

Minutes – Citizen Review Board Meeting of August 24th, 2021

In attendance: Sara Vaccarella (Chair), Danelle Dunphy (Vice Chair), Kevin Wu (Board Member), Eric Franklin (Board Member), Ken Kimber (Board Member), John Beyer (Board Member), Carl Crawford (Human Rights Officer), Laura Laaksonen (Human Rights Assistant), Blair Powless (Board Secretary), Mike Ceynowa (DPD Lieutenant/DCRB Police Liaison), Mike Tusken (DPD Police Chief), Gary Anderson (Duluth City Councilor)

Recording of meeting did not begin until the meeting was already in progress. These minutes reflect only the recorded part of the meeting.

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II. Roll Call

III. Public Comments

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Police Liaison Report

Lt. Ceynowa: Hopefully you have all received the four documents. Not a lot of complaints have come in in the last month. There are two summaries of complaints, as well as the compliments received, and our current police stats. I also understand you want some follow up on last month, and I am happy to answer any of your questions.

Chair Vaccarella: On line sixteen of the excel spreadsheet it states there was a reminder sent out about an officer not stopping for pedestrians at a crosswalk. What constitutes just sending out a reminder, versus when some sort of action or discipline needs to be taken?

Lt. Ceynowa: It depends. Sometime it is just something that we are unable to identify, or we've gotten numerous calls about conduct, but not dates, times, and locations. So, that's when we will sometimes do a memo to remind officers about safe driving conduct, or do a turn out training. It may be that we have had numerous complaints involving different officers relating to a similar issue. That is when we go back and address how are we training on this, how is this worded in policy, are we having a policy failure, or a training failure? Then that is brought back either to the patrol crews or investigations, depending on what part of the agency it impacts.

Chair Vaccarella: So, did this come down to a policy issue or a training issue? I only bring this up because I doubt that many of us would just get a reminder about stopping for pedestrians in a similar situation.

Lt. Ceynowa: Sure, but when it's something that we can't verify, or show that it occurred or happened, that would be difficult for any employer to discipline their staff.

Chair Vaccarella: Okay. So, then there is no knowledge of who the officer was?

Lt. Ceynowa: Correct. We have had a similar issue, and other things like that, that we are unable to fully sustain. This is listed as sustained because we believe that what the complainant is telling us probably happened, but we have no way of verifying the complainant's story otherwise.

Board Member Franklin: I have a question about the case summary reports. How are the finding of an investigation given to a complainant? How do they receive this information?

Lt. Ceynowa: Correct. Either by letter or by phone call. I prefer to make a phone call to give a better explanation to the complainant. I have found that when we have sent a boilerplate letter that has been created out of the city attorney's office, we don't always get the best reaction from people; it usually causes more harm than good. A lot of the time when we make a phone call we can tell the complainant where their complaint is at, here is what occurred, there was or wasn't discipline, etc.

Board Member Franklin: Do you have an idea of how many complaint findings are mailed and how many are delivered over the phone?

Lt. Ceynowa: I don't. I'd have to go back in and look. I would say probably a vast majority are done over the phone. Mailing is used when there is an ongoing issue that doesn't really relate to the police department.

Board Member Franklin: My next question is, on the complaint resolution descriptions that we receive there is a place where it says that a complainant is either satisfied or unsatisfied with the outcome of

the complaint investigation. How are we determining that someone is satisfied or unsatisfied? It seems ambiguous when it says they were unsatisfied, but there is no explanation as to why the person isn't satisfied.

Lt. Ceynowa: In the discussion with the complainant, they told us that they did not like the outcome, they don't agree with the outcome.

Board Member Franklin: Is there the possibility that in the future reports on each complaint outcome can state whether or not the complaint findings were mailed or delivered over a phone call? Also, could we get the actual words of the complainant, describing why they are satisfied or dissatisfied with the outcome of the complaint investigation, rather than the interpretation of the person creating the complaint outcome report?

Lt. Ceynowa: We could do something like that. I don't see an issue with the letter or phone call request. The other request I will have to think about, so I don't put any identifiers in. I do agree with you that these are important things to know.

Board Member Wu: I have a technical question. When I review these spreadsheets am I the only one who doesn't understand the difference between 'unfounded' and 'not sustained'?

Chair Vaccarella: No, you are not. I have had to try to figure that out and ask for help multiple times. You are not alone.

Lt. Ceynowa: I get confused about this myself.

[In response to this question Lt. Ceynowa emailed the following definitions to CRB board members on August 24th, 2021.]

- (a) Unfounded - the allegation is deemed false or not factual
- (b) Exonerated - the allegation is deemed true, but consistent with policy
- (c) Policy Failure - the action is not a violation of policy, but the policy is not adequate
- (d) Not Sustained - there is insufficient evidence to prove or disprove the allegation
- (e) Sustained - the allegation is supported by sufficient evidence

Vice Chair Dunphy: There was a gentleman who came to our meeting last month to talk about an issue that he had with an officer. I wanted to be sure, since I cannot tell from the written reports we received this evening, if his issue was followed up on.

Lt. Ceynowa: It was followed up on. The video was reviewed, and the complainant was invited to review the interaction video with the officers. So far he has declined the offer, but that might change. We still have the video of the event. His supervisor also asked to watch the video footage, but we declined to allow that due to data practice laws. If the individual wants to bring their supervisor with them to review the video then they can do that. They can bring whomever they want in with them to review the video as the data subject, but I can't give it to or allow someone to view it if they are not the data subject. That has been conveyed to the complainant, and Chief Tusken has met with the complainant a few times.

Vice Chair Dunphy: As a member of the community, for me to have an interaction with an officer, either negative or positive, and then for that officer to call my supervisor and potentially threaten my employment would be very upsetting to me as well. I think that the officer did in calling the complainants supervisor was very unprofessional and should not be happening. If the issue is with a particular person that is one thing, but the complainant wasn't in the process of doing their job at that point. I hope that that was addressed.

Lt. Ceynowa: The police officers didn't call the complainants supervisor. That was done by an administrator in the police department. The issue was that both parties were supposed to be doing their jobs, different jobs at the time.

Secretary Powless: Referring back to the discussion of terminology, can a key be created in the complaint resolution spreadsheet that gives the definitions of each of the terms (sustained, unfounded, etc.)?

Lt. Ceynowa: Yes, I will work on that.

Chair Vaccarella: Secretary Powless, is that information that you could also make available on the website once we get that up and running?

Secretary Powless: Yes. I will do that. Another thing I would like to discuss. I'm not sure if you can answer this question Lt. Ceynowa, but I am wondering if one of the two case summaries that we received this month is an outline of the resolution of the complaint that was lodged verbally at the last meeting.

Lt. Ceynowa: I cannot answer that question. I am not going to go down a road where I am sharing public data about a private person.

Secretary Powless: I understand. However, what I will say is that if one of these case summaries is a summary of that complaint, it is missing reference to the complainant's complaint that one of the officers involved was driving fast in an area where he thought they shouldn't be and that the circumstance didn't call for that. The other thing is in the summary the second to the last line reads, "A review of the situation showed that the officer the arrest of the person well and in accordance to policy," and I don't know exactly what that means. I am assuming there are just some typos.

Lt. Ceynowa: There may be some typos there. I am not the one who writes these necessarily. I think what they are trying to say, and I wanted the video as well, is that it was a lawful arrest and was done according to policy. The speed portion wasn't addressed in their complaint to us, and I do not recall anything in the video that would have indicated that there was a speed issue. Also, it's not going to trip our systems that are in place for that because the officer did not activate lights and sirens.

Secretary Powless: Well, if this is a summary of the resolution of the complaint that was received verbally at our last meeting, then it is missing the speed aspect of the complaint, and I think that someone should clear up the sentence that I mentioned.

The complainant gave lodged their complaint at the last CRB meeting, and we were told that a person can make an official, formal complaint verbally at a CRB meeting, and part of that complaint was about speed, so it seems to me that the complaint that was made does in fact talk about the speed.

Lt. Ceynowa: My difficulty with that is that he had already made the complaint to the police department the week prior, and it had already been investigated. There were several facts that we had already that were different than what was presented to the board.

Secretary Powless: So, the complaint that was submitted to the board is just null and void?

Lt. Ceynowa: I am not saying that it is null and void, I'm just saying that it was presented to us differently than what was presented to the board by that individual, and things said by the individual had already occurred differently. That's why there was some additional follow-up with that person.

Lt. Ceynowa: Ok. I also wanted to say that I really like the compliment where the officer stopped traffic and picked up the little kid's shoe. I thought that was really cool.

Approval of Minutes

Secretary Powless made a motion to approve the minutes from the July 27th, 2021 DCRB meeting.

Board Member Kimber seconded the motion.

All members present voted to approve the minutes with the exception of Board Members' Beyer and Kimber who abstained being that they had not been at the July 27th meeting. The motion carried.

Executive Report

No executive report

Committee Reports

Task Force on Complaint Audit Process - Update

Board Member Beyer: Board Member Kimber and I are the members of this task force. We have not made any headway thus far. We will be getting together soon, and will have a report for the board at the next DCRB meeting.

Other Business

Discuss Reporting to the City Council

Secretary Powless: This is something that I added to the agenda. I have been meeting with city councilors regarding work that I am doing in the community, and in those conversations one of the city councilors suggested that we report to the city council more often than we currently do. Right now, we are doing it once a year, and they were suggesting that we do it once every two months. I was thinking about planning for that ahead of time and having some sort of a script or outline of what that report

would look like that could be approved at the DCRB meeting preceding the city council meeting at which the report would be given. I would be willing to give the report at the city council meetings.

I think it would be a good idea to keep the city council up to date on what we are doing and where we are at. So, I put that on the agenda, and that is my explanation of why it's there.

Vice Chair Dunphy: Are you thinking about a written report or a verbal report, because usually the chair would give the report to the city council. That is how the procedure usually goes.

Secretary Powless: I was thinking about an in-person report, and that could be accompanied by a written report. If Chair Vaccarella is interested in doing that it is fine with me, but if she isn't it is something that I'd be willing to do. I don't know if there is specific protocol as to which member of the board has to make the report to the city council or not.

Vice Chair Dunphy: I think that Secretary Powless, Chair Vaccarella, and myself should get together outside of this meeting as an executive board and decide on what that process should be. I think that we should discuss who would be giving the report, and other questions of protocol for making reports to the city council.

Chair Vaccarella: I agree. This sounds like something that should be discussed in an executive meeting. A plan can be made in the executive meeting, and then brought back to the rest of the board for their support. I think it would be fine for somebody on the board to bring that report to the city council, but I think that we should all be in agreement on who that is.

Vice Chair Dunphy: Is everyone alright with Secretary Powless, Chair Vaccarella, and myself meeting to discuss this and the report back to the board?

Human Rights Officer Crawford: Chair Vaccarella I suggest to include Councilor Anderson. That may be a great opportunity to use his expertise as well.

City Councilor Anderson: I would be happy to answer any questions about protocol for bringing that report to the city council, and I would be happy to work with Council President Van Nett to make arrangements for bringing that report to the city council.

Chair Vaccarella: Secretary Powless, who suggested every two months.

Secretary Powless: I actually thought of every two months, with it in mind that every month sounded to daunting of a task. It was just brought to my attention that as a city commission or board we could go and give a regular report to the council.

Board Member Kimber: Could Councilor Anderson answer how often other committees are making reports?

City Councilor Anderson: Every two months would be unprecedented. We do receive minutes from various boards and commissions that are posted on our agendas so that we have the opportunity to review written minutes. A verbal presentation every other month might be overdoing it. Maybe quarterly or every six months. If we did it four times a year as opposed to once a year, that would be a pretty dramatic change. I would have to consult with Council President Van Nett as well.

Chair Vaccarella: What stands out to me is that we have several task forces in place right now that have the potential to create some positive change within the CRB and also putting some new plans in place with the web site and with the audit process. I would think not waiting a full year from now. It would be helpful to update the council if something major happens with those plans. I think that we should discuss this further outside of this meeting.

City Councilor Anderson: I agree that, given the importance of the public safety discussions that are going on right now, citizen review boards only reporting once a year does not seem appropriate. So, we should consider what is the appropriate reporting interval.

City Councilor Anderson: I know we have had concerns in the past about how many of us are communicating together at one time. So, an executive meeting of three people, is that something where we need to make public notification of that meeting?

Vice Chair Dunphy: No. My understanding is that when we meet as an executive board that is not a public meeting.

Human Rights Officer Crawford: That is my understanding as well.

Follow up on complaints – # 21CO-31 and verbal complaints made at meetings

Vice Chair Dunphy: Is this the complaint resolution that we talked about earlier?

Secretary Powless: No, it is not. This complaint is the one where the officer was called to a parking ramp, and the individual who called the officer was mistreating them somehow, verbally or through their attitude, and there was some coaching of the officer that went on as a result of the complaint. I had questions about what specifically the officer had done that upset the complainant, and then what was the coaching that was given to the officer by their shift supervisor. I emailed these questions to Lt. Ceynowa, and I think there are things that he can talk about and things that he can't. That is the complaint that is in question. I think this is the appropriate time to turn it over to Lt. Ceynowa.

Lt. Ceynowa: Yes. So, it was a fairly confusing situation. The officer got irritated with the reporting party quickly because there was some confusion as to what was going on. As the officer was arriving she was called back by another party on another call, trying to get rid of that person, as two other people came up to her to let her know what was going on inside. When she got outside that person was already very agitated, and that person was holding the door trying to keep someone inside who was also agitated.

The complainant was not communicating very effectively or processing what was going on very effectively, so the officer was just trying to get the person out of the way, and they didn't want to get out of the way and continued to become more agitated. I thin at one pint the officer said, "Look, if you continue to do this I'm going to arrest you on obstructing," because she was just trying to get both sides of the story.

Then when the person who was trapped inside of the garage comes out he starts saying that the complainant is his parent, and that his parent won't let him in and doesn't love him, so then she's trying to sort that out. So, it was just a very chaotic situation where the officer was alone with four people trying to tell her four different things.

The original reporting party needed to have more patience and more time, and with additional officers there I think that most likely would have occurred. The officer acknowledged that they needed to be more patient with the individual, that they should have called this down and diffused it had they had more patience, more time, more resources. I think they were concerned because the individual inside the garage was a person experiencing homelessness, severe persistent mental illness, along with drug addiction, engaged in all three at the same time. Add that to elderly individual who has some disabilities, and probably some cognitive impairment occurring because of their age.

It was a perfect storm, and that is where they were coached, counseled, and delt with. So, part of it was sustained for courtesy and disrespect, and then not sustained for unsatisfactory job performance. Not sustained because there was not sufficient evidence to prove or disprove the allegation of unsatisfactory job performance, but there was sufficient evidence to say that she was disrespectful and discourteous.

Secretary Powless: Thanks, Lt. Ceynowa. First, I want to make sure that I'm not getting on your case, because I know a lot of this is based in policies and procedure, and not you in particular. To me if we had had the kind of detail that you just gave us in the report that was given to us initially, that would have been really good. In particular for me, as I hear you explain it, I'm thinking 'Wow,' for a police officer to go into these situations where people are impaired, maybe they're drinking, maybe they have a mental illness, maybe they're having a family squabble, all these things that an officer can walk into can be extremely confusing and even kind of scary I'm sure. And with more detail that would be reflected as well.

So, I appreciate your sharing that with us and giving us that detail. I am wondering, can we get more detail like that in the future? Just routinely?

Lt. Ceynowa: Yeah. I'm trying to walk a very fine line. Therein lies the problem with writing these. I understand exactly what you're saying. That's why I've been trying to give complaint resolution descriptions to you board in advance so you can ask questions.

I will answer what I can and in some cases could go into more detail. Some of these other cases maybe I can't because maybe it's a high-profile event that many people are aware of, and a handful of details can cause issues with data practice. Most times I'm able to color it a little bit better, I just need to be careful about using identifiers, and that's difficult.

I've been able to watch a three-dimensional story in at least two dimensions; I've watched it after the fact, my sergeants' job is, for lack of a better term, to Monday-morning-quarterback these things and say, "Is this a realm of discipline that is going to stay in our office and go through an entire process, or is this an event that needs to go back to their lieutenant?", still documented in our internal affairs software as an, what occurred on the event, and then documented by their supervisor not only in that file, but also in a working supervisory file to say "Here are the times that I had to deal with this individual," because sometimes those things get married up if we're seeing that this is a pattern with this individual, and we need to do some additional training to help them know these concepts, or if it is time to do some discipline, like suspensions or days off.

Community Crisis Response update

Secretary Powless: I can give that update, and I believe that City Councilor Anderson can give some kind of an update as well. He has participated in some of the meeting around this. To me it feels like we're just about to the point where we can say "Here's the kind of structure it's going to have," and we can actually start looking at trying to hire people. I'm hoping that by the end of this year we'll have people hired, and equipment, and a location for the alternative crisis response to base itself out of, and that we'll be actively getting the thing in motion rather than just talking about it.

Vice Chair Dunphy: Which mental health agencies are working on this with you right now?

Secretary Powless: The county has been meeting with us, PAVSA, CHUM, Deb Holman from CHUM has been coming to some of the meetings. We have been working with the city: Chief Administrative Officer Schuchman, the police: Steve Stracek, Chad Nagorski.

Vice Chair Dunphy: That was my question, are you working with the crisis response teams from the county, because they already have some structures in place there with the county. So, that is a really good place to start.

Secretary Powless: Yeah. Getting input from them, but at the same time, the idea behind this is that it is modeled after the CAHOOTS program in Eugene, Oregon, which is an independent community-led crisis response team. It is funded by the county and the city and the state to varying degrees, but it's actually led separately from any of those entities. That's part of what we are trying to set up here in Duluth.

Vice Chair Dunphy: It is good that you are connected with the county, because they are the ones who fund a lot of these types of programs, and people need to have the right credentials to receive funding to provide certain services.

Secretary Powless: Right now, 2.1 million dollars of the American Recover Funds that the city received is earmarked for a crisis response team, although there has been some debate as to exactly how this money will be spread out. There is money in place to at least get it started, but then the concern is, if it is successful, after a few years how will we continue to fund it.

Community Engagement Bus

Chair Vaccarella: How is the new community engagement bus working?

Lt. Ceynowa: It's working great. We had it down at Kids, Cars, and Cops, and we had it at National Night Out. There are still two more aspects of the bus that they are working on, but the plan is that it will be out and about engaging different community events, different youth groups, and different neighborhoods.

Chair Vaccarella: Can you share some information on how this idea came about, and how it was designed? What color scheme is being used, what events will it be used at, and what is the intended purpose?

Police Chief Mike Tusken: The community vehicle was born out of an idea shared with me by a larger-city police chief at a conference. It allows the department to hold pop-up meetings. We can serve light food, like hot dogs and hamburgers, and it has coolers so that we can serve ice cream.

The value of it is that we can go to different events with it, but more importantly we can have pop up community meetings; stop on a block, have a conversation, have refreshments and have ice cream with community members. Just have a meeting with whoever shows up.

We know that over the years our capacity to host and have community has been tremendously diminished. That's not just here in Duluth, but many other places as well. Community club meetings, neighborhood meetings have fewer and fewer people participating, or participation by the same few people, and it is hard for us to have outreach when we are only hearing voices from a certain segment of the population.

So, that is the rationale for it. It is centered more around kids and kids' activities, but it is something that we think is going to be really helpful for us to engage community differently than we have historically.

Secretary Powless: That sounds really cool. One thought that I have, and this may have already occurred to you, is going to place where there is a large homeless population and share food and have casual conversations. The point that you're making that this is something that this is a way to access people who normally wouldn't show up if you advertised a community meeting at the department or somewhere downtown sounds like it has some good potential.

Police Chief Mike Tusken: I agree. There is probably nothing better, if you have an encampment, where, when the police show up it is often seen as an adversarial relationship, we can say, "Hey, lets have some food, lets have some conversation, lets have some ability to have some common understanding." There are opportunities for us to use it in so many different venues. We can do outreach at middle schools and high schools, we can do outreach at the university. There are just a lot of ways that we can have a community meeting that doesn't require notice. We have folding chairs, and we have awnings to create shade.

Racial Bias Audit update

Secretary Powless: We have a really good group of people on the team that is developing the RFP for the audit. Deputy Chief Marquardt will be having the ideas from the team written into a draft of an RFP, hopefully by next week. One of our members participated in a racial bias audit in Kalamazoo, Michigan in 2013, and he said that audit only looked at stop data, and that he felt that the current draft of our audit RFP was much more comprehensive. The way that I am looking at it is that it is like a kind of training. Rather than "Let's investigate the police department and see if they're doing anything bad," it is more along the lines of "Let's look at the department, see what they are doing, and tell them how they can improve."

Vice Chair Dunphy: I think it is going really well too. Now that we have covered some of the things that we want the audit to cover, we need to be looking at how we want them to do it: community engagement procedures, and a clear outline of how they propose to go about doing the audit. I also want to talk more about who is going to be involved in the interview process and in hiring the agency

that would do the audit. I think that we should cast a wide net and that a lot of people should be involved in that process, including this board. I think that our board should at least be part of the interview process, and be able to listen in on the interview processes, and that we could then come back and talk about it in our own meeting, and make a recommendation from our board on which agency should conduct the audit. That is my vision of what we are going to be doing.

Secretary Powless: The racial Bias Audit Team will develop the RFP to the point where we feel like it's ready to go and is in a final draft stage, and then we will take the final draft back to our respective commissions, boards, and organizations, including the police department before we actually finalize it and put it out for applications/bids.

So, it will eventually come back to this board in a draft form. While we are on the subject, what is the protocol for doing that? Would we need to submit the draft to Human Rights Assistant Laaksonen to have it sent out to board members ahead of our next meeting?

Human Rights Assistant Laaksonen: If you would like to send it to me ahead of time I can send it out to board members so that they can review it ahead of time.

Police Chief Mike Tusken: Over the course of years, we have had audits of our organization, and one of the things that I learned from going to receive and award out in San Diego for the mending the sacred hoop audit that we had was ... we look at audits as a good thing, because each time we have an audit we improve. We are more professional, we deliver better police response, we learn things about victims, we learn things about our community that we may not have known and we always come out better and stronger.

After I receive an award in San Diego for our work with Mending the Sacred Hoop, I had a host of police chiefs standing around me saying, "Wait a minute. So, you actually have people from the community who aren't cops, who come into your organization, who look at your policies and procedures and recommend changes, and you actually follow them?" I said yes, community policing is about community engagement, and community engagement is about a social contract that we don't have all the answers, and that others can help us improve our police response or at least have the response that they expect. Many of them looked at me with bewilderment.

We are not a perfect police department, but we strive to be the best police department we can, and our community definitely helps us get there. I just want all of you to know that that is how we look at audits. They are not a bad thing, they are a good thing, and we will emerge from them better, stronger, and doing more of what the community expects us to do.

Community Correspondence

Human Rights Officer Crawford: We do have coming up, slightly before our next meeting, a Recovery Kick-off for recovery month. There will be an event planned at city hall as well as an event at Lincoln Park.

Public Comments/Board Member Comments

Secretary Powless: I have an invitation to come to zoom meeting on the CAHOOTS model in Eugene, and how Duluth can do something like that. I just sent the zoom link to all board members, and a link to the Eugene government web page that describes the CAHOOTS program. The meeting is on Thursday, August 26th at 6:00 PM.

Kathleen Spencer: I have a question and a comment. I asked a few months back about police officers getting vaccinated, and was told that it is totally voluntary. I am wondering if the officers that do get vaccinated tell the administration that they have been vaccinated, and does the administration have any idea what percentage has been vaccinated.

Lt. Ceynowa: We don't demand that our employees tell us, but we have conducted surveys, and we currently sit around 80% vaccinated. We also have some employees who also work in other capacities for the state and for universities, so our numbers are probably going up because they are now required to be vaccinated.

Kathleen Spencer: Wow. That's more than the general public, so that's very good. Another thing I just wanted to comment on, that when a person is giving a report here, and they don't want to identify anybody, they just want to give the situation, instead of saying he or she you could say they.

City Councilor Anderson: I just want to say thank you all of your great work. I am so grateful to be here tonight and to hear the good and amazing things that you all are doing and paying attention to.

Adjournment

Secretary Powless made a motion to adjourn. Board Member Franklin seconded the motion.

All members present voted to approve adjourning the meeting, and the motion carried.