

**Regular Board Meeting  
Police Accountability Board  
June 2, 2022 at 6:30 PM  
Conducted Over Zoom**

**Attendees**

Board Members: Wilson, Harrison, Brown, Harvey, Setel, Nickoloff, Knox (@6:43PM)  
Staff: Pacheco-Walker, Bascoe, Higgins  
Guests: Alanna Palardy – ASL Interpreter

Item	Details	Vote	Time
Start of Meeting	<u>Welcome &amp; Introductions:</u> Chair Wilson called the meeting to order. Pacheco-Walker completed Roll Call.	N/A	6:33PM
Meeting Discussion	<p><u>Staff Report:</u></p> <p>Acting Manager Duwaine Bascoe began with updates regarding the interim Case Management System (CMS). Explained that the system was up and running, and that adjustments were being made with regard to owner access. Owners are capable of changing functions in the database and will be limited to himself, Chief of Policy and Oversight Michael Higgins, and Deputy Chief of Case Management Melody Harkness. Based on the demonstration provided by IT the interim CMS is on track to be operational by the target date of June 20.</p> <p>With regard to Investigations, the Division started its Investigations training on Monday the 31<sup>st</sup> and will continue through next week and into the following week. Bascoe noted that there are some issues to discuss regarding Consultants and personnel matters, which will need to be discussed in Executive Session. Employees in training include the Division's 4 Staff Attorneys, 6 Investigators and 1 Forensic Technician. Bascoe explained that the Board would need to discuss the Rules for Investigations as upon examination it was found that the revised rules were not voted on. The Staff has been working diligently to revise Investigations Manual as well. Noted that he has a draft copy and once his edits are complete he will present to the Board for approval sometime early next week for approval at the next regular meeting.</p> <p>Bascoe stated that RPD Command Staff and City Council President Miguel Melendez were scheduled to meet on Monday. Further stated that the time of that meeting had changed, but it was still scheduled. Topics of that meeting will include database access, a process for the timely turn-over of information and materials, and access to crime scenes and command centers.</p>	N/A	6:34PM

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	<p>With regard to Public Affairs, Bascoe explained that the Division is planning on tabling at several events and is in need of funding to be allocated to pay for any vendor fees. Bascoe stated that with the current freeze on PAB spending that Staff would need to work with the Board to submit requisitions in order to pay for those events. Bascoe mentioned that he would provide the Board with a list of events that require a fee.</p> <p>Wilson asked if the funding needs exceeded \$10,000. Bascoe confirmed that it would not. Wilson replied that there should be no trouble in obtaining a requisition for it and asked him to reach out to the Board if he needed assistance.</p> <p>Wilson also asked if Bascoe could clarify for the Public what the Case Management System is in the interim. Bascoe explained that it will be the system that PAB uses while i-Sight is being setup. A system is needed to properly intake and securely store complaints so that no one outside of the Case Management and Investigative teams have access. Bascoe noted that he did not want to get too deep into detail about the system and encouraged Board Members to view the demo that he and the Sr. Staff received. Bascoe stated that all further updates should be discussed in Executive Session as they relate to personnel matters and contract matters.</p> <p>With regards to Policy and Oversight, Chief of Policy and Oversight Michael Higgins updated the Board that the Division intends to release new recommendations early next week around the Executive Order 203 Plan. Higgins explained that 2 members of the Investigations Division assisted his team with an analysis of the E.O. 203 Plan and gave their recommendations as well.</p> <p>With regard to the Disciplinary Matrix, the Policy Division received some comments and is working to get the matrix into a form that the Board can review.</p> <p>Higgins explained that a rule has is currently under legal review to help provide a direct and formalized procedure for Board Members to make policy related recommendations to the Division without things falling through the cracks.</p> <p>With regard to RPD's changes to its protest policy, Higgins explained that the report, issued May 26, is available on the PAB's website and has 35 recommendations, most of which are responsive to what RPD has stated they will do going forward. Higgins noted that the primary recommendation that they make is</p>		
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	<p>to release the policy in its entirety. Higgins was told by RPD that they have begun implementing their policy changes, but noted that he finds that hard to do if the policy in full is not written and disseminated. Once the full policy is released, the Policy Division will conduct a follow-up analysis. Higgins explained that the information that the Division currently has suggests that the announced policies may not be congruent with the language of the press release. Explained that some things described as ‘bans’ are possibly only banned in certain circumstances. Higgins noted that once the full policy is able to be analyzed that they would need to follow-up to see how it is applied. If there is effective training and appropriate discipline for failure to comply. Higgins stated that the Division made some recommendations that weren’t directly responsive, but instead outlined potential gaps. Explained that in a section of the report called “Planning, Communication and Proportionality”, those recommendations come largely from research. Higgins mentioned there are likely things missing, but can be areas of future inquiry.</p> <p>Setel asked if Higgins could tell the public where the report was posted. Higgins replied that the report was available on PAB’s website and was also posted to PAB’s twitter page.</p> <p>Harrison asked if the recommendations were published without being approved by the Board. Higgins answered that the report was sent to the Board for review in advance of publishing.</p> <p>Harrison noted that the Board should have a say in whether or not it agrees with the Division’s conclusions. Higgins agreed noting that a discussion about the communication structure is needed. Higgins added that the rule that his Division was working on may address that issue.</p> <p>Bascoe added that he and Sr. Staff reviewed the report prior to issuance and noted a difference between this type of report and issuing reports that are to be submitted to RPD for review, which triggers their time to responds. Further stated that if the Board wishes to review prior to submitting to RPD or publishing publicly that the Staff can facilitate.</p> <p>Knox noted that there are other Law Enforcement agencies that might be involved in response and asked if Higgins could speak to that. Higgins answered that that is a problem in the realm of police governance and noted that the PAB does not have jurisdiction over the Monroe County Sheriff’s and New York State Troopers and</p>		
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	<p>others. Higgins added that the report includes recommendations that RPD enter into formal written agreements with other Law Enforcement agencies and establish how they will operate in Rochester when responding to a mass gathering or protest.</p> <p>Higgins noted that due to RPD being short-staffed, the Sheriff's office has announced that its begun sharing staff with RPD along with increased patrols within the City. The same questions of who those officers are accountable to and what policies and procedures will they follow when operating in the City apply. Policy and Oversight is interested in looking into those matters further.</p> <p>Wilson noted for clarification that Higgins did submit the policy to the Board for review. It is up to the Board to determine a policy to review and approve. Wilson asked how the Policy Division conducted their research and reached their conclusions. Also noted that as a clinician she felt that RPD should be able to review the effects of chemical weapons on the public. Explained that there is preliminary data from 2020 about how chemical weapons affect women and female presenting people. Wilson stated if RPD is going to justify use of those types of weapons they should look into the medical impacts.</p> <p>Higgins explained that in conducting their review the first thing that the Division did was look at RPD's announcement, what was said and what was not, and compared it to their current policies and practices. The Division then reviewed other policy recommendations and the evidence available to support it, also reviewed what other agencies were doing. All recommendations are based in research or the absence of information. Higgins took the opportunity to thank the primary authors of the report, Sara Jenks and Will Cleveland who were able to produce the report under a compressed timeline.</p> <p>Higgins explained that with regard to the medical acknowledgements, the Division was not able to find good literature on the effects of chemical weapons, similarly a group known as Physicians for Human Rights had previously concluded that there is insufficient evidence of the effects of chemical weapons, particularly the long-term effects. Higgins stated that the consensus is because they do not know the effects and cannot confirm that they are safe, they should not be used. Noted other allegations that the chemicals that RPD deployed were expired and that mixing different kinds of chemical weapons may have adverse effects as well. Higgins noted that he does not have a full</p>		
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	<p>account of the types of weapons that were used. One of the recommendations of the report, aside from banning their usage, is for RPD to submit to an audit of what they have, what they use, and in what situations certain weapons are used in. Higgins stated that if Wilson had clear directions on where to look or other literature that may be helpful to please provide that guidance.</p> <p>Wilson recalls holding a discussion around the matter last year and noted that she had only found one previous article published by the U of R on the subject. Noted that more information is coming out and also made note that a lot of the weapons that were used have been banned by the World Health Organization (WHO) and the World War Organization.</p> <p>Harrison once again stressed the importance of Policy and Oversight in the PAB's mission and noted that reports should not just be submitted to the Board for review, but for approval as well.</p> <p>Brown thanked Bascoe and Higgins for their work and for presenting the information in a simple way and agreed with the statements of Harrison, noting that the procedure that they establish now will determine how the agency runs moving forward.</p> <p>Setel emphasized that the weapons being discussed have been banned in warfare, and that it is important to make that clear. Asked what it means that the City government would think it's okay to use those kinds of weapons on its citizens.</p> <p>Higgins added that the report does make that point, that those types of weapons are outlawed internationally, unfortunately there are no domestic bans in place to prevent use against citizens.</p> <p>Wilson thanked Higgins for his update and noted that the Board will be working with the Division to establish a protocol for reports moving forward.</p> <p>Bascoe explained that the Board was provided with a report on another matter in regards to a response to City Council relating to budget questions. Noted that he hopes that the Board can review. Also asked for the Board to approve publication of the Board's bylaws on the website as there have been requests for PAB to do so. Bascoe explained that he consulted with the Legal Division on the matter and it was determined that nothing would prevent them from making their bylaws available online.</p>		
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	<p>Wilson asked if a vote was needed for something like that.</p> <p>Harrison asked for clarification on the bylaws being discussed. Wilson explained that they are the bylaws that were passed when the Board first formed. Harrison stated that he agrees with those bylaws, but not the most recent operating rules as they had not yet been discussed or voted upon.</p> <p>Wilson asked if the Board wished to vote on the matter. No Board member moved for a vote. Wilson confirmed that Staff can go ahead and put the PAB Bylaws on the website.</p> <p><u>Committee Report:</u></p> <p>With regard to the Training Committee, Setel stated that the Board was resuming with their training on June 9<sup>th</sup> beginning with a session with PAB's Associate General Counsel A.J. Durwin to review the Charter that established PAB. Setel noted that there are new members on the Board so it is important to make sure everyone is starting from the same place. Setel explained that the Board will be working to familiarize itself with investigations procedures, RPD policies, and how they will analyze internal investigations reports and apply the Disciplinary Matrix. Setel stated that those topics will likely take them through the summer to complete, and then the Board will begin to review cases.</p> <p>Wilson noted that training dates and times were provided to Board Members via email.</p> <p><u>New Business:</u></p> <p>Bascoe explained that PAB had a meeting with the New York Attorney General's office to discuss their ongoing investigation into the 2020-2021 protests and certain violations that may have occurred. The AG's office wished to discuss future opportunities to work with PAB and have some kind of agreement in place regarding rules or policies that address the misconduct that took place at the protests. Bascoe shared that the AG's office wishes to conduct an audit on the use of weapons used on protestors and an audit on the impact of training and disciplinary actions. Also relayed their wish to use PAB as an intermediary to help review and oversee the turn-over of information. Noted that RPD will be faced with the threat of civil lawsuits should they fail to comply and turn-over information to the NYAG. Bascoe noted that it was a productive meeting and that they discussed possibilities of working</p>		
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	<p>together in the future. Bascoe and Higgins answered questions put forth by the AG's office about how PAB has not seen the necessary cooperation needed from RPD in turning information over. Bascoe attended the meeting with Higgins, Wilson and City Council President Miguel Melendez.</p> <p>Higgins added that the AG's office has the power to investigate Law Enforcement agencies by way of "pattern and practice investigations". Noted that it is similar to the work of the Policy Division. Explained that the AG is seeking to create lasting change in RPD and that PAB is an avenue for that change, so it is a natural partnership. Also noted that PAB can be a conduit for them to receive public input on their efforts.</p> <p>Bascoe added that it was very important and stressed by the AG Office that they work with PAB to seek out public opinion.</p> <p>Brown noted that she sat in on the meeting as well. The Attorney General herself was not present, but representatives of her office were. Explained that the AG's office is very interested in the state of Rochester and assisting PAB in its endeavors. They wish to hear from PAB as much as possible, especially what the community has to say, and how they can help us move forward.</p> <p>Know noted that he sat in on the meeting also. Felt that the AG's office supported PAB's mission and that they would be good partners to have in government as our duties are also helpful to their mission. They expressed the desire to be full partners with PAB.</p> <p>Wilson agreed also noting that the meeting was productive and that the Board should partner with them to ensure RPD's cooperation. Wilson asked Bascoe if there was a further update regarding investigations.</p> <p>Bascoe replied that he had touched on that when he mentioned their ongoing training. Note that one of the important issues still to be resolved are the ride-alongs with RPD. Bascoe explained that it is important for staff to see 'a day in the life' and hoped that those issues would be resolved at the Monday meeting.</p> <p>Harrison noted that Staff needs to present a "punch list" of things that are still outstanding and needed in order to open PAB's doors. Bascoe explained that it would be two different lists; the first list would be with respect to taking complaints and the second list is</p>		
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	<p>with respect to investigating them. Noted that the interim system should be in place and staff should be trained on it the following week, so there is no issue with taking in complaints on June 20.</p> <p>With regard to investigations; PAB still needs access to RPD databases and to outline a timely process for the turnover of information from RPD within 5 business days. Finally, a policy must be established that allows a PAB investigator to be present on-scene at officer involved crime scenes and at protests. Bascoe also noted that a schedule for conducting ride-alongs would be beneficial.</p> <p>Harrison responded that it seems like Bascoe had a handle on what needed to be done and asked if he could make a list for the Board to keep track of.</p> <p>Wilson stated that the Board already had the list, it was sent yesterday as part of the City Council submission on the budget as Council asked for the same lists. Wilson stated that she would like the checklists to be reviewed every meeting to ensure that things are moving.</p> <p>Harvey asked if Bascoe could explain what legal authority PAB has to move on once Staff begins receiving cases.</p> <p>Bascoe explained that under the Charter PAB has access to officer personnel files and Body Worn Camera (BWC) footage. Once those materials are reviewed, Staff will draft a recommendation for disciplinary action based on the Disciplinary Matrix and present it to the Board. The Board would then determine whether or not the complaint is substantiated and if discipline should be imposed. Due to the pending lawsuit, PAB does not currently have disciplinary powers, but at the point that it does, a civil hearing would ensue. As of right now, without disciplinary powers, PAB has the ability to review information and make recommendation to the Chief.</p> <p>Wilson asked if there were any other questions. Board Members had none. Wilson thanked Bascoe and Higgins for their reports and noted that the last matter of business is to enter into Executive Session.</p> <p>Wilson explained that the reason for the Executive Session was to discuss potential litigation.</p>		
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# MINUTES

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	Brown moved to enter into Executive Session. Second by Nickoloff. Motion carried unanimously.	7-0	7:29PM
End of meeting	Nickoloff moved to adjourn meeting. All members in favor. Meeting adjourned.	4-0	8:46PM

Recording Clerk: Marina Pacheco-Walker