

C I V I L I A N R E V I E W B O A R D
PUBLIC SESSION MINUTES

July 27, 2017

Present at the meeting were Civilian Review Board members Bridal Pearson (Chair, Northern District), Blair Thompson (Secretary, Southeastern District), Fred Jackson (Northwestern District), Mel Currie (Southwestern District) and Leslie Parker Blyther (Central District).

Also present were:

Jill P. Carter, Director of the Office of Civil Rights
Jesmond Riggins, CRB Supervisor
Evangula Brown, CRB Investigator
Shaun Clark, CRB Investigator
Samantha Jeffrey, CRB Investigator
Deputy Eric Cox, Sheriff's Office
Det. Anthony Stokes, Baltimore School Police

Members of the public and community members were also present.

I. Welcome

Chair Pearson welcomed everyone and called the meeting to order at 5:02. He noted that Leslie Parker Blyther was en route and would arrive shortly, and that her presence was needed for a quorum. He recognized and introduced non-voting members of the Board, Director Carter, and staff. He then announced that the meeting would begin with the Director's report until a quorum had been reached.

II. Director's Report

Director Carter began her report by noting that the members of the Community Oversight Task force had been appointed and had held their first meeting in the Office of Civil Rights Board Room. She went on to note that the Task Force would be reviewing and assessing the Civilian Review Board, and advised Board members and the public of their second and third meeting dates. She stated that they would prepare a report on the Civilian Review Board, and the recommendations that came from the task force would be critical to the Board, and that a thorough understanding of the Board's challenges and goals would help to bring the CRB from where they are to where they should be.

Director Carter went on to state that staff had identified the War Memorial as a possible larger venue, however there is an hourly charge for its use. She encouraged all Board members to identify places within their communities that could be a potential venue for the meeting.

Director Carter went on to mention that there were concerns about retired officers with sustained cases, and wanted to discuss how the Board could address these issues, especially in cases where the officers were allowed to retain their service weapons. Fred Jackson noted that an officer who had retired in good standing could not be prevented from obtaining a firearm permit, however a new set of rules had been established that put retired officers on the same level as civilians when seeking out permits, and many officers chose not to carry weapons because of the difficulty of obtaining these permits. He noted that LEOSA (Law Enforcement Officers Safety Act) allowed some officers to carry nationwide, but retired officers were treated like civilians. He noted that there was a case in which a retired officer was armed and chased a person who was breaking into their home. The officer was arrested for pursuing the suspect while armed. He stated that the level of restrictions made him feel like it wasn't a great concern for the public. Director Carter stated that her main concern in this regard were repeat offenders who were allowed to keep their service weapon, and Fred Jackson stated that officers were no longer allowed to retain their service weapon after they had retired. Leslie Parker Blyther had arrived, and added that documentation of their sustained cases could still be placed in their files, and Director Carter clarified that this would only be the case if BPD agreed to sustain the charges. Mel Currie noted that if both agencies sustained the allegations, they would go on the officer's records if he attempted to be hired at another department. Director Carter clarified that the goal of the Board was to push to change the statutory language to make CRB findings mandatory. Fred Jackson noted that a finding of Not Sustained can be purged after 3 years. Eric Cox stated that in reference to the trial boards, if an officer retires before punishment, the agency must notify the training board that the officer is flagged, and clarified that if an officer is flagged, the agency that wanted to hire a flagged officer would have to go through a hearing justifying the hire.

III. Approval of July 7, 2017 Minutes

At that point, Chair Pearson recognized that a quorum was present and made a motion to approve the July 7th minutes. Mel Currie seconded the motion, and all were in favor.

IV. Discussion on Unified Complaint Form

Supervisor Riggins noted that the Consent Decree required CRB and BPD to use a unified complaint form, which staff had developed along with Internal Affairs to conform to the state law, which was now presented for Board review and approval. Mel Currie noted that he felt a more general heading was needed for abusive language and rude behavior, and questioned why abusive language would not be considered rude behavior. He also noted that he felt the race category on the form should be replaced with ethnicity. Leslie Parker Blyther suggested that the category be changed to "Race/Ethnicity", and questioned why the new categories were added. Director Carter noted that the additional categories were added by IAD, and stated that it would not be beneficial to remove abusive language as a category because it was defined in the CRB statute. She also noted that documenting racial statistics were a requirement of the consent decree. Mel Currie asked what definition was being used for race, and Supervisor Riggins noted that census standard used by the Federal government was being used. Mel Currie noted that he felt that the Board should push back on this requirement, and Director Carter clarified that the requirement helped to track officer behavior. Mel Currie stated that he would agree to "Race/Ethnicity". Leslie Parker Blyther asked if it would be possible to include failure to investigate/write a report as a category, since it was a common complaint. She also suggested a category for planting evidence. Director Carter stated she believed that would be covered under evidence tampering, and Fred Jackson stated that it could fall under filing a false report. Director Carter stated that IAD would respond and would likely place these in the "Other" category. Supervisor Riggins advised against putting a large number of categories, in order to keep the form brief and to ensure that CRB complaints were not incorrectly categorized. Leslie Parker Blyther asked if the Board could assign a category to a complaint if the complainant did not check the box, and Supervisor Riggins stated that the consent decree allowed for this with the permission of the Director. Director Carter stated that she thought the false report category would be a good addition. Supervisor Riggins noted that what the Board had discussed so far would constitute the addition of 3 more boxes, to which Leslie Parker Blyther noted that she felt that the additional categories helped complainants to accurately express themselves. Supervisor Riggins clarified that the additional boxes did not expand the Board's jurisdiction and that if a citizen did not check one of the CRB boxes, the Board might never receive the complaint. Leslie Parker Blyther questioned whether the Board could add their own category or make suggestions, to which Supervisor Riggins stated that they could, but they would still be bound by the statute. Blair Thompson noted that since that was the case, they should only include CRB categories. Fred Jackson agreed and noted that too many categories could prevent the

Board from receiving complaints. Supervisor Riggins noted that it might even be possible for complainants to be steered away from CRB categories. Leslie Parker Blyther questioned why the Board could not add their own categories, and Supervisor Riggins answered that BPD would not honor them. Leslie Parker Blyther stated that they should make decisions for the benefit of the citizens if the police act unprofessionally. Mel Currie stated that they wouldn't know anyway if the complaint fell outside of the 5 categories. Investigator Jeffrey noted that categorization had been an issue for Boards in the past. Supervisor Riggins stated that this was where theory would meet reality, where addition of categories would theoretically be beneficial, but become problematic because of the law. Leslie Parker Blyther asked where complaints originate, and Supervisor Riggins noted that 90% originate with IAD, and that the goal would be with time, to get statutory change and to get the public to file primarily with CRB. Mel Currie stated that he felt Board members should vote for the 5 categories and push back through broader interpretations of the categories. Leslie Parker Blyther motioned to expand the category "failure to write a report" to "failure to write a report/investigate". Blair Thompson seconded, and Fred Jackson and Bridal Pearson were in favor. Mel Currie motioned to go back to the original 5 categories and drop all others, and the motion was denied. Director Carter noted that it was important to keep the "other" category since the form had to be usable by the police department for non-CRB complaints. Supervisor Riggins noted that the "other" category could bolster the position that the CRB should receive all complaints. Mel Currie asked if there was a way the Board could receive information from IAD on the boxes. Special Assistant Muth noted that this information was not included in the monthly complaint inventory. Leslie Parker Blyther suggested that complaints could be entered through interfacing software that would be integrated with both IAD and CRB systems. Mel Currie felt that the Board should push for this, and suggested that on the form, CRB eligible boxes were distinguished from the other complaint types. Director Carter stated that the Board would need in the future joint and mutual discretion or concurrent jurisdiction over all complaints. Leslie Parker Blyther stated that she still felt automated software would be important, and Mel Currie stated that one of the Board members should advocate for it. Leslie Parker Blyther volunteered, and stated that she felt the Board should write a letter to the Mayor advocating for this solution. Mel Currie stated that in terms of the form, he felt that the CRB allegations should be clearly marked and differentiated. Supervisor Riggins noted that the Consent Decree gives the police department singular power to classify those complaints that are filed within their offices. Chair Pearson suggested Leslie Parker Blyther compose a letter to the Mayor and include this information, and Director Carter suggested that she write to Internal Affairs and the Police Commissioner and copy the Mayor. Fred Jackson asked who had been in charge of adding the additional

categories, and it was clarified that it was Chief Hill. Fred Jackson stated that he felt Chief Hill should be present to clarify these issues. Leslie Parker Blyther noted that she felt the words “learning about” should be omitted from the question, “Are you interested in learning about mediation?”. Director Carter noted that mediation was a process and required education and consent of both parties, and that if mediation is successful, it will not ultimately affect the officer’s personnel file. Mel Currie motioned that CRB categories be listed separately and clearly, Blair Thompson seconded, and all were in favor. Mel Currie motioned to add ethnicity to the “Race” category, Blair Thompson seconded, and all were in favor. Leslie Parker Blyther motioned for the words “learning about” to be omitted from the mediation question, Mel Currie seconded, and all were in favor. Leslie Parker Blyther stated that she would ask OCR staff to draft a letter to adopt software to give CRB discretion to classify complaints and ensure all complaints come through CRB. She stated that she would compile the necessary information on available software and send the request through email to CRB staff and the Board so that the letter could be produced.

V. New Complaints

CRB2017-0066 CRB Simultaneous Investigation

Board members noted that they authorized an independent CRB investigation because they believed the facts would be simple to verify, and because the allegations were serious and the complainant listed multiple witnesses.

CRB2017-0090 CRB Simultaneous Investigation

Leslie Parker Blyther noted that this was another failure to investigate and stated that she was surprised this was not already a category. Blair Thompson felt that the officer immediately accusing the complaint of lying constituted abusive language. Leslie Parker Blyther asked if the cases involves other issues, would it be possible for the investigator to review them. Supervisor Riggins noted that the investigators could mention it in the report, but it would take away time from addressing those issues that were within their jurisdiction.

CRB2017-0091 CRB Simultaneous Investigation

Leslie Parker Blyther noted that this complaint also constituted a failure to investigate, and that the CRB legislation needed to be changed so that they could address this issue. Fred Jackson wanted to know if the investigators could obtain photos, CAD reports, and evidence from the case to verify the complainant’s statements. Investigator Clark noted that it should be relatively simple, but could depend on the circumstances. Blair Thompson stated that she voted for CRB with a similar rationale to her vote in the last case, where the accusation that the complainant was lying constituted abusive language. Mel Currie stated that the Board could push back through a broader interpretation of the categories, and that failure to act could be considered negative harassment. Fred Jackson asked what the CRB’s recourse would

be if they discovered a larger issue in the course of an investigation. Supervisor Riggins noted that the CRB could inform IAD and the public. Fred Jackson stated that they should inform citizens that the Board also found that the officer failed to investigate and note that it was a problem to justify the expansion of CRB authority. Supervisor Riggins noted that they could memorialize these issues in writing through letters, but they cannot compel BPD to do anything. Fred Jackson noted that if the events had happened as the complainant described, it was unconscionable. Mel Currie stated the Board needed to memorialize those issues that they noticed. Bridal Pearson stated that the case was noticeably outrageous, and the Board should provide egregious cases like these as examples of why they needed additional authority, especially in reviewing procedures with the Community Oversight Task Force. Leslie Parker Blyther asked if it was possible to ask investigators to review these issues, and Supervisor Riggins stated that he would have the investigator review the ancillary issues.

VI. Disciplinary Recommendations

PD106-16 16-0161

Officer #1-5 days suspension, severe letter of reprimand, training in use of force

Officer #2-5 days suspension, severe letter of reprimand, training in use of force

Mel Currie stated that he felt the officers' actions occurred in an unsavory context. He asked if there are any incentives for officers to find guns. Fred Jackson answered that there is no incentive, but they can be penalized if they stopped someone without justification and didn't find anything. Mel Currie stated that he believed the complainant's statements. Bridal Pearson stated that he thought the offense required at least a five day suspension without pay and a letter of reprimand, as well as policy training. Fred Jackson stated that he felt that the officers were reaching, that they had seen the complainant and thought they had something. Bridal Pearson stated that proper procedures were not followed. Fred Jackson stated that he felt a 1 or 2 days suspension was warranted because that was what the officers would be most likely to receive. Bridal Pearson noted that he felt the officers should lose some pay, and receive a letter expressing that their behavior was extremely problematic. Blair Thompson stated that she was considering how long the complainant was detained, and stated that for that reason she was recommending termination. Fred Jackson stated that once an officer received 5 days suspension, it was a precursor to termination. Bridal Pearson noted that it would be helpful to be able to view the officers' files. Fred Jackson stated that he would remain with his vote of 2 days suspension, and reiterated that he felt that the officers were engaged in a fishing expedition. Blair Thompson stated that she would remain with her recommendation of termination because the officers had held the complainant so long, had taken the complainant so many places, and their behavior was coercive and intimidating. Leslie Parker Blyther noted that holding someone in custody knowing that you didn't have anything on them was egregious, and that a civilian would go to jail for that behavior. Fred Jackson stated that the officer probably should be terminated, but that the rules

did not allow for it in this case, and it was not likely to happen. Bridal Pearson urged Board members to vote based on what they believe the officer should receive as discipline, and not what was likely to happen. Fred Jackson stated that he would compromise on 5 days suspension. Mel Currie motioned to accept 5 days suspension, severe letter of reprimand, and training in use of force. Bridal Pearson seconded and Mel Currie agreed. With regards to the training, Leslie Parker Blyther asked that the officer identify additional training above and beyond the regular in-service training.

VII. Completed Cases

PD065-16 16-0257 Not Sustained

Mel Currie noted that in this case, the officers found a large amount of CDS, and stated that the amount made it unlikely that it was planted. He stated for this reason, and due to the fact that the warrants were obtained properly, he would not sustain. Bridal Pearson agreed, due to the fact that the car was missing a front license plate, there was an ample amount of marijuana, and a civilian witness. Blair Thompson and Fred Jackson did not sustain for the same reason. Leslie Parker Blyther asked as a point of clarity what an officer could do if no one claimed possession of contraband, and Fred Jackson stated that it would be considered constructive possession. Leslie Parker Blyther voted not to sustain.

PD069-16 16-0303 Sustained-Officer #4 Not Sustained-Officer #1,#2,#3

Fred Jackson noted that he was concerned that the complainant had a broken wrist, and noted that the complainant would not give the investigator permission to review medical records. Leslie Parker Blyther clarified that the arrest was based on the fact that other officers had claimed that the complainant had drugs. Fred Jackson stated that the charges were thrown out in court because the officer did not have probable cause. Mel Currie also expressed concern about the broken wrist and stated that the officer could not meet the burden of proof. Board members then unanimously sustained the allegation for the officer who ordered the arrest and did not sustain the allegations for the other officers on the scene.

PD070-16 16-0344 Sustained

It was noted that the allegation of excessive force was recommended for administrative closure because it was filed outside the 90 day time bar. Bridal Pearson stated that he was going to sustain both charges regardless of the recommendations because of the preponderance of evidence. He was disturbed by the fact that the complainant was accused of having 18 grams of marijuana although he had only 10, the fact that the police could not account for how the windshield got cracked, and the fact that all parties were searched, but the gun was not found in the initial search. Mel Currie stated that he also sustained both charges, and noted that at least one officer confirmed the first search of the complainant that did not recover the gun. Fred Jackson stated that he would vote to close the excessive force charge because the time had passed. Mel Currie stated that although the charge was time barred, he wanted the Board to memorialize that they found the case problematic. Blair Thompson agreed

with Bridal Pearson and stated that she adopted his reasoning. Mel Currie ultimately voted to administratively close the excessive force charge and express concerns. Leslie Parker Blyther voted to sustain both allegations and noted that the excessive force charge was only 7 days beyond the time bar date. Supervisor Riggins advised the Board that since the statute had changed, this would not be an issue the Board would have to face in the future.

PD087-16 16-0368 Exonerated

Chair Pearson stated that he voted to exonerate the allegation because the complainant was violating the law and the officer had legal reason to stop him, and stated that he would consider the harassment charge if the complainant was not violating the law. Leslie Parker Blyther stated that she thought the case would have been great for mediation, because the officer and the complainant had had many interactions. Director Carter noted that although the Board could recommend mediation, the officer could refuse, and there was no incentive for the officer to accept mediation. Leslie Parker Blyther asked if the officer arrested the complainant, and Supervisor Riggins noted that he did not, although the complainant was aggressively panhandling. Director Carter stated that complainants are informed about the option to mediate early in the complaint process. Fred Jackson stated that he voted to exonerate because the officer could have arrested the complainant, but chose to give him a ticket instead. Mel Currie stated that he voted to not sustain because he did not feel strongly enough to exonerate. Supervisor Riggins clarified that a vote to exonerate meant that the Board members felt that the conduct did occur, but did not violate policy. Mel Currie and Leslie Parker Blyther voted to Not Sustain, and Blair Thompson voted to exonerate.

CRB2017-0041 16-0598 Sustained, Recommended Termination

Fred Jackson stated that he felt the officer's actions were egregious, and he needed to be terminated. Mel Currie noted that the officer was not on duty at the time, and Fred Jackson stated that it did not matter. Mel Currie stated that he felt the officer was out of control, and his behavior represented a danger to society, especially because he was starting physical fights. Leslie Parker Blyther, Blair Thompson and Bridal Pearson all agreed. Fred Jackson noted that the officer had lied about domestic violence issues, and that he posed an imminent threat to public safety. Board members unanimously voted to sustain and recommend termination.

CRB2017-0123 17-0359 Not Sustained

Mel Currie noted that everything in the arrest seemed to have been done according to policy, and voted to Not Sustain. Fred Jackson and Bridal Pearson agreed, and Bridal Pearson noted that the complainant was arrested with a proper warrant. Leslie Parker Blyther stated that he had consented to the officers entering his home, and noted that as a general rule, civilians should not allow officers to enter their home without a warrant. Board members then unanimously voted to Not Sustain the allegations.

VIII. Old Business

PD028-14 14-0209 EF

Board members needed to clarify the disciplinary recommendations for this case, since in the previous meeting, one of the disciplinary recommendations was assigned to a sergeant, although both the accused were ranked as officers. Board members clarified that the sentence of 30 days suspension, severe letter of reprimand, and additional training in use of force, anger management, and de-escalation should be assigned to the officer who had choked the victim, since his actions were more egregious and caused the complainant more bodily harm.

Special Assistant Muth confirmed that per Board members' request in the previous meeting, two BEST officers had agreed to attend the September meeting and answer Board members' questions.

Director Carter briefly discussed the subject of the location of the Board meetings, and noted that the office was convenient because all the physical files were available and there was no cost associated, although Board members should continue to look within their communities. Bridal Pearson suggested that the Real News Network building could be a possibility. Director Carter suggested that each Board member plan a meeting in their district, and could maybe combine districts and team up on finding a meeting location.

IX. New Business

Leslie Parker Blyther stated the next Tuesday she had been invited to speak about the Civilian Review Board in front of a GED class at the South Baltimore Learning Center, and that all would be welcome to attend. Director Carter asked that if she needed any information, facts or data, to please reach out to the office, and asked that she bring along complaint forms.

X. Public Comment

Bridal Pearson began by asking the public to please keep their comments under 3 minutes and to be mindful of the time.

Ms. Wilhelm wanted to express her thanks to whoever had added the allegations key.

Ms. Hellerath stated that Tawanda Jones wanted to extend her thanks to and express that she wished she could be present.

Ms. Kelis had some questions regarding the investigation process. She wanted to know if the allegations that are accepted for investigation are defined and put into writing. Supervisor Riggins stated that the allegation definitions are found in the statute, although the CRB had never seen BPD's misconduct definitions. Ms. Kelis went on to ask how the CRB intake process relays the definitions to the complainants and how the office ensures that what the complainant articulated is investigated. Supervisor Riggins answered that the complainant fills out a questionnaire during the intake process that explains the allegations and allows them to identify the type of conduct that they think occurred. The complainant then receives a letter when the Board reviews their allegations. Supervisor Riggins stated that he was unsure of the process on the BPD side, and noted that the classification of allegations has historically been a source of tension. Ms. Kelis then asked how investigators would handle a complainant who may have ancillary issues, to which Investigator Clark answered that once jurisdiction is determined, the complaint is forwarded to the proper jurisdiction. Supervisor Riggins noted that a complainant had recently come in who was experiencing homelessness, and he was able to refer him to the Department of Homeless Services.

Leslie Parker Blyther stated that she would like a monthly account of how many complaints were found to be outside of CRB jurisdiction and how the staff assisted the complainant. Supervisor Riggins noted that CRB was currently tracking all contacts in a centralized list and beginning to assemble that data. Leslie Parker Blyther stated that she felt the Board need to start marketing the services of the CRB.

Ms. Keesha Ha wanted to discuss the scope of the CRB and the unified form, and encouraged Board members to review the statute and see how they could broaden their reach and bring things within their scope. She also complimented the Board on their rationale and explanation, and noted that the COTF has some work to do, and that the Board's comment helped the public to understand and provide feedback. She stated that she wanted to encourage the Board to focus on the civilian perspective. Fred Jackson stated that there is a business side, and that he felt that Board members would be more successful if they operated within the rules of the department. Ms. Ha added that his insight is extremely helpful, and that the COTF would need as much information as possible when they met.

Fred Jackson stated that he found many of the things that he reviewed outrageous, and that he felt that the police department had lost sight of what they were doing, and that the CRB needed to be empowered to effect change. He also wanted to provide an update on the Tyrone West case, which he had been looking into, and stated that he found that the police had done 18 things wrong based on his review, and that no responsibility had been taken. Ms. Hellerath asked that Board members be aware of the names involved and Mel Currie answered that this was the reasoning for keeping track of sustained case. Special Assistant Muth clarified for Board members that staff was tracking officers with numerous complaint and that the list was included in the semi-annual report for their review.

Johanna Carr from the Office of the Public Defender wanted to know how civilians could push so that information on these officers who were receiving frequent complaints was made available to the public, to which Leslie Parker Blyther noted that it would constitute a personnel issue with the way the rules are currently written, but it could be an issue to consider pushing for. Blair Thompson noted that the State's Attorney's Office maintains a list of officers that they do not call for cases because of disciplinary and reliability issues. Ms. Carr asked if there would ever be a possibility of giving information on repeat offenders to the public, and Leslie Parker Blyther answered that the Board could potentially provide statistical data on the number of officers with repeat complaints and the number of those complaints.

Ms. Kelis asked whether the CRB had revision power or recommendation power, and Director Carter answered that they had recommendatory power. She also noted that until recently there was not a formal process for cases in which IAD and CRB disagreed, but the police department currently has a legal consultant, who is a retired judge, reviewing these cases, however there is no mandate to compel the Commissioner to find in favor of the CRB's decision, and in fact, IAD's decision had only been overturned twice in favor of CRB. Director Carter went on to note that there were some cases that the Board had recently sustained that would be important to watch. Director Carter stated that even if the independent reviewer found in favor of the CRB, the case would still have to go through the trial board process, although fewer cases are going to trials boards. Leslie Parker Blyther asked for the reason for this, and Director Carter stated that officers know that if they are found guilty by the trial board, they are likely to receive a more severe punishment, and mentioned the accelerated disposition program and the fact that the CRB would not see those cases. Director Carter also noted that strengthening the CRB was extremely important, as most cases do not go to the trial boards.

Another member of the public asked if there was public pressure to fill the remaining four vacancies, and Director Carter stated she believed they would be filled by the September meeting. A member of the public asked if there was a way to support the adoption of interfacing software or jurisdiction over complaints, and Director Carter answered that the consent decree was ultimately the governing force, and appealing to and educating the COTF is the best mechanism for change. Another member of the public asked how to advocate for more funding for the CRB, and Director Carter advised that greater funding and statutory authority would come from the COTF, but grant writing would also be extremely helpful. Supervisor Riggins noted that it would be best to advocate that the budget for CRB be tied to the budget for the police department, and stressed the need for the public to amplify and advocate.

Bridal Pearson noted that the staff and Board were passionate about these issues, and that they appreciated the criticism and support from the public, as it helped to give them a balanced perspective. A member of the public stated that they needed the Board, and that the public needed a place where they felt they could go, and Leslie

Parker Blyther encouraged the public to utilize the Boards services and tell others about the CRB. Bridal Pearson asked if they could give out forms and Director Carter stated that they could.

Ms. Kelis asked for the timeframe for filing a complaint, and Supervisor Riggins answered that it must be filed within one year of the incident. Ms. Kelis stated that she felt the public needed to better understand the process.

XI. Adjournment

Bridal Pearson motioned to adjourn, Blair Thompson seconded, and all were in favor.

Respectfully submitted,

Jill Muth