

Meeting Minutes

Members Present: Ira Feitelson, Chair; William Distad; David J. Rheinholdt; Steven Rice; Lynelle Wilcox

Members Absent: Jodi Sherwood, Vice Chair; Bevin Clapper; Michael Staudinger

Staff Present: Gretchen Bennett, Mayor/City Manager's Office

Marc Weinstein, City Attorney's Office

Guests Present: Linda Herrera; Sgt. Stephen Smith, Salem Police Dept.

1. **Roll Call.** Chair Feitelson welcomed the group and called the meeting to order. The meeting was recorded. He welcomed guests. Introductions were shared.

2. **Approval of Minutes.** Member Distad motioned to approve the January 9, 2018, minutes; Member Wilcox seconded the motion. The motion to approve the minutes was approved unanimously.

3. **Public Comment:** None

4. **Consideration of Requests from City Manager or Chief of Police:** None

5. **Request for Review Hearings:** None

6. **Old Business**

a. **Status of postponed review hearing.** Gretchen noted she has not had any correspondence with the person for whom there is a pending case review request; it remains pending at this time.

Marc spoke to the statute of limitations. He recommends that the Board not take any action regarding communication based on the posture of that matter until two years from the date of incident, which was in November 2016. He recommended staff come to a subsequent meeting with proposed communication for the Board's consideration. The communication could clarify his intent regarding the status. Chair Feitelson clarified what type of statute of limitations this refers to. It is the statute of limitations to file in civil court. The person had timely filed the initial request for review; there is not an outer time limit for concluding a case review request.

b. **Complaint information.** Sgt. Smith, per Board request. Sgt. Smith provided information regarding complaints received at the department. There were 27 formal "complaints" last year. Formal complaints are situations that are not resolved at intake. Many times, a person will have a concern and then after receiving information or clarification about the law or the situation, the concern is addressed with that information and it does not become a formal complaint. The majority of the time a person may ask why an officer did what they did; often information provided helps to explain why the behavior occurred.

Sgt. Smith explained the types of complaints that emerge. Complaints include both internal and external, as well as reviews that are automatically generated by protocol for situations such as an officer involved shooting. It also included a situation where a complaint number was issued in error; once issued it can't be retracted and so it is counted although it is not a valid intended complaint.

In comparison, 18 formal complaints in 2016. He described the types of complaints received in each year. One complaint in 2016 involved a non-sworn civilian staff member. Sgt. Smith looked back a few years and did not see a pattern or average number. Sometimes one investigation with multiple allegations can skew things; one situation can lead to a large number of complaints.

The Department of Public Safety Standards and Training also has an IA process. He spoke to the process; the department tracks employment of officers across the state. They look for whether or not an officer should be decertified. The department publishes an ethics bulletin that is available to the public which also includes information about police and other certified personnel. He described the information available.

He spoke to the conclusion or dispensation of the complaints. He described the discipline process. He noted his office also tracks automobile accidents and conduct those complaints; he receives more of those than he does complaints of misconduct.

c. Update to letter regarding request received. Chair Feitelson reminded the group of the letter that is provided to persons who request a review. Thank you to members who provided feedback on edits. The current revised letter copy was shared. Chair Feitelson noted the purpose is to have consistency so the same letter goes out to each person requesting a review. Gretchen noted this letter is used when a person is requesting a review. Chair Feitelson noted the letter provides the person with a procedural outline. Member Distad clarified how persons are referred by the Board: the police department, the web page and other general communication methods are all used. Member Wilcox appreciated the new format. She noticed the reasons for denial list and suggested the term "may" be added to help clarify the intent. She appreciated that the bylaws provide clarity on what can be considered.

7. Discussion

a. Overview of Case Review Process. Chair Feitelson walked the group thorough how a case review would be experienced. He used a sample script to explain how he would introduce the meeting and what steps would be taken, should a review occur. The group discussed the role of an Executive Session and clarified who testifies during case review. Findings are not binding. The Board can also refer to the City Manager concerns about certain policies and could also request specific investigations. These requests are non-binding.

The Chair noted a primary mission is to receive testimony from the complainant and to hear

input from witnesses, to deliberate and determine findings and to make recommendations. They discussed what the City Manager and Chief of Police receive, per the bylaws. The group comes out of Executive Session deliberations to vote; the complainant or others may be present for the public portion of the meeting and as such may hear the vote. Comment is not required to be received at that point. Members clarified the process, noting an Executive Session could take a long time. The public is not able to sit in during the Executive Session and then would be permitted back into the room for public portions of meeting. They would not be permitted to speak but would be permitted to be present. Board members are to vote on an initial report; this would be voted upon in the public meeting context. Votes are not taken in Executive Session; discussion occurs in Executive Session. Member Distad recalled previous meetings in which deliberations took several hours; he recalled an attorney at that time advised that a majority vote would be needed in order to proceed. Gretchen noted discussion she has had with the City Manager and Deputy City Manager regarding the process. Gretchen noted if a group is finding it difficult to come to conclusion, the group could call a recess and then come back together in either an Executive or a Public session, depending upon the business needs of the Board.

After the vote, the initial report is then drafted. The vote is whether the Board agrees or disagrees with the internal affairs recommendation. Chair Feitelson noted hearings are conducted free from a hostile environment and spoke to the importance of respectful conduct. The group clarified that new allegations or new evidence would be cause for pending the discussion until the police department can complete their part.

The group reviewed the bylaws as they relate to the case review process. The group noted each person is different and it may not be possible to predict all possibilities. This case review is intended to provide an overall framework for the flow of a case review.

Information about the complaint would be available to members in advance.

Member Wilcox asked if questions develop in Executive Session, can further questions be asked? Gretchen replied yes and also encouraged members to ask questions of the complainant, officer and witnesses to ensure a full understanding of the situation.

Marc clarified the meetings are public and persons who are not witnesses are permitted to stay during public portions of the proceedings. This is why witnesses are asked to identify themselves as they bylaws provide for witnesses to step out for portions. Chair Feitelson clarified the process for asking persons if they will speak truthfully. Only witnesses who promise their testimony will be truthful are permitted to testify.

b. Timing of Initial Report. Board Member Comments Member Distad discussed the timing of when the initial report is public, when each party is aware, and when the report becomes final. Sgt. Smith spoke to the Board being independent of the Chief; the Chief is aware of all complaints. The Board provides an independent decision. The Chief and Manager are given the opportunity to provide comments; the board has an independent role to come to findings.

9. **Ride Along update.** An update was shared. Two are required per year, beginning from the month the person had been appointed.

10. **Adjournment.** Member Wilcox moved to adjourn the meeting; Member Rheinholdt seconded the motion. The motion was unanimously approved.

Respectfully Submitted, Gretchen Bennett, Staff Liaison