



**Joint Committee on Police Oversight Meeting Agenda - Monday, September 25, 2023,
7:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM**

When: Sep 25, 2023 07:00 PM Eastern Time (US and Canada)
Topic: Joint Committee on Police Oversight Meeting

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1. Agenda

Subject

1.1. Motion to amend/adopt agenda

Meeting

September 25, 2023 - Joint Committee on Police Oversight Meeting Agenda - Monday, September 25, 2023, 7:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM

Category

1. Agenda

Department

Type

Recommended Action

2. Adopt Draft Minutes

Subject	2.1. Adopt Draft Minutes
Meeting	September 25, 2023 - Joint Committee on Police Oversight Meeting Agenda - Monday, September 25, 2023, 7:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	2. Adopt Draft Minutes
Department	Council and Board
Type	
Recommended Action	

3. Public Forum

Subject	3.1. Verbal Comments
Meeting	September 25, 2023 - Joint Committee on Police Oversight Meeting Agenda - Monday, September 25, 2023, 7:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	3. Public Forum
Department	Council and Board
Type	

4. Councilor Discussion and Review of Vital Questions

Subject	4.1. Councilor Discussion and Review of Vital Questions
Meeting	September 25, 2023 - Joint Committee on Police Oversight Meeting Agenda - Monday, September 25, 2023, 7:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	4. Councilor Discussion and Review of Vital Questions
Department	Council and Board
Type	
Recommended Action	

5. Adjournment

Subject	5.1. Motion to adjourn
Meeting	September 25, 2023 - Joint Committee on Police Oversight Meeting Agenda - Monday, September 25, 2023, 7:00 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	5. Adjournment
Department	Council and Board
Type	
Recommended Action	

ORDINANCE and CHARTER CHANGE JOINT COMMITTEE

Thursday, September 7, 2023

Bushor Conference Room and Remote via Zoom

DRAFT MINUTES

Members Present: Councilor Traverse (Ordinance Committee Chair), Gene Bergman (Charter Change Committee Chair), Councilor Carpenter, Councilor Hightower

Staff Present: Kim Sturtevant (Acting City Attorney), Jon Murad (Chief of Police), Jordan Redell (Mayor's Chief of Staff), Shannon Trammell (BPD)

Others in Attendance: Jake Schumann, Mike Hoey, Scot Sweeney, Tyler Boronski

Meeting called to order at 5:35 PM.

1.0 Agenda

Motion to adopt/amend agenda

Motion to Adopt Agenda with the agenda item 'Adjournment' moved to the end of the agenda.

Motion by Councilor Hightower, Seconded by Councilor Carpenter

Final Resolution: Motion Passes

Yes: Unanimous

2.0 Adopt the Draft Minutes from August 2 and 3.

Motion to Adopt Minutes as is.

Motion by Councilor Bergman, Seconded by Councilor Carpenter

Final Resolution: Motion Passes

Yes: Unanimous

3.0 Public Forum

No members of the public wished to speak for this agenda item.

4.0 Discussion of Proposed Pathways from Councilors

Councilor Bergman wants to have an independent body for higher-level disciplinary incidents. He also wants to do any charter changes first and to have them ready by the end of the calendar year. The language for this independent body would be similar to the Mayor's memo from December of 2020 and this body should have a budget for staffing.

Councilor Carpenter believes there should not be two separate bodies. There should be staff budgeting to alleviate the time strain that the Commission is already dealing with. City Council could restructure the Police Commission if there is a need to improve their independence, but it is already a citizen Commission.

Councilor Traverse raised several legal questions for research. What are the concerns around the Police collective bargaining agreement when it comes to auditing or oversight?

Jordan Redell (Mayor's Chief of Staff) stated that the current system allows the Commission to review body worn camera footage for incidents so long as there is a reason. The Commission cannot randomly audit footage without a reason.

Chief Murad added that all incident reports are noted in the monthly report given to the Commission and they may pick incidents to review fully. Six months ago, the Commission asked to see all incident reports and the BPOA did not want that to be the practice.

Councilor Traverse raised another legal question: If an oversight body were allowed to categorize the severity of incidents, what are the potential issues with the current collective bargaining agreement? If the body changed its mind on the level of an incident and wanted to change its categorization, are there any issues with that? If the Police Commission hears disciplinary appeals, should the collective bargaining agreement allow officers to appeal to arbitration, beyond the Commission?

The Committee decided on the following dates for next meetings:

9/25 at 7:00PM

10/3 at 7:00PM

10/28 at 7:00PM

11/1 at 5:30PM

5.0 Adjournment

Motion to adjourn.

Motion by Councilor Traverse, without objection.

Yes: Unanimous

The meeting was adjourned at 6:41 PM.

A. Investigative/Review Function

1. [DD40](#), Section 1, Subsections B, C, D, F, and G describes the process by how allegations of violations of Department Rules or Regulations are initiated from within or outside of the Department.

Does the Committee wish to make any changes to how internal or community complaints are initiated?

2. [DD40](#), Section 1, Subsections A and E vests the authority to investigate all internal and community complaints regarding Department personnel with the Chief who determines whether an investigation is necessary or not. The [2021 Mayoral Executive Directive](#), requires that all use of force incidents that result in injury be reported to the Police Commission after investigation, but only after the Chief confers with the Mayor and receives the Mayor's approval with any recommendation from the Chief.

The overarching question is: Does the Committee wish to make any changes to this authority and process?

The following specific questions are raised by this broader question:

Should internal complaints be treated differently than community complaints?

Should conduct other than just use of force incidents that result in injury be reported to an oversight body (e.g., dishonesty, discrimination, harassment, criminal conduct, or other serious misconduct)?

Should reports to an oversight body only be reported after the Mayor has reviewed the Chief's recommendation?

Should an oversight body have a role in deciding who investigates internal or community complaints?

Are there distinctions based on the severity of the allegation ("categorization") that would change who is the investigator and decisionmaker on the disposition of the complaint?

Article XV of the [BPOA collective bargaining agreement](#) defines the continuum of lower-, mid-, and higher-level infractions. Should there be a modified process for categorizing complaints (e.g., should the process be authorized by charter?, etc.) and, if so, how does that intersect with collective bargaining rights?

Who decides on the categorization of the allegation?

Is the categorization reviewable?

3. If the Committee believes an oversight body should have a role in deciding who investigates internal or community complaints, who other than the Chief and their designee should conduct the investigation?

The following options are raised by this question: the oversight body itself, an independent investigator selected by the oversight body for a particular investigation, an independent monitor selected by the oversight body to conduct all investigations, etc..

4. For an explanation of the current investigatory framework, see [DD40](#), Section 3.

The broader question is: Should the current investigatory framework be changed?

More specific questions are:

Should this framework apply equally to all complaints?

What authority should an oversight body other than the Department have in the course of their investigation (e.g., right to review documents, subpoena testimony, review any Department investigation, make recommendations, etc.)?

5. If the Committee believes the Chief should retain some or all authority to investigate internal or community complaints, what role should the oversight body have during that investigation process?

More specific questions that arise from this broader question are:

Must the Department inform an oversight body upon the filing of a complaint and, if so, when must this notification take place?

Is the Department required to provide regular updates during the investigation?

Must the Department report back to an oversight body at the conclusion of all investigations?

Must the Chief's recommendation be approved by anyone—the Mayor, the Commission, an oversight body—prior to the decision being finalized?

6. [DD40](#), Section 2, outlines rights and obligations of employees during an investigation process, cross-referencing due process considerations in the [BPOA collective bargaining agreement](#).

Does the Committee wish to explore any changes to these due process considerations and, if the Committee supports different processes to investigate complaints, should the same due process considerations apply to each process?

7. If the Chief retains some or all authority (and responsibility) to investigate internal or community complaints, what occurs after the Chief issues their conclusions on how a complaint should be disposed?

Does an oversight body have any role if the Chief retains the authority and responsibility to conduct the investigation and make recommendations on the disposition of the complaint (e.g., review the investigation and make recommendations, etc.)?

If an oversight body makes recommendations on the disposition of the complaint and the recommendation is not followed, does the decider have to explain why the recommendation was not followed?

8. If an oversight body obtains authority to investigate internal or community complaints, what is the process going forward after it reaches its conclusions on how the complaint should be disposed (e.g., what rights do parties (accused, complainant, Department have upon receipt of the conclusions of the investigation)?

Should the complainant have any rights to appeal if they disagree with the final disposition?

What due process protections should be incorporated?

Should there be any changes to the requirements of the [BPOA collective bargaining agreement](#)?

Should anybody else (e.g., other community members) who is aggrieved by a decision have the right to appeal or to raise objections?

9. If an oversight body has authority to review an investigation of an internal or community complaint and a recommendation is made, what is the process going forward?

Should the complainant have any rights to appeal if they disagree with the recommendation?

What due process protections should be incorporated?

Should there be any changes to the requirements of the [BPOA collective bargaining agreement](#)?

Should anybody else (e.g., other community members) who is aggrieved by a decision have the right to appeal or to raise objections?

10. Should there be a process by which disagreements over the recommended action are resolved and by what authority is the process codified (e.g., charter change by which entity other than the Chief is resolving disputes)? What changes if a complaint is about the Chief?

B. Auditing.

1. What role, if any, should the oversight body have as an auditor. Sub-issues to consider:

What is the scope of matters subject to auditing (public safety trends, reviewing and creating new policies, adherence to policies and procedures, internal investigatory processes, analysis of aggregate data on discipline and other police practices).

What events should trigger an audit, e.g., periodic reviews or other events.

What is the scope of investigative authority as auditor, access to data, analytics, policies, procedures, and reports.

What degree of community involvement should an audit involve, including recommendations and feedback?

2. Deconflicting procedures regarding auditing/monitoring function: What procedures should be in place to make sure oversight body's operations work harmoniously with ongoing internal affairs investigations, criminal investigations, prosecutions, etc.
3. Transparency for public accountability and need for confidentiality in certain circumstances. When should data or other information be kept confidential, for how long, and under what circumstances.

C. Composition, selection, and resources.

What should be the oversight body's composition, selection and resources (e.g., staffing).

Gene Bergman's preferred pathways

A Charter Change on Discipline/Investigation, including the authorization for the adoption of ordinances to effectuate them.

1. *Powers*

A. For high level Infractions

1. The creation of a new independent community body (different from the commission) to decide cases involving higher level infraction, as those are defined in the BPOA contract and as designated and referred by the commission (see B1a below), and to impose discipline
2. The body is appointed by the city council after soliciting input from the range of community organizations interested in public safety, criminal justice, equity, etc.. The body should also represent the diversity of the City's population, particularly those populations that have been most marginalized
3. There is a budget for an independent counsel and other needed staff and compensation on par with other community commissions and boards
4. Cases are investigated and discipline is proposed by the BPD Chief or their designees
5. The current due process system is maintained
6. The obligation to report dispositions to the commission as part of its monitoring and auditing responsibility

B. For middle and low level infractions

1. The codification of the current system in which the Police Commission is involved in the community complaint process, with changes. See Resolution of 10/18/21 (p 5 line 67-87); Seguíno 5/30/23 memo.
 - a. The right to review all complaints of police abuse and designate the level of seriousness. This includes use of force incidents. The right to create policy to detail this right. Resolution of 10/18/21, p 5 line 67-68; Seguíno memo p 2,3)
 - b. The right to request an investigation into an incident and receive a report from chief, review incidents, receive unfettered access to information, conduct an independent investigation using its own hired investigator, give input and make recommendations, require chief to publish their objections and reasons if the PC recommendation is not followed, The right to create policy to detail this right. (10/18/21 Res lines 69-87; Seguíno memo page 2)
 - c. The right to publish anonymized complaint reports and create policy to detail this right. (Seguíno memo page 2)
 - d. The creation of the process whereby a subcommittee would be involved in the complaint review and recommendation process and a separate subcommittee would act as a grievance body pursuant to current charter. (PC memo of 4/22/22 page 12 lines 428-429)
 - e. A budget for an independent counsel and other needed staff and compensation on par with other community commissions and boards
2. The express authorization for the city council to adopt ordinances effectuating the above powers and then the drafting of ordinances to put this into effect.

Audit/Monitoring

A Charter Change on Audit/Monitoring, including the authorization for the adoption of ordinances to effectuate them, that codifies in charter the role of the PC to review all community complaints and engage in the auditing and monitoring of the department.

The rights of the PC to be authorized by charter include the right to monitor and audit the department and all its personnel, the right to an independent monitor, the right to unfettered access to data and analysis, the right to adopt directives and policies and make recommendations on practices, the right to other resources such as legal and other staff, the right to report and discuss monitoring and auditing conclusions in public

The following is needed in ordinance to put this power into effect:

1. The creation of an independent monitor position along the lines proposed in the memo by then-PC co-chair Seguino on May 30, 2023 and supported by the commission at its August meeting
2. The codification of the role of the REIB office to access, analyze, and report to the PC and CC on data related to use of force and other interactions that implicate equity issues including mental health, drug and alcohol, homelessness, etc. as well as equity issues involving safety perceptions, response times, and disparities related to geographic communities (this comes out of discussions I and Councilor Melo had with Dir. Carson--she was supportive of and helped craft it; Seguino memo p 4 is not directly on this point but supportive of)
3. Codify the right of the PC to unfettered access to data, investigations, use of force reports and other information needed to allow the PC to carry out its auditing and monitoring mandate.
4. Codify the PC process for adopting directives & other policies. (See PC 4/22/22 memo pages 4-5; Seguino memo p 3)
5. Codify and resource the PC's oversight of training. (Seguino memo page 3)
6. Codify the right to discuss anonymized complaints in public as part of the monitoring and auditing process (Seguino memo p 2).
7. Codify the obligation for post-incident reviews and analyses to be submitted to the PC (Seguino memo p. 2-3)
8. Codify the right to monitor and audit investigations of complaints
9. Codify the right to audit the department and make recommendations (Seguino memo p 4) on department policies and practices, such as de-escalation practices and racial disparities in policing.
10. Codify the right to monitor and audit the non-sworn staff of the PD (Seguino memo p 4).

Sarah Carpenter and Zoraya Hightower – thoughts on Police Oversight

One body

- Expand the body to 9 and tighten up nomination?
 - can we have criteria?
 - disclose relationship to police, if applicable
 - Two people per district if it's 9? One per district if its 7?
- Can we set up formal sub-committees?
 - Disciplinary
 - Directives
 - One more? What makes sense?

Staff Support

- Assume at least 50% of the time to police commission alone.
- Mandate not reporting to police chief or fire chief.
- Other options for where they sit (don't have to formalize, but recommend to mayor?)
 - Legal department: more of a paralegal admin person to support research, etc.
 - Public Safety Department: CARES, staff police commission and fire board, and public safety commission, houselessness, addiction
 - Human Resources: more complaint process specific person for both BPD and across the city.

Discipline

- All complaints, use-of-force incidences should be accessible to an oversight body a week before the next meeting of that body or within 1 week, whichever is later. Individual-staff level outcomes data disaggregated by race and disability should be sent to the oversight body annually. The oversight body as a committee or as a sub-committee will review and categorize all complaints and use-of-force by type of complaint (language, use-of-force, etc.) and by severity (low, medium, high as defined in the BPOA contract) as well as the level of discrimination found in outcomes data.
- All complaints will receive an update on each milestone of the process as well as the overall outcome of their complaints. Either the chief or the committee can refer the matter to the CJC for restorative justice.
 - Example: 1) the police chief and sub-committee have until X date to come to a decision 2) they have come to a decision and agreed on the severity and discipline, and this has been issued OR 3) they have come to a decision and disagreed on the severity and discipline, this is now being sent to the HR Director
- (FOR NOW, future process in Charter Change Below) The Chief will issue discipline or launch an investigation after this recommendation has been made. The Chief will inform the Body on any deviations in actions from their recommendation. The Body may also launch a parallel investigation by decision of a simple majority.

- Annually, the committee will release a report with high-level data of both the categorization of complaints by type and complaint by severity as well as use-of-force by type and use-of-force in severity and detail how often their recommendation and that of the chief deviated.

Appeals

- Go to HR committee (like the rest of city staff)

Charter Change

1. **Discipline.** For complaints that are labeled as serious or high or use-of-force with an injury, or for data indicating bias for more than one year for any staff member, the body will make a recommendation – be that investigatory or disciplinary. The body may also choose to develop a recommendation around any complaint or use-of-force or data-based outcomes that they believe requires further action - be that investigatory or disciplinary.

In parallel, the Chief will categorize and make a recommendation of discipline or investigations. If the categorizations or the two recommendations cannot be reconciled – the matter goes to the HR Director. If they can be reconciled, the categories are recorded, and recommendations implemented.

Annually, the committee will release a report with high-level data of both the categorization of complaints by type and complaint by severity as well as use-of-force by type and use-of-force in severity and detail in how often their recommendation and that of the chief deviated.

2. *Appeals go to the HR committee like the rest of the city staff.*
3. *Implement the same process as above for the fire department (requires Charter Change)*

