

**Regular Board Meeting
Police Accountability Board
August 4, 2022 at 6:30 PM
Conducted Over Zoom**

Attendees

Board Members: Knox, Brown, Setel, Harrison, Nickoloff, Tucker (@ 7:04 PM)

Staff: Pacheco-Walker, Bascoe

Guests: Alanna Palardy & Melanie Anania – ASL Interpreters

Item	Details	Vote	Time
Start of Meeting	<u>Welcome & Introductions:</u> Chair Knox called the meeting to order, facilitated introductions.	N/A	6:34PM
Approval of Prior Minutes	<p><u>Minutes:</u> Member Knox moved to approve the minutes of 7/21/22 with one correction to spelling on page 2. Second by Member Brown. Motion passed unanimously with no corrections.</p> <p>Harrison noted that minutes are thorough and asked if they could be considered transcripts of the meeting. Knox noted they were not. Pacheco-Walker explained that Minutes were meant to reflect abbreviated conversation but did not constitute a transcript.</p>	6-0	6:38PM
Meeting Discussion	<p><u>Staff Report:</u> Acting Manager Duwaine Bascoe explained that PAB had produced its Monthly Report which breaks down cases taken in from June 20 through July 31. Report was sent to the Board and published to the media. Shows 130 complaints taken in; 19 under review, 3 sent to the Policy and Oversight Division, 43 are open and under review, 63 pending closure for board review. The cases pending closure include those that are non-investigable due to lack of information, and those that must be closed and referred to another agency. Board will be updated with the most current numbers on Monday.</p> <p>Bascoe noted a July 27th meeting with RPD where outstanding items were discussed (i.e. information access, fulfillment of submitted information requests). None of the requests for information submitted to RPD by PAB have been fulfilled yet. Lieutenant Ince noted that he will look into the delays in getting that information. Pursuant to RPD's requests for identifying information in order to fulfill PAB's information request, Bascoe explained that PAB's Rules for Investigations state that the Reporter must be provided with an opportunity to sign a waiver allowing PAB to make that information available. The information will not be provided to RPD without a signed waiver. Waivers and letters have been drafted and are waiting final approval before</p>	N/A	6:39PM

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	<p>going out. Bascoe noted that there are some cases where identifying information is not needed and the requested information has yet to be provided and asked that RPD provide information pertaining to those matters on a rolling basis. Those requests have not been fulfilled either.</p> <p>Setel asked if that meant that PAB had not received any of RPD's cases. Bascoe noted that PAB had not received any PSS cases from RPD not had they received any information as requested.</p> <p>Knox asked to know approximately when the oldest request was submitted and when the newest request was submitted. Bascoe replied that the first request was submitted on the 19th, and at the meeting on the 27th it was submitted again with the request that PAB be sent information on a rolling basis. Again in the meeting today PAB made the request again. No information has been provided.</p> <p>Setel clarified for viewers that the Charter requires RPD's Professional Standards Section (PSS) to send PAB complaints that they receive and they have not done so despite saying that they were eager to.</p> <p>Bascoe stated that leadership is also still waiting to receive training materials that were identified in a June 6 meeting. Materials were requested again in a July 15 meeting. Bascoe requested that RPD notify PAB of any new training and schedules for RPD officers, discussed information access, and requested that RPD review and comment PAB's Rules for Investigation at a July 27 meeting. Those items have not yet been provided/completed.</p> <p>Harrison asked Bascoe if he could present the consolidated data as a flow chart. Bascoe replied that he did recall and noted that PAB's Monthly Report was just published and shows the distribution of complaints.</p> <p>Harrison noted that the Monthly report does not show the different stages. Setel replied that Public Affairs was working on a report which would show that in a flow chart form.</p> <p>Harrison stated that he had also asked about keyword analysis and backlinks at the last meeting. Knox suggested that he follow up with the Chief of Public Affairs for the information.</p>		
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	<p>Harrison noted that he was concerned about the anonymity of Reporters and the possibility of RPD figuring out the identity of the Reporter based on the information that they have provided.</p> <p>Bascoe responded that that was not necessarily true as a report can come from a 3rd party.</p> <p>Harrison asked if there is a way to guarantee that the Reporter will not be identified.</p> <p>Bascoe noted that there is a distinction between the identity of the Reporter and the identity of the affected person(s). In order for PAB to reveal the identity of a Reporter to RPD, the Reporter must sign a waiver. If they do not sign it their identity is not made known. With regard to the person who is the subject of the report, their identity may be revealed in certain circumstances because they may be the subject of an arrest and PAB is requesting arrest records.</p> <p>Harrison reiterated his concern that if an incident happens at a specific place, where few incidents occur. If the location is reported it could be very easy for RPD to know who was involved.</p> <p>Bascoe replied that that was not necessarily true because the Reporter has the option to remain anonymous on the intake form. The identity of the affected person (if known) and the location of the incident are placed on that form.</p> <p>Bascoe noted that in the July 27th meeting he and City leadership had discussed the hiring freeze and what can be done to lift it. Described the conversation as ongoing.</p> <p>Knox noted that he and Brown also attended the meeting and relayed Staff and Board Member concerns about vacant positions and particularly the need for building security.</p> <p>Bascoe stated that today he, Associate General Counsel Anthony Durwin, and Deputy Chief of Investigations De'Jon Hall met with the New York Civilian Complaint Review Board (CCRB) to review the training regimen for their investigations unit. Noted that he is looking for ways to supplement PAB's investigator training.</p> <p>Bascoe asked for an Executive Session in order to discuss potential litigation. Knox confirmed and stated that the Executive Session could be held at the end.</p>		
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	<p>With regard to the closure and clearance of cases, Knox asked if it would be more appropriate to discuss and address cases in the 'New Business' portion of the agenda or in another section. Asked where they should be placed on the agenda in the future.</p> <p>Bascoe replied that it is important to have the proper procedure when closing cases. Briefly explained the reasons why a matter may be determined as 'non-investigable' and must be closed. Stated that it would be proper to send them to the Board for review and then review them in New Business. They can be batched based upon report numbers and closed by batch so that the Board does not have to go through each individual case.</p> <p>Knox asked if there would be an opportunity to address questions prior to the vote. Bascoe confirmed that there could be but it would have to take place in Executive Session.</p> <p>Harrison asked how the Staff will get case materials to the Board in a secure way. Bascoe answered that the Staff can give Board Members a secure, limited access view only link to the materials in PAB's SharePoint. Noted that is the most secure way.</p> <p>Brown asked if Bascoe could share a few instances where a case is deemed non-investigable. Bascoe gave the example of one matter that came in that revolved around a civil eviction. A Complaint was made with regards to a Monroe County Sheriff. As the matter did not involve a member of the RPD, the matter is outside of PAB's jurisdiction and therefore non-investigable.</p> <p>Knox asked if PAB was able to refer that case to the appropriate agency. Bascoe replied that that particular matter had not been referred yet.</p> <p><u>Chair Report:</u> Knox explained that the main item in his Chair's report was the meeting that Board Members held with City Council President Miguel Meléndez and PAB's Council Liaison Kim Smith. At their meeting they discussed the vacant Board seats and got assurances from the Council members that the votes needed to appoint a new PAB Board member were there. Knox hopes that they will discuss PAB at the upcoming caucus scheduled for Monday. Reiterated the importance of the Board being fully staffed in order to be fully operational.</p>	N/A	7:04PM
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	<p>Setel stated that it might be helpful for the Board to know what has caused the delay. If there are Council members who do not wish to appoint another member, they should speak directly with the PAB's Board members.</p> <p>Knox replied that those sentiments have been expressed and that he has received different explanations. Noted that there will be further discussion of the matter in the caucus on Monday. Bascoe added that the Board members would have the opportunity to ask those questions in the meeting scheduled on the 9th to review bi-monthly KPI's.</p> <p>Tucker asked if there is anything the Board Members can be doing to help fill the vacant Board seats. Knox replied that it is up to the PABA to make the recommendations to Council, and it has. Knox attended the PABA's meeting last night and the Alliance has been talking to potential candidates about the 2nd vacant seat but are also frustrated by the process. Stated that if anyone knows someone who might be a good candidate to put forth a recommendation.</p> <p>Brown added that she also attended the Alliance meeting and that members were enthusiastic about the possibility of having a new PAB Board member but frustrated that the process has taken so long. They are not letting the delays stop their work and want people to stay encouraged.</p> <p><u>Committee Report:</u> With regard to the Training Committee, Setel stated that the Board had a training on the Disciplinary Matrix last week. It is still a draft and feedback will be needed before it can be finalized. On August 11th the Board will be having training with SMK on evaluating investigative reports. Trainings will be scheduled for the weeks where there are no Board meetings until the required trainings have been completed.</p> <p>Knox noted that the training plays into the importance of having vacant seats filled. The longer that it takes the more behind the new Board member will be on training and the more they will have to catch up on the work.</p> <p>Setel asked for an update on the status of the RPD ride-alongs. Bascoe answered that the RPD has cancelled their ride-alongs indefinitely due to the Officer killing that occurred on July 22. PAB will be notified when the ride-alongs have been reinstated.</p>	<p>N/A</p>	<p>7:12PM</p>
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	<p>Tucker asked if there will be an option to attend the trainings via ZOOM. Setel replied that at the moment they are conducting trainings through ZOOM exclusively, but that she will check with SMK to see if they have any in-person trainings planned.</p> <p>Tucker asked if there will be training materials provided. Setel replied that she had asked and the Board should be receiving them. Asked Pacheco-Walker to talk about the Board Orientation binder she created. Pacheco-Walker explained that she had created a binder with documents that Board Members should be reading as they come onto the Board. A copy of the binder was emailed to all Board members and hard copies are available for pickup at PAB headquarters.</p> <p>Knox noted that if any Board Members needs items printed they may contact Ms. Pacheco-Walker to make the request.</p> <p>Harrison stated that according to his understanding of the law, the Board must develop the Disciplinary Matrix and explained that he felt the matrix had been developed by Michael Higgins and the Policy and Oversight Division. Noted that the Board members were asked not to edit the document and were told that they did not need to read it. Harrison stated that he did not like that process and felt it was the wrong way to go about developing the matrix. Harrison also noted concerns that the Matrix was too closely a reflection of RPD's disciplinary procedure outline with some new features added. Harrison noted Setel's persistent concern that suspensions were paid for, and that it was clarified a little bit. Harrison also stated that it seems improper to write the Disciplinary Matrix based on what the Police Union will and will not allow and that PAB should write it's documents based on what is right and then defend it.</p> <p>In response to Harrison, Setel stated that she thought the reason why the Board was asked not to edit the matrix is because it is still a draft. Noted that there was a lack of creativity when it came to the consequences for misconduct. Setel added that she appreciated the work of the Staff as they put in a lot of time looking at different matrices and documents. Setel noted that her frustration has to do with the fact that matrices are fairly consistent, but PAB has some opportunities to do something different and they would like to see that happen.</p> <p>Nickoloff noted that he felt that Higgins was open to suggestions, and added that PAB must hold a dialogue and work with the Union</p>		
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	<p>on the Matrix. Noted that reflecting union standards is not necessarily bad and can save time on debating certain matters. Thanked the Policy and Oversight Staff for their work on the matrix.</p> <p>Brown also commended the Staff for their work and encouraged Board Members to send their input on the Matrix to Higgins. Stated she did not recall anyone telling her not to read the Matrix, that she had read it when it was sent to the Board, and that the training clarified some things for her and was beneficial.</p> <p>With regards to Brown’s statements, Nickoloff added that if there are things that the Board would like to see in the Matrix they must reach out. Noted that they cannot just make the asks during the meetings and not reach out. State that it was unfair to put Staff on the spot or point fingers.</p> <p>Knox noted that he believes that PAB will have to go with what is in the current union contract and attempt to work out changes at another time. Knox also noted that the Board had recently established its Policy Committee and appointed Harrison as Committee Chair. Stated that Brown and Nickoloff had expressed interest in serving on that Committee but he has not yet appointed them. Hopes to begin having Policy discussions amongst that Committee and encouraged the Public to submit their ideas for Policy investigations.</p> <p><u>Old Business:</u> With regard to RPD information access, a ZOOM meeting was had between PAB Board Members, Staff, RPD, and members of Council and the Law Department. Knox noted that the meeting was productive and non-confrontational despite disagreements. Stated that the groups work together well most of the time but there is considerable frustration when it is obvious that there is not agreement amongst the Administration. Knox noted that PAB still does not have the direct access needed but work-arounds are being tried.</p> <p>Nickoloff noted how tiring it is to continue talking about and fighting to address the same issues over and over. Encouraged the public to call their representatives and the Mayor. Stated that Board Members go to these meetings and they are told that people don’t want to follow the law. Even with the legal power of the Charter, the community is being disregarded and it is completely unacceptable. Nickoloff concluded that if there are good reasons for the delays then they should be shared.</p>	N/A	7:28PM
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	<p>Harrison pointed out that nothing has changed in 3 years. Lamented that the Board did not confront the problem when it first came up.</p> <p>Knox stated that he felt it strengthened PAB's case to have access now that the agency is open and doing work. Added that the delays are close to slowing down the work, but it is still being continued.</p> <p><u>New Business:</u> With regard to potential litigation, Knox explained that an explanation for the reason of the session would be provided but the details of that matter will be discussed in Executive Session.</p> <p>On behalf of the Board, Knox passed on his condolences to RPD and the Locust Club for the death of Officer Mazurkiewicz. Noted that any death in the community, citizen or officer, is a tragedy and that formal condolences were passed onto the agencies by the Board.</p> <p>Bascoe explained that an Executive Session is warranted for the discussion of potential litigation, especially when public discussion about said litigation could be detrimental to the parties involved. Bascoe recommended that the Board go into Executive Session to discuss the potential litigation and actions that PAB would like to undertake.</p>	N/A	7:34PM
Executive Session	Motion by Setel to enter into Executive Session. Second by Nickoloff. Motion carried unanimously.	6-0	7:36PM
End of meeting	Member Brown moved to adjourn meeting. All members in favor. Meeting adjourned.	6-0	8:30PM

Recording Clerk: Marina Pacheco-Walker