

MINUTES

Civilian Review Board
Bascom Room – Eugene Public Library – 100 West Tenth Avenue
Eugene, Oregon

April 14, 2015
5:30 p.m.

PRESENT: Bernadette Conover, Chair; Eric Von Houten, Vice Chair; Maurice Denner, George Rode, Debra Velure, Chris Wig, Civilian Review Board members; Leia Pitcher, Vicki Cox, Mark Gissiner, Police Auditor's Office; Captain Sherri Meisel, Sergeant Dale Dawson, Eugene Police Department; Mary Clayton, Human Rights Commission.

ABSENT: Steven McIntire, member.

Chair Conover convened the CRB at 5:30 p.m.

I. AGENDA AND MATERIALS REVIEW

Ms. Conover deemed the agenda approved.

II. MINUTES APPROVAL – March 10, 2015

The minutes as presented were approved by acclamation.

III. PUBLIC COMMENT

No members of the public requested to speak.

IV. COMMENTS FROM BOARD MEMBERS, HUMAN RIGHTS COMMISSION LIAISON AND POLICE COMMISSION LIAISON

Mr. Rode reported the Police Commission (PC) had met Monday to interview nine candidates for four openings. A retreat would be held May 2 from 9 a.m. to 1 p.m. at the Washington Park Community Center. He invited board members to attend the Eugene Police Department (EPD) Awards Ceremony on May 27 at the Valley River Inn at 3-5 p.m. The event was open to the public.

Mr. Rode said the PC was finishing its work on the CCTV proposal. He indicated that contrary to rumors, a policy setting a specific limit on how close to an officer someone could come while filming a police interaction was not in the works. Instead it was to be up to the officer to decide whether interference was occurring and to establish a safe distance for the specific circumstances. Mr. Rode noted that officers needed to consider the potential for a suspect to injure others and whether a bystander's distance from the event was distracting the officer. Mr. Rode had recently learned the Eugene Police had a non-pursuit policy for minor infractions. He said that if Springfield Police were engaged in a non-felony and non-threatening chase that came into Eugene, EPD officers would not join the pursuit due to the potential for injury.

Mr. Wig reported at the Human Right Commission (HRC) meeting March 17, Public Works had asked for feedback on the key corridor study that was looking at impacts of traffic and impacts on

human rights in south Eugene, Coburg Road, and West 11th. The HRC discussed its work with the Police Commission on trying to create a City ordinance on Intimidation II and whether to include homelessness as a protected class and how to describe that bias. The HRC heard a staff report on incidents of hate and bias. The commission also discussed City Councilor Greg Evans' request for the council to schedule a work session on the criminalization of homelessness. At this point the council had not indicated interest in having that discussion and Mr. Wig encouraged anyone who supported that discussion taking place at a council work session to contact councilors and ask that City staff prepare materials for the discussion.

Mr. Wig had corrected for the HRC the misperception that the Auditor's Office was no longer taking third party complaints.

Answering Ms. Conover's question about whether the HRC was planning another Hate Crimes Conference, Mr. Wig indicated this had not been discussed recently.

Ms. Conover asked members to suggest topics they would like her to bring up with Chief Kerns during a meeting she was scheduling with the intent of updating him on how the board felt about things. She encouraged members to complete and return as quickly as possible a survey they would receive soon that would be part of the Auditor's performance evaluation.

Mr. Van Houten reported he had presented to the Metro Rotary group about his participation on the board and the relationships between the board, the Auditor's Office, the EPD, and the community. People had not understood how the board operated and had been interested in learning more about the unique nature of its work. Mr. Van Houten spoke about the high prevalence of untreated mental health and substance abuse issues and saw that the decimation of public services was resulting in criminalization of people dealing with those issues. He wanted to hear the Chief's perspective on that and said he would reach out to his City Councilor on the importance of the discussion.

Mr. Denner spoke about the separate but related issues of decriminalizing homelessness and of classifying it as a protected class. As a way of explaining the intimidation ordinance, he said that while graffiti was public vandalism, if it involved a racial slur it became the offense of intimidation toward a race or class of people. Expanding the ordinance to include people who were not housed but who seemed to be the frequent targets of acts of violence and derision in Eugene would provide some protection for that population which was larger in Eugene than other cities its size. On the other hand, Eugene's laws like the camping ban prohibiting sleeping on public property criminalized homelessness. Mr. Denner mentioned other municipalities having ordinances against sharing food or leaning up against buildings. He said downtown was home for people who were homeless but such ordinances meant they could be cited for the daily acts of living. He questioned whether such laws were appropriate ways of controlling the behavior of people who had behavioral and substance abuse issues.

After reading the summaries of cases involving service complaints, Mr. Denner had noticed that unless a case was sustained and included a letter from a supervisor to an employee, it was unclear to him whether it was considered unsubstantiated or unfounded. Mr. Gissiner responded that those adjudication terms were not used for this type of complaint and a letter might be sent to the complainant and coaching provided to the officer. For example, a complaint involving a wrong court date would be discussed with the officer and if the supervisor had the ability to contact the complainant he or she would tell the person the officer had been wrong in that situation but there was no formal disposition.

Ms. Velure asked for a moment of silence in recognition of the April 22 anniversary of the death of

Chris Kilcullen and to honor his service and that of all officers who risked their lives for the public.

Ms. Conover added that she was working on the annual report to the City Council and as part of it she and Mr. Van Houten, with the help of Ms. Cox and Ms. Pitcher, were creating a synopsis of cases the board had reviewed over the past year from which two would be selected for presentation to the council. She also planned to ask the council for help with recruitment of new members. The date for meeting with the council had not been set but usually was in June or July.

Mary Clayton from the Human Rights Commission shared copies of the hate and bias report mentioned earlier by Mr. Wig and also available on the HRC website. She said there had been 69 bias crimes and non-criminal incidents reported last year with the leading motivating factors being race and sexual orientation. She noted that bias activity could be reported through the website or to HRC staff. Ms. Clayton reported that hiring a new Equity and Human Rights analyst was in progress. She announced that a forum on human rights and youth homelessness cosponsored by CALC and the First Congregational Church would be held at the church April 25 from 11:30 a.m. until 3 p.m. Attendance was free but pre-registration was required.

Answering Mr. Van Houten's question about whether the HRC had received reports of incidents based on a person being unhoused, Ms. Clayton said the HRC was just beginning to collect information on that but it often was unclear whether someone was unhoused.

V. TRAINING: CAPTAIN MEISEL

Mr. Gissiner introduced Police Captain Sherri Meisel who recently came to EPD from Detroit, Michigan.

Captain Meisel had started with the Detroit Fire Department as an EMS technician while attending school to receive her Master's in Public Health and Environmental Science. Preferring working in the field with the public, she had moved on to a variety of police positions, including patrol, homicide, domestic violence, and general investigations. In Eugene she captained the Investigations Division which included the property crime unit (burglaries, identity theft, retail fraud), violent crimes (homicide, rape, armed robbery), special investigations (human trafficking, task forces with other agencies, narcotics), the evidence control unit, forensics, and animal welfare. She supervised two lieutenants.

Answering Ms. Conover's question about what patrol officers often missed but needed to recognize, Captain Meisel said Patrol was the backbone but needed the arms and legs provided by Investigation. It was important for officers to understand that looking for evidence required them to be observant and to write down what they saw, heard, smelled, and noticed about conditions such as lighting and temperature. Detroit had a different organizational structure and was a much larger agency, while in Eugene people typically remained in the same position for a long time but due to EPD's smaller size they had to do multiple jobs in addition to their primary duties. This created a different dynamic in which people tended to be very versatile.

Regarding a question from Mr. Denner about evidence control, the Captain credited Sergeant Barab and Lieutenant San Miguel for great progress toward correcting problems found in the November audit.

Responding to Mr. Van Houten's inquiries, Captain Meisel said she had long wanted to come to the northwest and enjoyed the more temperate climate and proximity to the coast, mountains, desert, and

outdoor activities. In Detroit she said she had worked with a board of police commissioners appointed by the mayor, similar to Eugene's Police Commission. After Detroit's two consent decrees relating to use of force and conditions of confinement, a civilian component was added that investigated citizen complaints and could send them to department command for investigation and reporting back. Internal Affairs (IA) had been charged with investigating criminal issues.

Commenting on the impacts on departmental operations and processes of Detroit's bankruptcy, the Captain said the state had appointed an emergency manager and labor agreements were discarded, and pensions, wages, and the budget were severely cut. Response times were impacted by having fewer officers to patrol the city's 139 square miles. Homicides and non-fatal shooting rates were high and citizens were frustrated at not getting a response for break-ins and less critical calls for service. Things had improved after Chief James Craig was hired. He had been more open with the public and media in an effort to build a trust relationship and create greater transparency.

Regarding property crimes involving things like bicycles being stolen from a garage and the police taking only a telephone report, Captain Meisel said in light of high property crime rates that made it difficult to expend resources on many of these types of crimes, public education about things like photographing and registering bikes and etching serial number on them was key. She said police needed the public's help as much as the public needed the police.

In the next couple of years, Captain Meisel saw the biggest issues facing EPD as being around resources in terms of personnel and ensuring a good relationship with both municipal and circuit courts. Lack of resources made it difficult to file or prosecute and produced a rotating door in the jail so it was important to work outside the EPD silo with other area agencies and to get public support behind law enforcement as a whole. She noted that nationally jails were housing people for mental health behaviors as much as for crimes.

Mr. Wig was interested in ideas for how to maintain public safety while being sensitive to the needs of people who were less fortunate. Captain Meisel responded that a holistic approach was needed and people should not be incarcerated because they were mentally ill, or needed medications or a place to live. At the same time the community needed to be able to conduct business without problems caused by these same people. She said this community was sensitive and aware, EPD provided extensive training on things like crisis intervention, this community was interested in resources being joined to better tackle problems one entity could not resolve alone, and it was this community approach that attracted her to Eugene. Continuing to address Mr. Wig's questions, she said she supported integrated courts like drug and youth court and was interested in a vets' court. If properly applied, she saw those types of programs as being effective in reintegrating people into the community.

Ms. Pitcher commented that she had been on Captain Meisel's interview panel and was impressed by her saying she had wandered around downtown and still wanted to come to Eugene.

Citing his background in education, Mr. Denner referred to a child abuse seminar he had attended at which triage of violent crimes and social service referrals were discussed. Captain Meisel said the MDT meeting she had attended the previous week was a good example of how different local agencies came together to tackle issues and problems.

Ms. Conover thanked Captain Meisel for meeting with the board.

VI. BREAK

The CRB took a short break.

VII. CASE REVIEWS: REVIEW OF SEVERAL INQUIRIES, SERVICE AND POLICY COMPLAINTS

Ms. Conover explained the board would discuss cases differently than usual but officers still should not be identified by name or gender. Mr. Gissiner asked for feedback he could provide to EPD about the customer service aspect of how officers and their supervisors handled situations.

Ms. Pitcher provided a PowerPoint presentation on service complaints.

Case #1

- The reporting party contacted the Auditor's Office to complain about EPD employees' use of force during an arrest that she witnessed.
- Investigation included review of related police reports, review of use of force report, review of in-car video (ICV) of the incident, and the intake interview with the reporting party.
- The complaint was initially classified as an Inquiry; it was later re-classified to a Service Complaint/Use of Force.
- A supervisor contacted the reporting party and listened to her observations of the arrest. He then attempted to explain the reason for the arrest and for the use of force during the arrest.
- The supervisor explained that based on the circumstances and behavior of the suspect, the use of force was within policy.

Board Comments/Discussion:

- Mr. Rode was grateful that in-car video was available and said that what the complainant said and what he observed on the video were two totally different situations.
- Ms. Conover asked Sgt. Dawson if complaints such as this that did not come through IA required the sergeant to contact the complainant during time off or if IA assisted with that.
- Sgt. Dawson said in this case the sergeant made contact during his shift. If a complainant asked not to be contacted during that period, the sergeant would seek authorization to come in early to make the phone call. The sergeant who supervised the officer making the initial contact that was the subject of the complaint was responsible for its investigation.
- Ms. Conover wondered how much time sergeants spent following up on complaints.
- Sgt. Dawson said the amount of time spent depended on the activity level of officers on that sergeant's team. Last year his team of 12 had no complaints that went to IA and he had worked on 15-18 complaints for the entire team over the year, each of which took between 1.5 and 4 hours and likely required three to four hours of his time each week.
- Mr. Van Houten wondered how often Patrol sergeants were on the scene of situations and how often the IA sergeant was present.
- Sgt. Dawson explained that the IA sergeant worked from the office but may be in the field in an overtime situation but if so a complaint generally would not come back to IA for investigation.
- Ms. Pitcher added that occasionally a complaint involved the sergeant in which case the investigation went to the lieutenant. Unless there was negative contact between the sergeant and the reporting party, the sergeant of the officer handled the investigation.
- Mr. Van Houten observed that in most complaints he had read, when an officer described to the complainant why the complainant's perspective was incorrect, the complainant interpreted it as the officer not listening. He believed this was because people wanted to feel heard and not to hear a justification. He doubted that a person's perspective could be changed in a conversation in which the sergeant had access to additional information and the person did not.

- Mr. Gissiner commented that it all depended on the situation. Use of force sometimes seemed very violent to an observer and that observation carried emotion and likely could not be changed. For complaints about why it took so long to respond to a crime or why an officer was driving so fast, most people were satisfied when they received an explanation. Some supervisors had the personality and skill to help people become calmer and others had less patience.
- Mr. Rode observed that people saw things differently and sometimes agreement was not possible. He said better relationships were engendered by making people feel heard first.
- Ms. Conover said the perception of what was happening changed when it involved a person of color. She agreed with Mr. Van Houten on the importance of defusing the situation.
- Mr. Denner saw other elements of criminal behavior that were not relevant to the complaint but were factors in officers being on the scene and the level of intensity.
- Mr. Van Houten described the officer's report as outstanding in its provision of details around the thought process and decisions made. Mr. Rode had been impressed by the compassionate manner in which the officers spoke to the suspect.

Case #2

- The reporting party filed a third-party complaint through EPD Chief Kerns alleging that an officer's testimony in court did not appear to match ICV related to the resulting traffic citation.
- Specifically, the reporting party did not believe that ICV supported the officer's statement that the involved vehicle slowed before driving through an intersection.
- The complaint was initially classified as an Inquiry; it was re-classified to a Service Complaint/Other following the preliminary investigation.
- The investigation included the reporting party's complaint, an interview with the involved employee, and review of the relevant ICV.
- ICV showed that the defendant vehicle slowed before accelerating through an intersection against the light. The complaint was closed.

Board Comments/Discussion:

- Mr. Rode said in this case the ICV left no question that the involved person had accelerated through a red light after initially slowing. He regarded the complaint as an example of one that used resources better spent on other important matters.
- Mr. Wig concurred with the supervising sergeant's memo and was concerned about the complainant's accusation of perjury by an officer and about casting aspersions on the judicial process.
- Answering Ms. Conover's question about whether the closing memo went beyond the department, Mr. Gissiner said it only went to the Auditor's Office. Ms. Conover said the sergeant's comments were pointed, direct, and helpful and she wished they could be shared more widely.
- Mr. Denner wondered why court testimony was not on record.
- Ms. Conover concurred with the sergeant's comment that the complainant's interference damaged trust-building and was irresponsible.
- Mr. Van Houten saw one of the benefits of serving on the CRB as gaining an understanding of how EPD worked and the level of detail to which officers were held. The ICV showed the importance of being truthful about what one observed. He said the comments were well-written.
- Mr. Gissiner commented that all aspects of the system had to work interdependently and courts were expected to find guilt only when it was beyond reasonable doubt. He believed in relying on the judicial system to do its job.

Case #3

- The reporting party called dispatch and complained about how a call for service was handled; his daughter had called for help when her boyfriend broke her front door window but the call did not result in an arrest.
- The reporting party also complained that the involved employee had hung up on his daughter's mother when she called to get more information regarding the incident.
- Dispatch connected the reporting party with the on-duty watch commander, who spoke with both the reporting party and the mother. She also reviewed the related police reports and ICV.
- The supervisor re-contacted the mother of the caller after reviewing the reports and ICV and was able to answer most of her questions. The supervisor also entered a new call for service related to continued harassment by the boyfriend.
- The complaint was closed following review by the Auditor's Office.

Board Comments/Discussion:

- Mr. Wig asked whether the reporting party had been present at the scene of the incident.
- Mr. Gissiner said no and there had been a miscommunication or failure to communicate between the daughter and the reporting party. The daughter had been intoxicated and there was no clear transfer of information. He believed the supervisor (the lieutenant) had done a good job of gathering information and relaying facts to the reporting party. However the reporting party was still angry the tenant had not been charged with breaking into his own home.

Case #4

- The reporting party stopped by the Auditor's Office to complain that an officer had not included correct information on her parking citation regarding when the municipal court would address the citation.
- The complaint was classified as a Policy Complaint.
- The assigned supervisor spoke with the reporting party and learned that Municipal Court has changed from hearing parking citations any Thursday to only hearing parking citation cases on the second Thursday of the month.
- When the policy changed, EPD elected to include updated information on existing ticket books rather than re-issue the ticket books.
- The supervisor contacted the involved employee, who was unaware that the court had changed the information and did not have the new information in his ticket books.
- The supervisor explained the circumstances to the reporting party, and the complaint was closed.

Board Comments/Discussion:

- Ms. Conover appreciated the sergeant's follow-up on this case. She said it was important that sergeants reminded officers at briefing when there was a change in procedures.
- Mr. Rode spoke about how difficult it was for his employees to grasp and follow procedural changes.
- Mr. Van Houten expressed discomfort around the description in the summary saying the reporting party had the intent to escalate the importance of the complaint. He said that what the complainant stated was factually accurate.
- Mr. Rode noted he handled special complaints in his business and he recognized the service and patience shown by Mr. Gissiner, Ms. Pitcher, and Ms. Cox.
- Mr. Denner appreciated the points made by Mr. Van Houten and Mr. Rode. He said when

people complained they saw their issue as the most serious incident possible and it was difficult to see past their language to their meaning.

Case #5

- The reporting party filed an online complaint stating that an employee had an abrasive attitude when questioning him regarding his travel plans at the airport and that the employee got his attention by hitting his foot.
- The complaint was classified as a Service Complaint.
- The assigned supervisor contacted the involved employee, who explained that he had been asked to contact the reporting party, who was sleeping in the lobby of the airport.
- The involved employee stated that he was professional, direct, and that he did not use profanities or raise his voice.
- The supervisor noted that the reporting party stated that the employee was “nice... overall.”
- The reporting party did not give contact information, so the supervisor was unable to follow up.

Board Comments/Discussion:

- Sgt. Dawson explained that airport duty was a voluntary assignment and based on seniority preferences when openings occurred.
- Mr. Rode understood the reporting party may have been fearful when awakened by the officer kicking his foot.
- Ms. Conover asked whether an officer’s call for help would receive a response from whatever agency’s officer (whether EPD, Sheriff, or OSP) was closest. Sgt. Dawson responded yes.
- Sgt. Dawson clarified that when approaching someone seated in a chair, an officer would want to stay farther away than arm’s reach so it was normal to nudge the person with a foot.

Case #6

- The reporting party stopped by the Auditor’s Office to complain that she was unable to get her belongings back following an arrest and a vehicle impound.
- The complaint was classified as a Service Complaint/Performance.
- The assigned supervisor contacted the involved employee, who stated that he was instructed by the DA’s office not to release the items, which were evidence, until January 2016.
- The involved employee attempted to contact the reporting party but was unsuccessful; the supervisor noted that the employee would continue to try and advise her to contact the DA’s office to negotiate the release of the property.
- The supervisor found that the involved employee acted within policy, and the complaint was closed.

Board Comments/Discussion:

- Mr. Van Houten asked whether some of the reporting party’s belongings were returned but not all of them and said it seemed like a long time to hold the possessions.
- Ms. Pitcher said the items not returned included an iPad, phone, money, and pliers and were held as potential evidence in the case related to the complainant’s arrest.
- Mr. Rode described Ms. Pitcher’s gatekeeper role as requiring great versatility with a variety of complaints.
- Ms. Pitcher opined that the ICV could provide a valuable communication tool and its release would help people better understand situations because in many cases it showed a different story than was provided in the initial complaint intake.

- Mr. Gissiner commented that despite a reduced cost for copies, many people did not want to pay for them.
- Mr. Wig asked how long it took to obtain a copy of the ICV of an encounter.

VIII. AUDITOR REPORT – DISCUSSION OF CRB VACANCIES, ABA PRESENTATION, AND FUTURE

Mr. Gissiner reported there had been eight applicants for the three vacant positions on the board. Later in the month he and the Mayor would select a subcommittee to review the applications and make a recommendation to the City Council for interviews to be held in early May. The council would vote in June and new terms would begin July 1.

Mr. Gissiner would meet with the HRC to help it better understand the CRB's processes. People who did not feel comfortable coming to the Auditor could take their complaints to the HRC.

Mr. Gissiner had spoken at a well-attended Goodpasture Neighborhood Association meeting.

Mr. Gissiner reported that many Oregon cities were waiting to see the outcome of pending related legislation before they considered the decriminalization of homelessness.

Mr. Gissiner clarified that being more strategic in the manner of pursuing and capturing was reducing the number of high speed chases for anything other than situations involving a violent felon. Those pursuits were reviewed by a number of people and went to IA.

With the St. Petersburg, Florida Police Chief and the executive director of chiefs, Mr. Gissiner would make an online presentation on oversight soon to the American Bar Association. With the large number of officer-involved shootings, he expected the session to be well attended. Ms. Pitcher would send out information about logging in to the webinar but the Bar Association was charging for online attendance.

Regarding the CRB's future meetings, Mr. Gissiner said the tentative dates were May 12, June 9 and July 14 (second Tuesdays). He would not be available May 12 and Ms. Pitcher could facilitate that meeting. He asked whether board members wanted to take a month off during the summer.

Mr. Gissiner anticipated review in the fall of the recent local officer-involved shooting. He advocated for veterans' hospitals to create crisis intervention teams and said that community response teams would help many soldiers and former soldiers whose lives had been significantly disrupted and who were suffering. He said the Federal government needed to recognize this as a serious issue.

Mr. Van Houten added that something beyond thanking soldiers for their service was required.

Mr. Wig asked whether the Auditor participated in the investigation of officer-involved shootings. Mr. Gissiner responded that he did not participate and that such investigations were presented to the District Attorney who decided if the case should be taken to the Grand Jury or criminal charges pursued. If not, the case would go to EPD as an administrative investigation and then the Auditor's Office would become involved. This particular case had only recently gone to the DA's office.

Ms. Conover preferred taking a break in August and having an opportunity to meet new board members in June or July.

IX. ADJOURN

The meeting adjourned at 7:39 p.m.

(Recorded by Mary Feldman)