



# CITY OF TOPEKA

CITY COUNCIL COMMITTEE  
MEETING MINUTES

## SPECIAL COMMITTEE: POLICE & COMMUNITY

CITY COUNCIL  
City Hall, 215 SE 7<sup>th</sup> Street, Suite 255  
Topeka, KS 66603-3914  
Tel: 785-368-3710  
Fax: 785-368-3958  
www.topeka.org

**Date:** October 26, 2020

**Time:** 3:00pm

**Location:** Classroom A; Law Enforcement Center 320 S. Kansas

**Committee members present:** Councilmembers Karen Hiller, Sylvia Ortiz (Chair), Michael Padilla

**City staff present:** City Manager Brent Trout, CPT Jamey Haltom (TPD), Lisa Robertson (City Attorney), Mark Jones (TPD Legal),

### 1) Call to Order

Chairwoman Ortiz called the meeting to order at 3:00pm. Committee members introduced themselves.

### 2) Approve minutes from October 5, 2020 meeting

Committee member Hiller identified a technical correction found on page 2, to change the word “disbarred” to “disparate”. Aside from that correction, Committee member Hiller made a motion to approve the minutes. Committee member Padilla seconded the motion. Motion approved 3:0.

### 3) Discussion: Use of Force

Committee member Padilla asked CPT Haltom to expand on a basic understanding of why and how Use of Force and it’s roll within Law Enforcement, as well as the goal of the training in these techniques. CPT Haltom noted Use of Force is something that is taught and trained in all law enforcement agencies across the nation. The techniques and training are used to protect not only the officer, but also the arrestee or detainee. The training is not only the physical “hands-on” training, but also knowing the depth of knowing the laws within the Constitution.

Committee member Padilla asked Mark Jones, TPD Legal Advisor, to speak to the current statutes and ordinances with regard to the conditions where officers are permitted to utilize Use of Force tactics. Chairwoman Ortiz noted she would like to review the purpose, policy and core values found within the information that was sent to the committee, to allow for education for the public as well as the committee.

*{All policies discussed in this meeting are public record and can be found on the Topeka Police Department's webpage, and the Special Committee's webpage: <https://www.topeka.org/citycouncil/police-community> }.*

Mark Jones, TPD Legal Advisor, spoke about policy 4.22, Use of Force, the policy is for officers to use only the force reasonably necessary to perform their duties to keep people safe and to uphold the law. An initial 12-hour course on this policy is taught in the beginning weeks of the Police Academy. Mr. Jones read sections 4.22(A), 4.22(B), and 4.22(C) which discusses using verbal commands prior to physical force, reducing physical force as resistance decreases, and allowing time for subject to comply with orders before using physical force.

To clarify the policy further, the policy also identifies the difference between deadly force and physical force (4.2.3 Definitions). Mr. Jones noted the department has a policy on Deadly Force (Policy 4.4), and a policy on Use of Force reporting procedures (Policy 4.3). The Use of Force Reporting and Review Team policy describes the steps that occur during an incident. The process is not only reviewed internally, but is also reviewed by the Independent Police Auditor and the Use of Force review board. Mr. Jones stated the part that needs to be followed, is the law of the United States of America, *Graham vs. Connor* (4.2.4 *Graham v. Connor* Supreme Court Case). This case has been referred to on a national-level, in reviews of circumstances that have been seen in different cities. Mr. Jones read through the section. Language within the case stating “objectively reasonable” is a standard the Supreme Court uses to describe the Graham factors. To review such cases, the court will look at what the force that a reasonably trained officer, who will be using the objective standard, is going to use. The Graham Factors that officers are going to consider:

- What was the severity of the crime?
- Whether the suspect posed an immediate threat to the safety of the officer or others.
- Whether the suspect is actively resisting or attempting to evade arrest by flight.

All of these components are integrated throughout training academy, ongoing training, the review process, and supervisory training. To understand the totality of the circumstances, will be based on the type of case that it is. The Supreme Court has provided a measure for objectively judging use of force incidents.

Chairwoman Ortiz inquired about the Use of Force committee. Mr. Jones noted there is a Use of Force review committee that reviews any Use of Force incidents inside the Police Department, which is submitted to the Chief's office. The committee is composed of sworn staff who teach hand-to-hand contact, sworn staff who teach firearms, and those with K-9's. The committee has varying degrees of ranking officers within it. Mr. Jones clarified additional actions that are considered to be Use of Force such as:

- An officer un-holstering their service weapon, regardless if it is used or not, is considered a Use of Force.
- Any physical contact is considered Use of Force.
- The K-9 officers can be a form of Use of Force, depending on the situation.

Chairwoman Ortiz inquired about the application for Use of Force training for handicapped or mentally-ill individuals. Mr. Jones noted there are officers who have been specifically trained to work with special needs populations and homeless individuals that are used when possible, however all officers receive 40 hours of annual in-service training on Crisis Intervention Training (CIT). CPT Haltom added that in addition to the specially trained officers, all sworn-personnel receive fundamental training in the Police Academy and annual in-service, on cultural awareness training, behavioral health training, de-escalation training, tactical communication training, and ethics training. CPT Haltom stated these trainings provide tools for the officers to successfully respond to situations no matter the direction an incident may go. All of these training topics roll together to handle any interaction or situation.

Committee member Padilla stated he felt it is important to have all officers receive Crisis Intervention Training for when the special units are unavailable, and appreciative of the other training that is taught to help them respond in any situation. He inquired about the frequency of how often these trainings are revisited. CPT Haltom noted some of the training is taught by internal officers who have received "train the trainer" certification on the subject from outside training sources. Each year, the department is required to have 40 hours of in-service training. There is also a requirement for certain topics to be touched on at some point in the training. Topics such as communication and de-escalation, are woven into so many aspects and is regularly trained on. During defensive tactics training, there is as much emphasis on communicating clear and concise verbal commands, as time on the mat. Similar training scenarios are presented during the firearms training on the range. CPT Haltom concluded he felt de-escalation

training is revisited often and that officers receive an adequate amount of training in that arena. Committee member Padilla inquired about procedure if supervisors had concerns on a specific officer regarding the need for additional training in an area, and whether or not that information would be found on an evaluation or annual review. CPT Haltom confirmed, and added that those types of concerns can be noted on the annual review, however they can be addressed sooner than annually.

Committee member Hiller noted that different departments and companies have different cultures, in terms of scoring people on reviews. She felt that it can be a challenge to review assessments, regarding performance based on policy, for accuracy when identifying the need for additional training; and asked CPT Haltom to provide his opinion for how he feels the current processes to identify opportunities for improvement work and how to identify if those standards are not being met. CPT Haltom stated the annual reviews are backed up with quarterly feedback evaluations. The supervisors set goals for the employee. The supervisor then meets with that employee quarterly to go over the goals to see where they are at. The supervisor cannot simply place a number on the review scale. Each area has to be given a response as to why a certain score was given. This would include examples of incidents and statistical information.

Committee member Hiller inquired about incidents of officers cursing in recent incident reviews and inquired about the type of intervention that would typically be seen in those cases. CPT Haltom noted cursing is against most policies, however there are instances where considerations are given to a case. Each instance would be reviewed based on case-by-case. Such considerations would include reviewing the “human element”. CPT Haltom provided an example of what he meant by “human element”, and how that would differ from an officer choosing to be unprofessional and use foul language. Chief Cochran noted that profanity is a policy that does receive review and often corrective action. It is not taken lightly, and corrective action occurs in many of those types of situations. However, to his knowledge, Chief did not recall removing an officer from their position based on profanity, and that the officers generally respond positively to the corrective action and do not repeat the mistake.

Committee member Hiller asked for clarification on the review process for Use of Force incidents. Chief Cochran noted that each level of supervisor and reviewer look at the full packet and all of the information regarding the incident. Each level

makes their own notes and recommendations as the case moves up the chain. The main piece that the Chain of Command is looking for is if there is a violation of policy. The Use of Force Review Board is then looking to see if there are training aspects in the corrective action. They are looking to see if there are areas of the training program that need to be changed, or perhaps a change from Legal's perspective. They are not reviewing the incident to render corrective action, but to render whether there is something to be changed by the training protocol. The process of having the Independent Police Auditor review the case does not mean the internal review has not already identified or recognized the issue; their review takes place after it goes through the internal process. If a Citizens Review Board is established, they would also get the report several weeks after the incident took place.

Committee member Hiller inquired about the policy-level changes. Chief Cochran noted the policy recommendations from the Use of Force Review Board would be a Chain of Command responsibility. Chief Cochran noted the department policies are reviewed constantly, and that there are requirements for keeping record of those reviews that are set by CALEA (Commission on Accreditation for Law Enforcement Agencies). Committee member Hiller clarified her questions were coming from a place of wanting to understand the role of the Governing Body regarding policy-level changes. Chief Cochran agreed and stated these are the types of conversations that are needed. Chief feels the current policies and process for reviewing these policies and incidents are very good. It is important to remember that there are people who simply do not want to go to jail. In those instances, when compliance is not achieved by verbal commands, Use of Force tactics take place. Use of Force is not meant to punish, but rather to gain compliance. That is why force is stopped once compliance is achieved.

Committee member Padilla inquired if thought had been given to have a non-law enforcement individual sit on the Review Board. Chief Cochran noted there could be benefit, however the challenge may be finding someone not involved in law enforcement that can provide input however can also be held to the high confidentiality standards. Chief Cochran noted that he felt the position of the Independent Police Auditor fills the roll of being a non-law enforcement individual who is outside of the police department, and is someone who has full access to all of the information of a case, but also reports directly to the City Manager, rather than to the police department.

Committee member Hiller noted one of the criteria brought forward was to have a citizens review board help with hiring, and stated the department currently has a Civil Service Board, which is made up of non-law enforcement individuals. Chief Cochran confirmed and noted the questions used, by the Civil Service Board, during applicant interviews had been changed from a standard list to questions surrounding more current events. Some of the questions are uncomfortable questions that they ask the police applicants, but that the use of the Board is a very useful piece of the interview process. Board members are required to sign confidentiality forms, and other protocols. Chief stated there could be an opportunity to have a member of the Civil Service Board sit on the Policy Review Board. Committee member Hiller added that an additional option would be to use the same vetting process that is used for the Civil Service Board on individuals applying to serve on the Policy Review Board.

Chairwoman Ortiz inquired about officer training for juveniles. Chief Cochran noted there is a policy on this, and would make it available for the next meeting. There are some pieces of the policy that are similar to how officers respond to any case, however there are also different and specific protocols when responding to calls involving a juvenile.

Chairwoman Ortiz asked for clarification on the required 40 hours of in-service. Chief Cochran stated the basic 40-hour certification course is something every officer goes through during the Academy. Chief provided the committee with the in-service training schedule for 2020 and noted the in-service served as continuing education in topics that were taught in the academy, and that it is a mandatory requirement for every sworn officer in the department. For this year, there will be training of de-escalation, behavioral and mental health, fair and impartial policing, and ABL (Active Bystander for Law Enforcement). The Topeka Police Department was one of thirty law enforcement agencies that was selected to participate in that program that teaches intervention by fellow police officers.

Committee member Hiller noted the committee had been provided the 2017 and 2018 Use of Force reports, and that those reports show disparate numbers of minorities. She felt that the committee should review those reports at some point.

CPT Haltom reviewed Section 4.2.5 De-escalation of the Use of Force policy. He read 4.2.5(A), and noted that part of the de-escalation training that officers receive in the academy and what is trained on during in-service, is to re-

emphasize that de-escalation is built into so many aspects of what the officers do. CPT Haltom noted that Section 4.2.5(D) addresses some of the questions that were raised with regard to situations involving mentally impaired, juveniles, and others. Those areas are specifically outlined in the policy. These are factors that must be considered when understanding the root cause of the issue. Although there are instances involving people who simply do not want to go to jail, there are other instances when the individual may not be capable of understanding the command or the situation. CPT Haltom created an eight-hour course for the academy, and then a shorter four-hour course on de-escalation training for ongoing training. Since that time, the department has also included outside agency training. Law enforcement officers have a goal to understand the situations and to de-escalate any situation. He stated he is proud of the policy, and feels it is important to have the de-escalation portion in the policy.

Committee member Padilla noted an aspect that is often overlooked during an incident is the chaotic nature of something that is getting out of hand. And the first step is for someone to take charge, to then allow for individuals to tell their story. He believes the idea of law enforcement wanting to “take over” is often misunderstood. CPT Haltom confirmed that the goal of de-escalation is to understand the level of severity of a situation to end negative behavior before it spirals out of control. A piece of de-escalation can be shown by presenting a low level use of force. In some instances, simply being present will provide enough force to de-escalate a situation. Committee member Padilla stated the initial tone set by the officer arriving to a situation can set the pace for what will happen next. He feels the way an officer approaches a situation speaks to their level of professionalism, training, and personal character.

Committee member Hiller stated oftentimes, a Council member is called when a constituent is unhappy about something. She has heard from constituents of all backgrounds who had been involved in interactions with the Topeka Police Department that she found to be concerning. She asked if CPT Haltom could answer to the percentage of the officers were that are exemplary and totally reliable in being able to show up to a situation and de-escalate it. CPT Haltom stated he could not provide a percentage, however could say that all off the officers receive the same amount of training, the same skills and tools. All officers read, understand and agree with the mission and values of the agency. Committee member Hiller stated it was important to identify things that needed to improve. CPT Haltom noted it was important to understand that their office

also receives calls from individuals who were unhappy with the level of service they had received. Data from these complaints can sometimes be helpful in identifying questions of if and where the issue lies. Improving on level of service and positive interaction may be something that is set on a quarterly report and performance evaluation as a goal.

Committee member Hiller stated she felt it was the responsibility of the committee, and the Governing Body, to be able to have an understanding of that type of data and if they need to make a recommendation for a difference in policy or administrative procedures or training. She asked if CPT Haltom could speak to the training and overall performance of officers over the past five years. CPT Haltom stated their training evolves constantly, and that the goal is to achieve the best practices, with the highest level of professionalism, as possible. The expectations set by supervisors need to be clear and communicated, but that the department is always changing and has not been stagnant.

City Manager Brent Trout noted officers are held to a much higher standard than any other staff within the City, related to their performance and the period of time they have to prove their performance, that they are ready to be a long-term City of Topeka employee. Police officers have the longest probation of time out of all other City employees. They are constantly evaluated by numerous Field Training officers to ensure they are fit to be released on their own. There have been a few officers who did not pass the field training portion of their probation, and they were let go.

City Manager Trout also noted that when the Independent Police Auditor is evaluating Use of Force, he is evaluating other things as well, such as policy violations. In addition to reviewing whether the appropriate force was used, he is also reviewing the character and performance of the officers in very tense situations. He has been able to identify where additional training was necessary.

Chairwoman Ortiz stated she has noticed, and appreciated, the reviews that have come from the Independent Auditor, and the comments and recommendations that have come from those reports. City Manager Trout confirmed it was an extra review from a non-law enforcement point of view, which takes into account something that may not have been considered an issue from the law enforcement perspective but is an issue from a citizen perspective.



Chief Cochran noted the Defensive Tactics instructor re-certification training would be taking place the week of December 7-11, 2020. He invited any of the committee members who were interested in learning more about the training, to attend.

**a. Escalation/De-escalation**

Chairwoman Ortiz recognized they had already spoken about de-escalation, and asked CPT Haltom to walk through escalation tactics. CPT Haltom responded he would have difficulty discussion escalation without intertwining it with Duty to Intervene. Chairwoman Ortiz prompted to save that topic for a later meeting and to move to the next item.

**b. Standard Interaction & Bias Profiling**

CPT Haltom walked through how a standard call for service is handled. The corresponding policy is 4.30 Patrol Function & Calls for Service. The standard call to service begins with a call being made to the Shawnee County Dispatcher. The dispatcher will collect information from the caller to help provide the most detail possible to the responding units. This helps the responding officer(s) to begin preparing mentally for the possible scenarios they may expect. Question an officer is asking internally are “What resources to I have?”, “Do I have everything that I need?”, “Am I the best person for this job?”. If an officer is being called to an incident where it is known that an individual may have a mental health issue, the officer may be able to reach out to the CIT unit to have one of those officers with more behavioral health training help. Active listening begins the minute the officer steps out of their car and begins to gather the information: “What am I hearing?”, “What am I seeing?”, “What are the neighbors pointing out?”, etc.

Additional officers responding to the call are receiving information from the officer on the scene. As the officer begins to communicate on the standard interaction call, determining if the level of communication is effectively working is being factored into the scenario.

Committee member Padilla noted that in some cases, with the information received prior to arrival, dispatch or the officer can determine what additional resources are called for. He stated that in some cases, bystanders who are unaware of the full situation are inquiring about why there are so

many officers arriving to a situation. He feels it is important to share that every call received is something different, and that unless you have all of the information, it is important to not jump to conclusions. Chairwoman Ortiz expanded on the thoughts or concerns from a citizen's standpoint. CPT Haltom added that in some instances, the lack of information on a call will sometimes elicit a higher initial response until the situation is better understood, and that the more information a caller can provide to Dispatch will help guide the type of response.

Committee member Hiller stated she felt that having the community police unit was valuable with providing this deeper type of explanation to citizens, as these are common types of questions that are heard at neighborhood meetings.

#### **4) Set meeting schedule, next meeting date**

Standard Interaction, Bias/Profiling will be discussed at the next meeting. Citizens wanting to speak on the items may contact the committee. Questions or comments should be sent to the Liz Toyne, City Council Assistant, at [etoyne@topeka.org](mailto:etoyne@topeka.org) . Chief Cochran inquired about how citizens can sign up to speak. Chairwoman Ortiz stated individuals would need to contact Liz.

Next meeting will be November 9<sup>th</sup> at 3pm, location TBD.

#### **5) Adjourn**

Chairwoman Ortiz adjourned the meeting at 5:02pm.

Meeting video can be viewed at: [https://youtu.be/-RL\\_-Gumd-U](https://youtu.be/-RL_-Gumd-U)