

MINUTES

Civilian Review Board
Bascom Room, Eugene Public Library
100 W 10th Ave, Eugene, OR 97401

September 10, 2019
5:30 p.m.

PRESENT: Carolyn Williams, Bernadette Conover, Susan Gallagher-Smith, Michael Hames-Garcia, Awab Al-Rawe, Civilian Review Board members; Mark Gissiner, Vicki Cox, Leia Pitcher, Beatrice Hernandez, Police Auditor's Office; Angie San Miguel, Jason Berreth, Ryan Molony, Cindy Coleman, Eugene Police Department.

ABSENT: Rick Roseta, Lindsey Foltz, CRB.

Vice Chair Carolyn Williams convened the Civilian Review Board (CRB) at 5:30 p.m.

1. AGENDA AND MATERIALS REVIEW

There were no changes to the agenda.

2. PUBLIC COMMENT

There was no public comment provided.

3. MINUTES APPROVAL – AUGUST 2019

Mr. Hames-Garcia noted the August 2019 minutes did not reflect him as absent.

Ms. Conover said Page 4, Paragraph 6 read “diversity is importan” instead of “**important.**”

Motion: Mr. Al-Rawe moved to approve the August 2019 minutes as amended. Ms. Conover provided the second.

Vote: The vote passed 4:0. Mr. Roseta and Ms. Foltz were absent.

Ms. Williams declared the minutes approved.

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

Ms. Williams noted a quorum was present. Those present provided introductions.

Ms. Conover reported the Police Commission had not met since CRB's last meeting.

Mr. Gissiner shared CRB would select its board officers and committee liaisons during the October 2019 meeting.

5. TRAINING TOPIC: DE-ESCALATION

Sergeant Molony provided a training on de-escalation practices used by Eugene Police Department (EPD). For the past 11 years, Sgt. Molony ran the defense tactics program within EPD.

Sgt. Molony explained de-escalation practices were the focal point of how EPD dealt with confrontations. De-escalation tactics were designed to reduce the need to use force, recognize the sanctity of life, protect officers from harm, reduce injuries to subjects and build community trust. The policy provided guidance as to the expectations of the EPD in the application of de-escalation.

Sgt. Molony shared EPD Policy 820, De-Escalation: *“Officers should make every reasonable effort to de-escalate confrontations to prevent the need to use force. When a subject’s actions create an imminent threat to the public or to officers, it is expected that officers will respond with reasonable and decisive force.*

De-escalation techniques and tactics include, but are not limited to:

- a. Tactical communications, including active listening. Communication with the subject should be limited to one officer at a time in order to ensure clear communication.*
- b. Requesting and utilizing additional officers whenever necessary. If one officer is unable to build rapport with a subject, another officer should be given an opportunity to communicate with the subject whenever reasonably possible.*
- c. Leveraging time by slowing down the situation:*
 - 1. When safe and feasible under the totality of circumstances, officers shall attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution.*
 - 2. time and circumstances reasonably permit, officers shall assess and accommodate, whether a subject’s lack of compliance is a deliberate attempt to resist, or an inability to comply based on factors including, but not limited to:*
 - Medical conditions*
 - Mental impairment*
 - Developmental disability*
 - Physical limitation*
 - Language barrier*
 - Drug interaction*
 - Behavioral crisis*
 - Emotional Response / Fear*
- d. Creating and maintaining distance, while utilizing cover, and concealment.*
- e. Tactical positioning, repositioning and pause.*
- f. Remaining calm, and professional.”*

Sgt. Molony summarized that a police officer’s public presence was the first part to de-escalation. Simply having an officer in public places to deflect potential crime or conflict. However, in order to humanize confrontations between an officer and a person of the public, there needed to be two-way conversations. Training on these practices was ongoing but was first introduced during in-service training.

Ms. Conover asked what those conversations looked like. Sgt. Molony said officers asked if the person in question would mind having a seat while they figure out the situation, rather than giving direct orders to a person. Officers were trained to listen when someone spoke to them to ensure a back and forth dialogue. In general, there was no reason to act confrontationally.

Sgt. Molony stated the word “de-escalation” was somewhat of a misnomer. There was a lot going on when officers showed up on the scene, requiring quick resolutions. Every effort was needed in order to de-escalate at the onset; unfortunately, at times there wasn’t time to take those steps. Sometimes, officers needed to interact physically, depending on multiple factors, such as the subject’s level of substance use, age, mental stability, etc. as stated in policy.

Sgt. Molony explained EPD conducted a lot of scenario-based training, as it was most effective. He added that active listening skills were often the hardest for officers to learn and utilize. Officers were also taught to avoid crosstalk amongst officers training, as doing so convoluted conversations needed to reach a resolution. The overall goal was for a cohesive conversation between all parties. By taking time and communicating, situations were slowed down. Above all, officers didn’t want to use force if avoidable.

Sgt. Molony shared EPD had seen increased call times recently due to officers and staff being more engaged with callers, which was a positive, but it also meant there were longer wait times for community members requesting help. Luckily, that trend was improving as more officers were hired.

Ms. Conover asked when EPD began to see call times rise. Sgt. Molony said about five to six years ago when EPD intentionally began enforcing de-escalation and active listening into calls. He clarified that EPD had a rather young department overall, so new recruits were initially trained differently than seasoned officers.

Ms. Pitcher asked when de-escalation training for new recruits took place. Sgt. Molony said officers trained at EPD headquarters for multiple weeks. Defensive tactics were taught over the course of one and a half weeks, focusing mostly on control tactics and skills. Following that was two to three days of scenario-based training.

Ms. Williams asked how often training was done. Sgt. Molony said every recruit cohort had its own training program, for a total of three to four trainings annually.

Mr. Hames-Garcia clarified training times and progression. Sgt. Molony replied trainings were sequenced to be cumulative. Sgt. Molony added that in-service training was modified annually based on identified trends.

Sgt. Molony explained scenario-based training and provided an example similar to what would be taught to new recruits. Real bodycam video was used for training.

Ms. Conover asked how many people in EPD watched the specific training video. Sgt. Molony wasn’t sure about exact numbers, as it was not the only example provided during trainings – it depended on the year. All sworn officers did watch footage, though. Additionally, trainings sometimes provided examples of how not to do things, but trainers usually preferred to show best practices.

Mr. Gissiner asked how trainers chose videos. Sgt. Molony replied that he is copied on all blue team videos concerning use of force. He reviewed anything that sparked interest.

Ms. Williams assumed videos were brought to the attention of internal affairs (IA) and the Auditor’s Office when concerns arose. Sgt. Molony said yes.

Ms. Conover asked what blue team was. Sgt. Molony explained it was a data tracker and reporting system for use of force and property damage incidents. Lt. San Miguel further explained that whenever there was use of force, a sergeant was required to go on scene, take pictures, and enter notes into blue team. Mr. Gissiner added there was internal software that tracked other sorts of complaints.

Ms. Williams asked if every interaction was reviewed if an officer was flagged for their actions. Mr. Gissiner said possibly. If there were multiple uses of force in a certain time period, a lieutenant typically looked at each case and determined whether there were issues and whether corrective action and/or additional training was required.

Ms. Williams asked if demographic data was tracked for incidents, in order to understand cultural trends. Lt. San Miguel said demographics were only tracked when there was use of force, but not if de-escalation was successful.

Mr. Hames-Garcia asked for an approximate number of uses of force logged during a six-month period. EPD staff concurred there were around 200 over a 12-month period. Some uses of force were not logged. Ms. Williams asked how EPD defined reportable “uses of force.” Sgt. Molony responded “use of force” was reported when there was an injury or use of a device.

Ms. Conover asked about spit hoods. Sgt. Molony said use of “spit hoods” would not be recorded as a use of force. Often, they were deployed prior to use of force.

Ms. Conover asked about presentation of taser or fire arm. She was told presentation of a weapon did not constitute use of force, however, deployment did.

Mr. Hames-Garcia asked about property damage entries into blue team. Sgt. Molony explained only property damaged by an officer was recorded.

6. CASE REVIEW

Ms. Pitcher presented a PowerPoint entitled, “*Case Summary: Civilian Review Board, September 10, 2019.*”

1. Summary of Facts

- A volunteer at a warming center called in to EPD to request a welfare check on four juveniles who had arrived at the center. Officer A and Officer B were dispatched to the call.
- The four juveniles were brought in to talk to Officer A. Officer A spoke with them about their names and was able to contact two parents.
- At some point, the juveniles’ friend came into the room, and the conversation changed from largely cordial to unproductive.
- Officer A threatened to apply handcuffs if the juveniles did not stay sitting in their seats; this escalated the group. One juvenile did not sit down when ordered to do so, and Officer A approached him and placed him in handcuffs. The other juveniles all began yelling at the officers.

- Officer B then stepped in and handcuffed another juvenile who was not sitting down in response to orders.
- A third juvenile kicked a chair, and Officer A approached her and tried to place her in handcuffs; Officer A ultimately took her to the ground in order to get her into custody.
- Ultimately, a supervisor arrived at the scene, and rides home were facilitated for all of the juveniles.
- Warming Center staff met with an EPD liaison to discuss concerns about the incident. Their complaint was also filed with the Auditor’s Office.
- During the administrative interviews, neither Officer A nor Officer B believed that they had violated policy.

1. Allegations

- **808.2.2 Handcuffing:** That Officer A violated policy when handcuffing Child 1.
- **808.2.2 Handcuffing:** That Officer A violated policy when handcuffing Child 2.
- **103.4.1 Judgment:** That Officer A used poor judgment by failing to properly manage the scene.
- **402 Police STOPS:** That Officer A provided disparate treatment when handcuffing a child and not another, when the two were engaged in the same behavior.
- [Officer B] **808.2.2 Handcuffing:** That Officer B violated policy when handcuffing Child 3.

2. Adjudication

- Handcuffing (Officer A and 12-year-old)
 - EPD chain of command recommendation: Sustained
 - Auditor’s Office recommendation: Sustained
 - Chief of Police: Sustained
- Handcuffing (Officer A and 11-year-old)
 - EPD chain of command recommendation: Sustained
 - Auditor’s Office recommendation: Sustained
 - Chief of Police: Sustained
- Judgment
 - EPD chain of command recommendation: Sustained
 - Auditor’s Office recommendation: Sustained
 - Chief of Police: Sustained
- Police STOPS
 - EPD chain of command recommendation: Unfounded
 - Auditor’s Office recommendation: Unfounded
 - Chief of Police: Unfounded
- Handcuffing (Officer B and 12-year-old)
 - EPD chain of command recommendation: Sustained
 - Auditor’s Office recommendation: Sustained
 - Chief of Police: Sustained

3. Issues for CRB Discussion

- Complaint Intake and Classification

Ms. Gallagher-Smith stated the investigation looked thorough.

Ms. Williams referenced the video footage and asked how Officer A violated search protocol. Ms. Pitcher said it is preferred to have an officer of the same gender officer conduct searches where possible; there were also officer safety issues with how the patdown was conducted. The issues in this case related to the patdown were seen as a performance issue rather than misconduct.

Ms. Foltz emailed her comments to Ms. Williams. Ms. Foltz questioned whether the de-escalation policy had been violated here. Ms. Pitcher stated that as the policy did not contain “shall” or “must” language, other policies appeared to be more on point.

- Complaint Investigation and Monitoring

Ms. Conover clarified whether or not Officer B was Acting in Capacity (AIC) as Sergeant at the time of the incident; she was told that he was not.

Ms. Conover asked if AIC status would be noted within police reports. Sgt. Berreth said no, it would not.

Ms. Foltz emailed her comments noting the investigation was thorough and organized.

Ms. Williams asked who the person was that had accompanied the officers and why she was there. Ms. Williams was told the individual was Officer B’s spouse, on a ride-along.

Mr. Al-Rawe noted the sergeant did not review the audio or video records available. His narrative during the IA interview was solely based on memory. He wondered if this was common practice, or if officers were required to review records. Ms. Pitcher said records review was not required, but that records and video are available for review prior to interviews.

- Relevant Department Policies and Practices
 - 808 Handcuffing, Control Holds, and Impact Weapons
 - 103 Code of Conduct
 - 402 Police STOPS

Mr. Hames-Garcia wondered about the relevant policies. He wondered about Policy 103 – Code of Conduct and its role in the adjudication. Ms. Pitcher said code of conduct is commonly cited as a policy violation because it contains the rules of conduct for officers. Other policies are cited where they were specifically called into question by the officer’s actions (for example, 808 – Handcuffing, Control Holds, and Impact Weapons). Mr. Gissiner added code of conduct was an expectation around decision making.

Mr. Hames-Garcia thought the reports were disheartening. He thought many things were not considered, such as age and how to work with kids. He wasn’t sure the issue was conduct, but more poor judgment. Ms. Pitcher agreed. The system was set up in such a way that required EPD and the Auditor to discern which policies were violated, which was why “judgment “came into play for the particular case. Sometimes classifications were not exact, but EPD/Auditor worked their best to keep decisions routine and fair.

Mr. Hames-Garcia noted it was important for officers to build trust with communities. He thought the two 12 and 11-year old kids might enter life with a distrust of officers. Mr. Gissiner agreed, and said the incident did not necessarily have to be a police problem; there were many other adults the warming center staff could have called first.

Ms. Williams was struck by how Officer B was positioned behind Officer A, who interacted with the children. She wondered at what point Officer B had responsibility to intervene. Lt. San Miguel explained there was no specific time, but officers had scenario-based training in which one officer tried to establish rapport and the other was back up. Ms. Williams added having Officer B's spouse there may have affected their ability to react.

Mr. Al-Rawe asked about the policy for ride alongs. Lt. San Miguel said family and friends were allowed to ride along if they completed a form and signed a waiver. There was a limit on the number of times in a particular time period, but she could not recall specifics.

Mr. Al-Rawe asked if the call was meant to be CSO. Lt. San Miguel said the call would not be CSO because there was contact with the suspects. CSO was not dispatched to situations involving suspects. Sgt. Berreth added the call could have been directed toward Cahoots, if a vehicle had been available. Mr. Al-Rawe clarified welfare checks could not be conducted by CSO. He was told yes; welfare checks could not be done by CSO if underage juveniles were involved.

Ms. Gallagher-Smith wondered if officers were trained on how to communicate with youth, and how to assess whether the suspect had differing brain structures. For example, someone could have ADD/ADHD and might react differently than a child without that label. She thought there were many moments where the kids tried to engage the officers, although through what could be considered disruptive behavior. Lt. San Miguel said CIT covered some mental health issues. Mr. Gissiner added EPD likely didn't get as much interaction with youth than departments in other cities.

- Policy and/or Training Considerations

Ms. Conover referred to Ms. Pitcher's report and asked when a welfare check required Department of Human Services (DHS) rather than EPD. Sgt. Berreth said CAHOOTS or EPD would typically be sent first. Officers would gather information and call DHS if needed.

Ms. Foltz emailed, inquiring whether supervisors reviewed performance outside of specific complaints, and how/when performance reviews were scheduled. Lt. San Miguel explained the sergeant and lieutenant would watch the officers' videos at random, if there were concerns.

Ms. Williams taught grade school and didn't think handcuffing youth of that age was appropriate. Ms. Williams also wondered if EPD did routine assessments on basic protocol. She thought it was important officers understood at what age it was appropriate to handcuff a suspect, as well as the City's curfew for youth under 18. She suggested pop quizzes on basic protocol.

Ms. Conover wasn't sure it was necessary to subject all officers to those types of assessments, if only one officer out of a couple hundred was having those kinds of issues. She thought CRB review was a better

method. Sgt. Berreth said supervisors conducted evaluations to identify future training needs, if problematic trends were identified.

Ms. Williams asked about officer training on danger assessment. To her, it seemed like the officer overestimated the danger presented to them.

Mr. Al-Rawe agreed with Ms. Williams, in terms of training. Evaluations such as pop quizzes were preventative rather than remedial, in reminding all of what was expected, even if only one person was out of line. Additionally, Mr. Al-Rawe thought a department wide welfare check training was needed. By definition, welfare checks were crisis situations. In the case reviewed, he thought the check escalated into unnecessary aggression.

Ms. Gallagher-Smith had not seen enough data to determine whether the issue was department wide or for only that one officer. Based on limited data reviewed, the commonality between cases was the officer; however, she wholeheartedly supported ongoing de-escalation training.

Mr. Hames-Garcia returned to the issue of judgement. He noted Officer A was employed for two years so they were newer, and perhaps some of their mistakes would correct over time with more experience and continued training. It was unclear to him whether the officer had not taken to trainings quickly, or that there could have been more intervention over the past two years.

It appeared to Mr. Hames-Garcia that once the officer was challenged by the kids, the officer came up with a justification that turned out to be incorrect. Overall, the contact could have been handled better. Additionally, the situation got out of hand prior to the 18-year-old coming to the scene which was also used as a justification, which disturbed him.

- Adjudication Recommendations
 - Auditor and Chain of Command concurred

All CRB members concurred with the Auditor's findings.

- Additional Comments/Concerns

Ms. Foltz wrote that it was the third case reviewed involving Office A. She was deeply concerned by this officer's performance. Public funds were used to fund this officer's position, and they had demonstrated an inability to perform their duties as required by EPD policy. She understood they didn't have purview in whether the officer was employed or not, but she was disappointed that EPD continued to invest in an officer who was clearly unfit for duty. To Ms. Foltz, it didn't appear further training would help them improve. Finally, the officer's actions reflected poorly on EPD and the chain of command.

Ms. Williams thought there was a serious lack of customer service on Officer A's part. She agreed that their behavior could reflect poorly on EPD.

Mr. Al-Rawe was concerned by language used by Sergeant A who came on the scene later. When they were speaking to an unidentified person about the kids involved, the sergeant said, "They are just future case numbers. You can't speak to them, they know you are not going to thump the crap out of them like they deserve." Mr. Al-Rawe found the comments to be egregious and the behavior to be very concerning,

although he was not sure they were against policy. He thought body cams and sound should be activated during the entire interaction, in order to properly reflect each situation.

Mr. Gissiner noted Mr. Al-Rawe's comment would be followed up on.

Ms. Gallagher-Smith was also concerned about the population Officer A was working with. Around minute 23 in the video, the officer joked pridefully about a "child being beaten until the wooden spoon breaks." This comment was made in front of members of the public, and in front children who very well may have been abused before. The officer essentially referred to the population served as "garbage." They acted insensitively and exemplified a significant lack of judgment.

Ms. Gallagher-Smith also saw a disconnect between what she perceived as fact and the reports written about individuals. It was problematic.

Mr. Al-Rawe brought up officer safety related issues. He noted that both officers stated in their IA interviews that they were concerned about their safety. Mr. Al-Raw thought the concern was laughable. There were five, small, kids of 12 years who did not displaying violence. He thought officer safety should be revisited in training and/or policies.

Ms. Conover recognized money was put into hiring and training, so officer retention was prioritized, but on the flip side, EPD needed to consider costs affecting the agency due to an employee's poor performance. She hoped someone would look at that aspect.

7. AUDITOR REPORT

Mr. Gissiner said that during the August 2019 CRB meeting, an individual came to testify about a dog attack. Mr. Gissiner followed up with the individual and discussed processes for complaints and investigations. He also acknowledged where EPD made mistakes, particularly in terms of customer service. Overall, the meeting went well.

With three brand new members, Mr. Gissiner and Ms. Pitcher were hoping to find equilibrium on important trainings. He requested members email Ms. Hernandez if there were topics members wanted to learn about.

Mr. Gissiner thanked CRB members for their service and dedication.

8. ADJOURN

Ms. Williams adjourned the meeting at 7:24 p.m.

(Recorded by Marina Brassfield, LCOG)