

**Regular Board Meeting  
Police Accountability Board  
June 16, 2022 at 6:30 PM  
Conducted Over Zoom**

**Attendees**

Board Members: Knox, Harrison, Harvey, Setel, Nickoloff, Brown

Staff: Pacheco-Walker, Bascoe, Higgins

Guests: ASL Interpreter

Item	Details	Vote	Time
Start of Meeting	<u>Welcome &amp; Introductions:</u> Chair Knox called the meeting to order. Pacheco-Walker completed Roll Call.	N/A	6:37PM
Meeting Discussion	<p>Knox began with a statement of thanks for the previous Board Chair Shani Wilson. Knox emphasized how her persistence and hard work contributed to the success of the Police Accountability Board.</p> <p><u>Staff Report:</u></p> <p>Bascoe explained that everything was still on track for PAB to open its doors and begin taking complaints on June 20. Noted that it is a testament to the Staff, who thought of innovative ways to make the soft launch a possibility, particularly the Deputy Chief of Case Management Melody Harkness and the Case Management and Operations Teams.</p> <p>Bascoe explained that staff viewed a brief demonstration yesterday of the interim Case Management System (CMS), which will house complaints and provide notifications to himself and to the Chief of Policy and Oversight Michael Higgins until i-Sight is in place.</p> <p>Bascoe noted that he had met with the RPD Chief along with District Attorney Sandra Doorley, City Council President Miguel Meléndez and the City’s Corporation Counsel. Stated that Meléndez served as a Mediator for the group and that it was a very productive meeting which resulted in several promises and a contact person to ensure that RPD and PAB continue to move forward. One result of the meeting was an agreement for ride-alongs, Bascoe submitted waivers to the Board and Staff and is waiting for return of the completed forms so that ride-alongs can be scheduled. Bascoe stated that other agreements were reached regarding access to databases and trainings, though those items have not yet been received. Bascoe noted that PAB will be</p>	N/A	6:41PM

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	<p>opening its doors and continuing to communicate with RPD despite those missing items.</p> <p>With regard to Old Business, Bascoe explained that the Board must vote on the Rules for Investigations as soon as possible. Once approved a copy will be provided to RPD and their input on the Rules must be received within 30 days.</p> <p>Bascoe explained that Sr. Staff is moving forward with several internal HR policies including Separation Policies and Performance Evaluations. Further explained that Staff has done some work around a Work From Home policy, but that the City would be releasing its own, so that will not be sent to the Board yet for review as PAB will base its policy around the City's once released. Noted that other HR policies that have been created will be sent to the Board shortly for approval.</p> <p>Brown asked Bascoe if he could explain the purpose of the RPD Ride-Alongs to the public. Bascoe explained that the Ride-along program was established by RPD to engage the public and that PAB will be utilizing it for Staff members who wish to participate so that they can have a first-hand view of Officers' daily lives and make better evaluations in their work based on an understanding of how they operate in the field.</p> <p>With regard to Policy and Oversight, Chief of Policy and Oversight Michael Higgins explained that he was attending the meeting tonight to ensure that there are open lines of communication and an established procedure for the Board to direct the work of his Division.</p> <p>Knox asked that before he get into an explanation of the process if he could explain how the Public might engage the Policy and Oversight Division. Higgins replied that on June 20, when PAB begins accepting complaints and reports, PAB will also accept reports on 'big-picture' issues with police. When a member of the public makes a report that raises a question about policy or procedure, it would go to the Policy and Oversight Division. With the assistance of the Board, the Policy Division then decides if the response to the complaint should be a Proposal for Change or to launch an Oversight Investigation.</p> <p>Higgins shared a presentation entitled "How the Board Directs P&amp;O". Higgins began by explaining the two main roles of the Division: to create Proposals for Change, and to conduct Oversight</p>		
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	<p>Investigations. Noted that Proposals for Change begin with a draft created by Staff which is revised upon receipt of community input then put forth for a vote by the Board. Oversight investigations will require the Policy Division to create an investigation plan and to provide regular updates to the Board and the public. Once the investigation is completed, the Division will issue an investigation report that the Board would vote to approve.</p> <p>Higgins explained the varying sources of information that Policy and Oversight will rely on to formulate their work and that his Division will continually receive and compile information from those sources. As the Division receives information, the Board would direct and decide which investigations and proposals to undertake.</p> <p>Higgins reviewed the process for Proposals for Change and Oversight Investigations in detail. Noted that the process is also outlined in PAB's bylaws, but the question that remains is "how does it start?". Higgins explained that the process could start with an ask from the Board, but could also be launched if Staff sees areas where there could be improvements they can suggest that the Board open a Proposal or Investigation into it, or the Board might empower the Executive Director to launch the Proposal or Investigation and bring in the Board at the back end. Noted that the process for Oversight Investigations is similar; begins with an ask by the Board. Then the Staff drafts an Investigation Plan, the plan is published to social media and disseminated, the investigation is conducted and its conclusions are outlined in an Investigation Report that goes before the Board for review vote to approve the findings and close the investigation or to continue investigating.</p> <p>Higgins noted that one of the things that is not defined in the bylaws is how the Board will influence project selection. Noted that the bylaws state that the Board can 'ask' for a Proposal or Investigation to be launched, but that those functions could also be launched by means of regular consultation with the Division, or by empowering the Executive Director/Acting Manager to do so. Higgins also noted that the Division is required to provide regular updates to the Board on when it declines to open Investigations as well as every time one is opened.</p> <p>Higgins emphasized that the Board always has the final say in both Proposals for Change and Oversight Investigations. Noted that with regard to the Protest Policy analysis which was recently</p>		
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	<p>published, it is not a final proposal as the Division did not receive public input and it was not presented to the Board for a vote.</p> <p>In order to help the Policy and Oversight Division move forward, Higgins suggested that the Board formally ask the Division to develop a Proposal for Change concerning protests and mass gatherings and that the Board formally ask the Division to develop a Proposal for Change concerning the Executive Order 203 Plan (EO 203). Noted that he felt the process for the protest analysis conformed to the process described as the Division received information from the Board and Acting Manager at the time to complete that analysis.</p> <p>Knox asked if Higgins could explain the EO 203 Plan to the public. Higgins explained that a little over a year ago, a series of meetings were held to help re-imagine policing in Rochester. A committee of people, which included PAB representatives, created a list of over 100 recommendations. The analysis would discuss the progress made on enacting those recommendations.</p> <p>Lastly, Higgins asked if the Board could discuss and confirm a procedure around how they would like to make these formal asks with the Division as well as how often the Board would like to hear from Policy with updates.</p> <p>Setel stated that she is concerned with the initial process and believes that it is up to the Board to determine what Policy and Oversight looks into. Setel noted that she felt that the EO 203 process was deeply flawed and that it might not even be worth looking into. Further noted that she felt that the Board should raise that topic for discussion and it shouldn't be assumed that they would just be doing it. Setel explained that she would like to see a consideration of the Board's capacity and an understanding of how many investigations can be completed in a year. Suggested a process of determining potential topics, getting community input, then deferring to the Board to decide if and how it will be addressed. Noted that she felt the Board's role is to determine at the outset what is investigated, not simply approving at the back end.</p> <p>Knox asked if the Policy and Oversight Division had their own internal process or metric for prioritizing matters to look into. Higgins replied that there are a number of factors, but firstly the Division looks at the diversity of sources from which the information is received. They consider the gravity of the potential</p>		
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	<p>harm or benefit from conducting an investigation. Higgins explained that the initial process is that any member of the Division can propose to look into a matter by writing out a plan and giving it to him to decide whether or not he will propose it to the Board based on the previously outlined factors. Higgins suggested that the aforementioned could continue to be an internal process with the addition that the Division can hear from the Board on what matters they look into.</p> <p>Harrison noted that he enjoyed the presentation, and mentioned that the Operating Rules do not include any language about the Board and that it is different than how Higgins had presented.</p> <p>Higgins explained that the process that he had presented comes from the Board's Operating Rules and that Investigative Rules could be conformed to them.</p> <p>Knox noted that Harrison may be referring to a different document; the Rules for Investigation. Harrison explained that he was commenting on the document that the Board received that afternoon. Knox confirmed that would have been the Rules for Investigations and added that they might be slightly different. Harrison responded that they are very much different.</p> <p>Knox noted for the public that the Charter is different from the Rules for Investigation.</p> <p>Higgins noted in response to Harrison that he believes there is a way to make those two documents and processes live together as one. Explained that the Operating Rules laid out the procedure described in his presentation and that nothing in the Rules for Investigations can diminish the Board's powers. The Board retains the formal power to ask the Division to conduct Oversight Investigations and to develop Proposals for Change.</p> <p>Harrison explained that his point was that even the Executive Director is specifically named in that document as the decision maker and not the Board. Higgins agreed that the Rules for Investigations authorized the Executive Director and himself to open Oversight Investigations and to develop Proposals for Change. Higgins further explained that the Board could decide that it does not want the ED and Chief of Policy to have that power, but he recommends that the Board retain the dual path wherein the Board and the ED both have the power to make that decision. Higgins explained that the Board should retain the dual path due to</p>		
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	<p>time and resources. Noted that if something very bad happens and PAB wishes to respond quickly, the Executive Director is empowered to open an Oversight Investigation. The Board still retains the responsibility of overseeing the Executive Director and the Operating Rules give the Board independent power to reach out to the Division to open Oversight Investigations or develop Proposals. Higgins also noted that the volume of work must be considered, the Division will likely receive lots of calls to do different things and will need to respond to them. Higgins asked the Board if they wanted to field each of those calls and decide what the Division works on.</p> <p>Harrison noted that it is one of the 5 Pillars, but added that he is not pushing back on the proposal.</p> <p>Bascoe explained that the question remained as far as the authorizations to look into matters and clarified that the question only pertained to the Policy and Oversight Division. Noted that the Board always has the power to launch Oversight Investigations and Proposals for Change but that they may also delegate that responsibility with the caveat that the Executive Director will report back to the Board at the next Regular Meeting or Special session. Bascoe explained that that would allow the Board to have the ultimate authority to begin investigations or halt investigations that have already begun as information is presented. Noted that it would also allow the Policy Division to respond to any patterns that they observe, as there may not be a specific ask to look into a matter but a pattern of practice that suggests that they should.</p> <p>Setel stated that she has not heard any example which justifies the necessity of urgency. Added if anything like Daniel Prude happens again, the Board would be meeting immediately anyway. Setel explained that her concerns have to do with the Board's capacity and that the Board will only be able to handle a few policy investigations a year and that she wants to be sure that the Board sets its priorities together.</p> <p>Harvey asked for confirmation that the Board would be investigating a handful of matters at its discretion and not all matters that came in. Higgins confirmed that was only the case for the Policy and Oversight Division, it is not true for allegations that involve individual instances of misconduct. Higgins explained that Setel was correct and that the Division did want the Board to determine its priorities. Also added that the PAB's Key Performance Indicators (KPIs) suggest that the agency should</p>		
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	<p>complete 6 Oversight Investigations and 6 Policy Proposals per year, but he expects to exceed that despite being significantly understaffed in the Policy Division. Explained that the scope of the projects is another matter to consider, indicating that the analysis of the protest policies was about a 2-week project. Further explained that there may be other projects that range from months to years to complete and that as the Staff grows so will the capacity for work. Higgins stated that he is not opposed to the Board making all of the decisions on what to investigate, but if that is going to be the case, he recommends that at a minimum the Board hold more frequent meetings so that his Staff can respond to things changing on the ground. Added that not having a procedure slows him down a bit.</p> <p>Harvey asked if there was a suggestion about how to go about investigating certain cases like Daniel Prude and if political inclination was a factor. Higgins explained that Policy and Oversight would seek to ask questions about pieces of certain incidents. With regard to Daniel Prude the Division might analyze the situation for patterns related to the usage of spit-hoods and the training that Officers receive on them. In the event that someone is killed by the police, it would be the Investigations Division that investigates the situation and Policy and Oversight would not exercise discretion there.</p> <p>Nickoloff thanked Higgins for his presentation and the hard work of his Division. Nickoloff suggested the possibility of delaying the powers of the Executive Director to see how things take off, then consider granting discretion to the ED if it is needed. Added that he sees both the points of Higgins and Setel. Nickoloff noted that he is concerned given Council's emphasis on accountability and what the PAB has been through in the last 1.5 months. Further noted that the Board must have oversight over the ED despite whomever ends up in that position and that he hopes doing so will help to regain public trust. Suggested putting it off and re-visiting in 3-6 months. Nickoloff added that he hears the ask for direction and is glad that they are eager to get to work, and it sounds like the Board can handle some of that and see how things play out. Added that a Committee could be formed to help facilitate more direct dialogue.</p> <p>Higgins replied that how it is structured is up to the Board to determine and if that is how they wish to proceed the Staff is happy to do so. Added that he can reach out to PAB's Associate</p>		
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	<p>General Counsel A.J. Durwin to have the necessary language amended.</p> <p>Knox noted that one thing that jumps out to him is ‘what is the procedure for communication?’ and that the Board is removed from the Policy Divisions work, but it is something they are all very interested in. Asked if having a weekly report showing the figures on what has been received and suggestions on how to address would help.</p> <p>Higgins replied that he would be happy to prepare weekly reports for the Board.</p> <p>Setel stated that she is very concerned about the reactive way that the Board is going about this. Further stated that they already know what kinds of police interactions that they want and need to examine. Stated that the Board did not need to wait to hear recommendations as they already know the crucial topics they want to look into. Setel stated if the Board is being asked for 12 topics (6 Proposals and 6 Oversight Investigations) that she could easily come up with 3 of each on her own and is sure that the rest of the Board can come up with others without having to further meet and discuss it. Setel added that she does not know of any Board that meets every week and suggested that further discussion be had around a procedure and a vote held at the next regular meeting.</p> <p>Higgins agreed noting again that a procedure is needed as soon as possible so that the Division can begin the projects that the Board wants them doing.</p> <p>Harvey asked for clarification what PAB would be doing on June 20. Bascoe replied that PAB would begin accepting complaints on that day. Harvey asked when and how will the Public get the word that PAB is open June 20.</p> <p>Knox noted that he will discuss the opening in his Chairs’ Report but would like to close out this discussion first.</p> <p>Harrison noted for clarity that he is reviewing the Rules for Investigations that were sent around earlier today, in the paragraph under Policies and Procedures that says ‘closing an oversight investigation’ that it can be “close upon recommendation of the Chief of Policy and Oversight and the approval of the Executive Director.”</p>		
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	<p>Knox asked what page that is on. Bascoe replied it is page 35 or 40. Knox confirmed that it is page 35.</p> <p>Harrison went on to state that it read “PAB will provide notice of the investigation closure to the RPD Chief, the Mayor and City Council.” Harrison noted that nowhere in that paragraph is the Board mentioned and that is his point. He believes that this part of the document is askew from what Higgins described.</p> <p>Higgins replied that he believes that the documents do not actually conflict as the Board’s bylaws give the Board the power to issue the final investigatory report, but he does hear the point that the manual should be changed and that Staff can do that. Added that he believes it would be beneficial to the process if the Board approved it tonight with the caveat that amendments to it are being requested.</p> <p>Bascoe agreed noting that it can be approved with amendments to page 34, §2A-3 and page 35 which substitute the language referring to the Executive Director’s approval to the Board’s approval.</p> <p>Knox noted that the Board seems to be in agreement and that it can be added to the vote when it is discussed later in the agenda. Knox noted that he would like to have further discussions offline about the possibility of having a sub-committee to handle Policy recommendations so that the Board is quick in engaging with them. Noted that if there are topics that the Board already knows they wish to investigate he would like to identify them and get moving on the work.</p> <p>Nickoloff thanked Bascoe, Higgins, and the Board for this conversation noting that it was very productive and he appreciates discussion where they are able to figure out how to get the most work done.</p> <p><u>Chair Report:</u></p> <p>With regard to PAB opening, it is happening next week, June 20, the PAB will be open to take in complaints. Knox noted that he is excited as it has been something years in the making. Stated that PAB will be having a booth at the Juneteenth event at Manhattan Square Park on Saturday and for people to stop by if they are attending. Added that PAB will be attending other community</p>	N/A	7:37PM
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	<p>events as well. Knox emphasized that next week and going forward the priority must be on making sure that complaint intake goes smoothly. Knox noted that the process will not be perfect, but that the Staff has worked to address every foreseeable consideration in advance. Knox encouraged members of the public to reach out to PAB and added that if any members of the community would like PAB to attend their events they can contact the Public Affairs Division to put that request in. PAB is in the process of making sure that its materials are available in government buildings throughout the City, but the public can request materials to display in their businesses, churches or meeting places as well. Knox added that PAB has a much more powerful process than there has ever been before and encourages the public to take advantage of it.</p> <p>With regard to PAB's budget, Knox noted that there was a lot of concern about whether or not PAB would be fully funded going into the next year, but that PAB was fully funded by Council for the \$5 million promised. The Board and Staff worked very hard to answer the questions of and address the concerns of City Council in the budget hearings a few weeks ago and getting to that vote was due because of the work that was put in there. Knox stated that there will be further conversations with Council to ensure that PAB continues to meet its metrics throughout the year.</p> <p><u>Old Business:</u></p> <p>With regard to the Rules for Investigation, the Board must vote to approve. Knox noted that everyone should have a copy as it was sent out several times and again this morning. Knox asked if any Board Members had concerns about any other sections.</p> <p>Harrison stated that he noticed earlier in the document that Claimants were to be identified by a picture ID or Social Security Number (SSN). Harrison explained that he is not asking that it be changed, but that it be discussed as there will be many people who are unwilling to provide an SSN.</p> <p>Knox noted that he sees on page 10 §3D under 'formal and informal statements' it says that "PAB will attempt to identify anyone who provides a formal statement...in general this verification can be done by asking for a picture of a government issued photo identification card and/or SSN." Knox asked if that was the part that Harrison was referring to. Harrison confirmed. Knox asked Bascoe for his thoughts.</p>		
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	<p>Bascoe explained that the section is laying out different means by which a person could identify themselves for the purposes of a formal statement. Suggested that it could be amended to just any government issued ID, and added that if there are issues with regard to migrant or undocumented workers making a claim they have the ability to make an anonymous complaint.</p> <p>Knox asked what would happen if someone did not have a government issued ID or SSN but wanted to make a formal complaint (non-anonymous). Bascoe replied that he does not know a way around properly identifying someone. If someone comes in with no identifying documentation whatsoever, the only remaining possibility would be to rely on having them provide something like an electric bill that is in their name, however, that runs the risk of someone filing a complaint under someone else's name. That is why it is important if they are making a formal complaint with their name on it that they have some form of identification. Bascoe suggested broadening the language to include any acceptable form of government identification as it 'runs the gambit' from licenses to permits and school IDs.</p> <p>Nickoloff stated that he is thankful for the question as another group that could be adversely affected by this provision are the homeless. Suggested that there be some kind of resource list available for the intake Staff to have so that they can connect Complainants with agencies that can help get them the documentation they need. Bascoe responded that Staff is prepared to do that work, and while it is not explicitly outlined in any procedures, Staff has come up with a list of different agencies that can be suggested to Claimants. It is understood that PAB is only one facet or remedy of the legal realm that can be sought and we want to make sure that the public are utilizing everything at their disposal.</p> <p>Harvey agreed with Harrison on the SSN note and also agreed with Nickoloff that there should be some consideration for people who do not have ID. Harvey asked how we are assuring the public what the level of confidentiality is. Bascoe replied that confidentiality concerns were part of the delay in PAB opening its doors. Staff wanted to ensure that a system was in place that could house personal information in a secure manner. Bascoe explained that there is a secure interim system in place now where the data can be secure, once it is fully setup even the City's IT department won't have access. Access to that database is limited</p>		
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	<p>to PAB’s Deputy Chief of Case Management, Case Managers, Investigators, and himself. There is even more restricted access with regard to being able to change information once input.</p> <p>Knox noted that he had spoken to Case Managers previously about the resource list and how it is congruent with the ‘no wrong door’ theory, that even if we cannot help with a certain issue, we are able to refer the public to an agency that can. Knox asked if the list could be shared with the Board so that they can add resources that they know of. Bascoe replied that he would send the list to the Board tomorrow.</p> <p>With regard to the language in the Rules for Investigation around providing an SSN, Knox noted that because the language gives an option it does not need to be amended and that resources to obtain government issued ID would be provided to anyone who comes to PAB without it.</p> <p>Knox reviewed the language of Section 8, page 34 about changing the language to reflect approval from the Board rather than approval from the Executive Director.</p> <p>Harrison stated that he wished to make a general comment about that section; that it lacks the clarity and Board control that the investigations unit has. They both should have equal weight. For investigations, before a complaint can be pursued or dismissed, Board approval is needed. Noted that there is a lot of area for Board input that is not written into the procedures, but that the way that Higgins explained things is a lot better.</p> <p>Knox noted that it was a draft and could be changed. Harrison stated that he would be in favor of approving the document with the understanding that further revisions to it would be coming.</p> <p>Harvey noted that it is 8:00PM. Knox stated that the Board must have an understanding on the amendments then vote to approve the document so that it can be sent to RPD for their input.</p> <p>Motion by Harvey to approve the Rules for Investigation with the understanding that amendments must be completed. Second by Harrison. Knox stated that amendments to the document should be submitted by the next meeting. Board Members agreed. Motion carried unanimously.</p>	<p>6-0</p>	<p>8:00PM</p>
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	<p>With regard to Board training, Setel reminded Board Members that they have an in-person training at PAB headquarters scheduled for next Thursday at 6:30PM.</p> <p><u>New Business:</u></p> <p>Knox announced that at the first July meeting the Board will be holding elections for the Board Chair and Vice Chair. Explained that he was elected to complete the term of Shani Wilson pursuant to her resignation and that these elections had previously been scheduled.</p>		
<p>End of meeting</p>	<p>Member Harvey moved to adjourn meeting. All members in favor. Meeting adjourned.</p>	<p>6-0</p>	<p>8:04PM</p>

Recording Clerk: Marina Pacheco-Walker