

OPOC Minutes 11-1-16

Commissioner Deb Conklin welcomed everyone. Commissioners Ladd Smith and Jenny Rose were present. Commissioner Scott Richter was not available. She recognized City Cable and technician Mike LaVelle in the booth. She welcomed a group of students from Eastern Washington University Human Rights and Women Rights class.

A brief discussion took place about the agenda. Smith moved to approve the agenda with an amendment to add a discussion item after item 8 to talk about Jason Gray's resignation. Rose seconded. The motion carried unanimously.

Conklin said the format of a few dates needs to be corrected for the 10/4/16 minutes. She also said she would like to be uniform in how we refer to people, and that she would like the minutes to reflect that other commissioners recognized the contributions of former Commissioner A.J. VanderPol. Rose moved to approve minutes of 10/4/16 with amendments. Smith seconded. The motion carried unanimously.

Bart Logue said that Marty Huseman covered the office while he and Luvimae Omana were out at the U.S. Ombudsman Association Conference. OPO had 74 citizen contacts this month. That generated 3 full citizen interviews, and 6 OPO complaints were submitted to IA. He attended 7 IA interviews, and has seen an expansion in offers from IA for him to be involved in more interviews of complainants. He considers that a positive sign. He certified 9 cases, and returned 4 cases for further investigation.

There were two recommendations to be made to SPD from a recent case. The complainant was concerned about how they were treated on a traffic stop. The stop had not been called in by radio, and wasn't recorded via body camera. He came up with a letter to formally communicate the recommendations to call in every stop and provide officers the means to video contacts for an entire shift. He has already received a response from SPD, and they are putting out a training bulletin about calling in traffic stops. The officer has been issued a second body camera for use so all stops can be recorded. There are five other recommendations that will be made.

He was invited to attend something new with the Use of Force Review Board. He was also allowed to stay for the Collision and Pursuits Review Board. He was happy to be a part of them, and will work to make sure that we stay a part of that in the future.

He was a panel member at Balboa South Union Trails Neighborhood Council meeting. He also attended the in service training with Luvimae Omana and Rose. It was based on some findings from a previous Use of Force Board that showed points that officers should be trained on.

He attended VIRTRA training with Rick Eichstaedt from Center for Justice, and the people from Gonzaga who are doing the cultural audit.

He finally figured out why OPO was getting calls for police service. OPO was option #6 inside the SPD phone tree. He met with city communication staff and the phone number was moved outside the SPD function.

Huseman will attend internal affairs and critical incident training in Las Vegas. Logue and Omana attended the U.S. Ombudsman Association training. He attended a 2 day pre-conference session for new Ombudsmen, and Omana attended a 1 day pre-conference session for dealing with difficult complainants. He highly recommended the pre-conference training as it was very practical. They also learned about case management systems.

Conklin said on 11/17 there will be a police and community forum on East Central from 6pm to 8pm. Smith said the Police Advisory Committee quarterly meeting has been changed to 11/16 at 5:30pm.

Rose said she attended the in-service with Omana and Logue. She attended the community forum on the afternoon of 10/5 with Logue and Omana. She attended the public safety forum at Indian Trail with Logue on 10/11. They gave some statistics and tips on how to protect personal property. On 10/20 she attended the COPS volunteer dinner. It was wonderful to see all the volunteers who spend hundreds of hours in service to our community.

Conklin said on 10/6 she attended the homeless coalition meeting. On 10/13 she attended the State of Race in America, a panel discussion, at Lindaman's. On 10/17 she attended the City Council Public Safety Committee meeting and gave the OPO report as Logue and Omana were at training. On 10/18 she attended the East Central Neighborhood Council. On 10/19 she attended the Center for Justice lunch box. On 10/23 she attended a meeting on urban development and issues. On 10/25 she guest-taught the Human Rights/Women's Rights class at EWU. On 10/26 she attended a SPARC meeting.

Smith said on 10/12 he attended the Police Advisory Committee meeting. He said it's encouraging that there is now a second level training around the corner for crisis intervention that will go deeper into the dynamics, and show how to relate to someone who is mentally ill. He talked about the Level II Citizen's academy, and how the classes were really interesting. The classes included learning about forensics, how to fight back in self defense, and how to protect yourself in certain situations.

Jason Gray said the NACOLE conference was incredible. He said Procedural Justice is important. The specific training that stood out to him was crisis intervention training, which did an in-depth look at best practices. We're doing a good job in Spokane about being proactive and getting ahead of the curve. He talked about a scenario where police get reports about an individual in a crowd. The person who calls police, and the people around may have different expectations of what should be done.

Gray talked about de-escalation culture training, which looks not only at past law enforcement practices, but at changing the culture. This includes looking at the available options, and deciding which option has the highest likelihood of de-escalating the situation. Different departments had different amounts of buy-in on this training.

Smith said quite a few workshops resonated with him. One dealt with legal issues, like Ferguson, Missouri. Arrest warrants were being issued there because people could not pay the fines for petty crimes. When folks were not able to pay in full, another warrant was issued, and you can begin to see that there's a punishment for poverty. Sometimes driver's licenses would be suspended, and then the people can't drive to their jobs. 16,000 warrants out of 21,000 were for minor offenses. Some people

linger at New York City's Riker's Island because their trials are not speedy. Some can't afford to wait that long so they end up pleading guilty when in fact they are not guilty.

Smith said the second workshop consisted of 3 or 4 officers from Los Angeles PD. They took participants through a narrative of that city from the mid-1960's, and each incident got more intense. Eula Love was unable to pay her utility bill. She was mentally ill, and when she came out on the front porch with a knife, she was shot dead by the police. Rodney King was beaten in 1991, and then riots occurred in 1992. Smith said he lived there during that time, and was aware of the tension between African Americans and the Koreans. He knew the African Americans felt really disrespected. When the Rodney King riots broke out, that was part of this tension. The narrative is one that has to be reviewed and brought up so we can learn from the past – especially for new officers. Today LAPD is working hard to collect data, which is extremely important.

Conklin said she'll talk about 2 of the workshops she attended. One was called "community models for moving law enforcement reform forward". It was focused on the Albuquerque, NM experience. A City Council member gave the history. In 1971 the first oversight was simply internal investigations by the PD. In 1987 they added civilian oversight in the form of an independent council. In 2000, the first ordinance with a civilian commission and independent review board was passed, but it had no teeth. There were community concerns in 2013, so DOJ did an investigation. From 2010-14, Albuquerque PD had had an average of 41 shootings per month, and had killed 21 people. DOJ found numerous inappropriate uses of force. In August, 2013 they had a big meeting with stakeholders, and in September, 2014 they adopted the current framework. They now have a civilian oversight commission that has diverse perspectives.

The Albuquerque commission has control over its own budget, and it's set as a percentage of the PD budget, so they don't have to negotiate their budget with the city. They have independent legal counsel. They investigate citizen complaints, and can make recommendations for discipline. In order to make sure they don't become civilians doing IA's job, the Ordinance requires that at least 50% of their work is around policies and procedures. In 2015 problems were created when civilians with no specific training were doing case review. By August, 2015 they amended their ordinance to say commissioners have to go through 6 months of training before they can review cases. They are excited about where they are now. The board consists of 9 volunteers from across the city, and they have a professional staff of investigators.

Conklin said they have 250 complaints per year, and they look at any serious use of force case. They went for a period without an Ombudsman, and they have a backlog. Their office was not permitted to do investigations until the cases had been through the prosecution process. In Washington criminal cases tend to get through the system more efficiently than some other places.

DOJ said there were problems not just with the Albuquerque PD, but also with oversight. The head of oversight was apparently not looking at cases carefully enough, and was perceived to be part of the failure to improve policies and procedures. Their oversight agencies are part of the consent decree. Spokane's OPO is kind of involved with DOJ, but not as directly as in Albuquerque. It was fascinating to

hear how they've been working from something perceived as ineffective to something that is much more effective. If the oversight board makes a recommendation to PD, the PD has to either accept and implement the recommendation, or to explain why not in writing within 45 days. They are 2 years into their consent decree, but realize they have a long way to go.

Conklin said another workshop was about using technology and open data for better oversight. This was a fascinating workshop about body cameras and the public records act. The overwhelming presumption in this workshop is that having open data is a good and helpful thing. It helps police do better, it helps with oversight, it helps the community have more trust. In 23 states police records are still totally confidential. In Washington, our data is mostly available. Kathryn Olson co-authored a book that used some of our data in Spokane. OPOC will figure out how to have a Facebook page to start sharing some of this information.

In California, all other state employees are subject to disclosure of any complaints against them, except for law enforcement officers. The law enforcement officer complainant only gets a letter that says founded or unfounded. No one is keeping statistics on how many people are killed by police officers or who die in custody every year. California recently passed a statute that has a strong anti-profiling restriction.

Conklin said that public filming is more than just police having body cameras; it includes citizens' recordings. One of the problems is that officers sometimes take cameras from citizens when they are filming. There is a national group that has produced an app that immediately uploads what you're filming, so even if the police take your camera, whatever you got is already uploaded. Places that are being looked at across the country right now for new legislation and policy are data collection, public filming of police, public access to police records, body cameras, and civilian oversight.

Sometimes we think if complaints reduce, the PD is doing better. That's not necessarily the explanation; it's important to look into it more deeply. In some places in the country, non-profits are doing oversight and collecting data. For example, non-profits are not covered by confidentiality laws. They are trying to film and get access to data so they can do analysis and publish things that are not available through government entities. Are there a few officers that are causing a lot of the complaints? In a huge department like New York, D.C. or L.A., badge numbers change with rank and names can be similar.

Conklin said these were all fascinating pieces to keep in mind. How are we doing, and where is it important to put our energies? According to Olson, Spokane is doing fairly well with data collection. We have body cameras, and we are so much further along than much of the rest of the country. We're still working on civilian oversight, but we have an opportunity to learn what is going on in other places, and an opportunity to become a model for others.

Public Comment:

Allen McDowell said he is in search of a document 10 days before Otto Zehm. He has some problems with any police policy which states anything about getting a mental health evaluation. He has a problem with SPD transporting citizens to current private mental health contractors. He thinks there is a lot of

fraud and abuse that goes on in the mental health industry. He was involved in an event with SPD in 2006, and he would like to find a CAD report on this.

Conklin told McDowell he had gone beyond the allotted 5 minutes, and that what she heard him saying was that the problems he's pointing out here have all been changed, and that there are new policies now. McDowell said his problem right now is only with Records, as he's trying to find the CAD report from 2006. He said he did file a complaint with Logue.

Conklin said that Gray will be resigning as OPOC's attorney. She congratulated him on accepting a job with Gonzaga Law School. His firm tried to keep him on, on a part-time basis so he could continue with the Commission, but the insurance company decided they didn't want to insure him for that.

Gray thanked all the Commissioners from the bottom of his heart. He said it's been a tremendous experience and he has absolutely loved working with them. He will continue to be passionate about the work the Commissioners are doing. He said they do an incredible job listening, and they truly care about this city. He said it's been an honor working with the Ombudsman's office. He is excited about the new opportunity but saddened that he won't be able to continue to represent OPOC. Kirkpatrick and Startzel is behind the Commissioners, and wants to make sure they have the resources they need until they determine what's needed long term. He'll do anything he can to make the transition as easy as possible.

Rose asked when his last official day is. Gray said he's wrapping up his cases and has started his orientation at Gonzaga. Conklin said the Commissioners very much appreciate the work he's done with them, and they hope he'll come back occasionally and bring some law students. There are a couple of possibilities for OPOC. One is continuing with the firm, which has already identified a member who is willing to work with OPOC, Ryan Poole. Poole has already started learning about the work. Gray said there is no pressure on the Commission; Kirkpatrick and Startzel just wanted to make sure that they were there for whatever the Commission needed. She said OPOC could accept the firm's offer to send Poole, or could start another search process.

The Commissioners had a brief discussion. Logue said we have a unique opportunity with this year's funding to consider using the firm to complete policies and procedures. At the next OPOC meeting, we need to know how many more hours are needed. The target month to work on this project is this month.

Conklin invited Poole to introduce himself. He said he loves the city of Spokane, and wants it to be both a good city, and a city that looks good. We like there to be fairness in fact and in appearance. It's important for the citizens of Spokane to have confidence in what's happening. It's been wonderful to watch the birth of these programs and the opportunities of having an Ombudsperson and Commission working on these issues. It's great for everybody, for law enforcement and the community. Having the ability to participate in that is a rewarding effort. He's had background events in the public and private sector that have given him a perspective that would be useful. He's done ride-alongs. He has counseled with law enforcement, and been across the table in an opposition role, as well as a cooperative role. He appreciates the opportunity to talk with Gray. It's been very useful that previous meetings have been put on-line. He can do the work and would be helpful to the Commission.

Poole said he has practiced in land use planning, and interfaced with public and private sectors while working through issues. Often-times 5th amendment issues are raised. He's done litigation of civil rights complaints that have a law enforcement component with 4th amendment and search and seizure issues. He worked in a city attorney's office, and clerked for a trial judge in law school. He has seen the process of trying to get things in place, has had opportunities to observe the inside process of internal affairs, and he's seen the challenges that law enforcement faces with in-the-moment decisions that are scrutinized closely afterward. He participated in drafting in-service suggestions for law enforcement training at the county sheriff level. Earlier this evening Logue mentioned seeing the circle come all the way around to making change; not just solving the problem for what happened that time, but trying to see that it doesn't happen again.

Poole said public records issues, and issues Commissioners face with the procedures for doing public meetings, are part of what he deals with day-to-day. Conklin asked where he went to law school, and Poole replied University of Idaho. Conklin asked how long he has been in Spokane, and Poole replied since 2009.

The Commissioners thanked Poole for his time. Rose made a motion to continue to use Kirkpatrick and Startzel, with Poole continuing on to provide legal advice through the end of December. Smith seconded. The motion passed unanimously.

Conklin said she will have Huseman send OPOC the draft policies and procedures manual. She asked Rose and Smith to look ahead and see the pieces they'd like to work on. She will organize the work parties and said they'll want to have those meetings before the December meeting.

The Commissioners discussed the Ordinance process. Smith made a motion to show support for the email that Logue sent to City Council dated 11/1/16 at 4:28 pm. It's the section that has three lines in bold print, and is a recommendation to have a series of working meetings with all interested stakeholders in a transparent process. Rose seconded. The motion carried unanimously.

Conklin invited everyone to give input to City Council, and particularly to Council Members Breean Beggs and Lori Kinnear.

Huseman asked Conklin by what means she would like City Council to be informed of the vote. Conklin said to send it by email. Gray will send it.

Rose made a motion to nominate Smith to be Vice Chairperson to finish former Commissioner A.J. VanderPol's term as Vice Chair. Smith accepted the nomination. Conklin seconded. The motion carried unanimously.

Conklin adjourned the meeting at 7:33pm.

Minutes submitted by Marty Huseman and approved by OPOC on 1/24/17.