

Oversight Committee Meeting Minutes from October 16th, 2020

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

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

Chair Joseph called the meeting to order at 10:17am. There was an internal delay with streaming at City Hall, and as every meeting is a public meeting and has to be streamed, the committee waited until they were able to stream online to begin the meeting.

Chair Joseph thanked everyone for passing the recommendations from the previous meeting and said he has been hearing good things from the City Commission, and while we'll see, it is also exciting to move into the next part of the process, as there are a lot of different models and he is looking forward to looking over the current system. He then turned it over to A. Blankenship and J. Davis to go over a presentation of the current process and potential models.

A. Blankenship began the presentation. As she mentioned, the committee had previously discussed the investigation process and wanted to refresh for this meeting.

A. Blankenship mentioned that while it not necessarily satisfies for the officers to have a "know it when you see it" standard for some investigations, but that's the reality for some. Any use of force is investigated by either the supervisor or PSB (Professional Standards Bureau).

A. Blankenship also said that data storage is increasingly becoming a bigger deal, as there is more digital evidence than ever before, which is relevant in our discussions. Possible outcomes from an investigation include sustained, not sustained, exonerated and unfounded. She also went over a flow chart of how investigations play out. She made clear that while the chart is specific to use of force investigations, the Oversight Committee, or any other committee in this process are not limited to use of force complaints. She also mentioned that when there is injury or legal liability, that increases the potential of a "know it when you see it scenario".

She continued by saying that ultimately, every investigation land in PSB, even if PSB does not investigate. If there is a policy violation, then it goes to the levels of discipline.

P. Bradley asked if the investigation has a result that is anything except for sustained, what happens by alerting other officers and making sure that the finding is accurate. A. Blankenship responded that it goes through chain of command, and for every officer in the chain, they can make alternative decisions or request more information. Any oral and/or written reprimands all go to the chief but are primarily dealt with by the division commander.

P. Bradley asked if there are guidelines for a person who experiences an incident with serious injury or legal liability regarding automatic investigations of any kind.

P. Saunders said that there are some incidents that automatically go to PSB including injury, use of force, etc. he went on to mention that as a sergeant, it preferred to look over files, and that at any possible level, someone might want to go more in-depth and therefore it is kicked up the chain of command.

T. Wahlrab asked the specific meaning of law and policy as mentioned on the slide. A. Blankenship answered that policy in this conduct is referring to DPD policy that could result in discipline, and that law is regarding if an officer has criminal law-related situation.

P. Saunders said that an admin investigation is typically put on hold if there is a criminal investigation, as an officer has a right to not incriminate themselves, however the department can compel employees to answer questions regarding a criminal investigation, but could get in the way of an admin review as well as the subject of the investigation.

T. Wahlrab said that he wanted to ask regarding the interpretation of the law because it is often subjective, and in his previous experiences and conversations, he has often had debates regarding law and policy. He mentioned that this might need to be something he'd like to follow up with later but seemed to be worthy to be brought up.

Chair Joseph said this was a good question and necessary background as we look at this process. He mentioned that while we were early in this part of the process it might be important to keep this in mind as we develop criteria to address definitions of law and policy. The committee may come up with documentation for criteria to evaluate, some of which might address law, some of which might address policy.

Chair McClain agreed with this assessment, and that while it might be a case-by-case basis nature to certain standards, they are good things to consider.

R. Walker said that he was glad that T. Wahlrab raised the question, and asked the committee if there was any way we could use more lay language so that people untrained in law enforcement or the judicial process could understand, as many members of our concerned community are trying to understand more of the process, but the language might be a barrier to entry. Acronyms such as CAB (Citizen's Appeal Board) or PSB should generally be spelled out for citizens so that they are understood. Chair Joseph agreed that defining acronymyn and adapting language is important moving forward. A. Blankenship said that this was the worst part in dealing with lawyers-yes or no questions often lead to maybes aka ambiguity, and there is frequent use of legalize.

P. Saunders defined that PSB currently falls under the deputy chief, and A. Blankenship clarified the nature of their investigations.

R. Walker said that while he appreciated this clarity, moving forward would also be important to create language that is clearly not just for professionals in the field, but also lay people to understand, and that this starts with the committee itself. He continued that if members of the

committee are struggling to get on board, it hints that we are missing a whole lot of people in this conversation.

Chair McClain wanted to address the question in the chat and gave an anecdote for previous cases and citizens who frequently did not understand a ruling and would miss out on a possible appeal due to lack of clear language, and that it is so important to be able to be definitive and that we need to break down and simplify. Chair Joseph thanked folks for the conversation.

T. Griffith said that as we are fulfilling other recommendations such as translating into other languages and making resources available to the hearing impaired, we need to look at the language we use that it going to translate as things don't always translate well if the language is more complicated, and this includes print and website materials. Chair Joseph thanked everyone for their points and to make sure that we translate appropriately and turned it back over to A. Blankenship, who then turned it over to J. Davis.

J. Davis then went over slide 7, regarding how a complaint is filed and addressed the previous recommendations put forth to the commission. He stressed that we are not addressing CAB at the moment, but this as a whole was important to make sure that citizens trust the investigation process before the appeals process.

R. Robinson looked at the chart on the slide and saw that at the Appeals process allows CAB to go back to subpoena people/investigation, but they cannot administer discipline, so what happens at the point instead. J. Davis said that they can recommend it, but any recommendation for discipline goes to the City Manager's office and the Chief of Police for action. Chair Joseph suggested that this be added onto the slide.

M. Joseph said that as other groups finish their recommendations, this could feed into discipline/other groups' work, so he suggested to W. Smith that there be a big spreadsheet maintained to get a clear picture of the process and recommendations from all groups and so we can identify the best ways to cross-collaborate.

W. Smith said that they are currently looking into this now, as this would increase transparency. Chair Joseph suggested some sort of a monthly meeting to address this system thinking, which W. Smith took note of. Robinson made some suggestions regarding the design of the chart itself and volunteered to assist in its editing and in general for the chart design on a distribution of materials later on. J. Davis appreciated this assistance and agreed to reach out.

B. McClain moved on to discussing the pros and cons of the current system. They are below.

Pros:

- CAB can request additional information
- There is an automatic right to appeal if the investigation of complaint is not sustained, exonerated or unfounded
- All complaints are investigated by either a supervisor or a member of PSB

- IAPRO Teams software works between system
- All investigations are reviewed through all levels of the chain of command if the complaint regardless of the investigation's findings

Cons:

- CAB cannot recommend discipline but not enact it
- Citizens might not see it as an independent investigation process
- There is no independent auditor or investigator
- If the CAB requests an additional investigation, only PSB can do so

T. Wahrab questioned with IAPRO Teams was, and Chair Joseph clarified that this was referring to software. B. McClain asked if there were any questions or comments regarding the pros or cons.

T. Griffith said that the cons were addressed pretty well, and that the biggest con is that there is no independent process and in our attempt to be as transparent as possible, the community tends to think that PSB is an active police entity (not necessarily her opinion) but it seemed to be general consensus and that might continue to be a problem or concern.

P. Bradley echoed this statement and said that we are doing this process so that anyone can look at it and see it as objective and fair, and that citizens should feel like there is an option other than the supervisor or PSB to investigate and he has heard so from the community.

T. Wahrab said echoed his previous comment and that if there is solely an investigation based on what the law says is right or wrong, that this might not result in justice. He mentioned a previous expression used "lawful but awful" as well as "if it feels good, it's probably wrong"-and it is not necessarily in helping a citizen understand the investigation because there is a disconnect between training officers and conduct and how a citizen feels. While laws and policies are what they are, it is still a mess when it comes to feel and attitude.

B. McClain described the dilemma of law legislating someone's personal belief and that there is often a debate between how the law should be and how it is, including many clients who disagreed with the result of their interaction with the law based on their beliefs, and that our job continues to be educate, inform and make more things clear.

T. Wahrab said that this would continue to be a hard task and that we won't be fully perfect in making everyone feel good about the process. Chair Joseph said that our goal was not perfect, but improvement in the current system. The recommendation for this could include things involving the process like a loop at the end or a chance to appeal that ultimately allow people to know their rights-include a possible "sanity check" at the end of the process.

T. Wahrab said that he appreciated this conversation and that there might be further opportunity with the Mediate Center and police to have conversations with officers and citizens.

Chair Joseph reiterated that we are attempting to take care of people and the law at the same time on an individual basis through this process.

R. Walker said that as we are looking to affect this process, we might want to include an ethical standard that we make sure works in place so that we can be ethical and operation on the same token. Many community members live with their emotions on their sleeves and it is also the responsibility of the law to agree with the people.

Chair McClain shared a phrase from his grandmother that there's can be a difference between what's right and what's legal and that we are all better served when people are being served and getting justice.

P. Bradley said that we all have to be honest as a committee that the perception from many in the community struggle with trusting the police specifically in this oversight context for a just review of their actions. As had been mentioned, there are a few bad apples in every department and that a more transparent, trust-filled and complete process means the bad apples are weeded out and less likely to affect not just citizens but the department and will also deter bad apples from joining the department. He went on to say that having increased perception of trust and better community relations also helps police, as the intention is not to go after every officer, but to have a process that is more fair and just to all involved, and he is hopefully for something positive to come of this process.

Chair McClain asked for any additional comments of the process from P. Saunders. P. Saunders said that they were pretty good overarching comments. Chair McClain then turned it over to A. Blankenship and J. Davis for other comments of other cities.

A. Blankenship went over the process for Cincinnati, and that she had previously talked to folks in Cincinnati and will try to answer any and all questions.

P. Bradley asked when findings are submitted to the City Manager and Police Chief in the Cincinnati process, does it include a discipline recommendation or is it similar to other structures. A. Blankenship said she could not answer that question at the moment but would follow up with folks.

Chair Joseph brought up that the discussion of an "independent" system is an important thing to discuss, because in the Cincinnati example the CCA is still a part of the city, but is not police, so there should be an ongoing conversation about the perception of independence, which is difficult to perceive and making a process that is relatively independent is the path forward and that we would continue to thread that needle as a committee.

T. Wahlrab shared the background that the process in Cincinnati came from a previous crisis, and since they've had several years of this process, there is some evaluation and tweaking they have likely done. Chair Joseph shared that there are people who both supported it initially and

those that didn't that say it hasn't performed adequately, and that we'll have to see how this compares to other models.

J. Davis brought San Jose's model (which had been previously brought to the table by P. Saunders) which was established in 1993 and has an Independent Auditor (they refer to it as IPA) unit of 4-5 members, which includes two attorneys and 2-3 admin and support staff. The Internal Affairs department in San Jose makes their findings, and then the IPA if it agrees with all findings confirms this to the departments, and if there's a disagreement, there are several avenues they can use. This process, he summarized, was more about oversight rather than investigation and differed in a couple of ways from our current process. They can audit individual police findings, which we cannot do in Dayton, and they can audit the investigation at any time.

P. Saunders shared that he came across this solution at an international conference he attended, and that this addressed process of each investigation and gets to P. Bradley's comments regarding independence, trust and perception and the reality and possible resolution.

Chair Joseph said that outreach is another possibility that we should consider as multiple groups are centering outreach and education as a part of this process, and this would bring transparency to that.

Chair McClain said encouraged members to think about the criteria we would possibly use for this process, as well as any information of different models to present. He also mentioned NACOLE.org as a possible place for models. L. VanderKaay encouraged the committee to fill out the survey from the committee.

Chair McClain adjourned the meeting at 11:34am.

Next Meeting: October 20th, 6:30pm-8:00pm