

# 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.