

**City of Worcester Human Rights Commission Minutes**  
**VIRTUAL MEETING – Monday December 7th, 2020, 6:00pm**

**Members Present:** LaToya Lewis, Deidre Padgett, Edward G. Robinson, Lilian Chukwurah, Elizabeth O’Callahan, Jacqueline Yang

**Members Absent:** Aaron Richman, Lauren De Oliveira

**Staff:** Miriam Nyante, Jayna Turchek

**Guests:**

City Solicitor’s Office: Janice Thompson

City Manager’s Office: Eric Batista

City Council: Councilor Khrystian King

**Worcester Police Department:** Captain Ken Davenport Bureau of Professional Standards and Captain Michael McKiernan of the Investigation Division

**1. Call to order and introductions**

A quorum was established and Vice Chairperson Yang called the meeting to order at 6:03pm Commissioners and those present introduced themselves. The Vice Chairperson welcomed members of the commission, and those present.

She began with an acknowledgement of the traditional, ancestral, territory of the first peoples of Massachusetts on which land we are convening tonight. The Nipmic Nation is what is now Worcester County. 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, Tatesset (Tatnuck), and Wigwam Hill (N. Lake Ave). It is important to make this acknowledgment and to honor the ancestors that have come before us. Unfortunately it is all too easy to live in this land without ever hearing the traditional names and 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 policy. It is the policy of the city to assure that every individual have equal access 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.

The term “**institutional racism**” refers specifically to the ways in which institutional policies create different outcomes for different racial groups. The institutional policies may never mention any racial group, but their effect is to create advantages for whites and 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 inequities 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.

## **2. Approval of November 2, 2020 meeting minutes**

<http://www.worcesterma.gov/agendas-minutes/boards-commissions/human-rights-commission/2020/20201102.pdf>

Commissioner Lewis motioned to approve the minutes as written. Robinson seconded. Motion passed with all in favor.

## **3. Conversation with Worcester Police Department- Responses to Commission's questions from meetings September 7, 2020 and November 2, 2020 and 2020 hate crimes report (January-November)**

Captain Davenport reviewed the Worcester Police Department's answers to the questions submitted by the Human Rights Commission in September

[davenportkj@worcesterma.gov](mailto:davenportkj@worcesterma.gov)

### **(1.) What is the total percentage of officers without complaints against them?**

"This question is somewhat unclear. If the objective was to ascertain the total percentage of officers without complaints against them their entire career then the answer is the following. 16% (71) of the 443 officers/officials have zero complaints for their entire career. This answer by itself does not speak to the overall picture that should be presented. On average the department (officers/officials) has had 1 complaint every 4 years. The average years of service for the department is 17 years. If the objective was to determine the total percentage of officers presently without an active complaint against them the answer is 96.4 %."

- Captain Davenport differentiated between active and inactive complaints. He added that there is no national average to compare.
- Clerk O'Callahan clarified that members of the public were looking to understand where Worcester falls relative to other departments across the country in order to apply context to the number provided by the department. Captain Davenport suggested that some of the proposed legislation would allow for these types of comparisons in the future.

### **(2.) What is the highest number of complaints any one officer has? What is the lowest?**

"Highest – 26, Lowest - 0"

- Captain Davenport clarified that only 4 complaints out of 26 were sustained in this particular instance

### **(3.) Of the officers with complaints against them, what is the average number of total complaints per officer?**

"This question was answered in a manner of understanding that the objective was to determine the average total complaints per officer for their entire career. (Active or non-active complaints was not specified in the question posed.) To answer this the total amount of officers was included in the calculation. The average number of complaints per officer for the department is 4.2. Again, that equals 1 complaint every 4 years."

### **(4.) Of the officers with complaints against them, what is the average number of complaints per officer per year on the force? (For example An officer with 10 years on the force and 2 complaints on record has an average of 0.2 complaints per year; an**

**officer with 5 years on the force and 2 complaints on record is 0.4/year; the average between the two officers is 0.3 complaints per year)**

“0.25 complaints per year. This answer has been calculated to include a more complete analysis of the department as it relates to the average number of complaints per officer per years of service for the entire department.”

**(5.) How do the BOPS numbers compare to national average, or compared to a similar city, such as Springfield (especially with regard to percentage of complaints relative to the total number of incidents)?**

“We are not aware of a national average stat this is kept. We have not requested Springfield PD to answer the question posed. If Springfield PD’s stats were ascertained and presented by us (Worcester PD) and the numbers were not favorable for them, we would be casting a neighboring department in a poor light. It is preferred that the HRC request that information on its own accord directly from the department it wishes to seek.”

*\*When this question was originally asked more generally during the September meeting, Springfield was named by the Worcester Police department as an example of a comparably sized department for the purposes of answering this question*

Commissioners clarified the original intent of the question, which centered around the Worcester residence wanting to be able to contextualize the information they are being presented, so as to have a sense of where the Worcester Police Department stands relative to other police departments around the country.

**(6.) Can the Worcester Police Department conduct an anonymous survey among its officers who are people of color and ask:**

**Have they experienced racism at work?**

**Have they experienced racism outside of work?**

The Worcester Police Department is currently in the process of composing, distributing, gathering and analyzing the survey.

#### \*Continuing Discussion on Racial Justice and Institutional Racism

- Commissioner Padgett reiterated concerns that the complaint process may be intimidating for people of color who are afraid to speak out and result in complaints and grievances going unreported
- Commissioner Lewis recounted her experience completing the WPD Citizen’s Academy.
  - Her feedback included appreciation for the perspective of law enforcement and for the work done by the Worcester Police Department, as well as dismay for lack of diversity in the training, and the disparaging manner in which trainers spoke about residents during the portions relating the work of the gang unit, especially remarks suggesting that parents of minors who are suspected gang members condone or even encourage their children’s potentially illegal activities, quoting the officer as saying “they’re getting off on it”.

- She further suggested feeling deeply uncomfortable as one of a few persons of color in the room during the training and recommended increased outreach and intentionality towards provided the opportunity for more people of color to participate in future civilian academies but also for two way dialogues among the police and communities of color.
- Commissioner Lewis requested movement toward the police department attempting to understand the struggles of the residents they serve, particularly people of color, single parents and those in underserved communities

### [Policy #505 - Early Intervention Criteria](#)

Clerk O’Callahan asked how often is this criteria for early intervention triggered?

Captain Davenport gave a brief overview of Policy # 505 “When certain things happen with an officer, such as a use of force 3 or more times in a 6 month period” and explained that:

- These incidents generate a report that is reviewed by Captain Davenport, who makes recommendations, such as the need for retraining
- These recommendations are sent to the deputy chief of that officer. The Chief will then review it himself.
- Recommendations “could include discipline, although that is not the main objective.”
- “The overall objective of the EI System is to try to stop an officer from heading in the wrong direction... and getting back on track, whether it’s through training or discipline”
- Captain Davenport added that this system “triggers often,” and could be triggered more often for officers in particular positions, such as “working a bar detail,” where improvised weapons may be needed more often than in other positions
- Part of the review process includes assessing if anything else could be done instead

Understanding that all complaints are not of equal severity, how does the department classify types of complaints into tiers?

- Various types of triggering events for the EI system are not currently classified into tiers
- As a general rule, any disciplinary action over 5 day suspension goes to city manager
- With regard to how egregious an act may be, it is “more of a common sense thing”
- For example, “if someone says an improper word in front of someone, as opposed to excessive force, those are obviously different tiers” but there is no clear delineation

How do you implement this policy with regard to high numbers of complaints? Is there a mechanism by which, if say, this system was triggered repeatedly, with the same officer, what happens from there? Do you have data to show how effective the system is?

- Captain Davenport said the department addresses repeated offenses through progressive discipline (criticism, counseling session, oral reprimand, written reprimand, suspension, termination)

### [Policy #830 - Emergency Mental Health Response](#)

Clerk O’Callahan revisited questions from the prior meeting with WPD:

With regard to mental health emergencies, how do officers know when to call Mobile Crisis? What criteria are they using to make those determinations?

In some cases, it may be immediately apparent to dispatch that there is a mental health emergency, but what about in the cases it's not immediately apparent at outset that there may be a mental health emergency, where officers arrive on scene and maybe have to make that determination that there is a mental health emergency happening?

- Captain Davenport stated that officers refer to the CIT team, and include a line in their reports that say "please refer to CIT team" if they see any type of mental issue that's questionable." He added that officers frequently need to Section 12 individuals for emergency evaluation, and in those cases they reach out to the CIT team if an officer is available, and if not, it is followed up on when they are.
- The way it is done now is "on a request basis." If someone from the city calls that they have had previous encounters with, "they will send a CIT officer directly to deal with them" instead.
- Captain McKiernan added that the department is working on developing a Crisis Response Team, and is attending an upcoming training on this topic to create additional avenues to get more people out to respond to these crises.

How many officers are currently on the CIT team? Does the CIT team consist of social workers?

- There are currently 3 full time and 2 part time members of the CIT team right now.
- The Worcester Police Department does not currently employ social workers.

Commissioner Lewis asked, Is there a CIT officer for each shift? Wouldn't it benefit the department as a whole to provide additional training in mental health emergencies?

- The CIT team currently only works days
- Captain McKiernan was certain the department would like to expand the unit, but wasn't sure if there has been any conversation about this.
- Class of new recruits in January. This may be one of the departments that might be expanded when that new class comes in, but that would be something the chief would have to answer directly
- Captain McKiernan clarified that "Every single officer has extensive training in mental health emergencies, and [they] handle mental health emergencies all day long."
- He added that the WPD has received training from CHL, UMass, as a significant part of in-service training, as approximately 25% of all calls are related to a mental health crisis

**Motion:** Clerk O'Callahan motioned to request that the Worcester Police Department conduct a review and update of this policy, and further suggested that community input be solicited

\*An additional suggestion was later made to consider soliciting input from the Mayor's Mental Health Task Force, whose current work may align with this issue.

Vice Chair Yang seconded. Motion Passed with all in favor

### **Captain McKiernan provided an updated Hate Crime Report**

Recent incidents:

- Flyers being passed around on public property by the "Nationalist Social Club"
- Two incidents were domestic in nature

- One incident involved a long standing neighbor dispute that was initially investigated as a hate crime

#### Types of Bias:

- 2 incidents were anti-male homosexual bias
- 2 incidents were anti-hispanic bias
- 1 incident was anti-Jewis bias

#### Avenues to report hate crimes:

- Some are referred through Director Turchek, through the City Manager's Office, through the text-to-tip line, and through the main number 508-799-8606
- Policy is to investigate every single incident. The route officer will first initiate a report
- All reports go to Captain McKiernan.

#### There has been a change to the way hate crimes are being tracked:

- Previously, hate crimes were only recorded when criminal charges were filed.
- Now, every incident that has the possibility of a bias is investigated whether it results in criminal charges or not.
- These numbers are reported to the Massachusetts Executive Office of Public Safety.

#### Policy #515 - Civil Rights

- This policy was written in 1994 and was identified by both the Worcester Police Dept. and the Human Rights Commission as being outdated
- Captain McKiernan explained that the policy was recently updated several months ago
- The Hate Crime Policy and Civil Rights Policy have been combined into one policy
- A Policy on Racial Profiling may also be rolled into this new policy
- The final revision is not able to move forward until the final version of the state Police Reform bill becomes available to review, because items in that bill may necessitate additions or changes to the policy
- Clerk O'Callahan asked for Captain McKiernan to keep the Commission updated
- Captain McKiernan deferred to the Chief on disseminating this information

#### **MA Police Reform Bill**

- Commission Chukwurah asked if the Chief had a position on the state's police reform bill that is currently before Governor Baker
- Captain McKiernan was reluctant to speak for the Chief and referred commissioners to public statements issued by the Chief

#### **4. Public Records Discussion (continued from last month)**

Commissioners raised concern regarding the following message on the Worcester Police Department's Website:

*If you are a victim or other individual specifically authorized to obtain such information under M.G.L. c. 41, §97D, you may obtain records to which you are entitled outside of the public records process by providing a hard copy notarized letter stating your relationship to the case, the date, time and location of the incident, and where you would like the documents sent. Please send the notarized letter to:*

*Worcester Police Department  
Attn: Records Bureau  
9-11 Lincoln Square  
Worcester, MA 01608*

- Captain McKiernan disputed whether this was accurate but deferred to the Chief and clarified that he was not in a position to be speaking on this

**Motion:** Clerk O'Callahan motioned to request the Worcester Police Department review its process for victims with regard to obtaining a copy of their police report to which they are entitled and consider the hardships that obtaining a notarized letter as a requirement for victims to obtain their police report, and further look at alternative avenues that do not create such hardship, such as requesting that victims send a copy of their photo ID  
Commissioner Lewis seconded. Motion passed with all in favor.

Questions about the public records portal generated by commissioners during the November Human Rights Commission Meeting, with written answers provided by Janice Thompson of the city's law department.

1. How is the ease of obtaining records balanced with ensuring people are protected from disclosure from someone who doesn't have a right to access those specific records?  
What is the process for evaluating and responding to requests?

The City complies with the requirements of the Massachusetts Public Records Law and its Regulations when processing public records requests and preparing responses. Under the law, all members of the public are entitled to access public records without regard to the identity or circumstances of the requester. This means the City is not permitted to consider the identity of the requester or their purpose in making the request.

Requests are received by the Records Access Officer and the Records Bureau. All requests are evaluated to determine whether the City possesses responsive records, and if so the responsive records are located. All records are reviewed prior to disclosure, and there is a process for escalating complex requests and requests involving multiple City departments. In some cases responsive records or portions of responsive records are exempt from disclosure pursuant to provisions in the Public Records Law and other applicable statutes. If the records contain exempt information that must or may be withheld or redacted prior to disclosure then appropriate redactions are applied, and the City provides a written explanation for those redactions along with the records. Responses are provided within 10 business days as required by the Public Records Law; in some cases, the City requires additional time to locate and prepare the records but in all cases the requester is contacted regarding the response within 10 business days.

There are a number of categories of exempt information that either must or may be redact from a responsive record. This pertains to all City records, not only police records. For example, the City redacts social security numbers, driver's license numbers, and bank account numbers from records. Examples of information redacted under the privacy exemption include personal cell phone numbers, personal email addresses, personal medical information, and information about family disputes and other highly personal matters. All reports relating to reports of domestic violence, sexual assault, or rape are withheld as required by law. Reports relating to arrests of a

juvenile are withheld as required by law, and reports relating to assaults of certain disabled individuals are withheld as required by law.

2. How are victims of crimes protected in the online public records request process?

The City removes information identifying victims of crime from responsive records prior to disclosure. Massachusetts General Laws c. 66 §10B provides (in part): “The home address, telephone number, personal email address or place of employment or education of victims of adjudicated crimes, of victims of domestic violence...and the name, home address, telephone number, personal email address or place of employment or education of a family member of any of the foregoing shall not be public records...and shall not be disclosed.” The City reviews every record prior to disclosure and redacts information pursuant to statutory exemptions in addition to discretionary exemptions such as exemption (c), the privacy exemption prior to disclosure. The City is required to provide written justification for every redaction, and a written response accompanies every record provided. The City has determined that in addition to the statutory requirement set forth above, victims of crime also possess a legitimate privacy interest in their identities and identifying information, and that these individuals may not wish to be publicly identified as victims of crime.

3. Could there be an automatic process for providing incident reports to victims of crime?

This question is outside of the public records process; it is asking the WPD to develop a new separate system by which WPD generates and produces reports for every individual who is a victim of crime upon reporting of such crime. There would be a number of practical and logistical issues with implementing such a system. WPD would be the appropriate department to address these practical aspects, as well as the resources available and whether this could realistically integrate with their current operating procedures.

- Captain Davenport stated that they would be unable to develop a new system to automatically release records to victims of crime.

4. Could there be a separate process (other than the public records online request) for victims of crimes to get their incident reports? (The online portal generates redacted versions of the incident reports.)

Please note the response above regarding the request that WPD implement a separate process for all victims. Please also note that the online portal does not generate reports – City of Worcester employees including Records Bureau employees, other WPD employees, the City’s RAO and Law Department employees are fulfilling requests as they have for years. The portal is not a change in City practice, rather it is a method for individuals to submit requests and receive records other than email.

With respect to the current process, certain statutes entitle victims of particular crimes to copies of their records outside of the public records process – again, these reports are not available through the public records process. Some victims and other individuals are entitled to receive unredacted records as specifically set forth in statute, and WPD currently has a process in place by which these individuals may submit proof of identity and relationship to the case in order to



receive these records. An example of this type of statute is c. 41 §97D which pertains to cases of rape and sexual assault (actual or attempted), and domestic violence. This statute entitles the victim, the victim's attorney, others specifically authorized by the victim, prosecutors, victim-witness advocates, domestic violence victims' counselors as defined in section 20K of chapter 233, and sexual assault counselors as defined in section 20J of chapter 233 to obtain copies of reports relating to the crime which would otherwise be exempt from disclosure. This is an example of a separate process that WPD currently has in place, other than the public records online request, for victims of a particular type of crime. This access is specifically authorized by statute.

5. With regard to anonymous requests, what is the minimum information that needs to be provided to make a record request?

Under the requirements of the Public Records Law, the City cannot require a requester to provide any information about him/herself in order to submit a request. The only requirement is that the requester must reasonably describe the records sought. A requester may make an anonymous written or verbal request; they are not required to use the online portal. If a requester does not provide a method of contacting them then it is difficult to communicate, ask for clarification, provide notification when the request is complete, and actually provide the records, so as a practical matter we ask that requesters provide a method of contacting them but we cannot require it.

6. If the request is anonymous, are those further redacted, or is this the same type of information that a non-anonymous person or the victim of a crime would receive?

The records provided through the public records process are the same for an anonymous requester as they are for every other requester. The City is not permitted to consider the identity of the requester in determining the response. The identity of the requester and the purpose in making the request or the purpose for which the records are sought are irrelevant. Access to records and determinations about disclosure rest solely on the content of the records not the circumstances of the requester.

7. What if any oversight is there to the request process?

The process is described above; it is generally overseen and coordinated by the City's the Records Access Officer, with ongoing involvement from the Records Bureau, the Law Department, and Departmental RAOs from each City department.

Eric Batista from the City Manager's office provided an overview of the new online public records request portal:

- Purpose of tool was to provide another opportunity for the public to engage the city
- Current process is people Send email or letter to public records officer
- They have an excel spreadsheet to track all of these requests, which created a risk of losing all of past request records
- This new tool automates that process and protects from data loss

### **How can victims currently access a copy of their unredacted police report?**

- An unredacted report is not available through the online records portal
- Victims of domestic violence can access their reports through the officers working with them
- Victims of crimes where criminal charges have been filed can obtain copies of their police report through/ the DA Victim's Advocate Office

**Motion:** Clerk O'Callahan motioned to request to add information to the web site to alert victims of this alternative method to access a copy of their police report. Vice chair Yang seconded. Motion passed with all in favor

What if someone is a victim of a crime that does not result in criminal charges?

- The DA Victim's Advocate Office will not be able to support them in this case
- Members of the Worcester Police Department were unable to clarify how victims of crimes could otherwise access their unredacted police report through alternate means
- Captain McKiernan offered to look into this further and follow up with the Commission
- Captain Davenport suggested that additional questions be held off on until Deputy Chief Fleming is able to review the questions and respond.

### Anonymous Requests

- The only requirement is that the requestor needs to reasonably describe the records request in writing or verbally. The city asks that they leave a method of contact
- The city is not permitted to consider the identity of the requestor or the reason for the response. Rests on content of the request alone

### Oversight

- Overseen by records access officer for the city
- Active involvement from records bureau from police department, from the law department, from the departmental RAO.

**Motion:** Clerk O'Callahan motioned to invite the Worcester Police Department to come back to continue these important conversations with the Worcester Human Rights Commission at a future upcoming meeting in the spring. Motion amended by Vice Chairperson Yang to request that this invitation specifically include Chief Sargent.

Seconded by Vicechairperson Yang. Motion passed as amended with all in favor.

### **4. Public Comment (Time will be allotted for each agenda item as it is introduced or at the discretion of the Chairperson)**

Director Turchek read a question entered into the chat "Are body cameras required to be recording at all times?"

- Captain Davenport explained that body cameras are not on at all times.
- They are turned on when tactically possible at the start of an incident
- \*Note: Per prior meetings with WPD, body cameras are not used during certain incidents where their use is prohibited, such as in regard to domestic violence incidents.
- Captain Davenport also clarified that body cameras are not currently being utilized by the Worcester Police Department as they need to be first funded by the city.

Kevin Ksen asked via chat:

“When will the Chief or BOPS [sic] be releasing the results of the investigation of the Police Officer striking the mental health patient in Main South this past July?”

Mr. Ksen also asked if it was possible for the public to know “whether this officer is or was a member of the Crisis Intervention Team at the time this occurred?”

- Captain Davenport stated that it is currently being reviewed by the City Manager and is considered an open case, so he was unable to provide comment
- Vice Chairperson Yang asked “How many incidents triggering the Early Intervention System have been sent to the City Manager in the last 5 years?”
- Captain Davenport was unable to provide a response but said he would follow up via email to the Human Rights Commission

Kevin Ksen asked via chat:

“Can you tell us who the officer is who has 26 complaints against him or her?”

- Captain Davenport explained that it is considered a personnel matter and therefore cannot be released as part of the exemption laws

Councilor Khrystian King asked “in 2020, have there been any policy or procedural developments or alterations that were influenced by police or officer conduct?”

- Captain Davenport could not recall any policies that have been amended or created due to police conduct in 2020, although it has happened in the past, often due to a lawsuit brought to the city.
- The only policy that was amended recently was the overtime policy, but this was not due to officer conduct

Councilor King asked for Captain Davenport’s analysis of the current complaint numbers, and what they mean given his experience, are complaints not being brought forward, do the numbers speak to professionalism, or is there more than meets the eye to these numbers?

- Captain Davenport thought that the complaint numbers do speak to professionalism
- He clarified that some officers do tend to generate more complaints than others due to their role, and thought that was a low number for a department overall\*

*\*Note: Per earlier discussion during this meeting, it should be noted that there is no national, state or regional average to compare to the Worcester Police Department’s BOPS statistics.*

Councilor King also asked if there was any interfacing with the new diversity officer toward ensuring that the complaint process addresses any trust gap in the black community, and added “If not, is this something you will consider exploring?”

- Captain Davenport that it would be counterproductive to not follow up on every complaint that comes in, and clarified that the diversity officer could contact him if he needed
- Councilor King clarified that many members of historically disenfranchised communities are unlikely to file a complaint in the first place due to a trust gap with the community
- Captain Davenport expressed a desire to consider exploring this in the future with the department and continuing to do so with the Human Rights Commission

Councilor King asked have there been a disproportionate number of complaints from communities of color?

- No, there have not been a disproportionate number of complaints made by communities of color. Captain Davenport cited the 2019 BOPS statistics in that the number of complaints were proportionate or similar to the racial city demographics

- Per the statistics from the 2019 BOPS Report as presented by Captain Davenport and summarized in the September 2020 Human Rights Commission Meeting Minutes:
  - Occurrence of Complaints: 53 complaints (44 in 2018) and 9 comments (10 in 2018); 7 year average: 70 Complaints/year
  - Breakdown of complaints by race: 53 total complaints: White 20 (37.74%); Latino 18 (33.96%); Black/African American 7 (13.21%); Unknown 8 (15.09%)
  - Compared to City of Worcester Demographics: White 57%; Asian 7%; Hispanic 21%; Black/African American 12%; Two or more races: 2%; Other 1%

**5. Adjournment at 8:51pm. Next meeting Monday January 4, 2021 6pm**