

**RIVER FOREST BOARD OF TRUSTEES
POLICE COMMITTEE**

INTERIM REPORT

FEBRUARY 19, 2008

INTRODUCTION

The Police Committee has been actively investigating the many issues raised by the Fraternal Order of Police No-Confidence vote in police management, the issues alleged in the federal civil rights employment litigation against the Village, and other issues such as ongoing problems at the 911 call center. The recent settlement of the federal lawsuits now makes it possible for the Village to systematically investigate and publicly address these issues, and this report seeks to begin this process. As important, the Committee believes it is critical that the public be apprised of the nature and extent of these issues so that it can draw its own conclusions in an informed manner. Nothing is more important than public safety, and the Committee believes that transparency on these issues is required to the extent feasible without interfering with employee personal privacy rights or ongoing investigations: for this reason, limited portions of the report are redacted from public view, at least for the time-being. In this context, this report seeks to summarize what the Police Committee has learned in the last six months for referral to the full Village Board for further action as it deems appropriate.

FEDERAL LITIGATION

The federal civil rights actions by three command officers against the Village for alleged discrimination have been resolved. These actions concerned promotions to the Deputy Chief positions which were created in and around 2002 in place of the sergeant/lieutenant structure. The Village endured nearly five years of acrimonious litigation, and the Police Committee believes that it is incumbent that the Village Board of Trustees and administration provide the public a financial and subjective accounting of its outcome.

The Village and its insurer settled with all three litigants. The settlement with the first officer is confidential and the Committee cannot reveal the terms. The Village settled with the second and third officers for \$500,000 total. The Village's uninsured share of the \$500,000 settlement was \$75,000, with the insurer

paying the remainder. In addition, the insurer paid the cost of the legal defense for all three cases (approximately \$340,000), although the Village did incur additional fees for advice given by the Village attorney with respect to the litigation. Thus, in total, the Village and its insurer expended something approaching \$900,000 *not including* the confidential amounts paid to the first officer, or the time and expense of the Village's non-legal staff spent on defense-related matters. It is our understanding that, while the insurer paid the large majority of the expenses, a portion of the amounts it expended will be recaptured from the Village in the form of higher insurance premiums according to a loss recapture provision formula in the Village's insurance program.

The impact on morale in the Police Department in relation to the issues raised in the federal litigation cannot be underestimated. In addition, the handling of the litigation, principally by the Village's insurer, directly contributed to the less than optimal outcome. Preliminary assessments of a positive outcome by the Village's insurer appeared to prolong the resolution of the case. Only when the case approached trial and the Trustees began to actively question the insurers' litigation strategy did it become clear that the Village's aggressive defense position was not in accord with long-known facts, including the following:

- All three litigants had substantial command and/or supervisory experience either as a sergeant and/or a lieutenant, while one of the two newly promoted Deputy Chiefs was a patrolman, and the other generally had less supervisory and educational experience than each of the three litigants;
- One of the litigants with substantial supervisory experience finished first out of six candidates on one of the written promotion exams yet was passed over for promotion by another officer with little supervisory experience who finished fourth.

The above facts, coupled with allegations that the grading of at least some of the promotion tests were not fully anonymous and thus could have been result-driven, presented a serious risk of an adverse verdict against the Village. This, and the fact that the Village's insurer became markedly more negative about the defensibility of the case as trial approached prompted the Village to seek and obtain a settlement. The Committee recognizes that the above facts did not exist in isolation and the Village was prepared to mount a robust defense that the candidates were meritoriously selected. However, these were the facts that the insurer cited as the basis for its concern that the Village was in serious jeopardy of an adverse verdict.

It is troubling that these facts, which were well-known and essentially undisputed since early in the case, were not given their full weight until late in the litigation process. Regardless, the Police Committee believes that the ultimate settlement amount was a good outcome for the Village and its insurer. However, the fact that settlement came on the eve of trial only served to increase the underlying legal expense, prolong the uncertainty, and further diminish morale in the Police Department unnecessarily.

The ultimate question which cannot be answered by this Committee is whether the outcome of the litigation and its underlying facts indicate that aspects of the litigants' cases may have been meritorious. This Committee cannot turn back the clock, but the reality is that it appears that a significant portion of the Department believes this to be the case. This is evidenced by the 17-2 No-Confidence vote by the police union against the command staff which specifically reasserts certain of the charges that form the basis of the litigation (a copy of the June 26, 2006 Fraternal Order of Police No-Confidence vote is attached hereto as Exhibit A). It is imperative that the Village find a way to acknowledge and address this reality while still maintaining the integrity of the existing command structure, or the morale issues in the Department will persist.

Recommendations:

- 1) The Police Committee recommends that the Village Board direct the Administrator to review whether the change from the lieutenant to Deputy Chief structure that ultimately lead to the litigation has achieved the desired results. The Administrator should be instructed to evaluate whether the Department should return to the pre-existing supervisory/command structure or eliminate one of two Deputy Chief positions with a realization that any such changes might improve both functioning and morale in the department.
- 2) The Police Committee recommends that the Village Board take a more active supervisory role in defense of any future substantial litigation against the Village. It is the opinion of the Committee that the negative financial and subjective impact of the federal litigation was exacerbated by failure to take an active participatory and supervisory role over the insurer-appointed counsel.
- 3) The Police Committee recommends that the Village consider the long-term consequences of its actions prior to taking any action. In this case, the Village established hiring standards, but allegedly did not follow them. The Village needs to think before it acts. The Committee believes that even now, the Village seems intent on either acting too quickly, without contemplation of possible litigation consequences - or, not at all - when it comes to personnel and legal issues.

RETALIATION/HARASSMENT CLAIMS

The Police Committee is concerned about various retaliation/harassment claims filed by members of the Police Department against management in the past year. We are unclear about how many such complaints were pending as of last week, but believe the number to be approximately 7-10. The oldest such complaint of which we are aware appears to have been filed in February 2007. We find it unacceptable that most, if not all, of these complaints were not responded to until last week – and then only when the Committee pressed the Administration in advance of this report. This is managerially unacceptable and the failure to promptly address these complaints serves to further erode morale. To the extent the complaints are meritorious (and the Committee is making no judgment as to their substance), no corrective action is being taken. Accordingly, this not only diminishes the functioning of the Department, but enhances the Village's potential liability exposure.¹

Recommendation:

The Police Committee recommends that the Village Board instruct the Village Administrator to establish a formal protocol for responding to outstanding retaliation and/or harassment complaints including time-lines, to the extent consistent with employment law concerns.

STAFFING

The Police Committee took substantial testimony and evidence in regards to allegations of understaffing made by the F.O.P. in its no-confidence vote. It was clear from the testimony that a significant part of the problem is a growing nationwide difficulty in securing suitable candidates due to certain requirements of the position (educational, drug-test, etc.), much of which is outside of the Village's control.² However, to the extent that certain aspects of this problem are not unique

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² The Committee notes that pursuant to state statute, the Board of Fire and Police Commissioners has the responsibility of testing, screening and appointing new members to the fire and police departments of the Village, excluding the fire chief and police chief.

to River Forest, it is imperative that the Village aggressively seek to optimize those staffing aspects within its control in order to counter these outside forces.

River Forest is a small Department with only 30 sworn officers. We, like many Departments, are losing capable officers to reserve duty in the Iraq war. However, of special concern, the Village recently lost at least one officer to voluntary resignation, including one officer who took another job with the Berwyn Police Department. Further, it is our understanding that several of our most capable officers are actively seeking employment with other agencies, largely due to perceived morale problems in the Department. Several sources confidentially estimate that between 5 and 8 of our officers, some of our best, are actively seeking employment with other agencies. Due to the nature of these reports, the Committee cannot verify this information. However, it is such a serious concern to the Committee that it needs to be directly acknowledged and considered. This is especially noteworthy as mid-career movement is unusual in law enforcement due to seniority and pension portability issues. Thus, addressing morale and other employment issues is critical to the long-term health of the Department.

River Forest authorizes 31 sworn police officer positions, and we currently employ only 30. However, two are in Iraq, and two are on light-disability unable to work on the street. Thus, operationally, we arguably are five officers short of full force (approximately 16%). The Village has never deviated from the 4 officer minimum deployment on the street per eight hour shift (for a total of 7-8 working per shift). The shortages from Iraq war deployment, disability, transfers, etc. have begun to seriously stress the operation of the Department. The resultant mandatory overtime, in addition to the related expense, is beginning to take a toll on personnel and their morale.

In order to maintain the four officers on the street convention, the Department eliminated the Tactical and Traffic Units in an attempt to limit overtime. In losing the Traffic Officer, the Village was deprived of its only officer dedicated solely to traffic enforcement. In addition to the public safety concerns this presents, the loss of dedicated traffic control presumably is reflected in a reduction of revenue from enforcement activity.

With the elimination of the Tactical Unit (comprised of two officers), the Village lost its only flexible response unit for crimes. Tactical officers were the only personnel focused on crime at the Town Center and for crimes such as residential burglaries. The Committee was disturbed that a River Forest Police Department command officer informed the Committee that this was no longer a major problem, quipping that the drug addicts "just shoot up (at the Town Center) and leave." The Committee believes that the loss of the Tactical Unit should not be minimized.

The Committee's expert, Matt Casey, an expert in force deployment, advises that the Village should undertake a comprehensive force deployment study with the ultimate goal of matching staffing with activity on a shift specific basis. He indicated that a force deployment study was likely to suggest that certain shifts should have additional officers and others less. In addition to making operations more effective, it may provide flexibility and relief for our ongoing staffing problems, and limit the need for costly overtime while improving morale in an exhausted work-force. It is our understanding that a partial study is underway by a Department employee. The Committee urges that the Department give this priority, and employ Matt Casey to supervise a comprehensive study.

It is our understanding that in a small Department such as River Forest, rotation of assignments is important as it preserves morale, provides an equal opportunity for officers to gain the requisite experience to compete effectively for promotion, and, in certain cases provides an income supplement. In addition, some of the specialist assignments provide officers the advantage of permanent day-shift. Thus, the Committee takes seriously the complaints by certain officers and the F.O.P. (in its no-confidence vote) that, of late, the long-standing custom and practice of rotation of assignments has been curtailed. This allegedly has led to claims of favoritism and general dissatisfaction. If there are legitimate reasons to support any change in custom and practice, the Department ought to make the case clearly and convincingly or, the Department ought to revert to prior custom and practice immediately.³

Recommendations:

- 1) The Committee recommends that the Village place a priority on completing the ongoing force deployment strategy and retain Matt Casey to assist the Department in conducting a formal force deployment study, prioritize and proactively work with it, the Board of Police Commissioners and the Chief to explore proactive ways to recruit and retain personnel.
- 2) The Committee recommends that the Village Board request that the Administrator work with the Police Chief to reestablish the rotation of assignments among personnel unless compelling reasons are provided to deviate from long-standing custom and practice.

³ The Committee includes as Exhibit B a September 22, 2007 letter from former Chief Nicholas M. Coscino to the Committee. In it, he reiterates that specialist assignments traditionally have been rotated because it fostered a more professional and satisfied work force. The Committee commends Chief Coscino for his active interest in the Department and thanks him for his input.

INVESTIGATION: PERSONNEL MATTERS

The Police Department No-Confidence Vote refers to charges that at least one of the current River Forest Deputy Chiefs was operating a real-estate business,

[REDACTED]

[REDACTED]

[REDACTED]

4 [REDACTED]



Recommendation:

The Committee recommends to the Village Board that it retain independent counsel to investigate the circumstances surrounding the above matters and that the counsel issue a report with factual and legal findings to the Village Board.

DISPATCH CENTER

The Committee was alerted to alleged problems with the 911 call-center (West Suburban Dispatch Center: "W.S.D.C." or "WestCom") by the F.O.P no-confidence resolution. WestCom serves River Forest, Oak Park and Elmwood Park and replaced a River Forest-only dedicated emergency call system. WestCom is essentially a joint venture of the above Villages. Much of the Committee's work in the last six months has been focused on the alleged problems at the Center. The F.O.P. asserts that dispatch service has seriously deteriorated since the switch to WestCom. Indeed, the sheer number of complaints (hundreds) filed by both the Police Department and the Fire Department suggests that there are serious issues that need to be addressed. The Committee explored a number of these complaints, and found most to be meritorious. However, if there was an overall theme to the complaints, the common element is operational and not technological. The complaints were not just from River Forest, but from Oak Park as well. The most disturbing such complaint involved the death of a man in Oak Park in which the WestCom call-taker mistakenly dispatched an ambulance to a wrong address causing a seven minute delay. The man ultimately was D.O.A. at the hospital. Other recent complaints involve serious delays of River Forest fire dispatches to Forest Park under a mutual aid pact between the Villages. One such incident involved people in serious danger, with three people ultimately hospitalized as a result of injuries sustained. In each one of these complaints, the Committee was lead to believe that the issue was not the technology, but dispatcher error.

The fact that mistakes continue despite the recent and relatively intense scrutiny from this Committee suggests that the problems are entrenched and management is unable to address them adequately on its own. There are repeated assertions by stakeholders that WestCom's principal management tool to ensure operational effectiveness is repetitive, and ultimately disproportionate, use of

disciplinary sanctions. The Committee is unable to evaluate this claim, but anecdotal evidence indicates that it ought to be explored at the next stage of the investigation.

The Committee is especially concerned with several complaints relating to calls involving River Forest schools. In one, there was a substantial delay responding to phone calls of an apparent fire alarm at Roosevelt School. River Forest police were dispatched to confirm this and the responding Sergeant confirmed an apparent fire alarm and requested that fire trucks be immediately dispatched. Despite this, even after the Sergeant verbally requested that the Fire Department be dispatched, WestCom did not dispatch fire units for approximately seven minutes for reasons that remain unclear. Analysis of this complaint determined that the school had installed a panic alarm that was not properly wired, including failure to integrate with WestCom. Regardless, the Committee believes that when a report of a potential fire at a school is made, it is safe practice to dispatch fire apparatus with the first call. In this case, the total delay from first call may have been in excess of eleven minutes. Further, when a River Forest police Sergeant confirms a fire alarm, we believe that there is no room for discretion in dispatching units. The Committee was especially concerned that the Police Chief, at our hearing on this issue, was unsure if the issues that lead to the confusion (i.e., the panic alarm) had been addressed and fixed, responding he "hoped" so. The subsequent discussion also leads the Committee to believe that the Village had failed to establish a protocol in conjunction with WestCom to address coordination of response for emergency situations such as Columbine or, more recently, Northern Illinois University. This is unacceptable and should be addressed immediately.

The Committee was extremely frustrated with WestCom's inability to explain why computer records that should demonstrate when a call was received and ultimately dispatched occasionally did not match the actual time elapsed when tapes were replayed and tracked with a stop-watch. This is of special concern, because the Village of River Forest monitors the response time effectiveness of the Center by monthly Computer Aided Dispatch ("CAD") summary reports. While the Committee was unable from its limited sample of complaints to assess the scope of this inconsistency, WestCom's inability to explain it in regards to individual calls leads us to question the reliability of the monthly CAD reports, which is the most fundamental measure of the Center's performance.

Finally, one recurring theme of complaints regarding the Dispatch Center is that during periods of heavy call volume, because Oak Park is larger and has a higher incidence of serious calls, River Forest's 911 calls are assigned lower priority and, dispatched slower than under the previous River Forest-only system. This is undoubtedly true, although it is difficult for the Committee to assess the

overall magnitude of the complaint. The F.O.P. suggests that we seek a River Forest-only dispatcher within the WestCom structure, which Elmwood Park already has in place. The Committee takes no position on this at that time, but believes that this suggestion should be evaluated immediately.

In this regard, the Committee has secured input from an expert in the field to help assess how to best investigate the problem, Donald Zoufal, former General Counsel of the Chicago Police Department and, more recently, First Deputy at the City of Chicago Emergency Management Center. The Committee wishes to thank the Village Board, which unanimously supported utilizing Mr. Zoufal to assess the problem. We hope that with Mr. Zoufal's assistance, a plan of action will be generated in the near future to formally investigate the alleged issues.

In conclusion, while the Committee now defers, at least for the time being, the investigation of the Dispatch Center to the Village Board, the Committee's relatively in-depth investigation did lead to the following preliminary impressions:

- The advent of cell-phones and other technical changes would ultimately have required that the Village upgrade its system at substantial expense.
- It was reasonable for the Village to combine its operations with other Villages to defray the substantial technological upgrade cost.
- The technological systems and structure of the operation are reasonable in scope, and the cost of returning to a River Forest only system would likely be cost prohibitive.
- There is little doubt that the birthing pains associated with the system were greater than expected, longer in duration than is acceptable, and we are still experiencing them for reasons that are unclear.
- Based on the number of complaints lodged against WestCom, it appears that the number of reported dispatch errors are more frequent than under the old system.
- An analysis of the complaints indicates that the problem is primarily operational and personnel related, and not technological.
- Management of the center has not proven they can admit, identify or remedy the problems, at least without outside assistance.
- Many of these complaints seem to occur on late-night shifts and involve the same dispatchers.

PARKING CITATION PROGRAM

The Police Committee conducted a hearing in regards to alleged improprieties related to the operation of the Village's previous parking citation system. While the problems identified during the meeting should be systematically cured on a going-forward basis by the imposition of the new parking adjudication protocol, the Committee found several aspects of the operation of the prior program of concern.

The Village Code, Section 1-4-4 provides as follows in regards to parking citations and how they should be handled:

1-4-4: Penalties, Violation of Certain Code Sections:

B. Parking Violations: Effective May 1, 2003, the penalty for all parking violations, except unauthorized use of accessible parking spaces, shall be:

1. Twenty dollars if paid before the due date.
2. Thirty-five dollars if paid after the due date.

The Committee's investigation revealed that it has been the long-standing custom and practice of the Department when issuing parking citations to not fill-out the section of the parking ticket summons that provided for a court date in lieu of full payment. To the extent voluntary payment was not made on the citation, the Village would send one letter demanding payment. If this letter went unanswered, the Village took no further action to collect unless the violator accumulated 15 tickets, in which case the violator was subject to booting. This necessarily indicates that a substantial sum of unpaid tickets remains uncollected. It also calls into question whether this system was ripe for abuse. The only estimate of the uncollected tickets provided to the Committee, based on a computer-run of uncollected tickets (i.e., "Periodic Activity Summary") is \$280,000. The Village apparently has no intention of pursuing these sums.

Of additional concern to the Committee, for at least 17 years, the Village has been operating a "parking adjudication" program that allowed residents to appeal their tickets. While there was much to like about such a program, it is questionable whether it was authorized by the four corners of the Village ordinances. Further, the Committee is troubled by the fact that the adjudication program was not mentioned as an option on either the ticket summons or in the ordinance book. Thus, while it was made generally available to all without discrimination, it was not common knowledge unless a specific inquiry was made.

Presumably, many residents who paid their tickets in full would have successfully availed themselves of the program had they known of it.

Based on testimony and documents furnished to the Committee, the Committee is concerned that the aspects of the operation of the program deserve greater scrutiny. For example, as of at least April 27, 2006, there was a General Order that governed the program. However, aside from fundamental questions of its legality given the limited scope of the Ordinance (Section 1-4-4), the Committee believes that the standards to be applied were vague and, thus, susceptible to criticism and allegations of unequal treatment. For example, the General Order allowed a ticket to be disregarded if "the benefit to the Village of voiding the citation is substantially greater than proceeding with prosecution." The Committee believes this to be vague such that any ticket voided was susceptible of charges of favoritism or the like.

The Committee also expresses concern regarding the fact that due to an apparent failure to order ticket forms, the Village was unable to issue parking citations for a period of approximately 4-5 months in 2006. In addition to the obvious failure to enforce traffic laws during this time, the situation presented morale issues for the officers on the street. They were forced to shoulder much of the residents' ire when they could not cite egregious violators, and it is our understanding that they may have been instructed or encouraged not to reveal the underlying reason. This situation is unacceptable, and care should be taken to ensure it is not repeated.

Aside from the obvious concerns about unremedied parking violations during this time, it is logical to assume that the failure to issue or collect parking tickets would have a negative impact on Village revenues. For example, the Village issued 6,138 tickets in 2005, and only 4,643 tickets in 2006. Unfortunately, the revenue shortfall may now become systemic, because even with available parking ticket forms the Department only issued 4,880 tickets in 2007, presumably due to the loss of a dedicated Traffic Control officer due to manpower shortages (see discussion, *supra*).

This ongoing failure to fully enforce parking violations was and is unacceptable, and the Department must act quickly to ensure that parking enforcement does not suffer going-forward.

Recommendation:

The Committee recommends to the Village Board that the Village Administrator quantify the amount of uncollected parking tickets and solicit proposals for immediate collection of same.

CONCLUSION

The problems in the Police Department are real, long in duration, and deep. Not all of the F.O.P.'s complaints in its no-confidence vote could be substantiated. However, a majority of the F.O.P.'s complaints could be verified, at least in part, and indicate a troubled Department. The Committee rejects the assertion that a no-confidence vote is common – our research suggests otherwise. The Committee rejects the assertion by the Administration that the 17-2 vote was the product of a membership whipped into a frenzy at a union meeting. This is insulting to the officers that we depend upon to protect our families. The Committee also rejects the assertion that the average citizen could not detect a serious morale problem in the Department as proof that there is none. The Committee believes that instead, this speaks to the professionalism of the force. Finally, the Committee rejects the idea that the no-confidence vote was a collective bargaining ploy. To think the union would take such unprecedented action for what, at best, might be an additional .25% pay-hike is cynical and inconsistent with everything we know about the fine officers that protect our families everyday.

The federal litigation, the harassment complaints, the dispatch errors, the staffing problems, and the no-confidence vote are tangible and speak for themselves. In fact, the Committee believes that it is only the professionalism of our front-line officers that has kept these issues from infecting operational effectiveness such that it would become apparent to the public. Eventually, however, something has to give. The \$500,000 in recent litigation settlements is the beginning, potentially to be followed by the departure of some of our finest officers to other, less troubled, departments, premature retirements, and worse.

Looking at this objectively leads to the conclusion that either: 1) the Village Board and Administration have been, at least in part, in denial about the scope and seriousness of the problems; and/or 2) the Board and Administration have failed to adequately fulfill their oversight function. It cannot be known whether the Police Committee's failure to meet for over seven years contributed to the depth and duration of the problems, but common sense would suggest yes.

This Committee cannot change history. It can only identify facts, evaluate issues, and, where appropriate, encourage change. The problems are so serious and entrenched that the Committee believes that they can only be effectively remedied through the active involvement of the Village Board. We urge the Board to use the settlement of the federal litigation as a catalyst for change rather than the first of a series of dominoes to fall, each potentially worse than the last. In this context, the Committee respectfully urges the Board to accept this report as a template to confront and resolve the issues it raises.

The Committee wishes to leave all stakeholders with one final thought. Whether or not you accept some, all, or none of the findings of this Committee, it is clear that we have a Police Department in which the majority of front-line and supervisory officers are at serious odds with their command staff. No matter who is at fault, this must be addressed, and promptly. The safety of our families is at stake.