

12/21/2021 Minutes

Ad Hoc Committee re: Policy & Procedures

1. Call to Order- Meeting was called to order by Chairman Will Kelly shortly after 5:30 p.m.
2. Roll Call- Forward Together Committee Members present included:

Will Kelly, Chair
Solange Goncalves Altman, Vice-Chair
Terhesa Gamboa
Tom Helme by remote
Nico Solorio
Dan Starr, President/Sergeant, Modesto Police Officers Association

Members of the Modesto Police Department present to answer questions included:

Ivan Valencia, Assistant Police Chief, TJ, MPD.

Staff/facilitator present included: Edgar Garcia, Modesto City Manager's office and Michael Baldwin, Facilitator, who was present to observe. Caluha Barnes appeared by remote.

Chairman Kelly requested volunteers to facilitate and take minutes of the meeting. Dan Starr agreed to facilitate, and Solange Goncalves Altman agreed to take minutes.

3. Continuing Business

Facilitator Starr suggested that we go around the room, and ask each member to raise questions/concerns they still have with policies and procedures. The meeting proceeded with a free flow of questions and answers. What follows is a best effort transcript of the questions and answers.

Solange Altman raised concerns about the racial discrimination statistics wanting more information.

Nico Solorio indicated he wanted more information about the personnel complaints. 60% of the use of force complaints were deemed unfounded. He wants us to delve into this more. He also raised questions regarding administrative leave. He wants more information on how that works. Why is an officer on administrative leave paid his/her full salary?

Caluha Barnes, City Attorney, explained that until there is a finding of wrongdoing pay cannot be docked so an employee is put on administrative leave. This is governed by California Labor Law and applies to other government employees, not just police. While an officer is on administrative leave s/he has work requirements. S/he has to check in and may be called for follow up on cases s/he was working on.

Tom Helme – He is curious about the protocols that exist regarding a stop. Are records kept of every stop? Can a body camera be turned off?

MPD response: Technology has made this difficult to do. They have GPS on their vehicles, so vehicle locations can be tracked. When emergency lights are turned on, the body cameras and dash cameras are automatically triggered. The dash cameras could only be dismantled by taking the dashboard apart. Traffic stop rules require that body cams be on so that information can be captured. The body cams are viewed by the MPD to be there not only for accountability, but for self-preservation. If an officer is in a difficult situation, the cameras are designed to alert other officers, so they can come assist. If there are questions about where a vehicle has been, the GPS and APL data is kept for more than 2 years. As long as someone knows the date and time of a contact, the police vehicles location can be tracked.

Tom Helme – He raised questions about handing out political literature during work hours.
MPD response: Police Officer Association can hand out political information after work. Policies and procedures allow distribution during work under certain exceptions, but those exceptions have not been followed.

Nico Solorio – He is concerned about the time it takes for a supervisor to review a use of force incident.

MPD response: The collection of evidence following a use of force incident has to happen immediately. Photos will be taken at the scene before a suspect is taken to jail. Administrative review of the use of force incident can vary.

Nico Solorio – Had questions regarding Policy 310.7 which indicates in an officer involved shooting or death an officer may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. The results of testing cannot be disclosed without the officer's consent. Nico wants to know why these screenings aren't mandatory?

MPD response not indicated in my notes.

MPD advised that changes were being made to Policy 300, Use of Force Policy regarding face strikes. Even though they are legal, want to use other tactics whenever possible. Not effective in stopping the resisting person. FTWG will be provided with the changes after they are drafted.

Solange Altman questioned the referral criteria set forth in 1000.2 which are used to determine when there will be advisory and supervisory review of various issues. It provides that after six uses of force incidents in a twelve-month period an officer can be referred. What happens if an officer has had other incidents before the one year period. The periods are "rolling" so are incidents occurring before the twelve month period no longer taken into consideration? Do you know of other organizations that have a policy that will take into account all prior incidents?

MPD response was that they haven't compared their policy to that of other organizations, but believed they were reviewing incidents more than others. An alert system has been set up so that once an officer has reached the threshold in the policy the supervisor is notified. Supervisors are placed on a four month shift rotation, so there was concern that the alerts might be missed with a change in supervisor. **But MPD has addressed the issue by preventing officers from changing to new supervisors. Is this correct?**

MPD volunteered that they have received complaints about RIP (**don't know what this stands for**) devices. RIP device has straps with hooks. It keeps the ankles together. It is used to stop/prevent kicking and head banging. It pulls a person into a seated position. RIPA data was requested.

Terhesa Gamboa asked about Policy 402.7 which requires bias-based policing training initially and a refresher course every five years, or sooner if deemed necessary. She thought every five years was too long. Solange Altman agreed with her, and indicated that attorneys are required to do a training on bias every three years to maintain bar membership.

Tom Helme asked questions about the Bias Based Policing chart, set forth on page 14 of the Policies and Procedures Powerpoint presented on 10/18/2021, as it pertains to juveniles. 61% of Juveniles arrested in 2020 were Hispanic; 35% of adults arrested that year were Hispanic. Hispanics comprise about 40.2% of the population of Modesto. Tom wanted to know if the increase in Hispanic juvenile arrests could be explained.

MPD response was that most entering the criminal justice system do so at age 16 to 17. We need to look at data on 13-14 year olds to see if there is an increased problem for that age group as well. MPD is working with Modesto City Schools to try to redirect youth away from juvenile system.

Solange Altman indicated she would like to see data for more years to see if there were less Hispanic juveniles in previous years. Is there an increase because of change in police tactics, legalization of marijuana, elimination of youth programs?

Nico Solorio - Questioned the process of formal and informal complaints. Why do some complaints not move forward?

MPD – (10/18/2021 power pint explains classifications of personnel complaints on page 30). Some complaints don't move forward because the complainant has not provided additional information needed to be able to get a clear outcome.

Solange Altman – Internal Affairs report for 2020 shows that 37 of citizen complaints or 49% were unfounded or frivolous. It would be helpful if the reasons for the decisions were coded to explain why. I. E. failed to provide additional information, no jurisdiction, not an MPD case etc.

Tom Helme - Has concerns about the employee demographics of MPD. 64% of MPD sworn personnel are white; 19% are Hispanic. 46% of Modesto population is white 39% is Hispanic. Also concerned about the 15% response by Hispanics to the Community Input Survey.

MPD – Discrepancy in Hispanic officers is surprising. Recognize that they need to do more outreach, more testing to attract Latinos and other minorities. Can work with King Kennedy. The Community Input Survey was mailed to all demographics. Follow-up phone calls and door knocking was done in follow-up.

Tom Helme – Need to deal with the public perception that certain officers are not punished. Need to hear about personal stories. Tom recounted how he was detained because he was with a group observing police on a weekend night. He was approached by an officer, and refused to

provide his identification. Officer was told by a business owner that he and the others were loitering, and he was detained. Tom tried to file a complaint but he wasn't given a form. The officer he complained to discouraged him from filing complaint.

Edgar – The committee needs to start thinking about how it is going to frame recommendations. How/what do we plan to recommend?

Michael B. – After listening to discussion here are some potential recommendations:

- 1) It should be mandatory that an officer involved in a shooting or death an officer must be administratively compelled to provide a blood sample for alcohol/drug screening.
- 2) Policy 402.7 which requires bias-based policing training initially and a refresher course every five years should be changed to require more frequent training, possibly every three years.
- 3) Disposition of citizen complaints as reported on page 5 of the Internal Affairs Unit Summary should be coded to reflect the types of complaints that were sustained/ exonerated and unfounded.
- 4) Recommend a policy to hire officers that reflect the community.
- 5) Consider a policy regarding the treatment of juveniles.

Facilitator Starr – Recommend that all Forward Together committee members do a Ride Along. It's educational.

Meeting adjourned at approximately 7:20 p.m.