



**Citizen Police Advisory Review Board
MINUTES**

The Citizen Police Advisory Review Board met on Tuesday, April 18, 2006 at 5:35 p.m. at the Downtown Library, Basement, 101 N. Stone, Tucson, Arizona.

1. Call to Order/Roll Call

Members Present:

Susan Thornton
Jeremy Tor
Tom Clark
Vicki Hart, Vice Chair
Cindy Schiesel, Chair
Vacant
Michael Elsner

Representing:

Mayor
Ward 1
Ward 2
Ward 3
Ward 4
Ward 5
Ward 6

Members Absent:

None

Advisory Members Present:

Daniel Knieter
Ronald Peetz
Bruce Cameron

Ex-Officio Non Voting Members Present:

Captain Rozema
Officer Beller
Lieutenant Wilson
Liana Perez

Others Present:

Deputy Chief Kermit Miller, Tucson Police Department
Captain Bob Shoun, Tucson Police Department
Sergeant Joe Puglia, Tucson Police Department
Captain George Rodriguez, Tucson Police Department
Yvette Patterson, Equal Employment Opportunity Office
Beth Tidwell, Recording Secretary, City Clerk's Office
Susan Thorpe, Guest
Don Edwards, Guest
Wade Colwell, Guest
Edward Ware, Guest
Alexis Huicochea, Arizona Daily Star
Betts Putman-Hidalgo, Guest
Caroline Isaacs, Guest
Piper Weinberg, Guest
Gretchen Nielsen, Guest

2. Approval of Minutes – March 21, 2006

Motion by Jeremy Tor, duly seconded, and carried by a voice vote of 6 to 0 to approve the notes of March 21, 2006 with the following corrections.

On Item 3, the first sentence should have read the “recruiting office on Speedway.” Also Item 3, in the fourth paragraph, the last sentence should read “Michael Elsner understood that Ms. Thorpe was a realtor in town who sees sign code violations everyday and she felt as though the Tucson Police Department selectively enforced the sign laws.”

Captain Terry Rozema said that Item 4, first paragraph, seventh sentence should read “that some of the assailants” had weapons. The next sentence should read that the Taser was used to incapacitate the person temporarily “and remove weapons.” Captain Rozema also mentioned in the fourth paragraph, the last sentence should read “roughly fifty” Tasers were being used.

Michael Elsner pointed out that on Item 4, paragraph five, that it was the Crisis Intervention Training, not the Crisis Intervention Team.

On Item 6, the first sentence should have read that “TPD was passing out survey’s during the month of March”, not TPD had a unit that was passing out survey’s during the month of March.

3. Call to the Audience

Wade Colwell spoke regarding the protests at Armory Park on April 10, 2006. He was at Armory Park and his niece had gone to see what was happening with the opposing protest. Mr. Colwell said that when she returned, she informed him that she was spat on by a lady in the middle of the counter protestors. He stated that the situation seemed dangerous to him. He said that he got pepper sprayed and after he could see again, he saw his niece on the ground struggling to breathe because of the pepper spray. He stated that he felt that allowing the counter protestors to come into the middle of the march was extremely negligent. He said that he hoped it would be reviewed and someone would be held accountable.

Mr. Edward Ware informed the Board that he was not a member of any group. He said that he recognized the rights for individuals to air their grievances. He stated that he questioned the decision to allow another group who provoked violence to be part of a peaceful protest. Mr. Ware stated that he did not understand why people were allowed to burn a flag in the park. He wanted a public apology and a plan that restored the loss of trust and confidence as well as a full investigation of the City of Tucson’s handling of the April 10, 2006 event.

Ms. Betts Putman-Hidalgo pointed out that she was there to protest the police not protecting rights to free speech. She stated that the Wednesday morning demonstration at the recruiting office on Speedway had weekly protestors who were harassed with the intent to silence their voices. She said that the pro-war activists pushed them in a nonphysical sense. Ms. Putman-Hidalgo stated that she believed there was a clear bias with a police department that was willing to spend its time on protecting people who were burning Mexican flags in the park when they did not have a permit to be there. She

informed the board that she had sent a letter to all of the Ward Offices, Mayor, City Manager, Cindy Schiesel, Chief of Police and the American Civil Liberties Union.

Susan Thorpe stated that she wanted to re-enforce that the opposing group at the Wednesday morning recruiting office protest, were harassing her anti-war group. She said that Michael Elsner and Roger Carrillo had come to the protest and witnessed what occurred there.

Chair Schiesel stated that they had reached the time limit for Call to the Audience and called for an extension of time.

Motion by Vice Chair Hart, duly seconded, and carried by a voice vote of 6 to 0 to extend the time for Call to the Audience.

Caroline Isaacs said she helped organize the immigration march on April 10, 2006. She was there to legally document the incident and to make sure that everyone's rights were protected. She stated that from what she observed there were decisions made by the City of Tucson and the Tucson Police Department that were questionable. The first was allowing the counter demonstrators to hold their demonstration literally in the middle of another existing rally. She said that she thought it was policy of the Tucson Police Department to separate protestors. She stated that there appeared to be inconsistent decision making among the Tucson Police Department. For example, there was a bottle throwing incident earlier in the day and the individual was taken to the side and talked to by an officer versus what happened later in the day that resulted in an immediate arrest. She said that she was also concerned about selective law enforcement. She stated that she did not understand why Mr. Warden was arrested a day later after making physical assaults and threats, whereas the young lady throwing a water bottle was arrested immediately. She said that she was concerned with the differences in decision making in all incidents.

Jennifer Allen stated that there were a number of incidents that occurred during the immigration rights rally. She stated that she felt that there was police brutality and excessive use of force. Ms. Allen requested that the Citizens Police Advisory Review Board conduct an independent investigation of the April 10, 2006 march.

Gretchen Nielsen stated that she was there to complain about the pro-war protestors on Wednesday morning at the Speedway recruiting office. She declared that her experience with the Tucson Police Department had mostly been good but, she felt like the police were more trained to deal with violence rather than keeping the peace. She stated that the police had not been around and she felt like their presence was necessary every Wednesday.

Piper Weinberg said that she was at the march on April 10, 2006. She mentioned that the march was very peaceful until mid afternoon. She stated she was appalled at the video footage she saw from the rally after she had left. Ms. Weinberg said she was there to support the investigation of the Tucson Police Department's officers and their actions at the protest.

4. Presentation on Protests and Demonstrations

Captain Rozema announced that Captain Bob Shoun would be speaking on Protest Demonstrations within the City of Tucson.

Captain Rozema stated that the response to handling certain situations comes from past history and the information that they had about a protest. He pointed out that an example of this would be the protest that occurs every Thursday outside of the Federal Building. He stated that the people were there with their signs and that they caused no problems so the police department did not have a response plan. Captain Rozema said that when there was going to be a march where people would be taking up areas in the street, it took more planning and preparation. He stated that the police department tries to have contact with both sides to communicate and be able to get an idea of what their intentions were. He informed the board that the main goal of the police was to keep the peace and maintain order. Captain Rozema stated that Federal laws govern policies about separating people who have opposing views and the police department usually seeks advice from the City Attorney. He said that because of the right to freedom of speech, the police department based their actions on the advice of the City Attorney.

Captain Bob Shoun stated that the Police Department had been trying to establish an ordinance that allows the Police Department specific legal authority. He stated that since that ordinance was not in effect it had been the City Attorney's opinion that when citizens wished to express their opinion and have a march, that the police department should do whatever was possible to allow it to happen. Captain Shoun said that there were some limitations of what the Police Department could and could not do, particularly in terms of public property. He stated that for example the sidewalk was public property and no one citizen could obtain explicit rights to that sidewalk and the same goes for any City property. Captain Shoun said that State Statutes govern City roadways. The Police Department had to take steps to facilitate a safe procession. Captain Shoun pointed out that when there was a rally in the park that the police have to facilitate for everyone who was there and both sides had to be allowed to express their opinion.

Jeremy Tor asked Captain Shoun if he was present at the protest on April 10, 2006.

Captain Shoun stated that he was not.

Tom Clark stated that putting matches and fuel together left the community open to an explosion. Mr. Clark agreed that public spaces were for public use, but he thought it would be wiser to have opposing groups set apart in designated areas. He stated that everyone would be able to have his or her say and maintain peace. He said that when something did explode, it was the police that were caught in the middle of it as well. Mr. Clark stated that he believed it was the City that was liable for legal action and since these types of demonstrations were not going to go away, the Tucson Police Department should have a plan of action.

Captain Shoun stated that as far as separating groups, the City Attorney said that they could not force that to happen. The police department could try to negotiate with parties in a suggestive way, but they could not force someone to move their demonstration.

Tom Clark stated that the Parade Ordinance had been in effect for some time and that if a better ordinance was in place, it might improve policy and procedures.

Deputy Chief Kermit Miller said that there was a split between special events and demonstrations within the departments. He stated that they were focusing on codifying what they have now to the best of their ability.

Jeremy Tor stated that from what he had heard today that nothing was done when a flag was burned, but there was a reaction when a water bottle was thrown.

Deputy Chief Miller stated that if Mr. Tor was talking about the arrest of Mr. Warden, it was because officers did not see criminal activity at that time. Mr. Warden's arrest was determined by review of videotape which showed the damage to City property came after it was inspected where he had burned the flag. Deputy Chief Miller said that it was not a crime to burn a flag. The crime was the damage to the shuffleboard court on City property.

Vice Chair Hart asked if spitting in someone's face was a crime.

Deputy Chief Miller replied that it was a crime.

Tom Clark stated that there were on going feuds at the Wednesday morning protest where peaceful people were being pushed and intimidated to the extent that they were not showing up to protest. Mr. Clark said that at any time anyone in the community felt that they could not have their free speech, then it was a violation of the democracy that we have in this country. He stated that the only way that would be stopped would be by the police acting as monitors and separating the groups regardless what the City Attorney said. Mr. Clark said that he felt the police would be the best judge in how to handle police business.

Deputy Chief Miller restated that the police department did not want to become the issue. He said that the police department was receiving the same complaints from the pro-war activists against the anti-war activists. He stated that the police department wanted people to have their protest and voluntarily stay apart, but they could not make them. Deputy Chief Miller said that in some cases the presence of the police makes things worse and in other cases the lack of the police presence makes things better. It was a call they had to make at every event. He also mentioned that the police department had been experimenting with the Wednesday morning protests.

Captain Rozema stated that Captain George Rodriguez was present. Captain Rodriguez was in charge of the mid-town area where the protest occurred at the recruitment office.

Captain George Rodriguez stated that for a couple of years the police had been present at the Wednesday morning protest. He stated that they initially began with two officers at the protest and then they cut back to one officer. Captain Rodriguez stated that it was a few weeks ago that the police started getting complaints about them being biased in their presence. He said that there could be fifty people at the recruitment office protest and the police were there just to keep the peace. He stated that the officer who had been at the protest told him that it had been quiet up until a few weeks ago. Captain Rodriguez acknowledged that it was an emotional issue and the police department wanted to make sure both sides had the right to express their opinions. He stated that they were careful not to make any arrests during the occasional confrontations. He said that what they were trying to do was split them up and play referee. He said that they have not had a police officer present recently to try to see if things would settle down and the police department would not become part of the issue.

Captain Rodriguez stated that he had one of the largest divisions and he could use his officers to respond to calls. He was hopeful that without the police presence the protestors from both sides would settle down and that he would evaluate the situation on a weekly basis.

Michael Elsner stated that he and Roger Carrillo had attended one of the protests. Mr. Elsner was concerned that if the police were pulled back completely that the protest would erupt. Mr. Elsner stated that he did not believe that the Tucson Police Department was the focus of the Wednesday morning protest and from what he observed he was glad there was a police officer present. He stated that he did not see any anti-war protestors obstructing the sidewalk or holding signs in front of the pro-war protestors but he did see it happen to anti-war protestors by the pro-war protestors.

Captain Rodriguez stated that he could not say it was one side or the other because the complaints come from both sides. He said that if the officers start to arrest the protestors that they would be stifling the process.

Tom Clark stated he would rather see as many police present as possible so that everyone could speak their opinion. He stated that the Parade Ordinance should be reviewed.

Deputy Chief Miller stated that the Parade Ordinance would not help with any of this. The Parade Ordinance pertained to when you could take over streets.

Captain Rodriguez stated that the police officers present knew that they were there neutrally.

Captain Rozema stated it was not the desire of the police to arrest anyone or to provoke anything. He pointed out that things got disruptive when the opposing protestors interceded. Captain Rozema said that they knew that burning the flag could provoke violence, so the police took the measures that they thought were best. Captain Rozema said that it had been mentioned that there was inconsistency. He stated that people were told not to throw water bottles, but they could only say stop throwing water bottles so many times before they had to make a judgement call. He said that when actions were recurring they had to determine what to do before things got out of hand. Captain Rozema talked about how things could get out of hand quickly when one act of disorder breeds other acts of disorder and before you know it you have a riot situation. He mentioned that when the young lady threw the water bottle the police tried to move her from the situation as quickly as possible. He stated that then other people began to throw bottles and arrests were made, but they had to take those people further away because they did not have patrol cars close by. He said that there may have been an error on the police department's part, but it would be looked into for future situations. Captain Rozema stated that it had not been mentioned that there were officers assaulted at the rally. One officer was punched in the mouth, another officer was kicked in the face, and another officer had someone jump on their back. He said that an officer had some type of large ball bearing thrown into his back. He mentioned that the officers knew those situations could go from bad to worse very quickly.

Jeremy Tor asked if Tucson Police Department was aware that the counter protestors were going to be burning a flag.

Captain Rozema replied yes.

Deputy Chief Kermit Miller stated that they had checked with the City Attorney as early as that morning, to see if they could move the counter protestors somewhere else. They were told no.

Chair Schiesel asked with regard to the Wednesday morning protest, did the Tucson Police Department have the ability to videotape and would they.

Deputy Chief Miller informed her that they could videotape themselves.

Susan Thornton asked if the Tucson Police Department reviews what could have been done different or better when they were involved in situations like April 10, 2006. Ms. Thornton then asked if the information was available to the public.

Captain Rozema stated that it was available to the public. Captain Rozema stated that there would be an After Action Report made and a review of the occurrences of April 10, 2006.

Michael Elsner stated that the anti-war group had two videos available. He stated that he informed the pro-war protestors about the Citizen Police Advisory Review Board meetings. Mr. Elsner stated that the location of the police officer on the second floor balcony disturbed him and that what he witnessed could be considered harassment.

Captain Rozema stated that the location gave the officer a bird's eye view that allowed him to see what was going on from all sides. Captain Rozema made the point that if you were in your front yard it would be different than if you were at a protest where you would expect to hear things said that were not going to make you feel good. He stated that was the difference in harassment and why it was not actually considered harassment at the protest.

5. Officer of Independent Police Auditor

A. Outreach Report

Liana Perez, Independent Police Auditor, stated that she and Michael Elsner had previously met and thought that it would be a good idea to send letters out to the neighborhood associations inviting the presidents to come to a Citizens Police Advisory Review Board meeting. Ms. Perez stated that she would assist in drafting a letter to send out to the neighborhood associations inviting them to come to a meeting when the board could set some time aside to hear any concerns they may have. Ms. Perez stated that there were over one hundred and seventy neighborhood associations at that time.

Ms. Perez said that the youth outreach video was almost finished. She said that she would like to show the Board when it was complete. Ms. Perez stated that it would be the video that they use at the schools.

B. Monthly Contacts

Liana Perez, Independent Police Auditor, pointed out that she had not received any formal complaints from the April 10, 2006 protest but she had taken Ms. Thorpe's complaint. Ms. Perez stated that unless there was a formal complaint filed with

Internal Affairs the Citizen Police Advisory Review Board could not review the situation, that was how the Ordinance read.

Chair Schiesel stated that the Citizens Police Advisory Review Board was reactive and by Ordinance could not be proactive.

Vice Chair Hart stated that they had done something with the NCAA incident.

Liana Perez stated that case was handled differently. Ms. Perez stated that at the request of the Chief the community reviewed the situation and Ms. Bottka-Smith sat on that board.

Michael Elsner stated that he did not understand.

Chair Schiesel informed him that the Citizens Police Advisory Review Board could only review a case after it had been investigated and closed by Internal Affairs, then the board had the right to question, re-open and offer suggestions for disagreement.

Jeremy Tor stated that in the past the Citizens Police Advisory Review Board had called an issue such as the protest to the table and were able to make recommendations. He stated that the information had to be presented to the Board and that the Board could not go out and get it.

Chair Schiesel stated that she would do what she could to get the video on the Agenda.

6. Tucson Police Department

A. TPD Updates

There were none.

B. Office of Internal Affairs

Lieutenant Rick Wilson passed out the transcription of the English translation of Case # 05-0289 from the meeting of March 21, 2006.

Lieutenant Wilson said that Susan Thornton had asked in the previous meeting if there were any instructions given to police officers about manners. Lieutenant Wilson said that there were and he could give a power point presentation on it if the board wanted him to. It touched on courtesy, speaking with the public and manners.

Chair Schiesel asked if the Police could make that part of the training in October.

Lieutenant Wilson replied yes.

Lieutenant Wilson stated that Internal Affairs was in the process of filling one of their detective vacancies.

Lieutenant Wilson stated that Internal Affairs had improved their computer program, and that Detective Smith had done a great job of working with On Target, who was designing the software.

7. Random Review of TPD Cases

A. Case #05-0315

Vice Chair Hart stated that she did not understand what this case was about. She stated that she had chosen it because of the felony nature of it.

Lieutenant Wilson stated that a subject approached a Sheriff Department Deputy and made allegations that his cousins had paid two officers from the Tucson Police Department to be released from a narcotic arrest. The Sheriff Department Deputy reported it to his Internal Affairs, who gave the report to the Tucson Police Department Internal Affairs Division. Detective Apodaca had tried to identify and locate the people. Lieutenant Wilson stated that there was nothing in the area that had happened relating to a narcotic bust or investigation so they did not even have a starting point. Lieutenant Wilson said that the case was confusing when you read it.

Officer Steve Beller stated that the people who were supposed to be paying off the officers to avoid an arrest were in jail.

Captain Rozema stated they were in jail for separate charges and it had nothing to do with the case they were discussing.

Michael Elsner said that even though the two men were in jail and have a criminal history someone should have talked to them about the complaint.

Lieutenant Wilson and Captain Rozema agreed.

Tom Clark stated the key to him was the four thousand dollars that was supposed to have been paid out to the officers. He said that, that kind of money in the drug world was change, but perhaps not to a police officer. He stated that the real horror story would be if it was happening a lot.

Captain Rozema stated that Mr. Clark was probably jumping to a conclusion. Captain Rozema stated that four thousand dollars to some drug dealers was not a lot of money and to other drug dealers it was a lot of money. Captain Rozema said that if it were occurring on a large scale, the police department would certainly know about it. Captain Rozema informed the Board that when any of their narcotic officers make arrests they ask the individuals if they know of any officer who may be involved in any illegal activity.

Captain Rozema stated that the police departments meets to discuss cases and determine what needs to change or stay the same.

Case #05-0315 was found to be an incomplete investigation by a voice vote of 6 to 0.

B. Case #05-0835

Vice Chair Hart stated that this was an on going issue. She said that it was not a huge thing that the guy did, it was a stupid thing and why say anything, just say thank you.

Lieutenant Wilson and Captain Rozema stated that they agreed.

Jeremy Tor asked why did the allegation come to light.

Captain Rozema informed the Board that they do not do the review, that they did the investigation and in return it goes through the chain of command and they make the decisions. Captain Rozema said that he thought in this particular case that what had happened was the supervisor looked at it and thought it was a tit for tat sort of thing.

Jeremy Tor stated that whoever wrote the review bolstered the credibility of the officer. He said that the statement that they were probably good guys was not the question. He said that the question was what were they doing in that situation.

Michael Elsner stated that he wanted to be clear as to why this case was not sustained, as opposed to unfounded. Mr. Elsner said that on the draft it looked like sustained was whited out and changed to unfounded.

Jeremy Tor stated that it was clear what happened and even if you did want to find them guilty it was questionable if they committed the alleged violation.

Case #05-0835 was found not to be a fair and thorough investigation by a voice vote of 6 to 0.

C. Case #05-0837

Jeremy Tor stated that it would have been nice to know exactly what questions were asked.

Mr. Tor asked where would the questions be documented.

Lieutenant Wilson said that the police reports in these type of cases were generally follow up questions that were done by a detective. He stated that you could see in the last line that it was Detective Farmer who responded to the interview.

Captain Rozema said that the Detective showed up after the fact and each and every question he asked was not documented. Captain Rozema stated that would be too long. He stated that if an officer needs tapes they could use them.

Tom Clark asked if he was correct in that when the police first arrived it was a matter of armed robbery, but then it became an issue about sexual assault.

Vice Chair Hart asked if it was usual that later on people would mention a sexual assault.

Lieutenant Wilson said no, based on his experience. He stated that generally what a person calls for was what they wished to report. He stated that it could happen but not usually.

Jeremy Tor stated that this was an unusual situation with the robbery and sexual assault.

Michael Elsner asked if the warrant issued was for robbery.

Lieutenant Wilson stated that he did not know.

Michael Elsner stated that an alleged rape victim came forward to make the complaint and it should have been investigated.

Lieutenant Wilson asked Mr. Elsner was he referring to the sexual assault aspect of the case.

Michael Elsner said yes, that maybe it was not a crime in the eyes of a police officer but it should have been an arrest. Mr. Elsner said that the review read that it was unknown as to what questions the victim felt were prejudiced.

Captain Rozema stated that in a situation of that nature the victim would carry a lot of credibility especially with the evidence. He said that over the course of the investigation the victim stated that a sexual assault took place and he believed those charges would stick in court and it would be up to the defense to prove otherwise. Captain Rozema stated that even though the man reported the sexual assault later, all of the evidence with the shooting and stolen items collaborated his story.

Vice Chair Hart said the case was confusing to follow.

Michael Elsner stated that the man went to Internal Affairs because he felt like the detective involved was prejudiced against him. He said that in the report it said that Internal Affairs had tried to make contact with the victim. That the police department had left two voice messages on the victim's phone. Mr. Elsner did not think that was a good idea.

Captain Rozema said that typically they make two or three attempts to contact someone and leave messages. He pointed out that they could not continue to leave messages and send letters. He stated that if no one responds they close the case.

Tom Clark requested that they should hold the case open and revisit it later.

Captain Rozema stated that he wanted to make sure he understood the request of the Board, that it was to find out what the warrant was issued for, and if it included the sexual assault with the robbery, and what attempts were made to contact the victim, and if a letter was sent out.

Vice Chair Hart asked if the board could find out if the guy was in jail.

Captain Rozema stated that he could find out.

Captain Rozema asked if the board would be reviewing the case from last month with the translation from Spanish to English.

Chair Schiesel said yes.

Chair Schiesel asked if the board agreed to hold the case and revisit it next month. The board agreed.

8. Recess

By consensus, the Board decided to forego a recess.

9. Tucson Police Department Dress Code

This item was not discussed.

10. Report on Website

Jeremy Tor stated that all of the information on the Citizen Police Advisory Review Board website was up to date. He informed Mr. Elsner that he had to condense his biography.

Mr. Tor reminded the board that someone else was going to have to take over the website because he would be leaving after May.

11. Report from the Chair/Announcements

Chair Schiesel asked Captain Rozema if he would get the Board some information on response time to reports and protocol for the Police Department in handling reports of child molestation.

Chair Schiesel asked if there was anyone who would like to serve on the Advisory Board Member Selection Subcommittee that would assist in finding new members. Tom Clark and Michael Elsner agreed to serve on the subcommittee.

Michael Elsner asked if next month the Citizens Police Advisory Review Board would review the Wednesday morning demonstration tape and not make comments.

Chair Schiesel stated yes.

Vice Chair Hart stated that Vice Mayor Leal had thirty days to fill the vacancy on the Citizens Police Advisory Review Board for Ward 5. After thirty days any council member could fill the spot.

12. Adjournment – 7:42

MOTION by Vice Chair Hart, duly seconded, and approved by a voice vote of 6 to 0, to adjourn.