

Work Session Agenda Report

Date Prepared: October 25, 2022
For Meeting Date: November 7, 2022
To: Mayor Jules Walters and West Linn City Council
From: John R. Williams, City Manager *JRW*
Subject: Police Review and Recommend Committee

Purpose

City Council and community discussion of options for Police Review and Recommend Committee.

Question(s) for Council:

Does Council wish to move forward with adoption of an Ordinance establishing a Police Review and Recommend Committee? If so, which model of committee is preferred?

Background & Discussion:

In 2020, City Council created a [Police Oversight Task Force](#) to make recommendations on how best to provide community involvement in police oversight. In 2020 and 2021 the Task Force recommended a set of policies and procedures which included concepts for a permanent oversight entity. Using the recommendations from the Task Force and the [OIR Group's December 2020 report](#) as a guide, staff worked with legal counsel to draft a structure for a "Review and Recommend Group" which included terms, training, the roles and responsibilities of the group and a proposed complaint oversight structure.

The Review and Recommend structure was designed to allow community members appointed by Council to participate in staff and attorney discussions of complaints, investigations, and disciplinary actions, and to report back to the Council and community on the City's actions. Committee members would also have a role in reviewing and making recommendations on police policy, trends in data, and reports.

The City's legal counsel drafted a proposal to implement this all into the West Linn Municipal Code. Council discussed the drafts at Work Sessions in [March 2022](#) and [July 2022](#), but it was not scheduled for further discussion.

I became City Manager in September, and identified moving this forward to Council discussion and adoption before the end of 2022 as a priority. I convened relevant staff and attorneys to understand the proposed committee structure, review outstanding issues, and produce a final recommendation to Council and community. The draft code language attached to this report includes a variety of changes in response to discussion and input received to date.

During my review, one significant operational concern emerged which I believe warrants further public discussion, specifically how the committee structure proposed to date requires most, perhaps all, committee meetings to be held in public (Citizen Advisory Groups, or CAGs, that are advisory to the Council must follow public meetings law). While this is excellent for transparency, it presents a real problem when considering the proposed subject matter of most meetings. Specific details of many police complaints, investigations, and most if not all potential disciplinary action discussions may not be held publicly. This is due to confidentiality requirements related to complainant privacy, police personnel matters privacy, the protections accorded law enforcement employees under labor contracts

and state law, and terms of the West Linn City Charter which create limitations on Council’s role in personnel management. We hope to allow committee members to review all aspects of complaints, including police records, audio and video recordings, investigation results, and discussions of contemplated disciplinary actions. With this in mind, it becomes clearer that reviewing such material in public meetings would be very problematic.

The structure discussed by Council in early 2022 proposed two types of workarounds for this problem. First, it proposed the use of Executive Sessions where allowed. However, I’ve been advised by legal counsel that most topics likely to be discussed by the committee would not be Executive Session-eligible (note also that Executive Sessions are very unusual for CAGs). Second, it proposed assigning specific complaints to individual committee members or non-quorum smaller groups of members, thus avoiding a public meeting requirement. Unfortunately, given the small number of complaints received by our Department, this would mean that some committee members might end up reviewing only one or two complaints per year, and it could take years for them to be exposed to each different type of issue that can arise. Additionally, staff believes that full group discussion is very important in this committee’s work. As staff, we would prefer a wider range of input on each decision, as we think this could really improve outcomes.

Council Options:

After discussion of these concerns, we have developed a possible alternative approach for Council and community consideration. Stated simply, this option (“Option 2”) retains most elements of the Review and Recommend structure – membership, terms, role in both individual complaints and higher-level policy, etc. – but constitutes the group as advisory to the City Manager and Police Chief, who are the ones with final decision authority in any disciplinary scenario. Groups that are not advisory to the governing body are not required to follow public meetings law, so every meeting in which confidentiality is required could be held with the full group participating. Nothing in this structure would prevent the Committee from holding public meetings to discuss overall policy and process matters (in fact the proposed language requires a minimum of two public meetings per year), or prevent individual members from speaking to/writing to the Mayor and Council at any time.

I am very aware that a significant concern with this alternative option is the perception that the citizen committee would have less authority, less visibility, less transparency, and/or less impact if created as advisory to staff rather than Council. A main purpose of creating this committee in the first place is to develop and maintain community confidence in the West Linn Police Department, so it is critical that the chosen structure accomplish that objective.

For that reason, the attachment provides both options in their complete form for Council and community discussion. The (very few) sections that differ between the options are highlighted for convenience.

Key elements in **both** options are:

- Seven committee members, appointed by Mayor and Council to three-year terms.
- In making appointments, applicants’ ability to be fair, unbiased, no conflicts of interest, effective communication, etc. to be considered.
- Members required to sign non-disclosure agreements and pass background checks to access confidential law enforcement documents.
- Members to receive training from City and District Attorney and take a police ride-along.

- Public meetings to be held at least two times per year (more if desired) to review and recommend policy, review trends, and police reports.
- Committee members specifically encouraged to speak to City Council and community about what they have learned and suggestions for improvements.
- Members have access to all information related to individual complaints and will participate in discussions with City staff and legal counsel regarding investigations and potential discipline.
- Discussions regarding most specific complaints, investigations, and contemplated disciplinary actions would be held out of public view.
- Committee members will be invited to submit comments for the annual evaluation of the City Manager, and will be invited to participate in Police Department hiring and promotion panels.

Differences between the options are:

- Advisory status: in Option 1 the Committee is advisory to Council and staff, and is adopted into the CAG section of the West Linn Municipal Code. In Option 2 the Committee is advisory to the City Manager and Police Chief, and is adopted into a general section of the West Linn Municipal Code.
- Public meetings: in Option 1 all full group meetings to discuss complaints, investigations, and discipline are public unless protected by Executive Session privilege. In Option 2 all full group meetings are allowed to be private.
- Review of specific complaints, investigations, and proposed discipline: in Option 1 specific cases would be reviewed by individual committee members or a non-quorum small group of members. In Option 2 each case would be reviewed by all committee members.

Staff Recommendation:

Staff recommends Option 2, allowing all committee members to be involved in review and discussions of every complaint received. However, staff understands the symbolic importance of this committee reporting directly to Council to strengthen oversight of staff. Should this be judged as the highest priority, Option 1 will be functional although will generally result in less involvement by all committee members.

Once Council has chosen an option and reviewed/amended all other elements of the program, staff and legal counsel will immediately finalize an implementing ordinance and return to Council for adoption.

Attachments:

1. Municipal Code changes required to implement two options of a Police Review and Recommend Committee.