

CITY OF NORWICH
Police Reform
Community Advisory Board (“CAB”)
Meeting Minutes
January 27, 2021
3:00 p.m.
Zoom meeting.

PRESENT

Police Chief Rodney Marsh
Assistant Police Chief Scott Burlison
Christine Rudy – First Assistant District Attorney
Police Officer Brandon Clarke – PBA President
Pastor Jen Westervelt
Adrienne Zornow
Lynn Murray

Other

Meeting Intro:

Next regular meeting will be Wednesday February 3rd at 3:00 pm, following that the public forum will be taking place February 9th at 6:30 pm. Missy, Adrienne, Brandon, Pastor Jen, and Chief Marsh will be in attendance. Hoping that DA Ferrarese or First Assistant DA Rudy will be available as well. There is a section on the bottom of the agenda with important dates.

Internal accountability for misconduct

We may revisit the use of force policy as needed; Adrienne had an update from one of the council members part of his concern was alleviated because he saw some verbiage that he did not see the first time. **What does the Norwich PD expect of officers who know of misconduct by another officer?** Chief Marsh - they would be required to report misconduct to a supervisor immediately and it is clearly in the updated Anti retaliation policy, it states there can be no retaliation against an officer who brings about information or a compliant of misconduct. Asst. Chief Burlison - if there was an officer that saw misconduct by his immediate supervisor, he would skip that person and go to the next person in the chain of command. How do the officers know that is the procedure? Officer Clarke - a new employee must go over the policy binder any questions or concerns the training officer addresses. Chief Marsh - it is clearly stated in the harassment policy if they do not feel comfortable going to their supervisor or using the chain of command, they can go to the HR Director. Adrienne – Once the policies are signed off on and reviewed are they accessible to officers? Officer Clarke – there are binders and clip boards that are accessible forever. Adrienne - What if you are off duty? Officer Clarke – not sure what the questions is? Adrienne was wondering if an officer wants to file a compliant off duty how is the officer able to find out what the policy states or the protocols. Officer Clarke - there is no internet access so the officer can call the shift supervisor or another patrolman. Pastor Jen – wouldn’t it be the case that the President of the union would be a logical source of support? Officer Clarke – yes. **Are anonymous internal complaints currently accepted?** Chief Marsh – technically no, only signed complaints will be handled. However, he has had people that have come to him and sat across from him and wanted to make a compliant but didn’t want it in writing or to make a formal complaint, he still investigates because it might move to something else, and he has had cases where he reviewed the compliant and has found that enough information to discipline. He believes that some individuals that make anonymous complaint might be angry at an officer for arresting them twice for drugs that person would want to jam up the officer. Pastor Jen – what if an officer that has a compliant about another officer or leadership and wants to be anonymous. Chief Marsh – an officer could go to HR to make a compliant. – He believes that just random anonymous complaints aren’t fair because of what they could imply and there is no recourse of going back and truly

being able to investigate the complaint thoroughly. If he has a person that can sit and tell him what happened and what they saw, even though they do not want to put it in writing, he was still able to investigate enough were he found issues. Adrienne – Just to clarify one more time if an officer goes to HR with a compliant about a fellow officer or leadership, then the HR director would tell you about the complaint say I received an anonymous compliant from a current officer and it would be investigated that way? Chief Marsh – it would not be able to be anonymous that is why the policy is strongly written to protect the officer from coming forward and to protect that officer from retaliation. Pastor Jen at some point the identity will have to be known but the anti-retaliation policy protects the officer? Chief Marsh – yes. **Clear and transparent process for investigating a report of misconduct?** Is there a clear and transparent process on how the investigations happen internally? Chief Marsh – yes, the policy states any city employee can make a compliant about other employees. Pastor Jen – that is a City-wide policy. Lynn can pull up the policy and put into Google drive, Adrienne – the Anti-retaliation policy and internal compliant policy needs to be on Google drive. Is there a timeline for these investigations? Lynn – once a compliant is brought to HR what happens is an investigation starts which happens as soon as it is brought to HR, then we do a thorough investigation. If the investigation reveal misconduct, then HR would request assistance from the labor law attorney and make a decision. Pastor Jen asked if it would take 6 months? Lynn – it should take no longer than 6 months but might depend on the investigation. Pastor Jen - do we have a policy stating disciplinary measures are to be taking? Chief Marsh - it is in the contract under article 22 sub c disciplinary actions in this section shall include oral reprimand, written reprimand, suspension, discharge, fine, reduction in rank or a combination thereof. Pastor Jen - have you felt those were insufficient or inadequate? Chief Marsh - two that are not on there one is counseling which is not discipline and also loss of accruals. Pastor Jen - so, an officer can lose vacation days or personal days. Pastor Jen - is that stated in the contract? Chief Marsh – no it is not stated in the contract, but it has been used in the past. Pastor Jen – so is that something where you would reach out to the union and say this seems like a measure that needs to be taking and then get the attorney involved? Chief Marsh - in rules and regs he only has the authority to suspend an employee up to 2 days anything more than 2 days suspension must come from the public safety committee. **Does Norwich PD expect leaders and officers to uphold the department values and cultures when off duty?** Refer to the PBA union contract under professional standards of conduct attached to the agenda. Pastor Jen – How are these parameters set and what is acceptable and what is not? What off duty behaviors are subject to disciplinary action and/or termination? Chief Marsh – anything criminal in nature. Pastor Jen – are you including if an officer is pulled over in Norwich is off duty and intoxicated (and a fellow officer pulls them over) how does that play out? Chief Marsh - it depends on each situation; every situation is different. If it is another agency the Norwich PD would not be involved but it would be there to assist in any way possible. Pastor Jen – how would you be informed in this situation? Chief Marsh – the agency involved contacts the Chief of Police. Adrienne – It should be more explicit in nature on exactly what type of behavior should be subject to disciplinary action for off duty versus just a blanket statement about conducting themselves about being respectful, it needs to be explored to have things spelled out more specifically, kind of like how the drug and alcohol section is, she thinks especially for the things like domestic abuse or other things that have higher risk for on-duty behavior and that some things should be added to the contract to specify that. What behaviors off duty can single trouble with on duty behavior? Officer Clarke – the law being the law innocent until proven guilty must work for everyone included a officer, so for an example the officer that got pulled over that guilt doesn't come into play until the court proceedings are done. Subjective line of there are responsibilities of police officers one and off duty. Adrienne - the line should be a little clearer. Pastor Jen – from contract – no member of the department shall partake of intoxication beverages while on duty or off duty to the extent it would interfere with his recall to duty in cases of emergency, so if she drinks alcohol it might take her one beer, where she would be unfit to respond to an emergency, where with Officer Clarke it might take more, how do you make a decision of setting an explicit standard of what that looks like when it depends on a lot of other factors. Not sure how it can be made clearer with out taking into account things like body max index and all factors when talking about intoxication it would be really difficult to be more specific, she thinks that is why it is stated the way it is,

and it would be difficult to enforce. Adrienne – the drug and alcohol abuse is called out as an example of inappropriate conduct, it is very clear even if it is not spelled out how many drinks this is a no go but that same thing does not exist for assault or domestic violence, an off duty officer gets into a bar fight he slugs a guy or bad stuff at home like domestic violence, those aren't always carried out by the courts, it would be a female or male that presses charges, it comes from the City or another entity. If there is not enough evidence to pursue a charge it might not ever get that far it does not mean it did not happen. If there is a history of an individual that has a history of domestic violence and is not something that is not covered in the contract as a off duty behavior that is not tolerated, and it should be some explicit that this type of behavior is not aligned in our core values. Pastor Jen – can someone be consequenced for something that was observed but was not brought to court and found guilty, if there is a record of this it is a very different conversation. Lynn – this instance of someone getting arrested and getting terminated from the city and found not guilty; the City must hire them back because they did not plead guilty or they were not found guilty by a court of law. Officer Clarke - for him to make an arrest he must have a victim, domestic violence, he goes to house and if there is no victim under NYS law system there is no crime. To make an arrest there must be a suspect, evidence and there must be a victim. Lynn- termination – that would go for any company, you cannot terminate anyone based on false claims or something that never went through the court system. Pastor Jen was asked how this would work in the school setting; administration would call a teacher in the office to let them know that their conduct is unacceptable. Christine – Police Officers have to hold themselves to a certain higher standard, doesn't mean they are not allowed to go out and be themselves. They cannot get into a car and drive drunk, there is certain things we can't do there are consequences for these actions. Pastor Jen – like the drug and alcohol policy should there be something that says incidence of domestic abuse or assault, etc. occurs there should be an investigation and discipline should occur. Is this a suggestion that CAB would be making? Chief Marsh – an example an officer had an off-duty incident it was mostly unprofessional conduct, and a complainant came in and signed a complaint of what they witnessed he interviewed 6 individuals there was not enough for criminal charges, but the Police Officer was disciplined for his off-duty behavior. Pastor Jen - Should this be stated more explicating in the contract? Adrienne – people should hold themselves to a high standard, they are representing our city and police department at all times and there should be a level of respect and behavior that goes along with that. Back to our survey the citizens said that off duty officers were less respectful by 10%, how can we re-assure the community that this is something we take seriously. Nancy – does not understand how you can specify everything a person could do wrong it would make it too cumbersome, there must be ability to read into what is expectable and not expectable. How do you spell every detail out that would be inappropriate conduct there are too many things that arise that we cannot even think of and we should leave it a little more open ended like it already is? Adrienne – she does not think it is inappropriate to have some sort of addendum about off duty violent behavior. Let us think about what the serious offenses are like drinking and driving and violent behavior should have attention on their own. Lynn – this is part of the union contract; does this go through the PBA? Officer Clarke – yes. Pastor Jen – how do we want to capture this for continued conversation – do we suggest a recommendation or keep it in our notes. Adrienne – see if other contracts with examples on how this might be done, she can try and find out. Pastor Jen see if other contracts happen to have reference to violent behavior and if she finds something we can discuss at that point. **How do officers with past complaints/terminations from other law enforcement agencies get hired at new departments?** Chief Marsh - first step is take civil service test then they do a physical agility test if they pass that test then we have a panel were we interview, when we choose a candidate they have a polygraph, psychology exam and also a through background check. The City of Norwich will not take on an individual that is going to be a liability, if they must work extra shifts and pay the overtime that is what they are willing to do, we are not going to take on a liability. We had individuals that failed the polygraph we said no thank you. It was decided that we err on the side of caution and say this is a 20-year career even though we are hurting it is not worth bringing them on to be a liability to the department. Adrienne - is this before or after the Civil Service Exam. Chief Marsh – after. Asst Chief Burlison went to a training that was put on by an officer that retired for the state police and an attorney and that was one of the things that set his mind is

not to hire a 20-year problem. We make sure that we hire officers that are top notch. There is a packet that an individual must complete after their interview, it is very extensive. Adrienne – is that something that you put together yourself or is that a policy, 25 years down the road how do we maintain those strict guidelines are in place? How do we ensure that in the future? Chief Marsh – hope that the current supervisors that take their place will continue, there is nothing in writing. Asst Chief Burlison – it might be covered in Lexipol, if it is you can put the requirements for each candidate. Pastor Jen – would it be possible to check on that policy? Asst Chief Burlison – meeting tomorrow with Lexipol will check and talk with them. Adrienne – how does that look from a HR perspective kind of formalizing these procedures. – Lynn – the Human Resource department has formalized procedures for reference checks before someone can start with the city – the police department has a thorough background check, and she calls and makes sure things are being completed.

Citizen Oversight and Other External Accountability

Is there any easy, accessible, and well-publicized process for members of the public to report complaints about police misconduct? There are screen shots and information from the website with some strong recommendations, should this be clearer so that concerned community members could send a compliant (contract states it cannot be anonymous) so it would have to be attached to the person making the compliant, what are your thoughts on that? Chief Marsh – went over recommendations – agrees with the comments – talked with our webpage company and asked to put the use of force policy on the page but it is difficult to find, it should be more prominent, so it stands out. He also would not be opposed to having a link on the website if someone wanted to make a compliant. He has had people call him, people come in to see him, emails and people go to city hall to make a complaint against an officer. If this is one more aspect that they can do he is not against. He wants to see how our web company will be able to put it on site so that it stands out. Adrienne – she completely understands the anonymous complaints procedures are a slippery slope, she is wondering if there is a process for informal versus formal. She knows that the Chief talks to people that do not want to go on the record, but he still completes his investigation. Is there space for people who do not really want to go on the record they just want to file a compliant they just want to let the PD know this happened or they observed this then be done with it. Is there value to any of that information why or why not? Chief Marsh – if they access it online, we may have to spell out that only signed complaints will have action taken. Notify them you can do anonymous or signed, however only signed complaints will be investigation. Adrienne – you can mess around with the verbiage; we can say things like we value the feedback from everyone and a disclaimer about if you choose not to include your contact information..... She thinks it is important that people can still submit something even if they don't want to put their name on it as long as they understand it might be handled differently and thinks it is still valuable to know the complaints. Chief Marsh – it is no different then the complaints he has dealt with where people have come in and just wanted to make him aware but did not want to make it official. Pastor Jen – this could be a recommendation in our plan to see some updates made to the website, Chief Marsh will reach out to the web company to discuss the CAB recommendations.

Are investigation outcomes reported to the complainant? Are they reported to the public? Should the department or the citizen compliant review entity if any accept anonymous complaints? Chief Marsh – before this summer with 50A, he was not allowed to tell individuals that made a complaint against a Police Officer what happened, he advised them he will do a thorough investigation and he takes it very seriously unfortunately by law he cannot tell them the outcome. With the repeal of 50A he has not had any complaints and has not had to cross that bridge. Officer Clarke – The PBA attorney has been in touch with the PBA union members – there is no answer to the question since it is still new. Continued conversation topic as more implementations is released.

Follow Up on Action Items/Close meeting

Adrienne – investigate other contracts regarding violate behavior.

Asst Chief Burlison - checking with Lexiol in terms of the hiring policy.

Lynn – put anti-retaliation and compliant policy in resources.

Marsh – follow up regarding the web site developer use the recommendations and questions in the citizens oversight document.

Website recommendations and the continuation of CAB with the February 3rd meeting.

General input – Pastor Jen – Secretarial position – does not see the public relations part in the general duties. How would the public relations component be delineated? Asst Chief Burlison – why can't an officer from the City of Norwich PD complete that duty? Pastor Jen- trying to be sensitive to the constraints on the officers' time because it would not be additional pay for the duty. She is thinking about Facebook posts not necessarily talking about when a crime occurs, and an article needs to be submitted to the paper that would be different then what the Administrative Assistant might be doing. Adrienne – Facebook post, website updates, this person could be the in between, there also should be an officer who is trained to be a public information officer. For some of the PR stuff it is more administrative not so much the strategy behind it or the content. Pastor Jen – example she would take a picture of a dinner she brings to a foster family; she just sends the picture to the Facebook rep who does the post. She thinks that the administrative assistant could posts like law enforcement day. Asst Chief Burlison - it makes sense, but he still thinks there must be checks and balances and information needs to be approved by whoever is in charge. Pastor Jen - on Facebook you can set up an approver and anything that is posted has to be approved by whomever is in charge. Adrienne – an example would be her looking to subcontract out all social media, but she would still be the person that approves the content she is not the one posting. Asst Chief Burlison – that works for him as long as there is an understanding that posts need to be approved before it goes out to the public.

Update SOR- Superintendent Scott Ryan wants to be able to contact directly with the City Council and the police department – a bridge has been established so it is being suggested that the best move is for the entities who are directly involved to carry on the conversation. It does not mean that we would not be asked to have some input, that is the request right now, not sure what that looks like, we can follow up to make sure that the connection is made but that is an idea situation because those are the parties that are going to be able to make a decision and follow through on a recommendation. Adrienne – we will need to figure out how that influences what is in the plan. Pastor Jen – we make sure that our recommendations reflects the desires of the community members and parents.

Important dates, projections for next time:

Next week continue with citizen oversight and other external accountabilities and then we will move into data technology and transparency. Public forum will be February 9th and then the 10th will be spent reviewing that community forum.

Next meeting February 3, 2021 at 3:00 p.m. via Zoom

Closed meeting at 4:30 pm