



DATE: April 21, 2022

SUBJECT: Report to the City Manager from the Review Committee

The City Manager formed a committee to review the Wichita Police Department's (WPD) handling of a Professional Standards Bureau (PSB) investigation into the misconduct of 12 officers who shared discriminatory images and text conversations, and made light of the use of force by officers. The actions of these officers and the handling of the subsequent investigation by the WPD brought discredit upon the officers involved and WPD, as well as the City of Wichita.

The text messaging and electronic image sharing took place between December 2015 and February 2021. The majority of messaging occurred between May 2018 and February 2021 and was discovered during an investigation involving now former Sedgwick County Sheriff Sergeant who was formerly a member of the WPD Special Weapons and Tactics unit. The WPD investigation of the text messages and images commenced in June 2021.

The review committee was composed of Assistant City Manager Donte Martin, City Attorney Jennifer Magana, Human Resources Director Chris Bezruki, Deputy City Attorney Sharon Dickgrafe, Assistant City Attorney Van Halley, Citizen's Review Board Chair Jay Fowler, Outside Legal Counsel Jennifer Hill and Senior Human Resource Specialist Susan Leiker.

The Committee was tasked with answering the following questions posed by the City Manager:

1. Was the discipline for these offenses appropriate?
2. If it wasn't appropriate, what additional discipline can be considered?
3. Can the officers involved in the use of force text messages be removed from enforcement activities?
4. Are there any Brady-Giglio offenses that would reduce the effectiveness of any officer or supervisor?
5. Were the Deputy Chiefs' decisions appropriate?
6. If the decisions were not appropriate, what action should be considered for the Deputy Chiefs?
7. How do we move forward to ensure that the Police Department's culture reflects the values of the City and its citizens? What systematic reforms are needed? How can the CRB help with this analysis?

Interim Chief Lemuel Moore and Lt. Robert Reichenberger provided the Committee with an overview of the officer misconduct and subsequent PSB investigation. The Committee reviewed several documents related to the investigation including a timeline, an Administrative Review report completed by Captain Blake Mumma, copies of the texts and images in question and PSB investigative review letters and findings. In addition, Sharon Dickgrafe provided the review committee with District Court and City policies related to Brady-Giglio. Furthermore, District Attorney Marc Bennett detailed his approach to handling Brady-Giglio issues and the affect the actions of the officers in question will have on prosecuting cases.

Lt. Reichenberger, Chief Moore, Deputy Chief Chester Pinkston and Deputy Chief Jose Salcido responded to questions from the Committee and explained relevant WPD policies.

Findings and Recommendations

1) Was the discipline for these officers appropriate?

The discipline issued by WPD was not appropriate given the seriousness of the offenses and the impact on the community, WPD and City. The Committee questions whether coaching and mentoring can be considered a disciplinary act under the terms of the Fraternal Order of Police (FOP) contract and WPD regulations in place at the time. Arguably, no discipline was administered to those officers who received “education-based discipline” or “coaching and mentoring.”

2) If it wasn't appropriate, what additional discipline can be considered?

The Law Department is reviewing whether discipline can be issued at this time and will provide the Chief of Police with a separate legal opinion. If additional discipline is permitted, the Committee recommends Chief Moore carefully review the PSB reports and related documents to determine what level of discipline is warranted. If the Chief of Police elects to issue discipline, several WPD regulations are appropriate for consideration and would permit the Chief to issue a higher level of discipline. The applicable WPD regulations are as follows:

Regulation 3.2 – Conduct Unbecoming an Officer Prohibited

3.201 D Conduct unbecoming an officer shall include that which brings the Department into disrepute or reflects discredit upon the officer as a member of the Department, or that which impairs the operation or efficiency of the Department or officer.

3.202 D Each member of the Department shall conduct themselves in such a manner to reflect most favorably on the department whether on or off-duty.

Regulation 3.6 – Discrimination Prohibited

3.601 E Members of the Department shall not discriminate against any person or organization as the result of racial, ethnic, religious, sexual, political, or personal prejudice.

A. Discrimination is defined as a failure to treat all persons equally where no reasonable distinction can be found between those favored and those not favored.

B. Members of the Department shall not use racial or gender-based disparaging language, threats or epithets.

3) Can the officers involved in the use of force text messages be removed from enforcement activities?

Officers can be reassigned to non-enforcement activities. If reassignment is considered, staff should evaluate the impact on WPD enforcement capacity and steps should be taken to mitigate a potential decrease in service level.

4) Are there any Brady-Giglio offenses that would reduce the effectiveness of any officer or supervisor?

Brady-Giglio requires prosecutors to disclose exculpatory evidence and information to the defense that could be used to impeach government witnesses. The District Attorney and the City's Chief Prosecutor are evaluating and agree that the misconduct could require Brady-Giglio disclosure, which would affect the

officers' ability to testify in court and reduce the officers' effectiveness to enforce state law and city ordinances. The Committee recommends Chief Moore evaluate the impact Brady-Giglio will have on the effectiveness of officers involved in the misconduct and take necessary steps to minimize the negative impact to criminal prosecutions.

5) Were the Deputy Chiefs' decision appropriate?

In collaboration with the former Chief of Police, the Deputy Chiefs reviewed the PSB reports and issued discipline. The former Chief of Police and Deputy Chiefs failed to exercise leadership at a critical time and adequately address officer misconduct while making a strong, clear statement that behavior of this type will not be tolerated. Instead, the discipline process shifted from charging the officers with the more serious violation of D-Level Conduct Unbecoming to the less serious B-Level Good Judgment violation. In addition, the WPD leadership did not address the significant Brady-Giglio implications resulting from the officers' actions and the impact on the effectiveness of the officers involved.

Furthermore, limited collaboration between the Deputy Chiefs and PSB resulted in an incomplete investigation that failed to answer several key questions that would have helped determine the depth and breadth of the misconduct. The Deputy Chiefs also failed to fully engage the City Human Resource Department and Law Department in their review of this misconduct, which had legal ramifications and was potentially a violation of City HR Policy and Administrative Regulations.

Statements made by the Deputy Chiefs to the Committee exhibit a lack of clear understanding of the impact that the officers' misconduct has on the community, WPD and the City of Wichita and seemingly excuse the officers' actions.

6) If the decisions were not appropriate, what actions should be considered for the Deputy Chiefs?

The Deputy Chiefs were acting within an existing framework that permitted police to investigate themselves within the bubble of their own perspective. This framework also permitted the FOP to influence discipline recommendations at an inappropriate point in the process. Statements made by the Deputy Chiefs indicate WPD leadership may have agreed to sustain the officers on lesser violations following discussions with the FOP. Whether this occurred was not verified. However, the grievance process is the appropriate venue for FOP participation in officer discipline issues. An independent party should review WPD's handling of investigations and the FOP's ability to influence discipline recommendations.

The Deputy Chiefs and WPD Command staff should receive extensive and ongoing training on leadership, conducting administrative investigations, progressive discipline, collaboration, as well as cultural bias, diversity, inclusion and equity. Further, Chief Moore should make a determination on the Deputy Chiefs' competency to continue serving in their current roles and their contribution to a lacking culture of accountability and leadership.

7) How do we move forward to ensure that the Police Department's culture reflects the values of the City and its citizens? What systematic reforms are needed? How can the CRB help with this analysis?

i. Wichita Police Department Culture

- a. An independent third party should conduct a thorough review of WPD culture, administrative policies and disciplinary procedures and practices. The breadth and depth of biased attitudes within the department should be assessed. The independent third party should make recommendations to address deficiencies and ensure bias-free policing.

- b. An independent third party should assess the level and appropriateness of FOP involvement in administrative investigations and disciplinary outcomes.
- c. The WPD should implement ongoing training that addresses bias-free policing, diversity, inclusion, equity, enforces the responsibilities and expectations of serving the community and sets standards of accountability. Persons who have demonstrable biases should be systematically removed from the department.
- d. The WPD should take a global approach to discipline. Command staff should discuss what discipline has occurred on a regular basis. The WPD should draft a Standard Operating Procedure on internal police discipline and provide ongoing training to PSB staff.
- e. The WPD should take affirmative steps to repair the damage resulting from the actions of these officers and engage the Diversity, Inclusion and Civil Rights Advisory Board and the community at large in efforts to rebuild trust and restore confidence in the WPD.
- f. The WPD should strictly adhere to City HR policies. The police department should build stronger working relationships and increase collaboration with the HR and Law departments. HR and Law should be added to PSB reviews of claims of discrimination, use of force and officer integrity.
- g. The WPD should develop training and policies that address behaviors and affiliations that are not consistent with City of Wichita values and community expectations.
- h. The WPD should intensify efforts to increase the racial and gender diversity of specialized teams/units.
- i. Selection of the new police chief should focus on finding someone with excellent internal leadership in addition to a strong community engagement and outreach focus.

ii. Brady-Giglio

- a. Monthly Brady-Giglio Meetings. Every month, all new PSB cases should be examined for potential Brady-Giglio issues by City staff, including representation from Law, HR, the Lt. heading the PSB, the Sedgwick County District Attorney and the Assistant US Attorney.
- b. Develop a comprehensive, substantive policy that makes clear the expectations of officers related to Brady-Giglio.

iii. Citizen's Review Board

- a. The Citizen's Review Board conducted an independent review of text messages and images exchanged by WPD officers and the subsequent investigation. Recommendations provided by the CRB should be reviewed and implemented, where possible.
- b. The CRB ordinance was recently amended to address concerns expressed by the CRB and others. Additional amendments should be considered that would provide CRB with the tools it needs to thoroughly review and recommend policy changes regarding discipline and other matters.