

MINUTES

Citizens Police Review Board Meeting

July 14, 2010
7:00 p.m.
City Hall – New Addition
City Council Chamber
701 East Broadway
Columbia, Missouri

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

Excused absence: Mr. McClure.

Staff present: Fred Boeckmann, Rose Wibbenmeyer, Chief Burton, Deputy Chief Dresner, Lt. Shouse Jones, Public Information Officers Jessie Haden, and Jill Wieneke.

Members of the public were present.

Ms. LoCurto-Martinez called the meeting to order at 7:03 p.m.

Mr. Alexander moved to approve the minutes of the June 9, 2010 meeting. Mr. Martin seconded his motion. The Board unanimously approved the minutes.

Ms. LoCurto-Martinez opened the discussion regarding the appeal by Mr. Rosenthal stating that there are two issues to address before any discussion. The first issue relates to “standing” of a complainant. Ms. Smith detailed court cases, the Oversight Committee’s final report and various other details suggesting that there was a standing requirement implicit in the ordinance and legislative history of the ordinance. She expressed her concern that both complainants were residents of the state of California and had no known relationship to any parties and that their only goal was to provide a forum for their political objectives. Mr. Highbarger distributed and discussed information he obtained from Iowa City and Indianapolis, which have standing requirements for their review boards.

Mr. Alexander stated that the current ordinance does not limit where the complainant resides. Mr. Boeckmann suggested that the Board may wish to appoint a subcommittee to make recommendations to the Board and then to be forwarded to the City Council for an ordinance change.

Mr. Martin felt that there was a large amount of investigation from the Chief’s point of view, but that the report was incomplete as it failed to address the entirety of Mr. Rosenthal’s complaint. Ms. LoCurto-Martinez stated that the investigation began in March, prior to the filing of the complaint and that the investigation only addressed the

shooting of the dogs as required by police policy and not Rosenthal's complaint. For example, the surveillance issue was not addressed. She asked Chief Burton if they could get additional information, but the Chief stated that the officers did not violate any rules or policies that existed at the time.

There was discussion as to the Board's complaint procedures and standing issues. Mr. Weinberg indicated that the ordinance is clear that there is no standing requirement in the current ordinance. Mr. Alexander encouraged the Board to move forward because the citizens of Columbia want to see this Board address this incident. Mr. Alexander indicated that the Chief's investigation merely addressed the use of guns. Chief Burton confirmed that the investigation was a use of force investigation. Mr. Alexander indicated the people in California asked other questions and he asked the Chief where the paperwork was with respect to the complainant's questions.

Ms. Smith moved for the Board to recommend to the City Council that the ordinance be changed. Mr. Highbarger seconded the motion. Mr. Weinberg asked how this will impact this case. After much discussion, Ms. Smith amended her motion to state that the chair should appoint a subcommittee to address standing. Mr. Weinberg seconded the motion. Mr. Alexander, Ms. Bixby, Mr. Highbarger, Mr. Martin, Ms. Smith, Mr. Weinberg, and Ms. Wilson voted in favor of the motion.

Mr. Weinberg asked Chief Burton why the SWAT commander was not directly involved in the incident. Chief Burton said that it could have been any number of reasons and that he was not sure why he was not there. Mr. Weinberg stated that the narrative indicates that four different officers used firearms and asked why all four officers needed to draw and use firearms. Chief Burton stated that if they knew about the dogs, then they could have planned accordingly. Mr. Weinberg asked the Chief how he defined the scope of the investigation. Chief Burton explained that he felt that the complaint must involve contact with the public and must involve an allegation of misconduct. Ms. LoCurto-Martinez asked about the definition of misconduct, and Chief Burton said that he decides whether or not citizen complaints are related to misconduct.

Mr. Alexander asked if he responded to the people in California. Chief Burton stated that if the complainants alleged misconduct, they responded. Mr. Boeckmann suggested that the Chief was viewing the definition of a complaint too narrowly. Chief Burton stated that he did not want to waste the time of his investigators in internal affairs by responding to any allegation that did not in the department's opinion violate any policy or procedure. Mr. Boeckmann advised that the department needs to investigate all allegations. Mr. Boeckmann asked how many complaints were filed regarding the Kinloch court incident. Chief Burton responded in the thousands, but only a few hundred with specific complaints. Mr. Boeckmann asked if the only allegation was the shooting of the dogs. Chief Burton indicated that some people complained of other things, such as the running of the search warrant through the use of the SWAT team. Chief Burton told the Board that he specifically requested that this Board review the incident.

Ms. LoCurto-Martinez pointed out that the investigation provided by the police department was limited and was based upon Chief Burton's request. Mr. Rosenthal's complaint was filed on May 11. Ms. LoCurto-Martinez stated that at the time the warrant was executed, surveillance should have been conducted per police policy and at the last meeting Chief Burton said that there was no surveillance. Chief Burton indicated that there are different levels of surveillance, and that through the years of policing the department relaxed the policy.

Ms. Wilson asked if Missouri law requires a special type of warrant to serve a search warrant at night. Chief Burton did not know the answer, and Ms. Wilson indicated that she would like to know the answer. Ms. Wilson commended the Chief for the changes he made after the incident, but she also stated that those changes are not relevant to this discussion. Ms. Wilson asked the Chief to provide information regarding body armor worn by officers during the search warrant execution. She also asked if he considered that when reviewing the decision to shoot the dog. Chief Burton stated that the armor worn by officers merely protects the officer from gunfire. Ms. Wilson asked why Chief Burton did not consider the officers handling of the situation with respect to the presence of the child. Chief Burton stated that he did not observe any mistreatment of the child.

Mr. Martin questioned whether the Chief's investigation addressed the child abuse allegation and the threat to the family. Mr. Alexander stated that he would like to know how the department arrived at the decision to use the SWAT team to serve the warrant. Chief Burton stated that mistakes were made that should not have been made. Mr. Alexander stated his concern regarding officers shooting guns with a child present. Chief Burton stated that the officers did not know the child was in the house; however, Mr. Alexander pointed out that the SWAT investigation mentions the child being present.

Ms. Smith asked what procedures the Board would use for this complaint process. Ms. LoCurto-Martinez read the procedures per Ms. Smith's request. Several Board members questioned if the report was complete. The Board agreed to table further discussion and scheduled a special meeting on August 4, 2010 at 7:00 p.m.

Ms. LoCurto-Martinez asked the Chief about the status of the Billups complaint. Chief Burton indicated that he had not received the paperwork from internal affairs. Lt. Shouse-Jones said that the paperwork is in the chain of command on its way to the Chief. Mr. Viets, the attorney for Mr. Billups, told the Board that Mr. Billups timely filed a complaint and that there has been over a five month delay. Mr. Viets felt that such a delay was unacceptable. Chief Burton explained that Mr. Billups is one of sixty complainants and that some investigations take longer than other investigations.

Chief Burton provided additional information to the Board regarding his new use of force form. Ms. Smith asked if it was filled out by hand or on the computer. Chief Burton indicated that it was filled out by hand and that they are trying to computerize it.

Mr. Alexander asked if all of the videos and audio recordings are reviewed. Chief Burton stated that they only spot review recordings if they have a concern. Mr. Martin asked how long the recordings are preserved, to which Chief Burton indicated sixty days.

Chief Burton provided additional information to the Board regarding the demographics of the police department. Among other items, Chief Burton told the Board that the department was still revamping the internal affairs process. Chief Burton stated that he would be attending a conference to look at the PERF guidelines for taser use.

The Board heard public comment. Ms. Diane Booth, Mr. Mitchell Richards, Mr. Carter Kassmer, Mr. Eapen Thampy, Mr. Viets, Ms. Holly Henry, and Mr. Dearmont spoke. In addition to other matters, Mr. Viets told the Board that he had also received an email from Sgt. Simons on Mr. Billups' complaint on June 11, 2010. In that June 11, 2010 email, Sgt. Simons informed Mr. Viets that the Billups investigation had been completed. He stated that there is no reason why Mr. Billups complaint is not being resolved. Mr. Weinberg commented that he was really struck by how long it has taken.

The Board discussed the NACOLE conference. Mr. Weinberg moved that Ms. LoCurto-Martinez and Mr. Martin be the representatives to attend the conference. Mr. Alexander seconded the motion. Ms. Bixby felt the Board should send a member who is serving a three or four year term. Mr. Alexander, Mr. Highbarger, Mr. Martin and Mr. Weinberg voted in favor of the motion. Ms. Bixby, Ms. Smith and Ms. Wilson voted against the motion.

The meeting adjourned.