

City of Worcester Human Rights Commission Minutes
VIRTUAL MEETING – Monday, May 10, 2021, 6:00pm

Members Present: LaToya Lewis, Jacqueline Yang, Elizabeth O’Callahan, Lauren De Oliveira, Guillermo Creamer Jr., Lilian Chukwurah, Edward G. Robinson

Members Absent: Deidre Padgett

Staff: Jayna Turchek, Miriam Nyante, Alyssa Parker-Szabo (legal intern for HRAO)

Guests: Police Chief Steven Sargent, Deputy Chief Sean Fleming, Captain Ken Davenport, Lieutenant Sean Murtha

1. Call to order and introductions

A quorum was established, and Chairperson Yang called to order at 6:05pm. The Chairperson welcomed members of the commission and those present and roll call was taken.

Chairperson Yang began with an acknowledgement of the traditional, ancestral, territory of the Nipmuc Nation, the first people of Massachusetts and those whose land we are convening on tonight. While the Nipmuc history predates written history, records from the 1600s inform us that the original inhabitants of Worcester dwelled principally in three locations: Pakachoag, Tatasset (Tatnuck), and Wigwam Hill (N. Lake Ave). It is important to make this acknowledgment and to honor the ancestors that have come before us. It is all too easy to live in a land without ever hearing the traditional names and the history of the people who first resided and prospered in these lands and continue to reside and prosper.

The Human Rights Commission was established to promote the city’s human rights policies. It is the policy of the City to assure equal access, for every individual, to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals in the city. Our work requires us to address institutional racism so that as a community we can achieve racial equity. Our work also requires us to make visible the unheard, unearned, and unquestioned privilege enjoyed by some members of our community to the detriment of others. We take time to make this acknowledgement, to educate, so a path can be cleared for healing.

The term “**institutional racism**” refers specifically to the ways in which institutional policies create difference outcomes for different racial groups. The institutional policies may never mention any racial group, but their effect is to create advantages for whites and the oppression and disadvantage for people from groups classified as people of color.

The term “**racial equity**” is the active state in which race does not determine one’s livelihood or success. It is achieved through proactive work to address root causes of inequalities to improve outcomes for all individuals. That is, through the elimination or shifting of policies, practices, attitudes, and cultural messages that reinforce differential outcomes by race or fail to eliminate them.

The term “**privilege**” describes the unearned social power and informal institutions of society to all members of a dominant group. For example: “white privilege” and “male privilege.” Privilege is usually invisible to those who have it because we are trained to not see it but nevertheless it puts them at an advantage those who do not have it.

2. Approval of April 26, 2021 meeting minutes

<http://www.worcesterma.gov/agendas-minutes/boards-commissions/human-rights-commission/2021/20210426.pdf>

Chairperson Yang put forth a motion to approve as written which was seconded by Commissioner Lewis and the minutes from April 26, 2021 were unanimously approved.

3. Worcester Police Department responses to Commission’s Questions

Tonight’s meeting is dedicated to hearing the Worcester Police department’s responses to questions submitted by the Human Rights Commission, stemming from our February and March commission meetings. We provided a lengthy list of questions to the Chief and we want to ensure he and his team have the time to provide answers before opening the floor for clarifying questions.

Different officers within the department answered questions based on topics. After each officer presents their answers, the commission, followed by members of the public, will be given the opportunity to ask clarifying questions.

Chief Sargent introduced the following members of the Worcester Police Department: Deputy Chief Fleming, Captain Davenport, Captain McKiernan, and Lieutenant Sean Murtha

Captain McKiernan, Commander of the Bureau Investigative Services, provided the answers to the following questions as well as the answers to the clarifying questions presented during this meeting, in relation to the answers he provided.

1. How is WPD addressing human trafficking and assisting in supporting women who have been victims of human trafficking/commercial sexual exploitation?

The Worcester Police Department investigates all reports of human trafficking and commercial sexual exploitation in the Bureau of Investigative Services. A detective from the Sexual Assault Unit is designated as the lead detective. This detective specializes in communicating with victims of sexual assaults. We assist victims by referring them to one of our City’s partner agencies that provide social services or to the District Attorney’s Office Victim Witness Assistance Program. They are always very helpful to us.

2. What resources does the WPD currently have (and what resources does it need) to address human trafficking in our city?

The Worcester Police Department is a member of the U.S. Attorney’s Office Human Trafficking Task Force which includes local and federal law enforcement as well as state and local service providers. This has allowed us to establish

relationships that provide resources necessary to conduct the investigations. We do not need additional resources at this time.

- 3. What programs/policies does the WPD have in place to collaborate with community partners with regard to: 1) the prevention, 2) the early intervention/ identification of risk factors/early indicators, and 3) helping trafficked women escape commercial sexual exploitation?**

We do not have any active programs of this type. The Department of Public Health has previously coordinated programs and the Worcester Police Department would make referrals to their outreach workers.

- 4. Who are the community partners (or other stakeholders in state and local government) that the WPD consults and partners with on this? Who are the experts the WPD goes to for guidance?**

The Worcester Police Department partners with the USAO Human Trafficking Task Force which includes many local and federal law enforcement as well as State and social service providers. All investigators that are assigned are experienced sexual assault investigators and specialize in dealing with victims. We do consult with other law enforcement agencies and the District Attorney's office, as needed, during our investigation.

- 5. How many people have been arrested for prostitution and solicitation in the last ten years? (If possible, break down by year). Please provide the racial data for those arrests within that report.**

I have provided that report and graphs to go along with it in the attachment.

- 6. How many prostitution stings have been conducted over the same period (10 yrs)? (If possible, break down by year)**

We do not track the number of prostitution stings. These stings are precipitated by complaints from the area crime watch groups or the City Council. We realize that these operations do not address the issue in a substantive way and have been working to end them.

- 7. What data do you have for those who are soliciting and not being arrested? Can you provide racial data for that group?**

When we have probable cause that a person has committed the crime of paying for sexual conduct, that person is normally arrested. The only exception that I am aware of is when the person has a serious, preexisting medical condition. In that circumstance, a criminal complaint is sent to the Clerk's office. We would not conduct an undercover operation and then allow those that are the target of that operation to escape criminal charges, so it is extraordinarily rare for someone to be stopped and then not arrested.

8. What is known about the types of people who are trafficked and are traffickers? Do they share similar backgrounds, socio-economic status, professions, etc.?

This question is very difficult to answer in this forum. I have attended 8-hour seminars on this. There is no stock answer that certain socio-economic groups or professions, it really runs the gamut and I can definitely send more information on some of the studies we have looked at but it is not something that can be quickly or easily answered in this type of forum.

9. At time of arrest are those arrested for prostitution able to identify as victims of human trafficking/commercial sexual exploitation? How would that come about and how does that impact the outcome of the arrest/charges?

Officers are trained in the characteristics of person that may be the victim of human trafficking and may use their discretion in the decision to pursue criminal charges. The affirmative defense to a criminal charge for prostitution related offenses is described in M.G.L. 265/59 and this must be adjudicated in the Court system. So if a person wants to use as a defense that they are the victim of human trafficking, that is something that is done in the court system through their attorneys.

10. What policies are in place to ensure trafficking women are not further victimized during interactions with law enforcement?

The Worcester Police Department does not have a policy on how to treat the victim of a crime. Compassion is the primary trait needed and does not need to be delineated in a policy. We receive periodic training in speaking with the victims of trauma and seek out relevant trainings when available.

11. How does the WPD practice trauma-informed policing during interactions with this population? Do any existing policies specifically address this?

The Worcester Police Department receives mandated training from the Massachusetts Police Training Council on human trafficking. We realize that it is a serious issue and traumatizing situation and we respond with compassion and respect. Every victim has different needs and is at different levels of victimization. We work to ensure that every victim is given access to the services that they request and make efforts to provide referrals to a safe environment. We do not have specific policies on how to treat the victim of a crime.

The following are the questions presented by the Human Rights Commission, in reference to the answers provided by Captain McKiernan, above, and his responses.

Chairperson Yang:

Q: In regard to the question about the WPD's practice of trauma informed policing during interactions with this population: I am wondering if you are aware of the Cambridge Police Department's policy on Trauma Informed Policing?

A: No, I am not.

Q: Cambridge has been utilizing Trauma Informed Policing for over the last 10 years. Is that something that WPD is interested in looking at and maybe implementing?

A: We look at everything. Obviously, we can look into it. I have friends in Cambridge, and we can speak to them.

Q: Are you willing to implement it in your policies?

A: We would have to look into it, research it and talk to the officers in Cambridge to see how it is working out for them. We have researched this. Trauma Informed is not a new concept. It has many different names. A lot of the things we do, and the training we receive through the Massachusetts Police Training Council is trauma informed but we do not specifically call it that.

Q: How often do you do that training?

A: I believe that the Human Trafficking Training is mandated once a year.

Q: Is that for everyone?

A: Yes.

Vice chairperson O'Callahan:

Q: Is the Trauma Informed Policing in Cambridge something you would be willing to come back and talk with us about or maybe provide us with some sort of follow up report, maybe just in writing, in a month or so just so we can see how those conversations went and if there is any support we can provide?

A: Sure if you want to make the request we will, absolutely. I will call tomorrow.

Q: You mentioned that you work with the Attorney General's Office with the Human Trafficking Task Force.

A: Yes.

Q: That was established in January?

A: the U.S. Attorney's Task Force has been in effect for at least 4 or 5 years. The Massachusetts Attorney General has a different task force which just began recently, but the U.S. Attorney has had it for quite a while. The Massachusetts has participated in the federal task force that we do.

Q: How often do you meet?

A: Usually every 3 months.

Q: We were looking at some of the resources that they might be providing to help us understand some of the collaboration. Do you have any reference to the guiding principles or best practices provided by the task force or other information we can look at about those best practices?

A: Not in front of me, no.

Q: Is that something that you would be able to look into? It would be very helpful to know what their best practices are and what are they doing to support you in decisions about these policies.

A: Yes, certainly.

Q: Is there someone in the department who specializes in human trafficking? Is there an expert you are able to consult within the department?

A: We have one detective whose main focus is human trafficking. Until recently, we would use the state police. They had an expert, who recently retired, who taught classes all over the state. She was the person we would go to. There are plenty of people who are well versed in the subject.

Q: Do you know of any other trainings available that are out there or is it just the 8-hour course that is the standard?

A: There are dozens of trainings. My Life, My Choice puts on trainings. There are trainings all over the country. We find one that we think is worthwhile, we send our people to it.

Q: We would definitely be interested in looking at what some other training curriculums are. Is there anything that you would be able to send us about what does the 8-hour training look like? Or, what are some of the other trainings that you are looking at and considering attending?

A: Sure. The MPTC training we can figure out. I did not say that was an 8-hour training, I am not sure what that block is, I don't believe it is an 8-hour training but the MPTC does mandate it. All the sexual assault investigators have gone through My Life, My Choice and that curriculum is online and easy enough to look up. I could look up some of the other ones. We have been to numerous seminars put on by DPH, LIFT and organizations like that. We attend those seminars for those trainings also.

Commissioner Robinson:

Q: Just a quick point of clarification, do we know how many hours of training a year happen here? Do you remember what the actual block of hours are?

A: No, I don't.

Commissioner O'Callahan motioned to request that the Worcester Police Department track the number of prostitution stings, including the annual frequency, date, location, the precipitating complaint, the underlying rationale and the outcomes. Chairperson Yang seconded and the motion passed unanimously.

There were no questions from the public regarding this section of questions.

Captain Davenport, Captain of the Bureau of Professional Standards, answers to the following questions as well as the answers to the clarifying questions presented during this meeting, in relation to the answers he provided.

12. How many incidents triggering the Early Intervention System have been sent to the City Manager in the last 5 years?

Zero. Our policy does not have us send it to the City Manager. The way it works is when an alert is triggered, I review those triggering items, which are usually 3 or more reports. Once I've reviewed it, and have or have not seen anything that needs to be addressed, whether it's training, counseling or anything like that, I forward it to the Deputy Chief of that officer and they review those reports. Then it goes up to the Chief who will review them also. If we do see anything, we get together to discuss it and come up with an action plan on how to address that issue. Again, it is not a disciplinary thing, that this EIS is. It is more of a training tool used to identify officers with problematic behavior. We try to assign some type of training that is going to solve that issue.

- 13. Can you provide an explanation of the investigation(s) regarding the police officer mentioned in the December Commission meeting who had 26 complaints against him? Those total complaints were over what period of time and how many separate incidents? Can you also list what allegations were substantiated and what were not?**

There were actually 25. One of those was incorrectly entered into the system as a complain when it was just a request for a report and no actual complaint. Out of the 25 complaints/incidents only 4 were sustained, meaning the officer was found at fault. This was over a 20-year period which equates to 1.25 complaints per year. The sustained complaints were the following: truthfulness, neglect of duty, awareness of activities, knowledge of laws, rules and regulations, conduct unbecoming of an officer and criminal conduct. Now, this individual is being closely monitored and out of the total of 25 complaints it was just 4. I did forward to you the list of all the allegations.

- 14. Can you provide an update to revisions to the policy addressing the Early Intervention System and share with us news about new software that is proposed/purchased?**

The Early Intervention Screening System was reviewed, and no amendments were made. The new software that I had mentioned before at one of the meetings last year, Power DMS, was purchased and is presently being rolled out. It is still in its infancy. The software will better provide accountability and implementing new policy. Each new policy will have to be digitally signed after the officer has read and understood the policy. Some policies will also require a quiz before signing. This software will also provide a more efficient ability to quickly locate procedures in relation to the policies in performance of the officer's duty, in turn providing less violations of policy and procedure. Again, this software is called Power DMS. DMS stands for Documents Managed Simplified.

- 15. When a resident file a complaint with the Bureau of Professional Standards can you please outline the type and manner of communication they can expect as follow up? Is this process outlined in policy? A findings letter is sent to the complainant at the conclusion of the investigation, can you provide the template that is provided for**

this letter along with a redacted letter so that Commissioners can better understand what type of explanation is provided to complainants?

Each complainant shall be notified in writing that their complaint has been received and the status of the matter. Thereafter, the complainant may periodically as to the status of the investigation. Such notification may be done in person, by telephone or in writing at the discretion of the investigating official who will make a notation in the file for each such notification that is made. This process is outlined in the policy, under policy 500, Bureau of Professional Standards section 3, subsection G. A template of the findings letter has been forwarded to the Human Rights Commission for review.

The following are the questions presented by the Human Rights Commission, in reference to the answers provided by Captain Davenport, above, and his responses.

Commissioner De Oliveira:

Q: Some of the complaints listed here are knowledge of laws, a lot of clients in my family law practice have raised issues, particularly with unmarried individuals who have children in common and there is a domestic violence incident where police officers are called to a residence and perhaps the father is retaining custody of a child that legally he is not entitled to have custody of (Chapter 29C provides that when parties are unmarried, mother has custody, unless and until the Probate and Family Court makes not only a paternity finding, but also an additional finding that it is in the best interest for father to have custody or parenting time.) Often what mothers are receiving from police officers arriving, if mother is alleging that father is withholding or otherwise committing parental kidnapping, is that this is not an issue that the officers will get into, it is one for the family court. Essentially, encouraging or assisting with the other party's engagement in parental kidnapping. My question is, if there is a concern raised, what if any training, ongoing or continuing professional development, is done, particularly in the area of the law and in this specific instance with Chapter 209C, custody of children of unmarried parents and the issue of parental kidnapping?

A: I'd like to ask if that is happening here in Worcester because I have not seen anything come across my desk regarding any type of complaint or suggestion on how to handle that when it does happen.

(De Oliveira) It is happening in Worcester.

A: If it does come across my desk, or the Chief's desk, it will be addressed. We will review it, investigate it and if it is shown that the officer is not following the proper procedure then that allegation will be sustained. Once it is sustained, then it will be decided what the disciplinary action will be, which will include training and counseling on that particular law and the procedure regarding it.

Q: And that is for those specific officers that have received the complaint regarding the issues? So, for those who, perhaps, haven't received a complaint, and just in general, are officers receiving additional and ongoing training beyond an initial training and in changes of laws?

A: We receive yearly training through our training division and now we will have the MPTC's guidelines on what they want also, from POST the new Police Reform Bill. Now that you have brought it to our attention, we can touch base with the training division and they can go over some of those procedures regarding domestic laws and domestic violence and handling those situations. That we will gladly forward to the training division for them to handle.

Commissioner Creamer, Jr.:

Q: I heard you talk about complaints and how only four of them were sustained and that if we did the math it would be about 1.25 complaints a year over all. I think that the discomfort I have with the words "just" and "only" is that I don't think we should be justifying certain things like that. When you were looking at the complaints that were sustained, they are on character . . .

A: You guys asked me to justify, I was just doing what I was asked to do.

Q: Ok. Let's talk about the sustained ones. How are you addressing issues of character and moral, integrity which I think is really big for police officers, right at the get go?

A: We have to follow the city's guidelines on progressive discipline. That's what we abide by and that's what we follow. You are referencing his 2003 complaint which is the first one, so we have to use progressive discipline. Is there a follow up question to that?

Q: To me, it seems that when you have a question of moral character or value straight from the beginning, there needs to be a constant follow up and so when I am seeing a thread of complaints after that it just seems like we should have caught this at the beginning.

A: Right. We are closely monitoring it and that is all I can say regarding it right now. Some of this stuff is exempt from public disclosure but what I can say is it is being closely monitored.

Chairperson Yang:

Q: Whether the complaint is sustained, or not sustained, does the complaint go in the officer's complaint file where it stays, even if it cannot be proven? What happens to that investigation? Where does it go?

A: That is permanently kept in our system. In the near future, we will have to report to the POST commission and so they will be receiving some of the information they need, for their database. Essentially, it will be kept in two spots, here and also there.

Q: So, does it stay in the Officer's file even if it is not sustained?

A: Yes. Even if it says "withdrawn."

Q: How long do you keep the documents? Are they kept forever?

A: As of right now, they are kept forever.

Q: Can anyone file a complaint at any time of the day? 24/7?

A: Yes, anyone can file a complaint. We have an email system where you can go online, right to the city website and file it there or you can call and leave a message and we will get back to you. Anyone can file a complaint, anytime.

Q: Who is authorized to receive the complaints? Say I want to go down to the police station and file a complaint, can whomever is at the window receive it or does it go to a particular officer on duty?

A: What normally happens is... let's say you walk into our lobby and you approach the window and there is an officer on duty and you say you want to file a complaint. What they are supposed to do is contact one of their officials and let them know that someone is here for a complaint. If the official is not there the officer should take the individual's name and information and give that individual a complaint form to fill out and a synopsis of what would happen with the complaint. Anyone can take the complaint and they are supposed to notify their official and it will be forwarded to my office.

Q: Now, is there any supervision or oversight to ensure a thorough investigation? Who do you have supervision from?

A: The chief.

Q: So that is the oversight and supervision?

A: The Chief oversees me. I oversee 4 Sergeants in my office and now one lieutenant.

Q: Is there a random review, by someone independent, at some point later, after an investigation has closed to ensure that the outcome was correct?

A: Not at this present moment but it will be in the near future. POST will be receiving investigations that come through our office.

Q: Is there a time limit on filing a complaint?

A: No.

Q: On average how many complaints per year?

A: 72.

Vice chairperson O'Callahan:

Q: I am curious about the Power DMS software. It sounds like a really powerful tool that will help with some of the oversight. Can you walk us through what this will look like if a complaint comes in or the EIS is triggered with this software and will it help you to parse out if the complaint is specific to the officer or a product of their position as an officer in a specific area of enforcement?

A: Power DMS will not affect the complaints themselves, it will prevent complaints. It will take all our policies, procedures, directives and rules and regulations and puts them into a search engine which allows us to amend policies and put it out to the troops via email, requiring them to review, and read, it and sign off on it. They may need to take a quiz on it also. They will have to sign off on it, that they understood it. Right now we really do not have accountability for policies and procedures other than sending it to them in email and telling them to read their emails. This will cover that end. Also, with Power DMS, there is also a mobile app which can be put on a phone, iPad or the mobile laptop within the cruisers. Officers can bring up the policies right away and read it to make sure they are following it to a tee. Hopefully that will prevent any other complaints regarding how we are handling domestic violence. Also, with the new software it will allow us to put certain policies through workflow and whoever is assigned to that workflow can review the policy to see if there needs to be changes. We can also revisit policies to see if we need to revamp it or amend it to keep up with what is going on in the community.

Commissioner De Oliveira:

Q: Upon request could a complainant receive a copy of the report regarding their complaint?

A: They can do a public records request.

Q: What are the affirmative steps to ensure that an officer will modify their behaviors?

A: It depends on the severity of the sustained finding. Progressive discipline asks does the officer need more training, or counseling or is it just a critique that is needed. Did the officer know the right thing to do and fail to do it? Did they not understand? If we have been through this before and it hasn't hit home yet then the officer may be suspended or even terminated.

Question from the public in the virtual chat read by Director Turcek:

Q: Do notices of sustained complaints, particular to truthfulness, get sent to the DA and defense attorneys in every case by that officer?

A: No.

Questions from the Public:

Kevin Ksen

Q: There was a petition, this past summer, signed by 1200 people requesting that that data be released this past July. What has changed that now you release this data now but refused to release it then?

A: That was a city policy. The City Manager, Chief and Law Department reviewed that and decided start releasing that information.

Q: So you are prepared to release the whole database now?

A: No. If you put in a request, it goes to the Law Department and they make a determination.

Q: So why is it releasable now, for one, but not the whole database?

A: It goes through the Law Department, sir. Whatever the Law Department sends to me, as a public request, I fulfill.

Q: It is confusing because folks, 1200 people, asked for this to be released in July and it wasn't. The second part of my question is what legal justification do you have for not releasing the name of the officer that has 25 complaints against him or her?

A: The Law Department makes those decisions.

Q: So, you wrote the report we are all reading and you choose to redact the name from that report. What is your legal justification for withholding that name from the community?

A: The question did not ask for me to give the name.

Q: I asked you last meeting.

A: I don't remember you sir. I don't remember you at all. You spoke to me, Captain Davenport? You called me Lieutenant Davenport earlier, so I am not sure you spoke to me.

Q: We asked at the last meeting, it is in the minutes.

A: Which meeting?

Q: Human Right Commission (Chairperson Yang: December)

A: I was not there.

Q: You gave the report. You are the one that said there was 26 complaints at that point and I asked you if you would release the name and you said no at that point. There is a recording of it.

A: Right. Well, you also have to remember that within these complaints, some of the stuff has to be redacted. I cannot just give you the name and then give you everything on here.

Q: My question is the legal justification for not releasing it.

A: (Chief Sargent responding) If you want to do a public records request, through the law department, you may. They will either redact or they will advise Captain Davenport to put a report together for you.

Q: I would ask for the Human Rights Commission to ask a second time for the name of the officer to be released to the community. It feels like the basic thing that can be done in terms of all of what is happening.

Commissioner Lewis:

Q: What are the odds that it will actually be released?

A: I don't know that answer. You have to talk to the law department.

Q: Also, I always wondered, if police officers are not above the law, why is it such a hard time to get any kind of information pertaining to any kind of criminal complaints or allegations against an officer? If a civilian is arrested, their charges are not just public to newspaper but so are their

addresses and demographic information. Anyone is able to go and access any part of their public records.

A: If an officer is arrested we release the same information as we would with anyone else. That goes through a process too and certain items are redacted because of state law. If it is exempt then it is exempt. So again, it goes through the law department and they make a decision to redact or not. It is just like any other place of business, there are certain things that are exempt from public knowledge. I am not sure where you work Ms. Lewis but I am sure if someone did a records request through wherever you work that their lawyers would want to go through it and redact anything that needs to be redacted so we are not breaking the law.

Vice chairperson O'Callahan:

Q: There is a personnel policy within the city does this fall under that policy that covers all city employees?

A: There are certain items that fall under the personnel exemption portion of the law. It all depends on what it is.

Q: And that is why the law department needs to clear it before being able to provide it publicly?

A: Yes.

Commissioner De Oliveira:

I think this is just unfortunately where we are. The issue is with the system and the ability for the police department to internally review these things before someone is charged with a criminal charge, because of course, as Captain Davenport said, if they were criminally charged then all of that would be public record. If they were arrested or charged criminally and had a core process in the criminal court then it would be public record. So the issue is really that there is this internal process that you as a police department have to be able to sustain or not sustain an allegation against them before they would ever be charged and then that is the record that we do not have because it is governed by public disclosure laws as opposed to the criminal procedure laws. So, we have an issue with the process of this behind the scenes thing happening before the public is ever able to see them and it is an issue we have to take up with the public disclosure laws because as you said, had they been charged criminally, we would be able to see all of that without any question rather than having to go through the bureaucratic process of going through public records requests.

A: Well, you would be able to see them to a certain extent criminally. If there is an ongoing investigation you won't get that part until it is completed and released by the DA's office. So, yes, it is somewhat the same but at the same time it is not.

Q: Well yeah, we would get a docket sheet with a name of an officer and the charge he was charged with, which we will not be able to get from a public records request of these types of allegations against them, when it is a complaint as opposed to a criminal complaint.

A: Normally if there is some salacious complaint against an officer we would normally release what the allegation is and that it is under investigation.

Attorney Arielle Sharma:

Q: There is a difference between the exemptions from public disclosure and what can be disclosed. So far we have been talking about what can be done under the Public Records Law which is when a member of the public requests and the question that is being answered is “does the police department have to give that information?” According to Captain Davenport’s information, that goes to the legal department and I imagine that is as far as we will get with that today. That does not mean that they cannot disclose it and I would encourage both this commission and everyone listening to continue to press for that. I would note that, similarly under the Public Records Law, if you were to ask a court for police reports for somebody they would not release that information unless that person was convicted. However, we regularly see, on the WPD’s Facebook page simple charges being published as well as in the newspaper, etc.

Moving on from that point, I have two questions I want to ask: (1) If the information on the sustained is not sent regularly to the DA, does the DA ever get notified of a sustained complaint and if not how are they to comply with their legal requirements? (2) the notice of sustained complaints you put out, particularly the one pertaining to criminal conduct, I am wondering if that officer was charged and if so, with what and what the outcome of that case was?

A: To answer the first question, the sustained findings do not get sent to the DA’s office. If they asked for it, we would send them. To the second question, I believe that particular incident is under the exemption law so I cannot give you information on that either.

Q: So just to be clear, he was not charged with a crime?

A: Its under the exemption law. I cannot give you that information right now.

Xaulanda Thorpe:

Q: Yes or no: I see several complaints that were resolved. These complaints include but are not limited to unnecessary force and careless use of a weapon. Does the resolved finding mean that the complaint was sustained but a resolution was found before the end of the investigation?

A: No.

Q: Ok, what does it mean?

A: For example someone calls in and says an officer used unnecessary force by placing handcuffs on them. We explain to that individual they were under arrest and that is the procedure for transporting someone into the station if they are under arrest and they understand. That issue has been resolved.

Q: How does an officer commit an activity of criminal conduct and continue to keep their job?

A: That is a decision made by the City Manager and the recommendation is put in by the Chief normally.

Q: Are you allowed to tell us, right now, if the Chief has set a recommendation for this officer?

A: I do not have that information right now.

Marie Brouillette:

Q: Are the repercussions in place at WPD for a law enforcement officer who engaged in criminal behavior? In my mind this would be grounds for more than just close monitoring. What is in place to prevent this behavior from definitively happening again?

A: We go through progressive discipline. Whatever decision the City Manager makes is what we go with. If there is no criminal charges brought on the DA's side or the Chief decides not to pursue it criminally then we pursue it administratively. If it is deemed we should give this individual a suspension then we do. Anything over 5 days of a suspension goes to the City Manager and they review it and makes a decision on it.

Q: If engaging in criminal behavior is not grounds for making a recommendation like that, what would be grounds for that? How extreme does the misconduct need to be before we are willing to engage in the conversation that perhaps an individual should not be actively on the force whether for a short period of time or permanently?

A: That will be looked at case by case. Again, that is something the City Manager would make a decision on.

Q: Do you have any examples off the top of your head of what the extreme end of that would look like?

A: if someone shot someone unlawfully.

Q: So, the extremity being taking a life and that is when we start to consider suspension?

A: That just sounded a little sarcastic at the end there. I am just trying to give you an honest answer.

Q: It's not sarcastic, it's a concern that I have that it would take an unlawful taking of a life to consider suspension.

A: You had asked for an example. I gave you one and again, I already told you that it is a case-by-case issue that the city manager makes a decision on.

Q: Sure well hopefully then we can have some transparency on these case-by-case basis to have a better understanding . . .

A: that is what we are trying to do, that is why we are here.

Deputy Chief Fleming, Records Bureau, answers to the following questions as well as the answers to the clarifying questions presented during this meeting, in relation to the answers he provided.

16. Prior to COVID 19 victims of crimes reportedly faced barriers receiving their incident reports and log records. How can victims of crimes access a copy of their un-redacted police report (ie not have to make request through the open data request portal which is the only published avenue on the city website)?

Domestic violence and sexual assault are handled totally different. There is a statutorily prescribed process for obtaining those reports. Victims of other crimes require a public records request and as sure we would not give an unredacted report to a victim. We are not able to look at records requests based on who is asking. It is the content of the document, not who the requester is. The only thing we would recommend is perhaps working through a District Attorney if they an unredacted report as a victim but that is not something we would provide.

17. There are other cities in the state that provide for online requests for incident reports for domestic violence victims that can be made personally or by their attorney representative. Can this be an option in Worcester?

I am not sure what is meant by personally but certainly an attorney can drop off the paperwork. We will assess it, review it and then respond to it appropriately. Any person, any time, 24hrs a day can submit a request here at the station and it will be reviewed.

18. It has been reported that some residents have been told an incident report was not created. What instances would justify not having an incident report generated? If a log is created can public/victims access those logs?

There are certain calls that require an incident report but some are discretionary by the officer.

The following are the questions presented by the Human Rights Commission, in reference to the answers provided by Deputy Fleming, above, and his responses.

Commissioner De Oliveira:

Q: A victim of Domestic Violence cannot go through the Public Records Request form, but now, during COVID they are asked to go to get a notarized statement saying they are who they say they are in order to get the document that they are getting.

A: That is not COVID related, that has been pre-existing for a while.

Q: Prior to that time, if they went in person, they were able to get it. My understanding is now they are not able to get it in person if they show up with an I.D.

A: The law was changed in 2016, I believe, so we had a new process put in place there where we specifically were precluded from giving those reports outside of this process.

Q: In the statute itself, it does not require a notarized statement, it simply asks for a written request from a victim, victim's attorney or other specifically authorized individual, by the victim

to obtain such information, so why the notarized request when in general it can be something that is an additional barrier for now a victim of domestic violence?

A: Understood and we had spoken with the law department to find the best practice. Obviously, these are very sensitive documents. I can imagine if we inappropriately released a domestic violence report and a victim or witness was injured because of it, this is what we thought was best practice to make sure that we are appropriately protecting the information and providing the documents as required. I know some other police departments ask for IDs, this is what we thought works best. It seems to be working well. I just look at today we are doing about 10-12 requests a month. We haven't had an issue but obviously we have a pretty significant fiduciary responsibility to make sure those documents do not go out inappropriately.

Q: Certainly, I understand that you do not want them going out inappropriately, however, is the department willing to engage in further discussion with other possible ways to protect confidentiality but not create an added burden on these individuals in order to get them? For example, we have had instances, even as attorneys, where we get a response asking the attorney to provide a notarized letter swearing that we are an attorney as opposed to having a letter with our letterhead or our bar card to prove such things, so this adding additional barriers that other people requesting their own records are getting.

A: the problem with letterhead is that I can go on the computer right now and get you one from President Biden. The letterheads are really meaningless given today's technology. That is why we provide the added level of protection.

Q: Ok, but is the department willing to have further discussions about other possible ways. . .

A: Yeah. You met with Attorney Thompson who was here for a couple of hours during the summer so we are always willing to look at it.

Q: Framingham, Marlboro, Boston have different processes where they are allowing attorneys to do an online request and then the individual can go with their ID to pick it up. Just other ways this could be facilitated, especially now.

A: We are always looking. I know you mentioned Cambridge, I looked at their website today and they have some kind of pretty stringent wording: "the police department in its sole discretion will provide a copy of an incident report when the requester can provide satisfactory evidence of their identity." Some departments are raising it to the evidentiary level. I think we have a pretty good balance in place now but again we could always look at it with the understanding that our first priority is that information is not released inappropriately given the catastrophic consequences if we do so.

Q: Right. I would be happy to continue this conversation just because, even when it comes to ID requirements, we have seen it in voting, how it can be difficult for certain individuals. Especially if there is a victim of crime who maybe does not have the proper identification but needs a copy of their record based on their immigration status. They might not have the right document that

you are looking for. Wanting to make sure that they are not then precluded from being able to get the records that are theirs.

A: If we had the answer then we would have the answer.

Q: The other issue that I have with referring to the statute in order to justify not releasing certain parts of the document is the statute does not mention in any way that the documents have to be redacted. Where does the justification comes for victim of rape or sexual assault not being able to obtain all the unredacted records?

A: Those reports are unredacted. The reports that we give to those who are statutorily allowed them are not redacted. A victim of another crime coming in under a public records request would get a redacted document but the reports you are referring to are not redacted.

Q: Ok. If an individual is getting a redacted report they should then follow up with the records department or who should they contact when they are getting an improperly redacted report?

A: If they are a domestic violence or sexual assault victim then they should follow up with us.

Q: I know you suggested following up with the DA's office victim witness advocate but, just in general, applicants or clients we have had challenges even reaching the DA or getting a response from the DA's office so it might be easier for us as attorneys or as the police department to reach the DA's office and get a response from the Victim Witness Advocate.

A: the process is what the process is. I don't have a simple answer for you.

Q: My concern is that the statute does not force these people to take a different role that the WPD is saying this is how we are presenting it and relying on these statutes, but the statute does mention it anywhere that this is how it has to be.

A: And my concern is we are going to release inappropriate information and someone is going to get hurt.

Vice chairperson O'Callahan:

Q: So the log is available at the WPD but how does the public get a copy of the log?

A: They can just come in and ask 24hrs a day.

Q: Is it something where they can only look at it or would they be able to retain a copy?

A: They are able to look at it. I do not believe they can obtain a copy. They could request a copy through Public Records. It would be a free copy.

Q: What types of incidents typically generate a police report?

A: Arrests, acts of violence, significant property damage, injury, things of that nature.

Q: what are some examples of when you would not create a police report?

A: Maybe a loud party, something like that, where we just advise the people to quiet down and then that's the end of the situation.

Q: What are some examples of where it might depend? Maybe in some circumstances that type of incident would generate a report but in others it would not?

A: If someone throws eggs at someone's houses, if the officer goes and does not think there is any damage but then the person wakes up the next day and the paint is all . . . things of that nature where after the fact it may appear more significant then it did when the officer responded.

Commissioner De Oliveira:

Q: The public log, other than creating an incident report, what justification is there for every call and every response to that call not being logged

A: It is. The only thing that isn't is domestic and sexual assault but otherwise every call that comes in is within that log.

Q: So, the answer to that question is it might not have a corresponding report? Because we have had instances where the log is not even there.

A: That should not happen and if it has happened then it should be brought to our attention right away. I find that a little bit hard to believe because the officers are so indoctrinated that that is part of their responsibility to provide that log and like someone in the chat said, taking a picture, we hand that log to a person and they are basically left to their own devices to do with it what they will. If that happened, that is an issue. I find it hard to believe but obviously we would want to deal with specifics.

Q: Your position is that every single call and every single response to a call is logged?

A: It is going to say what the call was and if an officer was dispatched. I do not know what you mean as far as a response goes. It will probably not be detailed as to what the officer did.

Q: That's the question. An officer was dispatched and found no issue or would it not go into that and it would just say officer was dispatched and that the end? So what happened upon arrival of that officer will not be recorded?

A: Necessarily correct.

Vice chairperson O'Callahan:

Q: Is there a policy around report generating events or anything around report writing?

A: No. Other than Domestic Violence which requires a report and motor vehicle accidents over \$1,000 requiring a report, there is not a policy.

Q: If there is not anything operational around report generating, how then do officers know how to be consistent between officers and similar incidents if there is not a clear rationale?

A: I would say about 95% of calls there is no issue, there may be a small percentage of calls where it is discretionary. I would say most of the calls it is pretty clear whether a report needs to be taken or not.

Q: It sounds like there are some circumstances where two officers may make different decisions?

A: Yeah, that is kind of the nature of our business.

Chairperson Yang:

Q: There is not a standard operational policy for screening out a report?

A: Correct, although there are certain reports that are required reports like I mentioned. There is not a definitive policy other than domestic violence and motor vehicle accidents over \$1000 which are required.

Questions from the Public

City Councilor Khrystian King expressed gratitude for both the police and the human rights commission for the information shared and discussion tonight.

Lieutenant Murtha, Chief's office, provided the answers to the following questions as well as the answers to the clarifying questions presented during this meeting, in relation to the answers he provided.

- 19. With regard to the use of drone technology, although the department stated to the Commission it doesn't own drones: Does the Worcester Police Department 1. lease drones, 2. contract with or collaborate with third parties in the use of drones, or 3. obtain information from drones as part of your operations?**

The department does not lease drones. We have no contracts for nor do we lease drones. If we were aware that there was a drone video that could help us, we would try to obtain the video. We don't have any formalized agreements with any drone operators or companies.

- 20. What policy references the use of such equipment/information? None.**

- 21. Would the Department consider implementing a policy on trauma informed policing?**

De-escalation. Communication style. Things we are already working on but we will certainly look into what Cambridge is doing though.

- 22. How does the Department deal with police calls that are generated to racially profile/ based solely on the person's race/perceived race?**

My understanding, correct me if I am wrong, if we get a call that is basically just saying there is a person of say Asian decent walking down my street, the police would not respond to that call unless there was some dangerous situation going on or something else besides that. Someone's race is never a reason for us to respond to anything. Obviously if the caller was agitated or making potential threats to the person they are calling about then we would respond and look into it, but we would not respond to a call with no potential crime. The person's race is never a reason for us to respond.

Lieutenant Murtha, above, answered the following questions as well as the answers to the clarifying questions presented during this meeting, in relation to the answers he provided.

Commissioner Robinson:

Q: Do you know if any calls like that do come into the police department regarding race and are dispatchers trained to handle it?

A: I know there are calls that get weeded out before they get dispatched to us. There are a lot of people with various problems that call into us and some of them just want someone to talk to. They don't even really want a response. We have people who call for a lot of different reasons so a lot of those calls don't even reach us but if for whatever reason that one did, one of our officials would get on the air and say we are not going to that, unless there is something else going on.

Chief Sargent (on behalf of Captain D'Andrea who provided the answers to the following questions).

23. How many times in the past year (or in the most recent 12 months where records are available) was Mobile Crisis called by WPD on a dispatch call?

Our CIT (Crisis Intervention Team) from April 2020 to March 2021 added up to 59. This number is specific to CIT officers and reflects the number of times CIT officers diverted an individual to the ER from an arrest. This typically involves us arranging for a community health-link clinician to assist in an evaluation. This number may also include us transporting a person in crisis, but who is not a full-blown Section 12, to the CHL Queen Street Facility for assistance and evaluation. We do not have the means to track the number of times officers or the service division utilized the services of the CHI. For additional information see item 12 on Section 12 in our report.

24. How many times in the past year (or in the most recent 12 months where records are available) were CIT officers called to assist during a call? How many times in the past year (or in the most recent 12 months where records are available) were CIT officers dispatched directly to a location?

The combined number from April 2020 to March 2021, officers assigned fulltime to CIT responded to or generated 767 calls during the course of their duties. Those numbers are specific to officers assigned to the CIT unit. There are a number of officers who completed the CIT training and are assigned to other divisions. The code is the same whether CIT officers initiated the call or responded to another officer's call. For additional details see number 5 in our attached reports.

25. How many times in the past year (or in the most recent 12 months where records are available) were individuals transported directly to the ER for evaluation by WPD (without CIT or Mobile Crisis involvement)?

There were 1121 calls coded as Section 12 from April 2020 to March 2021. These numbers are also included in a subsection of item 5 in our report. We do not know if a patient was actually transported as a section 12 or if the call was cleared or resolved by other means. This department wide number includes all officers, including CIT.

Chief Sargent's answers to the clarifying questions presented during this meeting, in relation to the answers he provided.

Vice chairperson O'Callahan:

Q: What was the total number of calls during that same period?

A: We usually do our average from January 1st to December 31st but the total number for that time was: 148,496 calls.

Q: What percentage of the total were section 12 calls?

A: 1121 is 3 or 4 calls a day on average. That alone shows how significant that number is. In Opioid calls we get about 1100 per year, or about 4 a day, and a lot of them are CIT involved. Responding to mental health issues has become a huge part of our jobs. We are really looking to partner with as many service companies as we can so we can get help not only for CIT but also those who are addicted. We all know it goes together.

Q: Do you know the percentage for total calls?

A: We actually break it down per day. We could put that together in a report for you guys. We try to put our resources out sometimes per day. Friday seems to be a high number day for overdoses so we try to put our resources out in the areas where there are high numbers on that day. Why don't we try to get a report together for that time period for this?

Q: You have 4 full times officers and 52 trained officers so there should always be a CIT officer on every shift?

A: There should be. They work on overdoses also and the homeless population. They have a wide range of responsibilities. They response to scene but they also do a lot of follow-up. They work collaboratively with numerous organizations and seeking grants. We are good for about 10hrs a day outside the police department, we could do more with more resources. To have resources available for more then the 10hrs we have we would be grateful as a community.

Q: Thinking about resources, is there a way to differentiate out the number of times Mobile Crisis is called by CIT? Does that ever happen?

A: That would be the 59 times.

Q: So the 1,121 phones calls coded as section 12, most of those were around the CIT officers doing the evaluating?

A: Not necessarily. There is a number of ways. It could have been from a doctor, or a family member, the officer can make the evaluation at the scene. No matter what the officer would make the evaluation if they are putting their name to the Section 12 and they would assist in getting the individual to the hospital or wherever, usually UMass for an evaluation then it goes from there.

Q: Who does the transport?

A: The majority of the time it will be an ambulance.

Q: What circumstances might a different decision be made?

A: We wouldn't. Unless there was a ton of violence then they would bring them in the cruiser or the wagon at times, it depends on the situation. Whatever is safest for the individual and everyone around them and the majority of the time it will be an ambulance.

Q: In the circumstances where it is the wagon or a cruiser, do you use a safety monitor to prevent the person from engaging in self-injurious behaviors?

A: The wagon is monitored with video. Especially now we are looking at best practices and constantly changing out protocols on how to handle Section 12. Send any literature or requests.

Q: The department would be willing to consider looking at their policy on transporting people, when necessary, by the police department for some sort of safety monitoring procedure?

A: Yes. Excellent.

Q: Are you familiar with the Mayor's Mental Health Task Force Report that came out? It was Dr. Castiel with students from WPI on community response models?

A: These officers work hand and hand with the Health Department. We designate 4 full time officers, but we work with other organizations, but I do not have the whole list or how many people are responding to these. Once again, it is during the day for the most part. They do a lot of off hours also. Our people worked with WPI on the Mayor's task force.

Q: The recommendation in that report was to get to 25% of all officers trained in CIT. Does the department have benchmarks for the next year about training? What number of officers are you looking to get trained in the next 12 months?

A: It is going to take resources and time to get it to where we want it to be. We would rather 50%, 75% or 100% but it takes time. We max out how many officers we can get trained whenever the training is available. We try to hold our own here. COVID has made signing up for classes difficult.

Q: It is a hope, but not a plan?

A: We are looking at the Human Rights Department to get us some grants to we can all get trained. We are going to go through you guys. Just kidding. There is a lot to it. Anytime you see training, we will take anything. We are sponges. If you see any courses you think we could use and would be beneficial to the officers and the community we will fill the room.

Q: It sounds like a funding issue?

A: It's a time issue. We still have to respond to calls and put officers on the streets. There is a lot going on that have to be taken care of. POST has put some resource restrictions on us so our officers have to take care of that business first to keep certified.

Q: DPH has outreach workers for victims of sexual exploitation, do you know who and how many outreach workers there are and under what circumstances would WPD call them?

A: You would have to go through Dr. Castiel's office to know how many people are still working for her. Nikki Bell was a big part of that at one time but I don't know if she is still active.

Q: When would WPD reach out to the outreach workers?

A: they would call if on the investigatory side, if there was a female that needs assistance, they would still call Nikki Bell. Otherwise, the officers make the decision on their own when they are on the street about when to use DPH outreach workers.

Commissioner Robinson:

Q: Do you know if there is any free mental health help out there?

A: we would certainly look into it. Queen Street exists but to be honest I am not certain we are getting our bang for our buck with that place, I am not a big fan of it. I don't know what kind of resources or help they are getting there. If there is free, let me know, I am sure that our experts out there every day would find it. If there is something we are missing please send me an email, we will certainly use it.

Questions from the Public (read by Director Turcsek from the virtual chat):

Q: Does WPD keep race data of arrests, stops or frisks, or other interactions, in what format and is it ever reviewed as for example the state police do?

A: We do not have the data in front of me so I would request that we do a report and get it back to the Human Rights Commission on that particular question. This way we can get numbers and the data for the question.

Q: Can you state the names of the four CIT officers?

A: Officer Rivera, Officer Duffy, Sargent Baizley, Mike Girardi and Officer Cooley. There are actually 5 of them.

4. Public Comment (incorporated throughout meeting)

5. Adjournment at 8:13pm.

Next Meeting: Monday June 7, 2021, 6:00pm – Conversation with City of Worcester Diversity Officers