



City of Eugene CIVILIAN REVIEW BOARD

It is the mission of the Civilian Review Board to provide fair and impartial oversight and review of internal investigations conducted by the City of Eugene Police Department involving allegations of police misconduct, use of force and other matters. The Board will strive to build trust and confidence within the community and to ensure that complaints are handled fairly, thoroughly and adjudicated reasonably. The Board will encourage community involvement and transparency in order to promote the principles of community policing in the City of Eugene.

Meeting Agenda: Civilian Review Board
Tuesday, April 11, 2017 - 5:30 p.m.
Eugene Public Library, 100 West 10th Avenue, Bascom Room
Contact: Vicki Cox, 682-5016
(A Light dinner will be available for board members beginning at 5:00 pm.)

<u>ITEM</u>	<u>TIME (Starting)</u>
1. Agenda and Materials Review	5 minutes (5:30 pm)
2. Public Comment	5 minutes (5:35 pm)
3. Minutes Approval (Minutes from February meeting)	5 minutes (5:40 pm)
4. Comments from Board Members, Human Rights Commission Liaison and Police Commission Liaison	10 minutes (5:45 pm)
5. Discussion: Policies to Recommend for Police Commission Review	25 minutes (5:55 pm)
6. Break	10 minutes (6:20 pm)
7. Case Review: Allegation of Misconduct that Officer Violated Policies During Investigation at Assisted-Living Facility	30 minutes (6:30 pm)
8. Community Engagement Report	10 minutes (7:00 pm)
9. Deputy Auditor Report	10 minutes (7:10 pm)
10. Adjourn	(7:20 pm)

MINUTES

Civilian Review Board
Bascom Room, Eugene Public Library
100 West 10th Avenue, Eugene Oregon

March 14, 2017
5:30pm

PRESENT:

CRB: Eric Van Houten, Chair; Chris Wig, Vice Chair (arrived 5:53pm); Steve McIntire; Rick Roseta; Maurie Denner. Not Present: Heather Marek
Auditor's Office: Mark Gissiner, Leia Pitcher, Beatriz Hernandez, Vicki Cox

1. Agenda and Materials Review

No comments on agenda and materials.

2. Public Comment

No public comment.

3. Minutes Approval (Minutes from February meeting)

Two changes proposed:

- On page 1, minutes were approved by acclamation, not proclamation.
- On page 6, under "Additional Comments", Mr. Van Houten stated that "It was concerning...", not "I was concerning...".

Minutes approved, with changes, by acclamation.

4. Comments from Board Members, Human Rights Commission Liaison and Police Commission Liaison

Mr. McIntire shared that at the last Police Commission meeting, they had discussed EPD's processes for promotion, demotion, and selection. They learned that supervisors are only reviewed on an irregular basis; Mr. McIntire stated to Police Commission that that was concerning because the CRB has reviewed so many cases regarding supervisors. He also pointed out to Police Commission that it appears to be a cultural problem that a supervisor can see the behavior from last month's case and not think it is reportable misconduct.

Mr. McIntire also reported working with the Deputy Auditor on suggested changes to the code of conduct, based on the cases the CRB has reviewed.

Mr. McIntire reported that the Police Commission will have a retreat in May and asked for feedback from the CRB on what policies should be recommended to be included in the Police Commission workplan.

Mr. Van Houten noted that Ms. Marek had also made comments on the code of conduct at last month's meeting, including concerns that the policies for judgment and unbecoming conduct were vague.

Mr. McIntire commented that it is odd that the associations policy does not appear to expect officers to remove themselves from a situation where someone is committing a crime in their presence. Mr. Van Houten stated that he also recalled Ms. Marek commenting on the associations policy.

Mr. Roseta commented that vagueness in policies can be problematic when someone argues that the rules are so vague that they do not know what the rules are; however, Mr. Roseta did not believe that the behavior reviewed in last month's cases was in any way a vague violation of policy. Mr. McIntire concurred.

Mr. Denner expressed appreciation for Mr. McIntire's work on the Police Commission and suggested using training topic time in April to look at policies and offer input for for the Police Commission retreat. Members concurred that would be a good use of time. Mr. Denner also noted that the National Association for Civilian Oversight of Law Enforcement would be holding its annual conference in Spokane in the fall.

Mr. Van Houten stated that he had attended a NACOLE conference previously and found it helpful.

Ms. Bonnie Souza, Liaison from the Human Rights Commission to the CRB, commented in Ms. Marek's absence. Ms. Souza noted that City Council had passed an ordinance on protections of individuals in this community, and that the Human Rights Commission had been instrumental in the passing of that ordinance. There was some discussion as to whether the ordinance may impact law enforcement contacts; Ms. Souza commented that it should be the same because the ordinance mirrors state law, though additional protected classes may be added in the future.

5. Training Topic: Conversation with the Eugene Police Employees' Association (EPEA)

Mr. Michael Klews (President of EPEA) and Mr. Patrick Willis (Vice-President of EPEA) attended and spoke on behalf of the EPEA.

Mr. Klews expressed appreciation for the efforts CRB members have made to learn more about the context surrounding officer decisions.

Mr. Wig arrived during the discussion.

Mr. Klews offered that the main focus of the EPEA is to ensure that the department and union members conduct themselves in compliance with the contract between the union and the City. They ensure that processes are followed and advocate on behalf of the employees. He stated that EPEA works well with staff from the Auditor's Office and Internal Affairs.

Mr. Klews and Mr. Willis offered their perspectives on how policing has changed over time, peer-to-peer communication as a way to promote preferred conduct, and the union's obligation to represent each employee. There was some additional discussion on the union's role in reviewing policies before they are made final. Members also discussed recent cases before the CRB involving both represented and non-represented employees; Mr. Klews clarified that the union only sees the investigative file for represented employees. Both Mr. Klews and Mr. Willis offered that cases can cause frustration and embarrassment.

Mr. Wig asked if the union has had input on the Lane County Inter-Agency Death Investigation Team policy. There was some discussion on the importance of having a sound investigation when an officer-involved shooting occurs.

The group discussed how police have more responsibilities as far as addressing mental health concerns, drug abuse, homelessness, and how officers have had to become jacks of all trades.

Mr. Van Houten thanked Mr. Klews and Mr. Willis for attending and speaking.

6. Break

Break started at 6:38pm.

7. Case Review: Review of Allegation of Misconduct of Excessive Force and Biased Policing during an Arrest

Meeting reconvened at 6:46pm.

Ms. Pitcher presented a Powerpoint entitled "Case Summary":

Summary of Facts

- Officers were dispatched to a report of a violation of a restraining order. Officer D confirmed a valid restraining order and spoke with the petitioner, confirming that probable cause existed to arrest Reporting Party 3 for violation of the RO.
- Officer D, Officer B, and Officer C went to the address where they believed RP3 was living. RP3 exited the house, Officer D informed him he was under arrest, and RP3 returned inside the house.
- Officers, as well as a supervisor who arrived on scene to assist, used force to effect the arrests of RP1 (for interfering with an officer and resisting arrest), RP2 (for interfering with an officer and resisting arrest), and RP3 (for violating a restraining order, resisting arrest, and escape).
- Involved Party was also arrested (for interfering with an officer), but no reportable force was used in her arrest.

- The force used included focused blows, control holds, Taser warning, and Taser deployment.
- RP1, RP2, and RP3 filed complaints with the Auditor's Office.
- In-car video captured audio, but not video, of the incident.

Allegations

1. Use of Force: that Supervisor A used excessive force against RP1 during her arrest.
2. Use of Force: that Officer B used excessive force against RP1 during her arrest.
3. Use of Force: that Officer C used excessive force against RP1 during her arrest.
4. Professional Police Contacts: that Officer D treated RP3 unfairly due to his race during his arrest.
5. Professional Police Contacts: that Officer B treated RP3 unfairly due to his race during his arrest.
6. Professional Police Contacts: that Officer C treated RP3 unfairly due to his race during his arrest.

Recommended Adjudication:

1. Use of Force – Supervisor A
 - EPD chain of command: Within Policy
 - Auditor's Office: Within Policy
 - Chief: Within Policy
2. Use of Force - Officer B
 - EPD chain of command: Within Policy
 - Auditor's Office: Within Policy
 - Chief: Within Policy
3. Use of Force - Officer C
 - EPD chain of command: Within Policy
 - Auditor's Office: Within Policy
 - Chief: Within Policy
4. Professional Police Contacts - Officer D
 - EPD chain of command: Unfounded
 - Auditor's Office: Unfounded
 - Chief: Unfounded
5. Professional Police Contacts - Officer B
 - EPD chain of command: Unfounded
 - Auditor's Office: Unfounded
 - Chief: Unfounded
6. Professional Police Contacts - Officer C
 - EPD chain of command: Unfounded
 - Auditor's Office: Unfounded
 - Chief: Unfounded

Issues for CRB Discussion

- Complaint Intake and Classification

- Intake through Auditor's Office
- Classification: Allegation of Misconduct
- Complaint Investigation and Monitoring
- Relevant Department Policies and Practices
- 300 Use of Force
- 402 Professional Police Contacts
- Policy and/or Training Considerations
- Adjudication Recommendations
- Additional Comments/Concerns

The group discussed complaint intake and classification and commented on how messy the situation got.

Regarding the investigation, Mr. Wig commended EPD Sergeant Dale Dawson for untangling a situation with a lot of moving parts. The group concurred that the situation had unfolded rapidly.

The group discussed the relevant department policies and how this was a mandatory arrest situation.

Regarding policy and/or training considerations, the group did not have any recommendations.

The group discussed the adjudication recommendations, and the members unanimously concurred. Mr. Van Houten expressed appreciation for Officer D's candor during the investigation.

Mr. McIntire noted the depth of this investigation and expressed concern that something so egregious as race-based policing would be alleged when there was no apparent basis for it.

Mr. Van Houten noted that it appeared the reporting parties were biased against the officers who responded to the scene.

Mr. Denner was struck by the demeanor of the officers up to the point where the reporting party fled, as well as their ability to compartmentalize after everyone was in custody. Mr. Denner was also impressed by the level of teamwork displayed by the officers.

Mr. Wig thanked Sgt. Dawson for the thorough investigation. Mr. Van Houten concurred and expressed appreciation for the context provided regarding the violation of the restraining order that initiated the contact.

8. Community Engagement Report

Ms. Hernandez presented a Powerpoint on her activities as a community engagement coordinator. CRB members expressed gratitude and appreciation for her extensive work.

9. Auditor Report

Mr. Gissiner expressed thanks for Ms. Hernandez' work and noted that the case that the Board had planned on reviewing had been re-opened due to the receipt of additional information. He was not sure when it would close again but hoped that it would be available for CRB review soon.

Mr. Gissiner noted that the subcommittee would be convening soon to review applications for open CRB positions. Mr. Gissiner discussed some preliminary use of force and complaint numbers and expressed thanks to the EPEA for coming.

10. Adjourn

Mr. Denner moved to adjourn the meeting, Mr. McIntire seconded. The motion was unanimously passed, and the meeting adjourned at 7:47pm.

//Minutes recorded by Auditor Office Staff.

March 2017 Open Cases

Policy Complaint Supervisor Action 03/07/2017 Completed Dismissed-Other

RP submitted a complaint form with the concern that after a dangerous incident near the hospital, the hospital was not notified. RP hopes in the future when these types of incidents happen near the hospital the house coordinator or security could be notified.

Inquiry Supervisor Action 03/07/2017 Completed Dismissed-alt remedy

RP reported that while he was protesting in front of a bank an officer stopped by and cited him for trespass. The officer's reasoning was that he had laid his belongings under the awnings of the building and so had had to walk up close to the building to do that, thus trespassing. RP believes that he was targeted, and that the officer violated his civil liberty to peacefully protest.

Service Complaint Supervisor Action 03/07/2017 Completed Performance Supervisor Review-Closed

RP emailed Chief Kerns with a concern about an officer who she believes was harassing and behaving inappropriately. When asked for a name and badge number the officer refused to provide either.

Inquiry Supervisor Action 03/09/2017 Completed Supervisor Review-Closed

RP contacted the Auditor's Office with a concern about a domestic violence call concerning her daughter, who was in a physical dispute with her boyfriend. The officer after speaking with the boyfriend allowed him get some of his belongings and then informed her daughter that she could go to jail also as the boyfriend had an injury. He also informed her that she had to allow him to come back as he was on the lease. RP does not feel the call was handled correctly.

Inquiry Supervisor Action 03/10/2017 Completed Supervisor Review-Closed

RP stopped by the Auditor's Office with the concern that an officer has been harassing him. In the last month the officer has contacted him on two different occasions, and RP feels this officer is out to get him.

Allegation of Misconduct IA Investigation 03/11/2017 Active Conduct

Supervisor reported that an employee had informed him of conduct that, if true, would violate policy during a party patrol.

Inquiry Supervisor Action 03/13/2017 Active

RP contacted the Auditor's Office upset that an officer pulled his daughter out of class at to question her about him and then told her a detective was looking for him.

Service Complaint Supervisor Action 03/13/2017 Completed Performance Supervisor Review-Closed

RP complained to an EPD supervisor regarding conduct of an employee, stating that the employee ignores dogs at large but harasses RP when RP is panhandling with his dog. The supervisor spoke with RP about the classification of his dog as a dangerous dog and what that means.

Service Complaint Supervisor Action 03/14/2017 Active Performance

RP stopped by the Auditor's Office to complain about his arrest for disorderly conduct. RP alleged that an officer told him his van would be given a courtesy tow. RP has now found that the tow will cost him over 300 dollars, and he stated that he was not allowed to access any of his property in the van. RP doesn't believe his van was given a pre tow search for valuables.

Incident Review Incident Review 03/15/2017 Completed Conduct Supervisor Review-Closed

A supervisor reported internally that he had received a message alleging that an employee was improperly using EPD equipment while off duty.

Inquiry Supervisor Action 03/15/2017 Completed Supervisor Review-Closed

RP wrote to Chief Kerns concerning a court hearing he was asking a judge to reevaluate. RP alleged that he was threatened when an EPD employee attended his divorce hearing

Per Auditor - Close as Supervisor Reviewed.

Allegation of Misconduct IA Investigation 03/15/2017 Active Performance

Internally reported allegation that an employee improperly destroyed property.

Allegation of Misconduct IA Investigation 03/16/2017 Completed Performance Retired during Investig.

Internally reported allegation that an employee was sleeping on duty and took an excessively long break while on duty.

Policy Complaint Supervisor Action 03/17/2017 Completed Supervisor Review-Closed

RP stopped by the Auditor's Office frustrated with illegal camping in his neighborhood. Last time it took 6 months to get them moved, from what he can tell they are a theft group. RP just wants illegal activity dealt with.

Incident Review Incident Review 03/19/2017 Completed Performance Supervisor Review-Closed

Internally reported complaint related to how an employee handled a medical emergency call

Inquiry Supervisor Action 03/20/2017 Active

RP emailed Chief Kerns an inquiry into a MIP citation given to his daughter. RP was concerned that his daughter stated she had been handcuffed and was bruised.

Incident Review Incident Review 03/20/2017 Active

RP contacted a supervisor with concerns related to a robbery. RP was concerned that it took a long time for EPD to respond to the call for service. She was also concerned that no bystanders had come to the victim's assistance during the attack - and was concerned that may have been based on her ethnicity. She also was concerned with how the media put out information regarding the case

Service Complaint Supervisor Action 03/20/2017 Active Performance

RP contacted the Auditor's Office with a concern about a call he made to the non emergency number about his mentally ill brother. RP felt rushed with his call and complained that he was placed on hold abruptly without warning, and the call taker kept coming back to a piece of information (phone number) he could not give out. RP stated that he felt brushed off by the call taker and he was not sure if the call taker put out a welfare check call or not.

Policy Complaint Supervisor Action 03/21/2017 Active

RP contacted the Auditor's Office upset because an EPD officer ordered her vehicle and several others out of a park parking lot. RP said she and the others had been sleeping at the park in their vehicle for a couple of weeks. She felt the officer was hostile, threatening jail if they did not leave, he also would not give them another place they could go.

Allegation of Misconduct IA Investigation 03/21/2017 Active
Internally reported complaint that an employee had improperly handled department equipment.

Allegation of Misconduct IA Investigation 03/22/2017 Active Use of Force
Internally reported complaint that an employee used his vehicle in a manner not authorized by policy.

Service Complaint Supervisor Action 03/22/2017 Active Performance
RP reported an incident in which she and her renter got into a dispute, and police were called. RP is upset as she is the homeowner and the officers who responded never bothered to speak to her about the incident. When she tried to speak with them she was ignored.

Inquiry Supervisor Action 03/23/2017 Active
RP contacted the Auditor's Office about a traffic stop in which the officer followed him slowing down and then speeding up. He finally put on his lights and siren, when he pulled over the officer said he just wanted to make sure the vehicle wasn't stolen and to identify him. RP feels that the officer did not have probable cause to stop him. He was eventually cited for not having proof of current insurance and DWS.

Service Complaint Supervisor Action 03/26/2017 Completed Performance
Dismissed-EE Not Identif
RP emailed the Auditor's Office with a driving complaint. She stated that a police car ran a red light and was traveling fast without lights or sirens.

Dismissed by Auditor - Unable to Identify the Involved Employee.

Allegation of Misconduct IA Investigation 03/26/2017 Completed Performance
Resigned during Investig
Internally reported complaint that an employee was sleeping on duty.

Incident Review Incident Review 03/27/2017 Active
Internally reported complaint related to employee timekeeping.

Inquiry Supervisor Action 03/29/2017 Active
RP complained that an officer removed him from a church and later contacted him again; he was concerned that the officer took his bike.

The Eugene Police Department received 26 commendations from citizens in March, 2017. Below is a sample of those commendations.

A citizen commended officers for their "exemplary support" in assisting the citizen's mother that was recently hit by a vehicle while riding a bike. The citizen commented, "They certainly served their department quite well."

Officers received a 'thank you' card from a citizen for the assistance they provided in locating the citizen's vehicle. The citizen commented, "Thank you all for helping me get my car back. This had been a very awful two months of stress trying to find it. You were amazing!"

A citizen commended a call-taker for their assistance when the citizen was attempting to locate contact information for the Veteran's Crisis Line (suicide assistance). The citizen commented, "She literally saved my life." The citizen had been diagnosed with Post Traumatic Stress Disorder from time previously served in the military. The citizen was very thankful for the compassion and empathy the call-taker displayed during their conversation.

Officers were commended by a citizen for their response to a call for service where the son of the citizen suffered from cardiac arrest. The citizen's granddaughter was in the room with her father until police arrived. The citizen commented, "We want to thank you for the professionalism of the officers at the scene, and for sincerely displaying how the police and fire services take care of each other."

The Eugene Police Department was shown gratitude by a citizen for their assistance in removing an illegal camper recently. The citizen commented, "I just wanted to say 'Thank You'. This is a Eugene citizen that appreciates it."

An officer was commended by a citizen for the way the officer interacted with a child at a local business. The citizen stated the officer had given the young boy a badge sticker and spoke to him about behaving and listening to his parents. The citizen commented, "It was so tender. Tear jerking. The policeman is just a wonderful man."

Officers were commended by a citizen for their response to an accidental house alarm being set off by their dog. The citizen felt bad that police had to utilize resources due to this mishap, but was very appreciative for the officers' response. The citizen commented, "We were told by neighbors that they approached the house in this super professional way and made their search inside the house. When they left, they were laughing. I suspect they were attacked by my twenty pound shih tzu, who probably nibbled their shoes!"

A citizen commended an officer for the compassion shown during a recent Warrant Arrest of a young man. The citizen stated that the young man believed his issue had been resolved with the courts and the warrant was a mistake. The officer still had an obligation to arrest the young man. When the young man wasn't able to post bail and was upset that he would miss work the next morning at a new job, the officer offered to cover the bail amount with his own personal credit card. The citizen commented, "I do not know if (officer's name) was ever reimbursed for this cost. I found it incredible that this officer would offer his own personal assistance in this situation."

A citizen commended an officer for the exceptional ride-along experience they had. The citizen commented, "Our day was steady with a variety of calls from a dispute, shoplifting, camping violations and more. In each of the situations, he responded with genuine concern and went above and beyond in solving the problem...I left this ride-along not only with a stronger urge to pursue my career in law enforcement but an even higher respect for the strength and character of this officer and the Eugene Police Department."

An officer was commended by a citizen that witnessed the officer having encounters with several individuals in the downtown area, some needing corrective behavior enforcement. The citizen commented, "I personally witnessed incredible positive interactions with those community members, thus they reciprocated respect back to you. Your representation of the Eugene Police Department, to exhibit integrity and a commitment to serve this community with dignity and respect, is beyond commendable."

A citizen commented the Eugene Police Department for the increased focus in the downtown area. The citizen commented, "As someone who lives, works, eats and walks downtown, I wanted to let you know that I have seen a noticeable difference the last few days. I have not been accosted, harassed, shouted at or had to step over bodies for several days. Your police force has been visible and busy (but in a very professional way, those guys have the patience of saints). Whatever you are doing is working."