

MINUTES - AMENDED

Citizens Police Review Board Meeting

April 13, 2011
7:00 p.m.
City Hall – New Addition
Council Chamber
701 East Broadway
Columbia, Missouri

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

Excused Absence: Mr. McClure

Staff Present: Officer Brotemarkle, Officer Valley, Sgt. Wieneke, Chief Burton, Lt. Krista Shouse-Jones, Fred Boeckmann and Rose Wibbenmeyer.

Volunteer Advocate Suzette Bacon was present. Members of the public were present.

Ms. LoCurto-Martinez called the meeting to order at 7:02 p.m. Ms. Wilson moved to approve the minutes of the March 9, 2011 meeting. Mr. Sheltmire seconded the motion. The Board unanimously approved the minutes.

Ms. LoCurto-Martinez called the Chapman et al complaint case regarding the taser incident at the Subway restaurant. Ms. LoCurto-Martinez asked the Board how they wished to proceed. Mr. Highbarger stated that the police officers followed police procedures. One of the complainants stated that he had prepared comments. Mr. Highbarger moved to accept Chief Burton's report as provided. Ms. Smith seconded the motion. Ms. Wilson stated that she would like to have time to read the complainant's statement or have the complainant read it.

Mr. Finke addressed the Board on behalf of the Fellowship of Reconciliation. He distributed to the Board a copy of his comments. He discussed his concerns regarding the use of tasers.

Mr. Sheltmire stated that he would not mind hearing from the officers. Mr. Highbarger stated that his motion was on the floor. Mr. Boeckmann stated that the Board should vote on the motion first. Mr. Alexander stated that he has read the police report and believes the police followed the regulations. He feels that it deserves to be talked about, but he cannot see that the officers did anything wrong. Mr. Alexander said that the use of tasers is something to talk about, but the incident and the lack of forthcoming witnesses would mean that the Board may want to consider adding subpoena powers to the ordinance. Mr. Sheltmire agreed with Mr. Alexander.

Ms. Smith stated that she thought it would be more appropriate to have a hearing on the taser use with the local standards and the new national recommendations. Ms. Smith stated that the

Board should look at it in a general sense, not a specific sense. Ms. Smith appreciates the letter that was sent, but without other witnesses to the incident, the concerns of the community are general in nature and not specific as to this incident. Ms. Wilson reluctantly agreed that there was not much to deliberate. Ms. Wilson is still concerned about how mental health issues are handled in the police department.

Chief Burton clarified that the officers need the benefit of protection against future litigation. He stated that he wants the officers to have the benefit of counsel or the ability of the Board to go into closed session if the officer believes that he or she may face civil liability in the future. Mr. Boeckmann stated, as the attorney for the City, there is a very little concern that this proceeding will expose the City to any liability. He does not feel that the City has an obligation to provide attorneys in this context. The City does provide attorneys during civil suits. Ms. Wilson agreed with Mr. Boeckmann in that the officers are not under oath and are not giving testimony. Chief Burton stated that the officers do not want to go through these sessions without some sort of protection.

The Board unanimously passed Mr. Highbarger's motion.

Ms. LoCurto-Martinez called the initial review of the Langley matter and asked for Board discussion regarding whether or not Mr. Langley alleged misconduct and how the Board wanted to proceed. Mr. Alexander summarized his understanding of the case and stated that he was unclear what the misconduct was. Mr. Sheltmire stated that he thought it had to do with the [complainant's perception regarding the](#) inaccuracy of the report and how it was written up. Mr. Highbarger stated that there was no identifiable misconduct. Ms. Smith asked the volunteer advocate, Ms. Bacon, some questions. Ms. Bacon stated that she spoke with Mr. Langley and asked him what he wanted to accomplish by filing this complaint. Mr. Langley wanted to know what was going on in the truck and did not feel that the driver should be driving the big truck.

Ms. Smith stated that she was concerned about Mr. Langley's understanding. She thought that a closed meeting might be helpful in order to discuss the issue with him. Ms. Smith moved to accept Chief Burton's decision and requested that the Board write a letter to Mr. Langley fully explaining what the Board decided and why. Mr. Sheltmire seconded Ms. Smith's motion. Mr. Alexander stated that the complaint is not really about what the officer was doing, but was just generally unhappy about the whole incident. Mr. Martin stated that he was in agreement with what has been said and that the Board's process will not give Mr. Langley the relief he desires. Ms. Wilson stated that she liked Ms. Smith's tone of the letter and that it summarizes the views of the Board, such as it is outside the scope of the Board. The Board unanimously passed the motion.

The Board took up old business. The Chair asked Mr. Viets to discuss the issue regarding search warrants. Mr. Viets asked the Board if it is good public policy to investigate suspected non-violent crime. Mr. Viets stated that search warrants are appropriate in certain circumstances, but not in all circumstances.

Mr. March spoke to the Board regarding a dynamic entry into his home at which time his dogs were shot. He admitted that he had guns and marijuana in the house. Mr. Viets pointed out that there were five concussion grenades exploded that day, very near a guest's foot. The two dogs were shot to death in the back with submachine guns.

Other members of the public spoke. Mr. Richards discussed his views on the war on drugs. Ms. Langston addressed the Board in support of a policy to disallow the use of military SWAT raids on non-violent crime, especially drug offenders. Mr. Thampy discussed his research regarding geographic distribution of SWAT raids in Columbia and the use of dynamic entry in the execution of search warrants.

Chief Burton addressed the Board. Chief Burton stated that significant changes have been made in how the police department executes a dynamic search warrant. Chief Burton indicated that the police department has not run a dynamic search warrant this year. He stated that it has made it more difficult for police officers. The additional precautions are in place to ensure that search warrants are run appropriately.

Ms. LoCurto-Martinez discussed a recent trip to Kansas City to learn about their mediation program. Chief Burton, Mr. Boeckmann, Lt. Krista Shouse-Jones, Sgt. Simons, Sgt. Jones, Mr. Martin and Ms. LoCurto-Martinez went to Kansas City. She stated that in Kansas City the complaints are directed into the office of community complaints. Mr. Martin stated that they came away with a lot of good ideas, but that there are professional mediators in Columbia and at the law school who should be involved in the planning and development of the mediation program.

In Kansas City, Mr. Boeckmann stated that the complainants decide to choose mediation at the beginning of the process and that, if a person agreed to mediate, the complainant gives up their rights to have their complaint investigated. They also considered it to be successful mediation when both sides come to the table, not if they actually reach a decision, which would seem to inflate their success rate. Mr. Boeckmann stated that any mediation program should be tailored to Columbia, not just what Kansas City has. Mr. Boeckmann stated that the major complaints could be dealt with in a more timely fashion by using this to address the more minor complaints. Chief Burton stated that the type of complaints would have to be selected to be appropriate for mediation. Chief Burton stated that the officer could explain and the complainant would understand. Chief Burton stated that we need a clear definition of what a complaint is. Chief Burton also pointed out that in Kansas City if it is mediated, then there is no complaint and no record of a complaint against the officer. Chief Burton complimented the Kansas City Police Department's approach.

Mr. Martin commented that the OCC mediation is confidential and that OCC has conciliation. They also do not reschedule mediations. If you do not show up, that is the end of it. Mr. Martin stated that the Board should be aware of these things when the Board designs a mediation program. Mr. Martin stated that in designing a mediation program, the Board needs buy in from the community and the police department.

Ms. Wilson gave a report on their ideas for outreach. Ms. Wilson said that Mr. McClure expressed a willingness to work within the faith community and church programs in the inner city. Ms. Wilson and Mr. Martin will meet with the local bar and the criminal law committee. Ms. Wilson thought that the Board should hold a meeting at the ARC to invite people to have a discussion regarding what the Board does, and hear the public's ideas. She stated that another idea is for the entire Board, once a quarter, to meet at another location in the city. Ms. LoCurto-Martinez stated that she was working on using Kansas City's outreach plan as a model. Mr. Dean suggested that maybe the subcommittee could develop a presentation that the Board members could use to give as a presentation. Mr. Martin stated that the Board should compose a letter to various groups offering a presentation.

Ms. LoCurto-Martinez opened discussion regarding closed executive session. Dr. Campbell discussed the research regarding how review board's in other cities function. Mr. Alexander asked why the City of Columbia Board was set up to not include confidentiality. Dr. Campbell said that they did not recognize the need for confidentiality for both the complainant and the police officers. From his perspective, he felt it was an oversight. Mr. Sheltmire stated that the Board, as part of its role, has information that is not at all times available to the public. Mr. Sheltmire personally believes open communications would be important, but having the ability to go into closed session, if needed, is important. Mr. Berg addressed the Board. Mr. Berg stated that the Board talked about restricting the ability of people to file complaints and is now discussing going into closed session. Pursuant to the Sunshine Law, Mr. Boeckmann explained that the City can either close it or open it as a personnel issue. Mr. Berg stated that he felt that the police chief's request for attorneys for the officers is a bogus issue. Mr. Berg quoted the Sunshine Law and discussed his views of the Sunshine Law. Mr. Berg complained that the community was not allowed to comment on the first complaint. Ms. Henry commented that there are illusions to things that are going on not in a public forum. Ms. Henry urged the Board to reconsider.

Ms. LoCurto-Martinez asked for Board comments. Ms. Smith stated that if the citizen wants the complaint made private, the Board does not have a means to do so right now. Ms. Smith wanted to allow complainants to decide whether or not they want it to be public or kept private. Ms. Smith stated that the Board is more concerned with addressing problems between the citizens and the police. Mr. Boeckmann stated that the records related to complaints are open records per the ordinance. Mr. Alexander asked for clarification and asked if every complaint is a personnel issue. Mr. Alexander asked if they have the right to claim that it is an exception to the Sunshine law. Mr. Boeckmann stated that one part of the Sunshine Law deals with personnel records and that the City Council has chosen to close everything that it can close, but the ordinance about complaints, the Council has specifically opened the records. Ms. Wilson is not convinced that there is a widespread feeling in the community that it is intimidating to appear before the Board. Ms. Wilson stated that there was no data to support the Board's concerns. Chief Burton gave a scenario regarding a sexual assault victim. He stated that the officer and the complainant should be able to request closure. Mr. Martin asked about juveniles. Mr. Boeckmann explained the difference between records and meetings. Ms. LoCurto-Martinez suggested adding a higher than majority vote to decide to go into closed session. Ms. Holly suggested the Board put links on the website to the material.

Ms. Smith stated that the motion was passed and approved last time. Mr. Highbarger moved to rescind the vote. The Chair called for a second. Mr. Highbarger's motion failed for lack of a second. Ms. Wilson stated that this would be a dangerous precedent to set. She feels that deliberations must be open. Ms. LoCurto-Martinez asked if the Board wanted to add a two-thirds majority to the ordinance. Mr. Sheltmire stated that he was comfortable with the two-thirds majority. Ms. LoCurto-Martinez moved that the Board accept this draft with the option of a two-thirds majority. Ms. Wilson moved to table the discussion to consider it. Mr. Boeckmann stated that the motion to table needs a second. Mr. Highbarger seconded the motion to table. The motion failed with Mr. Alexander, Mr. Dean, Mr. Martin, Mr. Sheltmire and Ms. Smith voting against the motion. Mr. Highbarger and Ms. Wilson voted in favor of the motion.

Ms. Smith moved that the Board accept the draft ordinance with a modification adding two-thirds vote of the Board to go into executive session. Mr. Sheltmire seconded Ms. Smith's motion. The motion passed with Mr. Alexander, Mr. Dean, Mr. Highbarger, Mr. Martin, Mr. Sheltmire and Ms. Smith voting in favor of the motion. Ms. Wilson abstained.

Ms. LoCurto-Martinez stated that CPOA has contacted the Board regarding a training session. Ms. Ashley Cuddle, the new executive director of CPOA, requested that the Board meet with Attorney Joe Marshall to discuss his findings on the structure of the citizens police review board. She stated that CPOA would like to provide the Board with its findings in any sort of forum. Ms. Wilson stated that it could be incorporated in a regular meeting with an allotted time. Ms. LoCurto-Martinez stated it would be on the May agenda.

Ms. LoCurto-Martinez stated that the Spanish brochures are in and available for distribution.

The Board heard public comment. Mr. Robnett commented that the law school does have a mediation program and it would be a good asset or resource to use. Ms. Green commented on the lack of public comment on the first case. Ms. Hussman expressed her disappointment to the Board. Mr. Callaway of the Minority Men's Network stated that transparency is important and he thanked the Board members for their service.

Ms. Smith commented regarding the Chapman case. Ms. Smith stated that the officers followed the policy. If the group wishes to address policy changes, then maybe a public hearing might be appropriate. Ms. Smith stated that this case was not the right forum to address some of these issues.

Ms. LoCurto-Martinez stated that the Board would take up the taser issue during the May agenda. There was additional public and Board comment. Mr. Martin moved to adjourn the meeting. Mr. Sheltmire seconded the motion. The Board unanimously approved the motion and the meeting adjourned at 9:45 p.m.