City of Eugene

POLICE COMMISSION

Our mission is to recommend 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.

Meeting Agenda: Police Commission

Thursday, January 13, 2011

5:30 PM, McNutt Room, Eugene City Hall

777 Pearl Street, Eugene

Contact: Linda Phelps, 682-6308

(Dinner will be available for commission members beginning at 5:00 p.m.)

ITEM	**TIME** (Starting)
1. Agenda and Material Review	5 min. (5:30 pm)
2. Minutes Approval: November 18 & December 9, 2010	5 min. (5:35 pm)
3. Public Forum	15 min. (5:40 pm)
4. Comments from Chair and Items from Commissioners	15 min. (5:55 pm)
5. ***WS: Accept Use of Force Committee Recommendations***	25 min. (6:10 pm)
Policy 302 – Deadly Force Review Board	
Policy 432 – Patrol Rifles	
Policy 312 -- Firearms	
BREAK	15 min. (6:40 pm)
6. New Public Outreach/EPD Resources Committee Scoping	55 min (7:00 pm)
7. Chief's Report	20 min. (7:55 pm)
8. Closing Comments	10 min. (8:15 pm)

Next Meeting: Regular Police Commission Meeting – Thursday, February 10, 2011

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M I N U T E S

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

November 18, 2010
5:30 p.m.

PRESENT: Tamara Miller, Chair; Juan Carlos Valle, Vice Chair; John Ahlen, Joe Alsup, George Brown, Mike Clark, Jim Garner, James Manning, Tim Mueller, Frank Travis, members; Bernadette Conover, Civilian Review Board Liaison; Police Chief Pete Kerns; Linda Phelps, Mark Gissiner, Police Auditor; Leia Pitcher, Deputy Police Auditor; Captain Rich Stronach, Eugene Police Department.

ABSENT: Linda Hamilton, Human Rights Commission Liaison.

Ms. Miller called the meeting of the Eugene Police Commission to order.

1. Agenda Material Review

Ms. Phelps reviewed the agenda materials.

2. Minutes Approval: October 14, 2010

Ms. Conover noted that her name was misspelled in the "present" section of the minutes, where she was incorrectly referred to as "Bridget" rather than "Bernadette."

Mr. Valle referred to the second sentence in paragraph 4 on page 2 and suggested it be revised as follows (italicized text added): "He noted the meeting was also Ms. Zimmer's last commission *meeting* and thanked her and Ms. Nelson for their service."

Ms. Miller noted that Mr. Mueller's name was misspelled as "Muller" in the first motion on page 1 of the minutes.

> Mr. Valle, seconded by Mr. Alsup, moved to accept the minutes of October 14, 2010, as amended. The motion passed unanimously.

3. Public Forum

Mr. Valle reviewed the rules for the Public Forum.

Majeska Seese Green discussed the limitation placed by the City on the Human Rights Support System (HRRS) in regard to HRRS advocates' ability to represent individuals with complaints against the police, police auditor, and the courts. She believed that the limitation was problematic and anticipated the topic would be discussed by the Human Rights Commission (HRC). She was researching the Eugene Police Department's policies regarding the use of advocates but had not yet found a basis for the limitation.

Ms. Seese Green referred to the Internal Affairs Case Summaries for October 2010, copies of which were included in the commission's packet, and specifically to a complaint alleging an officer attempted to use a patrol car to run into the complainant. The allegation was ruled unfounded by Internal Affairs. Ms. Seese Green said the report indicated there was no in-car video of the incident, and she suggested the in-car video was not in operation at the time.

Ms. Seese Green discussed her involvement in a police case where she and another individual had expected confidentiality about their involvement, but there was apparently no policy to protect them. She expected to submit a complaint about that because of concerns about her safety.

Ms. Seese Green shared information about the Homeless Action Coalition kick-off event on November 18.

Mr. Valle closed the Public Forum.

4. Items from the Chair and Items from the Commission

Ms. Miller reported that she recently completed a "ride-along" at the 9-1-1 Center and commended the professionalism of staff. She had learned during her tour that there was a dispatcher added specifically for officers working at University of Oregon football games.

Ms. Miller recalled the motion tabled at the last meeting regarding the development of a formal feedback process for commission liaisons and asked if a member wished to bring it up. She said the commission leadership proposed to return with a recommendation, so the item was not on the November agenda.
Ms. Miller introduced Mr. Manning, the newest commissioner.

Mr. Valle welcomed Mr. Manning to the commission.

Mr. Valle discussed the issue of disproportionate minority ontact (DMC) and his specific concerns about the over-representation of minority youth in the legal system, particularly as it related to the Department of Youth Services. He said the population of minority youths in detention or incarceration was disproportionate to the general population and it was costing the community a great deal of money. He was pleased to see the EPD's interest in being part of a solution to this problem.

Mr. Alsup also welcomed Mr. Manning. He noted the contributions Mr. Garner, also a new commissioner, was already making to the Use of Force Committee. He reported that the Use of Force Committee was down to the last two remaining use of force policies. He thanked the members of the committee for their work.

Mr. Garner welcomed Mr. Manning. He commended the recent series of columns by Bob Welch of *The Register-Guard* regarding his experiences at the Citizen Police Academy.

Melissa Mona was present on behalf of HRC Liaison Linda Hamilton. She expressed Ms. Hamilton's regrets she could not attend the meeting. Ms. Hamilton had asked Ms. Mona to emphasize the HRC's interest in becoming cooperatively involved in the commission's policy reviews from the beginning, and her hope that other members of the HRC might be able to assist in the review process given the constraints on Ms. Hamilton's time.

Ms. Mona noted that the week of November 14 – 20 was Transgendered Awareness Week and reminded the commission that the transgendered population was disproportionately at risk of being the victim of crimes. She shared information about events occurring to commemorate the week.

Ms. Mona invited the commission to the Human Rights Awards event on December 14, where recognition would be given to City employees from each department.

Ms. Mona reported that the Human Rights Support System (HRSS) was being revived and she invited the Police Commission's participation in that effort as well as its input on how the HRC could reestablish a system that made sense.

Mr. Travis welcomed Mr. Garner and Mr. Manning. He observed that there were some EPD officers who did not want to carry Tasers because of bad publicity, but he suggested that the use of a Taser in the police response to a domestic dispute call in Veneta could have prevented a fatal shooting and saved a life.

Mr. Mueller reported on his encounter with a retired police officer with whom he discussed the City's carotid policy. The retired officer had described a situation that occurred during the 1970s at a concert in Inglewood, California, where the restraint was used on a person who expired in police custody. The individual's family had successfully sued. He had contacted the Inglewood department and confirmed that it now rarely used the restraint and training on the restraint was offered every quarter, as opposed to Eugene, which offered training annually. Mr. Mueller was very concerned about Eugene's approach and asked Chief Kerns to consider his concern regarding the frequency of training when the chief reviewed the policy.

Mr. Ahlen was excited to hear that the HRSS was being reestablished and offered his assistance in that effort. Speaking to the HRC's interest in becoming more involved in the commission's policy discussions, Mr. Ahlen recalled the Community Mediation and Advocacy Task Team, which he considered one of the best examples of cooperative effort, and contrasted that model to the commission's current approach to policy review. He looked forward to working with the HRC in different ways to involve that body in commission deliberations.

Mr. Clark welcomed Mr. Manning.

Mr. Manning expressed appreciation for the opportunity to serve on the commission. He had followed the work of the commission and intended to continue to study the issues with the goal of making a positive contribution.

Mr. Manning asked if the commission heard feedback from police officers in regard to the changes it recommended to the department's use of force policies. He thought it was important to hear such feedback.

Ms. Conover reported that the Civilian Review Board (CRB) met earlier in the week and met new Deputy Police Auditor Leia Pitcher, who was also present at the commission's meeting. She reported that the CRB had reviewed a case regarding the application of a Taser on an individual with bipolar disorder. She noted and commended the EPD's focus on community safety in its response in the case. Ms. Conover anticipated the next CRB's next case review would involve a tactical vehicle intervention.

Ms. Conover said that CRB member Marissa Mendoza was taking a temporary leave of absence from the board. The CRB anticipated another opening in 2011 and had discussed how to get more applicants.

Speaking to the issue raised by Ms. Mona on behalf of Ms. Hamilton regarding HRC participation in Police Commission policy discussions, Ms. Conover suggested that if such an opportunity was extended to the HRC, it should also be extended to the CRB.

Ms. Phelps said the department was working to fill the position that supported the commission. The job description was available on-line.

Ms. Miller observed that several commissioners had gone through the scenario-based training that columnist Bob Welch wrote about recently, as well as tactical vehicle intervention training, and she hoped that other commissioners could have the same opportunity.

Ms. Miller welcomed Police Auditor Mark Gissiner, who introduced Deputy Auditor Pitcher.

5. Use of Force Policies Work Session

a. Policy 301 – Use of Force Reporting

Mr. Alsup reviewed the changes recommended to be made to Policy 301 by the Use of Force Committee. Commissioners asked questions clarifying the information presented.

> Mr. Valle, seconded by Mr. Ahlen, moved to substitute "Final Determination" for "Chief of Police" as the title of Section 301.6.2.

Ms. Conover pointed out the subject of the section was post-incident review rather than final determination, and the current title made more sense to her. Mr. Alsup agreed.

> The motion failed, 7:4; Mr. Clark, Mr. Valle, Mr. Manning, and Mr. Ahlen voting yes.

Mr. Valle hoped the commission continued to have a staff person present to answer questions on policies.

> Ms. Conover, seconded by Mr. Manning, moved to delete Section 301.6.1 and Section 301.6.2 and combine the text in those sections to read "The Chief of Police may convene a Use of Force Review Board to review the incident with procedures and responsibilities as outlined in Policy 302.2. However, the final determination regarding compliance with policy and procedures and any necessary corrective action remains with the Chief of Police." The motion passed unanimously, 11:0.
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> Ms. Conover, seconded by Mr. Alsup, moved to accept Policy 301 as amended. The motion passed unanimously, 11:0.

b. Policy 310 – Use of Deadly Force Investigation

Mr. Alsup reviewed the changes recommended to be made to Policy 310 by the Use of Force Committee. Commissioners asked questions clarifying the information presented.
Ms. Conover expressed concern about the use of the word "must" as opposed to "should" in Section 310.5.4(b)(3) of the policy. She recommended deleting the second sentence of the section both because she questioned what "reasonable efforts to attempt to contact the juvenile's parent/guardian" meant and because she thought the sentence should be added to or incorporated into policies related to juvenile interviews and transportation to avoid possible policy conflicts. Mr. Alsup responded that the effort to

contact the parent/guardian must be reasonable but he did not believe it must be successful. He suggested the totality of circumstances must be considered. Speaking to the use of the word "must," Mr. Alsup said the committee unanimously agreed it wanted officers to know it was incumbent upon them to attempt to try to contact the parent/guardian of a juvenile witness. He noted that none of the officers present during the committee's discussion had objected to the language.

Ms. Conover continued to have concerns about the text.

Mr. Mueller suggested that all such interviews could be recorded and the recordings made available to the juvenile's parent/guardian.

Chief Kerns expressed concern about the proposed text precluded officers from interviewing a juvenile witness without consent of a parent/guardian, and stressed the importance of gathering statements from witnesses as quickly as possible at crime scenes.

Mr. Alsup said the committee believed that such contacts were a primary responsibility for officers, and pointed out the policy language did not preclude the witness from being detained. Mr. Valle agreed. He said that as a parent, he preferred to be contacted before his child was interviewed. He thought Ms. Conover's point about the possible overlap between policies was well-taken and suggested that staff had responsibility for identifying overlaps or similarities in policy.

Ms. Conover pointed out that Mr. Alsup had used the word "detained" when discussing a juvenile witness who was not being detained. Mr. Alsup acknowledged the point and said he did not mean to overstate the situation. Ms. Conover suggested there was a distinction to be made between a person being detained and a person being transported for an interview.

> Ms. Conover, seconded by Mr. Clark, moved to amend Section 310.5.4 of the policy to read "When the witness is a juvenile, reasonable effort should be made to obtain consent from a parent or guardian prior to transportation or a formal interview of the juvenile."

Mr. Ahlen said nothing in the policy prevented an officer from establishing the identity of a juvenile witness before attempting to contact the witness' parent/guardian. He was comfortable with the standard of reasonableness, which the commission had employed in other policies, and did not support the motion.

Mr. Manning agreed with Chief Kerns about the need for early interviews. He concurred with many of the points made by Ms. Conover and questioned whether the policy was achieving what the commission hoped to achieve.

Mr. Ahlen pointed out that the department was not worried about getting a statement from its officers immediately after a use of deadly force incident; instead, the department waited 48 hours to ensure clarity of thought. He suggested the issue of concern should be the department's ability to find or contact potential witnesses. He continued to support the proposed text because of the reasons previously cited.

Mr. Mueller suggested there was "an interesting contradiction" between the department policy related to the time interval for interviewing an officer in a deadly force incident as opposed to the interviewing of witnesses. He supported the text proposed by the committee, suggesting that making a reasonable effort to contact a juvenile's parent/guardian was a short cell phone call.

Speaking to the remarks made by Mr. Ahlen and Mr. Mueller regarding the time interval for interviewing officers, Chief Kerns reminded the commission of officers' labor rights, their rights as the subject of a

criminal investigation, and the fact their memories was more accurate two days later than directly after the incident because they were the subject whose life was threatened. They had biological reactions that were not being shared by witnesses, who had totally different perspectives than the involved officer. He emphasized that in many instances, witness information was critical to solving a crime or capturing a suspect.

Mr. Clark supported the motion because he believed time was of the essence in such cases, and in many instances time could be a critical factor in solving a case or protecting someone else in danger from an at-large suspect.

Mr. Ahlen did not think the proposed text would prevent the officers from getting the information they needed. He believed that the focus of the text in the policy was on formal interviews rather than questions such as "Who is the shooter?" and "Where did they go?"

Mr. Clark asked Chief Kerns to respond to Mr. Ahlen's remarks. Chief Kerns suggested that it depended on how one defined the term "formal interview." He recalled the Kip Kinkel shooting and said the interviews that occurred shortly after the shooting to determine if someone else might be involved could be considered formal, yet it would have been nearly impossible to reach the witnesses' parents and he speculated that the Springfield Police Department did not even try.

Mr. Alsup reiterated that the focus of the policy was on formal interviews. He believed that in situations as the Kip Kinkel shooting "all bets were off," and it was reasonable for the officers to do what they needed to protect others. He emphasized that the policy did not address such cases.

The motion failed, 10:1; Ms. Conover voting yes.

Mr. Alsup continued his review of the policy. Commissioners continued to ask questions clarifying the committee's recommendations.

Mr. Mueller, seconded by Mr. Valle, moved to accept Policy 310 as presented. The motion passed, 10:1; Ms. Conover voting no.

Ms. Miller called for a brief break. Ms. Conover left the meeting for another commitment.

6. Mediation Options to Resolve Complaints & Cross-Cultural Competency in EPD Training

The commission was joined by Operations Support Division Manager Lynn Reeves, who provided an informational presentation on mediation options available to Eugene residents through the department.

Mr. Manning asked if the opportunity for mediation between neighbors was well-known or publicized. Ms. Reeves said neighborhood groups tried to get the word out, but she thought most people were unaware of the program until they were referred to it.

Responding to a question from Mr. Mueller, Ms. Reeves said Community Mediation Services (CMS) generally referred individuals to Whitebird. Police officers provided residents with information about the program. Ms. Reeves added that CMS representatives were going to begin to attend officer briefings in 2011. Mediators would be talk to the officers about the services they could provide, and officers' familiarity with CMS staff would take the unknown quantity from mediation. Mr. Mueller said that it appeared the department had remarkable success with the referrals that were mediated.

Mr. Ahlen wanted to know more about the role of mediation in the police complaint and oversight process. Ms. Reeves suggested that as officers became more familiar with CMS and the mediation process, they would feel more comfortable about mediation. She said that understanding the nature of the process was a key factor for officers who were contemplating mediation with an individual with who they had an emotional or difficult encounter in the field.

Mr. Valle suggested that successful mediation required that the result be positive for the officers. He encouraged the EPD and the Police Auditor to offer residents more mediation opportunities and to publicize what was learned from mediation and what changes resulted.

Speaking to the issue of cross-cultural competency, Mr. Valle was pleased to see that the EPD Diversity Committee was one of the City's longest standing diversity committees. He advocated for the City to hold another Hate Crimes Conference.

Mr. Valle encouraged the EPD to involve more mediation groups, and suggested that the City could improve its relationships with the Latino and African American communities. He asked staff to think about long-term planning to involve those communities.

Mr. Ahlen recommended staff review the recommendations the commission had made through its Community Mediation and Advocacy Task Team. He recalled that the commission had offered to continue to develop those recommendations as the oversight system evolved. He thought that the HRSS had a role in the police complaint system. He also believed the EPD needed to champion mediation within the department and suggested that mediation would make officers more culturally competent.

Mr. Mueller agreed with the remarks of Mr. Ahlen. He believed mediation was an opportunity to reverse past damage.

Ms. Reeves provided an overview of the department's cross-cultural competency training.

Ms. Miller commended the department's approach to cross-cultural competency training, which was to incorporate it into all training.

Mr. Alsup asked if the subject of the dominant culture and white privilege were included in the department's training. Ms. Reeves said no. Mr. Alsup recommended the department incorporate that subject into the training. Ms. Reeves noted that the department had sent command staff to a training regarding the issue in Los Angeles.

Mr. Valle concurred with Mr. Alsup's recommendation.

Mr. Mueller reminded the department of the many subcultures that existed in Eugene and recommended it be cognizant of them as well.

Ms. Miller thanked Ms. Reeves for her presentation.

7. Chief's Report

Chief Kerns provided a PowerPoint presentation on the EPD Re-alignment, which reflected the fact the department was moving from one to two functional operational divisions that would be geographically aligned.

Responding to a question from Mr. Ahlen, Chief Kerns clarified that he was not proposing a precinct model, but rather a sector approach with captains rather than sector commanders. Responding to a question from Mr. Alsup, Chief Kerns anticipated downtown would be served by nine permanent bicycle officers, a sergeant, and a community service officer.

Chief Kerns reported that the EPD was nearing the completion of its 2006 Strategic Plan and work was underway on the new plan, including the development of a mission, a vision and a commitment statement, which he shared with the commission.

Chief Kerns shared a video regarding the department's new "tag line": Protect.Serve.Care.

Chief Kerns announced he had approved the amended Taser policy with some revisions and would schedule a presentation on the commission's next agenda.

8. Closing Comments

Mr. Travis said it was nice to see the commission again. He was glad to be back.

Mr. Alsup reported that he watched the video of Professor Zimner from the University of California at Berkeley and had been impressed by the parallels to local efforts.

Chief Kerns summarized what he heard in discussion, saying that Mr. Mueller had asked him to take a closer look at the carotid policy, and he would do so. He also heard that the commission wanted officers present for use of force discussions and the department would do its best to provide that presence, given budget constraints. He said staff would include the goal of increased participation in mediation in the new Strategic Plan, and would also work to build better relationships with the Latino and African American communities.

Mr. Valle encouraged new commissioners to keep in mind that the commission brought community perspective and values to discussions about police issues and procedures. He reported that he had asked Ms. Phelps to investigate the possibility of a Police Academy for new commissioners.

Responding to a question from Ms. Miller, Ms. Phelps said the EPD issued a command directive related to the Canine Unit policy and she anticipated that the Policy Review Committee would decide if the commission would review the policy.

Mr. Manning reiterated he was glad to have the opportunity to serve and appreciated the warm welcome from the commission.

Mr. Clark indicated it was likely the December meeting would be his last as a council representative.

Mr. Mueller asked if the policy of random drug testing for police officers would be discussed by the commission. Ms. Miller said the Policy Review Committee did not forward the policy to the commission. Mr. Mueller thought it was a bad policy. He hoped a Public Outreach Committee meeting happened soon. He reported he recently participated in a police ride-along.

Ms. Miller adjourned the meeting at 8:20 p.m.

(Recorded by Kimberly Young)

M I N U T E S

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

December 9, 2010
5:30 p.m.

PRESENT: Tamara Miller, Chair; Juan Carlos Valle, Vice Chair; John Ahlen, Joe Alsup, George Brown, Mike Clark, Jim Garner, Tim Mueller, Frank Travis, commissioners; Linda Hamilton, Human Rights Commission Liaison; Bernadette Conover, Civilian Review Board Liaison; Police Chief Pete Kerns; Linda Phelps, Officer Scott Dillon, Officer Randy Sewell, Officer Joe Kidd, and Lieutenant Scott Fellman, Eugene Police Department; Deputy Police Auditor Leia Pitcher.

ABSENT: James Manning, commissioner.

Ms. Miller called the meeting of the Eugene Police Commission to order.

1. Agenda Material Review

Ms. Phelps reviewed the agenda materials and reported that Mr. Manning was recovering from surgery and hoped to join the meeting via speaker phone.

Ms. Phelps reported that through an oversight, the commission's meeting was not included on the City's Public Meetings Calendar, although it was widely advertised elsewhere and was noticed in *The Register-Guard*. The City Attorney advised the commission to postpone action on items requiring the passage of a motion.

Ms. Phelps recalled that the commission had asked to have officers present at the meeting to answer questions about how policies would work in the field. Chief Kerns introduced police officers Scott Dillon, Randy Sewell, and Joe Kidd, and Lieutenant Scott Fellman.

2. Minutes Approval: November 18, 2010

Ms. Miller called for additions, deletions, and corrections to the minutes of November 18, 2010. Mr. Garner referred to the last paragraph on page 5 of the minutes and suggested that it be changed as follows (italicized text added, struck text deleted): "Mr. Ahlen pointed out that *the* ~~it was~~ department was not worried about getting a statement from its officers immediately after a use of deadly force incident. . ." He also pointed out that the reference to "Mr. Reeves" in the second paragraph on page 7 should be to "Ms. Reeves," and that the word "command" was misspelled as "commend" in the last sentence in the last paragraph on that page.

The commission agreed to postpone approval of the minutes to January 2011.

3. Public Forum

Mr. Valle reviewed the rules for the Public Forum.

Majeska Seese Green complained that the November minutes did not capture her comments correctly. The minutes failed to reflect nuances in her comments and some of what was reflected was "just not right." She looked forward to working with the new commission staff person and other City staff on methods that could be used to ensure that the comments from the public included in the minutes accurately expressed what a speaker was trying to say. She had raised the issue repeatedly because it was endemic throughout the organization's minutes. While staff and the commission got to review the minutes, the public did not have the same opportunity. Ms. Seese Green indicated she would have some suggestions to offer to the City Manager's Office regarding how public comment was reflected in the minutes. She said the City wanted more public engagement, but people were discouraged when their remarks were not accurately reflected in the minutes.

Mr. Valle closed the Public Forum.

4. Items from the Chair and Items from the Commission

Mr. Valle was pleased to see line officers at the meeting and hoped they were present in the future.

Mr. Valle had reviewed the commendations and perceived a recurring theme in that police responded to calls for service, which he distinguished from reacting to calls.

Ms. Hamilton said she was sorry to have missed the last meeting.

Mr. Travis welcomed the officers and invited their input.

Mr. Garner also welcomed the officers and thanked them for their attendance. He reported he had attended the December Civilian Review Board (CRB) meeting and had enjoyed the board's lively discussion.

Mr. Garner was glad to see the individual involved in the recent shooting at Dutch Brothers had not been charged with homicide. He was sorry of the death that resulted from the incident.

Ms. Conover reported the CRB reviewed a tactical vehicle intervention case. She briefly described the case. She said the CRB discussed possible policy violations but found the action within policy. The CRB chair, Kate Wilkinson, had resigned because she was leaving the area for employment reasons. The CRB vacancy would be posted and the council would interview for the vacancy soon. The next CRB meeting was January 11, 2011. She noted that the minutes of all CRB meetings were available on-line.

Mr. Clark thanked the officers for being present. He believed that unless Mayor Kitty Piercy reappointed him to the Police Commission, this was his last commission meeting. He said it had been a privilege and honor to serve on the commission and he had enjoyed it a great deal.

Mr. Alsup noted that the commendations mentioned a commendation from a woman who was praising officers for intervening in a dispute between her and her daughter. He said the quality of counseling and intervention and officers' skill in diffusing such incidents was impressive and he was not surprised to see the commendation. He thanked the officers for attending.

Ms. Miller thanked Ms. Phelps for acting as the commission staff. She and Mr. Valle had participated in interviews with candidates for the Police Commission staff position and she hoped to hear who the new staff person was soon.

5. Use of Force Policies Work Session

a. Policy 302 – Deadly Force Review Board

Mr. Alsup reviewed the changes recommended to be made to Policy 302 by the Use of Force Committee. Commissioners asked questions clarifying the information presented.

The commission postponed action on Policy 302 to the January 2011 meeting.

b. Policy 432 – Patrol Rifles

Mr. Alsup reviewed the changes recommended to be made to Policy 432 by the Use of Force Committee. Commissioners asked questions clarifying the information presented.

Mr. Alsup solicited comment from the officers on the two policies. Officer Dillon advocated for policy simplification, suggesting the patrol rifles policy could be incorporated into or covered by the general firearms policy.

The commission briefly discussed with the officers how policies were shared with them and the resources they turned to for policy clarification.

Speaking to Officer Dillon's comment, Ms. Miller suggested the commission might want to review the policies to determine where they could be integrated or combined.

The commission postponed action on Policy 432 to the January 2011 meeting.

Ms. Miller called for a brief break.

6. Downtown Public Safety Zone Ordinance Update

Chief Kerns provided the update, reminding the commission that the Downtown Public Safety Zone (DPSZ) had been in place for two years, and the department had completed a report on the results of its application over that period of time. He reported the zone had been used 90 times in two years, and 25 people had violated an exclusion order. Chief Kerns reviewed the types of exclusions that EPD officers could issue.

Chief Kerns reported that the City Council had recently eliminated the temporary exclusion, leaving the 90-day exclusion that could be imposed only by a judge and a one-year exclusion that could happen only upon conviction. Because of due process concerns, the council had also added an advocacy program for individuals receiving an exclusion order. Chief Kerns estimated that program would cost less than $20,000 annually. The council had also extended the DPSZ to April 2012. Other changes made by the council to the DPSZ would take effect January 8, 2011.

Ms. Conover determined from Chief Kerns that an exclusion hearing must happen within 14 days. The quickest someone could have a hearing was five days. Ms. Conover determined from Chief Kerns that the advocate would likely be present in the courtroom but would counsel the individual outside the courtroom setting. Chief Kerns noted that the City already had one such advocacy program in place, *Paso y Paso*, where people going through court procedures had their options explained to them. The focus of the new advocacy program would be on helping people through the exclusion process.

Ms. Conover expressed concern that there was a fine line between advocacy and legal advocacy. She was concerned that advocates would be practicing law without being properly qualified to do so. Chief Kerns said the training would address that, and he pointed out that the presiding judge was also an attorney and would help manage that. He anticipated that Municipal Court would manage the contract for advocacy services possibly with Whitebird or St. Vincent de Paul or some other agency.

Ms. Conover suggested that downtown business owners might also want an advocate.

Mr. Valle wanted to hear more about the training for advocates.

Mr. Mueller pointed out that many people who received exclusions had mental problems or addictions that precluded them from fully understanding the process. Advocacy was critical for those individuals. He suggested that some might abuse the program, but he believed that was worth happening if it allowed the City to provide advocacy services to those who truly needed them to navigate the system.

Mr. Ahlen said the Human Rights Commission was considering reinventing the Human Rights Support System (HRSS) and wondered if there was any interest in using that program. He suggested that was a natural fit as he recalled in the past, the HRRS advocates provided advocacy services for those with complaints against the police. Ms. Phelps said she would make the connection with HRSS.

Ms. Hamilton indicated that the HRSS was starting but up but was not yet active and more training for HRSS advocates was needed.

Mr. Valle looked forward to hearing more about any correlation between the DPSZ and reductions in crime.

7. Final EPD Policy 309 – Taser Use

Chief Kerns reviewed changes he had made to Policy 309 – Taser Use. Commissioners asked questions clarifying the changes.

Mr. Ahlen said the chief's memorandum was a welcome addition to the commission packet and he appreciated his explanation of the changes. He believed the changes improved on the policy recommendations of the commission. He suggested that the community would now be watching to see if there were incidents where use of the Taser met the expectations of the department and community. He thought the revised policy gave the department the tools it needed so officers could meet community expectations and could be held accountable.
Mr. Valle was pleased to see that the chief retained the restrictions on the Taser use outlined in 309.4.2.a, b, c, and d.

Mr. Alsup expressed disappointment in the changes. He said the commission knew the subject of authorized use was an area of community concern. He expressed concern that the changes would mean

that the lower threshold for authorized use would become the default threshold. He felt the threshold in 309.4.1.a.1 was now much lower than that approved by the committee and commission. Mr. Alsup said the committee had feared that without a high threshold for use, there would be such a continuing outcry against the use of Tasers that the department would be forced to discard their use. He had joined the commission to support the officers in the non-lethal use of force when they were confronted with situations that previously required them to turn to deadly force.

In response to Mr. Alsup's concerns, Chief Kerns pointed out that the authorized level of use was the same as provided by the commission's recommendation. It had not changed. He said that the policy text mentioned the immediate credible threat of physical injury as well as a person who failed to comply with a policy order to stop their threatening behavior. He pointed out that Section 309.4.2.b precluded an officer from discharging a Taser at a person who was offering only passive or static resistance. Mr. Alsup said the committee wanted both conditions (immediate credible threat and active resistance) to be present. Chief Kerns said that was the standard. The threshold for use was immediate credible threat of physical injury and active resistance. Mr. Alsup questioned why it was necessary to separate the concepts.

Chief Kerns pointed out the commission's bottom line was that it only wanted the Taser used in cases where there was an immediate credible threat of physical injury and active resistance, and that was what officers were instructed in. Any officer who went below the threshold would be in violation of the policy. Mr. Alsup said he trusted the chief, but he did not want to diminish the commission's intent and he interpreted the revised text as lowering the threshold for use. Chief Kerns acknowledged that could appear to be true on first reading of the policy but he assured the commission the threshold for use was the same.

Mr. Ahlen did not think the revisions to policy had changed the threshold for use substantially. He suggested that the City would see in actual practice if incidents neared the threshold. The chief's understanding of how the policy would be interpreted would be a key to that. The chief's memorandum satisfied his concerns.

Chief Kerns said he would be happy to provide the commission with a presentation on the training curriculum and handbook.

Ms. Miller said she appreciated the deliberative and thoughtful work that went into the changes, as well as the chief involving staff in the process. She did not think much had changed in the policy.

Mr. Valle anticipated the department would have to rely heavily on training to implement the policy. He looked forward to the presentation on training.

8. Chief's Report

Chief Kerns shared "hot spot" maps with the commission to illustrate crime levels in different city neighborhoods. He also shared data on arrests and property crime loss and recovery. Commissioners asked questions clarifying the information presented.

Chief Kerns reported the following:

- As part of the Downtown Safety Strategy the City signed a contract with the Springfield Jail for ten jail beds.
- The City continued to work on the development of the area command approach.

- The department hoped to have a Street Crimes Unit in place by spring 2011 to focus on property crime offenders.
- The department was working on the contracts for the redevelopment of 300 Country Club Road with the architects and general contractor.
- The department held crisis intervention training for 20 employees the week of November 29.
- The department was currently in the hiring process for sworn officers, community service officers, and 9-1-1 operators.
- The department continued to study pursuits closely and Chief Kerns hoped to finalize the pursuit policy within two months. Training on vehicle pursuits occurred in September.
- The revenue forecast was not as promising as hoped so all City departments were asked to identify 1 percent in savings for Fiscal Year 2011 and 1.8 percent in ongoing savings for Fiscal Year 2012. The department had a labor-management budget committee that met recently for four hours to discuss how to realize the reduction target.

Chief Kerns noted the following incidents that occurred since the last commission meeting:

- There was a pursuit downtown that ended in the pursued vehicle crashing into a doughnut truck with serious injury to the driver.
- The Vice and Narcotics Unit successful broke up a prostitution ring run out of a local hotel.
- There were several sexual abuse arrests in November, one on campus and one near the Greenway Bicycle Bridge; police made an arrest in the second case.
- There was a street robbery at an ATM cash drop so the department warned businesses to be cautious when making deposits.
- The department continued to investigate the Dutch Brothers robbery and hoped to make an arrest of the accomplice in the case.
- A home invasion ended with a knife attack and there was no arrest in that case yet.
- A 90-year old protestor at Planned Parenthood had been assaulted and there was no arrest in that case.
- There was a murder in Bethel in early December.

Chief Kerns reported he attended the opening of a new adult care facility on Garden Way. He had also participated in two department ride-alongs.

Chief Kerns reported that Oregon Police Officers association had recognized Officer Kidd by presenting him with the Medal of Valor. Officer Kidd had attended all in-service trainings for one month to share the lessons learned from the incident that brought him recognition.

Chief Kerns noted the upcoming “Shop with a Cop” opportunity that would occur at Wal-Mart.

Responding to a question from Mr. Ahlen, Chief Kerns said the Springfield beds would be for municipal offenses and he anticipated only healthy, sentenced male offenders would be sent there.

9. Closing Comments

Ms. Miller solicited closing comments.

Ms. Hamilton announced December 10 was International Human Rights Day and an event to commemorate the day would be held at the Baker Center.

Mr. Travis reported that his wife worked downtown and had been present during the day of the recent bomb scare, and had commended the good work done by the department in its response.

Mr. Mueller emphasized the importance of adequate funding for education and social services to crime prevention and reduction.

Mr. Garner again thanked the officers and congratulated Officer Kidd on his award.

Ms. Conover expressed appreciation for the officers and said they were representative of the department.

Mr. Clark thanked the commission for its hard work and recognized the input of Ms. Seese-Green.

Mr. Alsup was happy to see the Bob Welch articles on the Police Academy in *The Register-Guard* and said it was good the articles exposed more people to the academy.

Ms. Phelps anticipated the Police Analyst position that supported the commission would be filled after the appropriate background checks were done. She hoped the new analyst was present at the next meeting.

Lt. Fellman thanked the commission for their volunteer service. Officer Sewell commended the commission‘s work on the taser policy.

Ms. Phelps announced the Use of Force Committee meeting on December 14.

Ms. Miller encouraged the commission to subscribe to EPD “tweets.” She wished the commission happy holidays.

Mr. Valle thanked Mr. Clark for his work as a commissioner. He hoped it was not Mr. Clark’s last meeting. He also thanked the chief for inviting the officers to be present as he believed it demonstrated leadership.

Chief Kerns thanked Ms. Phelps for her work on the exclusion ordinance while working on other ordinances that had to be reviewed by the City Council. He also recognized that she was doing two jobs very well with a great attitude. He said he would do his best to continue to have officers present at future commission meetings. Chief Kerns said he would also attempt to provide information on the advocacy program and would research a tie to the HRSS. He would continue to write memorandums in support of his policy communications.

Ms. Miller adjourned the meeting at 8:31 p.m.

(Recorded by Kimberly Young)

EUGENE POLICE COMMISSION
AGENDA ITEM SUMMARY

Work Session: **Accept Use of Force Committee Recommendations: Policy 302 – Deadly Force Review Board, Policy 432 – Patrol Rifles and Policy 312 Firearms**

Meeting Date: January 13, 2011 | Agenda Item Number: 5
Department: Eugene Police Department | Staff Contact: Linda Phelps
www.eugene-or.gov/policecommission | Contact Telephone Number: 541-682-6308

AGENDA ITEM SUMMARY

This is a work session to accept the recommendations of the Use of Force Committee on three policies: Policy 302 – Deadly Force Review Board, Policy 432 – Patrol Rifles and Policy - 312 Firearms. Following a presentation by Use of Force Committee Chair Joe Alsup, the commission will be asked to forward the policies to Chief Kerns for the final department review.

BACKGROUND

Commission Action History

Two policies, #302 – Deadly Force Review Board and #432 – Patrol Rifles were reviewed at the December meeting. However, due to concerns that the December meeting had not been advertised in the City's meeting calendar, a vote was not taken to approve the policies and the commission advised the Use of Force Committee (UOFC) to bring these two policies back at the January 2011 meeting. These policies are attached and have not been changed since the December Policy Commission meeting.

A new policy for the Police Commission's consideration is Policy 312 – Firearms. This is the first time the UOFC has presented the full Police Commission with their recommendations on this policy. The three policies are part of a series of force-related policies that the Use of Force Committee is reviewing. Upon completed review of each policy, the committee sends their recommendations to the full commission for consideration. Following a discussion, the commission votes on the recommended policy changes and any amendments, and forwards their recommendation to the Chief of Police.

Other Background Information

Members of the UOFC are: Joe Alsup, Chair; Tamara Miller, Vice Chair; Marilyn Nelson, Frank Travis, Juan Carlos Valle and John Ahlen. There are twelve Lexipol versions of force-related policies the UOFC is charged with reviewing. The following is a list of all the use of force policies. (Please see Attachment A for a grid outlining the review status for each policy.)

- 300 – Use of Force
- 301 – Use of Force Reporting
- 302 – Deadly Force Review Board
- 304 – Shooting Policy
- 305 – OC Spray

- 306 – Leg Restraint Device
- 307 – Carotid Restraint
- 308 – Control Devices and Techniques
- 309 – Taser Guidelines
- 310 – Use of Deadly Force Investigation
- 312 – Firearms
- 432 – Patrol Rifles

Policy 302 – Deadly Force Review Board

The UOFC reviewed the policy on October 27 and clarified language in 302.2.1(b), removing the word 'normally' from the sentence stating "The Auditor will normally be invited to attend Board proceedings." The policy was finalized on November 10, 2010, the committee determining to forward Policy 302 to the full commission for their review. The motion passed 4-0, member Tamara Miller absent.

Policy 432– Patrol Rifles

The UOFC reviewed the policy on October 27 and changed language in 432.5 Training to require the successful completion of periodic instead of 'quarterly' training. The policy was finalized on November 10, 2010, the committee determining to forward Policy 432 to the full commission for their review. The motion passed 4-0, member Tamara Miller absent.

Policy 312 – Firearms

The UOFC first reviewed the policy on November 10, 2010 and a second review was held on January 6, 2011. The committee re-ordered the sections of policy and re-titled section 312.2.2 to Firearms and Accessories. The committee also requested a change to the first sentence in section 312.3.2 – Alcohol and Drugs, to clarify the prohibition against carrying a firearm based on an officer's authority as a peace officer when the consumption of alcoholic beverages or drugs could tend to adversely affect an officer's judgment. The policy was finalized on January 6, 2011, the committee determining to forward Policy 312 to the full commission for their review. The motion passed 5-0, member Frank Travis absent.

TIMING

The UOFC plans to forward each policy to the full commission upon completion with the understanding that policy 300 as an over-arching guide on the use of force, may need to be amended for definitions or other issues that arise while reviewing other policies. (Policy 300 was forwarded by the Police Commission to the chief for his consideration in July, 2010).

OPTIONS

a.) Accept the Use of Force Committee's recommended policies 302, 432 and 312 as presented, and forward to the Chief of Police for his consideration.
b.) Make suggested amendments to policy 302 and/or policies 432 or 312 agreed to by the Police Commission, and forward to the Chief of Police for consideration.
c.) Send policy 302 and/or policies 432 or 312 back to the Use of Force Committee for further review of selected outstanding issues.

SAMPLE MOTION

I move to accept the Use of Force Committee's recommended policies 302, 432 and 312 as presented, and forward to the Chief of Police for his consideration.

ATTACHMENTS

a.) Use of Force Committee: Status of Reviewed Policies
b.) Draft of Policy 302 – Deadly Force Review Board (draft 10-27-10)
c.) Draft of Policy 423 – Patrol Rifles (draft 10-27-10)
d.) Draft of Policy 312 – Firearms (draft 1-6-11)

STAFF CONTACT

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ATTACHMENT A

Use of Force Policy List for Police Commission - Status Update

Policy	Current Status	Reviewed by Use of Force Committee	Reviewed by Police Commission	Forwarded to Chief
309 – Tasers	Complete	YES	YES	April 8, 2010
300 – Use of Force	Finalized when all other UOF policies are complete	YES	YES	July 8, 2010
308 – Control Devices & Techniques	Complete	YES	YES	September 9, 2010
306 – Leg Restraint Device	Complete	YES	YES	September 9, 2010
307 – Carotid Restraint	Complete	YES	YES	October 14, 2010
304 – Shooting Policy	Complete	YES	YES	October 14, 2010
310 – Use of Deadly Force Investigation	Complete	YES	YES	November 18, 2010
301 – Use of Force Reporting	Complete	YES	YES	November 18, 2010
302 – Deadly Force Review Board	Approved by UOFC November 10	Forwarded to PC for Dec. 9 & Jan. 13	YES	No
432 – Patrol Rifles	Approved by UOFC November 10	Forwarded to PC for Dec. 9 & Jan. 13	YES	No
312 – Firearms	Approved by UOFC January 6, 2011	Forwarded to PC for January 13, 2011	No	No
303 – OC Spray	First Review January 6, 2011	No	No	No

ATTACHMENT B

POLICY
302

EFFECTIVE DATE
Draft 102710

Eugene Police Department

DRAFT - DRAFT - DRAFT

Use of Force Review Board

302.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a process to review the use of deadly force, and certain other uses of force, by members of this department.

302.2 REVIEW BOARD

The Eugene Police Department is charged with the important responsibility of objectively evaluating the use of force. It is the policy of this department to convene a Use of Force Review Board when the use of deadly force by an employee results in injury or death to a person.

The Use of Force Review Board will also investigate and review the circumstances surrounding every intentional discharge of a firearm, whether the employee is on or off duty, excluding range training, dispatching an animal in accordance with department policy, or lawful recreational use.

The Chief of Police may convene the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

302.2.1 COMPOSITION OF THE BOARD

(a) The Use of Force Review Board will normally comprise the following persons:

- A staff-level officer, designated as chairperson
- The involved employee's immediate supervisor
- Training Supervisor
- Rangemaster
- Defensive Tactics Supervisor
- Lieutenant, Office of Professional Standards (in his/her role as use of force expert)
- The civil investigator (staff support only)
- The assigned internal investigator (staff support only)
- Any other person designated by the Chief of Police

(b) The Auditor will ~~normally~~ be invited to attend Board proceedings.

(c) The chairperson will convene the Board as necessary. It will be the responsibility of the division or unit manager of the involved employee(s) to notify the appropriate division manager of any incidents requiring board review. The division or unit manager will also ensure that all relevant reports, documents, and materials are available for consideration and review by the Board.

302.2.2 RESPONSIBILITIES OF THE BOARD

(a) The Use of Force Review Board is empowered to conduct an inquiry into the circumstances of an incident. The Board may request further investigation, call persons to present information, and may request that the involved employee(s) appear before the Board. The involved employees will be notified of the meeting of the Board and may be represented by legal counsel and/or other representation through all phases of the review process.

(b) The review will be based upon those facts that were reasonably believed by the officer at the time of the incident, applying legal requirements, department policy and procedures, and approved training to those facts. Facts later discovered but unknown to the officer at the time can neither justify nor condemn an officer's decision regarding use of force.

(c) If it appears that the actions of the employee(s) may result in criminal charges or disciplinary action by the Department, the Board will conduct the interviews in accordance with department disciplinary procedures. The Board does not have the authority to recommend discipline. The Board will make a finding that will be limited to one of the following:

1. The employee's actions were within department policy and procedure.
2. The employee's actions were in violation of department policy and/or procedure.

(d) A finding will be determined by a majority vote of the Board. After the Board has concluded, the chairperson will submit written findings of the Board, including the vote count, to the Chief of Police. After review by the Chief, a copy of the findings will be forwarded to the involved employee~~'s~~ and to his/her and to his/her division manager for review and appropriate action.

302.3 IDENTIFICATION OF TRAINING NEEDS

(a) The chairperson will forward to the Lieutenant, Office of Professional Standards (OPS), any identified problems or recommendations regarding training, equipment, or policy.

(b) The Lieutenant OPS or designee may convene a work group to address any such concerns arising from the incident.

302.4 ANNUAL REVIEW

An annual review of all use of deadly force incidents will be included in the annual review of use of force cases required by Policy § 300.9.

(OAA 1.3.7)

ATTACHMENT C

POLICY
432

EFFECTIVE DATE
Draft 102710

Eugene Police Department

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Patrol Rifles

432.1 PURPOSE AND SCOPE

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the Eugene Police Department will make patrol rifles available to qualified patrol officers as an additional and more immediate tactical resource. This policy is intended to be used in a manner consistent with Policy 300 (Use of Force), Policy 312 (Firearms), and other relevant department policies.

432.2 DEFINITION

Patrol rifle: A patrol rifle is an authorized weapon which is owned by the Department and which is made available to properly trained and qualified officers as a supplemental resource to the duty handgun or shotgun. No personally owned rifles may be carried for patrol duty unless pre-approved in writing by the Chief of Police or designee.

432.3 SPECIFICATIONS

Only weapons and ammunition that meet agency authorized specifications, approved by the Chief of Police, and/or issued by the Department may be used by officers in their law enforcement responsibilities.

432.4 RIFLE MAINTENANCE

(a) Primary responsibility for serviceability and operator-level maintenance of patrol rifles will rest with the officer using the rifle. Armorer-level maintenance will be performed annually.

(b) Each patrol officer carrying a patrol rifle may be required to field strip and clean an assigned patrol rifle as needed.

(c) Each patrol officer will be responsible for promptly reporting any damage or malfunction of a patrol rifle s/he is using to a department armorer.

(d) Each patrol rifle will be subject to inspection by a supervisor, the Rangemaster or Armorer at any time.

(e) No modification will be made, and no accessories added, to any patrol rifle without prior written authorization from the Rangemaster.

432.5 TRAINING

Officers will not carry or utilize the patrol rifle unless they have successfully completed departmental training with a designated patrol rifle instructor. Officers will thereafter be required to successfully complete ~~quarterly~~ ~~quarterly~~ **periodic** training and**/or** qualification conducted by a patrol rifle instructor.

Any officer who fails to qualify will no longer be authorized to carry the patrol rifle until s/he requalifies in accordance with the provisions of Policy 312 (Firearms).

432.6 USE OF THE PATROL RIFLE

(a) An officer who is qualified with a patrol rifle will normally have it in his/her vehicle while on duty, unless no rifle is available or the officer's vehicle or assignment make carrying the rifle infeasible.

(b) The rifle will be maintained in a patrol ready condition until it is deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned officer, the fire selector switch is in the safe position, the chamber is empty, and a fully loaded magazine is inserted into the magazine well.

(c) An officer may deploy the patrol rifle in any circumstance where s/he can articulate a reasonable expectation that the rifle may be needed.

(d) The patrol rifle may not be used while off duty except for lawful target practice.

432.7 DISCHARGE OF THE PATROL RIFLE

The discharge of the patrol rifle will be governed by the department's policies on the use of force (refer Policy 300), and must be reported as required in Policy § 304.3 (Shooting Policy).

432.8 RIFLE STORAGE

(a) When not in use, patrol rifles will be stored in the designated secure storage.

(b) At the end of the assigned officer's shift, the patrol rifle will be returned to secure storage.

ATTACHMENT D

POLICY 312
EFFECTIVE DATE Draft 010611

Eugene Police Department

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Firearms

312.1 PURPOSE AND SCOPE

This policy establishes procedures for the acquisition, use, and documentation of training in the use of firearms. The Chief of Police or his/her designee will approve all department firearms before they are acquired and utilized by any member of this department. This policy is intended to be used in a manner consistent with Policy 300 (Use of Force) and other relevant department policies. For specific information on patrol rifles, refer to Policy 432 (Patrol Rifles).

312.1.1 DEFINITIONS

Cold qualification: A successful attempt to shoot a qualifying score without prior attempts or practice shots within the previous 12 hours.

Conditional qualification: A successful attempt to shoot a qualifying score on a second attempt after having failed to qualify during the cold qualification attempt.

312.2 FIREARMS AND ACCESSORIES

All firearms carried on duty must be inspected and approved by the Rangemaster or designee. Except in an emergency, or as directed by a supervisor, no firearm will be carried on duty by an officer who has not qualified with that firearm.

312.2.1 DUTY FIREARMS

(a) The standard authorized department-issued handgun is the Sig Sauer P220 .45. An alternate department-issued handgun may be issued with approval of the involved officer's division manager after consultation with the Rangemaster.

(b) An officer must carry his/her department-issued handgun while on duty unless an exception has been granted by his/her division manager.

(c) An officer may not carry any firearm, holster, loading equipment (e.g., magazine), or firearm accessory (e.g., laser sight, gun light, grips) that has not been inspected and approved by the Rangemaster.

312.2.2 AUTHORIZED SECONDARY FIREARMS

Officers desiring to carry a secondary firearm are subject to the following restrictions:

(a) The firearm will be of good quality and workmanship (e.g., Glock, Colt, Smith & Wesson, Browning, Sig Sauer).

(b) The purchase of the firearm and ammunition will normally be the responsibility of the officer.
(c) The firearm will be carried out of sight at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.
(d) The firearm will be subject to inspection whenever deemed necessary.
(e) Ammunition will be the same as Department issue. If the caliber of the firearm is other than Department issue, the Chief of Police or designee will approve the ammunition.
(f) Personnel will qualify with the secondary firearm under range supervision.
(g) Officers must demonstrate their proficiency, safe handling, and serviceability of the firearm.

312.2.3 AUTHORIZED OFF-DUTY FIREARMS

The carrying of concealed firearms by a sworn officer while off duty based on his/her authority as a peace officer is permitted by the Chief of Police, but authorization may be rescinded should circumstances dictate (e.g., administrative leave). Sworn officers who choose to carry a firearm while off duty under this authority will be required to meet the following guidelines:

(a) The firearm will be of good quality and workmanship (e.g., Glock, Colt, Smith & Wesson, Browning, Sig Sauer).
(b) The purchase of the firearm and ammunition will be the responsibility of the officer.
(c) The firearm will be carried in such a manner as to prevent accidental cocking, discharge, or loss of physical control.
(d) Armed off-duty officers will carry department identification. It is recommended that officers also carry a badge to facilitate identification in high stress incidents.

312.2.4 AMMUNITION

(a) Officers will carry only department-authorized ammunition while on duty. Officers will be issued fresh duty ammunition in the specified quantity for all department issued firearms at least once each year. Replacements for unserviceable or depleted ammunition issued by the department will be issued by the Rangemaster or designee when needed in accordance with established policy.

(b) Officers carrying personally owned authorized firearms of a caliber differing from department issued firearms will be responsible for obtaining fresh duty ammunition in accordance with the above at their own expense. Ammunition must be new, commercially manufactured (e.g. not reloaded or remanufactured), and consistent with department issued duty ammunition.

312.2.5 LASER SIGHTS

(a) Laser sights may only be installed on a firearm carried on duty after they have been examined and approved by the Rangemaster.

(b) Any approved laser sight will only be installed in strict accordance with manufacturer specifications.

(c) Once approved laser sights have been properly installed on any firearm, the officer will qualify with the firearm to ensure proper functionality and sighting prior to carrying it.

(d) Except in an approved training situation, an officer may only activate a laser sight when the officer would otherwise be justified in pointing a firearm at an individual or other authorized target.

312.2.6 SHOTGUNS

(a) Shotguns assigned to department vehicles will be carried with the magazine loaded to full capacity, no round in the chamber, hammer in the “down” position, and the safety “on.” They will be secured in the locking rack or locked in the trunk in those vehicles without locking racks.

(b) The shotgun will be removed from the vehicle only for actual use, inspection, cleaning, training, or while the vehicle is out of service for maintenance.

(c) The shotgun will be removed from the vehicle, unloaded, and secured for vehicle maintenance when necessary to prevent unauthorized access to the shotgun..

(d) Shotguns will be secured when not in use.

312.3 SAFE HANDLING OF FIREARMS

The intent of this policy is to promote proper firearm safety on and off duty. Employees will maintain the highest level of safety when handling firearms and will consider the following:

312.3.1 SAFETY CONSIDERATIONS

(a) Officers will not unnecessarily display or handle any firearm.
(b) Anyone at the range will be governed by all rules and regulations pertaining to the use of the range and will obey all orders issued by range personnel. While at the range, firearms will be handled only as directed by range personnel.
(c) Officers will follow the provisions of Policy 301 (Use of Force Reporting) regarding reporting firearm discharges on and off duty.
(d) Bullet traps are provided at most department facilities and should be used for loading and unloading firearms.
(e) Firearms stored on department premises should be locked or secured.
(f) Except for emergencies, firearms will not be removed from the Armory without authorization of the Rangemaster or designee.
(g) Any firearm authorized by the department to be carried on or off duty that is found by the officer to be malfunctioning or needing service will not be carried and will be promptly presented to a department armorer for inspection. Any firearm determined to be in need of service or repair during an inspection by a department armorer will be immediately removed from service. If the firearm is the officer's primary duty firearm, a replacement firearm will be issued until the duty firearm is again rendered serviceable.
(h) An officer will not use a loaded firearm as an impact weapon unless it is the only reasonable option available to defend the officer or another person.

312.3.2 ALCOHOL AND DRUGS

~~No~~ **An** officer who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect his/her senses or judgment will **not** carry a firearm based on his/her authority as a peace officer.

312.3.3 STORAGE OF FIREARMS AT HOME

Officers will keep all department firearms securely stored both on and off duty when the firearm is not being carried. "Securely stored" means that a firearm is stored in a manner that will keep it inaccessible to children and irresponsible adults, and/or that the firearm has been rendered inoperable by a locking device or other mechanism.

312.4 FIREARMS QUALIFICATION AND TRAINING

(a) All sworn personnel are required to achieve a cold qualification semi-annually with all firearms carried on duty on an approved range course. The Rangemaster will keep accurate records of qualifications, repairs, maintenance, and training as directed by the Training Manager. In addition to regular qualification schedules, the Rangemaster will be responsible for providing all sworn personnel with annual practical training designed to simulate field situations. At least annually, all personnel carrying a firearm will receive training on, and demonstrate their knowledge and understanding of, the department Use of Force policy.

(b) All firearms proficiency training and qualification courses will be conducted under the supervision of designated instructors.

(c) If an officer is unable to participate in qualification because of an injury or illness (including officers on modified duty status), the officer must notify his/her supervisor and the Rangemaster at the earliest opportunity. If the medical condition and circumstances permit, the officer may be rescheduled for a make-up qualification session.

(d) If an officer will be on previously-scheduled leave that includes an entire qualification period, s/he should notify his/her supervisor and the Rangemaster, who will attempt to schedule a qualification session prior to the officer's return to work.

(e) If an officer is returning to full duty following an injury during which s/he was unable to work and/or was on modified duty status, s/he should contact the Rangemaster, who will determine whether the officer must qualify before returning to full duty.

312.4.1 NON-QUALIFICATION

(a) If any officer is unable to qualify for any reason, including injury, illness, duty status, or scheduling conflict, that officer will submit a memorandum to his or her immediate supervisor prior to the end of the required shooting period.

(b) If an officer fails to shoot a cold qualifying score on his/her first attempt, a second attempt on the same course must be scored.

(1) An officer who successfully shoots a qualifying score on the second attempt will be conditionally qualified. S/he must receive additional firearms training as determined by the Rangemaster or designee, and must shoot a successful cold qualifying score within 21 days after firing the conditionally qualifying score.

(2) An officer who fails to shoot a qualifying score on the second attempt (the attempt to conditionally qualify) must notify his/her supervisor as soon as possible, and the officer may not carry a firearm on duty and will be reassigned to duties where s/he is not expected to take enforcement action. After the officer receives mandatory additional training, s/he will have the opportunity to shoot the qualification course for record. If the officer shoots a qualifying score, s/he will be qualified.

(c) If the officer fails to achieve a cold qualification within 21 days as required above, the Rangemaster will notify the officer's chain of command, including a documentation of all training and qualification attempts, and recommend a course of action.

(d) Failure of an officer to attend firearms qualification when scheduled may result in non-qualification. An officer who misses his/her scheduled qualification must shoot a makeup qualification within 21 days of the last scheduled qualification day in the session or s/he will be restricted from carrying a firearm. An officer who is absent due to work or approved leave more than 21 days from the last scheduled qualification day must qualify before carrying a firearm at work on his/her return.

(e) An officer who repeatedly fails to qualify will be relieved from field assignment and appropriate disciplinary action may follow.

312.5 RANGEMASTER DUTIES

Any person serving as the Rangemaster for the Eugene Police Department must be a current firearms instructor. The range will be under the exclusive control of the Rangemaster or his/her designee. All officers

attending will follow the directions of range staff. The Rangemaster will maintain a roster of all officers attending the firearms training at the range and will submit the roster to the Training Manager after each range date.

The Rangemaster or designee will maintain a record of all weapons authorized for duty use, and to whom each weapon is issued or assigned.

The Rangemaster has the responsibility to oversee periodic inspection, at least once a year, of all firearms, holsters, and firearms accessories carried while on duty by officers of this department to verify proper operation. The Rangemaster has the authority to deem any privately owned firearm unfit for on-duty use. The officer will be responsible for all repairs to his or her personally owned firearm and it will not be carried on duty until inspected and approved by the Rangemaster.

312.6 MAINTENANCE AND REPAIR

Firearms carried on duty will be maintained in a clean, serviceable condition. Individual owners are responsible for maintenance and repair of their personally owned firearms carried on duty.

312.6.1 REPAIR OR MODIFICATIONS OF DUTY FIREARMS

Department armorers and factory-authorized representatives will be the only persons authorized to repair or modify any Department-owned firearm. All repairs and/or modifications of department issued firearms not performed by the Rangemaster must be approved in advance by the Rangemaster and accomplished by a department approved armorer. Any repairs or modifications to the officer's personally owned firearm will be done at his/her expense and must be approved by the Rangemaster.

312.7 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to personnel who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

(a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes. Based on the determination of the department, the officer must need to have the firearm accessible from the time s/he would otherwise check the firearm to the time it would be claimed after deplaning for one of the reasons outlined in 49 CFR 1544.219(2).
(b) Officers must carry their Department identification card and state-issued driver's license, and must present their identification to airline officials when requested.
(c) All required notifications must be transmitted in accordance with TSA regulations and a unique identifier number must be obtained.
(d) An official letter signed by the Chief of Police authorizing armed travel must accompany the officer(s). The letter must outline the officer's necessity to fly armed, must detail his/her itinerary, and should include that the officer(s) has completed the mandatory TSA training for law enforcement officer(s) flying while armed.
(e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training will be given by the department appointed instructor.
(f) It is the officer's responsibility to notify the air carrier at least one hour in advance of the intended armed travel. This notification can generally be accomplished by early check-in at the carrier's check-in counter.
(g) Discretion must be used to avoid alarming passengers or crew by displaying a firearm.
The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
(h) An officer should not surrender his/her firearm to anyone, but try to resolve any problems through the flight captain, ground security manager, or other management representative of the air carrier.

(i) Officers will not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.
(j) An officer may not sleep aboard an aircraft while armed unless accompanied by another armed officer who is nearby and who remains awake.

312.8 CARRYING FIREARMS OUT OF STATE

Qualified active officers and qualified retired officers (refer 18 USC 926C) of this department are authorized to carry a concealed firearm in all other states subject to the conditions prescribed by 18 USC 926B and C:

(a) The officer will carry his/her Department identification whenever carrying such firearm.
(b) Qualified retired officers will also carry certification of having met firearms qualification within the past 12 months.
(c) The officer is not the subject of any current disciplinary action.
(d) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
(e) The officer will remain subject to this and all other Department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority to carry a concealed firearm may not shield an officer from arrest and prosecution in such locally restricted areas.

Visiting active and retired peace officers from other states are subject to all requirements set forth in 18 USC 926B and C.

(OAA 1.3.4, 1.3.5)

EUGENE POLICE COMMISSION
AGENDA ITEM SUMMARY

Work Session: Public Outreach/EPD Resources Committee Scoping Process

Meeting Date: January 13, 2011 | Agenda Item Number: 6
Department: Eugene Police Department | Staff Contact: Linda Phelps
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AGENDA ITEM SUMMARY

This is work session for the full commission to discuss the scope of the new Public Outreach/EPD Resources Committee and to determine how the committee can be organized to fulfill the expectations set forth in the Police Commission's FY11 Work Plan.

BACKGROUND

The Public Outreach Committee (POC) began its work in April 2009 with the goal of better engaging and educating the public in the work of the police department and strengthening the community/police relationship. The committee started with three members and in 2010, the committee restructured its membership and was able to add two more members. Chair Brooke Dodge and Commissioners Tim Mueller, Juan Carlos Valle, Marilyn Nelson and Tamara Miller created a new strategy plan for the POC that included activities intended to bring a stronger community perspective to the Police Commission and the police department.

In 2010, the POC completed a Police Commission brochure that included information on the commission's mission, opportunities for the public to be involved in meetings and the current year work plan items. The POC also began developing a short survey of questions that sought to identify challenges in achieving the committee's mission of building the relationship between the police department and the community. The survey was scheduled for completion in early FY11 and was to be sent to stakeholders, neighborhood associations and other households both online and in hard copy. Additionally, the POC became involved in social networking by creating a Twitter page. The goal of the Twitter page was to announce important events and meetings to the public and increase awareness of the commission's activities.

At its process retreat in June 2010, the commission decided to expand the POC to include a focus on department resources. The City Council approved this concept when they adopted the commission's FY11 Work Plan. The new goal of the committee was described as a combination of the work of the current Public Outreach Committee plus the incorporation of a review of the police department's resources to identify service gaps and make recommendations on the FY12 budget. One of the focus areas of this committee was to monitor Lane County's budget and assess the impact of funding to City of Eugene operations. The Police Commission also mentioned the committee utilizing outreach strategies designed in FY10 to better engage the public in supporting the police department's goal of strengthening and increasing resources.

The committee has not reformed to start work on its agenda, primarily due to the resignation of two members of the committee and the departure of the commission's staff person. Previous requests from

Police Commission Chair Tamara Miller for additional members to the committee have not resulted in any change to the membership. As a result, the commission leadership decided to bring the issue before the full commission to assess the commission's ability and desire to move forward with the Public Outreach/EPD Resources Committee formation and work plan.

EPD Financial Manager Lori Kievith will attend the work session to provide a brief overview of the department's budget and resources and to share information about the City's budget process. Senior Planner Linda Phelps will facilitate a scoping process for the committee if the commission determines that it wishes to move forward with the Public Outreach/EPD Resources Committee.

OPTIONS

During this work session the Police Commission may:

A) Identify outcomes for the new committee to achieve within the remainder of fiscal year 2011.
B) Determine a timeline for the remainder of the fiscal year.
C) Add additional members to the committee.
D) Take other actions to identify possibilities for committee actions.
E) Determine that no further action can occur on this project during fiscal year 2011.

STAFF RECOMMENDATION

Staff recommends options A and B to identify outcomes and timelines for the committee for the remainder of fiscal year 2011. In addition, if other members of the commission show interest, adding additional members to the committee should facilitate the committee's ability to move forward toward achieving identified outcomes.

SUGGESTED MOTION

No motion suggested for this work session.

ATTACHMENTS

None.

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