

MINUTES

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

February 9, 2016
5:30 p.m.

PRESENT: Bernadette Conover, Chair; Eric Von Houten, Vice Chair; Maurice Denner, Lindsey Foltz, Heather Marek, Steven McIntire, Chris Wig, Civilian Review Board members; Vicki Cox, Mark Gissiner, Police Auditor's Office; Lt. Carolyn Mason, Sgt. Dale Dawson, Sgt. Larry Crompton, Eugene Police Department; Bonnie Souza, Human Rights Commission liaison; Dahlia Bazzaz, Bobby Jones, Majeska Seese-Green, guests.

ABSENT: None.

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

I. AGENDA AND MATERIALS REVIEW

Ms. Marek requested that agenda item 7, discussion about audio and/or video recording of meetings, be moved to an earlier time in the agenda to allow sufficient time for the CRB to discuss the topic.

Ms. Conover explained Eugene Police Department (EPD) officers who would present the training and participate in the case review were expecting those topics to be discussed in the order listed in the agenda and may leave after those agenda items were completed. It would be unfair to revise the agenda order.

Ms. Marek emphasized her preference to revise the agenda.

Ms. Marek moved that the training be flipped with the discussion about audio and/or video recordings. The motion died for lack of a second.

Ms. Conover deemed the agenda approved.

II. MINUTES APPROVAL—January 16, 2016

Mr. McIntire offered the following correction:

Page 2, paragraph 7, sentence 2 should read: He said that he didn't think that the community ~~understood~~ **knows about** the purpose of the CRB and its role.

Mr. Wig offered the following correction:

Page 2, paragraph 7, sentence 3 should read: He informed the board that ~~he and~~ Mr. Van Houten often explains the CRB's role as the interface between the auditor and the public, **and Mr. Wig supported Mr. Van Houten's statements.**

Ms. Marek offered the following corrections:

Page 3, paragraph 9, sentence 3 should read: Ms. Marek informed Mr. Denner that the Civil Liberties Defense Center could provide valuable insight from the ~~law enforcement~~ **civil rights** perspective.

Page 7, paragraph 3, sentence 4 should read: She also reiterated the issue of microphone muting especially given the concerns with Miranda Rights.

Ms. Conover offered the following corrections:

Page 3, paragraph 2, sentence 3 should read: She said that she had asked Ms. Pitcher the same question regarding commenting during the meeting and had also met with Ms. ~~Conover~~ **Pitcher**.

Mr. McIntire moved that the January 12, 2016 Civilian Review Board minutes be approved as corrected. Noting no objections, Ms. Conover deemed the January 12, 2016 Civilian Review Board minutes approved as corrected.

III. PUBLIC COMMENT

Mr. Van Houten called for public comment.

Bobby Jones expressed concern that there was no person of color on the CRB. He had been born and raised in Lane County and had been profiled regularly since 1971. He did not know what avenue to follow to express his concerns. He was concerned that Eugene was returning to the 1960's where law enforcement agencies worked together and complaints were often thrown out of court. He was still being profiled and was fearful of law enforcement personnel for several reasons. His son was murdered by law enforcement. He asked what he should do if he was caught in a situation where he was detained by the police. He needed help when authority was a problem. When he was pulled over when he was driving, he felt threatened and needed to know who he could contact.

Majeska Seese-Green noted she was recording tonight's CRB meeting. She hoped the CRB would decide to do audio recordings of future meetings. Having written minutes only was a step backwards. The Police Commission went to audio recordings a few years ago, which was also a step backwards. At the January 2016 meeting, she had provided information to the CRB about *A Community Together*, an organization she was affiliated with. The group had changed its name from *Police and Community Together* (P.A.C.T.) to *A Community Together* in 2009, and she was surprised that staff and CRB members had not picked up on the mistake in the minutes. She asked if this was intentional on the part of staff and said it appeared the CRB had blown her and Carol Berg Caldwell off since 2009.

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

Mr. McIntire reported the Police Commission was reviewing several issues, including officers' muted microphones, and was looking at policies related to searches and storage of prisoners' property. He thanked Mr. Jones for his comments this evening. He noted the CRB had asked the City Council to reach out to minority groups when recruiting for Boards and Commissions.

Mr. Wig thanked Mr. Jones for sharing his story with the CRB. He said Mr. Jones was not the first person to raise this issue, which continued to be a problem in the community. He noted the Police Auditor reported to the City Council and not the Chief of Police, adding people should contact the Police Auditor's office if they felt they had been profiled. Although the CRB could not fix the profiling problem, he hoped Mr. Jones felt heard.

Mr. Van Houten thanked Mr. Jones for his comments this evening, and hoped the issues Mr. Jones identified could be fixed. Mr. Van Houten was intrigued by a newspaper article that reported the Portland Police Bureau had been asked to develop earlier interventions for officers involved in fatal shootings. He noted a Seaside Police officer had been shot and killed last week.

Mr. Denner concurred with Mr. Van Houten's comments. He said an article featured in National Association for Civilian Oversight of Law Enforcement (NACOLE) publication, *Use of Force*, had been informative. He asked that the article be forwarded to Police Commission members.

Ms. Foltz thanked Mr. Jones for his comments this evening. She noted Mr. Wig and Mr. McIntire had valid points. She appreciated the variety of perspectives displayed by CRB members.

Ms. Marek echoed CRB members' appreciation to Mr. Jones. She suggested the CRB should have a training on profiling. She thanked Ms. Seese-Green for sharing her concerns that the January 2016 minutes did not accurately identify the name of the group *A Community Together*. She had not attended the last HRC meeting due to illness. She had reviewed the CRB bylaws, which under Article 7, provided a way for community members to participate in CRB discussions and she encouraged CRB members to invite community members to participate. She thanked the CRB for its willingness to consider audio recordings of its meeting which she thought was important for transparency and accountability, and for the public to trust the CRB process.

Ms. Conover thanked Mr. Jones for his comments tonight, which echoed concerns shared by others in the community. She noted CRB member Marisa Mendoza had been replaced by Dr. Snell Fontus in 2009, and the balance Dr. Fontus brought to the CRB was lost when he left the CRB in 2014. There were currently two open positions on the CRB and she encouraged Mr. Jones and other community members to apply for them. The diversity of opinion they could bring to the CRB was highly valued. She shared Mr. Van Houten's comments regarding the death of the Seaside Police officer.

V. TRAINING TOPIC: CRISIS INTERVENTION TRAINING

Lt. Carolyn Mason distributed a handout entitled *Lane County Regional Crisis Intervention Team Training*, and offered a *Crisis Intervention Training (CIT)*. She had 20+ years of experience with EPD and joined the EPD Internal Affairs Unit in January 2016. She reviewed the history of the CIT in Eugene, noting she had been the CIT commander since its inception in 2008. As of September 2015, 100 percent of EPD's sworn officers had completed the CIT training, and non-sworn EPD personnel who worked as 9-1-1 dispatchers and call takers also participated in the training. The plan was to have all sworn officers in Lane County complete the training. Through the CIT program, EPD partnered with the National Alliance on Mental Illness (NAMI), Lane County Behavioral Health, Lane County Health and Human Services, the Lane County District Attorney, the Vet Center, Crisis Assistance Helping Out On The Streets (CAHOOTS) and local hospitals to

serve people in crisis. EPD staff would attend a national best practices training in Chicago in April 2016.

In response so Mr. McIntire, Lt. Mason said military veterans served as teachers in the CIT trainings. She noted the success rates of de-escalation efforts were difficult to track and she was working on developing a valid method to measure those efforts.

VI. BREAK

The CRB took a short break.

VII. CASE REVIEW: ALLEGATION THAT SUPERVISOR FAILED TO PROPERLY AUDIT TEMPORARY EVIDENCE LOCKERS

Ms. Gissiner offered a PowerPoint presentation entitled *Case Summary—Civilian Review Board—February 9, 2016* and facilitated a discussion on the case before the CRB.

Summary of Facts

- The Auditor's Office received a complaint that the temporary evidence lockers were not being properly audited. The complaint was initially classified as an inquiry while a preliminary investigation took place.
- The preliminary investigation showed that there was an audit of the lockers in October 2014, and that no other audit took place until June 2015. The preliminary investigation also indicated that there were items in the temporary evidence lockers that had been stored for more than 5 days (in violation of policy).
- EPD policy required that the lockers will be audited quarterly.
- The complaint was reclassified to an allegation of misconduct.
- The policy requiring Supervisor A to perform quarterly audits of the temporary evidence lockers was effective at the beginning of 2014. In the six quarters following the enactment of the policy, Supervisor A conducted two audits.
- Some of the violations noted in the June 2015 audit were also present during the October 2014 audit.
- Supervisor A attended a training on property and evidence handling, which included training on audits, inventories, and management of temporary evidence lockers.
- Supervisor A stated during the investigation that the October 2014 audit had resulted in an email directive to those with access to the lockers to address the violations. The investigation indicated that Supervisor A did not follow up to ensure the violations were resolved.

Allegations

- Evidence and Property Handling—that Supervisor A failed to manage the temporary evidence lockers, including failure to perform quarterly audits of the lockers, as directed by policy.

Recommended Adjudication

- Property and Evidence Handling
 - EPD chain of command: Sustained
 - Auditor's Office: Sustained
 - Chief's Adjudication: Sustained

Issues for CRB Discussion

- Complaint Intake and Classification
 - Anonymously reported
 - Classification: Allegation of Misconduct (reclassified from Inquiry following preliminary investigation)
- Complaint Investigation and Monitoring
 - Mr. McIntire asked if other allegations, including competence, had been considered. He noted the written report was well done.
 - Ms. Conover said Internal Affairs (IA) and the Police Auditor's office worked together on this investigation. She asked if competence had been part of the investigation.
 - Ms. Gissiner said from an accountability perspective, officers involved in evidence and property handling followed the procedure used by their predecessors.
 - Mr. Denner noted people who had previously managed the temporary evidence lockers had not been interviewed.
 - Sgt. Dawson said no one clearly understood what was involved in performing complete audits of the lockers. He had reviewed the applicable policy and determined no precedent for performing the audits had been established.
 - In response to Ms. Conover, Lt. Mason said temporary lockers were not used by EPD when it was located at city hall. The lockers were first used after the EPD move to the current location on Country Club Road.
- Relevant Department Policies and Practices
 - 804—Property and Evidence Handling
 - Ms. Conover questioned if the new policy related to temporary storage lockers was adequate.
 - Mr. Wig asked if the policy conformed to best practices.
 - Mr. Van Houten said there was no policy if it was not adhered to. He asked how temporary storage had been managed at city hall.
 - Sgt. Dawson said temporary storage lockers were not used when EPD was at city hall. Property and evidence was simply stored in work areas accessible only to EPD employees.
 - Mr. McIntire said there were system wide failures and asked who was responsible to ensure that the policy was adhered to. There appeared to be no accountability, which was a responsibility up the chain of command and of the officers.
 - Ms. Conover said the supervisor had the policy but had not enforced it.
 - Mr. Wig said the analyst from outside EPD who performed the most recent audit became familiar with the policy, knew how to perform an audit, and did a thorough job.
 - Ms. Foltz said there were concerns expressed from multiple directions and the supervisor had not observed those concerns.
 - Mr. Van Houten was frustrated by what happened but he understood the challenges of moving into a new building and having new policies. Some of the property that was stored improperly was property that had been lost or stolen, and it was not returned to the rightful owners.
 - Ms. Gissiner noted he had seen court cases overturned because property had not been handled properly.

- Ms. Foltz said the report emphasized the supervisor had not been adequately trained and had not used available resources.
 - Mr. Wig emphasized everyone who handled the property needed to be adequately trained.
 - Adjudication Recommendations
 - Mr. Denner was bothered by this complaint, noting the case suggested there was not adequate follow up. He pondered if this was consistent throughout EPD or unique to this complaint. He inquired if officers at the rank of sergeant and above were regularly evaluated, and if people received training as they moved from assignment to assignment. He referred to a book entitled *It's Your Ship: Management Techniques from the Best Damn Ship in the Navy* by Michael Abrashoff, which discussed management and trust issues, which were missing in the temporary handling of property and evidence in EPD. He suggested that EPD leadership consider the concepts presented in the book, noting that performance was not owned but held. He hoped the performance issues would be adequately addressed.
 - Ms. Marek agreed with Mr. Denner's comments.
 - Mr. McIntire said he did not have much confidence that the temporary storage of evidence and property would be handled properly in the future.
 - Mr. Denner suggested a solution would be to stop using the lockers.
 - Mr. Van Houten agreed with Mr. McIntire that the problem arose from a lack of ownership of the responsibilities, and that EPD could do a better job.
 - Ms. Gissiner asserted the integrity of the entire organization was impacted by EPD's failure to properly store and audit evidence and property. He hoped this adjudication would help improve the evidence and property storage function and be shared throughout the organization.
 - Ms. Foltz asked how EPD would proceed to ensure that the result of the investigation would lead to supervisors and other employees adhering to the applicable EPD policies.
 - Lt. Mason said the evidence storage lockers had been shut down and property permanently stored. She did know how the performance issues had been addressed.
 - Additional Comments/Concerns
 - There were no additional comments/concerns.

VIII. DISCUSSION ABOUT AUDIO AND/OR VIDEO RECORDING OF MEETINGS

Ms. Conover stated the CRB had previously discussed the cost of having both audio and video recordings of meetings.

Ms. Gissiner stated the minutes of CRB meetings were not verbatim. Verbatim transcriptions were expensive if paired with audio and video recordings. If CRB members had access to audio recordings, he would not authorize verbatim transcription, and would provide brief meeting minutes. He preferred to scan written minutes for information about Police Commission meetings, and did not want to watch a three hour video to find information about meetings. In response to Ms.

Foltz who expressed concern about minor discrepancies in minutes currently provided for CRB meetings, Ms. Gissiner iterated that verbatim transcription would be more expensive.

Ms. Marek disagreed with Ms. Gissiner. There were other boards that had both recordings of meetings and minutes. A recording could improve the accuracy of the minutes.

Ms. Conover understood the Police Commission had audio recordings of its meetings and staff prepared brief minutes. She was concerned if the CRB had audio recordings, the minutes would be minimal, and full transcripts would be costly for the city.

In response to Ms. Marek, Ms. Foltz thought verbatim transcripts could result in confidential information inadvertently discussed at a CRB meeting being disseminated to the public.

Ms. Gissiner noted Oregon had a strong Officer Bill of Rights, and audio recordings that disseminated confidential employee needed to be handled cautiously. He preferred reading minutes to listening to audio or viewing video recordings. He missed written minutes for the Police Commission.

Ms. Marek stated this was not the conversation the CRB should be having. The CRB had a civic allegiance to the public. The CRB bylaws, and policies and procedures allowed for both written minutes and recordings. The CRB should have both recordings and minutes.

Mr. Denner asked if having digital and/or audio recordings provided transparency. It was important to have an accurate record of CRB meetings that accurately reflected the Auditor's reports and the CRB's discussions.

Ms. Marek said the ACLU had asked to see the information in the packets CRB members received related to cases they reviewed, and the request had been denied. The CRB meetings were not confidential.

Ms. Conover said the public was always entitled to see what occurred at CRB meetings and she disagreed that cases were not discussed transparently. The CRB was doing what it was charged with doing.

Mr. Wig agreed Ms. Marek had valid points regarding transparency and preserving the public record. He also agreed with Mr. Gissiner's points about accountability. He suggested the City Council would be reluctant to listen to a lengthy recording to learn about a CRB decision. Having both an audio and written record would be desirable. It was important for the CRB to be accessible to the people. He thanked Ms. Marek for enlightening him on the issue.

Mr. Van Houten agreed more information could be made available to the public but there were laws and rules that prevented revealing confidential information. He was concerned about making decisions based on what a small subsection of the community wanted. There had not been a concern until now, voiced by a select few who did not represent the entire community. If the CRB meetings were recorded, written minutes would be abbreviated.

Ms. Gissiner stated the Police Commission and the HRC had written minutes in the past until they moved to digital recordings. The minutes currently prepared for the CRB provided more information than required by the Oregon Public Meetings Law.

Mr. McIntire said the guidelines and policies for recording CRB meetings could change, but he did not think that was necessary. He said the CRB had heard only from a couple of people and not from the public in general that an audio recording was important. There was not sufficient evidence to support the CRB requiring audio recordings. The CRB differed from other city boards and commissions and he did not want to lose that uniqueness. If the meetings were recorded, he questioned the need for minutes. He opined having both was redundant and wasteful.

Ms. Foltz said there were a multitude of issues and she did not think it was an either/or issue.

Mr. Van Houten moved that the CRB have all but the case review section of CRB meetings recorded via audio or video equipment. Ms. Marek offered a friendly amendment: The CRB continue to have minutes in addition to audio recordings. Ms. Foltz seconded the motion.

Mr. Denner asked if employees had the right to recover damages if employee performance was called into question during a public session. This crossed into labor law regarding release of confidential information.

In response to Ms. Conover, Mr. Van Houten agreed to withdraw the motion, Ms. Marek agreed to withdraw the friendly amendment and Ms. Foltz agreed to withdraw the second to the friendly amendment. She restated the motion as follow:

Mr. Van Houten, seconded by Mr. Denner, moved that CRB meetings be audio recorded in their entirety. Ms. Marek offered an amendment that CRB meetings would have detailed minutes in addition to audio recordings. Mr. Van Houten and Mr. Denner accepted the amendment to the motion. Ms. Foltz, Ms. Marek and Mr. Wig voted in favor of the motion, Ms. Conover, Mr. Denner and Mr. McIntire voted against the motion, and Mr. Van Houten abstained from voting. Ms. Conover stated the motion failed on the vote of 3:3:1.

Ms. Conover noted the meeting had gone past its scheduled adjournment time and called for a motion to extend the meeting time. There were no responses.

IX. AUDITOR REPORT

The Auditor Report was deferred to a future meeting.

X. ADJOURN

The meeting adjourned at 7:35 p.m.

(Recorded by Linda Henry)