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**Matrix Committee Special Meeting
Police Accountability Board
December 2, 2021 at 6:30 PM
Conducted Over Zoom**

Attendees

Board Members: Wilson, McIntosh, Brown, Harrison, Perez, Setel, Nickoloff (arrived at 6:45P),
Tucker (arrived at 6:49P)

Staff: Reynolds, Pacheco-Walker

Others: Ron Sullivan, Mina Malik

Item	Details	Vote	Time
Start of Meeting	<u>Welcome & Introductions:</u> Chair Wilson called the meeting to order.	N/A	6:37PM
Meeting Discussion	<p>Wilson explained that the purpose of this meeting is to establish the framework for the Disciplinary Matrix.</p> <p>Reynolds explained that the Board must discuss what kind of justice they would like to pursue with the matrix. Once “big picture” items have been discussed next steps may be determined. Community engagement “breakout teams” suggested to gather community input.</p> <p>Wilson noted that Reynolds sent an email to Board Members describing the different types of justice that may be pursued and suggested that members begin there.</p> <p>Setel stated that she raised the issue because other matrices she had seen seemed punitive. Hadn’t seen any matrices with restorative or transformative models built in.</p> <p>Malik responded that restorative justice practices can be incorporated in the matrix. Some matrices have mediation within them. The Board may move away from a punitive model to a mediation based or restorative one. These models have been employed in other jurisdictions.</p> <p>Brown asked how effective those non-punitive models have been. Malik responded citing the example of the NYC matrix. Their matrix includes mediation. In her work with restorative justice outside of police accountability she has found that for juvenile matters in particular, the offender and the officer involved both had positive experiences under that type of model. Noted that in the restorative model both parties must agree to the restorative justice measures employed. In her</p>	N/A	

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	<p>experience situations with well-trained restorative justice facilitators and coordinators have been positive.</p> <p>Brown asked if there is a possibility of having a combination of both models; punitive and restorative. Malik asked Brown to define punitive (i.e. suspensions, letter of reprimand, etc.) Brown explained that it seems that the current practice is that if a letter of reprimand is issued it goes into the Officers' file and they are given time off with pay, which to an outsider doesn't seem to be punitive. Such measures do not work to change an officers' mind or attitude.</p> <p>Malik responded that in a situation like that, there can be progressive discipline where training/counseling is employed at first and then harsher penalties are incurred for further misconduct. Malik stated that penalties must be assessed on a case-by-case basis to determine what is appropriate for that particular circumstance.</p> <p>Wilson asked Malik what some of the practices used on the NYC board were.</p> <p>Malik explained that CCRB used a mediation model and that the matrix went into effect January 2021. Matrix outlines recommended discipline depending on the circumstances. Discipline "runs the gamut" including everything from training, mediation, and counseling to reductions in pay, suspension, and termination.</p> <p>Perez asked what is the "buy-in", or convincing factor, for police officers under that model.</p> <p>Malik replied that NYC is currently using a mediation model, but with respect to restorative justice, it doesn't work unless both parties agree. So the "buy-in" is from both sides of the equation. Malik further explained that under the mediation model, the "buy-in" factor is approximately the same.</p> <p>Reynolds added that the Center for Dispute Settlement, which ran the Civilian Review Board, offered mediation as an option. The outcome of the mediation had to be agreed upon by the Complainant as well as the Officer. Staff at the Center stated that mediation was rarely used. Reynolds believes he was advised that community members did not typically choose that</p>		
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	<p>option. Reynolds stated she will follow up with the Center to find out more about the process did or did not work.</p> <p>Perez asked if this was because the community wished to see something immediate. Reynolds nodded. Perez noted that in the effort to create better relationships between police and the community, restorative and mediation models seem most appropriate. Further stated that depending on the severity of the case, discipline does not always have to be punitive. Perez stated she would like to see “some mending” of the issues and is interested to see which parties are willing to participate in mediation and which parties are not.</p> <p>Setel noted that in situations with unequal power mediation would not be appropriate. That may be part of the community’s reluctance to participate. Setel noted that she is interested in hearing how NYC managed those issues.</p> <p>Harrison asked if it was appropriate to allow the victim to choose between a restorative option and a punitive option. Further asked if that has been done in other places.</p> <p>Malik responded that her experience has been in terms of a criminal process versus a restorative process. The processes will depend on what the community and the Board desires. Malik noted that the matrix could include restorative options for less egregious conduct. Mitigating and aggravating factors of the scenario must be considered as well.</p> <p>Setel stated that in regards to changing attitudes and behavior, many punitive processes don’t hold officers accountable in that they do not follow up for changed behavior. Board must answer the philosophical question of how to define accountability and how are officers held accountable.</p> <p>Wilson asked about internal discipline and if police departments used mediation and restoration techniques.</p> <p>Malik answered that discipline techniques vary across the board. The most common methods taken are re-training, counseling, and letters of reprimand. The most egregious conduct (ex. Choke holds in NYC) may lead to termination. Malik further stated that typically the most extreme cases merit the most extreme sanctions, but more departments air on the less punitive side when dealing with their officers.</p>		
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	<p>Reynolds stated that disciplinary matrices are not the only guidelines for consequences, there are sentencing guidelines, school district guidelines for discipline of students, etc. Asked if there is anything in those models that might be missing from police discipline models. Reynolds provided examples of the “victim impact statement” used in the criminal justice system and sanctions involving a community service requirement. Reynolds asked if there are other similar remedies that had not been considered for policing.</p> <p>Sullivan responded that such frameworks are good comparators as they all seek to “do the same sort of work”. Added that he would think on it as there could very well be some traits that could be added into our framework.</p> <p>Wilson stated that she liked Harrison’s idea of letting the citizen decide what they would like to see happen. Further stated that if the community saw their “desired outcomes” they may be more willing to participate in mediation in the future.</p> <p>Setel asked what has been effective in other systems. Noted that for her, the purpose of the Board’s matrix is not punishment, but accountability. Asked if certain approaches were more effective in holding officers accountable than others.</p> <p>Malik replied that many variables make up that answer. It is not only about having a sustainable disciplinary matrix, but having a department that holds its members accountable when necessary. Further explained that culture “comes from the top” and that the willingness of leadership to hold their subordinates accountable is very important. The matrix will only be as useful as the willingness to apply it. The most important variables are having department leadership that seeks accountability and having a review board with the “power and the teeth” to implement the sanctions in a disciplinary matrix.</p> <p>Tucker asked Setel what the “ideal change” would be in seeking accountability over punishment. Setel replied that it would depend on the incident. Noted that a willingness to admit wrong-doing and apologize would be a positive change, but wants to look at the culture that allows certain incidents to happen in the first place. Setel stated that she would want to see courtesy and de-escalation techniques be reflexive in Officers and asked why certain qualities or techniques are not</p>		
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	<p>ingrained in them through training. Further noted larger cultural issues that would need to be addressed.</p> <p>McIntosh agreed with Setel in that most Complainants will want to see “repair of the harm” and noted that most of the time people feel that justice isn’t being done want to see a punitive aspect. Stated that she is in favor of both punitive and restorative components. McIntosh also suggested including an evaluation component to grade the process. With regard to evaluation she also asked if there will be processes built in to further escalate punishment or if the entire punishment process starts over at a point with situations of continued misconduct.</p> <p>Malik agreed and stated that it will be important not only to roll out discipline but keeping track of that data. Stated that she hopes there is some historical data to rely on now, but that it will be the Board’s job to track which officers commit which types of misconduct, how they are held accountable, and which disciplinary measures work with certain officers. In situations where it is determined that certain discipline is not working then progressive discipline may be employed and the Board may recommend stricter measures for officers with repeat offenses.</p> <p>McIntosh stated that the point of abolishing 50A was to give the public access into police records that were formally kept confidential and asked in terms of the disciplinary matrix how the information will be housed so that it is accessible to the public.</p> <p>Malik responded that matrices are public in many jurisdictions across the country. The Board will need a database in order to keep track of data related to employment of the matrix. Malik noted that in her time with NYC’s Board, 50A was still in effect but they created an open data portal where the public could access information about all precincts in NYC. Malik also noted that a data scientist would be needed to collect and organize that information for the Board.</p> <p>Reynolds stated that the staff is in the process of hiring data analysts and getting the necessary contracts in place for this work. The case management system (CMS) will be the central hub for data collection. Reynolds hopes that the CMS will plug into the website as well. Showed an example of Chicago’s heat map.</p>		
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	<p>Nickoloff asked if any of the data being discussed was already available. Also asked if there was data regarding effectiveness of sanctions and data on community/department opinion regarding sanctions used.</p> <p>Wilson agreed with Nickoloff in that it will be important to review historical data. Noted that she is interested in how the effectiveness of discipline is tracked 3-9 months after. Noted interest in learning how a matter is determined to be “closed” and what kind of paperwork and administrative processes are involved.</p> <p>Setel asked the Board what the fantasy matrix would be.</p> <p>Malik replied that it will be most important for the Board to come together and discuss the different types of conduct that can occur, what types of sanctions can be implemented and what makes sense. There is wide jurisdiction meaning this will be a large task for the Board. Malik offered to provide a sample of a disciplinary matrix (i.e., a sentencing chart). Noted that creation of the matrix will be a large undertaking, there will be many iterations and variables to consider.</p> <p>Rabbi Setel asked if there was an ideal example that could be provided. Explained that she has looked for models but hasn’t seen restorative justice measures in the matrices she has reviewed.</p> <p>Sullivan responded that the ideal example will be highly contingent on the ambitions of the community. Emphasized that this is not a “cookie-cutter” process, but must come about organically. Sullivan offered to provide models but noted that they should be thought of as data points to start conversations about how to create something unique for the Rochester community.</p> <p>Malik added that historical data based on the types of misconduct that are most common in the City would be a great starting point.</p> <p>Perez agreed and stated that the first thing to look at is how to obtain historical misconduct information. Asked if that is something that is readily available and what the willingness of sharing that information with the PAB would be. Perez noted that information collection will be the driving force of the matrix.</p>		
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	<p>Also noted that it will be important for the community and City Council to understand that this process will take time, as the Board has been pressed about timelines more than once. The work being done is delicate and should not be rushed.</p> <p>Malik agreed and added that the Board is going about this in an important way, not just communicating with citizens but working with RPD as well and possibly the Union. Those are all things to be considered. The broad jurisdiction of the Board will expand the matrix exponentially.</p> <p>Harrison commented that it will be more important to be quick and simple rather than comprehensive at this time.</p> <p>Reynolds noted that the idea to create something preliminary has come up before. RPD has 300 specific rules and regulations of conduct as well as general and administrative orders that can be violated. If you add on State and Federal laws that the Board is responsible for investigation violations of, that is a very broad spectrum. Must ask how the matrix can deal with all of these items.</p> <p>Harrison asked if it would be possible to establish something preliminary and routinely revisit to build upon it.</p> <p>Malik agreed that the matrix can be “a work in progress”. Historical data will be a good start but the Board must keep in mind that it must come up with a matrix that addresses all concerns brought forth. Should also be a tool that deters future misconduct. Resolving matters in a prompt and efficient way is likely the goal of the preliminary matrix.</p> <p>Brown asked if historical information has been compiled and if that information is at a place where the Board can utilize it or if the Board has already begun.</p> <p>Reynolds replied that that is a tough question.</p> <p>Sullivan responded that that is a tough question because the data will likely be imperfect at best.</p> <p>Reynolds noted that there is data that the Board can get; there are citizen complaints in the City and disciplinary actions taken by RPD. The issue is that almost no one has been filing complaints. The CRB reviewed only 11 complaints for 2020. It</p>		
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	<p>is unknown if the complaints or coded in any way or if they are just pieces of paper in storage somewhere. If there is raw data available, it would need to be processed. In regards to the disciplinary items, that information is housed on a database in the RPD, but the issue with that information is that there are terms in the Union contract which call for Officer records to be wiped. Some of the data that the Board would want simply no longer exists. Any data received that needs to be processed will become a project, the question is how long that project will take. If there is "quick data" out there that is of use to the Board it can be used while other data projects can be considered. Reynolds suggested looking at data from other departments and other Boards.</p> <p>Brown responded that 11 complaints should not be hard to follow up on. Further explained that she believes that there are certain patterns and misconduct that are a big deal in Rochester and may not be a big deal in another place. Stated that she would want to review those instances of misconduct first and understand the major complaints specific to Rochester. Noted that disrespect is a big one, but the Board must define what disrespect entails. Other big areas to look into are use of force and use of violence/mistreatment of children.</p> <p>Wilson agreed with Harrison regarding the creation of a preliminary matrix and noted that the City changes every year so the matrix will have to be revised every year. Noted that the matrix will not be a quick thing to institute but that having data will make it simpler. Also noted that there are many complaints out there, hundreds received by the CRB over the years, the Board just needs to get it.</p> <p>Malik noted that analyzing that data will be instrumental and a great starting point for the Board in the creation of the matrix.</p> <p>Harrison stated that the Board is able to make its own categories to define misconduct.</p> <p>Reynolds agreed with Harrison stating that if the data analysis is done by the Board they could define the categories of misconduct, rather than relying upon pre-determined categories.</p>		
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	<p>Nickoloff stated that a restorative relationship should begin before the law is broken and that punitive measures may be enacted first in order to get the ball rolling and grant more time for research into restorative practices. Noted that it is not about “scaring people from doing the wrong thing” but also “encouraging people to do the right”.</p> <p>Brown agreed with Nickoloff’s statements and added that for her, this begins with finding ‘Officer Friendly’. Brown explained that the community should decide what the ideal officer interaction looks like and think about how to help hold other officers to that standard. Suggested having citizens nominate various officers for exemplary conduct. Brown further noted the importance of not having everything be about punishment, officers must have a model to work towards.</p> <p>Wilson summed up the common themes that Board members were interested in; data analysis, understanding how RPD responds to common disciplinary situations, and how complaints are processed from beginning to end. Noted that common problems must be examined first.</p> <p>Harrison noted that the enemy of progress is perfection.</p> <p>Nickoloff agreed with Brown that a model officer must be held up for other officers to aspire to but added that such a concept will be hard to build as it is based on relational work first.</p> <p>Harrison suggested forming a committee and having logical next steps for them to discuss.</p> <p>Wilson responded that this issue is being tackled by this committee. To create another would be a “committee within a committee”. Noted that other themes identified were getting good data, knowing what works well, and collecting community input.</p> <p>Perez noted that when PACTAC was operating, they had a “Hall of Fame” for officers who worked well with the community. She has found that such accolades work with a lot of officers as they do not often hear when they are doing a good job.</p> <p>Malik agreed with Perez and added that in NYC citizens have an “atta boy” letter where citizens write letters to the Precinct commanding officer to commend officers for exemplary</p>		
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	<p>behavior. Noted in particular officers who are able to de-escalate situations when responding to mental health calls.</p> <p>Reynolds added that people contacting the PAB will likely think of it as a “complaints line”, but he would like to communicate that people can contact PAB when they see things that they like as well. Stated that he had a conversation with an officer today on that subject and it is re-assuring to officers to know that positive behavior will be recognized as well.</p> <p>Nickoloff agreed with Reynolds stating that it goes back to “balance” but that the bottom line is to hold police accountable for misconduct and to make sure that the Board is listening to the people most adversely affected and represent them.</p> <p>Wilson noted that to create the matrix that the Board must be representative of the community and a part of the community wants to see more than just punishment from the PAB and that she wants to make sure in doing community outreach that we look for those people as well.</p> <p>Tucker noted the time at 7:47 PM.</p> <p>Wilson stated that she wants to move forward with next steps and if Board members have any further ideas to please send them to Reynolds. Also stated she will put forth Harrison’s idea of establishing a committee to work on the overarching common themes of the matrix, but reminded all that this is the committee for that.</p> <p>Reynolds stated that the clear next steps for the staff will be getting data regarding complaints from the city and thinking about how to gather data from the community. Chief of Public Affairs Natalie Banks has discussed this previously. Other sources of data include surveys from police officers asking their thoughts on discipline. Biggest priority will be the hiring of data and policy staff to begin work on this project. A student team may be available to assist with this work in January. Other data points will be existing matrices and guidelines that the Board may refer to and consider as our matrix is created.</p>		
End of meeting	Chair Wilson moves to adjourn meeting. Nickoloff seconds the motion. Meeting adjourned.		7:50PM