

MINUTES

Civilian Review Board
Sloat Room—Atrium Building—99 West Tenth Avenue
Eugene, Oregon

June 13, 2017
5:30 p.m.

PRESENT: Eric Van Houten, Chair; Maurice Denner, Rick Roseta, Heather Marek, Chris Wig, Civilian Review Board members; Mark Gissiner, Leia Pitcher, Beatrice Hernandez, Police Auditor's Office; Bonnie Cannon, Human Rights Commission; Sergeant Crompton, Sergeant

Mr. Van Houten convened the Civilian Review Board (CRB) at 5:35 p.m.

1. AGENDA AND MATERIALS REVIEW

No Changes were suggested. Mr. Wig deemed the agenda approved by acclamation.

2. PUBLIC COMMENT

No one present wished to provide public comment.

3. MINUTES APPROVAL— May 2017

Mr. Wig deemed the May 2017 minutes approved by acclamation, as presented.

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

Ms. Marek announced that she was recording the meeting. She planned to make the recording available online at www.tinyurl.com/crbaudio. She did not attend the Human Rights Commission meeting last month, so she did not have any updates.

Mr. Denner suggested that the CRB review two open cases from May 2017:

- An active case from May 1, 2017, a summary of which was on page 12 of the CRB meeting agenda. The Reporting Party (RP) of the case, surmised race played a part in the officer's treatment his wife, who was detained after a traffic crash incident.
- An active case from May 16, 2017, a summary of which was on page 16 of the CRB agenda packet. The RP perceived as EPD's very public show of force in front of the library while arresting two different African American men.

Mr. Gissiner said that any time there was a complaint that referenced racial disparity, the auditor's office made sure to include that in the notes to ensure that Eugene Police Department (EPD) sent it to the State of Oregon Law Enforcement Contact Committee.

Mr. Denner referred to an open case from May 22, 2017, a summary of which was included on page 17 of the CRB agenda packet, in which the RP reported an incident in which his girlfriend's car was hit by an EPD officer in the parking lot near their apartment. RP alleged that medics were not called for his girlfriend who hit her head, nor were they even offered by the officers. Mr. Denner wondered about the training for EPD officers regarding concussions. He thought concussion protocol was an important training topic for situations in which victims, or police officers themselves experience a head injury.

Mr. Van Houten arrived at 5:37 p.m.

Mr. McIntire reported on the Police Commission. Bill Whalen was re-elected as chair and Scott Nowicki as Vice Chair. The Police Commission held a planning session for the 2017-2018 work plan. The following topics were set as the Police Commission's priorities:

- Provide input on policies that reflect community values
 - Use of force and de-escalation
 - Firearms training and de-escalation
 - Professional police stop policy
 - Biased based policing
 - Drone policy
 - Code of conduct
 - Encourage policies and technology that are force multipliers
 - Review video policy and full reporting on police actions
 - Review the parade permitting process
- Identify police policy and resource issues related to preferred policing alternatives
 - Downtown crime enforcement
 - Supervisor evaluation and training
 - Police legitimacy and procedural justice
 - Societal issues affecting police
 - Citation for no driver's license and insurance
 - Frequency of arrests and citations
- Increase communications between the community and the police
 - Assess what public wants regarding police services
 - Outreach to minority communities
 - Feedback from public of police response
 - Provide explanations about response time
- Decrease misunderstandings regarding the nature of adopted police policies
- Address recommendations regarding the gap between public expectations and reality
- Assist the Eugene City Council with balancing priorities and resources by advising on police resource issues
 - Review and recommend policy about body cameras and recommend to City Council the resources to implement
 - Increase police staffing
 - develop method to increase communication with the City Manager's office

Mr. McIntire believed that the Police Commission would provide input in the hiring process for the new Chief of Police. Perhaps the CRB could also provide input.

Mr. Van Houten thanked Mr. McIntire for his work on the Police Commission. He thought Mr. McIntire was an active and valuable Police Commission. Liaison for the CRB.

Mr. Wig Thanked Mr. Van Houten for his service on the CRB. He respected Mr. Van Houten as a colleague and reflected on how much Mr. Van Houten helped Mr. Wig adjust to the CRB as a new member four years ago.

Mr. Wig mentioned that mass incarceration was a topic that the CRB discussed from time to time; he recommended the ACLU's new report on mass incarceration entitled: *Back to Business: How Hiring*

Formerly Incarcerated Job Seekers Benefits Your Company, a copy of which could be found on the ACLU website.

Ms. Marek echoed Mr. Wig's comments about Mr. Van Houten's service to the CRB. She appreciated his service and found his insights and professional background helpful. She thought he was a constructive facilitator and his contributions were highly valued.

5. Update on Hiring Process for Eugene Police Chief

Kristie Hammitt, Central Service Director for the City of Eugene, and Allana Holmes, the Human Resources Director for the City of Eugene, provided an update on the hiring process for the Eugene Police Chief. They encouraged the CRB members to communicate with them about the Police Chief hiring process as boards and commissions that were critical to the operations of the police force were important; the information gathered would include the community's preference in traits, qualities, characteristics, and experiences of a police chief and would be used to inform the recruitment firm. They added that robust community outreach, focused on reaching parties of the community that typically did not normally show up at the community outreach and engagement events, would be a priority throughout the hiring process. The hiring process had not yet been finalized; as soon as they had more information, they would notify the CRB. They planned to launch a website that included regular updates on the status of the process by the end of the month. They planned to select a recruiting service that had successful experience in the recruitment of a police chief hiring process and would be interested in collaborating, rather than running the entire search. Once candidates were selected, they planned to move into the interview process by the end of the calendar year.

6. Training Topic: Crisis Intervention Training

EPD officer Bo Rankin provided the CRB with a PowerPoint presentation on the EPD's Crisis Intervention Training (CIT). He said CIT was used to resolve police encounters with people who have mental illnesses safely and connect them to mental health services. CIT personnel worked with trained dispatchers, Crisis Assistance Helping Out on the Streets (CAHOOTS) and mental health providers. The training included a 40-hour course and ongoing training. He provided an overview of the 40-hour initial CIT course. The curriculum included the following:

- A consumer panel on interactions with the police
- Age-related disorders
- Alcohol and drug addiction
- Crisis negotiations and active listening
- Autism and developmental disabilities
- Psychiatric disorders
- local resources
- CIT protocols and policy
- Crisis intervention for adults and juveniles
- Sessions on Posttraumatic Stress Disorder
- Site visits
- Mental status exams
- Mental Health Court
- Crisis intervention scenarios
- Perspectives from consumers and advocates
- Suicide/suicide intervention
- Personality Disorders
- Tactical communications

- The crisis cycle and modes of communication

Ms. Pitcher asked how many EPD officers were CIT trained.

Officer Rankin said almost one hundred percent of EPD officers had begun CIT.

Mr. Wig asked if the University of Oregon Police Department (UOPD) also completed CIT.

Officer Rankin thought a few UOPD officers had completed CIT, but not many yet.

Mr. Van Houten asked for an example of the scenarios taught in the training.

Officer Rankin offered the example of someone who was suicidal or demonstrating bipolar characteristics. The scenarios were meant to help teach the trainees to recognize mental health crises.

Mr. Gissiner asked about the consumer and advocate panel.

Officer Rankin said the consumer panel consisted of individuals who had past interactions with the police and had experienced mental health issues. They provided the trainees with a description of what happened, what worked and what didn't, as well as suggestions to better de-escalation a mental health crisis. The advocate panel consisted of family members, particularly mothers, of people with mental health disorders. They provided information on their experience, and past interactions with police.

Mr. Denner asked if there was time to debrief and reinforce CIT training in the field after police officers responded to a mental health crisis.

Officer Rankin said this was a goal. He had seen this happening more often in recent years. Often Sergeants took time to debrief these situations with an officer in training. In addition, there were department wide debriefs of critical incidents.

Mr. Roseta asked if officers agreed on how to respond during a mental health crisis incident since most EPD officers went through CIT.

Officer Rankin thought so. He thought EPD did an amazing job at dealing with people in a crisis and all EPD officers had the ability to talk to people in such a crisis.

Ms. Pitcher asked about the percentage of mental health crises EPD officers faced daily.

Officer Rankin said EPD officers, especially those working in the downtown area, dealt with a lot of people who were living in a constant state of crisis and several in an elevated state of crisis.

Mr. Van Houten asked if officer self-care was included in the CIT curriculum.

Officer Rankin said it was discussed, but there was not a section of the curriculum focused on officer self-care. There had been a section devoted to officer suicide, which touched on officer self-care. EPD was starting to focus more on officer self-care after experiencing pushback from trainees on the officer suicide section of the curriculum. However, there wasn't much time left in the curriculum to add new subjects.

Mr. Denner thought it was difficult to have a small amount of people addressing the mental health crisis issue; he was concerned that most of the public misunderstood mental health crises. He wondered how information about people in mental health crises could be shared with the public to increase awareness and understanding.

Officer Rankin said often there were national mental health awareness campaigns; however, they weren't always funded. Recently the EPD discussed a mental health/ first aid event in which community members would be invited to.

Mr. Denner asked if the grant Officer Ranking mentioned in his presentation was a grant from the Department of Justice (DOJ).

Chief Kerns said the state managed the grant, which came from Lane County. Whitebird wrote the grant but used the county as a vehicle to acquire the state grant.

Officer Rankin added that part of the grant funded the CAHOOTS unit in Springfield.

Chief Kerns reported the Lane County Sheriff' was working on a platform that instituted a database of information about a person's mental health conditions, medications, and reactions to law enforcement. The information could only be collected on a voluntary basis and was only in Lane County. The information would be automatically purged after a certain amount of time, unless the individual elected to leave the information in the database for another amount of time. Chief Kerns thought this database would help reduce the use of force substantively. They hoped to have the platform functional by the end of the calendar year.

7. BREAK

The CRB took a brief break from 6:35 p.m. to 6:47 p.m.

8. CASE REVIEW: Review of External Complaint Alleging Excessive Force

Ms. Pitcher offered a PowerPoint presentation entitled *Case Summary—Civilian Review Board—June 13, 2017* and facilitated a discussion with the CRB.

Summary of Facts

- RP called 911 and complained that someone was remaining on her property after she had asked him to leave. The call-taker stayed on the line until the person had reportedly left. RP stated that she would call back if he returned.
- Approximately 3 hours later, officers were dispatched to the address and advised that the call involved a dispute between RP and a person who was no longer on scene.
- Officers A and B were allowed inside by RP; she informed them that the other party had returned and was asleep in the back room. Officers asked RP for his name, and she stated that she did not feel that it was her place to provide his name.
- Officers stated that they needed to check on all parties involved in the dispute, and Officers A and B went to the back room to wake the ex-boyfriend.
- RP followed them to the room and stated that she was concerned about what they were going to do to the other party. Officer B asked RP to wait outside of the bedroom and she stated "No."
- RP stated that an officer grabbed her wrist hard and moved her arm up, which resulted in bruising and a sore shoulder.

- Officer B stated that he used an open hand to stop RP from approaching A and that he did not grab her wrist. Officer A recalled placing his open hand on RP's back to prevent her from turning but could not recall grabbing a wrist.
- Due to officers' location inside the home, the ICV recorded audio but not video of the interaction.
- Following the incident, RP came to the Auditor's Office to file this excessive force complaint.

Allegations

- Use of Force: That Officer A used excessive force when he grabbed RP by her wrists, resulting in bruising.

Recommended Adjudication

- Use of Force
 - EPD chain of command: Within policy
 - Auditor's office: Within Policy
 - Chief: Within Policy

Issues for CRB Discussion

- Complaint Intake and Classification
 - Intake through Auditor's Office
 - Classification: Allegation of Misconduct

Ms. Marek was curious why there weren't concerns about the officer's presence in the RP's home after she rescinded her consent to the officers being there and limited them in where they could go in her house.

Ms. Pitcher said it was initially raised during the intake interview. After reviewing the audio, it seemed as if the Community Caretaking Act was being utilized, which required a mandatory arrest in the case of domestic violence. The officers needed to check on the man to ensure there had not been any domestic violence.

Ms. Marek asked what triggered a mandatory arrest through the Community Caretaking Act.

Ms. Pitcher said an arrest was mandated under the Community Caretaking Act if violence took place between individuals in a previous or current intimate relationship.

Ms. Marek was concerned that there was no indication of injury in this case.

Ms. Pitcher said the RP didn't have injuries, but the officers were unsure about the man's status, so they needed to check on him, as well. Ms. Pitcher recognized Ms. Marek's concern. She indicated that there may have been a miscommunication between the dispatchers and the officers; the dispatchers said there was a dispute and the officers responded accordingly.

Ms. Marek was concerned that the implications of this would be that in any situation where anyone called the police during a dispute and involved someone in an intimate relationship, then the police had the authority to enter a person's house.

Ms. Pitcher indicated that in this case, the officers had consent to enter the house.

Ms. Marek added that they could enter the house, but the officers needed consent throughout any

part of the process; for example, the RP restricted where the police could go in her house.

Ms. Pitcher said this was a difficult balance between constitutional right and fulfilling duties as an officer.

Mr. Denner was unclear as to how much law enforcement had when they responded. It was clear that the intent of the legislation was if a reported dispute had an element of physical contact, there was an obligation. His concern was about courtesy. There was an assertion by the RP that she did not have pants on and when the Sergeant interviewed her, he allowed her to restate this. He interviewed the officers and both made comments to the effect that if she hadn't been wearing pants, they would have noticed. The allegation never became part of the file and he thought that had to do with the age of the RP and her not knowing what to ask for.

- Complaint Investigation and Monitoring

Mr. Roseta thought the complaint investigation and monitoring was done thoroughly. He agreed with Mr. Denner; the RP was young and had unsophisticated knowledge about the process. For example, the RP complained that the officers did not identify themselves when knocking on the door, but Mr. Roseta thought this fell within policy. They were responding to a call from the RP; he thought they did a good job.

Mr. Denner appreciated the timeliness of the interviews. He struggled to listen to the audio recordings due to the veracity of the RP, whose story had inconsistencies. He thought she felt intimidated during the incident and would have reacted in the same manner as the police officers.

Mr. Gissiner was concerned that there was a three-hour time difference from when the RP made the call, to when the officers showed up to the scene. However, after listening to the In Car Video (ICV) it was evident that the RP gave consent for the officers to enter the house.

Mr. Roseta said if there were an issue regarding something that was seized, then there might be a complaint about the search. However, that was not the case here therefore there was no issue with the officers' actions.

Ms. Marek indicated that the seizure of property was not what would trigger the right, but rather conducting a search, even without seizing property, could be a violation of a person's privacy right.

Mr. Roseta thought the issue that mitigated against that conclusion was that the officers had a duty to determine whether the man was injured.

Ms. Marek said the legislature in enacting a community caretaking statute, did not have the authority to legislate away her privacy rights. They could not say the Fourth Amendment or the Oregon Constitution did not apply in certain situations. There still needed to be consent to search or provide emergency aid.

Mr. Van Houten thought the line of questioning was good. There were moments when the RP seemed intimidated and treated older than she was. The investigator was in a difficult scenario and Mr. Van Houten wished the RP's age had been taken into consideration.

Mr. Wig commended internal affairs for turning the investigation around within six months.

- Relevant Department Policies and Practices
 - 800 Use of Force

Mr. Wig was concerned that the officers, knowing the relationship status of the RP and the other individual, did not do more to identify the other individual. There was an assumption that the RP had been the victim of domestic violence and the bruises may have been caused not by officers, but in an incident of domestic violence.

Mr. Van Houten noted that the officers felt that they were responding to an incident that had recently occurred. He asked about the policy or practice around reviewing the time of the call to determine the exigency of the scenario.

Chief Kerns replied stating that there was an expectation that officers attempted to understand all the details about a call prior to responding. It did not surprise him that the officers did not recall the three-hour time delay because that was a second order of information to the immediate purpose of the call. The interview was probably months later and if they didn't work with a union representative to review all the details of the case, they may not have remembered that.

Mr. McIntire wondered about the department policy and practice regarding the obligation to identify someone when they refused to be identified.

Ms. Pitcher thought the officers' main priority was to see if the man was injured; after determining he wasn't injured and did not want to speak to them, the officers decided to leave after determining a mandatory arrest was not needed. She thought this was a way to de-escalate the situation, as the RP had become upset by that point. She agreed that it may have been beneficial to identify the individual to determine if he was under a restraining order, but she understood that the officers made the decision to leave to de-escalate.

Mr. Denner did not think that Officer A had been coached after the incident. He noted that the officers answered a burglary call nearly after they had driven only a mile from this incident, leaving little time to debrief. He believed an opportunity was missed to coach a young officer in training.

Ms. Marek echoed the concern around the officers' knowledge of the gap in time between when the RP called the incident in, and the time that the officers responded. She felt it was an important piece of information.

- Policy and/or Training Considerations

Mr. Denner reiterated that it was important for officers to debrief incidents, summarize calls and take thorough notes. In this case, there was no case summary written by the officer in training and no case number assigned.

Mr. Van Houten emphasized the importance of officers being transparent and explaining the reasoning behind their actions. For example, the RP reported that she was not informed as to why the officers looked at her hands and why they needed to check on the man involved in the incident.

- Adjudication Recommendations

Mr. Denner agreed on the adjudication recommendations on use of force. Had there been an

allegation on courtesy, he would have believed it to be unfounded.

Mr. Roseta agreed with the adjudication recommendations. He did not see an unreasonable use of force.

Ms. Marek indicated that she thought the adjudication recommendation should have been found to have insufficient evidence, rather than within policy because she found the evidence to be inconclusive.

Mr. Wig agreed with the adjudication recommendations.

Mr. Van Houten agreed with the adjudication recommendations, but also thought that insufficient evidence may have been a better determination.

Mr. McIntire agreed the adjudication recommendations but indicated that he shared Mrs. Marek's concern; he would have preferred the determination of insufficient evidence in use of force.

Ms. Pitcher said when reviewing this case for insufficient evidence, she would have searched for inconsistencies between the stories of two parties involved in the incident and if the use of force alleged was excessive. However, the degree of force alleged was within policy.

Additional Comments/Concerns

Mr. Wig commended the officers for de-escalating the situation.

Mr. Van Houten appreciated the conversation that arose from reviewing this case.

Mr. Denner noted that the CRB would not have reviewed this case if the body camera was not used.

Mr. Gissiner mentioned that how many complaints were decided or dismissed due to the use of body cameras was being tracked in Las Vegas. They also issued criminal charges to individuals who submitted a false complaint. He was glad that practice was not done here.

Mr. Denner emphasized that body cameras defended police officers as well as a RP.

8. AUDITOR REPORT

Mr. Gissiner reported on the following:

- Council approved the candidates, Mr. Denner, former Judge James Hargreaves and Carolyn Williams, a substitute teacher, to fill the CRB vacancies.
- New CRB member training was tailored to the CRB's requests based on survey responses collected a year ago.
- Beatrice Hernandez attended the Friendly Neighbor's Board meeting and gave a presentation about the auditor's officer and the complaint system.
- Advertisements about the complaint system were posted on buses in English and in Spanish.
- Ms. Hernandez had been working with school resource supervisors and officers to communicate the complaint system.
- Ms. Hernandez was working on approval for an online anonymous survey to gather information from the community about the police department. She asked the CRB members to let he know if

they had information about or connections with non-profits and other organizations that provided direct services to community members.

- The next CRB meeting was planned for August; there would not be a meeting in July.
- EPD officer numbers were low; only sixty-eight officers patrolled the streets currently.
- Ms. Pitcher was creating a report on use of force and she planned to be done before the CRB meeting in August.
- Ms. Hernandez had been doing a great job to help reduce complaints through her problem-solving efforts when talking with community members.

Mr. Gissiner presented Mr. Van Houten with a trophy to commemorate his service on the CRB. He thanked and commended Mr. Van Houten for his valuable contributions to the CRB throughout his tenure.

Mr. Van Houten thanks the Auditor's Office staff. When he first started on the CRB it was contentious between Auditors and the EPD. The Auditor's office had done a great job improving the relationship with the EPD. He said it was a pleasure to work with the Auditor's Office staff, as well as the CRB members. He would miss being a part of the CRB.

10. ADJOURN

Mr. Van Houten adjourned the CRB meeting at 7:45 p.m.

(Recorded by Emily Mathis)