is this delay, which could also cause more frustration for the citizens. He went on to say that therefore it is important to establish who is going to be staffing the process when that is the case, and that not all can be responded to via email.

Chair Joseph made changes to recommendation 13 based on this feedback.

M. Ecton said that it sounded better, but we need a dual track to deal with complaints quickly. The only way to do so would be have an email alert electronically. If citizens don't hear back from complaints, for example if we wait until someone responds when they are on the clock, that could take days putting the timeline for mediation, supervisor, or another point of contact extended. L. Vanderkaay clarified these comments further.

M. Ecton said that there are a number of service complaints for an officer-simple things like moving through the system in general which would need different resolution, but if someone is mad for a lack of response, there might need to be two systems for complaints that are more simple and those that are more complicated.

Chair Joseph said that this recommendation might need to further change based on other recommendations.

J. White said that if there is tracking complaints based on complaint types, responding time could still be a problem, so there should be developed tracks based on type of complaints.

Chair McClain suggested that we should table this recommendation to flesh out for further meetings.

P. Saunders said that currently, the contact for complaints is the on-duty supervisor, and it is also entered into the system, so DPD would have to collaborate with the complaint system. This recommendation would mean a policy change.

Chair Joseph brought recommendation 14 to the floor. He said that this follows who is going to gather the complaints-there are several possible options, so it is important to read them through, and the committee would select one.

T. Griffith asked if the City and the Citizen Review Board are the same thing in the context of this recommendation. Chair Joseph clarified that the Appeals Board would be something discussed as the third part of this process.

C. Maragaño said she supported option 7, and that this would support the sense of transparency the City should have in this process.

D. Demmings agreed and said that if it isn't attached to the City there would be more trust from the community. T. Griffith agreed.

P. Bradley said that he might be biased to the Human Relations Council, but he believed the staff are respected, and are different from any other body in the City, and are also respected for their transparency, so he would support option 5.

R. Walker said that he supported option 7 and while he respects HRC and the City's relationship with it, on this issue it is important to talk about developing trust and transparency, and this model is something that would push both.

P. Bradley said that another option for the Commissioner-either 7 or 8-would specifically create a third party and begs the question how that would be set up, and that is what we would specifically saying here.

Chair Joseph said that the City previously went through this with the whistleblower line, which is an independent organization for all staffing and paperwork and certainly possible. This would likely mean duplicating money for budgets being established to hire an outside organization. He said he has full confidence of HRC's independence, specifically from the City Manager, though in these extraordinary times it might be good to have a clean break.

T. Wahlrab said that he appreciated option 7 but that HRC would also be great.

R. Walker said that the perception is that HRC is governed by the City and having a separate third-party address this by moving forward to establishing something new.

P. Bradley said that he doesn't disagree with the need for an independent complaint and investigation system, especially with community oversight and a case worker available to citizens.

D. Vauls said that since we already have HRC that follows a complaint process, we could use it for this stage in the process and bring in a 3rd party to go deeper and into more detail for some complaints. There are probably some examples of a hybrid-consultant that deals with this all over to modify and keep what systems we have to add what we want to it.

T. Wahrab said that either one would be good and that bothers him. However, option 5 would be where he would lean, but it is important to consider if the organization can be trusted or has the ability to build trust. He continued by saying that while HRC doesn't always succeed, they keep trying, and that continues to be valuable.

D. Demmings said that she missed that option 5 included HRC, and the conversation made her think. Like T. Wahrab, she believes and trust that HRC have done that work to build trust and if we were to put them in that position, they would be able to do that, and it is probably the best bet.

J. White said that going off of Dr. Walker's previous comments, the community has to be able to trust the process and that HRC already have the experience, they could do cover it on the front end, showcase their experience in following complaints as it is their avenue, and that he would go with option #5.

M. Ecton said he was confused and wanted clarification about where we are in the process, and what this recommendation was addressing by taking the complaint to move it around.

Chair Joseph said that this would include publicizing the process, overseeing it, and general intake, not who it is going to and investigation yet.

M. Ecton said that he believed that the people intaking complaints should have some subject matter expertise to understand what's happening, as complaints vary depending on serious and minor misconduct, some of which are criminal in nature, also include complaints where someone didn't like what was happening, or depend on current investigations for information to be completely monitored by another entity.

Chair Joseph said that subject matter experts and connecting to the downstream process are important, as some frustration with Citizen Appeals Board that he has heard is that some people didn't know what certain terms were, and this was a point of contention. M. Ecton said that he would hate for the process to go backward. M. King agreed that it is very important to have issue experts.

T. Wahrab said that with respect to police officers and their experience, but subject matter expert is a subjective term, as there are millions of subjects and not one person is an expert. In his previous experience, in situations with the police and moderation, there has often been an argument that someone who doesn't know the subject matter can't moderate, however someone could be trained.

Chair Joseph said that if someone isn't familiar with current process, it's not efficient.

T. Griffith said that she preferred the term knowledgeable, which denotes more training. She said that is important to having training on such issues, and the language of understanding makes the relationship to information seem more casual.

T. Wahlrab said that police officers know their jobs, but others could have such information.

M. King said that working at or with HRC means that they have a responsibility to be a part of a balanced approach, and that maybe public defenders should be included in such a solution.

Chair Joseph said that the current public defenders on the committee are in the right position to clarify, but that they could interface with the city in these cases and would not be appropriate. C. Maragaño agreed that there might be conflict issues. Chair Joseph agreed and said that they might see cases on the matter.

M. Exton said that he didn't mean to be argumentative, but for example if someone is investigating doctors they would have to have knowledge of the medical field, and what police do is complex but a simple journalist wouldn't work, however someone in the law department might be useful for their legal expertise of current City law.

T. Griffith asked about the potential types of complaints, which L. VanderKaay answered. Confidentiality specifically regarding baseless complaints is important because if shared could cause serious problems for the officers. They could be a threat to the officer, as just because there is a complaint doesn't mean that it's true.

M. Deffet said that problem behaviors by officers include citizens who have been falsely accused, falsely beaten, and that citizens can get stuff expunged, so the main concern should be the effect on citizens. Officers might feel some pain in such a transition, but plenty of citizens have to have their record expunged for something that is unfounded, so he didn't know who there more inconvenience to officers would be.

A. Blankenship said that it currently matters regarding the severity of the complaint what other city systems do, as the complaint would still be there, but the matter of the complaint is important.

Chair Joseph said that regarding a establishing a secure system so far, the City is convinced with conversation and research that systems will be fair to citizens and officers alike and would be efficient and effective and allow wide boulevards to rebuild trust. He said that as a reality, that any system we would be talking about would be positive as long as it is fair and open and competent. The committee came to a conclusion that option 5 would be preferred.

Chair Joseph brought recommendation 15 to the table. L. VanderKaay said that she was not sure exactly how this would work, but this might be the space for a conversation about how to funnel and categorize incoming complaints, and using the Mediation Center

M. Ecton said that previously this is the case as complaints come in that they are categorized to include that option. P. Saunders confirmed this. L. VanderKaay agreed but said that it is not utilized as much. P. Saunders said that it is not taken advantage of very often, which is the case for most services currently.

Chair Joseph brought recommendation 16 to the table. There were no comments or edits.

Chair Joseph brought recommendation 17 to the table. There were no comments or edits.

Chair Joseph returned the committee to recommendation 9, which had been previously discussed at the last meeting regarding records retention. As he said in discussing with the law department, the belief is that there is a 50/50 possibility that this falls under the current FOP contract or doesn't. And that P. Saunders previous point that records retention for serious complaints does stand that we don't want such officers on the force, but that moving forward we should put this recommendation to the City Commission and see how that plays out.

Chair McClain agreed and said this was our best chance for a great start on this issue and that he personally thought it was likely outside of the FOP contract.

T. Wahlrab asked specifically to clarify the language of the recommendation regarding general police conduct verses police conduct in matters of use of force.

A. Blankenship said that she can't speak to any use of force, but this was a way to satisfy everyone on every front, as currently only sustained use of force is currently retained at a high level.

M. Deffet said that we should consider all kinds of behavior, as bad behavior (i.e. offensive names) often precedes use of force, and that he still believed that these records should be kept longer as a whole. He agreed that other offenses before use of force are not necessarily fireable offenses but retaining the records could mean we keep an eye on them.

J. White said that most of the smaller offenses in the records would be kept for around six years, but more aggressive should be 10 years and that the Citizens Appeal Board should still be able to have ways for that information to be found later, which doesn't necessarily mean that people did who did such things were right.

C. Maragaño said that use of force guidelines for certain jurisdictions were different, though that might be getting into another committee's area.

M. Schaller offered that there might be an opportunity for another joint listening session with the committee that is currently covering this issue, and there might be other issues that it would be available to have cross-committee dialogue.

M. Joseph said that this is regarding records from investigation as opposed to discipline records.

M. Ecton said that this is the reason for progressive discipline-that you advance your way through a program and that if you do not learn your lesson and improve that you will be fired and this is the reason for the organization to keep 2-4 year timelines for records.

W. Smith clarified that the issue of discipline is not quite sorted, and under another issue group, but might be a possible issue for the broader working group to cover.

M. Ecton said and as for the issue of saving records he is not necessarily against keeping records longer, as someone who is in the position of hiring new employees, that there are often gaps when he is attempting to get into someone's background and if there are issues or problems, he'd like to know about it. Things in recent years have shortened up to benefit the union, however he'd like to be able to look out at 10 years of an officer's record.

M. Deffet said that he didn't realize this recommendation wasn't under disciplinary records, and it could be important to clarify and possibly include these for full transparency.

M. Joseph said offered for W. Smith to bring to a discuss regarding discipline at some point. M. Deffet said that he didn't want to affect the current process, but that he would like to be included in such a discussion.

J. White said that it is kind of hard to get that done, as unions are supportive of their members. He has been a union member for 40+ years, and he understand how that works, and that would be a big get to change. M. Deffet agreed. Chair Joseph agreed that that would be a big push and process.

W. Smith said that the recruitment group is actually covering the discipline issue, however there are no constrictions currently and that more people being included in discussions on how to make the system work better is not necessarily a bad thing, as they are following the community response model. M. Schaller said that they are covering discipline next, and that she would connect M. Deffet to the group. W. Smith offered to engage in that conversation, and that he was there to further make sure that all committee members had what they needed for more information.

A. Blankenship wanted to make one edit regarding records retention that investigation is currently kept for four years, not six, and is reflected so on the document.

Chair Joseph then brought the recommendations to a vote. The recommendations and votes recorded are below.

1. That the city offers an 'ethics line' for individuals to call and make anonymous complaints. Our website could indicate that our policy says that anonymous complaints are accepted and investigated to the fullest extent.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, M. Joseph, C. Maragaño, M. McClain, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

2. That the city provide the opportunity to submit complaints in paper, electronic, and telephonic form.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

3. That the city conduct an education and outreach program to ensure members of the public know about the complaint process. Social media is a cost-effective outlet to get information out to citizens. We could place posters in neighborhoods and gathering places, like recreation centers. We could have *de facto* partnerships in the community to relay information through brochures and flyers: these would include Gem City Market, religious institutions, libraries, Dayton Urban Young Life, NAACP, Daybreak, the local health care system, neighborhood organizations, and others. The courts could include instructions on filing complaints as a part of the regular resource sheets they provide people, perhaps during arraignment. We could distribute information about how to submit a complaint in a variety of ways to make sure that the people who need to make a complaint are able to.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

4. That the city provide access to the complaint process to accommodate individuals with disabilities, for example, a text-to-voice capability on the website.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

5. That the city expand the distribution of and access to data about the complaint process in a number of ways. Some possibilities include:

- We could follow the example of the City of Chicago, which publishes data on their complaint process. They maintain confidentiality by publishing in “ranges” rather than exact numbers.
- We could mandate that information be shared about the process at the first contact with the complainant. Such information might include a description of the process and a timeline for investigating the complaint.
- We could establish reporting standards (such as quarterly and annual reports of the number of cases, disposition, and number and disposition of appeals).
- We could utilize software to automatically send updates and store information in an investigation. Most databases also track and create reports/data that might be helpful moving forward.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

6. That the city establish a goal for issuing a cause finding. This goal would be subject to change due to the circumstances of the complaint. For example, the Human Relations Council (HRC) has a 100-day goal to investigate and get a probable cause/no probable cause finding in our civil rights investigations. The timeline may need to take into consideration the ongoing criminal investigation and/or the complexity or type of the complaint.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

7. That the city mandate that investigators send routine status updates to the parties, as possible, including at key milestones. There is also software that could be used to automatically send updates.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

8. That the city provide complainants with easy access to a status report on their complaint, maybe through issuing them a case number.

Yes Votes: P. Bradley, M. Deffet, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, T. Wahlrab

No Votes: D. Demmings

Abstentions: M. Ecton, P. Saunders

9. That the city retain records of some investigations longer than the currently mandated 4 years. All investigations into police conduct will be retained for 4 years if the disposition of the investigation is **Not Sustained, Exonerated or Unfounded**. All investigations into police conduct involving use of force violations will be retained for 10 years if the disposition of the investigation is Sustained.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

10. That the city publish online and in print the procedures that we will follow for every investigation, so complainants can follow the process.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

11. That the city design a complaint submission system that makes it easy to evaluate the performance of the complaint process through metrics.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

12. That the city provide a complaint submission system that provides access in multiple language formats and that is user-friendly and easy to use for people of all backgrounds.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

13. That the city establish a single point of contact for incoming complainants to ensure the complaint is collected, status updates are communicated, and assistance is provided as needed throughout the process, and to ensure complainants do not have to contact several people to file a complaint or check for status updates. This point of contact would utilize a single unified data system. This point of contact will respond to complaint inquiries as soon as practicably possible, given regular working constraints.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

14. That the city name the Human Relations Council (HRC) as the third party organization (not police or City Manager's office), and require them to appoint someone as the single point of contact to gather complaints, and to provide complainants with status reports on existing cases. This single point of contact must be knowledgeable with potential types of complaints and the complaint process, ready to address issues with complaints, and skilled in personal interactions.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

15. The Dayton Mediation Center will work with the complaint intake authority and police to set up a process to be assigned and mediate appropriate complaints.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

16. That the city convene local agencies and organizations who might receive complaints, and ask them all to use a standard process to submit the complaints. Complaints would all be funneled into one intake app and database, to make the process easier to track and to evaluate. The multi-agency Homeless Solutions Policy Board intake process application is an example of this.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

17. That the city utilize Dayton Delivers or a similar app as a "one-stop-shop" for information and complaint intake, and train employees and partner organizations to perform data entry into the app. This app would feed data into the new single database of complaint information.

Yes Votes: P. Bradley, M. Deffet, D. Demmings, T. Griffith, M. King, C. Maragaño, D. Vauls, R. Walker, J. White, T. Wahlrab

No Votes:

Abstentions: M. Ecton, P. Saunders

Chairs Joseph and McClain thanked committee members for their votes.

Chair McClain thanked everyone for staying on the call late and congratulated the committee for passing the recommendations and adjourned the meeting at 8:36pm.

Next Meeting: October 16th, 10:00am-11:30am