

MINUTES

Civilian Review Board
Atrium Building, Saul Room
99 West 10th Avenue

September 11, 2018
5:30 p.m.

PRESENT: Maurie Denner, Chair; Steve McIntire; Carolyn Williams, Vice-Chair; Chris Hayes; Rick Roseta; Mark Gissiner, Leia Pitcher, Vicki Cox, Police Auditor's Office; Jason Berreth, Cindy Coleman, Angie San Miguel, Eric Klinko, Eugene Police Department.

ABSENT: James Hargreaves, Lindsey Foltz

Mr. Denner convened the Civilian Review Board (CRB) at 5:30 p.m.

1. AGENDA AND MATERIALS REVIEW

Mr. Denner welcomed Chris Hayes to the Civilian Review Board. He also stated that Lindsay Foltz, a previous CRB member, will rejoin the Board next meeting after she returns from overseas.

There were no additions or corrections to the agenda or materials.

Mr. Denner said that Mr. Hayes has a conflict with meetings on the second Tuesday of the month. This topic will be revisited at the October meeting when all members are present.

2. PUBLIC COMMENT

There was no public comment.

3. MINUTES APPROVAL – MAY 2018

Ms. Williams asked if there would be a possibility to get the meeting minutes earlier if there is a long break between meetings.

Ms. Cox replied that the turnaround depends on how long staff takes to review the minutes.

Mr. Denner declared the minutes accepted as they are presented.

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

Mr. Denner shared that he attended the Human Rights Commission meeting in May. He said that a new representative from the CRB will need to attend this meeting on the third Tuesday of the month. The Human Rights Commission held a retreat last month and set an agenda for the coming year.

Mr. McIntire stated that he attended the Police Commission meeting on July 12, 2018. The meeting covered the restorative rest policy and reviewed the public safety camera system and the taser policy. He

expressed that the annual work plan always contains more than what can be accomplished in a year. Mr. McIntire reported that he proposed a system to prioritize policies for review.

Mr. Gissiner asked when the Police Commission develops their work plan.

Sergeant Kyle Williams answered that the plan is normally approved in May.

Mr. Gissiner asked Mr. Hayes to share a bit about his background. Mr. Hayes said that he works at Partner Solutions IT, is a U of O alumni, and served in the Air Force. He also shared that he works with the Downtown Eugene Merchants and is passionate about improving the space downtown.

Mr. Denner thanked the first responders on the anniversary of September 11th and expressed support for those who were lost.

Mr. Denner also mentioned that he was invited by City staff to be part of a discussion group to look at the public safety levy that Council is considering. He said that the group has met once and set an agenda and will likely make suggestions to Council about a levy, if it is to move forward.

Mr. Gissiner and Mr. Denner told the board that they will be presenting the auditor's report at the City Council meeting on September 24th at 5:30pm. Mr. Denner encouraged board members to let him know what points they think are important to convey to Council.

5. TRAINING TOPIC: PRESENTATION FROM THE AUTISM SOCIETY OF OREGON

Mr. Gissiner introduced the. He said that he attended a Police Executive Research Forum this May in Nashville where a student and his father from the Parkland High School shooting in Florida spoke. The student, Cameron Kasky, has a brother with autism who also attends Parkland High School. Cameron immediately went to his brother's classroom and experienced a police response to the classroom he found to be intense and at one stage, inappropriate.

He introduced Ms. Toby Rates, Executive Director of the Autism Society of Oregon. Ms. Rates expressed that she is pleased to present to police departments and first responders whenever the opportunity arises. More information on her organization is at autismsocietyoregon.org.

Ms. Rates defined autism as a brain development that affects communication, social interaction, restricted interests, repetitive behaviors, and sensory issues. She explained that everyone on the autism spectrum is different.

Ms. Rates said that verbal communication varies along the autism spectrum. It is always a good idea to speak clearly, use concrete terms, and wait a couple seconds for people with autism to process what has been said. She also stated that people with autism often cannot read nonverbal communication or social cues. It is always better to tell the person what you would like them to do directly. People with autism

often want to interact, but don't always have the skills to do so. Ms. Rates explained that autism presents a difference in learning, not intelligence.

Mr. Rates said that autistic people often use self-stimulating behaviors (stim) like rocking or flapping their arms. Unless these behaviors are harmful, she encouraged police to allow these behaviors so the person can calm themselves and take in the situation.

She explained that everyone on the autism spectrum has a sensory processing disorder, but they can be over- or under-sensitive. It is always a good idea to ask "may I touch you" before doing so.

Ms. Rates presented some facts on autism, including that 1 in 59 children is affected by autism by age eight. Girls are often diagnosed later because they are better at mimicking behaviors. Autism is five times more commonly diagnosed in males. Diagnosed cases are increasing year over year, in part due to more awareness.

Mr. McIntire asked if people can evolve on the spectrum. Ms. Rates answered that people absolutely change due to development, circumstances, and treatment.

Ms. Rates reported that safety is a big concern with autistic children. One third of children on the autism spectrum have wandered off from a safe environment in the past year. She said that drowning is the leading cause of death for autistic children. She encouraged first responders to look for nearby bodies of water first when searching for a missing autistic child. AWAARE is a good resource for more on safety.

She shared that it is helpful for families with autistic children to meet police and first responders before an incident occurs, through opportunities like community events or programs. This may help children understand they should listen to police during stressful situations because their verbal abilities are the first thing to go.

Ms. Rates said that autistic children are often bullied. They are more likely to be victims of violence than to be violent.

Ms. Rates presented some 'do's and don'ts' when working with people with autism. Police should support people on the spectrum by: 1) being aware of the circumstances (sensory issues, anxiety or transition points); 2) observing their behavior to understand what they may be communicating; 3) using literal language, visuals, and slowing down; 4) discerning if the person 'can't' or 'won't' do something; and 5) making time for breaks. She also encouraged police not to expect eye contact or touch/hug without permission. It is also important to avoid sudden changes.

Lastly, she explained that meltdowns and tantrums are different. A meltdown is like a panic attack and it is how a person with autism communicates they are overwhelmed. It is best to recognize the signs and try to alter the situation to avoid a meltdown because once it starts, you have to let it run its course.

Mr. Gissiner asked about diagnoses for people of color. Ms. Rates responded that there tends to be a slightly higher diagnostic rate for white males in urban settings because of resources. However, autism affects all populations.

Mr. Gissiner asked if decision-making uses different parts of the brain for those on the spectrum. Ms. Rates replied that she was unable to answer this question.

He also asked if there is a plateau in the spectrum for adults. Ms. Rates acknowledged that most conversations and literature is about children with autism. There is a slow recognition that autistic children become autistic adults. She explained that adult needs are housing, employment, and social relationships. She said that people typically develop more coping skills but can also have setbacks from triggers or stressful life events.

Mr. Roseta asked if people with autism receive social security. Ms. Rates said that they do, if they meet the income limits. However, there is a high denial rate. She noted that Senior and Disability Services provides resources at the county level, but funding for KPLAN is at risk.

Mr. Denner brought up the Bridgeway House, a school program for families with autistic children in Lane County. Ms. Rates said this is one of two in the state.

Ms. Rates also mentioned KIND Tree (<https://kindtree.org>). She said that there are two volunteers in Eugene who are adults on spectrum. They offer programs to support people with autism, particularly with the arts.

The group thanked her for the opportunity to learn more about autism.

Mr. Roseta asked the best way to train officers on this topic. Ms. Rates answered that it is useful to have officers with her at the training. She also advocated for the police academy to integrate this training for at least one hour on how to de-escalate situations involving people on the spectrum.

7. BREAK

CRB took a break from 6:37 p.m. until 6:47 p.m.

8. CASE REVIEW: ALLEGATIONS OF UNSATISFACTORY PERFORMANCE AND UNTRUTHFULNESS

Mr. Denner announced a request from an EPD staff member from the department to record this portion of the meeting.

There were no objections. Mr. Gissiner stated that it is the first time in nine years this has been requested.

Mr. Gissiner provided a narrative on the case.

Summary of Facts

- Supervisor A was acting as watch commander when an incident occurred that was later determined to be an out-of-policy pursuit. Supervisor A, listening to the incident over the radio,

believed as it was occurring that it was a failure to yield. As he did not believe it to be outside of policy, he did not terminate the pursuit.

- Supervisor A informed Supervisor B (higher on the chain of command) of the incident as soon as it was over. Supervisor B told Supervisor A to run the incident by the Emergency Vehicle Operations Supervisor (EVOC), (Supervisor G). She did not ask him to enter the incident in Blue Team.
- Supervisor A met with Supervisor G later that day; they looked at radio traffic and dispatch records. ICV was not yet available.
- Three weeks later, Supervisor B emailed Supervisor A and directed him to enter the incident into Blue Team as a pursuit. Supervisor A did so. Supervisor A stated in that Blue Team entry that he had not watched the ICV.
- Approximately six weeks after the Blue Team entry, Supervisor B initiated this investigation into Supervisor A.

Allegations

1. **Unsatisfactory Performance:** that Supervisor A failed to recognize the involved incident as a pursuit.
2. **Unsatisfactory Performance:** that Supervisor A misrepresented the purpose and scope of Supervisor B's request that Supervisor G review the incident, and further misrepresented Supervisor G's assessment when entering the incident into Blue Team.

During the investigation, the following allegation was added:

3. **Truthfulness:** that Supervisor A was untruthful during his administrative interview when he reported that he did not watch Officer H's ICV recording prior to entering the incident into Blue Team.

Mr. Denner reminded members that the committee does not use first or last names or gender.

Mr. Gissiner provided commentary on why CRB is involved in this case, noting that the case must be classified if it is to be investigated. He also said that truthfulness is a very serious allegation, which necessitates Auditor office involvement.

- **Complaint Intake and Classification**
 - *Internally reported and initiated by Supervisor B*

Mr. Denner clarified the incident was internally reported. Mr. Gissiner stated the first and second allegations were written by Supervisor B, but he can't confirm they wrote the last report.

Mr. McIntire shared that he has difficulty plugging the facts into allegation. He asked if there is a template or guidance to determine an allegation.

Mr. Gissiner said that he did not have any involvement in writing the allegations because it did not involve a complaint from the public or harm to the public property/persons.

Mr. Roseta agreed that he had the same issue with the allegation as Mr. McIntire. He noted that there is not a policy that requires an officer to recognize a vehicle pursuit. He said there is not enough evidence to sustain based on how the allegation was written.

Mr. Gissiner stated that the officer had provided cryptic information to the watch commander, who made the decision to not name it a pursuit, at that time.

Mr. McIntire asked if a watch commander can see ICV at real time. Mr. Gissiner replied that they cannot.

- *Classification: Allegation of Misconduct*

Mr. Roseta said he also took issue with the second allegation. He expressed that Supervisor B should have written that the entry into Blue Team was inaccurate, rather than say it was misrepresented.

Ms. Williams said she did not understand why Supervisor B made a complaint and that they should be the one investigated. She stated that Supervisor B was unclear in their expectations of Supervisor A, making this a supervisory issue.

Mr. Denner said that in listening to the audio for the first allegation, it seems the like a reasonable decision, given the information at the time. He stated the first allegation could have been failure to follow 814 Vehicle Pursuit Policy. The second allegation was a failure to communicate. Mr. Denner explained that both Supervisors A and B left initial meeting misunderstanding each other completely. He said it did not seem like either attempted to clarify what was expected.

- **Complaint Investigation and Monitoring**

Mr. Denner commended Sargent Berreth in putting the information together, especially given the delay in starting the process.

Ms. Williams agreed that it was a very throughout investigation. She said she was impressed by amount of those involved and interviewed.

Mr. Roseta also agreed it was a very good investigation. He added that it seemed like the investigator allowed Supervisor B to become too much of an advocate, which was inappropriate.

Mr. McIntire agreed with previous comments.

Mr. Denner said that it was good the auditor's office got this case to the CRB quickly, given the complexities.

- **Relevant Department Policies and Practices**
 - 1101.1.B.9 Unsatisfactory Performance

- 1101.1.B.29 Truthfulness
- 407 Watch Commander
- 814 Vehicle Pursuit Policy

- **Policy and/or Training Considerations**

Mr. McIntire said that there is an opportunity to clarify the chain of events on the training on the Vehicle Pursuit Policy. He noted that an officer who has since retired was contacted as part of the investigation and they supported Supervisor A on how the policy was interpreted. He explained that since there was difference in the interpretation of the policy, there is opportunity for clarity.

Mr. Roseta agreed that the Vehicle Pursuit Policy may need to be revisited, even though it didn't come into play in the allegations.

Ms. Williams agreed with the previous comments and added that there is also an opportunity to address when something is entered into BlueTeam and when it is not.

Mr. Denner asked a staff member to join the table and discuss guidelines for recognizing a stolen vehicle.

Lt. Angie San Miguel said that EPD doesn't allow pursuit of property crimes for non-violent offenders. She explained that Supervisor A did not get all the information from the officer and made an initial decision based on that limited information. After that, Supervisors A and B had a conversation and they disagreed on the policy.

Lt. San Miguel shared that the in-car video is available when the car docks. She said it should have been reviewed if Supervisor A had looked at video.

Mr. McIntire asked if there is a policy to review ICV in this situation.

Lt. San Miguel answered that the policy is to review everything in BlueTeam. However, this incident wasn't entered in BlueTeam at the time.

Mr. Denner said that it seemed like a failure to conduct the after-action event. He explained that there is a purpose in a supervisor being able to call on or off a pursuit. He stated that supervisors should recognize when coaching is required.

- **Policy and/or Training Considerations**

Mr. Denner said that this case provides an opportunity to look at how EPD prepares and designates people into supervisory roles. He stated that someone familiar with the watch commander role was interviewed and asked about what training was required. They answered that very little training is required, it is mainly based on experience. He noted that this was a case in which someone was underprepared for the role they were given.

Ms. Williams agreed that leadership training for both Supervisors A and B is appropriate. She explained that they both failed their subordinates in not providing clarity.

Mr. Roseta stated that there is an opportunity to train watch commanders and provide additional training on pursuits.

Mr. McIntire added training on BlueTeam to the list. He asked when staff enter something into BlueTeam who can make a request for EVOG to do a pursuit review. He concluded that it was largely a communication issue between two supervisors.

Ms. Cindy Coleman, Internal Affairs Analyst, replied to Mr. McIntire's question. She reported that any supervisor can request an EVOG supervisor to look at something and give an opinion. She added that it can be done informally before it goes to BlueTeam. She said that informal discussions like this happen routinely.

Mr. McIntire asked who is allowed to make a BlueTeam entry. Ms. Coleman replied that any supervisor can make a BlueTeam entry. Lt. San Miguel added that it is ideally the supervising officer.

Mr. Gissiner said that he reviewed the last twenty-three pursuit entries (back to 2015) and there were only three incidents that were entered some days after. He said that he respectfully disagrees with Ms. Coleman's statement that informal discusses happen often.

Ms. Coleman responded that she had a discussion with a former EVOG Sergeant who reported it was routine for them to be approached informally like this.

Mr. Denner said that there is an opportunity to clarify when a request goes to an EVOG supervisor for review to make it clearer for patrol Sergeants.

Ms. Coleman stated that the pursuit policy does say that a supervisor should enter it and the EVOG supervisor should review it through BlueTeam. She explained that the question here was that it hadn't been entered as a pursuit yet.

Mr. Gissiner considered that asking someone to look at things informally may start to betray systems and impact decisions.

Mr. Roseta said that he understood this statement but would also hate to do anything to signal that people should not consult with one another.

Mr. Denner said that watch commanders seem to be placed in their role based on seniority.

- **Adjudication Recommendations**

Mr. McIntire reviewed his recommendations. He said that he felt the first allegation asked the wrong question and found it unfounded. The second allegation was a communication breakdown and ambiguous instruction. He stated that it did not rise to the level of misrepresentation. He found it unfounded. In third

allegation, he found insufficient evidence. He explained that there was no concrete evidence, just speculation. He named the third allegation unfounded as well.

Mr. Roseta agreed with Mr. McIntire. He said there would have been other allegations associated with the first one, but they were not stated.

Ms. Williams stated that she found all three insufficient evidence, if not unfounded. She added that truthfulness is very a serious allegation and it was uncalled for.

Mr. Denner stated that he expected Supervisor A to do the after-action event. He said that it is the responsibility of Supervisor A to know when to punish or coach. In this case, coaching may have led to a different attitude and outcome. He also noted that the conversation between Supervisors A and B could have resulted in a different outcome. He concluded that a higher level of leadership is needed up the chain of command and that this case felt borderline vindictive.

- **Additional Comments/Concerns**

Mr. Roseta recommended coaching for the original officer who was in pursuit.

Mr. McIntire said that he agreed with Mr. Gissiner's comments in the last paragraph of the report. He noted that this case went down a path that was unnecessary.

Mr. Denner thanked the investigators for the professional analysis.

Mr. Gissiner stated that he typically tries to keep a distance from internal investigations. He asked the CRB their opinion on his involvement when allegations are poorly written.

Mr. McIntire commented he would attempt to have a dialogue about the framing of the allegation if it seemed to posit the wrong question; otherwise address the allegation as is and I would not answer something different then presented.

Mr. Roseta agreed. He suggested having a discussion with the person to help focus the complaint and get to the issue better.

Mr. Denner commended Mr. Gissiner's question. He recommended sitting down with the supervisor who constructed the allegation and discuss how it reads to a third party.

Ms. Williams agreed with Mr. Denner.

Ms. Coleman agreed that Mr. Gissiner should be in communication when things don't make sense.

9. AUDITOR REPORT

Mr. Gissiner reported that Beatriz Hernandez is organizing the Auditor's office to attend community meetings in October and November. The first meeting will be on October 4, 2018. Members of the CRB are encouraged to attend. Mr. Gissiner said that the meeting topic often deviates from the agenda, but it is good to have conversations. Beatriz will send information to the committee with the meeting dates.

Mr. Gissiner shared that he received a performance review from City Council in July. The review went well, and he encouraged members to provide feedback at any time. He stated that Council was impressed with the CRB's engagement in the process.

Mr. Gissiner informed the group that there have been a lot of cases and complaints lately, especially customer service-based complaints. He said that Ms. Cox has been doing incredible work with community members with mental illness.

Mr. Gissiner recommended a case for next month that involves two combatants, one of which complained about the way they were treated at the level to generate a case of misconduct. The individual was homeless. He suggested a later training topic on substance abuse counseling for male adults. There is a program that helps fathers who had experienced substance abuse issues to reconnect with their children when there is a separation.

Mr. Denner suggested moving the substance abuse training to November so that they can have a process session in October to review logistics, especially for new members.

Mr. Denner also asked about a shooting case and inappropriate contact with a civilian. He noted that these cases may get more public attention and warrant discussion at the next meeting.

Ms. Pitcher reminded the group that there will be elections for Chair, Vice Chair, and Police Commission Liaison, and Human Rights Liaison in October.

Mr. Gissiner thanked the group for their input into the case. He added that EPD should consider being a catalyst for police training using outside partners.

Mr. Denner shared that he read Mr. Gissiner evaluation and he thanked the committee for being responsive. Lastly, he praised staff for their good work.

10. ADJORN

Mr. Denner adjourned the CRB meeting at 7:54 p.m.

(Recorded by Dana Marie Shinnars, LCOG)