

# MINUTES

## Citizens Police Review Board Meeting

May 12, 2010

7:00 p.m.

City Hall Building – New Addition

City Council Chamber

701 East Broadway

Columbia, Missouri

Board members present: Ms. LoCurto-Martinez, Mr. Martin, Mr. Highbarger, Mr. McClure, Ms. Smith, Ms. Bixby, Mr. Weinberg, Ms. Wilson and Mr. Alexander.

Staff Present: Rose Wibbenmeyer, Fred Boeckmann, Chief Burton and many other members of the City of Columbia Police Department.

Members of the public were present.

Ms. LoCurto-Martinez called the meeting to order at 7:02 p.m. Ms. LoCurto-Martinez introduced Mayor McDavid. Ms. LoCurto-Martinez announced that the agenda had been modified.

Mr. Weinberg moved to approve the agenda as modified. Mr. McClure seconded the motion. With the exception of Ms. Smith, all Board members voted in favor of modifying the agenda. Ms. Smith announced that she was opposed. Ms. Smith moved to table Chief Burton's presentation to the June 9, 2010 meeting. Mr. Highbarger seconded Ms. Smith's motion for purposes of discussion. Ms. LoCurto-Martinez explained that Section 21-49 mandated the Board to review policies and procedures. Ms. Smith announced that she had no problem with listening to the citizens' concerns, but that she thought it was premature for the Board to review this incident. Mr. Boeckmann stated that it seemed to be appropriate for the Board to listen to the Chief and to the citizens impartially. Ms. Wilson stated that the Board needed to respond to the public outcry. Mr. McClure stated that he was concerned about the appearance of impartiality because impartiality is necessary to gain the trust of the police and the citizens. He was concerned about the change in the agenda, but would like the chance to hear from the citizens. Ms. Smith, Ms. Wilson, Mr. McClure, Ms. Bixby and Mr. Martin voted to table the Chief's presentation until the June meeting.

Ms. Smith moved to approve the minutes. The Board unanimously approved the minutes of the April 14, 2010 meeting.

The Board heard comments from members of the public. The citizens expressed their concerns regarding the police department's use of the SWAT team in executing a search warrant at the home of Jonathan Whitworth in February of 2010.

Mr. Smith stated that a majority of Columbia believe more accountability is needed in the police department. He told the Board to act courageously and said that a timid Board is worse than no Board at all.

Ms. Sullivan stated that the Board members need to make it clear if the chair can talk to people without the rest of the Board knowing about the conversation.

Mr. Richards felt outraged by the police department's raid and the trauma to the child and mother. He suggested that the Board obtain monthly reports from the police department regarding SWAT use and that the Board make those reports available to the public. He felt that every SWAT raid should be recorded and made public. He encouraged the Board to push to change policy for the use of the SWAT team to limit it to hostage situations or when there is an immediate verifiable risk of death to the officer or to the public.

Mr. Weinberg stated that the Board's job is to act on specific complaints after the police chief makes a determination. The Board can also make recommendations on policies.

Mr. Nielsen felt that the real question should be what are the appropriate police policies and procedures. He felt that searches of this nature happen all of the time. The only difference in this case is that people became aware of it. He referenced "Overkill: The Rise of Paramilitary Police Raids in America" by Radley Balko, a policy analyst for the CATO Institute, which documents the use and development of SWAT teams, and it also documents when the use of SWAT goes wrong. He believes that these types of raids should not be used casually. They should not be used for regular search warrants. He asked the Board to obtain data of the number of raids per year, the types of warrants on which SWAT is used, the results thereof, the probable cause for the issuance of the warrant, the number of times shots were fired, and whether or not the defendant resisted arrest.

Mr. Haim expressed his concern that he was not sure that anyone in the police department was taking this incident seriously. He felt that the police chief had inappropriately tried to marginalize those upset by the video into three categories: animal rights activists, cop haters and dope smokers.

Mr. Rodriguez stated that he was concerned with the right to privacy guaranteed by the constitution. He was concerned about the police chief. He felt that the Chief needs to spend more time in the community and that he needs to give the police training on community relations. He was concerned about how the police treat citizens.

Mr. Randall stated that possession of marijuana is not sufficient to justify a paramilitary raid. He mentioned that a few years ago a similar botched raid led to the death of an elderly woman when police executed a search warrant at the wrong address. He was concerned about bad sources of information and the use of tips. He recommended a moratorium on armed SWAT police raids on marijuana cases.

Mr. and Ms. Smith told the Board about a March 17, 2003 SWAT invasion of their home. Their four children were home when the SWAT team invaded their home. An officer hit their oldest child in the mouth with a gun. Their kids still cannot trust the police. Mr. Smith believed that the SWAT team needed to do a thorough surveillance if they suspect that people are selling or doing drugs. He also mentioned that a lady had her purse stolen and she called the police. They did not respond because the thief had already left. He felt that the police need to start doing a thorough investigation. Mr. Weinberg asked if they tried to complain when this happened to their family. Mr. Smith said he did not complain because they were afraid they would come back and do it again. Ms. Smith said that she complained, but the police swept it under the rug. She spoke to a lieutenant who told her that they followed proper procedure.

Mr. Proctor stated he was there to emphasize that they are not cop haters. He appreciates police, but deploras some of their actions.

Another gentleman asked the Board to endorse ending prohibition on marijuana.

Mr. Viets told the Board that he had a client who had two dogs shot to death in the back with automatic weapons during the execution of a search warrant. He asked the Board to fundamentally reconsider the level of violence used when a search warrant is executed. He felt that it was quite predictable that dogs will react when the police invade their home. He felt that this was not the way the citizens of Columbia want our city to be seen. He told the Board that the citizens of Columbia expressed their views on marijuana when 61% voted that marijuana law enforcement should be the lowest law enforcement priority. He suggested that the police should not use more violence that the crime they are investigating and that the police should minimize the violence in the community.

Mr. Weinberg encouraged the citizens to help educate the Board on these issues. Mr. McClure told the public that the Board would be happy to make a presentation for organizations. He felt it was important for the Board to let people know what they can and cannot do.

Ms. Anderson stated that she works for the Health Department. She wanted the Board to determine what percentage of raids result in animal control cleaning up deceased dogs. She thought the Board should compare the percentage with that of other law enforcement entities, like the Sheriff's Department and the Highway Patrol.

Mr. Asher wanted to know how much this raid cost in terms of man hours. He assumed it was quite a lot, and wondered if the community would be better served by using that money for the treatment of addictions rather than the use of a SWAT team in this fashion.

Ms. Massat stated that she felt that the police should use the least amount of violence necessary to keep the citizens and the police safe. She asked if the officer was even in

danger, and if he had a taser. She did not feel that it was just fringe groups who were concerned about this incident.

Mr. Clark stated that doing police review in-house is woefully inadequate. He also suggested that the Board involve the citizens in a systematic review of all of police policies and procedures. He also stated that the citizens should be involved in developing the strategic plan for the police department.

Mr. Davis believes that public dialogue is necessary. He said that he wants solutions, not condemnations. He suggested the following. (1) He disliked the use of the term "dynamic entry" as it was a SWAT raid. (2) He felt that the use of confidential informants is unreliable. He felt that some policy change is necessary to address the use of confidential informants. (3) He felt that the SWAT team should only be used when absolutely necessary. He thought that there was a lack of professionalism due to lack of training or insufficient training. (4) He was concerned about the use of excessive force in the situation. On the video, he heard an officer say "slow it down." He felt that the officer had the right idea. He said that the public is looking for accountability and personal responsibility and that the community needs the best law enforcement at the lowest possible cost. He asked the Board to put aside the negative characterizations and really look at the incident so that we can make it better.

Mr. Gerhart stated that citizens should very rarely be subjected to this type of paramilitary action. He said that if we are going to maintain a SWAT team, they cannot act on stale information.

Another citizen discussed an incident at a birthday party three years ago. He suggested that everyone in town should have video cameras to take evidence of police action.

Ms. Hatton stated that she is concerned about her safety when she pursues her complaint against the police department. She asked if it was possible to find out if there have been any complaints made against these officers? She also asked how the public would be assured that these same officers are not allowed to go out and involve themselves in similar situations?

Ms. McGrath told the Board that she had been the subject of a SWAT raid in the late 80's. She said that she was the target of the police and it has destroyed her life. Mr. Weinberg and Mr. Alexander encouraged her to try the process. Mr. Alexander explained the process to file the complaints and that there are advocates to assist those with complaints.

Mr. Byndom said that the Board should be approachable and should reach out to the community. He encouraged the Board to address the hidden racist policies. He told the Board that there should be no monthly quotas for ticket writing or arrests. Each officer must have cultural training and the officers need to be humble. He encouraged the officers to smile at people and their children. He stated that our protectors should not

terrorize us. He encouraged the Board to gather all of the data. He also suggested that the Board involve the federal authorities to give the community justice.

Mr. Linell felt that there is an inherent risk to police, children and other citizens by this type of raid.

Ms. Duff said that the police should not be using military tactics to deal with nonviolent offenses. She agreed with the Mayor's statements on the issue. She wants the SWAT team members to be properly trained to deal with animals. PETA is working on guidelines. She also stated that there is a petition in circulation regarding this and there are over 500 signatures on the petition.

Ms. Dungan discussed why the Board was formed. She said that people had complained in the past and for the most part, the police nearly always concluded that the police did nothing wrong. She said that if the Board is not receiving cases, then the Board needs to see why. She felt that if the Board is not receiving cases, there must be a blockage at the police department. She encouraged the Board to communicate with the police department and that the police department should communicate with the Board.

Mr. Murray was outraged by the video. He was ashamed that this is the perception of Columbia, Missouri.

Ms. Postin stated that this video has resulted in a big discussion at her high school. She felt that it was quite pathetic that the police feel that this is the only way they can enforce the laws.

Ms. Mandy Wong expressed her concerns regarding the dogs. She did not feel that the police took the correct action regarding the dog. Ms. Jennifer Wong felt that this action harmed the small child in the house. She felt that he would not understand what had happened, that he would be alienated by it, and that he would distrust the police as a result.

Ms. Matthews stated that the police need guidelines and better standards to protect the civil liberties. She felt that SWAT should only be reserved for major criminals. She said that the whole SWAT policy needs to be reviewed.

Mr. Wrecker wanted clarification of the complaint process. He thought that he should not have to take a complaint about the police to the police. Mr. Alexander stated that is how the ordinance is written and that he could address that concern with the city council. Ms. Smith encouraged the group to let the police department make the changes that they think are necessary first. She felt that would assist the police department in developing leadership.

A member in the audience expressed concern that the police have a record of not taking care of problems. Ms. Wilson stated that was why the Board was formed.

A public defender stated that video cameras in patrol cars and in interrogation rooms led to a revolution in criminal justice systems. While there are some issues with the police keeping the video evidence, video evidence is important in cases. She felt that the police should adopt a policy that requires videos to be retained any time there has been an arrest.

Ms. Razor said that she is willing to video tape raids for the police department. She felt that the police department should have someone maintain the videos.

Mr. Robnett encouraged everyone at the meeting to help the city move forward by reviewing the Chief's proposed changes and by emailing their suggestions and ideas to the Board, the City Council and the police department.

A member of the public asked that the police department release the crime scene photographs so that people can see what really happened. This speaker wants the Board to encourage the police to be extremely transparent.

Mr. Gurling said that he has had good experiences with some of the police officers at Columbia Police Department, but that he has some concerns. He asked that the Board make people feel more comfortable to make complaints. He questioned if the police should be investigating themselves. He thinks that the Chief has done a good job with policy. He felt that a lot can change in eight days and was glad that the police would be acting in a more timely fashion. He felt that confidential informants should be better vetted. He thought that there should be more transparency in the process. Confidential informants have no credibility as they have a motive to lie. Mr. Gurling asked if anyone has apologized to Mr. Whitworth, his wife or his child. If not, Mr. Gurling thought that someone should apologize. Mr. Weinberg asked how the Board could make people feel more comfortable. Mr. Gurling suggested that people are afraid of possible police retaliation. He felt that the Board should send a strong message that verified retaliation by police will result in some action by the Board.

Mr. Flackne stated that this incident cast a bad light on Columbia. He felt that the incident does give us the opportunity to make meaningful change and reform.

Another Citizen inquired about the volunteer advocate recruitment process. Ms. Wibbenmeyer explained that the Office of Volunteer Services was soliciting volunteers. An interested volunteer must complete an application. Volunteer Services screens the initial applications, conducts an initial background check, and then forwards the applications to the Law Department. Ms. Wibbenmeyer then conducts additional investigation into their background, interviews and trains the volunteers. She encouraged people interested in volunteering to complete an application.

Ms. Derby described an incident to the Board in which the SWAT team came into her home. She told the Board that she had filed a complaint with the police department as

a result. She went through the internal affairs process. She was glad that the Board was here as she felt it was needed for a long time.

A woman stated that she was the wife of a police officer. She respected everyone's opinions, but she asked the Board to make suggestions on policy with the safety of the officer in mind so that the officers can return home to their families at night.

Mr. Weinberg stated that the Board had received training from the police as it was important for the Board to understand how the police think and how they view their jobs. Mr. McClure said that it is important to understand policies that govern how they operate. Mr. McClure said that part of the Board's function is to review policy. Unfortunately, the policy review may come after the fact.

Mr. Sullivan encouraged the Board to understand the culture of the police department. He said that the Board needs to understand the culture that the Chief must deal with—a culture he did not develop. Mr. Sullivan said that the Chief will need support to address the cultural changes at the police department.

Mr. Byndom told the Board that intelligence needs to be actionable, but he expressed his concern that eight hours may be too soon. Mr. Byndom thought that an eight hour time limit could force the police into a mistake or error. He felt that the Chief's new policy should be changed to at least 24 hours.

Mr. Davis thought that the police could have used their riot shield to push the dogs back.

Ms. LoCurto-Martinez thanked the citizens in attendance and encouraged them to come to the regular meetings of the Board. She announced that the next regular meeting will be on June 9, 2010. She also announced that the police would be training the Board on tasers on May 19, 2010. Mr. Weinberg moved to adjourn the meeting. Ms. Wilson seconded his motion. The meeting adjourned at approximately 9:45 p.m.