

City of Lawrence
Community Police Review Board
December 5, 2018 minutes

MEMBERS PRESENT: Stephanie Littleton
Tony Mitchell
Jane Gibson, Ph.D.
Sanjay Mishra, Ph.D.
Bill Graybill
Tonia Salvini

MEMBERS ABSENT: Brooklynne Mosley

STAFF PRESENT: Diane Stoddard, Assistant City Manager
Maria Garcia, Assistant City Attorney
David Ernst, Sergeant, Lawrence Police Department

PUBLIC PRESENT: none

The meeting was called to order at approximately 7:00 p.m. by Chair Mitchell.

October 10, 2018 Minutes:

A motion was made by Dr. Gibson, seconded by Dr. Mishra to approve the October 10, 2018 minutes. The motion was approved unanimously.

Review and Discussion of CPRB bylaws:

The board had discussion about the bylaws, which also involved some reference and discussion on the ordinance which created the board. Of specific discussion was the ability of the board to conduct its business outlined in the ordinance. Dr. Gibson suggested additional training regarding the investigations process and some specific examples of complaints and the process involved with investigating those complaints. Dr. Mishra added that it would be helpful to understand how evidence was maintained.

There was discussion about Section 1-2504 D of the ordinance regarding how the board reviews evidence related to complaints. There was discussion about how the ordinance and bylaws interrelate. Ms. Stoddard relayed that ordinance sets forth the legal framework for the board, establishes the board, defines the scope and responsibilities. The bylaws go into more detail about how the board operates, such as election of officers, etc. Both the ordinance and bylaws require City Commission approval. The board could make recommendations or suggestions about clarification to the City Commission regarding changes to both of these, as appropriate, and it would be within the purview of the City Commission to decide whether or not to authorize changes. Ms. Stoddard stated that as the board evolves, there may be procedures that the board wishes to establish as time goes on.

Ms. Salvini joined the meeting.

Ms. Littleton recommended consideration of additional use of force training for the board. Dr. Gibson stated that she thought the board could benefit most from additional training in how investigations are conducted. Ms. Littleton mentioned the citizens academy and that it might be a good thing for the board to do. Sergeant Ernst stated that it would be difficult to examine every type of incident an officer could address. Regarding how complaints are handled, Sergeant Ernst stated that he thought that had been covered in a prior meeting. He thought that as the board went along, if there was need for specific training, that could be accomplished. The citizens academy is a broad overview of how the police functions. Sergeant Ernst also stated that the broad search and seizure training and overview was provided, however it is not the detail of every possible scenario. There was some general discussion about available data.

Chair Mitchell asked about Article III Section 3 of the bylaws as it relates to the timing of the election of officers. Ms. Stoddard suggested that the bylaws could be amended to allow for a different timing of election of officers for the first year from the ongoing conduct of the elections in future years. Mr. Graybill referenced the ordinance and the provision that enables the board to create its operating procedures and he stated that he didn't recall the board approving its bylaws. Ms. Stoddard said that the City Commission approved the bylaws when the board was established, which isn't that unusual so that the board can have a framework to begin its work. However, the bylaws can be changed based on action by the board, with the approval of the City Commission. She also mentioned that in Article II Section 5, there were some cleanup items regarding the timing of when the original appointments were actually made to the board versus what was written. Mr. Graybill thought the board should first address cleanup of the bylaws. Ms. Stoddard said that the staff would be able to prepare suggested bylaws changes for consideration by the board at the next meeting. Ms. Stoddard said that staff would prepare a change to this section that has officers being elected in the fall with the exception of the initial year.

The board discussed how complaints would be facilitated. A fillable form is now available on the website. Sergeant Ernst indicated all he would need is a name and phone number and could follow up with them on a complaint. There was some question about the language in the bylaws and ordinance about the receipt of complaints in a "confidential manner" and what that meant. Ms. Garcia indicated that the intention was that a complaint wouldn't be taken in a public setting where the officer's name would be mentioned in order to protect the name of any witnesses and any officer related to any complaint. Ms. Salvini asked whether the public was aware that complaints be made in a confidential manner. Ms. Garcia pointed to language in the ordinance about public comment which prohibited public comment regarding specific complaints. Ms. Stoddard added that there is language regarding an admonition to the public about this that will in the future be included on the agenda itself and should be read by the Chair to avoid details about complaints being shared during public comment. There was further discussion about taking a complaint and that board members should be sure if they take a complaint that they are doing so in a confidential manner- such as being cautious that others aren't overhearing the conversation. There was a desire by the board to have

more definition about how a board member should handle complaints. Specific guidance from the City Attorney's office was requested.

The board returned to discussion about how evidence was weighed during a review based on an appeal. This relates to Section 1-2504 D and the language which states that evidence will be reviewed, but not reweighed. Dr. Gibson suggested that by deleting some words in that section, it would clarify it and not create a conflict. She stated that the evidence cannot be reviewed without being reweighed. Ms. Littleton raised another question with the language in that section and wondered about the meaning of "will not make witness credibility determinations". Ms. Garcia stated that meant that the board was not to take the character of an individual into account when making judgments about their statements.

Chair Mitchell made a motion to recommend that the third sentence in Ordinance 9324, Section 1-2504 D be amended to read "In its review of the Police Department's factual findings, the Board will review the evidence", striking the remainder of that sentence. The motion was seconded by Dr. Mishra. The motion was passed unanimously.

Dr. Gibson discussed Section 1-2506 A, regarding the qualifications of members of the board. Her opinion was that it wasn't sufficient for someone to own a business and not be a resident of Lawrence to be on the board given the important connection between the community and the police. Ms. Stoddard stated that current language mirrors the adopted City policy on all advisory boards. *Ms. Salvini made a motion to delete the language about owning a business in the City of Lawrence from the membership qualification in Section 1-2506 a2. The motion was seconded by Dr. Gibson. The motion was approved unanimously.*

Dr. Gibson again mentioned that it would be helpful to have a workshop on the department's current investigation practices. She really wants to know the investigation processes that the department follows. She wanted to know about protocols. Sergeant Ernst stated that he thought he covered the general process in the earlier meeting though each investigation has its own specifics. Dr. Gibson suggested some examples may be helpful in illustrating this and they could be specific to biased based policing complaints.

Mr. Graybill made a motion to remove all except the last sentence in Article VIII Section 2 of the bylaws, making this section more consistent with the recommended change to the ordinance language. The motion was seconded by Chair Mitchell. The motion was approved 4-1-1 with Ms. Littleton voting against and Ms. Salvini abstaining.

There was some board discussion about the confidentiality agreement and some additional discussion about the sentence the board voted to delete from the bylaws. There was confusion about what the language meant.

Dr. Mishra made a motion to replace the word "If" with "When" in Article VIII Section 3 of the bylaws. The motion was seconded by Mr. Graybill. The motion passed unanimously.

Chair Mitchell made a motion to request staff bring back revised language in Article II and Article III of the bylaws for the next meeting as previously discussed. The motion was seconded by Dr. Mishra. The motion was approved unanimously.

Ms. Littleton asked about the discussions about the formulation of the ordinance and bylaws. Ms. Stoddard replied that there were numerous discussions about this during City Commission meetings and the best way to follow the conversation is to follow the video associated with those meetings and discussions. Ms. Garcia added that there were seven presentations on this topic to the City Commission, which started roughly around December 2017.

New City Ethics Policy:

Ms. Stoddard provided a brief overview of the City's new ethics policy which was recently adopted in November and takes effect on January 1, 2019. The policy covers both appointed and elected officials and therefore covers the board. Ms. Stoddard stated that there may be some concerns related to Dr. Gibson's upcoming agenda item regarding her presentation and proposal to have her students do some research for the board.

Presentation by Jane Gibson regarding her class project and its potential contribution to the CPRB's education and training role:

Dr. Gibson recapped the board's charge about advising the City Commission regarding issues affecting the Police Department, its policies, education, community outreach and communications related to racial or other bias-based policing. She thought she was in a unique position to offer an opportunity for the Board to fulfill its charge. She mentioned that the former Police Chief signed a contract with Allegro to look at community relations with the police. That study made two findings that may be of interest to the board. She said that in their sample in the study, there were certain conclusions regarding opinions of various racial groups about racial bias in policing. While pointing to the studies' limitations, she cited these findings, which indicated that African Americans and LGBTQ individuals perceived that they were the subjects of discrimination by the police.

Because Dr. Gibson teaches an ethnographic methods course at KU, one that involves service learning on the part of students, she thought that students could help by exploring these findings. Students would design a research project, carry it out, and present findings to the CPRB. She mentioned that her students had some other options regarding research. She suggested that a representative of the Board, which could be she, could communicate with the students and the CPRB as liaison between the two groups. At the end of May, the Board would receive the students' report which the Board could then consider with regard to its disposition.

Diane Stoddard raised the issue of a conflict of interest that she believes will be created if a Board member also oversees the KU students' study. Chair Mitchell clarified that Dr. Gibson would not get any additional benefit or salary from working on this study. He didn't see that doing this would create any problem with perceptions, especially if the

circumstances are explained upfront. Mr. Graybill asked Ms. Stoddard to clarify her concerns. Ms. Stoddard stated that there are two possible issues, subject to interpretation, related to the ethics policy. She specifically mentioned that there may be concern with the ethics policy provisions prohibiting special access by a Board member, and the representation of a third party or entity on behalf of that entity before a Board upon which the member serves. Ms. Stoddard added that she had also mentioned another concern to Dr. Gibson when she and Dr. Gibson discussed Dr. Gibson's proposal in October, prior to the adoption of the ethics policy. That concern related to ensuring that anything conducted on behalf of the City, which such a project would be, would be carefully set out regarding its scope and methods. She stated that the specific portion of the Allegro study mentioned by Dr. Gibson included problems because it was not a scientific sample and not conducted in a scientific manner, which created problems with knowing exactly what that study was concluding. She added that how that study was done wasn't articulated well between the City and the consultant in the agreement, which led to issues. She mentioned that KU students do many studies and projects for the City and that if this was done by another class or in a different situation that didn't have a connection with a board member, it may be a different matter. There was extensive discussion about this potential for a conflict of interest amongst the board members. Gibson argued that there was no conflict of interest because the two roles she would occupy were not in conflict but were rather in harmony, meeting the needs of the Board and the students.

Dr. Gibson made a motion for the Board to partner with her class on the study. Ms. Littleton seconded the motion. Dr. Gibson clarified that the study would be on behalf of the Board and for the benefit of the board as well as for her students. The motion passed on a vote of 3-2-1, with Gibson, Littleton and Mitchell voting for, Mishra and Graybill voting against, and Salvini abstaining for lack of sufficient information.

Dr. Gibson thanked the Board and Diane Stoddard for the lively discussion, reiterated that her students had other project opportunities, and then withdrew her proposal, stating that she and her students needed a partner that was really on board with the work *Dr. Gibson made a motion to adjourn the meeting. The motion was seconded by Dr. Mishra. The motion was passed unanimously.*

The meeting was adjourned at approximately 9:20 p.m.

Date approved by the Board: January 24, 2019

Date forwarded to City Commission: February 5, 2019