

Lax Oversight?

Police auditor rarely critical, despite many complaints

The Eugene police auditor dismissed nearly every external complaint against police officers last year and is himself being sued by a former deputy auditor who claims she was fired for blowing the whistle on auditor and police misconduct.

Out of 326 complaints last year, auditor Mark Gissiner dismissed two-thirds as service-related without formally investigating and sustained external complaints against only four officers. In two of those four external complaints, the police had already sustained the complaints themselves. In two others, the police chief dismissed the complaint and the auditor's finding of misconduct.

In the lawsuit filed in February, former deputy auditor Dawn Reynolds alleges that Gissiner and the city fired her last May in retaliation for blowing the whistle on "violations of federal or state law, rules or regulations, or mismanagement, gross waste of funds or abuse of authority."

Reynolds, a former city prosecutor, judge and defense lawyer, alleged the misconduct included:

- "Systematic and ongoing civil rights violations by Eugene police officers."
- "Civilian complaints of serious police misconduct being classified incorrectly so as to avoid investigations of the complaints."
- "Police officers deliberately withholding information" from the auditor.
- "Deliberate failure by the Eugene Police Department to adequately investigate civilians' reports of police misconduct."
- "Shredding of files by OPA (Office of Police Auditor) in violation of Oregon public records retention law."
- "Police officers soliciting citizens to start fights so the officers could practice using their Tasers."
- "Suspension by the Eugene Police Department of the investigations into police misconduct at May 30, 2008 political demonstrations at Ken Kesey Plaza, which compromised the investigations."

Reynolds alleges that she reported the misconduct to Gissiner, a U.S. attorney, the mayor and City Council members.

Last month, U.S. District Court Judge Ann Aiken dismissed a First Amendment claim included in Reynolds' lawsuit on a technicality, but most of the whistleblower suit is moving forward.

"I can't comment about the lawsuit," Gissiner told the Eugene City Council in presenting his annual report last month. "It still exists."

Gissiner told the council "we have a very thorough system, and we do take our complaints seriously, and we are willing to change our minds." He said, "I think it works pretty well."

But Gissiner's annual report appears to include details that may corroborate some of Reynolds' allegations.

Buried in a table at the end of the report is a complainant who "alleged that when

Tasers first came out various officers wanted him to instigate fights so they could practice." Gissiner classified the complaint last year as a minor "service complaint" and dismissed the allegation for "timeliness/insufficient evidence" without a formal investigation by himself or the police department, according to the report.

In his report, Gissiner states that he has classified more complaints than previous auditors as minor "service complaints," dismissing them without formal investigation. "We triage them if you will," he told the City Council. "I don't want to overburden Internal Affairs."

Apparently serious misconduct complaints that Gissiner has dismissed as "service complaints" include an incident in which an officer ran a red light nearly striking a cyclist and an incident in which a black man alleged he was racially profiled in a traffic stop.

"At times, members of the CRB (Civilian Review Board) aren't necessarily pleased with me with the way I classify a complaint," Gissiner said. But he added, "I

serious allegations of abusing the homeless. A man alleged an officer "said something about ending up dead in river," but trespassing charges against the homeless man were dismissed. In another incident a homeless man alleged he was Tasered multiple times while he held his hands in the air.

Two other dismissed complaints alleged police were illegally targeting the homeless downtown. "I'm sure we'll have more complaints this summer because of the efforts of officers downtown," Gissiner said.

Gissiner and police supervisors did sustain a complaint that an officer used his/her official capacity to resolve a criminal complaint against a family member. But Police Chief Pete Kerns overruled the auditor and police supervisors and dismissed the complaint, according to the report. Gissiner also faulted police "judgment" in a case involving an altercation between an off-duty officer and Churchill High School students, but Kerns dismissed the complaint.

Gissiner supposedly provides indepen-

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—AUDITOR MARK GISSINER

have that authority."

Out of 35 complaints that Gissiner classified as use of force allegations against police, the police sustained only one complaint, according to his report. That was an internal complaint involving the "judgment" of an officer who released a dog on a burglary suspect.

Although the city almost never sustains external complaints against officers, the city paid or settled 25 risk claims last year for a total of \$72,613. The number of risk claims are up nearly a third in the last three years, according to the report.

Among the serious allegations of misconduct dismissed by Gissiner and the police include:

- Police pushed a man backwards so he landed painfully on his cuffed hands. Charges of trespass, resisting arrest and disorderly conduct against the man were dropped or acquitted by a judge.
- A 49-year-old woman alleged an officer lied to a grand jury and in police reports to bring numerous drug charges against her that were all dismissed.
- A woman alleged that an officer sexually assaulted her at the scene of her arrest. Charges of drunk driving and resisting arrest against the woman were dismissed.

Gissiner and the police also dismissed

dent police oversight, but his report contains no direct criticism of officers. Instead, Gissiner wrote of "steering the discussions away from blame." He states that "because of the high costs of training, corrective rather than punitive action can be beneficial to all involved."

Gissiner writes, "the expectation that the auditor is an adversary of the police provides false hope to those who feel they were wronged." He said he had no use for independent investigation funds provided him under the oversight ballot measure passed by voters six years ago and returned the money to the city budget.

Although Gissiner may not please people with serious complaints, he has apparently pleased his bosses in the City Council who offered nothing but praise in the meeting last month.

Councilor George Poling, a retired county deputy, praised Gissiner for making the auditor function less controversial in the last two years. "We're not hearing the rumblings from the citizens about how your office is being run. We're not hearing the rumblings from the police officers and their union."

Gissiner told the council that although his auditor office is independent, "quite honestly, people still think that we are part of the police department." **EW**

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