City of Eugene
POLICE COMMISSION

The Police Commission recommends to the City Council, City Manager, police department, and the people, the resources, preferred policing alternatives, policies, and citizen responsibilities needed to achieve a safe community. We strive to create a climate of mutual respect and partnership between the community and the police department that helps to achieve safety, justice and freedom for all people in Eugene.

Police Commissioners: Juan Carlos Valle, Chair; Tamara Miller, Vice-Chair; Mike Clark; Bernadette Conover; Jim Garner; Linda Hamilton; Kaitlyn Lange; Jesse Lohrke; James Manning; Timothy Mueller; Kitty Piercy; Bob Walker

Police Commission & Civilian Review Board Joint Meeting
Thursday, September 8, 2011
5:30 pm, McNutt Room, Eugene City Hall, 777 Pearl Street

	Item	Starting Time	Minutes
1.	Agenda review	5:30	5
2.	Public forum	5:35	10
3.	Civilian Review Board (CRB) Report	5:45	30
4.	Discussion with CRB	6:15	15

Police Commission Meeting
Thursday, September 8, 2011
6:30 pm, McNutt Room, Eugene City Hall, 777 Pearl Street

1.	Comments from chair & items from commissioners	6:30	15
2.	Material review and minutes approval	6:45	5
3.	Chief's report	6:50	20
4.	*Break*	7:10	5
5.	Appoint Committee Members	7:15	5
6.	By-law updates	7:20	30
7.	Committee recommendation on search and seizure Policy	7:50	45
8.	Closing Comments	8:35	5

Next Police Commission Meeting: Thursday, October 13

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www.eugene-or.gov/policecommission

M I N U T E S

Eugene Police Commission
McNutt Room—Eugene City Hall—777 Pearl Street
Eugene, Oregon

July 14, 2011
5:30 p.m.

PRESENT: Juan Carlos Valle, Chair; Tamara Miller, Vice Chair; Mike Clark, Bernadette Conover, Jim Garner, Linda Hamilton, Kaitlyn Lange, Jesse Lohrke, James Manning, Tim Mueller, Mayor Kitty Piercy, Bob Walker, commissioners; Police Chief Pete Kerns; Carter Hawley, Lt. Scott Fellman, Cindy Coleman, Eugene Police Department; Police Auditor Mark Gissiner, Deputy Police Auditor Leia Pitcher

Mr. Valle called the meeting of the Eugene Police Commission to order. He congratulated reappointed commissioners and welcomed newly appointed commissioners. He thanked Ms. Miller for her leadership, guidance, and mentoring in her role as chair of the commission over the past year.

1. Agenda and Material Review & Minutes Approval

Ms. Hawley reviewed the agenda, agenda materials, and supplemental materials, which included 1) *Commendations—June 2011*; 2) *Closed Internal Affairs Summaries—June 2011*; 3) information e-mailed weekly to commission; and 4) a complaint letter sent to the Police Commission.

Ms. Conover, seconded by Mr. Mueller, moved to adopt the June 9, 2011, minutes as submitted. The motion passed unanimously.

2. Public Forum

Patricia Robinette, Hawkins Lane, shared highlights of a letter she had sent to Mayor Piercy about drug use by individuals living in a condominium unit directly attached to her unit. She suggested the City purchase a drug-detecting dog. Ms. Robinette suggested an "early warning" approach that involved a police contact with such individuals that warned them they were being watched before an arrest was made.

Abigail and Aaron Conover thanked the Eugene Police Department (EPD) for the Eugene Police Activities League (EPAL) and described some of the activities they participated in through the league and the officers they met. They presented Chief Kerns with a plaque they made in a league activity.

Carol Berg Caldwell, 2510 Augusta Street, requested the commission's help in securing copies of the syllabus and training materials used in the Constitutional rights provided to EPD officers. She suggested the commission might want to request a formal report on the training. She believed it would give the community a clear understanding of the training.

Tim Laue, 124 Spencer Crest Drive, chair of the Civilian Review Board, expressed concern that the board's annual report had not been presented formally to the commission for two years in a row and that the report was not included in the commission's background materials, meaning none of the commissioners had the opportunity to read it. Mr. Laue emphasized that the board's report was not intended to sit on a shelf but was designed to inform the community and key stakeholders such as the

commission whether the office was functioning as intended, the system was working as hoped, and complaints were being investigated thoroughly and with due diligence. He reminded the commission that the City's civilian oversight system included both a policy component and an incident review component, and the policy component was within the commission's purview.

Majeska Seese Green asked that the recommendations of the Outreach and Resource Committee as they regarded the Monroe Street Station be amended to include a reference to neighborhood groups in accordance with the City's Neighborhood Empowerment Initiative, which called for strengthening of the relationship between City and neighborhood groups. She clarified that she was not speaking only about recognized neighborhood organizations.

Ms. Miller closed the public forum and expressed appreciation for the testimony.

3. Comments from Chair and Items from Commissioners

Mr. Mueller noted he had been unable to attend the most recent Outreach and Resource Committee meeting due to a conflict with the Oregon Country Fair. He said he volunteered with many organizations such as the fair and "Autism Rocks" that shared the commonality of recognizing that the community contained many different people. The Police Commission also frequently dealt with those on the edge of what was considered "normal." Mr. Mueller called on the commissioners to treat such individuals with respect and to open themselves to the differences in them. He said the United States was a product of different cultures that worked together to make the country an exciting and innovative place. He believed Eugene had the opportunity to embrace the differences between people rather than fear those differences.

Ms. Conover reported that the CRB held its last meeting at Petersen Barn in the Bethel area. The CRB began the meeting with a tour of the Property Control Unit. The CRB had discussed the possible sale of seized guns to raise revenues and reviewed three service complaints at its business meeting. Ms. Conover said the CRB received a request that it review a complaint that had already gone through the Police Auditor's system and planned to do that in September. The CRB also discussed the agenda of its joint meeting with the Human Rights Commission.

Mr. Walker suggested to Ms. Seese Green that recommendation 13 of the committee's recommendations related to enhanced communications and relationships addressed her concern about neighborhood groups.

Mr. Clark welcomed new and returning commissioners.

Ms. Lange requested input on how she could share information about the commission with other students. She committed to read any reports provided to her.

Mr. Manning offered condolences to Ms. Hamilton for the recent loss of her mother.

Ms. Hamilton also welcomed the new commissioners. She reported that the Human Rights Commission completed its last listening session and would soon begin to process the input it had received.

Mayor Piercy asked Chief Kerns what Ms. Robinette could do about her situation. Chief Kerns offered the EPD tip line, non-emergency line, and online reporting mechanisms to Ms. Robinette. He said that the high rate of property crime and existing staffing levels made it challenging for the department to deal with lower level offenses such as those described by Ms. Robinette. He offered to meet with her at the break to discuss additional steps she could take.

Mayor Piercy suggested that the commission prepare a response to Mr. Laue. Speaking to Ms. Seese Green's concerns, Mayor Piercy emphasized the City's commitment to collaboration with neighborhoods and neighborhood associations at every level. She noted that several neighborhood associations had recently received national recognition for the innovative work they had done. The City was very proud of its neighborhood associations and they were important to the organization's work.

Mr. Manning noted that representatives of the Police Commission attended several neighborhood association functions.

Mayor Piercy suggested to Ms. Lange that she consider using the *Oregon Daily Emerald* to communicate with students about Police Commission issues. She recalled that the *ODE* published an editorial on July 11 that discussed an editor's late-night encounter with Eugene police officers and encouraged the chief to review it.

Mr. Lohrke looked forward to working with the commission.

Mr. Garner welcomed new and returning commissioners. He expressed disappointment that the commission had not received the CRB's annual report. Mr. Garner reported he had attended the June 14 CRB meeting due to his interest in one of the cases, and had learned considerably more about the case from the meeting than he had through the media.

Ms. Miller welcomed the new commissioners. Speaking to Mr. Laue's concerns, Mr. Miller said that she and many of the commissioners had read the CRB's last report. Regarding Mr. Laue's belief that he had been scheduled to present that evening, Ms. Miller clarified that the leadership group had scheduled Police Auditor Mark Gissiner's annual report but not the CRB's annual report. Ms. Miller recalled that the commission had tried unsuccessfully to schedule a joint meeting with the CRB and she looked forward to such a meeting or a presentation on the report. She looked forward to reading the CRB's report and to a presentation by Mr. Laue.

Mr. Valle said the leadership group would work to strengthen communications with the CRB. He reported that the commission's leadership was scheduled to meet with the CRB's leadership the following week.

> Mr. Mueller, seconded by Ms. Hamilton, moved to invite the CRB representative to present the CRB report at the commission's September meeting.

Ms. Miller recalled that in lieu of a joint meeting between the CRB and commission, former CRB Chair Kate Wilkinson presented the report to the commission in 2010. She supported either a presentation or a joint meeting.

Ms. Conover recalled that the CRB had discussed presenting the report to the commission and City Council, and she did not want to support the motion without checking in with CRB leadership ahead of time.

> The motion passed 11:1, Ms. Conover voting no.

4. Internal Affairs Report

The commission was joined by Lt. Scott Fellman and Senior Program Coordinator Cindy Coleman, who provided a PowerPoint presentation on Internal Affairs. The presentation included statistics on complaints, service complaints, and commendations between the years 2005-2010, an overview of how

complaints were categorized, a breakdown of complaints and allegations by case and their sources (internal versus external) for 2010 and their adjudications and outcomes. Lt. Fellman shared "lessons learned" cases that could possibly lead to policy and/or equipment changes. Commissioners asked questions clarifying the details of the presentation.

Mayor Piercy expressed a hope that the EPD could find a better way to share the education that it gained from complaints with the public, rather than merely stating a complaint was founded or unfounded complaint. –Lt. Fellman concurred.

Responding to a question from Mr. Lohrke, Lt. Fellman said decisions regarding the discipline for sustained cases was made down the chain of command and was generally based on past practice and the employee's employment history. The discipline for sustained complaints ranged from supervisor coaching to suspension or dismissal. He indicated that performance coaching might still be called for in cases where an officer's actions were found to be within policy.

Chief Kerns attributed the high levels of internally generated complaints to supervisors who brought mistakes to the attention of Internal Affairs.

Ms. Miller was pleased to see the EPD employ mediation and advocated for its increased use.

Ms. Conover reminded the commission that the District Attorney also reviewed officer reports and would communicate with officers if they found an action questionable or a report lacking in detail.

Ms. Hamilton commended the EPD's leadership for fostering an atmosphere that lent itself to internal complaints.

5. Police Auditor Report

Police Auditor Mark Gissiner and Deputy Auditor Leia Pitcher joined the commission for the item. Mr. Gissiner apologized for not checking the agenda to ensure the CRB annual report was on the agenda.

Mr. Gissiner distributed copies of his annual report for 2010 and then led the commission through a PowerPoint presentation with highlights of the report, which could be found online at the City of Eugene's Web site. Commissioners asked questions clarifying the details of the presentation.

While Mr. Valle acknowledged Mr. Gissiner's interest in demonstrating fiscal responsibility by returning unexpended moneys to the General Fund. He suggested that instead the auditor consider expending that funding on additional outreach or a bi-lingual staff person.

Chief Kerns emphasized the many factors that contributed to the levels of force used in Eugene and suggested the use of force was quite low in light of the fact that Eugene police officers made twice as many arrests annually as the average United States police officer. In addition, the EPD was more skilled in general in de-escalating encounters than most police agencies and trained its officers more in the use of force, crisis intervention, and de-escalation than most agencies.

Mayor Piercy noted the council's positive evaluation of the Police Auditor's performance. She acknowledged that while some in the community had hoped the auditor would take a more confrontational approach to the EPD, it was important to remember that council, auditor, and City organization all had the goals of good service and a safe community. While it was vital not to forget the need for self-criticism that led to improvement, the goals would be easier to achieve if all worked together.

6. Break

Mr. Valle called for a break. Mr. Clark left the meeting during the break for another commitment.

7. Monroe Street Station Recommendations

Mr. Manning reviewed the extensive public outreach done by the committee and called attention to the results of that outreach, which was included in the Agenda Item Summary. He noted some of the organizations and individuals that the committee reached out to.

Mr. Manning shared the committee's recommendations for the Monroe Street Station, included as Attachment C in the meeting materials:

1. *City commit to maintain public restroom*
2. *Redeploy staff and volunteer resources in neighborhood and citywide*
3. *Station Manager Thompson continue direct contact and outreach*
4. *Increase branding of crime prevention*
5. *Find replacement for needle box*
6. *Consider increasing cultural competency and language training*
7. *Explore neighborhood resource center*
8. *Strive to increase bi-cultural and bi-lingual staff*
9. *Focused crime prevention in Whiteaker*
10. *Try to address phone access*
11. *Add behavior crimes to Data-Lead Policing (DLP)*
12. *Pursue use of other buildings*
13. *Enhance relationship and communication*

Mr. Manning called attention to the triple bottom line (TBL) analysis of the recommendations included in the meeting materials.

Ms. Conover observed that Monroe Park was within three blocks of the Monroe Street Station and there was a bathroom at that location. If it was open during the day, it could serve as a replacement for the bathroom at the station. Chief Kerns thought that facility was closed because it became an attractive nuisance and indicated he would follow-up.

Ms. Miller commended the committee for its hard work and extensive outreach. She said the recommendations generally reflected themes related to the station that the committee members received from multiple groups.

Mr. Mueller believed the recommendations lacked mention of the concept of the Monroe Street Station as a safe place. He said recommendations 7 and 12 reflected his point of view that it was important to Whiteaker residents that Eugene continue to maintain a physical police presence in the Whiteaker neighborhood. He suggested the City establish a neighborhood resource center staffed by police officers, representatives of other City departments, volunteers, and representatives of human service agencies to provide services and information. He believed that otherwise, residents would feel that their public safety services had been diminished.

Continuing, Mr. Mueller recommended the EPD establish such a center and suggested it could be duplicated around the community at a low cost to the City. He suggested such centers would be a move

toward community policing and greater collaboration with Eugene residents. Such centers also spoke to Mayor Piercy's remarks about the need for everyone to work together to achieve City goals.

> Mr. Mueller moved to accept Attachment C with an amendment that placed item 7 and 12 at the top of the list and changed the wording in item 7 to say that "The department should lead the establishment of a neighborhood resource center in the neighborhood."
>
> The motion died for lack of a second.

Ms. Lange asked how the recommendations would be funded. Mr. Manning acknowledged the public restroom and telephone access needed to be funded but he did not know how that would occur.

Ms. Hamilton left the meeting for another commitment.

Ms. Lange asked what amount would be saved if the recommendations were adopted. Mr. Manning referred to the TBL analysis and reported that all the factors from that analysis were positive, but he had no numbers to offer. Ms. Hawley indicated all the recommendations were revenue-neutral; the restroom the committee recommended funding was already funded by the City.

Speaking to the Mr. Mueller's motion, Ms. Miller pointed out that on average, 4.7 people per day sought police services at the Monroe Street Station. She suggested that many of the attributes that residents wanted to retain, such as the restroom or needle box, were social-service related rather than police-related. The committee felt strongly that the police resources now located at the station could be much better employed throughout the community. Ms. Miller did not support replacing the station with another physical facility. She suggested recommendation 9 would maintain a connection between the EPD and the neighborhood. Ms. Miller believed the recommendations represented an opportunity to further Chief Kerns' vision of a greater focus on crime prevention.

Ms. Conover noted the many social services providers located nearby and suggested one would welcome a needle box. She also noted the many services offered to homeless teens by the Eugene Evangelical Church and reported that First United Methodist had a telephone anyone could use. She asked if anyone had approached Eugene Evangelical about providing a telephone. Ms. Conover believed that regular patrols would be more useful to residents than a place to make a report.

Ms. Conover questioned the appropriateness of Recommendation 8 in this context. Mr. Manning concurred that it was not necessarily related to the station closure, but reflected community feedback from the committee's public outreach. Ms. Conover preferred to make a recommendation to Chief Kerns that spoke to the police services delivered from the station, as opposed to using the recommendation as an opportunity for coming up with other things the commission would like the chief to do.

Mayor Piercy thanked the committee. She believed its work conveyed concern and built relationships. She suggested the commission give the chief a chance to review the recommendations so he could discuss with the commission how they fit with his plans.

Speaking as a Whiteaker resident, Mayor Piercy suggested that Whiteaker was actually many neighborhoods, and for most Whiteaker neighborhoods the station was very far away and had little relevance. She said Whiteaker residents lived with the challenges of the neighborhood because they liked enough other things about the neighborhood to continue to live there. She said that some of the challenges were created by the proximity of the Eugene Mission. Managing those challenges required constant

thought and care. Mayor Piercy believed the neighborhood would benefit if the City could do more to address the issue of homelessness.

> Ms. Miller, seconded by Mr. Manning, moved to extend the meeting until 9 p.m. The motion passed unanimously, 10:0.

Mr. Mueller pointed out that Project Homeless Connect was successful because many services were brought together in one place. Those without automobiles could go to one location to secure services. For that reason, he thought it important for the City to work with churches and human services agencies in Whiteaker to provide services to the homeless in the neighborhood.

Chief Kerns said the committee did a good job and worked within the confines of his charge, which was to provide better services in spite of the station closure. He agreed with Mr. Mueller about it would be good for the homeless to have a place in Whiteaker they could feel safe, but the EPD could not afford to use its resources to support the station while property crime rates were so high.

Responding to a question from Chief Kerns about Recommendation 12, *Pursue use of other buildings*, Ms. Miller said the committee had envisioned that the department could use a publicly owned building in the neighborhood, if one existed, or partner with a business that had space for crime prevention activities.

> Mr. Walker, seconded by Ms. Conover, moved to adopt the recommendation of the committee with an amendment to Recommendation 13 to read "Enhance relationship and communications between the department and community; and the Police Department be requested to attend community meetings of neighborhoods previously served by the Monroe Street Station and provide crime prevention information at those meetings."

Mr. Valle offered a friendly amendment to modify Recommendation 8 as follows: "Should strive to increase number of *qualified* bilingual and bicultural staff." While Mr. Walker did not object, Ms. Conover declined to accept the amendment on the basis that she did not know who would qualify the parties in question. Mr. Garner pointed out that the staff in question would have to meet the requirements of the EPD. Mr. Walker suggested that the commission adopt instead "Should strive to increase number of bilingual and bicultural staff within department standards." Mr. Valle did not object and Ms. Conover accepted the suggestion as a friendly amendment to the motion.

> The motion passed unanimously, 10:0.

Mr. Valle thanked the committee for all its hard work and recognized the leadership of Mr. Manning.

8. Committee Report – Policy Screening and Review

Due to lack of time, this item was postponed.

9. Chief's Report

Due to lack of time, this item was postponed.

10. Closing Comments

Mr. Valle solicited closing comments. Commissioners shared general appreciation for the meeting.

Ms. Conover thanked Chief Kerns for EPAL, saying her children had a spectacular time. She also thanked the chief for the EPD's response to a bicycle theft.

Speaking to the subject of the disposal of guns being held for evidence, Mr. Walker observed that 99 officers had been killed in the line of duty so far this year, and officer death by gunfire was up 26 percent. He suggested that the commission take up the issue with the goal of making a recommendation to the chief. Mr. Walker saw no reason to allow such guns to go back onto the street.

Mr. Valle called attention to the ride-along forms provided to the commission and challenged commissioners to participate in police ride-alongs during the commission's August recess.

Mr. Valle adjourned the meeting at 9:01 p.m.

(Recorded by Kimberly Young)

Police Commission

Memorandum

City of Eugene
777 Pearl Street, Room 106
Eugene, Oregon 97401
(541) 682-5852

August 29, 2011

To: Members of the Police Commission

From: Carter Hawley, Police Commission Analyst

Subject: Committee Appointment

There are currently two active committees, each of which can have up to six members. The Policy Screening and Review Committee has four current members (Valle, Miller, Manning, Mueller), and solicited volunteers for two new members. At its meeting on July 26, the committee nominated Jesse Lohrke and Bob Walker for the committee. With the concurrence of the Commission, those Commissioners will be added to the roster for the committee.

The Outreach and Resource Committee currently has five members, after the resignation of Linda Hamilton (Manning, Valle, Garner, Miller, Mueller). At its meeting on September 7, the committee will determine what it wants to do. James Manning will provide a verbal update at the at the Police Commission meeting September 8.

Commission approval for all nominations will be sought.

EUGENE POLICE COMMISSION
AGENDA ITEM SUMMARY

Proposed Police Commission Bylaw Amendments

Meeting Date: September 8, 2011

Staff Contact: Carter Hawley
Contact Telephone Number: 541-682-5852

ISSUE STATEMENT

At the Commission Retreat in May 2011, the Commission made suggestions about changes to the bylaws. Instead of changing the bylaws at the retreat, the Commission requested that the proposed changes be brought back to the Commission at a subsequent meeting. Those issues, plus other recommended changes are incorporated in the attached draft.

BACKGROUND

The bylaws were last updated October 2009. The bylaws allow the Chair and Vice-Chair to develop recommended changes and bring before the Commission, at the Commission's request, which occurred at the May retreat.

The substantive changes are all called out with redline comments in the attached draft, along with explanations for the proposed changes.

COMMISSION OPTIONS

At the meeting, staff will walk through the document, reviewing all substantive changes. The Commission may choose to approve, not approve or amend any or all of the recommended changes.

RECOMMENDATION

Staff recommends that the Commission approve the recommended bylaw changes.

SUGGESTED MOTION

I move to approve the bylaws as [*proposed or amended]*.

ATTACHMENTS

A. Redline draft of proposed bylaw changes

ORGANIZATION AND BYLAWS

POLICE COMMISSION

Police Commission

Adopted 1999, Revised October 2009

Introduction

The following sets forth information, rules and regulations concerning the Police Commission.

Police Commission Mission Statement

Our mission is to recommend to the City Council, the City Manager, the Police Department, and the people, the resources, preferred policing alternatives, policies and civilians' responsibilities needed to achieve a safe community. We strive to create a climate of mutual respect and partnership among people and between people and the Police Department that helps achieve safety, justice and freedom for all people.

Our Goals:

- Ensure that the policies and procedures of the Eugene Police Department protect the civil rights and liberties of everyone in Eugene.
- Promote policing that respects and reflects Eugene's rich culture and diversity.
- Increase communications, understanding and trust between police and the people in Eugene.
- Encourage problem solving and partnerships between people, neighborhoods, and other agencies and police.
- Provide fair opportunities for the public and criminal justice professionals to comment and participate in the Commission's work, recognizing the interconnectedness of the criminal justice system.

ARTICLE I. ESTABLISHMENT

The Eugene Police Commission, hereinafter referred to as the Commission, was established in December 1998 (Original Ordinance No. 20135 and amended to Ordinance 20398 in October 2997) and was appointed by the City Council in conformance with Eugene Municipal Code 2.013 and 2.368. All powers and duties of the Eugene Police Commission are derived from City of Eugene Ordinance 20398. Nothing in these bylaws shall be construed as expanding the authority conferred upon the Commission by the ordinance.

ARTICLE II. PURPOSE AND OBJECTIVES

1. The Commission shall act as an advisory body to the City Council, City Manager and Police Chief regarding police policy issues. The Commission exists to work toward the following outcomes for the community:

a. To increase communications between the police and the community, leading to a greater understanding of the preferred policing alternatives for the city
b. To identify police policy and resource issues related to preferred policing alternatives;
c. To decrease misunderstandings regarding the nature of adopted police policies, practices and approaches;
d. To provide input on police policies and procedures that reflect community values
e. To assist the City Council in balancing community priorities and resources by advising it on police resource issues; and
f. To recommend police policies reflecting community values

2. The Commission shall develop a mission statement and a yearly work plan, to be reviewed and approved by the City Council, which will articulate how the listed outcomes will be achieved.

3. The Commission may:

a. Review and make recommendations on police policies, practices and priorities for consistency with community values;
b. Provide input on service and resource needs for community safety;
c. Work on police-related projects as directed by the City Council; and
d. Provide a forum for addressing public concerns related to police policies and practices

4. The Commission shall not undertake the review of allegations and inquiries related to the actions of individual police officers.

x. The City of Eugene is committed to fair and impartial treatment of all employees, applicants, contractors, volunteers and agents of the City and to provide an environment free from discrimination and harassment, where people treat one another with respect. It is the responsibility of all agents of the city, including volunteers to maintain a work environment free from any form of discrimination of harassment based on race, creed, sex, sexual orientation, color, national origin, age religion, disability, marital status, familial status, source of income or any other legally protected status. The City prohibits unlawful harassment and or discrimination. Accordingly, derogatory racial, ethnic, religious, age, gender, sexual orientation, sexual or other inappropriate remarks, slurs or jokes will not be tolerated.

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Comment [CU1]: Added to reflect City policy

ARTICLE III. APPOINTMENT, MEMBERSHIP, TERM OF OFFICE

1. The Commission members shall be nominated by the Mayor and appointed by the City Council.

2. The Commission shall consist of:

a. two members of the City Council
b. one member from the Human Rights Commission
c. one member from the Civilian Review Board
d. eight civilians

3. Members of the Commission shall be city residents or residents of the urban growth boundary who have demonstrated interest and expertise in police matters. Every effort shall made to assure representation on the Commission is in proportion to the representation of women, ethic minority group members, people with disabilities and younger and older citizens in the City and its urban growth boundary. Members may represent the following diverse elements of Eugene:

Comment [CU2]: Added urban growth boundary to be consistent with B&C Manual

Comment [CU3]: Added to reflect language in Resolution 3822, section 1 & 2

a. Youth
b. Students of the University of Oregon and Lane Community College, or other higher education institution;
c. Persons with a demonstrated interest in law enforcement;
d. Social service providers;
e. Educators;
f. Members of community or neighborhood groups;
g. Persons engaged in private business;
h. Persons with a diversity of ethnic and cultural affiliations;
i. Persons with diverse economic backgrounds and interests;

Comment [CU4]: Added to expand beyond LCC & UO

x. Employees of the City of Eugene or Eugene Water and Electric Board may not serve on the Police Commission.

Comment [CU5]: Added to reflect language in B&C Manual

4. The eight civilian members shall be appointed to a four (4) year term. The terms of the first appointees shall be staggered so that approximately one half of the Commissioners' terms ends after three years. Councilor members shall be appointed annually as part of the process of appointing elected officials to other committees, and shall serve during their terms as councilors. The members from the Human Rights Commission and Civilian Review Board shall serve during their term on such commission, committee or board, or for four years, whichever is less.

5. No member of the Commission shall serve more than two (2) consecutive terms as a member of the Commission.

6. Vacancies on the Commission shall be filled in the same manner as original appointments, and the appointee shall hold office for the remainder of the unexpired term. Except where the vacancy occurs because members from the City Council cease to serve on the Commission, the City Council shall appoint within 45 days of the position becoming vacant. A position becomes vacant upon:

a. the death or resignation of the incumbent
b. removal of a member by the City Council for being absent for more than three consecutively scheduled meetings ~~without having been excused by the Chair of the commission~~
c. failure of the City Council to reappoint an incumbent at the expiration of his or her term

Comment [CU6]: Made consistent with B&C Manual: "no distinction is to be made between excused and unexcused absences".

d. the incumbent ceases to be qualified for the initial appointment.

7. Commission members shall receive no compensation, but shall be reimbursed for authorized expenses (See Article X, Section 2)

ARTICLE IV. OFFICERS AND DUTIES

1. The officers of the Commission shall be a Chair and Vice Chair (see Article V, Election of Officers)

2. The Chair and Vice Chair shall serve for two (2) years. The election will be held no later than the Commission's regular meeting in June. If the Chair cannot serve a full term, the Vice Chair shall assume the office for the remainder of the Chair's term. If the Vice Chair cannot serve a full term, the Commission shall, at the meeting following the departure from office of the Vice Chair, elect a new Vice Chair to complete the unexpired term. If both the Chair and Vice Chair vacate their respective offices prior to the end of their terms, elections must be held at the following meeting to fill both offices.

3. Commissioners may not be elected as Chair for more than two (2) successive terms.

4. The Chair shall preside at all meetings of the Commission; call special meetings subject to requirements of Article VI; consult with staff on preparation of commission agendas; and perform all other duties necessary or incidental to the office.

5. In the absence of the Chair, or in the event of the Chair's inability to act, the Vice Chair shall perform the Chair's duties. In the event of the absence or inability to act of both the Chair and Vice Chair, the remaining members shall appoint one of their members to act temporarily as Chair.

6. The Chair shall decide on all points of order and procedure during meetings and his/her decision shall be final unless overruled by a majority of the members present.

7. The Chair and Vice Chair are entitled to vote on all issues.

8. The Chair or the Chair's designee is the official spokesperson for the Commission on all matters of community concern that have been duly addressed by the Commission.

9. The Chair and Vice Chair shall:

a. Conduct orientation of the new commission and committee members
b. Assist with educating Commission, committee and City Council members on procedures and responsibilities.
c. Act as liaisons between the Commission and all committees
d. At the request of the Commission, prepare recommendations on commission bylaws and other administrative manners.

ARTICLE V. ELECTION OF OFFICERS

1. Any member may nominate a candidate from the membership for the position of Chair or Vice Chair. Nominations need not be seconded.

Section2. A member may withdraw his/her name if placed in nomination, announcing that, if elected, s/he would not be able to serve; but s/he may not withdraw in favor of another member.

3. Any member may move to close the nominations; a second is required. If the motion carries, the Chair then calls for the election.

4. The votes of all committee members will be recorded~~ by the minutes recorder~~. The candidate who receives a majority of the votes cast becomes the Chair. In the event no candidate receives a majority of the votes cast, a run-off election shall be held between the two candidates receiving the most votes. The same procedure is followed for the election of the Vice Chair.

Comment [CU7]: Struck, in case Commission opts to forgo minutes recorder

ARTICLE VI. OPERATING REQUIREMENTS OF COMMISSION AND MEMBERS

1. The Commission shall submit an annual report and yearly work plan in writing to the City Council~~ by July 1~~as close to July 1 as possible. The report shall list the activities and accomplishments to date and assess these against the Commission's mission and against the yearly work plans. The work plan must be approved by the City Council. As a result of a significant event or unforeseen circumstances, the Commission may request the City Council approve a work plan amendment at any time~~ as a consent item on the Council's agenda~~.

Comment [CU8]: Changed deadline because this requirement has not been met in recent past. Language reflects current practice, and is supported by City Manager's Office.

Comment [CU9]: Perhaps not a consent item, but regular item. Propose strike overly detailed info.

2. All regularly scheduled meetings will be announced in the Public Meetings Calendar~~ at least one~~the week prior to the meeting and will include a time for public comment.

Comment [CU10]: Published the week before the meeting, but may not be a week before, as the Meetings calendar is only published once a week.

3. The Commission may make and alter rules for its conduct and procedure providing they are consistent with state law and applicable provisions of the City charter, ordinances, and policies.

ARTICLE VII. MEETINGS, VOTING AND PROCEDURES

1. The Commission shall meet at least six (6) times a year to conduct regular business, with such additional meetings as it deems necessary to property perform its duties. Additional meetings may include but are not limited to annual work planning and process sessions.

2. The Commission shall achieve a quorum at a minimum of six (6) of its regularly scheduled meetings each year.

3. Seven (fifty percent plus one of the current membership) commissioners shall constitute a quorum for the transaction of official business. In the absence of a quorum at a meeting, any member present may cancel the meeting fifteen minutes after the scheduled beginning time. If no member is present by fifteen minutes after the scheduled time, the meeting is automatically adjourned.

4. Each voting member of the Commission shall be entitled to vote at all regular and special meetings of the Commission, except that a member shall not vote or take part in discussion as a member when there is an actual or may be a perceived conflict of interest. If a member wishes to abstain in a situation where there is a potential conflict or no direct conflict of interest, but where the public might construe that such a conflict exists, or if a member has a conflict deriving from his or her relationship with persons involved in the issue, then he or she may ask to abstain. ~~In this case, it is up to the commission~~

Comment [CU11]: Added to reflect language in B&C Manual

~~to decide whether the abstention is necessary.~~ If members are in doubt about the nature of a conflict, they may ask for the advice of the City Attorney.

Comment [CU12]: Added to reflect language in B&C Manual

5. All members of the Commission shall be involved in Commission and may be involved in committee activities, including regularly attending commission and committee meetings. Any member who misses more than three (3) consecutive regular commission meetings, with or without a quorum and without having been given a leave of absence by the Commission Chair, may be removed by the City Council upon recommendation of the Commission. If members are unable to attend a meeting of the Commission or a committee, they shall notify the Commission Chair or staff as soon as possible.

Comment [CU13]: Added to clarify that committee activities are not required of all members.

6. ~~An agenda setting committee consisting of the Chair, Vice Chair and lead staff person establishes the meeting agenda.~~ The Chair shall establish the agenda, after consulting with the Vice Chair and staff. The Vice Chair may forward to staff an alternate agenda one week prior to the meeting to be included in the meeting materials for consideration by the Commission at its meeting. An agenda item may be placed on the agenda or removed by a majority vote of the Commission. Requests to place an item on the agenda may be made by individual commission members, city councilors, staff or members of the public. Through a formal action, City Council may direct the inclusion of an item on the Commission's agenda. ~~The agenda setting committee shall decide the date that items come before the commission.~~

Comment [CU14]: Changes to this section made after it was determined that the original language unintentionally created another public governing body, requiring notice and minutes. Proposed language reflects modified current practice, without creating a public meeting.

7. The Chair or six (6) members of the Commission may call an emergency special meeting by delivering ~~a 24 hour written notice personally or by mail to each member of the commission and to media representatives filing with the City Manager's Office a written request for such notice~~ a written notice to each member of the Commission and providing to the City Manager's Office a written request for notice to media representatives at least 24 hours prior to the start of the meeting. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Seven commissioners shall constitute a quorum for a special meeting.

Comment [CU15]: Notice must be given to media 24 hours prior to meeting, and is provided by City Manager's Office. Meetings with only 24 hours should be genuine emergencies, per B&C Manual

8. Members shall not vote on a question unless they are present before the vote is called for, or when their names are called by the Chair. Proxies are not permitted.

9. Members may at any time explain their votes, or file written explanations of such votes after the result of the voting has been announced and recorded.

10. In general, communication to and from the public during meetings occurs during the public comment or community dialogue period. Except for the right to vote and to move a motion, the privilege of the floor may be granted to any member of the public at the discretion of the chair.

11. As an alternative to using simple majority votes to make its decisions the Commission may use a consensus method in an effort to incorporate all interests and gather full support for the final decision. In general consensus decision making is appropriate when addressing process and routine issues. The simple majority approach should be used when the Commission is taking a formal position on a topic. Whichever decision making approach is being used, the conflict of interest laws still apply. Any member with an actual conflict of interest must excuse himself / herself from deliberation on the issue.

12. To further its mission, the Commission may agree to invite specific group representatives, civilians or staff to participate with the Commission in the evaluation, discussion and problem solving of specific issues or policies.

13. The Commission, committee and work group meetings shall follow Oregon's open meeting laws.

14. Commission members may refer to Robert's Rules of Order regarding rules of procedure for guidance with respect to the conduct of meetings or points of order.

ARTICLE VIII. STAFF

1. The Police Chief or his designee shall attend all regularly scheduled commission meetings. The Chief is not a voting member of the Commission and shall not be counted for purposes of obtaining a quorum. The Chief shall take all reasonable steps to ensure that the Commission is kept fully informed about all major police issues that may be of concern to the community.

2. The City Manager may, within his or her discretion, furnish staff assistance to the Commission or to the Commission's committees.

3. A city staff member shall mail or electronically provide minutes of the previous meeting with the agenda for the next meeting to all members at least five working days in advance of the meeting date. All printed information to be distributed to the members with the minutes will be submitted to staff ten (10) days before the meeting so that the materials may be made available to the media and the public.

4. ~~A recorder may be furnished to the commission by City administration to record the minutes of each regular meeting in accordance with ORS 192.650. The minutes of all meetings shall be filed with the staff person appointed by the City Manager to serve the commission. The written minutes shall include at least the following information:~~ A record must be kept of all public meetings. The record may consist of written minutes, or sound video or digital recording. The record of a meeting, whether preserved in written minutes, or a sound, video or digital recording, must provide a "true reflection" of the meeting and must, at a minimum, contain the following information:

Comment [CU16]: Consistent with B&C Manual

a. All members of the Commission present;
b. All motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
c. The results of all votes and the vote of each member by name;
d. The substance of any discussion on any matter;
e. A reference to any document discussed at the meeting (subject to ORS 192.410 to 192.505 relating to public records)

ARTICLE IX. COMMITTEES, PROGRAMS & WORK GROUPS

1. The Commission may establish temporary committees for specific tasks. A majority of the Commission members present is required to form a committee. No temporary committee shall continue for more than six months without City Council approval.

2. The size, term, membership and duties of a committee shall be established by the Commission at the time the committee is approved. Committee membership shall consist of no more than six commission members.

3. Vacant positions on a committee shall be filled by the Commission appointment of a person nominated by the committee. A position shall be considered vacant under the same conditions as set forth for a vacancy on the Commission.

4. The officers of each committee shall be a Chairperson and a Vice Chair, elected by the committee. The Chair shall be a member of the Commission and shall preside over the committee and shall have the right to vote. The Vice Chair shall perform the duties of the Chair in the absence or disability of the Chair. The officers shall serve for terms of one (1) year or for the term of the committee, whichever is less.

5. Each committee shall meet as it deems necessary to properly perform its duties.

6. Each committee may make and alter rules for its conduct and procedure, providing they are consistent with state laws and applicable provisions of the City Charter, ordinances, policies and commission bylaws.

7. Fifty percent plus one of the current membership of a committee shall constitute a quorum for the transaction of official business.

8. The Commission may recommend that the City Council establish any additional committee or task force that the Commission feels will assist the Commission and the City in meeting the goals of the Commission.

9. The Chair of the committee shall be responsible for calling and developing agendas for all meetings.

10. Committees may base their recommendations upon a consensus or upon majority and minority points of view.

11. Committees may take public actions only with the approval of the Commission.

12. Committee chairs shall submit names of committee members who are frequently absent from the committee meetings to the Commission Chair, who may replace them.

13. Only existing Commission members are eligible to become members of a committee. The Committee may seek input and advice from the community, regardless of committee membership.

Comment [CU17]: Consistent with B&C Manual

ARTICLE X. FISCAL POLICIES

1. As per City ordinance (City Code 2.368) and subject to State law, the Oregon Budget Law and the Charter of the City, the Commission may expend public funds with the approval of the City Manager or his/her designated representative and may accept contributions and expend the same as long as the funds are related to the Commission's own purposes and work plan and clearly benefit the City.

2. Any member who incurs expenses as a result of Commission work shall submit to the Chair a statement itemizing the expense. The Chair may seek reimbursement for the member from the City Manager or his/her designee. Except for Commissioners' meal expenses at local or in-state activities, expenses shall be approved by the Commission membership prior to disbursement.

3. Members wanting to attend meetings or events to represent the Commission shall first seek approval from the Chair of the Commission to have the trip placed on the agenda of a commission meeting. The membership may then approve spending of commission funds and appoint a member to attend.

4. The fiscal year of the Commission runs from July 1 to June 30.

ARTICLE XI. AMENDMENT OF THE BYLAWS

1. These bylaws may be adopted, by a majority vote at any session of the Commission and will continue in force for the Commission until rescinded or amended. They may be suspended, rescinded or amended by an affirmative vote of seven (7) members of the Commission at a regular or supplementary meeting. Public notice of proposals to amend the bylaws shall be included on a regularly scheduled agenda with notification included in the Public Media Calendar at least one week prior to the meeting where the amendments will be considered by the Commission.

Police Commission

Memorandum

City of Eugene
777 Pearl Street, Room 106
Eugene, Oregon 97401
(541) 682-5852

August 29, 2011

To: Members of the Police Commission

From: Carter Hawley, Police Commission Analyst

Subject: Committee Recommendation on Search and Seizure Policy

At its meeting on September 8, the Police Commission will be asked to consider the recommendation of the Policy Screening and Review Committee (PSRC) regarding the search and seizure policy. Included in the Police Commission packet for the meeting will be a copy of the policy that the Committee will be reviewing at its meeting September 1.

If the PSRC makes any changes to the policy, an updated policy will be provided to the Police Commission, highlighting the areas of difference.

Proposed Changes to Search and Seizure

The red line version of the proposed policy includes useful comments from Chuck Tilby, Policy Analyst for the Department. As indicated in his notes, many of the proposed changes are the result of state or federal litigation, or an agreement reached that involved Lexipol and the ACLU – California. In addition to these changes, the following changes were requested by the PSRC and reflected in the proposal:

- Clarification that a search can be conducted on personal property or belongings (p. 3 of red line). This was to address the request of the PSRC to include language specifying the circumstances when a backpack can be searched.
- Expanded language about the desire and value of obtaining consent to search (p. 4 of redline)
- Additional clarification about the role of the Coordinating Officer (p. 7 of redline)
- Clarification that section that used to be related to blood samples relates to all body fluid samples (p. 8 of redline)
- Addition of a section about electronic enhancements (p. 11 of redline). This language was added to address a concern of the PSRC about the use of thermal imaging.

Again, if the PSRC makes any final changes to the policy, an updated copy will be distributed to the Commission, highlighting any changes.

POLICY
322

FINAL DATE
Draft 080911

Eugene Police Department

PSRC TRACK

Search and Seizure

322.1 PURPOSE AND SCOPE

Case law regarding search and seizure is ever changing and frequently subject to interpretation under the varying facts of each situation. This policy is intended to provide a few of the basic guidelines that may assist an officer in evaluating search and seizure issues. Specific situations should be handled according to current training and an officer's familiarity with clearly established case law. For information about searches of persons in custody, refer to Policy 902.

Comment [cepdcrt1]: Lexipol's introduction to the entire policy emphasized that the development of the policy was done in coordination with the ACLU, based upon some ongoing and subsequent legal proceedings.

322.2 REASONABLE EXPECTATION OF PRIVACY

Both the United States and Oregon Constitutions provide every individual with the right to be free from unreasonable governmental intrusion. As a general rule, members of this department should not physically enter any area, or search any property or possessions where an individual has a reasonable expectation of privacy in order to conduct a search or seizure without one or more of the following:

- A search warrant
- Probable cause accompanied by an exception to the warrant requirement (e.g., exigency, plain view, search incident to arrest, vehicle exception)
- Valid Consent
- Community Caretaking/Emergency Aid (see 322.5)

Except in cases of fresh pursuit, consent, or when exigent circumstances exist, a search warrant will be obtained prior to making entry into premises to serve an **arrest warrant**, unless the subject of the warrant resides in those premises and there is probable cause to believe s/he is present at that time.

Comment [cepdcrt2]: Oregon and Federal courts/statutes

Comment [cepdcrt3]: PSRC/ACLU concerns about including personal property such as backpacks. ACLU approved this in concept.

Comment [cepdcrt4]: PSRC 040511:agreed that valid is appropriate modifier for "consent" and not for "search warrant"

Comment [cepdcrt5]: PSRC 040511: agreed moving this back to this location (as is in Lexipol base policy) because it adds emphasis.

322.3 SPECIFIC SITUATIONS

Members of this department will conduct property searches in a manner that returns the condition of the property to its pre-search status as nearly as reasonably practical.

Members of this department should attempt to gain keys to locked property when a search is anticipated and the time and effort required to gain the keys makes it a practical option.

Comment [cepdcrt6]: Best practice

Comment [cepdcrt7]: This should be an introductory paragraph that applies to all property searches

Comment [cepdcrt8]: Single paragraph

322.3.1 RESIDENCE

Absent a search warrant, an exception to the warrant requirement, probation or parole authorization, or consent, every person has a reasonable expectation of privacy inside his/her

home. Individuals do not, however, generally have a reasonable expectation of privacy in areas around their home where the general public (e.g., mail carriers, solicitors) would reasonably be permitted to go unless they have taken affirmative measures to exclude the general public, such as posting “no trespassing” signs.

322.3.2 PLAIN VIEW

Comment [cepdcrt9]: Federal courts/statute

Because an individual does not have an expectation of privacy as to items that are in plain view, no "search" has taken place in a constitutional sense when an object is viewed from a location where the officer has a right to be.

(a) An item in plain view may generally be seized when all of the following conditions exist:
1. It was viewed from a lawful location
2. There is probable cause to believe that the item is linked to criminal activity
3. The location of the item can be legally accessed

Comment [cepdcrt10]: Removed from Lexipol policy on 2010-1010 without comment. Added back because it is legal standard.

(b) The object of a search and/or seizure must be one of the following (ORS 133.535):
1. Evidence or information pertaining to a crime
2. Contraband
3. Proceeds or fruits of a crime
4. Items used in the course of the commission of a crime (instrumentalities)
5. A person for whom there exists a warrant or probable cause to arrest, or who is unlawfully held in concealment.

It is important to note that the so-called "Nexus Rule" requires that even items in plain view must not be seized unless there is probable cause to believe that the item is evidence or will aid in an investigation. Such a nexus should be included in any related reports.

322.3.3 EXIGENT CIRCUMSTANCES

Comment [cepdcrt11]: Federal courts/statute

Exigent circumstances permitting entry into premises without a warrant or valid consent generally include any of the following:

(a) Imminent danger of injury or death
(b) Serious damage to property
(c) Imminent escape of a suspect
(d) The destruction of evidence

An exigency created by the officer’s own conduct as an excuse for a warrantless entry is not generally permitted.

322.3.4 PERSON SEARCHES

Comment [cepdcrt12]: Moved from section above as this is a “certain circumstance”

(a) Members of this department will conduct person searches with dignity and courtesy.

Comment [cepdcrt13]: Best practice

(b) When the person to be searched is of the opposite sex of the officer, an officer of the same sex should be summoned to the scene to conduct the search.

Comment [cepdcrt14]: Best practice

(c) A search may be undertaken of a member of the opposite sex when it is not practical to summon an officer of the same sex. In these instances the officers will adhere to the following guidelines:

Comment [cepdcrt15]: Best practice

1. A supervisor and/or one other officer should witness the search, if practical.

2. Officers will use the back side of the hands and fingers to search sensitive areas of the opposite sex to include the breast, crotch, and buttocks areas.

(d) The officer will explain to the person being searched the reason for the search and how the officer will conduct the search.

Comment [cepdcrt16]: Best practice

322.3.5 PAROLE AND PROBATION SEARCHES

Comment [cepdcrt17]: Best practice

Unless otherwise permissible under another section of this policy, officers may not conduct parole or probation searches without authorization from the subject's supervising parole or probation officer. Any search predicated on a condition of parole or probation must be based on reasonable grounds to believe that evidence of a violation will be found (ORS 137.540(1)(i) and 144.270(3)(b)(A)). If the person refuses to allow the search, this may constitute a violation of his/her conditions of parole or probation, but will generally not justify a search by an officer absent a warrant or a separate warrant exception.

322.3.6 ~~AUTOMOBILE~~ VEHICLE EXCEPTION

Comment [cepdcrt18]: 072611 PSRC discussion that automobile may not be broad enough to incorporate motor cycles, bikes, trucks, etc. Opted for "Vehicle" instead of trying to define all the things this applies to.

The Vehicle Exception that permits search of a vehicle,~~n automobile~~ and the containers therein, without a warrant exists when:

1) The officer has probable cause to believe that the vehicle contains contraband or other evidence of a crime;
2) The vehicle was mobile before the initial police contact; AND
3) The vehicle is~~must be~~ attended and operable at the time of the search.

Comment [cepdcrt19]: A motor vehicle and containers found within may be searched when probable cause exists to believe that the vehicle may reasonably contain contraband or the fruits or instrumentalities of a crime, AND the vehicle is mobile.
Rejecte by PSRC 0623 in preference to this alternative.

The Vehicle Exception ceases to exist when the vehicle~~automobile~~ is impounded.

Comment [C20]: Suggested per McIntyre based on Oregon AG Search and Seizure Manual 2010, State v. Brown, 301 Or 268 (1986)

The term vehicle applies to non-motorized conveyance such as bicycles.

Comment [C21]: Case law a fuzzy on definition: best clarified in training until courts come up with a good definition or another word.

Comment [C22]: ." State v. Woodall, 181 Or App 213 (2002).

322.4 CONSENT

Comment [cepdcrt23]: Federal courts/statute

Entry into a location for the purpose of conducting a search, or searching personal property/belongings for any item reasonably believed relevant to any criminal investigation is permitted once valid consent has been obtained. Consent, however, is only valid if the following criteria are met:

- Voluntary (i.e., clear, specific, and unequivocal).
- Obtained from a person with authority to give the consent, and has not been precluded by a person with equal legal authority.
- The search does not exceed the scope of the consent given.

Comment [cepdcrt24]: PSRC and ACLU agreed that personal belongings need to be included. ACLU agreed in concept and suggested this location.

Unless unusual circumstances would prevent the use of the Department's Consent to Search form, officers should have the individual read the form, ensure s/he understands it, and provide the person with a copy after s/he has signed it. The Consent to Search form provides strong support for the validity of any consent.

Comment [cepdcrt25]: Moved from below

If unusual circumstances prevent the use of the Consent to Search form, officers should describe such circumstances in related report(s).

A person with authority to consent to a search should be present or otherwise in a position to communicate a withdrawal of consent should s/he so desire. Absent other legal justification, any related search should be discontinued at any point that consent is withdrawn.

The most important factor the courts will consider when determining if consent was valid is the voluntariness of the consent based upon the totality of the circumstances.~~If unusual circumstances prevent the use of the Consent to Search form, officers should describe such circumstances in related report(s).~~

Comment [cepdcrt26]: PSRC 062311 requested "totality of circumstances" be added. Section re-worked for 062811 version.

~~While there is no requirement that an individual be told of his/her right to refuse consent, such a warning and the use of the Consent to Search form provide strong support for the validity of any consent~~

Comment [cepdcrt27]: Alternative provided:

Comment [cepdcrt28]: PSRC requested alternative language which was provided. 6/21 discussion landed on inclusion of several separate passages.

Comment [C29]: PSRC on 051011 with 3 attending, voted 2-1 to remove this sentence, stating that there was no need to advise of the right to refuse, because they were concerned that it became de-facto permission not to advise

- Consent must be obtained as the product of a free will. It cannot be obtained through submission to authority, expressed or implied.
- Knowledge of the right to refuse must be established. It is strongly recommended that the subject be told of the right to refuse if the Consent to Search form is not used.
- The person's ability to understand the request for consent should be considered. If the subject does not speak English, the consent shall be sought in the subject's native language, or by any other manner reasonably expected to advise the subject of their options.
- The person's age, education and other indicators of general cognitive ability can also be factors in determining whether, or not, the subject understands and is knowingly and voluntarily giving consent.

322.5 COMMUNITY CARETAKING/EMERGENCY AID

Comment [EHC30]: This section is modeled after Portland PB language.

ORS 133.033(2) authorizes peace officers to enter or remain upon premises if it reasonably appears to be necessary to:

- Prevent serious harm to any person or property;
- Render aid to injured or ill persons; or
- Locate missing persons.

Prior to making entry into a premise under the authority of this statute or pursuant to emergency aid, an officer will notify a supervisor of the circumstances justifying the need for entry, unless exigent circumstances preclude such notification.

Any officer making entry under the authority of this statute will prepare a report detailing his/her actions and the justification for them.

Comment [cepdcrt31]: Seizure of weapons when not evidence and no consent is being researched by attorneys

322.6 SEARCH WARRANTS

Comment [EHC32]: The remainder of the policy is primarily from EPD GO 304.4 – Search Warrants

322.6.1 OBTAINING A WARRANT

(a) Inform your supervisor of your intent to apply for a search warrant.

(b) Consult with the appropriate prosecutor regarding elements and language needed for the search warrant and affidavit.

(c) Obtain a description of the items to be sought.

(d) Obtain a legal description of the premises to be searched. Include address, color, and any distinctive features (e.g., number of levels, type of construction). If the warrant involves a vehicle, obtain the complete vehicle description, including license and VIN.

(e) When dealing with premises, verify any facts that link your person or evidence with the premises (e.g., local computer records; DMV records; EWEB, Qwest, or other utility where subscriber information can be utilized).

(f) Obtain as much information as possible about the physical layout of the location to be searched and background information on any persons likely to be present when the warrant is served.

(g) Discuss any safety issues with a supervisor and evaluate risk factors to determine if SWAT service of the warrant may be appropriate. Complete a *Planned Operation Risk Assessment* form and follow procedures listed in General Order 1201.5 if the criteria listed in that policy are met.

(h) Prepare the affidavit and the warrant, and review them with a supervisor and a Deputy District Attorney prior to presenting them to a judge. Discuss with the Deputy District Attorney issues regarding

- Notice (i.e., “knock and announce”) required before entering the premises to serve the warrant.
- Day or night service requirements

Comment [cepdcrt33]: PSRC request to articulate

(i) Present 2 copies of the affidavit and at least 3 copies of the search warrant to the appropriate court judge. The judge will retain one signed copy of the warrant and one signed affidavit. You will retain the remaining signed copies of the warrant and the other signed affidavit. (The extra signed affidavit is for your records or may be attached to your report regarding the execution of the search warrant.) One copy of the warrant will be read to the occupant/defendant, and will stay with that person along with a list of the items seized. The final copy of the warrant will be submitted with the return of search warrant.

322.6.2 SERVING THE WARRANT

(a) **General provisions**

(1) All officers involved in serving the search warrant must wear protective body armor. Plainclothes officers should also wear police raid jackets and caps, unless circumstances preclude doing so.

(2) Consider restricting radio traffic on the radio talk group/channel being used before serving the warrant for officer safety purposes. Clear the restriction as soon as operational conditions allow.

(3)~~A supervisor should normally oversee execution of the warrant, and will assign responsibilities to involved officers~~ Officers will knock and announce prior to all entries to serve search warrants unless a judge has authorized an unannounced entry in the issuance of a warrant.

(5) The scope of searches pursuant to search warrants is limited to the premises specified in the warrant and for only those items specified to be seized. Specifically:

- Officers may search only in those places where the evidence they are authorized to seek may be found.
- The search must be terminated once all items specified in the warrant are discovered
- If during the execution of the warrant, there is discovery of evidence not specified in the warrant (even when the evidence is of a crime unrelated to the warrant) it may be seized under the plain view exception
- Unless specifically authorized by the search warrant, people on the premises may not be searched for evidence, unless there is probable cause to believe they are in possession of the evidence specified in the warrant. However, such persons may be frisked for weapons and be brought to a central location for observation during the search.
- Unless there is probable cause to arrest such persons, they will be allowed to leave if that is they desire

Comment [cepdcrt34]: Tucson PD 2225.2 "Officers will knock and announce prior to all entries to serve search warrants unless a Magistrate has authorized an unannounced entry in the issuance of a warrant, or a Commander has approved the unannounced entry. The Commander granting the approval should complete a police report completely documenting the facts and circumstances that justified the "no-knock" entry. Arizona law provides that an officer may break open a door or a window of any building in which a person to be arrested is reasonably believed to be, if the officer is refused admittance after the officer has announced the officer's authority and purpose."

Comment [cepdcrt35]: PPB 6542.00

Comment [cepdcrt36]: Tucson 2225.4

(b) **Supervisor**

A supervisor should oversee preparation for and execution of the warrant if the location to be searched is occupied or the execution will require forced entry and conduct a pre-service briefing that includes:

(1) All personnel and their assignments

~~(1)~~(2) Diagrams, sketches, photographs and/or maps of the location to be searched

~~(2)~~(3) Special equipment needed or utilized

(4) Safety issues and plans in case of an emergency

(c) **Coordinating Officer**

(1) The affiant will normally serve as the coordinating officer, unless another officer is assigned to do so by the supervisor.

(2) The Coordinating Officer will work closely with the Supervisor to ensure that all of the duties listed below and all of the functions identified below are fulfilled.

(3) Ensure the Watch Commander and Communications Supervisor of the appropriate jurisdiction are aware of the location to be searched and the officers involved.

(4) Coordinate the service of the warrant.

(5) After securing the premises, but prior to the actual search, ask subjects if there is any money or property of unusual value present. If there is, the Coordinating Officer will ensure that the money and property are located, photographed, inventoried and secured prior to the remainder of the search being conducted.

- Count substantial amounts of cash in the presence of the owner and another officer, before entering that amount on the property/evidence report. If the cash is seized as evidence, have the owner and witness officer initial the entry on the Property/Evidence report.

- ~~Inventory all cash and property of unusual value.~~ If money or valuable property are not seized as evidence, return it to the custody of the owner. Have the owner sign the inventory listing, acknowledging return of the items.

- If the person in possession of valuables is to be arrested, that person is responsible to arrange for the safe storage of the property. Take any reasonable steps to comply with the wishes of the property owner

- If you discover valuables during the search of an unoccupied premise, take all reasonable steps necessary, including seizure of the property for safekeeping, to ensure its safety.

(6) Photograph the entire area to be searched in order to document the condition of premises when police arrived.

(7) Ensure that the warrant is read to the person in charge of the premises and give him/her a copy. If the premise is unoccupied, leave a copy of the warrant in a conspicuous place. (The affidavit is not part of the warrant.)

(8) Photograph and document (via police report or memorandum) any damage caused by officers during service of the search warrant. Officers should take care to avoid damaging property whenever possible.

(9) Photograph all areas searched to document the condition of items and property when the search is concluded.

(10) Secure and compile reports by officers.

(11) Return the search warrant to the court within five days after service. A signed copy of the warrant along with an itemized list of the items seized during service of the warrant will accompany the return.

(d) **Evidence Officer**

(1) Seize all items which are to be taken as evidence. Maintain custody and create a written record of the items and the location where they were found.

(2) Whenever practical, ensure that each item to be seized is photographed as found, before it is moved.

(3) Prepare a complete evidence report listing all items seized which will be the basis for the return of the search warrant. Give a copy of the evidence report to the person in charge of the premises. When premises are unoccupied, leave a copy of the evidence report with the copy of the warrant that is left.

(4) Numbering of items on the Evidence/Property Report must be consistent with General Order 601.2.

(5) Mark, package, and submit the evidence.

(e) **Photographer**

(1) Consider the desirability of videotaping the scene.

(2) Take video or photographs which depict the overall condition of each room prior to the search and after the search.

(3) Videotape or photograph any property damage ensuing from entry or search.

(4) When reasonable to do so, photograph each item to be seized in its original location prior to moving it.

(f) **Search Officer**

(1) Search each room or area of the premises in a careful, thorough, and orderly manner.

(2) Wear protective gloves when necessary to protect evidence (e.g., latent prints) and/or for personal safety.

(3) Notify the Photographer and Evidence Officer when you find an item to be seized.

322.6.3 SEIZURE OF BODY FLUIDS~~LOOD SAMPLES~~

(a) You may ~~draw blood~~obtain bodily fluids for evidence after consent or with a search warrant. Blood is the most common fluid obtained for evidence, but the same general procedures apply to the collection of any body fluids such as saliva, semen and urine.

(1) First, attempt to obtain consent from the suspect, witnessed by some other person, or consistent with other provisions of Oregon law, such as Implied Consent, if appropriate.

(2) The County Health Department nurse is retained by contract with the District Attorney's Office and will respond only at their authorization.

(3) The nurse supplies the seizure kit. In the case of blood draw for alcohol content evidence, the nurse will generally draw two specimens, one hour apart, to facilitate determination of the alcohol dissipation rate.

- In this case, officers must remain with the suspect prior to and between blood draws to prevent ingestion of substances which could alter test results
- If no breath test is given, mark the evidence sheet "No Breath Test Given."
- Complete any applicable forms required by the medical facility
- Refer to General Order 303.11 (DUII Enforcement) for information regarding blood samples related to DUII investigations

(b) Compelling collection of body fluids

(1) With a search warrant, a County Health Nurse can draw blood or collect other fluid samples, despite any objections by the medical facility, unless an attending physician determines that drawing fluid samples will jeopardize the patient's medical condition.

(c) The D.A.'s office will review all affidavits for search warrants to seize body fluids. There is a sample affidavit and search warrant available in the Violent Crimes Unit and the Watch Commander's Office.

(d) Take custody of fluid samples (tubes), package appropriately, and place them in an intake locker in the evidence/property submission room (refer General Order 601.2).

(1) Do not expose samples to excessive heat (e.g., car heater, engine hood, direct sunlight), attempt to keep the samples as cool as possible. If the samples are collected on a weekend contact the PCU Supervisor for assistance in getting the samples refrigerated,

(2) Blood samples are the most susceptible to degradation due to exposure to heat for a protracted time or not being refrigerated within a reasonable time.

(3) Use a "Bio Hazard" label on the packaging.

(e) Body fluid samples will be submitted to PCU as soon as possible following collection. If there is reason to believe that PCU employees will not be working in the next 24 hours (i.e. weekends or holidays), call the PCU/FEU supervisor to advise them of the submission of body fluids.

322.6.4 TELEPHONIC SEARCH WARRANTS – EUGENE MUNICIPAL COURT

Comment [cepdcrt37]: 072611 PSRC noted "your" as maybe inconsistent formatting.

This procedure is for use in incidents involving violations of the Eugene Municipal Code related to prohibited noise when people in control of the involved premises do not consent to police entry or search of the property.

(a) Inform your supervisor of your intent to apply for a warrant.

Comment [cepdcrt38]: Consistent with Search Warrant section

(b) Prepare the application for a search warrant using the form provided by the City Prosecutor.

(c) Upon completion of the application, contact the on-call City Prosecutor. Read the document to him/her, and get verbal authorization to contact the Municipal Court Judge.

(d) Contact a judge (whose name is on the list provided by Municipal Court) by telephone and apply for the warrant.

(1) Make sure the conversation is tape-recorded. The Eugene Police Department~~We~~ are responsible to make the recording, which must begin immediately upon contact with the judge.

(2) After ~~you~~ explaining the ~~your~~ need for the warrant, the judge will place you under oath. Read the application to the judge, and s/he will make a determination if probable cause has been established.

(3) If the judge authorizes a search warrant, ~~you~~officers or the City Prosecutor will be given verbal authorization to prepare the search warrant using the form provided by the City Prosecutor.

(4) There will be three copies of the warrant: one which is served, one for ~~your~~inclusion with -reports, and one to be returned to the judge. The judge will sign the original warrant returned to him/her and include it in the court file.

(e) Once the warrant has been authorized and completed, notify your supervisor and arrange for service of the warrant (refer to § 322.5.2 above).

(f) The search warrant, an inventory of items seized, the original tape recording, and a transcription of the telephone recording must be returned to the judge within 5 days following the execution of the warrant.

(1) It is the affiant officers~~your~~ responsibility to ensure the judge receives these items. ~~You may ask for assistance from~~ Court Liaison may assist with delivering them to the judge ~~if you are unable to return them yourself~~.

(2) Normally, the Patrol Division Administrative Specialist will be available to transcribe the telephone recording.

(g) The ~~Your~~ police report package should include:

- incident and/or custody report
- details of the incident, including a list of evidence seized
- the application for the search warrant
- the search warrant
- a copy of the transcription of the telephone conversation

(h) A copy of the tape recording should be made and placed in evidence.

(i) Route a copy of all completed reports and accompanying documents to the appropriate watch commander.

322.6.5 Electronic Enhancement

Electronic enhancement of human observation, such as Global Positioning Systems, Thermal Imaging Devices, etc., have implications on Search and Seizure that are predicated on particular fact situations and subject to complex and changing rules from courts. Therefore, prior to implementing the use of such devices, officers will consult with the DA or other prosecutor assigned to the case.

Comment [cepdcrt39]: PSRC wanted this addressed. Attorney consulted. Due to the nature of litigation, it is difficult to articulate a policy that will sustain for any period of time. The reasonable approach is to highlight the issue that these have privacy implications and refer officers to prosecutors for legal advice. ACLU agrees.

POLICY
322

FINAL DATE
Draft 080911

Eugene Police Department

PSRC TRACK

Search and Seizure

322.1 PURPOSE AND SCOPE

Case law regarding search and seizure is ever changing and frequently subject to interpretation under the varying facts of each situation. This policy is intended to provide a few of the basic guidelines that may assist an officer in evaluating search and seizure issues. Specific situations should be handled according to current training and an officer's familiarity with clearly established case law. For information about searches of persons in custody, refer to Policy 902.

322.2 REASONABLE EXPECTATION OF PRIVACY

Both the United States and Oregon Constitutions provide every individual with the right to be free from unreasonable governmental intrusion. As a general rule, members of this department should not physically enter any area, or search any property or possessions where an individual has a reasonable expectation of privacy in order to conduct a search or seizure without one or more of the following:

- A search warrant
- Probable cause accompanied by an exception to the warrant requirement (e.g., exigency, plain view, search incident to arrest, vehicle exception)
- Valid Consent
- Community Caretaking/Emergency Aid (see 322.5)

Except in cases of fresh pursuit, consent, or when exigent circumstances exist, a search warrant will be obtained prior to making entry into premises to serve an **arrest warrant**, unless the subject of the warrant resides in those premises and there is probable cause to believe s/he is present at that time.

322.3 SPECIFIC SITUATIONS

Members of this department will conduct property searches in a manner that returns the condition of the property to its pre-search status as nearly as reasonably practical.

Members of this department should attempt to gain keys to locked property when a search is anticipated and the time and effort required to gain the keys makes it a practical option.

322.3.1 RESIDENCE

Absent a search warrant, an exception to the warrant requirement, probation or parole authorization, or consent, every person has a reasonable expectation of privacy inside his/her

home. Individuals do not, however, generally have a reasonable expectation of privacy in areas around their home where the general public (e.g., mail carriers, solicitors) would reasonably be permitted to go unless they have taken affirmative measures to exclude the general public, such as posting “no trespassing” signs.

322.3.2 PLAIN VIEW

Because an individual does not have an expectation of privacy as to items that are in plain view, no "search" has taken place in a constitutional sense when an object is viewed from a location where the officer has a right to be.

(a) An item in plain view may generally be seized when all of the following conditions exist:
1. It was viewed from a lawful location
2. There is probable cause to believe that the item is linked to criminal activity
3. The location of the item can be legally accessed

(b) The object of a search and/or seizure must be one of the following (ORS 133.535):
1. Evidence or information pertaining to a crime
2. Contraband
3. Proceeds or fruits of a crime
4. Items used in the course of the commission of a crime (instrumentalities)
5. A person for whom there exists a warrant or probable cause to arrest, or who is unlawfully held in concealment.

It is important to note that the so-called "Nexus Rule" requires that even items in plain view must not be seized unless there is probable cause to believe that the item is evidence or will aid in an investigation. Such a nexus should be included in any related reports.

322.3.3 EXIGENT CIRCUMSTANCES

Exigent circumstances permitting entry into premises without a warrant or valid consent generally include any of the following:

(a) Imminent danger of injury or death
(b) Serious damage to property
(c) Imminent escape of a suspect
(d) The destruction of evidence

An exigency created by the officer’s own conduct as an excuse for a warrantless entry is not generally permitted.

322.3.4 PERSON SEARCHES

(a) Members of this department will conduct person searches with dignity and courtesy.

(b) When the person to be searched is of the opposite sex of the officer, an officer of the same sex should be summoned to the scene to conduct the search.

(c) A search may be undertaken of a member of the opposite sex when it is not practical to summon an officer of the same sex. In these instances the officers will adhere to the following guidelines:
1. A supervisor and/or one other officer should witness the search, if practical.

2. Officers will use the back side of the hands and fingers to search sensitive areas of the opposite sex to include the breast, crotch, and buttocks areas.

(d) The officer will explain to the person being searched the reason for the search and how the officer will conduct the search.

322.3.5 PAROLE AND PROBATION SEARCHES

Unless otherwise permissible under another section of this policy, officers may not conduct parole or probation searches without authorization from the subject's supervising parole or probation officer. Any search predicated on a condition of parole or probation must be based on reasonable grounds to believe that evidence of a violation will be found (ORS 137.540(1)(i) and 144.270(3)(b)(A)). If the person refuses to allow the search, this may constitute a violation of his/her conditions of parole or probation, but will generally not justify a search by an officer absent a warrant or a separate warrant exception.

322.3.6 VEHICLE EXCEPTION

The Vehicle Exception that permits search of a vehicle, and the containers therein, without a warrant exists when:

1) The officer has probable cause to believe that the vehicle contains contraband or other evidence of a crime;
2) The vehicle was mobile before the initial police contact; AND
3) The vehicle is attended and operable at the time of the search.

The Vehicle Exception ceases to exist when the vehicle is impounded.

The term vehicle applies to non-motorized conveyance such as bicycles.

322.4 CONSENT

Entry into a location for the purpose of conducting a search, or searching personal property/belongings for any item reasonably believed relevant to any criminal investigation is permitted once valid consent has been obtained. Consent, however, is only valid if the following criteria are met:

- Voluntary (i.e., clear, specific, and unequivocal).
- Obtained from a person with authority to give the consent, and has not been precluded by a person with equal legal authority.
- The search does not exceed the scope of the consent given.

Unless unusual circumstances would prevent the use of the Department's Consent to Search form, officers should have the individual read the form, ensure s/he understands it, and provide the person with a copy after s/he has signed it. The Consent to Search form provides strong support for the validity of any consent.

If unusual circumstances prevent the use of the Consent to Search form, officers should describe such circumstances in related report(s).

A person with authority to consent to a search should be present or otherwise in a position to communicate a withdrawal of consent should s/he so desire. Absent other legal justification, any related search should be discontinued at any point that consent is withdrawn.

The most important factor the courts will consider when determining if consent was valid is the voluntariness of the consent based upon the totality of the circumstances.

- Consent must be obtained as the product of a free will. It cannot be obtained through submission to authority, expressed or implied.

- Knowledge of the right to refuse must be established. It is strongly recommended that the subject be told of the right to refuse if the Consent to Search form is not used.

- The person's ability to understand the request for consent should be considered. If the subject does not speak English, the consent shall be sought in the subject's native language, or by any other manner reasonably expected to advise the subject of their options.

- The person's age, education and other indicators of general cognitive ability can also be factors in determining whether, or not, the subject understands and is knowingly and voluntarily giving consent.

322.5 COMMUNITY CARETAKING/EMERGENCY AID

ORS 133.033(2) authorizes peace officers to enter or remain upon premises if it reasonably appears to be necessary to:

- Prevent serious harm to any person or property;

- Render aid to injured or ill persons; or

- Locate missing persons.

Prior to making entry into a premise under the authority of this statute or pursuant to emergency aid, an officer will notify a supervisor of the circumstances justifying the need for entry, unless exigent circumstances preclude such notification.

Any officer making entry under the authority of this statute will prepare a report detailing his/her actions and the justification for them.

322.6 SEARCH WARRANTS

322.6.1 OBTAINING A WARRANT

(a) Inform your supervisor of your intent to apply for a search warrant.

(b) Consult with the appropriate prosecutor regarding elements and language needed for the search warrant and affidavit.

(c) Obtain a description of the items to be sought.

(d) Obtain a legal description of the premises to be searched. Include address, color, and any distinctive features (e.g., number of levels, type of construction). If the warrant involves a vehicle, obtain the complete vehicle description, including license and VIN.

(e) When dealing with premises, verify any facts that link your person or evidence with the premises (e.g., local computer records; DMV records; EWEB, Qwest, or other utility where subscriber information can be utilized).

(f) Obtain as much information as possible about the physical layout of the location to be searched and background information on any persons likely to be present when the warrant is served.

(g) Discuss any safety issues with a supervisor and evaluate risk factors to determine if SWAT service of the warrant may be appropriate. Complete a *Planned Operation Risk Assessment* form and follow procedures listed in General Order 1201.5 if the criteria listed in that policy are met.

(h) Prepare the affidavit and the warrant, and review them with a supervisor and a Deputy District Attorney prior to presenting them to a judge. Discuss with the Deputy District Attorney issues regarding

- Notice (i.e., “knock and announce”) required before entering the premises to serve the warrant.

- Day or night service requirements

(i) Present 2 copies of the affidavit and at least 3 copies of the search warrant to the appropriate court judge. The judge will retain one signed copy of the warrant and one signed affidavit. You will retain the remaining signed copies of the warrant and the other signed affidavit. (The extra signed affidavit is for your records or may be attached to your report regarding the execution of the search warrant.) One copy of the warrant will be read to the occupant/defendant, and will stay with that person along with a list of the items seized. The final copy of the warrant will be submitted with the return of search warrant.

322.6.2 SERVING THE WARRANT

(a) **General provisions**

(1) All officers involved in serving the search warrant must wear protective body armor. Plainclothes officers should also wear police raid jackets and caps, unless circumstances preclude doing so.

(2) Consider restricting radio traffic on the radio talk group/channel being used before serving the warrant for officer safety purposes. Clear the restriction as soon as operational conditions allow.

(3) Officers will knock and announce prior to all entries to serve search warrants unless a judge has authorized an unannounced entry in the issuance of a warrant.

(5) The scope of searches pursuant to search warrants is limited to the premises specified in the warrant and for only those items specified to be seized. Specifically:

- Officers may search only in those places where the evidence they are authorized to seek may be found.
- The search must be terminated once all items specified in the warrant are discovered
- If during the execution of the warrant, there is discovery of evidence not specified in the warrant (even when the evidence is of a crime unrelated to the warrant) it may be seized under the plain view exception
- Unless specifically authorized by the search warrant, people on the premises may not be searched for evidence, unless there is probable cause to believe they are in possession of the evidence specified in the warrant. However, such persons may be frisked for weapons and be brought to a central location for observation during the search.
- Unless there is probable cause to arrest such persons, they will be allowed to leave if that is they desire

(b) **Supervisor**

A supervisor should oversee preparation for and execution of the warrant if the location to be searched is occupied or the execution will require forced entry and conduct a pre-service briefing that includes:

(1) All personnel and their assignments

(2) Diagrams, sketches, photographs and/or maps of the location to be searched

(3) Special equipment needed or utilized

(4) Safety issues and plans in case of an emergency

(c) **Coordinating Officer**

(1) The affiant will normally serve as the coordinating officer, unless another officer is assigned to do so by the supervisor.

(2) The Coordinating Officer will work closely with the Supervisor to ensure that all of the duties listed below and all of the functions identified below are fulfilled.

(3) Ensure the Watch Commander and Communications Supervisor of the appropriate jurisdiction are aware of the location to be searched and the officers involved.

(4) Coordinate the service of the warrant.

(5) After securing the premises, but prior to the actual search, ask subjects if there is any money or property of unusual value present. If there is, the Coordinating Officer will

ensure that the money and property are located, photographed, inventoried and secured prior to the remainder of the search being conducted.

- Count substantial amounts of cash in the presence of the owner and another officer, before entering that amount on the property/evidence report. If the cash is seized as evidence, have the owner and witness officer initial the entry on the Property/Evidence report.

- If money or valuable property are not seized as evidence, return it to the custody of the owner. Have the owner sign the inventory listing, acknowledging return of the items.

- If the person in possession of valuables is to be arrested, that person is responsible to arrange for the safe storage of the property. Take any reasonable steps to comply with the wishes of the property owner

- If you discover valuables during the search of an unoccupied premise, take all reasonable steps necessary, including seizure of the property for safekeeping, to ensure its safety.

(6) Photograph the entire area to be searched in order to document the condition of premises when police arrived.

(7) Ensure that the warrant is read to the person in charge of the premises and give him/her a copy. If the premise is unoccupied, leave a copy of the warrant in a conspicuous place. (The affidavit is not part of the warrant.)

(8) Photograph and document (via police report or memorandum) any damage caused by officers during service of the search warrant. Officers should take care to avoid damaging property whenever possible.

(9) Photograph all areas searched to document the condition of items and property when the search is concluded.

(10) Secure and compile reports by officers.

(11) Return the search warrant to the court within five days after service. A signed copy of the warrant along with an itemized list of the items seized during service of the warrant will accompany the return.

(d) **Evidence Officer**

(1) Seize all items which are to be taken as evidence. Maintain custody and create a written record of the items and the location where they were found.

(2) Whenever practical, ensure that each item to be seized is photographed as found, before it is moved.

(3) Prepare a complete evidence report listing all items seized which will be the basis for the return of the search warrant. Give a copy of the evidence report to the person in charge of the premises. When premises are unoccupied, leave a copy of the evidence report with the copy of the warrant that is left.

(4) Numbering of items on the Evidence/Property Report must be consistent with General Order 601.2.

(5) Mark, package, and submit the evidence.

(e) **Photographer**

(1) Consider the desirability of videotaping the scene.

(2) Take video or photographs which depict the overall condition of each room prior to the search and after the search.

(3) Videotape or photograph any property damage ensuing from entry or search.

(4) When reasonable to do so, photograph each item to be seized in its original location prior to moving it.

(f) **Search Officer**

(1) Search each room or area of the premises in a careful, thorough, and orderly manner.

(2) Wear protective gloves when necessary to protect evidence (e.g., latent prints) and/or for personal safety.

(3) Notify the Photographer and Evidence Officer when you find an item to be seized.

322.6.3 SEIZURE OF BODY FLUIDS

(a) You may obtain bodily fluids for evidence after consent or with a search warrant. Blood is the most common fluid obtained for evidence, but the same general procedures apply to the collection of any body fluids such as saliva, semen and urine.

(1) First, attempt to obtain consent from the suspect, witnessed by some other person, or consistent with other provisions of Oregon law, such as Implied Consent, if appropriate.

(2) The County Health Department nurse is retained by contract with the District Attorney's Office and will respond only at their authorization.

(3) The nurse supplies the seizure kit. In the case of blood draw for alcohol content evidence, the nurse will generally draw two specimens, one hour apart, to facilitate determination of the alcohol dissipation rate.

- In this case, officers must remain with the suspect prior to and between blood draws to prevent ingestion of substances which could alter test results

- If no breath test is given, mark the evidence sheet “No Breath Test Given.”

- Complete any applicable forms required by the medical facility

- Refer to General Order 303.11 (DUII Enforcement) for information regarding blood samples related to DUII investigations

(b) Compelling collection of body fluids

(1) With a search warrant, a County Health Nurse can draw blood or collect other fluid samples, despite any objections by the medical facility, unless an attending physician determines that drawing fluid samples will jeopardize the patient's medical condition.

(c) The D.A.'s office will review all affidavits for search warrants to seize body fluids. There is a sample affidavit and search warrant available in the Violent Crimes Unit and the Watch Commander's Office.

(d) Take custody of fluid samples (tubes), package appropriately, and place them in an intake locker in the evidence/property submission room (refer General Order 601.2).

(1) Do not expose samples to excessive heat (e.g., car heater, engine hood, direct sunlight), attempt to keep the samples as cool as possible. If the samples are collected on a weekend contact the PCU Supervisor for assistance in getting the samples refrigerated,

(2) Blood samples are the most susceptible to degradation due to exposure to heat for a protracted time or not being refrigerated within a reasonable time.

(3) Use a “Bio Hazard” label on the packaging.

(e) Body fluid samples will be submitted to PCU as soon as possible following collection. If there is reason to believe that PCU employees will not be working in the next 24 hours (i.e. weekends or holidays), call the PCU/FEU supervisor to advise them of the submission of body fluids.

322.6.4 TELEPHONIC SEARCH WARRANTS – EUGENE MUNICIPAL COURT

This procedure is for use in incidents involving violations of the Eugene Municipal Code related to prohibited noise when people in control of the involved premises do not consent to police entry or search of the property.

(a) Inform your supervisor of your intent to apply for a warrant.

(b) Prepare the application for a search warrant using the form provided by the City Prosecutor.

(c) Upon completion of the application, contact the on-call City Prosecutor. Read the document to him/her, and get verbal authorization to contact the Municipal Court Judge.

(d) Contact a judge (whose name is on the list provided by Municipal Court) by telephone and apply for the warrant.

(1) Make sure the conversation is tape-recorded. The Eugene Police Department are responsible to make the recording, which must begin immediately upon contact with the judge.

(2) After explaining the need for the warrant, the judge will place you under oath. Read the application to the judge, and s/he will make a determination if probable cause has been established.

(3) If the judge authorizes a search warrant, officers or the City Prosecutor will be given verbal authorization to prepare the search warrant using the form provided by the City Prosecutor.

(4) There will be three copies of the warrant: one which is served, one for inclusion with reports, and one to be returned to the judge. The judge will sign the original warrant returned to him/her and include it in the court file.

(e) Once the warrant has been authorized and completed, notify your supervisor and arrange for service of the warrant (refer to § 322.5.2 above).

(f) The search warrant, an inventory of items seized, the original tape recording, and a transcription of the telephone recording must be returned to the judge within 5 days following the execution of the warrant.

(1) It is the affiant officers responsibility to ensure the judge receives these items. Court Liaison may assist with delivering them to the judge .

(2) Normally, the Patrol Division Administrative Specialist will be available to transcribe the telephone recording.

(g) The police report package should include:

- incident and/or custody report
- details of the incident, including a list of evidence seized
- the application for the search warrant
- the search warrant
- a copy of the transcription of the telephone conversation

(h) A copy of the tape recording should be made and placed in evidence.

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SUPPLEMENTAL MATERIALS
September 2011

1. Internal Affairs – Department Commendations for July 2011
2. Closed IA Summaries – July 2011
3. Information e-mailed weekly to Commission
4. Additional commendations received, to be shared with Police Commission

The Eugene Police Department received 27 commendations in July, 2011. Below is a sampling.

The reporting party thanked the involved officers for helping her with a missing car, "mostly in the WAY you did so- carefully, without judgment, and a follow up drive by check and a nice officer who cleared the case... It's hard and humbling to call police and I felt you really wanted to help the situation."

This was the reporting parties' first year at the Eugene Police Activities League Summer Camp: "It was so fun that we may come back next year even when it's hott (sic)." They liked meeting the players for the Eugene Emeralds and UO Football and seeing the Black Hawk helicopter. They also got to visit the Ducks playing field for the first time and "were happy to see Sloggo (sic) again."

The reporting party was grateful to EPD for helping her find a place to stay when her trip to Eugene was complicated by ID theft issues. The stress from her long trip and the complications she faced at the motel "made it hard to solve my problem," but EPD was able help by "contacting an agency."

The involved officers are commended for the good work that led to guilty pleas and a 100-month sentence for a drug dealer. In all the cases, the defendant was arrested for other reasons and found to be in possession of meth sludge or pre-meth sludge. "A special thanks" was directed to one officer "for taking a lead role in the investigation and his support in getting this case to a posture in which we could leverage such a lengthy sentence."

The reporting party appreciated the multifaceted and coordinated approach that has improved the safety of Skinner's Butte, including a meeting with a Crime Prevention Specialist, coordination with the Parks Department and the Sheriff's work crews to improve visibility along the bike trails, and increased patrols during the most problematic times of day. "This effort to approach the problem from multiple directions has immediately reduced the number of people camping and becoming intoxicated around the [Shelton-MacMurphey-Johnson] House...I hope we can keep up the good work."

The reporting party commended an officer's handling of an incident with a mentally disabled man in her neighborhood. She admired the way his approach eased the man rather than aggravating him, and considered his demeanor "very wise."

The reporting party called to thank all the EPD employees involved in the recovery of his car; "I've never been fond of the police, but my goodness... everyone I spoke with or worked with was so helpful, polite and caring."

Internal Affairs Case Summaries
For Cases Closed in July 2011

Conduct: It was alleged that an officer was untruthful during the course of an internal investigation. The investigation consisted of a review of the relevant police records.

The investigation revealed no evidence to support the allegation. Therefore, the allegation of Untruthfulness was adjudicated as UNFOUNDED.

Conduct: The reporting party alleged that he has been receiving harassment and manipulation through the GPS radio chip implanted in him, and that after multiple calls to several different police agencies including EPD, nobody has taken appropriate action.

The allegation was DISMISSED.

From: HAWLEY Carter R
Subject: Weekly Mailings for Police Commission - August 26
Date: Friday, August 26, 2011 4:41:15 PM
Attachments: 2011 Invitation BCC Orientation.pdf
20110819 Newsletter.pdf
20110826 Newsletter.pdf

Upcoming Meetings: Next week we start our routine meetings again. The Policy Screening and Review Committee is meeting 9/1. Meeting materials for that meeting are here. The following week, the Outreach Committee meets 9/7. That Committee's meeting materials are also ready, and available here. After that, there is a full Commission meeting on Thursday, September 8. That packet will be ready early next week.

Preview Copy One item proposed to be on the agenda of the Police Commission meeting is the Commission's review of the Search and Seizure policy. This policy is scheduled for final review and action from the Policy Screening and Review Committee next week. The Committee requested that the draft policy be provided to you as soon as possible, so if you're interested, you can review it before the Commission packet is released next week. Here's a link to the proposed meeting packet which contains the policy.

Prevention Convention Thanks to everyone has volunteered. I have the following people volunteering: 12:30 – 3:00 – Valle, Mueller, Garner & Manning. 3:00 – 5:30, Garner Piercy and Manning. I will pull together some materials for the table. For those of you who've participated before, if you have suggestions about what has worked well in the past, please send them my way.

Invitation The City is hosting an orientation for new Board and Commission members. There are two options for you to attend, both from 7:00pm to 9:00pm. The first date is 9/15, and the second is 10/4. The orientation will cover timely issues such as open meetings laws, communications with the Mayor and Council, and information about the City structure. All members are welcome to brush up on the "how to's". The invitation is attached to this e-mail below.

Invitation, take 2 Neighborhood Services has invited members of the Police Commission to attend a Neighborhood Summit, Saturday, September 24. A copy of the invitation e-mail is attached to this e-mail. Registration is required, so if you're planning on attending, please RSVP to the information contained on the invitation.

Updates from the Chief

- Parole & Probation Wanted List: Several months ago, EPD started releasing photos and information about people wanted on parole and probation violations. Since that was released, 29 people have been picked up, or an arrest every two days.

- The Lane County Commissioners determined in their budget committee meeting earlier this week that they would be cutting another $800,000 from the County budget to balance it for the year. One of the proposed cuts is $200,000 from Health and Human Services, more specifically, the funding for Buckley House sobering station. At the meeting, it was identified that EPD contributes 40% of the customers, along with 40% from Springfield PD. The implications of this proposal may be significant.

- In the early morning hours of a recent graveyard shift an elderly gentleman entered the front lobby in Records. He said he had just arrived in Eugene by Greyhound bus, had a dollar in his pocket, and needed help with finding a place to stay for the evening. The Records Specialists directed him to the lobby phone to call the Communications Center for possible assistance by Cahoots. Unfortunately, Cahoots had just secured for the night. From the gentleman's appearance and behaviors, the Record specialists believed there was something going on with the gentleman beyond the need for a place to stay. Based on the specialists' observations, an on-duty sergeant was contacted. The on-duty sergeant agreed with the specialists' assessment and decided to dispatch an officer to help the gentlemen. A short time later, an officer arrived and decided the gentleman could benefit from the funds provided by the University Fellowship Church. The officer then drove this gentleman to a local motel. When the officer returned to City Hall, he shared with staff that the man was quite fragile and may not have survived the night on the streets.

- Last week City of Eugene Emergency Management, Eugene Police SWAT, Eugene HAZMAT, Eugene Fire Department and the Eugene Police Department conducted a joint exercise with the Oregon National Guard's 102nd WMD-CST at Autzen Stadium to train coordination and responses to a hypothetical incident involving chemical, nuclear, biological, and radiological or a high yield explosives incident. It was a great chance to train with other responders.

Other News

The Auditor's office has done a great job of summarizing other stories and other topics of interest. As opposed to copying it into this e-mail, I'd refer you to the "News Items" in their newsletters, attached below.

Other Newsletters

In addition to this weekly e-mail, there are other city publications with a wealth of information. Instead of repeating all of that information, I will provide a link to them, and you can review at your leisure. When there are more than one week, it's because when I sent my e-mail to you, I hadn't received other newsletters.

- City Council Newsletter

- Police Auditor (attached below)

Have a great weekend.

Upcoming Dates

Aug 22 Citizens' Academy applications due

Sep 1 Policy Screening and Review committee meeting

Sep 7 Outreach and Resource committee meeting

Sep 8 Police Commission meeting

Sep 13 Citizens' Academy begins

Sep 15 Board and commission member orientation (1 of 2 options)

Sep 24 Neighborhood Summit (morning)

Oct 4 Board and commission member orientation (2 of 2 options)

Oct 16 Prevention Convention (1-5pm)

Oct 20 Outreach Training session (evening)

Oct 27 Outreach Training session (evening)

Nov 1 Outreach Training session (evening)

Jan 5 Mayor's State of the City

From: HAWLEY Carter R
Subject: Weekly Mailings for Police Commission - August 19
Date: Friday, August 19, 2011 1:36:09 PM
Attachments: 20110812 Newsletter.pdf
Neighborly News Week of Aug 14 2011.msg
July 2011 VIP Program Hours.pdf

Upcoming Meetings: No meetings until Policy Screening and Review Committee 9/1, Outreach Committee 9/7, and Commission meeting 9/8. Enjoy August off.

Prevention Convention Annually, EPD hosts a prevention convention where information and staff are available to the community about crime prevention and policing. In some years, the Commission has had a table at the convention, staffed by commissioners interested in meeting with the public, sharing our brochure and answering any questions. Your response has been great, and we definitely have enough volunteers. Here's who's volunteered for the two shifts: 12:30–3:00 – Valle, Mueller, Garner, Piercy, Manning. 3:00 – 5:30- Garner, Piercy, Manning. I haven't heard back from everyone, and some have already committed to volunteer at other booths. If you still want to volunteer, please reply to the "meeting wizard" e-mail I sent 8/16.

Crime Focus Weekly, EPD sends out notices to the media with information gathered from the Data Led Policing (DLP) initiative. Here's a link to the most recent information distributed. It contains interesting information about recent crime trends, and includes maps of the "hot spots".

Update on Restroom at Monroe Street Park At the Commission meeting in July, Commissioners inquired about the availability of the restroom at Monroe Street Park. Chief Kerns got the following update from the Parks and Open Space Director, Johnny Medlin: The restroom is closed most of the time. As a result of the problems a few years ago involving both illegal activity in the restroom, and problems overflowing into the park from neighboring social service programs, it was negotiated with the neighbors that the restroom would only be open by request for special events.

Citizens' Academy Periodically, EPD holds a Citizens' Academy. It's a comprehensive, hands-on training program that covers everything from firearms training to forensic evidence. Applications are now being accepted through August 22. Classes are Tuesday nights from Sep 13 through Dec 6, with three Saturday mornings, to get some hands on training, at the firing range, emergency vehicle operator course (driving range), and reality based scenario training. All commissioners

who have not attended are encouraged to apply, especially our newest commissioners. It's a great opportunity to learn more about the workings of the department. General info is here, the schedule is here, and the application is here. Please consider attending.

More from the Volunteers Attached below is the summary of the work done by EPD volunteers from the past month. They contribute an amazing amount of time and talent!

New Research Based Website

Office of Justice Programs has launched CrimeSolutions.gov, a resource to help policymakers understand what works in justice-related programs and practices. The Web site includes information on 125 justice-related programs and assigns "evidence ratings" to indicate whether there is evidence from research that a program achieves its goals. There is interesting information in there about gangs, property crimes, and other issues of interest to EPD. I share this now as a general FYI. If there are specific applications or articles, I'll send those on as appropriate.

Other Newsletters

In addition to this weekly e-mail, there are other city publications with a wealth of information. Instead of repeating all of that information, I will provide a link to them, and you can review at your leisure.

- City Council Newsletter
- CRB Newsletter (attached below)
- Neighborly News (attached in e-mail below)

Have a great weekend & enjoy the nice weather!

Upcoming Dates

Aug 22 Citizens' Academy applications due

Sep 1 Policy Screening and Review committee meeting

Sep 7 Outreach and Resource committee meeting

Sep 8 Police Commission meeting

Sep 13 Citizens' Academy begins

Sep 15 Board and commission member orientation (1 of 2 options)

Sep 24 Neighborhood Summit (morning)

Oct 4 Board and commission member orientation (2 of 2 options)

Oct 16 Prevention Convention (1-5pm)

Oct 20 Outreach Training session (evening)

Oct 27 Outreach Training session (evening)

Nov 1 Outreach Training session (evening)

Jan 5 Mayor's State of the City

From: HAWLEY Carter R
Subject: Weekly Mailings for Police Commission - August 3 & Aug 12 (early)
Date: Wednesday, August 03, 2011 10:38:20 AM
Attachments: Please share with your advisory group members_others.msg
7 July 2011 published commendations.docx

Upcoming Meetings: No meetings until September 1 Policy Screening Meeting. Enjoy August off.

Invitation You are cordially invited to the graduation of 135 pre-kindergarteners from Safety Town, this Friday, August 5. The children have participated in two weeks of camp sponsored by EPD and Kiwanis, focusing on child accident prevention. The ceremonies are at Prairie Mountain School (5305 Royal Ave) at 10:45 – 11:30 (morning session of camp) or 2:15 – 3:00 (afternoon session).

Invitation Annually, EPD hosts a prevention convention where information and staff are available to the community about crime prevention and policing. In some years, the Commission has had a table at the convention, staffed by commissioners interested in meeting with the public, sharing our brochure and answering any questions. I've heard interest expressed in staffing a table, so I will compile a list of who's interested / available during the day. The convention is October 16, from 1:00 – 5:00pm at Sheldon High School. Under separate cover, I will send out a meeting request asking for your availability during some portion of that day. Please feel free to sign up if you're interested.

July Commendations Because we do not have a commission meeting this month, I'm including the July commendations in this e-mail for your information.

Citizens' Academy Periodically, EPD holds a Citizens' Academy. It's a comprehensive, hands-on training program that covers everything from firearms training to forensic evidence. Applications are now being accepted through August 22. Classes are Tuesday nights from Sep 13 through Dec 6, with three Saturday mornings, to get some hands on training, at the firing range, emergency vehicle operator course (driving range), and reality based scenario training. All commissioners who have not attended are encouraged to apply, especially our newest commissioners. It's a great opportunity to learn more about the workings of the department. General info is here, the schedule is here, and the application is here. Please consider attending.

Updates from Chief Kerns

- * Ottawa police, who also have issues with a rising tide of car and burglaries, have just launched a campaign: Ottawa PD Crime Prevention

- A few months ago, the Lane County District Attorneys' Office made the decision to update their case management software. The DA's office has asked EPD to work with the vendor to integrate it with the City's Laser Fiche technology, resulting in a completely paperless process.

- The economic crisis continues to affect us and although revenue forecasts won't come out until the fall, early predictions are that we are facing another deficit in the next fiscal year. The National Institute of Justice has released a report on Strategic Cutback Management: Law Enforcement for Lean Times. It is a discussion taking place in many jurisdictions across the country as agencies face difficult economic decisions and budget declines. The report is a discussion on how to locate savings through innovation and strategic cuts. Law Enforcement for Lean Times

- Other news

Los Angeles has determined that its red-light cameras are losing the city $1.5 million a year. The City Council voted unanimously to stop issuing traffic enforcement tickets for violations caught by the cameras as of July 31. http://www.washingtonpost.com/national/lights-out-los-angeles-to-end-money-losing-red-light-camera-program-at-32-intersections/2011/07/27/gIQA6A9PdI_story.html

Seattle Police Department recently experimented with using Twitter to post almost all of its emergency calls in a 12-hour period (with some exceptions) in order to show citizens what a day in the life of the department is like: http://www.nytimes.com/2011/07/29/us/29cops.html?hp

The Charlotte-Mecklenburg Police Department is recalling Tasers from its officers after a suspect died after being tased last week: http://www.charlotteobserver.com/2011/07/22/2472244/police-shelve-tasers-for-now-after.html#ixzz1Sq7SoJWZ

Other Newsletters

In addition to this weekly e-mail, there are other city publications with a wealth of information. Instead of repeating all of that information, I will provide a link to them, and you can review at your leisure.

- City Council Newsletter (link will direct you to new newsletter after Friday every week)

Upcoming Dates

Aug 22 Citizens' Academy applications due

Sep 1 Policy Screening and Review committee meeting

Sep 7 Outreach and Resource committee meeting

Sep 8 Police Commission meeting

Sep 13 Citizens' Academy begins

Sep 15 Board and commission member orientation (1 of 2 options)

Sep 24 Neighborhood Summit (morning)

Oct 4 Board and commission member orientation (2 of 2 options)

Oct 16 Prevention Convention (1-5pm)

Oct 20 Outreach Training session (evening)

Oct 27 Outreach Training session (evening)

Nov 1 Outreach Training session (evening)

Jan 5 Mayor's State of the City

From: HAWLEY Carter R
Subject: Weekly Mailings for Police Commission - July 29
Date: Friday, July 29, 2011 4:11:25 PM
Attachments: SaveTheDate.pdf

Upcoming Meetings: No meetings until September 1 Policy Screening Meeting. Enjoy August off.

Neighborhood Summit Please see that flyer attached at the bottom of this e-mail. It is an invitation to the Neighborhood Summit, September 24. You should also be receiving a post card, but this is an early announcement.

Citizens' Academy Periodically, EPD holds a Citizens' Academy. It's a comprehensive, hands-on training program that covers everything from firearms training to forensic evidence. Applications are now being accepted through August 22. Classes are Tuesday nights from Sep 13 through Dec 6, with three Saturday mornings, to get some hands on training, at the firing range, emergency vehicle operator course (driving range), and reality based scenario training. All commissioners who have not attended are encouraged to apply, especially our newest commissioners. It's a great opportunity to learn more about the workings of the department. General info is here, the schedule is here, and the application is here. Please consider attending.

Data Led Policing (DLP) Posted on EPD's website is the latest in the periodic press releases that are the result of EPD's Data Led Policing efforts. It includes the kind of details and maps that the community is eager to see.

Public Records Primer As a reminder, all written correspondence about Commission business is considered a public record, and needs to be retained pursuant to a long and complicated retention schedule. This includes all of the e-mails and handwritten notes of Commissioners about commission business or taken at commission meetings. If it is helpful for you, if you cc me on e-mails, I will file and retain the records, so you don't have to. According to the City Attorney, this is a desirable solution, however if you'd rather not copy staff, please arrange your own filing and retrieval system so the public records can be produced if requested.

Updates from Chief Kerns

- * The monthly crime/activity reports for June, 2011 indicate our department is working hard to reduce crime. Our year to date numbers, compared to the same period

last year show the following changes:

- 19 percent less property loss ($788,148 less) for Part I crimes (Robbery, Burglary, Theft, Car Theft, Arson)
- You've made 700 more person stops
- 345 more arrests
- Burglary, Theft, and Car Theft are down

Other news

Santa Cruz police have a system that can predict crime trends. Article here.

Fines lower drivers' use of cellphones "Phone in One Hand, Ticket in the Other". Article here.

Tough new Georgia sex trafficking law takes effect Article here.

Other Newsletters

In addition to this weekly e-mail, there are other city publications with a wealth of information. Instead of repeating all of that information, I will provide a link to them, and you can review at your leisure.

- City Council Newsletter
- Neighborhood News (will take you to a directory with several files of interest to neighborhood councils)

Upcoming Dates

Aug 2 National Night Out (see video on youtube about National Night Out EPD Caravan)

Aug 22 Citizens' Academy applications due

Sep 1 Policy Screening and Review committee meeting

Sep 7 Outreach and Resource committee meeting

Sep 8 Police Commission meeting

Sep 13 Citizens' Academy begins

Sep 15 Board and commission member orientation (1 of 2 options)

Sep 24 Neighborhood Summit (Info below)

Oct 4 Board and commission member orientation (2 of 2 options)

From: HAWLEY Carter R
To: Weekly Police Commission Mailings;
Subject: Weekly Mailings for Police Commission - July 22
Date: Friday, July 22, 2011 11:14:25 AM
Attachments: SaveTheDate.pdf

Upcoming Meetings: Next week, the Policy Screening and Review Committee is meeting. They'll be reviewing the final draft of the search and seizure policy, starting review of the vehicle pursuit policy and nominating new members. Meeting materials are here: http://1.usa.gov/n2j6RF

Local Media Coverage The Eugene Weekly printed a brief summary of the work of the Policy Screening and Review Committee in this week's issue. The coverage seems both positive and reflective of the hard work of the committee. See the online article here, or find it in the newsstand copy published yesterday.

Neighborhood Summit Please see that flyer attached at the bottom of this e-mail. It is an invitation to the Neighborhood Summit, September 24. You should also be receiving a post card, but this is an early announcement.

Practical Applications of DLP Perhaps you've seen in the paper a few articles this week about specific areas where EPD has seen an increase in crime. Here is a link to one of the press releases EPD issued late last week, and here is an example of a resulting article from the paper. Here is an article where Chief Kerns discusses Data Led Policing (DLP). EPD is looking at crime trends and releasing information to the public and media in response to immediate trends.

Citizens' Academy Periodically, EPD holds a Citizens' Academy. It's a comprehensive, hands-on training program that covers everything from firearms training to forensic evidence. Applications are now being accepted through August 22. Classes are Tuesday nights from Sep 13 through Dec 6, with three Saturday mornings, to get some hands on training, at the firing range, emergency vehicle operator course (driving range), and reality based scenario training. All commissioners who have not attended are encouraged to apply, especially our newest commissioners. It's a great opportunity to learn more about the workings of the department. General info is here, the schedule is here, and the application is here. Please consider attending.

Elsewhere in the Country

Fatal police shootings are on the rise: Officer deaths up 14% despite decline in violent crime. Article here.

Other Newsletters

In addition to this weekly e-mail, there are other city publications with a wealth of information. Instead of repeating all of that information, I will provide a link to them, and you can review at your leisure.

- City Council Newsletter

- Neighborhood Newsletter (no new letter to link to as of 10:30, will update in subsequent mailings)

Upcoming Dates

Jul 26 PSRC Committee meeting

Aug 2 National Night Out

Aug 22 Citizens' Academy applications due

Sep 8 Police Commission meeting

Sep 13 Citizens' Academy begins

Sep 15 Board and commission member orientation (1 of 2 options)

Sep 24 Neighborhood Summit (Info below)

Oct 4 Board and commission member orientation (2 of 2 options)

From: HAWLEY Carter R
To: Weekly Police Commission Mailings;
Subject: Weekly Mailings for Police Commission - July 15
Date: Friday, July 15, 2011 1:57:29 PM
Attachments: June 2011 VIP Hours.pdf

Upcoming Meetings: Next week, the Outreach and Resource Committee is meeting. They'll be debriefing the work they did on the Monroe Street Station. Meeting materials are here: http://1.usa.gov/owZMKx That's the last meeting until September. Happy August!!

Chief's Report At last night's Commission meeting, we did not have a chance to hear the Chief's report. We will be sure to allot enough time for his presentation at the September meeting, but until then, here is a copy of the presentation he was going to make last night. If you have questions or comments about it, please let me know and I'll track down an answer.

More amazing work from the volunteers Please see the attached PDF file summary of the monthly contributions made by our outstanding volunteers.

National Night Out According to the information from the office of Neighborhoods, EPD is involved in two National Night Out Caravans on August 2. Here's a listing of stops:

Caravan 1:

5:55*—Sladden Park (WCC) Sladden Park Neighbors*

6:35*—Trainsong Park; Trainsong Neighbors*

7:15*—North Eugene High School; Santa Clara Community Org/River Road Community Org*

8PM*—Candlelight Park; Active Bethel Citizens*

Caravan 2:

5:55*—Willakenzie Park; Harlow Neighbors*

6:40*—Monroe Park; Jefferson Westside Neighbors*

7:20*—West University Park; West University Neighbors*

8 PM*—University Park; South University Neighborhood Association*

Save the date Two dates have been selected for board and commission member orientation. More information will follow with details on trainings, but here's an early notice so you can save the date.. Thursday, September 15 in the evening, and Tuesday, October 4 in the evening. Stay tuned for more info.

Updates from Chief Kerns

- In a great collaboration, our Service Improvement Analyst, Tim Schuck has been compiling a Parole and Probation Wanted List and distributing it to Patrol. Since this started in the beginning of June, 14 individuals have been arrested. '

- We are continuing to work on the draft designs for 300 Country Club headquarters and expect to have a final draft next week. Later this month, we'll be sharing those designs in briefings and other unit and team meetings. Right now, we are also researching security systems, cameras and monitors for the doors and perimeter.

- Police in Arlington are researching and testing the use of small, remotely controlled aircraft to take high-resolution video and photos of traffic accidents, hostage situations, pursuits of suspects and other emergency situations too dangerous to send personnel. Read more at: http://www.star-telegram.com/2011/06/29/3189863/arlington-police-testing-surveillance.html

Other Newsletters

In addition to this weekly e-mail, there are other city publications with a wealth of information. Instead of repeating all of that information, I will provide a link to them, and you can review at your leisure.

- City Council Newsletter

- Neighborhood Newsletter

From: HAWLEY Carter R
To: Weekly Police Commission Mailings;
Subject: Weekly Mailings for Police Commission - July 8
Date: Friday, July 08, 2011 2:02:56 PM
Attachments: PoliceProductsBrochureLegalSize4Fold_Novl_30_2010_MAG.pdf
Eugene Police Participate in National Operation Chill.msg

Upcoming Meetings: Next week, the Police Commission will meet on Thursday, July 14 at 5:30 in the McNutt Room. Dinner is available for Commissioners at 5:00. Meeting materials are posted online here: http://1.usa.gov/oxLliE

Updates from Chief Kerns

I am pleased to announce that the sergeant process is complete. Malcolm McAlpine, Scott Vinje, and Matt Lowen will be promoted to the rank of sergeant. There is not an eligibility list and therefore we will need to run another process sometime in the next year. The promotional system used this year was rigorous and thorough and these three candidates performed well. Please join me in congratulating Malcolm, Scott and Matt for their considerable achievement.

Jail Beds One of the top priorities of the Commission was the issue of Jail Beds. While this is not on your agenda for July, here's an article from today's Register Guard about the County's closure of additional jail beds for your information.

National Operation Chill Please see the attached press release about a program where EPD officers will be issuing "tickets" along with coupons for ice-cold Slurpees, courtesy of 7-11.

Police Wear: Attached at the bottom of this e-mail is a brochure with Eugene Police Department logo wear you may purchase. I will coordinate an order for any orders and money I receive by July 15 (the day after your next Police Commission meeting). I don't have any additional information on sizing, other than what's included in the brochure. But if you want me to order you something, please send me an e-mail, indicating what you want, and we can coordinate payment.

Other Newsletters

In addition to this weekly e-mail, there are other city publications with a wealth of information. Instead of repeating all of that information, I will provide a link to them, and you can review at your leisure.

- City Council Newsletter
- Neighborhood Newsletter (Neighborly News)

July 21, 2011 Letter of Commendation for EPD Ofcr.
Scott Dillon & Eugene Municipal Court
Judge Karen Stenard

Submitted by: Carol Berg-Caldwell

At a Eugene Municipal Court trial today, I observed a trial which clearly revealed how police, and judges, play a vital role towards helping young people (and others) make better choices.

Today's trial involved two young men who'd been cited by Ofcr. Dillon for violating park rules. Parks close at 11 pm, these young men were there at 11:05. In the back seat of their car were two other young men, who gave false names to Offcr. Dillon, but eventually Ofcr. Dillon was able to determine there were warrants for these two 'riders', who were arrested. Ofcr. Dillon cited the other two and they were not detained.

Turns out, these two young men testified that they had gone into the park, in hopes of finding a way to get away from the two men who'd asked for a ride..but that 'ride' went on..and on..and the two young men were becoming increasingly uneasy about the situation. Ofcr. Dillon's contact turned out to be a blessing, despite the citations.

After hearing these two young men's testimonies, Judge Stenard asked Ofcr. Dillon if he had anything more to add. At that point Ofcr. Dillon requested the matter be dismissed. To paraphrase, it was clear that these young men, by being 'Good Samaritans', in agreeing to give these other two young men a ride, had learned from their close call. Judge Stenard accepted Ofcr. Dillon's request to dismiss the charges, adding words of remonstrance. She told the young men that they could have been in a much worse situation, they 'lost control' of the situation by agreeing to give strangers a ride.

I approached the two young men after court, handed them the Police Auditor Complaint Form, pointed out to them that this brochure also serves as a Commendation Form. Judge Stenard had told them Ofcr. Dillon had given them a real break, and much more importantly, his contact could well have prevented a very serious situation for them. They agreed, took the brochures and told me they would document their commendation for Ofcr. Dillon.

Police see a lot of troubling situations, often involving people who are exploited for being Good Samaritans..and this must weigh heavy on police. I believe these two young defendants left that courtroom feeling grateful, despite those citations, that Ofcr. Dillon rolled into Maurie Jacobs Park that late night.It got them out of a tough spot. Then to have charges dismissed, after Ofcr. Dillon heard the background story, surely meant a great deal to them. I wish more in Community could see/hear what I see/hear at Eugene Municipal Court. We have great judges...and very human, 'community-oriented policing' police! Ofcr. Dillon is one.

Respectfully,appreciatively,

Carol Berg-Caldwell

Carol Berg-Caldwell #541-337-3229

cc: Chief Kerns
Mayor Piercy/Council
Police Auditor/CRB
Police Commission
Human Rights Com.
Eugene Muni Court

8/24/11 Letter of Commendation for EPD Ofcr. Micheal Klews

Police Commission Copy ✓

I observed a Eugene Municipal Court trial today involving Ofcr. Klews, a 'noise disturbance' citation.

Judge Allen found the defendant, RaKenya Carter, not guilty.

I want to Commend this officer who, even though defendant was found 'not guilty' (in other words City's position was not upheld) graciously opened the 'gate' (at front semi-"wall") for Defendant and then, in the lobby, extended his hand to Defendant, to shake hands.

This struck me as so professional & gracious - exemplary! I have sometimes seen Cops whose citations were not upheld in Court, appear annoyed, disappointed, and that is understandable, a human reaction. For they are out there issuing citations in hopes people

will drive more carefully for their (& others) safety. So I blame no cop for displaying disappointment or annoyance when their case(s) are dismissed. But it is impressive to see a police officer, (such as Ofcr. Klews displayed today) show graciousness and courtesy and professionalism even after "losing" a case. We do not, in this community ever "lose" when police conduct themselves with such grace, courtesy & professionalism. It is conduct like this incident that does so much good towards improving community & police (who are "community") relations, understanding, trust.

Good for him (Ofcr. Klews) & so many other EPD who act similarly!

Sincerely, Respectfully —

Carl Berg-Caldwell
2510 Augusta St. Eug.
(541) 337-3229

cc: Chief/Mayor/Council/HRC

City of Eugene
POLICE COMMISSION

The Police Commission recommends to the City Council, City Manager, police department, and the people, the resources, preferred policing alternatives, policies, and citizen responsibilities needed to achieve a safe community. We strive to create a climate of mutual respect and partnership between the community and the police department that helps to achieve safety, justice and freedom for all people in Eugene.

Police Commissioners: Juan Carlos Valle, Chair; Tamara Miller, Vice-Chair; Mike Clark; Bernadette Conover; Jim Garner; Linda Hamilton; Kaitlyn Lange; Jesse Lohrke; James Manning; Timothy Mueller; Kitty Piercy; Bob Walker

Police Commission & Civilian Review Board Joint Meeting
Thursday, September 8, 2011
5:30 pm, McNutt Room, Eugene City Hall, 777 Pearl Street

	Item	Starting Time	Minutes
1.	Agenda review	5:30	5
2.	Public forum	5:35	10
3.	Civilian Review Board (CRB) Report	5:45	30
4.	Discussion with CRB	6:15	15

Police Commission Meeting
Thursday, September 8, 2011
6:30 pm, McNutt Room, Eugene City Hall, 777 Pearl Street

1.	Comments from chair & items from commissioners	6:30	15
2.	Material review and minutes approval	6:45	5
3.	Chief's report	6:50	20
4.	*Break*	7:10	5
5.	Appoint Committee Members	7:15	5
6.	By-law updates	7:20	30
7.	Committee recommendation on search and seizure Policy	7:50	45
8.	Closing Comments	8:35	5

Next Police Commission Meeting: Thursday, October 13

777 Pearl Street, Room 107 • Eugene, Oregon 97401
Phone (541) 682-5852 • Fax (541) 682-8395
www.eugene-or.gov/policecommission

CITY OF EUGENE

Eugene Civilian Review Board Annual Report

2010

30 May 2011

EUGENE CIVILIAN REVIEW BOARD

2010 ANNUAL REPORT

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Introduction

Ordinance 20374 which enables Eugene's Civilian Review Board requires the Board to "...prepare and present an annual report to the city council that:

(a) Summarizes the civilian review board's activities, findings and recommendations during the preceding year;
(b) Assesses the performance of the police auditor...; and
(c) Evaluates the work of the auditor's office, including whether the office is functioning as intended." [ORD 20374; 2.246 (7)]

Eugene's Civilian Review Board (CRB) is designed to provide transparency and help ensure public confidence in the police complaint process. The Board evaluates the work of the independent Police Auditor, and may review complaints to provide a perspective about whether complaints are handled fairly and with due diligence.

During case reviews Board members discuss, deliberate and probe the Auditor's monitoring of the Eugene Police Department internal administrative investigations. We review the investigative files, listen to digital recordings of interviews and observe available videos related to complaints. We may comment on the Auditor's recommended adjudications as well as those of supervisors and the Chief. Our meetings are open to the public and provide an opportunity to learn about the complaint process. While we are committed to maintaining the confidentiality of the involved parties, discussing complaints in public allows the community to learn about the complaint intakes, classifications, investigations and determinations as they are discussed openly and critically.

A Board emphasis for 2010 was ongoing and complimentary training relating to police practices, civilian rights and interactions with vulnerable communities. We generally devote an hour of our monthly meeting to Board education and training.

This is the second year of our work with an expanded Board of seven members. Unfortunately, due to circumstances beyond their control, two members have been unable to continue their service and we currently have vacancies in the positions previously held by Kate Wilkinson and Marisa Mendoza. We miss their participation and perspectives and would like to express our thanks and appreciation for their service.

We continue to work to increase transparency and public confidence. Board members volunteer a substantial amount of time and effort in this endeavor. We express our appreciation to the City Council, the Police Auditor, the Eugene Police Department, and the larger Eugene community for the confidence entrusted in us. All of us on the Board are proud to participate because we believe in the strength and the potential of Eugene.

Thank you for the opportunity to be of service.

Sincerely,

Tim Laue
Board Chair

Steve McIntire
Board Vice-Chair

Mission Statement

It is the mission of the Civilian Review Board to provide fair and impartial oversight and review of internal investigations conducted by the City of Eugene Police Department into allegations of police misconduct, use of force and other matters that have an impact on the community. The Board will strive to build trust and confidence within the community and to ensure that complaints are handled fairly, thoroughly and adjudicated reasonably. The Board will encourage community involvement and transparency in order to promote the principles of community policing in the City of Eugene.

2010 Overview

The Civilian Review Board met ten times in 2010. It reviewed seven case files involving allegations of misconduct and four service complaints related to officer performance. The Board continued to refine its practices and procedures to improve its performance and achieve its mission.

Of particular emphasis for 2010 was continued training of Board members on issues, policies and procedures affecting officers in the conduct of their duties and members of the community in interactions with the department. Board training is of particular importance because the membership has varying levels of experience coming from different backgrounds.

Lastly, the Board identified (with the help of the Office of the Police Auditor) policy concerns to be communicated to the Police Commission that have emerged during discussions and deliberations.

Case Review Summaries

In preparing for a case review, Board members have complete access to the IA investigative file pertaining to the complaint allegation. This material includes call logs, correspondence, in car videos and digitally recorded interviews of complainants, officers, witnesses and others with potentially relevant information.

The Board reviews the file materials, the fact-finding report prepared by the Internal Affairs investigating officer, along with the Adjudication recommendations of the Auditor, the Supervisors and the Chief of Police. During our reviews at the Board meetings the IA investigator is available to answer questions relating to the complaint investigation. The Lieutenant who supervises the Internal Affairs office is also available to answer questions regarding department practices, policies and procedures.

The Board follows a case review process delineated in its Policies and Procedures Manual where the Board reviews the case by evaluating and commenting on the complaint handling through the following steps:

1. Auditor's case presentation,
2. Complaint intake and classification,
3. Complaint investigation and monitoring,
4. Relevant department policies and procedures,
5. Policy and/or training considerations,
6. Adjudication recommendations, and
7. Additional comments and/or concerns.

A brief synopsis of the 2010 individual case review follows.

***February 2010**: This case involved two officers' detention of two non-English speaking students (including use of the Taser on one of the men). The Board found the intake and classification to be appropriate under the practices as defined by the ordinance, although some concerns were voiced regarding the Auditor's decision not to designate the complaint as a "Community Impact" case. The Board found the investigation and monitoring of the case to be thorough, complete and unbiased; and the relevant policies considered. The Auditor identified (and the Board concurred) that policies relating to search and seizure be reviewed, particularly as it relates to 'warrantless entries.' Chief Kerns had already initiated such a review by the time of our meeting.*

The Auditor recommended that the allegations of excessive use of force and unauthorized use of the Taser be sustained against one of the involved officers (the Auditor recommended that all other allegations be adjudicated as "within policy"). Chief Kerns adjudicated all allegations as "within policy." The CRB unanimously agreed with the Auditor's recommendations, but members disagreed regarding Chief Kerns' adjudication. Members unanimously agreed with Chief Kerns' adjudication that the following allegations were within policy: (1) 304.4 Search Warrants, (2) 308.4 Preliminary Investigations, (3) 501.1 Arrests, and (4) 1101.1.B.6 Constitutional Rights. Members unanimously disagreed with Chief Kerns' adjudication of the allegations of use of force and unauthorized use of the Taser. A majority of the Board agreed with the Chief's adjudication that the officers' actions were within POM 368.1 Limited English Proficiency.

***March 2010:** In this case, officers used force in the arrest of a woman for disorderly conduct and interception of communication. The Board found the Auditor's intake and classification to be appropriate. The Board found the investigation and monitoring of the case to be thorough, complete and unbiased; and the relevant policies considered.*

The Auditor agreed with the Police Chief's adjudication that (1) the officers' use of force was within policy, and (2) the allegations that the officers and sergeant involved were in violation of POM 1101.1.B.9.b(1) Lack of Knowledge of the Law were sustained. The CRB unanimously agreed with the Auditor's and Police Chief's decision and expressed appreciation for the thoroughness of the IA investigation.

***April 2010**: Three officers responded to an incomplete 9-1-1 call and entered and searched a house without a warrant or consent. The Board found the intake and classification to be appropriate. The Board found the investigation and monitoring of the case to be thorough, complete and unbiased and the relevant policies considered.*

The Auditor recommended to the Police Chief that insufficient evidence supported the allegations of violations of constitutional rights, but that the officers' actions violated the policy on performance, and therefore a service complaint on performance should be sustained. The Police Chief found that the officers' actions were within policy. The CRB agreed with the Auditor that the officers should have communicated more with the homeowners regarding the reasons for the search.

***July 2010**: (4 Service Complaints): The CRB reviewed four service complaints: (1) where an elderly woman complained of her treatment by EPD officers; (2) where an off-duty officer observed a woman driving and delivered a reckless driving ticket to her three weeks later; (3) where the complaint felt he was harassed by an officer in the downtown area when he received a ticket for trespassing; and (4) where the police, looking for a robbery suspect, identified and questioned a woman whom they believed knew the suspect's whereabouts.*

The first complaint was dismissed as improbable, and the latter three complaints were addressed by supervisors of the officers involved and closed. The Board agreed that the complaints had been handled well and none had been inappropriately classified as service complaints.

***September 2010**: The CRB reviewed a case where an EPD officer deployed a police dog believing that a male resident of the home was a suspect in a burglary. The Board found the Auditor's intake and classification to be appropriate. The Board found the investigation and monitoring of the case to be thorough and complete and the relevant policies considered. Some concerns were expressed about interview techniques and possibly leading conclusions in the IA investigative report.*

The Auditor recommended to the Chief that the allegation of excessive use of force be sustained, and the Police Chief did so. The use of the police dog was found to be within policy, but the Auditor, supervising Police Captain, and Police Chief agreed that the policy was in need of immediate updates. The Board concurred with the adjudications of the Auditor and Chief.

***October 2010**: The complainant alleged that an officer used excessive force by pushing her up against and into his cruiser. The Board found the intake and classification to be appropriate. The Board found the investigation and monitoring of the case to be thorough, complete, and unbiased and the relevant policies considered.*

The investigation discovered no evidence of use of force, and the Police Chief adjudicated the allegations as unfounded which agreed with the Auditor's recommendation. The Auditor brought the case forward to illustrate that officers are sometimes accused of conduct that simply did not occur and that, such as in this case where it was clear the officers acted professionally and with compassion, complaints can still occur. The Board unanimously agreed with the case adjudications.

***November 2010:** The complainant alleged that officers used excessive force when arresting her after a reckless driving stop by breaking her car window, using a Taser, and handcuffing her on the ground. The Board found the intake and classification to be appropriate. The Board found the investigation and monitoring of the case to be thorough, complete, and unbiased and the relevant policies considered. The Board had a long discussion of the circumstances surrounding this complaint, due to the danger presented and the apparent mental state of the complainant.*

The Auditor recommended to the Chief that the use of force and use of Taser claims be adjudicated as within policy, and that the performance allegation against one of the officers be adjudicated as unfounded. The Chief's adjudications comported with the Auditor's recommendations. The Board agreed these adjudications were reasonable given the facts and circumstances surrounding the incident.

***December 2010:** The CRB reviewed an EPD officer's pursuit of a suspect that ended in a high-speed tactical vehicular intervention. The Board found the intake and classification to be appropriate. The Board found the investigation and monitoring of the case to be thorough, complete, and unbiased and the relevant policies considered.*

The Auditor recommended that each of the allegations (forcible vehicle stop techniques, use of force, and judgment) be adjudicated as within policy. The Police Chief adjudicated that the officer's use of a forcible vehicle stop technique and use of force were within policy, and adjudicated the alleged judgment violation as unfounded. The majority of the CRB agreed that the first two allegations were reasonably adjudicated as within policy, with one member stating that she would have sustained the allegations.

Case reviews are an important activity of the Board. They allow us to evaluate the work of the Office of the Police Auditor in classifying, monitoring and providing an outside perspective to the Police Department. We also are given the opportunity to assess the complaint investigations and comment on the adjudications ultimately determined by the Chief of Police.

Civilian Review Board Training

As noted earlier, a particular emphasis in the last half of 2010 was ongoing training of the Board members to acquire the understanding, knowledge, and skills necessary to perform responsibly and effectively in their duties. Members of the Eugene Civilian Review Board have differing life, cultural, professional and educational backgrounds and varying degrees of exposure to law enforcement and corrections professionals, municipal government operations, the criminal justice system, and the full and diverse range of communities served by local law enforcement agencies. We recognize it is important to receive balanced training from a variety of sources both inside and outside the law enforcement.

In 2010 our trainings came from a variety of sources including social service agencies, mental health professionals, outside consultants and the Eugene Police Department. Generally a training session occurs at our regular meetings and the topics and presenters are selected by the Board in advance. The training sessions included:

Use of Force: A training was conducted for the Board from an outside consultant who provides review, analysis and opinion on the use of force for agencies throughout Oregon and Washington. Covered topics included:

- Authority of the use of force by police officers,
- Appropriate levels of force (use of force continuum),
- Training considerations, and
- Case law and legal considerations.

CAHOOTS: Cahoots is a cooperative program begun in the early 1990's between Eugene Police and Whitebird Clinic where trained social service and mental health providers work in cooperation with the department dealing with immediate calls for services involving distressed members of the community at the street level.

Police Recruit Hiring Practices: A presentation was given to the Board from the Eugene Human Resources department about the process involved in evaluating, training and hiring of Eugene police officers. This included information regarding qualifications, psychological evaluations and background checks on qualified applicants.

Party Patrol: The history and use of a party patrol to address violations and potential consequences of large parties in neighborhoods surrounding the University of Oregon was presented to the Board. The practice included a discussion of preventative and deployment strategies by the team. Practices employed for initial and subsequent interactions and interventions, and neighborhood riots and near riots that have occurred directly or indirectly related to large party activity in the University area.

NACOLE Conference Three members of the Board attended the annual NACOLE (National Association for the Civilian Oversight of Law Enforcement) conference in Seattle in late September of 2010. Breakout sessions included topics covering a wide range topics including 'Evaluating Investigations' 'Stakeholder Outreach' 'Lessons from the Trenches' and 'Improving

Police Response to the Mentally Ill.' Participation in three days of seminar trainings gave participants of many of the best practices and current issues surrounding civilian oversight as it's practiced in many different forms throughout the United States and internationally.

Training continues to be a priority for the Board. As our membership changes and new members arrive it will be important to give them the necessary knowledge and background to perform their duties. Further, continuing education of the Board will be necessary to help keep us current with the issues surrounding our work and familiarize us with procedures and practices in the fluid environment of police procedure, civilian rights and social justice.

Identified Policy, Procedure and Training Concerns

Eugene's model of oversight includes the Civilian Review Board as a quality assurance oversight body to evaluate and comment on the work of Office of the Police Auditor and review and comment on some Internal Affairs investigations arising out of complaints and allegations of misconduct. It also includes the Eugene Police Commission as a policy body to evaluate and address policy concerns, some of which have been identified by the Civilian Review Board arising out of its work. In 2010 both the Auditor's office and the department helped the Board identify a number of concerns that were passed along to the Police Commission and the Chief.

Warrantless Entries - Both the Auditor and the Chief of Police identified the need for a clearer policy regarding entry into a home or place of business in the absence of a warrant. The issue came to the Board's attention through its reviews and is currently being considered by the department and the Police Commission as a part of a larger review of policies relating to search and seizure.

Community Care-taking – The Board identified a need for a better understanding of the applications and limitations of this doctrine as it is applied in Eugene.

In addition to those mentioned above, the Board will regularly seek clarification regarding procedures and practices that evolve out of case reviews and training discussions. On occasion these result in suggestions to the department for improving services.

Evaluation of the Office of the Police Auditor and the Auditor's Performance

By ordinance, the Civilian Review Board "shall evaluate the work of the auditor's office…" and shall "establish criteria by which to evaluate the work of the police auditor." All five members of the Civilian Review Board completed written reviews of the police auditor and the work of the Office of the Police Auditor. At its May 11th 2011 meeting the Board discussed those evaluations with Mr. Gissiner in executive session. The evaluation criteria were along seven dimensions:

1. **Ethics, Integrity and Independence**
2. **Support of the Civilian Review Board**
3. **Community and Citizen Relations**
4. **Complaint Intake and Adjudication**
5. **OPA Reporting Responsibilities**
6. **Judgment**
7. **Knowledge**

Board members individually rated performance in each dimension and made comments and suggestions for improvement in evaluating the Auditor's and the Office of the Police Auditor.

1. Ethics, Integrity and Independence

	Response Percent	Response Count
Does not meet Expectations	0.0%	0
Meets Expectations	40.0%	2
Exceeds Expectations	60.0%	3
	answered question	5

Individual Comments

- "…stellar…[The Auditors] independence [and] thoughtful consideration is outstanding."
- "…very clearly demonstrates integrity and honesty…clearly stated expectations make it clear [the Auditor] will not be pressured…"
- "…consistently demonstrated his independence from all influences…including the officers, the administration and member[s] of the community."
- "… should be careful not to sacrifice needed independence for appeasement or otherwise making a concession to build relationship[s]."
- "… I believe we have more room for improvement and [the Auditor] along with the CRB must be diligent to protect the integrity of this process."

Individual Suggestions for Improvement

- "Sharing responses from complainants would be helpful to continue to gauge…effectiveness."

2. Support of the Civilian Review Board

	Response Percent	Response Count
Does not meet Expectations	0.0%	0
Meets Expectations	60.0%	3
Exceeds Expectations	40.0%	2
	answered question	5

Individual Comments

- "…does well informing the Board of current issues…makes an effort to continuously evaluate methods to improve communication…keep all up to date on issues of interest and importance."
- "…materials supplied to the board [have] always been complete and timely. Case law that could influence the decision is briefly described and discussed."

Individual Suggestions for Improvement

- "Continuing to look for ways that make understanding the organization of the documents is always helpful"

3. Community and Citizen Relations

	Response Percent	Response Count
Does not meet Expectations	0.0%	0
Meets Expectations	60.0%	3
Exceeds Expectations	40.0%	2
	answered question	5

Individual Comments

- "…creating a positive atmosphere…philosophies, professional standards and ethics show…"
- "…outreach to the community has been improved as has the ability to educate people about…Eugene's oversight model and the underlying principles that guide the work."
- "…has shown a respect for the diverse community that makes up Eugene."
- "…professional and respectful to the community and…enjoys credibility."
- "…some are naturally distrustful of the police and the auditor's office and bridging this trust issue creates challenges worth exploring."

Individual Suggestions for Improvement

- "…would like to see a strategy for community outreach to help educate the larger community about the existence of the office and role of oversight in Eugene."
- "Involve CRB members in community outreach."
- "Continued outreach to community groups and organizations is important."

4. Complaint Intake and Adjudication Recommendations

	Response Percent	Response Count
Does not meet Expectations	0.0%	0
Meets Expectations	40.0%	2
Exceeds Expectations	60.0%	3
	answered question	5

Individual Comments

- "…a talented and thoughtful investigator."
- "People have indicated they were treated fairly although there has been some frustration when it is made clear the role of the office is neither investigative nor is it one of advocacy…"
- "All indications point to a fair and courteous staff."

Individual Suggestions for Improvement

- "Have the Eugene Human Rights commission more involved in intake process."

5. OPA Reporting Responsibilities*

	Response Percent	Response Count
Does not meet Expectations	0.0%	0
Meets Expectations	100.0%	5
Exceeds Expectations	0.0%	0
	answered question	5

Individual Comments

- "I believe the tracking and trends [analysis] are not to where [the Auditor] or our community ultimately wants them to be."
- "…reporting of the classification, disposition and results relating to complaints has continued to improve."
- "…the auditor's office provides the board with information that is useful in understanding trends in officer contact with people and areas in need for improvement."
- "…this process is still evolving; it's a bit like building a plane while flying. The Auditor's office is continuing to build in the way of appropriate tracking and I am confident will continue to improve statistical tracking in the months ahead."

Individual Suggestions for Improvement

- "Researching and securing a database that could better serve the goals of the department, oversight and the city might be in order at this time."

*[*Note: The CRB evaluation was completed prior to the OPA issuing of its 2010 Annual Report]*

6. Judgment

	Response Percent	Response Count
Does not meet Expectations	0.0%	0
Meets Expectations	60.0%	3
Exceeds Expectations	40.0%	2
	answered question	5

Individual Comments

- "…doing an outstanding job. I appreciate the opportunity to work with him towards goal of excellence in the civilian oversight process."
- "…the Auditor and OPA staff continues to adjust their operations to find efficiency and improve service."
- "…a strength of the office of police auditor.'
- "While I may not always agree with Mark's outcomes, I believe [the Auditor's] decisions are considered and demonstrate [an] effort to strike a balance between often competing interests."

Individual Suggestions for Improvement

- None

7. Knowledge

	Response Percent	Response Count
Does not meet Expectations	0.0%	0
Meets Expectations	0.0%	0
Exceeds Expectations	100.0%	5
	answered question	5

Individual Comments

- "…understanding of the issues involved in his work continues to impress…"
- "…independent analysis of policy, procedure and system improvement for the department and for the oversight system often pleasantly surprises…"
- "Knows how to play "the game" with local institutions."
- "…an aptitude for the work and is clearly quite capable."
- "…very seasoned and bright…with a great aptitude and passion for the work."

Individual Suggestions for Improvement

- "Continued ongoing education and training."

The ratings and evaluation of the Civilian Review Board reflect an evolving and improving organization that continues to work toward the community's goals of fairness, thoroughness, timeliness, transparency and accountability for all involved in Eugene's unique system of civilian oversight.

Recommendations and Conclusions

Recommendations

In the course of our reviews and other Board work, several areas of concern have emerged that we would highlight to seek guidance form Council. In particular, these concerns relate to the work of the Civilian Review Board and its unique role in Eugene's model of civilian oversight.

- **Public Information and Disclosure** - The Board continues to be conscious of the need for openness and transparency. To that end, the Board suggested and the Auditor is providing summaries and on-going status reports for both open and closed cases. Because of uncertainty and ambiguity surrounding legal requirements of the Public Records 'exceptions,' the Board is waiting for the outcome of the Oregon Attorney General's proposed revisions to the current public records statutes currently being considered by the legislature.

- **Definition of Good Cause exception to 6 month filing deadline** – The ordinance, Sec. 2.456 (1) (i) – (j), states that complaints shall be filed within 6 months of the incident, except for "good cause". The ordinance does not define good cause, and thus, vests discretion in the auditor to determine good cause. The Board believes that a definition of good cause could be warranted, and that a definition could be clarified, perhaps in consultation with the City Attorney. To do so would avoid any ambiguity when dealing with untimely complaints.

- **Community Impact Case [CIC] Designations** – Under Ordinance 20374 the Auditor has the exclusive authority to designate a 'Community Impact Cases.' The Board suggests to the Council that while authority for CIC rests ultimately with the Auditor, the CRB might include in a revision to its Policies and Procedures Manual a provision expressing its desire the Auditor confer with CRB members when weighing a CIC designation.

- **CRB authority to order cases reopened** - In our review of the Chinese student case a majority of the Board voted to order the Chief to re-open the investigation. The ordinance allows the Board to require the city to reopen the investigation with regard to Community Impact Cases (See Ordinance 20374, Section 2.244(4)) However, the ordinance is silent as to whether the Board has the authority to order closed cases re-opened. The Eugene charter states that the city council shall authorize the civilian review board to "…require that the city re-open an investigation." City Attorney Glenn Klein provided a March 5, 2010 opinion to Mark Gissiner and to Chief Kerns concluding that the Board does not have authority to re-open investigations in closed cases. The Board respectfully suggests to the Council that a revision to Ordinance 20374 that clarifies this issue could resolve this issue.

Conclusions

In 2010 Eugene's system of civilian oversight continued to evolve and develop. We look forward to continuing our work and we are committed to improving our processes in service of the community.