

MINUTES

Citizens Police Review Board Meeting

January 12, 2011
7:00 p.m.
City Hall Building – New Addition
City Council Chambers
701 East Broadway
Columbia, Missouri

Board members present: Ms. LoCurto-Martinez, Mr. Highbarger, Ms. Smith, Mr. Dean, Mr. McClure, Mr. Alexander, Mr. Weinberg and Mr. Martin.

Excused Absence: Ms. Wilson

Staff Present: Officer Wieneke, Chief Burton, Stephen Richey, Fred Boeckmann and Rose Wibbenmeyer.

Members of the public were present.

Ms. LoCurto-Martinez called the meeting to order at 7:02 p.m. Mr. Alexander moved to accept the agenda as presented. Mr. McClure seconded the motion. Mr. Martin questioned Chief Burton's discussion of the Billups matter. Mr. Martin asked why there should be additional review while it is still pending with the City Manager. Ms. LoCurto-Martinez said that she spoke with Chief Burton and he wished to discuss his feelings about the Billups matter. Mr. Martin objected to any further review of the Billups matter and made a motion. Ms. Smith seconded the motion. Mr. Alexander, Mr. Dean, Mr. Highbarger, Mr. McClure, Ms. Smith and Mr. Weinberg voted against the motion; Mr. Martin voted in favor of the motion.

Mr. Highbarger moved to approve the minutes of the December 8, 2010 meeting. Mr. Martin seconded the motion. The Board unanimously approved the minutes.

The Board conducted its initial review of the Cruz case. Mr. Highbarger inquired into the nature of the complaint. Ms. Smith suggested that Ms. Cruz talk with a volunteer advocate. Ms. Wibbenmeyer stated that Ms. Cruz had worked with a volunteer advocate. Mr. Alexander stated that the Board is tasked with reviewing the police department's decision. Ms. Smith is concerned that Ms. Cruz might say something that might cause her problems with social services. Mr. Alexander said that Ms. Cruz and the officer will likely have conflicting opinions. Mr. McClure did not feel that it was appropriate for the Board to concern itself with the individual's legal jeopardy if the individual appeared before the Board. Mr. McClure said that the exact nature of the complaint was unclear. Mr. Weinberg stated he would want to hear from Ms. Cruz and the officer to try to better understand where each person is coming from. Mr. Alexander moved to have Ms. Cruz speak at the next meeting to articulate her complaint.

Mr. McClure asked to have the officer speak as well. On Mr. Alexander's motion to have Ms. Cruz and the police officer speak at the next meeting, Ms. Smith asked if they would require her to file a different complaint once she clarifies the complaint. Ms. LoCurto-Martinez said that she thought it was a separate incident in the second letter. The motion passed with Mr. Weinberg abstaining.

The Board hosted a panel discussion of the marijuana policy ordinance. City Prosecutor Stephen Richey, Assistant County Prosecutor Ryan Haigh and Chief Burton addressed the Board. Chief Burton expressed his concerns and presented a misdemeanor marijuana scenario. Mr. Haigh appeared on behalf the Boone County Prosecutor's Office. On a day to day basis, Mr. Haigh said that he has never seen an investigation oriented towards misdemeanor marijuana. Generally, some other conduct is being investigated and they cannot ignore the marijuana. Mr. Haigh felt that law enforcement was making this the lowest priority. According to Prosecutor Haigh, the City and the County prosecutors work well in transferring cases between the offices to comply with the ordinance requirements. If a prosecutor's office misses one of those, and a defense attorney raises the issue, he stated that the county prosecutor's office immediately transfers the case to the appropriate office. He spoke with Mr. Viets about it and he felt that the prosecutors have generally been following the ordinance. City Prosecutor Stephen Richey said that the ordinance worked the way he thought the ordinance was supposed to work. Mr. Richey said that the City prosecutor's office treated marijuana cases appropriately.

Mr. Viets asked that the Board not conclude the hearing at this meeting, but wait until the University community returns. He requested that the Board hear from the students once they return. Mr. Viets said that he would invite representatives of the defense bar and the students to the February meeting if the Board would continue the hearing on the ordinance. Board members questioned Chief Burton, Mr. Haigh, Mr. Richey and Mr. Viets. Ms. Smith moved to end the hearing on the marijuana ordinance. Mr. Martin seconded the motion. Mr. Viets said that a large majority of the voters passed this ordinance and he would like the Board to hear the input of the members of the community who did not know that this was on the agenda tonight. Mr. McClure asked Mr. Viets what he thought would be discussed around this issue. Mr. Viets said that the law enforcement perspective is good to hear from, but that other perspectives are important too. Mr. Weinberg abstained. The motion passed with Mr. Alexander, Mr. Dean, Mr. Highbarger, Mr. Martin, Mr. McClure and Ms. Smith voting in favor of the motion.

Chief Burton discussed his request to change the definition of misconduct. Chief Burton said that he wanted the change to put the Board and the Chief on the same "sheet of music." He said that it is clear what misconduct is when one looks at the general orders. He brought a copy and said that there were about 40 or so different duties that fall within misconduct, literally everything under the sun was covered by the general order. He gave Ms. Wibbenmeyer a copy of the document. Ms. Wibbenmeyer inquired if this was the same document provided to the Board by the police department during

the Board's initial training with the Professional Standards Unit. Chief Burton said it was.

Ms. Wibbenmeyer told the Chief that the document did not appear to be the document provided to the Board. The Chief took the document back and said that he would check to make sure he had the most current copy and deliver it to Ms. Wibbenmeyer after the meeting.

Chief Burton said that the first thing the police do with a complaint is to determine whether it falls within the code of conduct. He felt that it was important that the Board and the Chief come to an understanding as to what constitutes misconduct. He asked the Board to consider defining misconduct as a violation of the Code of Conduct document. Chief Burton used the Billups case as an example.

Mr. Boeckmann stated that the issue in the Billups case was whether the use of force was appropriate. Mr. Alexander indicated that the Board reached a different finding than the Chief and said that the officer did not need to grab Mr. Billups. Mr. Alexander stated that it would be good to allow complainants to be more specific in their complaints by putting information on the police policies in a public forum.

Chief Burton told a story. Mr. Weinberg stated that the fact scenario presented by Chief Burton's story was very different than the facts presented by Mr. Billups' complaint. Mr. Weinberg asked Chief Burton regarding two sentences of his letter which he read. Mr. Weinberg said that obviously the Chief and the police review board will always deal with things after the fact. Chief Burton said that his intent was that the Board should not judge the specific tactics used by the officer, but that the Board could review policy regarding the types of tactics. Chief Burton said that he thinks the Board's role should be limited to whether or not the tactic used by the officer was the type of tactic that officers should use.

Mr. McClure asked about the Chief's feelings about putting the police department's policies on the internet. Chief Burton agreed to place the police department's policies on the internet, unless he would be revealing tactics. He agreed it would be a good idea. Ms. LoCurto-Martinez asked Chief Burton about his initial request to define misconduct based upon a Missouri statute. Chief Burton responded that after receiving Mr. Boeckmann's memo, he reconsidered his request because he did not want to be perceived as narrowing the functions of the Board. Mr. Martin suggested that most written documents do not cover every perceivable possibility. Mr. Martin did not believe the Board should limit itself to what is in the statute – the Board should be able to consider what is misconduct rather than adopting one set of rules by which to be governed. Chief Burton said that is problematic and there should be common ground to agree as to what comprises misconduct. Chief Burton has a fear that the officers will not be held to the standards in the policy manual. Ms. Wibbenmeyer clarified that the documents the police department provided on past appeals included the police department's own policies which the Board applied in those cases. Chief Burton said that he would get the complete code of conduct to Ms. Wibbenmeyer.

Ms. LoCurto-Martinez updated the Board regarding the replacement of Board member Weinberg. Ms. LoCurto-Martinez told the Board that there were three applicants for the vacancy.

Ms. LoCurto-Martinez discussed the annual report and the demographic data on complaints. Ms. LoCurto-Martinez said that the latest report from the Professional Standards Unit (PSU) was January-March 2010. Chief Burton said that the year-end report should be available soon, most likely tonight. Chief Burton noted that the PSU had been busy because he found about 250 use of force reports in someone's office who had left the police department. All of those reports had to be put into the computer. Chief Burton said that PSU also implemented blue team this week.

Ms. LoCurto-Martinez discussed a letter from Ms. Parks and others. This letter will be placed on the February meeting agenda.

The Board provided an opportunity for public comment. Mr. Pierce expressed his disappointment that the Board only heard from Chief Burton and two prosecutors on the marijuana ordinance.

Ms. LoCurto-Martinez asked Mr. Viets regarding his other request for the Board to explore the use of search warrants for nonviolent offenses.

Ms. LoCurto-Martinez thanked Mr. Weinberg for all of his work on the Board. Mr. Weinberg said that he is only resigning from the Board because of the situation with his parents. He stated that he was impressed with the dedication of all of the people on the Board and the amount of work of the Board and staff.

Ms. Smith moved to adjourn the meeting. Mr. Highbarger seconded the motion. The Board unanimously voted to adjourn the meeting. The meeting adjourned at approximately 8:40 p.m.