

Austin Citizen Review Panel: Many Recommendations, No Reform

On July 5, 2015, young Richard Munroe was shot to death on his own front stoop by three Austin police officers after he called 911, hoping to find solace in a simple conversation with the 911 operator. He begged her just to talk and not to send officers. He confessed his history of mental illness. He complimented her nice voice.

She promised she would not send officers, but in fact she did. Betrayed, he said, “You lied to me” but stayed on the line, hanging on to the nice voice like a lifeline. The officers banged on the front door and shouted. Munroe told the 911 operator that he had a gun. He opened the front door and the officers backed away. He asked the 911 operator to tell the officers to stop shouting at him and went back inside. But Munroe came back outside, flailing the gun around and pointing it at his own head. He then sat down on his stoop and put the gun down in his lap. One officer jumped forward and tried to Tase him. When that did not work, and when Munroe appeared to be picking up the gun again, all three officers started shooting. He died of six gunshot wounds. Officers fired 23 rounds into the front of the house, although others could have been inside in the line of fire. Munroe’s gun turned out to be a toy.

This incident got little press coverage. Immediately after the shooting, the Austin Police Department (APD) issued a photo to the press showing the toy gun next to a real gun. Since the toy gun looked like a real gun, it was assumed that the officers were acting in their own defense and there was little more to say.

But in fact, there was a lot more to say. This incident revealed problems at APD, ranging from a loose “ride-along” policy (one officer may have acted out of fear for the life of his significant other, who was in the car with him)

to poor supervision and inadequate policies and training for de-escalation or mental health first response.

A year after Richard Munroe was killed, Austin’s Citizen Review Panel tried to bring justice in the form of significant and wide-ranging policy recommendations – reforms designed to prevent future unnecessary deaths when people with mental illness call 911.¹ Unfortunately, under the terms of Austin’s contract with the Austin Police Association, Austin’s Citizen Review Panel (CRP) can only make recommendations, not binding policy or procedural changes. The Chief of Police is not even required to respond to the recommendations. The changes recommended by the CRP got no media attention, were not known to the larger community, and have not resulted in reforms.

This Study

In an effort to understand the range of problems at APD that were identified by Austin’s Citizen Review Panel, as well as the recommendations made to address those problems, the Texas Criminal Justice Coalition requested under the Public Information Act all letters of recommendation sent from the CRP to the Chief of Police in 2016. We chose this time period because it is both recent, reflecting real issues in the current policies and procedures at the Department, and also far enough in the past that if APD had chosen to make changes it could have reasonably done so by now.

In total, the Panel issued 10 letters containing a total of 27 recommendations related to a total of 13 internal affairs investigations, 6 involving civilian deaths. Some recommendations were so important to the Panel that they restated them in multiple letters and mentioned having previously asked for these changes in past years. In all, the Panel made at least² 18 different recommendations for reform of



policies, procedures, and training at APD in 2016.

Police policy and procedural change must be handled through different channels depending on the specific policy at issue. This report arranges the recommendations not by specific case but by the path to reform: police contract, policy manual, or simple management decision. TCJC reviewed each path to reform to identify whether the recommendations have been or will be turned into real change.

Many Recommendations

1. Panel recommendations governed by the agreement with the Austin Police Association

180 day rule: Stop unnecessary delays in the CRP process so the “180 day rule” is not triggered

The terms of the City’s current meet and confer agreement with the Austin Police Association include limits on the Police Chief’s ability to address misconduct if the discipline is not finalized within a window of 180 days from the incident date. In general, the contract specifies a strict 180-day timeframe.³ In the event that the Chief intends to terminate an officer *and* pursue criminal charges, the contract gives the Chief time after the grand jury issues a “no bill” (no indictment) to issue an indefinite suspension. If the officer’s misconduct in a shooting does not rise to the level of a criminal charge or an indefinite suspension, but might result in a shorter suspension, the administrative case must be conducted during the 180 -day period.

The CRP recommended that APD “refrain from taking action which deprives the CRP of its right and ability to review officer involved shooting cases and make disciplinary recommendations of temporary or indefinite

suspensions to you while you have the authority to impose such discipline.”⁴

Prior to this letter, the CRP had twice before (in July 2014 and February 2015) requested that APD stop delaying administrative action on police shootings past the 180th day.

Per a CRP letter to the Chief: “The CRP remains perplexed, however, about why you routinely prevent the CRP from reviewing officer involved shooting cases within the 180-day period. It is only during the 180-day period that the CRP may recommend to you, and you may impose, temporary disciplinary suspensions of between one and fifteen days. When you choose to seek an Attorney General extension and wait until the grand jury has decided whether to indict an officer, you voluntarily waive your authority to impose all disciplinary suspensions except an indefinite suspension. Moreover, you do so by using a statutory provision designed and reserved for situations in which you must ‘intend to order an indefinite suspension after the 180-day period.’ Even worse, you seek - those Attorney General extensions despite the fact that the officers at issue have returned to full work duty.”⁵

Based on our understanding, no attempt was made to gather information from witnesses other than APD officers.

CRP and independent investigation: Internal Affairs (IA) should interview non-police witnesses to police action

Under the terms of the meet and confer contract, the CRP does not have powers of independent investigation. It must rely on the evidence collected by IA and APD supervisors in its review of officer misconduct. Unfortunately, the **CRP has had to recommend in two different 2016 letters, as well as two letters**

issued prior to the period of this report, that IA interview non-police witnesses to police action.

The case prompting the first letter involved the shooting of a suicidal woman by an APD officer after her husband called 911. Because only police witnesses were interviewed, the CRP was unable to determine from the available evidence whether appropriate efforts had been made by officers to de-escalate the situation. Per a letter to the Chief: “In at least two letters issued over the last 18 months (#2013-0219 and #2014-0212), this CRP has raised concerns about the IA’s failure to interview witnesses. In this case (2015-0464), it again appears that no attempt was made to interview key witnesses. Specifically, the CRP is aware of emergency responders (EMS or Paramedics) who witnessed the situation from a remarkably close vantage point. Based on our understanding, no attempt was made to gather information from witnesses other than APD officers.”⁶

The second case involved the in-custody death of a man suffering from a bad reaction to drugs at an HEB grocery store. There were a number of civilian witnesses to the events. The medical examiner found that the man had died as a result of “the combined effects of meth and phencyclidine toxicity and physiologic stress associated with restraint procedures.”⁷ The CRP reviewed available video but the police action was largely screened from view.

In the CRP letter to the Chief: “A key issue in this Internal Affairs investigation relates to the manner in which the individual was being held on the ground by APD officers. The investigators who conducted the criminal and internal affairs investigations, however, failed to seek or obtain any statements from non-APD or EMS personnel on that key question. Unfortunately this is not the first time that the Citizen Review Panel has seen or commented on APD’s failure to conduct interviews or obtain witness statements from civilian witnesses regarding police action. We respectfully request that you

consider developing a policy or procedure to ensure that APD investigators seek and obtain statements from civilians who witness police action that is made the subject of a criminal and/or internal affairs investigation.”⁸

After this second attempt in 2016 to re-raise the quality of IA investigations as an issue, APD responded with a promise to record on IA summaries either a list of civilian witnesses interviewed or the reason why civilian witnesses were not interviewed (which could include “relied on APD witness’s incident report”).⁹ No promise has been made to change APD policy or make changes in the meet and confer contract to ensure that IA always interviews civilian witnesses to police action.

2. Panel Recommendations Governed by the APD Policy Manual

Policy of de-escalation

The CRP has repeatedly asked (in five different letters in 2016 and previously) for APD to review and reform use-of-force policies to create policies and procedures of de-escalation.

The CRP notes (in two different letters) that officers who remain long on the downtown Austin beat may find themselves “perhaps unknowingly and unintentionally us[ing] an ever increasing amount of force”¹⁰ to control crowds and address concerns of downtown businesses. **The CRP made two recommendations designed to reduce the use of force downtown: a policy of moving officers off the downtown beat more frequently to relieve “the constant stress of working amongst all these individuals”¹¹ and implementation of “innovative ‘softer’ crowd control techniques that have been successfully used by other police departments.”¹²**

Policies of de-escalation, according to the panel, are also critical to preventing officer-involved shootings. After the tragic death of teenager David Joseph, the CRP re-iterated that its prior



calls for policies of de-escalation had become urgent: **“Enhance APD policies and procedures to emphasize de-escalation before resorting to the use of force, and in particular deadly force.** This recommendation is in line with earlier ones that the CRP and OPM have made to you and we emphasize it again with greater urgency since we feel this tragedy was avoidable.”¹³

The high-profile nature of the David Joseph shooting lead the panel to suggest, in March 2016, a public process for developing new policies, procedures, and tactics of de-escalation, to include “not only senior APD officers but also senior officers from other police departments, academicians, and civilian residents of Austin.”¹⁴

Although IAD concluded no APD policies were broken during this incident, the end result leads one to question the policies that were apparently followed by the officers but still led to this fatal outcome.

By the summer of 2016, the CRP’s calls for policies of de-escalation had become a priority in the letters. The very first recommendation after the review of Richard Munroe’s death in July 2016 was that “APD should define, develop and train more effective methods to de-escalate situations such as in this case.” The panel noted that, in an incident such as Mr. Munroe’s, APD must look beyond the question of an individual officer’s adherence to current policies and instead move quickly to improve those policies: “Although IAD concluded no APD policies were broken during this incident, the end result leads one to question the policies that were apparently followed by the officers but still led to this fatal outcome. Are there some policies that need to be reviewed and amended or do new ones need to be developed

to help improve future responses in similar situations?”¹⁵

New policies to address mental health/suicide calls

The CRP has repeatedly asked APD to review and reform its entire mental health response protocols – from what happens when a person calls 911 and hears the operator’s first sentence through the procedures for officers arriving at the scene and the supervisors who guide them.

The CRP has made the following recommendations:

- **APD should add "mental health assistance" to the list of options when someone calls 911; first responders should include Mental Health Officers (MHOs), the Crisis Intervention Team (CIT), or Emergency Medical Services (EMS)**

In its review of Officer Geoffrey Freeman’s actions in the shooting of David Joseph, the CRP noted a number of concerns with the policies and

procedures in place for responding to mental health issues: “Currently 911 call takers open the call with: ‘Do you need police, fire or EMS?’ However the CRP agrees with the citizen [testimony] that the option of mental health assistance should be added to the current options. The CRP has reviewed several incidents in which mental health issues were a common theme.”¹⁶

In its review after the death of Richard Munroe, the CRP again asked APD to address shortcomings in the 911 process: “APD and 911 communications center should develop or revise its mental health protocols checklist that would require dispatchers and patrol officers to immediately call for an MHO, CIT and/or EMS when it is determined that an EDP [emotionally disturbed person] is involved in the incident.”¹⁷



- **APD officers should be required to get help/guidance from trained mental health officers (MHOs) as part of their on-the-scene protocol**

Among the recommendations related to the death of David Joseph, the CRP noted that “officers should be required to seek the assistance of MHOs to assist in de-escalating these events.”¹⁸ In response to the actions of officers at the scene of Richard Munroe’s 911 call, the CRP noted that officers had time to call in air support yet never called for CIT support or a CIT officer: “According to the timesheet provided by IAD, backup was called for at 4:11 a.m. and a helicopter was called for at 4:12, but there was no call for a supervisor or for a CIT unit or a CIT officer.”¹⁹ In this case, the 911 operator already knew of Mr. Munroe’s mental health history.

- **APD needs effective de-escalation methods specifically for officers to use in mental health/suicide calls**

In response to the death of Cassandra Bolin, killed by a police sniper after her husband called 911 while she was threatening to shoot herself, the CRP focused on the specific steps needed to de-escalate mental health and suicide calls. Rather than call for medical and mental health support, officers arrived on the scene, saw that she had a gun, and called SWAT.

After the death of Richard Munroe: “APD should review and revise its policies, practices, procedures and protocols for incidents when known individuals have had prior involvement with CIT, mental health providers or similar organizations so that appropriate mental health intervention is provided as a means to de-escalate the situation.”²⁰

The death of Munroe followed closely on the heels of Bolin, Freeman, the unnamed man at the HEB and other incidents involving people with mental illness. In apparent exasperation that officers continue to shoot people suffering

from mental illness, the CRP, in its Munroe letter, also recommended, “the need for patrol officers to have additional training for dealing with individuals with mental health issues is becoming evident, and perhaps it is time to rethink the entire CIT/MHO

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approach/program.”²¹

- **APD must revise its ride-along policies**

The Richard Munroe evaluation revealed a number of additional shortcomings in APD policy unrelated to use of force. All officers on the scene were recent Academy graduates. One officer arrived at the scene with his girlfriend in the car. APD policy – which is quite specific about disallowing ride-along participants who have a criminal background, who have sued the city, and who are under age 18 – is silent on the question of riders related to officers, even though having a family member in the car might reasonably affect an officer’s response to a situation.

The CRP, after reviewing the Richard Munroe shooting, recommended a re-evaluation of the ride-along policy: “APD should review and revise its civilian rider program to consider how much experience an officer should have prior to having civilian riders in their patrol cars, and consider if there should be restrictions on ride-along passengers based on the relationship between a patrol officer and a civilian rider, such as family members, friends and significant others that should be included in policy.”²²

- **APD should strengthen its review of reported incidents of excessive force**

After reviewing cases related to the downtown command, the CRP noted that the Department’s response to different kinds of



complaints depended on their appropriate classification by the officer’s direct supervisor. After review of a video capturing a “Class D” interaction (no policy violation), the CRP determined that the interaction was more likely a Class B use of excessive force incident. Had the civilian failed to file a complaint, the incident would never have been flagged and no command-level staff would have known about it.²³

This implies that de-escalation is a practice that is actively discouraged and that escalation of situations is endorsed and encouraged.

The CRP recommended that *all* excessive force complaints should be reviewed by a supervisor outside the involved officer's chain of command. This would be a significant change to current policy, which gives the officer’s direct supervisor considerable discretion to decide whether an action violates policy and should be classified for higher-level review.

3. Panel Recommendations Governed by APD Management and Training Protocols

Scene supervision and coordination

Lacking a shift sergeant on duty the day Richard Munroe called 911, a corporal was charged with supervising the responding officers. This corporal was also charged with supervising another shift at the same time. When multiple officers responded to the call, there were several points at which the officers failed to communicate key information or coordinate to address changing circumstances. Key failures included failure to communicate that Richard Munroe had a history of mental illness, failure to fall back and consult with supervisors or each

other after Munroe reappeared and sat down with his “gun” on his lap, and failure to follow the communicated strategy.

Per a CRP letter to the Chief: “As reported to you in other memos to you regarding officer involved shootings, there appears to be a failure in the system, with multiple officers operating as individuals without a consistent and thought-out game plan amongst the responding officers or the shift supervisor.”²⁴

The CRP made several recommendations related to scene supervision and coordination, including ensuring that a more senior commander was watching the supervision when a corporal was in charge, prohibiting corporals from being assigned to two shifts at the same time, and revising policies for coordination when multiple officers arrive at one call.

Officer training and de-escalation

The investigation into the death of David Joseph included an interview with a training officer who has been teaching at the Academy for a decade. The interview revealed that Academy training may not appropriately teach or encourage practices of de-escalation.

Per the CRP letter to the Chief: “When asked about whether it was acceptable for a cadet in training to back away from a subject with a knife who does not comply with the order to drop the knife, he [the training officer] stated “...That’s an option...but if the cadet starts to back up, back up and take no action...then we will [stop the exercise and have discussion about what the cadet is thinking]. Here in Texas, here in APD, we don’t have a duty to retreat, and we are not asking our officers to retreat all the way out the door and get back in their cars and go home. They need to take some kinda action.”

The letter continues: “When asked whether any part of [Officer] Freeman’s response did not



comply with APD's policy or training, he [the training officer] stated 'None that I can think of other than...the choice of the pistol being the primary choice first is not something that we train, but it's not something that we don't train. So again that's up to the individual officer's choice. . . I can understand why he [Freeman] did that.'"

The letter goes on to state, "This implies that de-escalation is a practice that is actively discouraged and that escalation of situations is endorsed and encouraged."²⁵

The CRP recommended reassigning this training officer, and further recommended that "APD utilize psychologists and/or other professionals to provide enhanced training to APD officers on de-escalation methods."²⁶

No Reform

Some of the policy recommendations made by CRP relate to changes requested in the meet and confer contract, but none of the required changes are still under consideration at the time of this writing. Changes to the 180 day rule – changes that would eliminate the problem with strict timeframes by giving the Chief more time to discipline officers – are currently under discussion as part of the contract renegotiation, but the Austin Police Association has announced that it will not agree to reform unless the City is willing to offer officers more money, and the City has not done so. Changes that would address shortcomings in IA investigations, like cases in which no non-police witnesses were interviewed, are also off the table. At the start of the re-negotiation of the contract, the Police Monitor suggested removing provisions that strictly prohibit independent investigation by the CRP and giving the CRP subpoena power to bring civilian and other witnesses to CRP review meetings. These suggestions were opposed by the Austin Police Association and are no longer being negotiated as of the time of this writing.

Based on review of APD's new policy manual issued on September 28, 2017,²⁷ just before this report release, none of the policy recommendations have been incorporated as changes in policy, although nearly a year has passed since the last letter was issued by CRP (November 2016). Even the recommendation to create a public process that would result in new policies of de-escalation – **an idea that City Council directed APD to do** in a budget rider in September 2016 – has not occurred. The new policy manual defines de-escalation but does not incorporate de-escalation into the "Response to resistance" policy in any formal way that would hold officers accountable for their failure to de-escalate. The new policy manual does not prohibit family members from joining an officer in a ride-along. The new policy manual does not require an officer outside the chain of command to review complaints related to excessive force or change the process by which supervisors classify incidents. Perhaps most critically, the new manual does not address shortcomings in the handling of mental health calls or take steps to prevent future incidents like the killing of Richard Munroe, David Joseph, or Cassandra Bolin.

Some of the recommendations involved changes to training or training personnel, but information about such changes is not publicly available. With the exception of possible changes to officer training, the Texas Criminal Justice Coalition could find no evidence that recommendations made by the CRP have resulted in changes at APD that would prevent the kinds of incidents that spurred their letters.

Conclusion

The Citizen Review Panel, the Office of the Police Monitor, and Internal Affairs exist because police officers are people who are given weapons and the lawful right to use them. Therefore, extra care must be taken to ensure that officers are held to the highest standards,

and management must set clear expectations. Tragic shootings in Austin dating back to Gregory Steen, an unarmed man shot in the back by an officer in 1997, helped drive the creation of our current civilian oversight process. More recently, the deaths of David Joseph, Richard Munroe, and Cassandra Bolin in 2016 have driven a dialog about appropriate tactics, supervision, and accountability. The end goal of that discussion is always to reduce unnecessary deaths and preserve the constitutional rights of civilians.

If Austin's current oversight system does not result in a path to appropriate policy and procedural reforms that will better guide officers and reduce tragic deaths, then Austin's current process is not working. Trust is not built by adding toothless bureaucracy. Trust is built by creating systems that actually make people –

both civilians and officers – safer. These systems are known. They have been repeatedly recommended by the trained, experienced, and thoughtful members of Austin's Citizen Review Panel. Sadly, the layers of oversight currently in place have not, and probably cannot without significant change, turn those good ideas into real change at the Austin Police Department.

The Texas Criminal Justice Coalition advances solutions that transform the adult and youth justice systems to strengthen families and foster safer communities.

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¹ Citizen Review Panel letter to Chief Acevedo, July 19, 2016, p. 4.

² One letter from the CRP to the Chief was significantly redacted and probably contained recommendations for policy or procedural reform but we could not review what was said.

³ Agreement between the City of Austin and the Austin Police Association, Oct. 2013. [Hereinafter "Agreement"] Art. 16, Section 11. Benefits of the Bargain, p. 48, l. 22. "In no event will the actual time exceed 180 calendar days."

⁴ Citizen Review Panel letter to Chief Acevedo, Aug. 12, 2016, p. 2

⁵ Ibid, p.1-2.

⁶ Citizen Review Panel letter to Chief Acevedo, Feb. 12, 2016, p. 2.

⁷ Citizen Review Panel letter to Chief Acevedo, March 7, 2016, p. 1.

⁸ Ibid, p. 2.

⁹ Citizen Review Panel letter to Chief Acevedo, March 8, 2016, p. 1, thanking the Chief for sending a Commander to discuss the issue with the panel.

¹⁰ Citizen Review Panel letter to Chief Acevedo, February 9, 2016, p. 1.

¹¹ Citizen Review Panel letter to Chief Acevedo, November 17, 2016, p. 2.

¹² Citizen Review Panel letter to Chief Acevedo, February 9, 2016, p. 1.

¹³ Citizen Review Panel letter to Chief Acevedo, March 18, 2016, p. 3.

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Citizen Review Panel letter to Chief Acevedo, March 18, 2016, p. 3.

¹⁷ Citizen Review Panel letter to Chief Acevedo, July 19, 2016, p. 4.

¹⁸ Citizen Review Panel letter to Chief Acevedo, March 18, p. 3.

¹⁹ Citizen Review Panel letter to Chief Acevedo, July 19, p. 2.

²⁰ Ibid

²¹ Ibid

²² Ibid

²³ Citizen Review Panel letter to Chief Acevedo, November 17, 2016, p. 2.

²⁴ Citizen Review Panel letter to Chief Acevedo, July 19, 2017, p. 4.

²⁵ Citizen Review Panel letter to Chief Acevedo, March 18, 2016, p. 4.

²⁶ Ibid, p. 3.

²⁷ Austin Police Department Policy Manual, 9/28/2017, https://www.austintexas.gov/sites/default/files/files/Police/APD_Policy_Manual.pdf