

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

July 7, 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
Amy Cruice, ACLU
Deputy Eric Cox, Sheriff's Office
Chief Rodney Hill, Office of Professional Responsibility
Shantay Guy, Community Mediation
Det. Anthony Stokes, Baltimore School Police

Members of the public and community members were also present.

I. Welcome

Chair Pearson welcomed everyone to the meeting, noted that a quorum of members was present, and called the meeting to order at 5:02. He recognized and introduced non-voting members of the Board and staff. Director Carter also welcomed everyone to the meeting, and noted that this was only the second meeting with the 5 new Board members, and that there were 4 more awaiting appointment. Director Carter went on to welcome the non-voting members and referred to the statute that allows for them to be present and participate in the meetings.

II. Approval of June 29, 2017 Minutes

Board members reviewed the minutes, and Mel Currie noted that he wished to make one correction, in that he had stated that the approval of minutes was a pro forma action at the June 29th meeting only, not at each meeting. Bridal Pearson motioned to approve, Blair Thompson seconded, all were in agreement, and the minutes were approved with the above-mentioned correction.

III. New Complaints

Bridal Pearson called the public's attention to the new allegation key on the agenda to make the public aware of the allegation codes.

2017-0088 CRB Simultaneous Investigation

Board members noted that they authorized an independent CRB investigation due to the fact that they believed there was no probable cause to support the search, the K-9 or the additional officers, and felt that these issues should be reviewed by the CRB investigator.

IV. Disciplinary Recommendations

PD028-16 14-0209

Officer #1: 10 days suspension, severe letter of reprimand, training in de-escalation, use of force, and anger management

Sergeant #2: 15 days suspension, severe letter of reprimand, training in de-escalation, use of force, and anger management

Mel Currie noted that he had originally looked at the disciplinary matrix and selected 2 days suspension and loss of leave as a starting point. He also noted that he would like to get the disciplinary matrix projected on the screen in the room for the public to view. Leslie Parker Blyther confirmed with Chief Hill that it was the policy of officers to seek medical attention for an injured person in custody before booking them, and Chief Hill noted that that was the policy as of 2017. Chief Hill also noted in the matrix that the charge was excessive force, which would be found in category C, D, or F, depending on whether the force was considered mitigating or aggravated. Fred Jackson noted that he would lean towards a category E punishment since the complainant was hospitalized. Leslie Parker Blyther explained the category system to the members of the public. Bridal Pearson noted that he had originally wanted a 30 day suspension, letter of reprimand, and training, and clarified with Chief Hill that suspension meant unpaid leave. Fred Jackson noted that the punishment would be escalated if there were previous incidents, and Chief Hill advised that neither officer had any Sustained excessive force charges on their record. Blair Thompson noted that she felt that because the complainants were leaving and the officers pursued them, 15 days suspension would be more appropriate, although she had also originally thought it should be 30 days plus training. Bridal Pearson emphasized the importance of de-escalation training to modify behavior. Mel Currie stated that he felt the officer had acted on his feelings and responded with unnecessary force to a matter that was simply a public nuisance issue, and that the Board needed to send a message that this was unacceptable and they would not turn a blind eye to the officers' behavior. Leslie Parker Blyther noted that in the case, the fact that the complainant was choked upset her, because this is viewed by the Maryland State Police Commission as a severe violation. Chief Hill stated that he didn't know when the chokehold was outlawed and

Leslie Parker Blyther replied that she believed that it was in 1990. Board members then agreed on a 15 day suspensions, severe letter of reprimand and training for the Sergeant, noting that he should carry a greater penalty since he was the higher ranking officer. Director Carter questioned whether the officer's return to work would be contingent upon training, if training were recommended. Hill stated that it could, but it would be logistically complicated and depend on the availability of training. Hill noted that suspensions are served five days at a time per pay period, and not all at once due to HR issues. Amy Cruice asked if special training sessions were scheduled for these officers, or if they were to attend the next available training. Chief Hill stated that they would attend the next available training. Amy Cruice noted that in the previous year, she and other Board members had attended two trainings and subsequently sent letters to the Commissioner regarding some serious concerns about those trainings, and urged the Board to review these letters. After the vote had been cast, Blair Thompson wished to note for the record that she changed her vote to 30 days suspension, due to the choking and the fact that the officers escalated the situation unnecessarily. Board members went on to discuss the use of the Taser and felt that it was unnecessary to deal with a public nuisance and attempting to get a person to leave property. There was some discussion in which Board members agreed to make return to work contingent upon completing training. Director Carter wished to note for the record that the training recommended was mandatory and over and above the annual training, to which all Board members agreed. Director Carter asked whether it would be possible to make it incumbent upon the officer to seek out the mandated training, to which Chief Hill answered that he would not recommend it, as then the department would be required to pay any costs incurred in seeking the training.

PD063-16 16-0270

Officer# 1: Termination

Fred Jackson noted that the officer claimed he hit the complainant due to the fact that the complainant was hitting another officer, and questioned what was required for authorized use of deadly force, and Chief Hill noted that it was serious bodily injury or death. Fred Jackson stated that officers were not supposed to strike civilians with a flashlight, especially in the head, and Mel Currie noted that the officer stated it was inadvertent, although he did not believe that was true. Amy Cruice asked whether dishonesty or attempt to cover up misconduct could be considered in making disciplinary recommendations, and Chair Pearson noted that it could. Several Board members made note of the fact that the officer claimed it was an accident, and expressed that they felt it was strange. Blair Thompson recommended 30 days suspension and 4th amendment and de-escalation training. Upon request by the Board members, Chief Hill noted that there were no Sustained charges against the officer. Leslie Parker Blyther questioned how many were not sustained, and Chief Hill did not have the information. Mel Currie noted that the Board should keep its own records, rather than depend on IAD. There was some discussion about possible 15-day suspensions and reassignment. Director Carter noted that the officer in question had numerous previous complaints and was on the 2016 list of frequent offenders.

Fred Jackson noted that there had been a citizen there the previous week who had been talking about this same officer and the fact that he had frequent issues, however he noted he would have an issue recommending termination since all of the complaints had come back as Not Sustained. Leslie Parker Blyther stated that the complaints had come back not sustained by other officers in Internal Affairs, and the Board was representing the community. Bridal Pearson felt that the officer's actions represented a pattern. Board members Leslie Parker Blyther, Mel Currie, Blair Thompson and Bridal Pearson recommended termination. Fred Jackson recommended reassignment. Board members requested that reasoning be included with the recommendation. It was noted by Board members that although the majority of recommendations were not followed, the documentation would be important for data. At that point Chief Hill had to excuse himself from the meeting due to a prior commitment.

V. Completed Cases

<u>CRB#</u>	<u>IAD#</u>	<u>Board's Finding</u>
PD031-16	16-0130	Not Sustained

Blair Thompson noted that the video provided by the complainant's mother showed the officers on top of the complainant, and other people were audible telling the complainant not to resist. She stated that she did not sustain because he was resisting. Mel Currie noted that he felt that there were certain things that officers should not do, even if the person is resisting, and that officers should be more specific in their reports about which arrest techniques they are using, rather than stating that they did what they were trained to do. However, he did not feel there was enough evidence to sustain. Board members wanted to know if it would be possible to view the video. Supervisor Riggins stated that there were still issues with uploading videos to the drive, however in this particular case, the video ends with the person being placed into the police vehicle, although the video is shaky and grainy. The video shows that the teenager is facing the one officer with two other officers flanking him, but they have not yet put their hands on him and the teenager has not yet resisted. Leslie Parker Blyther stated that the young man unfortunately had resisted and noted that he injured his knee, and asked whether his mother had also injured her knee. Supervisor Riggins clarified that it was the EMT who responded, not the mother, who injured her knee, and that the issue was with the complainant being placed in the vehicle and then transported. Mel Currie noted that the EMT who injured her knee had to be treated. Leslie Parker Blyther questioned the reason for the initial stop, and Blair Thompson stated that it was due to an active arrest warrant. Board members all agreed on a finding of Not Sustained due to lack of sufficient evidence.

PD032-16	16-0144	Not Sustained
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Mel Currie noted that he saw nothing in the report that would speak to excessive force. Fred Jackson stated that it appeared the officer was taking her to the hospital for an emergency petition. Leslie Parker Blyther noted that the officer had already resigned. Blair Thompson expressed some hesitation and questioned what the regular process

was for people experiencing mental health issues, and whether breaking down the door was within police policy and procedure. Mel Curie asked whether excessive force only applied to persons and not property, and Leslie Parker Blyther clarified that according to the statute excessive force could only apply to persons. Board members then agreed on a Not Sustained finding.

PD051-16 16-0169 Not Sustained

Supervisor Riggins provided an additional update on the case and noted that the complainant was originally incarcerated, and had been recently released. Both supervisor Riggins and the investigator called the numbers provided as the last known contact information by the correctional facility. The first number belonged to a different person, and the second number was disconnected, for a total of 12 attempts to contact the complainants. Fred Jackson asked whether there had been no contact from the complainant since the original complaint, and Supervisor Riggins stated that there had not been any contact since then, and noted that most cases that are recommended for administrative closure have been dormant for months. At that point Board members voted unanimously that the case would not be sustained.

PD106-16 16-0161 Sustained

Leslie Parker Blyther and Mel Currie questioned which parts of the incident was considered excessive force, and it was clarified that the excessive force allegation was related to the complainant being hit with the riot shield. Blair Thompson noted that the case had a lot of conflicting information, and noted that the officers questioned the complainant's ability to identify a riot shield, and he was able to correctly describe the shield. Leslie Parker Blyther asked whether a person could be arrested for not having identification, and Director Carter stated that an officer can ask for identification, but they may not arrest someone for not having it. Fred Jackson questioned the legality of the stop, and stated that if the stop was illegal, everything that occurred after it was in violation as well. Mel Currie stated that the IAD report read differently, and that there was different information in the reports, and that the IAD report stated that the complainant had presented drugs. Leslie Parker Blyther stated that the CRB report states that the sworn statement from officers notes that they witnessed him place an unknown item in the car. Mel Currie noted that the information in the reports is conflicting, and went on to note that if there was no reason for the stop, everything resulting from it was excessive force, and the use of the riot shield was improper. He also noted that the officers did not deny hitting the complainant, and there was no reason to hit him. Blair Thompson noted that the complainant was not given his waiver of rights until later, and felt that there was evidence of coercive behavior. Fred Jackson stated that he felt it was an inappropriate use of police authority. Leslie Parker Blyther noted that the complainant never resisted. Mel Currie felt that there was a lack of probable cause, and that striking the complainant was abusive. Board members voted to Sustain and stated that they would hold off on making disciplinary recommendations until the next meeting.

PD124-16 16J-0015 Further Investigation

Leslie Parker Blyther noted that this officer was one that several citizens had expressed concerns about, and that he was flagged as having several complaints. Mel Currie asked Board members what they believe happened, and stated that the way he read it, there were two armed men, there was a firefight, and both were killed. Fred Jackson noted that this was a correct assessment, but questioned why the officer was still on patrol after so many incidents. Amy Cruice questioned how many weapons were at the scene. Mel Currie clarified that there were 3 officers, two of whom fired their weapons. Leslie Parker Blyther stated that the policy allowed for 42 rounds before reassessing. Mel Currie noted that if the firefight couldn't be disputed, the question was whether Board members believe the shooting was justified or whether it could have been de-escalated. Blair Thompson noted that according to the IAD report one officer fired 36 rounds, another officer fired 20, and one victim was shot 8 times, and the other was shot 12 times, and that both had died as a result of their injuries. Amy Cruice questioned whether they were shooting at the police, and Mel Currie answered that they were going after someone else, and allegedly turned and pointed their weapons at police. Amy Cruice asked whether they fired at police, and Mel Currie stated it was unclear. Leslie Parker Blyther asked whether there were witnesses who suggested that the victims pointed their guns at the police, and Mel Currie stated there were no known witnesses other than the two officers. Supervisor Riggins noted that the case was originally voted for investigation, but then the Board reassessed its vote due to many variables, and that he could provide the memo on the case if necessary. Amy Cruice noted that the policy was that if the gun was pointed at them, officers could shoot. Mel Currie stated that without witnesses, it would be difficult to Sustain. Blair Thompson stated that the IAD report first mentioned there were no CCTV cameras, and then later mentions several CCTV cameras, but claims that "nothing of value" was captured, and stated that she was concerned because she felt it appeared too convenient that the officers happened to show up as the altercation was occurring. Board members at that point voted for further investigation, and wished to pose the following questions:

1. Page 22 of the IAD report mentions several CCTV cameras, but states "nothing of evidentiary value was captured." Board members would like to review this footage.
2. Why were the officers in that area at that time?

Board members briefly discussed that private businesses in the area might have footage, although they most likely would have deleted it at this point, but that the CCTV camera footage from the incident should be archived as part of the file. Leslie Parker Blyther asked whether the Board would be entitled to the footage, and Director Carter stated that if they have it, the Board should be entitled to it, although there could be an issue if they had destroyed the footage because the Board did not ask for it in a timely manner. Jesmond noted for Board members that when a J is in the IAD #, it indicates a serious case of excessive force.

PD173-16 16-0609 Not Sustained

Mel Currie stated that his reason for not sustaining the case was that he was unsure if the statement had to be directed at the complainant in order to be considered abusive language. Bridal Pearson read the definition from the statute, and Amy Cruice stated that the statute did not indicate that it had to be directed at a specific person. Mel Currie stated that he was unsure whether a slur was used or there was intent to humiliate, and Amy Cruice stated that they were mocking. Fred Jackson noted that the complainant had disappeared, and Bridal Pearson felt that the greater issue was the lack of cooperation from the complainant and that there was no evidence to identify the officers. Mel Currie stated that he felt the allegations fit more with conduct unbecoming an officer rather than abusive language. Fred Jackson noted that officers are constantly going through training, and should not be making those type of remarks, as it offends people, and officers have to account for their behavior when they are in public. Mel Currie noted that he would like to see the category expanded and push for wider jurisdiction over different types of complaints, however they couldn't find witnesses or identify officers. Leslie Parker Blyther asked that the letter sent to the complainant express the Board's concerns about officer misconduct and explain what would have been needed to sustain the case. Bridal Pearson concurred and stated the need for the Board to be as transparent as possible. Amy Cruice asked whether summaries could be provided so that the public could be aware of this reasoning. Bridal Pearson noted that summaries are provided in the minutes, which are posted online for the public to review. Director Carter stated that staff will do their best to present everything in the most thorough and comprehensive manner possible. Leslie Parker Blyther asked if there was a query system for people to search the results of individual complaints, and Director Carter answered that that capability did not exist yet.

VI. Director's Report

Director Carter stated that she would like to bypass the report, as she had no new business to discuss.

VII. New Business

Leslie Parker Blyther stated that they were currently short 4 Board members and asked when they would be joining. Director Carter stated that 4 members had been recommended, they just had to be nominated. Amy Cruice asked if there was anything that the public could do to push for the nominations to occur sooner, and Director Carter answered that she believes nominations will come soon, and that staff had sent a memo urging nomination of the members in time for the August meeting.

Fred Jackson referred to the last meeting in which Tawanda Jones had made an impassioned plea regarding her brother's death, and wanted to know if there might be an opportunity for the Board to review and comment. Director Carter stated that they

were troubled by the fact that not complaint was filed, and if the Board took it up, BPD would be under no obligation to honor their recommendation. She stated that if the Board could confirm that the family was misled about the complaint process, they could certainly make a case, and noted that the Board could potentially use that evidence to request that the State's Attorney reopen the case. Leslie Parker Blyther motioned that Fred Jackson lead a committee to ascertain the feasibility of asking the State's Attorney's Office to reopen the case. Bridal Pearson seconded the motion, and all were in favor. Director Carter noted that correspondence had been forwarded to the office requesting that the Board review the case. Amy Cruice questioned whether the Board could reach out to families of police involved shootings, and Director Carter answered that at this point, the policy is that these cases should come to the Board's attention automatically in order to follow up with the complainant, and that in cases where they had contact information, they were informed of their option to file a CRB complaint. Leslie Parker Blyther asked whether Board members were prohibited from investigation without a complaint, and Director Carter noted that they were not prohibited, but would need the complaint to obtain evidence. Fred Jackson stated that since Ms. Jones had made several requests, the Board should seek to do something.

VIII. Consent Calendar

Director Carter noted that the consent calendar for administrative closures included complaints that were expired and time barred, for which no allegations were viable for review. Supervisor Riggins further clarified that the allegations had expired due to the complainant filing too late, complaints outside the Board's jurisdiction, complaints that were foreclosed by the LEOBR because they were over 3 years old, for which the officer could expunge the allegations. Bridal Pearson asked how many, and Supervisor Riggins stated that there were 58 cases so far, with more in the pipeline. Leslie Parker Blyther asked if the Board would be caught up by closing these cases, and Supervisor Riggins noted that they should be caught up by the next meeting. Amy Cruice asked if they could have a breakdown of the reasoning for closing the cases, and Supervisor Riggins stated that they were working on a spreadsheet. Bridal Pearson moved to approve the closure of these cases, Leslie Parker Blyther seconded, and all were in favor.

IX. Public Comment

Keesha Ha wanted to address Mel Currie with a question, and referred to the fact that he mentioned the complainants in PD028-14 as being a nuisance. She asked why he referred to them as a nuisance if they were walking away. Mel Currie clarified that his understanding was that the complainants had returned to the area a second time after being asked to leave, and it was that repetitive action that caused him to feel that they were being a nuisance, although he thought the officers' actions were based on emotions and unacceptable. She also wanted to clarify that case PD106-16 was heard by the previous Board, and Supervisor Riggins clarified that it was. She also expressed that the Board should have more discussion on the exact reasoning behind

not sustained findings, and ensure that full consideration be given to possible misconduct with people with mental health issues. Board members discussed possible ways to address complainants with mental health issues, and Leslie Parker Blyther suggested bringing in someone from the crisis intervention team or a BEST officer to speak with the Board. Miriam Doyle wanted to find out what criteria was being used when Board members made disciplinary recommendations, and questioned why Board members were using the IAD disciplinary matrix, given that they were an independent body. Mel Currie stated that since the process was new, the matrix was used as a starting point. Leslie Parker Blyther noted that disciplinary recommendations are determined by the LEOBR, but they must remain within policy. Bridal Pearson stated that he felt the problem lay in the practices, not the policies. Ms. Doyle went on to ask for the thought process behind why Board members recommended 15 days rather than 30 in the first case, to which Chair Pearson noted that the Board members were trying their best to be transparent and explain their reasoning, but had to be aware of time management as well. He expressed that Board members appreciated public comments such as hers, as it would help them to improve and develop. Ms. Doyle went on to ask whether the criteria was met for an emergency petition in PD032-16, and Fred Jackson answered that certain steps must be taken before hospitalization, but there was no way to ensure that the steps were completed since the officer could not be identified, although if a person was hearing voices, that would meet the criteria. It was noted that the information in the evaluation would not have been available as it would have been private patient information. Blair Thompson noted that she felt that mentally ill people should still have their 4th amendment rights, and she was uncomfortable with this case, however the complainant had initiated all of the calls and there was no injury. Ms. Doyle noted that if the criteria was not met, and she was hospitalized inappropriately, it would meet the criteria for false imprisonment. Leslie Parker Blyther stated that the Board gave the public as many details as they had. Amy Cruice noted that she felt members of the public wanted more information and reasoning on the cases, and that there should be a way for them to raise concerns and ask questions. Ways for public participation were discussed, and it was generally agreed upon that the public could ask questions during the public comment period, and pass a note to the Director for more urgent questions during the meeting. Leslie Parker Blyther clarified that the minutes and agenda were posted for the public to review. Bridal Pearson asked for some general information to be available to the public and that some paper be given for the public to take notes for their commentary. Mel Currie noted that he wanted the public to understand his line of reasoning in deciding on cases. Hillary Hellerath thanked the Board for their work and commented that it would be helpful for the Board to take mental health and first aid training in order to better understand appropriate police response to these cases, as well as implicit bias training. She also mentioned that she felt it would be a good idea to make required community service a disciplinary measure for officers to regain the community's trust. She also asked that Board members keep in mind that officers could be ordered to receive a psychological evaluation. Director Carter urged the Board to consider that there had only been two cases that were overturned in the all the years of the Board's existence,

and that disciplinary recommendations outside the disciplinary matrix would likely not be honored, however the Board had made tremendous progress. Mr. Wilhelm wanted to note that mentally ill people can be victims of police brutality, and they are more vulnerable. He went on to note that he had attended the Independent Monitor Town Hall the week before, and asked if the Board members had recommendations for the Independent Monitor. Director Carter noted that she felt the Community Oversight Task Force was the most critical piece in terms of the Civilian Review Board. Shantay Guy thanked the Board for their thoughtfulness and deliberation, and noted that some of the trainings that the Board members had discussed for PD028-14, were offered for free by Community Mediation on a monthly basis, and they would be happy to consult with the Board on offering these trainings. She also wanted to note that with regards to PD173-16, people can feel abused by other people's language, even if it is not directed at them. Ms. Zoe Renfro wanted to know if there was a way to look at police training, and Director Carter noted that it was available online.

Board members discussed their next meeting date, and settled on July 27th at 6pm, and agreed that the meetings would return to their regular schedule of the third Thursday of each month at 6pm beginning in August. Board members briefly discussed other places to meet, and decided that they would continue to discuss viable options for meetings in the community.

X. Adjournment

There being no further business, Chair Pearson motioned to adjourn the meeting, Blair Thompson seconded, and all were in favor.

Respectfully submitted,

Jill Muth