

**POLICE OVERSIGHT BOARD
CASE REVIEW SUBCOMMITTEE
Tuesday, February 6, 2018 at 10:00 a.m.
Plaza del Sol Building, 600 2nd Street NW
3rd Floor Small Conference Room**

Members Present

Joanne Fine
Valerie St. John
Leonard Waites, Chair

Others Present

Edward Harness, Exec. Director
Diane McDermott
Maria Patterson
Charles Arasim

Meeting Minutes

I. Welcome and call to order

- a) Case Review Subcommittee Chair Waites called to order the special meeting of the Case Review Subcommittee at 10:24 a.m.

II. Approval of the Agenda

- a) Copies of the agenda were distributed.
b) A motion was made by Subcommittee Member Fine to approve the agenda as written. Subcommittee Member St. John seconded the motion. The motion was carried by the following vote:

For: 3 – Fine, St. John, Waites

III. Public Comments (previously item IV)

- a) No public comment.

IV. CPOA Report – *Edward Harness, Executive Director*

- a) **New POB Members.** Jim Larson and Chelsea Van Deventer have been appointed by City Council. Mr. Larson has his training materials and is getting set up with email, SharePoint and PowerDMS access. Director Harness will meet with Ms. Van Deventer today and she will attend the POB meeting on Thursday.
b) **New Officer-Involved Shooting Case.** Lt. Garcia let Director Harness know that there is an officer-involved shooting case that is in the review process and coming from IA. It should be up on SharePoint in a few days.
c) **Data Contract.** Director Harness is still working on the data contract with the Institute for Social Responsibility. Director Harness met with Attorneys

Jackson and Baker and Dr. Verploegh to smooth out whatever concerns the City had. An MOU will be drafted in order to resolve those issues.

- d) **Policy Distribution Proposal.** A new proposal for policy distribution from Attorney Schmehl was sent to the Policy Subcommittee for review. Cdr. Campbell and Ms. Luna from APD attended Policy's last meeting and they are going to rewrite the policy on policy so all of the research we did for that policy has been sent to Cdr. Campbell.
- e) **Use of Force Policy.** Director Harness learned from Cdr. Campbell that APD is continuing to work on the Use of Force policy.

V. **Review of Cases:**

a) **Administratively Closed Cases**

176-17	190-17	220-17	226-17	227-17
229-17	233-17	235-17	237-17	242-17
243-17	254-17	257-17	258-17	259-17
262-17	004-18			

1. **240-17.** Member Fine had a question about 240-17, though it wasn't listed in agenda. It was later determined that this case was not on the agenda because it is intended for review in March.
2. Member Fine explained that the complaint was about an officer driving too fast on I-40 but the officer's supervisor stated the officer was not in the area at that time. Member Fine wanted to know, how does the staff know the officer wasn't in the area other than taking the supervisor's word for it?
3. **Anonymous Driving Complaints.** Member Fine described a similar case in which an officer was talking on the phone while driving that was deemed in policy because the call may have been City business. Chair Waites noted that 237-17 was also about an officer on a cell phone. Member Fine agreed that there are a lot of cases like that and their letters should document the evidence in order to show that the CPOA is not just taking the officer's or supervisor's word for it.
4. Director Harness explained that the findings do come from the officer's command after being investigated by a field supervisor and that the CPOA staff works off of what the supervisor says. The CPOA does not investigate anonymous driving complaints.
5. Member Fine wished to stress that if there is evidence to be had that the evidence is explained clearly in the letters.

6. Member St. John motioned to accept all of the administratively closed cases as written. Member Fine seconded the motion. The motion was carried by the following vote:

For: 3 – Fine, St. John, Waites

b) Cases Investigated

197-16 130-17 148-17 149-17 154-17
158-17 163-17 197-17 206-17

1. **130-17.** Member Fine described case 130-17, in which two officers were kissing and hugging in uniform, and noted that while she agreed with the findings she wondered why the two officers received different charges. Director Harness explained that male officer's charge was related to the incident and the woman's charges were based on the incident as well as her conduct and lack of cooperation following the incident.
2. **197-16.** Member Fine explained that she agreed with the findings from IA and the CPOA's concurrence for case 197-17 but noted that the letter did not include the initial complaint.
3. **148-17.** Member Fine noticed the gap between when the complaint was made and when it was investigated was over 120 days, which is a problem because after 120 days video recordings are automatically deleted. Member Fine asked if the CPOA was responsible for the gap. Director Harness replied that it was probably due to the volume of cases the CPOA receives.
4. Member Fine asked if, in the case of 148-17, the investigator also looked into the officer's history. Director Harness replied that they have to work off of what the evidence gives them. Chair Waites agreed that they should focus on the evidence in front of them and not over-investigate.
5. **154-17.** Member Fine stated that she agreed with the staff's findings and summarized the case, which involved a complainant who did not cooperate with CPOA's investigation. Member Fine wondered if this pattern of people making complaints and then not cooperating is a "data hole" and if it would be a good idea to identify such data holes for Dr. Verploegh.
6. **206-17.** Member Fine explained that 206-17 is yet another case in which the complainant did not cooperate with the CPOA's investigation. Member Fine suggested this pattern calls for a dialogue about how the staff should deal with this kind of case.

Chair Fine added that it would be useful to inform the public and the monitoring team of this pattern.

7. **158-17.** Member St. John provided a brief summary of 158-17 and stated that she agreed with the findings. Member St. John also sent a note to Dr. Kass about looking into changing an SOP to ensure that, in cases like this where there is a demonstrated lack of training, the video is not automatically deleted after 120 days. Ms. McDermott informed the subcommittee that the officer administered the blood alcohol level test correctly; the problem was that the officer was not trained to recognize drug symptoms.
8. **Motion.** Member Fine motioned to accept the cases investigated as discussed. Member St. John seconded the motion. The motion was carried by the following vote:

For: 3 – Fine, St. John, Waites

VI. Non-Concurrence Cases

- a) Director Harness explained that 156-17 is not a non-concurrence case; rather, this is a letter from Chief Geier acknowledging that there was a violation and discipline was administered.
- b) Member Fine noted that the complaint does not start at the beginning of the incident so it is difficult to understand what happened.
- c) Director Harness explained that the CPOA investigated this case and recommended a written reprimand as discipline. Deputy Chief Banez did not concur because the officer had a family emergency and suggested instead that the officer's discipline should be counseling. The letter does not state what the final discipline was, which is important because the citizen has the right to appeal the chief's discipline decision to the CAO in accordance with the ordinance. Those appellate rights need to be laid out in letters from the chief.
- d) **Motion.** Member Fine motioned to present case 156-17 to the board and to share the subcommittee's recommendations regarding sending a letter to Chief Geier. Member St. John seconded the motion. The motion was carried by the following vote:

For: 3 – Fine, St. John, Waites

VII. Serious Use of Force / Officer Involved Shooting Cases

- a) **I-172-16 I-23-17**

1. Director Harness explained that cases I-72-16 and I-23-17 have not been through the Force Review Board unlike the cases which start with a "C."
2. Director Harness realized that he could not access them on SharePoint. Chair Waites and Member Fine replied that they could not access them either.
3. **I-172-16.** Director Harness summarized I-172-16. Director Harness found the use of force to be in policy, however the fact that the officer failed to notify that he was going to make a traffic stop would be considered out of policy.
4. **I-23-17.** Director Harness summarized I-23-17. Director Harness found the use of force to be in policy.
5. **Motion.** Member Fine made a motion to present cases I-172-16 and I-23-17 to the board and to propose that the board accept the cases as written. Member St. John seconded the motion. The motion was carried by the following vote:

For: 3 – Fine, St. John, Waites

b) C2016-23 C2016-69 C2017-1 C2017-6 C2017-8

1. Director Harness reminded the subcommittee members that these are the cases that have been through the Force Review Board.
2. **C2016-69.** Director Harness explained that there was one officer-involved shooting, C2016-69, that he thought was out of policy.
 - a. Director Harness summarized the happenings of the case, which involved a vehicular pursuit of a subject in a shopping mall.
 - b. Director Harness thought several aspects of the case were questionable or out of policy:
 1. The vehicular pursuit was not authorized.
 2. There was no confirmation that the subject was armed and thus no probable cause for arrest in the beginning.
 3. Director Harness was troubled by the officer's account of looking down the barrel of the subject's shotgun. The interviewers did not press the officer on how this was possible.
 - c. Director Harness explained that the FRB found it out of policy only because of the pursuit. Member Fine concluded that they will present the case to the board and recommend sending a letter to the chief to ask for an internal investigation.
3. **C2016-23.** Member St. John and Director Harness provided a summary of the case in which officers were dispatched to assist a US Marshal with a

warrant. Because APD and CPOA were not given access to US Marshals' policies, the case cannot be investigated. The practice of allowing APD officers to work on joint task forces has been halted.

4. **C2017-1.** Member St. John described the case. Director Harness reported that he agreed with the FRB's findings that the use of force was in policy.
5. **C2017-6.** Member St. John summarized case C2017-6 in which the subject, who had stolen a car, was bitten by a police canine. Director Harness found the use of force to be in policy.
6. **C2017-8.** An officer was dispatched to a domestic violence call where a man was holding his girlfriend against her will. There was a yard search and the officer's canine found and bit the subject. Director Harness found the use of force to be in policy.
7. **Motion.** Member Fine motioned for the subcommittee to present these cases, and the subcommittee's concurrence with Director Harness's findings, to the board at the next POB meeting. Member St. John seconded the motion. The Motion was carried by the following vote:
For: 3 – Fine, St. John, Waites

VIII. Review of Appeals

- a) There were no appeals.

IX. Other Business

- a) No other business.

X. Approval of the Minutes from January 2, 2018; January 8, 2018; and February 2, 2018 (previously item III)

- a) Member St. John motioned to accept the minutes from January 2, 2018; January 8, 2018; and February 2, 2018 as written. Member Fine seconded the motion. The motion was carried by the following vote:
For: 3 – Fine, St. John, Waites

XI. Next Meeting. The Case Review Subcommittee's next meeting will be held on Tuesday, February 27, 2018 at 10:00 a.m.

XII. Adjournment. A motion was made by Subcommittee Member St. John to adjourn the meeting. Subcommittee Member Fine seconded the motion. The motion was carried by the following vote:
For: 3 – St. John, Fine, Waites

Meeting adjourned at 11:45 a.m.

APPROVED:

Leonard Waites, Chair
Case Review Subcommittee

Date

CC: Julian Moya, City Council Staff
Trina Gurule, Interim City Clerk
Isaac Benton, City Council President (via email)

Minutes drafted and submitted by:
Maria Patterson, Temporary Administrative Assistant

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