

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

February 17, 2017

Present at the meeting were Civilian Review Board members John Wesby Jr. (Chair, Southeastern District), and Mary Denise Davis (Northern District). Joyce Green (Secretary, Central District) participated via phone.

Also present were:

Jill P. Carter, Director of the Office of Civil Rights and Wage Enforcement  
Evangula Brown, CRB Investigator  
Shaun Clark, CRB Investigator  
Amy Cruice, ACLU  
Deputy Eric Cox, Sheriff's Office  
Chief Rodney Hill, Office of Professional Responsibility  
Jesmond Riggins, CRB Supervisor  
Sgt. Theresa Scott, Office of Professional Responsibility  
Charles Inness, Complainant  
Norman McCroey, Complainant  
Troy Pumphrey, Volunteer

**I. Welcome**

Chair Wesby welcomed everyone to the meeting, and asked that everyone introduce themselves, which they did.

**II. Minutes**

A motion to accept the January 19, 2017 public session minutes was made by Mary Denise Davis, seconded by Joyce Green, and all were in favor. The public session minutes were approved as submitted.

**III. New Complaints**

New complaints were reviewed by the Board, who voted as follows:

2017-0006	CRB Simultaneous Investigation
2017-0007	CRB Simultaneous Investigation
2017-0008	CRB Simultaneous Investigation
2017-0009	IAD Only
2017-0010	CRB Simultaneous Investigation
2017-0011	CRB Simultaneous Investigation
2017-0012	CRB Simultaneous Investigation
2017-0013	CRB Simultaneous Investigation

2017-0014	CRB Simultaneous Investigation
2017-0015	CRB Simultaneous Investigation
2017-0016	CRB Simultaneous Investigation
2017-0017	CRB Simultaneous Investigation
2017-0018	CRB Simultaneous Investigation
2017-0019	CRB Simultaneous Investigation
2017-0020	CRB Simultaneous Investigation
2017-0021	Administrative Closure
2017-0022	CRB Simultaneous Investigation
2017-0023	CRB Simultaneous Investigation
2017-0024	CRB Simultaneous Investigation
2017-0025	CRB Simultaneous Investigation
2017-0026	IAD Only Investigation
2017-0027	IAD Only Investigation

**IV. Completed Investigations**

<u>CRB#</u>	<u>IAD#</u>	<u>Board's Finding</u>
PD024-15	15-0338	EF-Not Sustained

Board members noted that although the character witness vouched for the complainant's character and demeanor, because there were no witnesses to corroborate the excessive force, there was not enough evidence to Sustain the allegation. It was noted that this case had additional charges, but they were administratively closed due to the fact that they had passed the one year time limit for discipline to be administered.

PD063-15	16-0213	FA, FI-Exonerated
----------	---------	-------------------

Board members noted that a firearm was found on the complainants' property, and there was insufficient evidence to verify destruction of property or theft.

SH001-16 & SH002-16	21C16	EF, FA, FI-Sustained
------------------------	-------	----------------------

Board members requested clarification on who had filed each complaint on behalf of whom, and learned that the first case rose from a complaint filed by the complainant, and the second case was filed by the complainant's family member on his behalf. Board members sustained all charges based on the investigator's report and officer's testimony, due to the fact that the complainant was eventually let go at the supervisor's command because he was not the suspect that they were seeking, witnesses noted that the officer drew his weapon, and both the complainant and the officer agreed that the officer pursued the complainant over the fence. Furthermore, Board members believed that there was sufficient evidence that the officer threatened to put the complainant in the back of the car with the police dog in order to intimidate him. Member Green noted that she voted not to sustain the charges because she felt the officer pointed the gun to keep the complainant from driving away, and did not feel that the threat of the police dog was excessive force. Deputy Cox agreed that he

would forward a copy of the disciplinary matrix for the Board to review and make a disciplinary recommendation. Board members requested that it be noted for the record that there was only one sustained charge of excessive force for one officer.

SH003-16            21C16                    FA, EF- Administratively Closed  
This case was administratively closed because the accused officer was a Maryland State Police Officer and therefore out of jurisdiction of the CRB.

PD009-16            16-0017                    EF, FA-Not Sustained  
Board members felt that there was insufficient evidence to sustain the allegations and noted that there was so much chaos, it would have been difficult for anyone to tell what was going on.

PD025-16            16-0115                    H-Sustained  
Board members noted that the complainant had a previous complaint against this officer, in addition to the fact that the CRB had received multiple complaints against this officer. Board members expressed that the history and work ethic of this officer was questionable and they had serious issues and concerns with how the officer performed his work. Board members noted that the complainant was pulled over for a seat belt violation and ended up with his car being searched with a K9 unit, which was an unnecessary escalation. Board members also felt that the complainant's account of the events was credible. Member Green stated that she would not sustain because the complainant was stopped three times over three years, and that she did not believe that this constituted harassment. Member Green also stated that she did not feel it was correct to take into account the officer's history. Ms. Cruice stated that the allegation of Harassment clarified that in order to be defined as Harassment, conduct did not have to be defeated, but could be unwarranted. Member Green did not want to change her vote. Chair Wesby overruled and Sustained the case.

PD026-16            16-0290                    AL-Not Sustained  
Board members chose not to sustain due to insufficient evidence.

PD040-16            16-0168                    FA, FI, EF-Administratively Closed  
Board members voted to administratively close the case due to lack of cooperation from the complainant. Member Green noted that she felt the complaint should not be administratively closed since the IAD case was investigated. Chair Wesby noted that there was insufficient evidence either way, and so sided with the CRB investigator's findings of administrative closure.

PD045-16            16-0208                    H- Not Sustained  
Board members voted not to sustain the case due to insufficient evidence and the fact that witnesses and complainant did not want to speak to the investigators. Chair Wesby agreed, but wanted to note that speaking to a drug dealer is not a crime and that there was no drug transaction, only a conversation. It was also noted that this

case was indicative of the reason that the CRB needed to do more community outreach to gain trust in the community.

PD107-16            16-0196            AL, EF, H- Sustained

Board members noted that the complainant felt that the actions of the officer were racially motivated. Chair Wesby noted that he was concerned about the officer's attitude when he said that he felt that he knew the law and was above everything and that he was going to do what he wanted to do regardless. Chair Wesby noted his concern about the officer's tone and the fact that other officers on the scene de-escalated the situation and let the complainant go, but the accused officer chose to pursue him a second time. Board members sustained because there was no reason for the second stop, the complainant did not consent to the search, and because the attitude and spirit of the accused officer was unnecessarily antagonistic. Ms. Cruice asked if the officer had previous complaints, and the Special Assistant responded that if this information was in CRB records, it could be reviewed and provided.

**V. Discussion on Disciplinary Matrix**

The Board members had previously received a training on the use of the disciplinary matrix and wanted to discuss adding disciplinary recommendations to cases in which there was a Sustained finding. Chief Hill briefly explained the BPD disciplinary matrix and how the different punishments correspond to different allegations. Chief Hill noted that IAD had recently reformatted the matrix and made it more user friendly, and that they would be rolling out this version soon. Chair Wesby noted that without prior disciplinary records of the officer, it would be difficult to determine what type of punishment the officer should receive, particularly in cases where the incident was a repeat offense. Chief Hill suggested that Board members could give a recommended range, with stipulations for whether the finding was or a first, second or third offense. Chair Wesby noted that the Board would need additional time to make these considerations, and called for the scheduling of a separate meeting to discuss and make determinations. Ms. Cruice asked if there was a way that an intern could possibly review the disciplinary matrix and format it exclusively for the CRB. Chief Hill noted that this might be a possibility. Chief Hill also noted that without a legal opinion, they would not be able to provide access or information on officers' prior disciplinary records. Chief Hill stressed that the matrix is a guide, and that when the disciplinary review board make recommendations, they do not always follow it.

**VI. Director's Report**

Director Carter began the report by noting that the Board should discuss attempting to get prior disciplinary records of accused officer, and that it was a case of the difference between culpability and sanctions. Director Carter reminded Board members that per the previous meeting's discussion, she wanted to include brief profiles of Board members on the website, and to please send in a bio and photo. So far, only Joyce Green had done so. Director Carter went on to announce that a public hearing was coming up for the Consent Decree, and encouraged Board members to

participate. She went on to update the Board on filling the 5 vacant positions, and stated that she had received very promising applications and was ready to recommend some applicants to the Mayor, but that they may have to wait until March 1<sup>st</sup>, which is the date the Mayor advertised as the close of applications for all Baltimore City Boards. Director Carter stated that she would send a memo to the Mayor expressing the urgent need to fill the seats sooner, so that the Board will not be handicapped in performing their duties. She went on to note that the office had hired a part time investigator to assist with the backlog of cases, and that she would be coming on board on March 2<sup>nd</sup>. Director Carter went on to give an update on the CRB legislation, and stated that there is currently some debate over proposed amendments, and that there would be a public hearing on the bill on March 7<sup>th</sup> at the House Judiciary Committee in Annapolis, with a City Delegation meeting at 9am, and that Board members were invited and encouraged to come, as their input in this process is very valuable. Director Carter advised the Board members that the first draft of the bylaws had been completed and reviewed by Ms. Cruice for accuracy and completeness. Ms. Cruice stated that the bylaws mainly adhered to the statute, but suggested a supplementary document to define some of the terms. Director Carter stated that the first draft along with Ms. Cruice's edited draft would be sent to members of the Board. Director Carter then noted that we had found a cloud solution for information and data sharing, and the Special Assistant noted that they would be using Google Drive for security purposes. Board members would be able to access all files at once, and would be able to review files in Google drive, but not download, or print them.

**VII. Old Business**

Chief Hill noted that he had received a letter from the Board requesting an update on various cases, but was not familiar with the finding for PD011-16, and asked that he be emailed a copy of the letter, which the Special Assistant agreed to provide. Chief Hill went on to state that with regards to the Board's request to review the analysis from IAD's Legal Consultant in the case of PD073-15, he wanted to advise the Board that he believed the advice was considered part of attorney-client privilege and therefore could not be shared. He stated that he would confirm with Glenn Marrow and follow up with a formal letter. Director Carter asked whether the Legal Consultant considers the CRB's findings and recommendations, and Chief Hill stated that the Legal Consultant did not review any other opinions. Mr. Riggins asked if he only read the underlying documents and not the IAD report, and Chief Hill stated that he would have to confirm but believed he only reviews the completed IAD investigation.

**VIII. New Business**

Director Carter acknowledged Michelle Herring of Community Mediation, and thanked her for attending the meeting, as well as her work with the police mediation program.

Special Assistant Muth informed the Board that Chief Hill had recently overturned an IAD finding in favor of the Board's decision, and stated that the letter would be available for Board members to review after the meeting and a copy would be sent to Board members via email.

**IX. Adjournment**

There being no further business, Chair Wesby declared the meeting adjourned.

Respectfully submitted,

Jill Muth