

**CIVILIAN REVIEW BOARD  
PUBLIC SESSION MINUTES**

November 17, 2016

Present at the meeting were Civilian Review Board members Keisha Allen (Chair, Southern District), John Wesby Jr. (Secretary, Southeastern District), Joyce Green (Central District), Odessa Neale (Northwestern District) and Mike Ross (Northeastern District).

Also present were:

Kisha A. Brown, Director of the Office of Civil Rights and Wage Enforcement  
Evangula Brown, CRB Investigator  
Shaun Clark, CRB Investigator  
Amy Cruice, ACLU  
Chief Rodney Hill, Internal Affairs Division  
Chris Warman, Observer  
Jesmond Riggins, CRB Supervisor  
Brett Turlington, Former Civilian Review Board Intern  
Sgt. Tiffany Willis, Internal Affairs Division  
Lorraine Markels, Baltimore Police Department

**I. Welcome**

Secretary Wesby welcomed everyone to the Civilian Review Board meeting, which was hosted at the Office of Civil Rights and Wage Enforcement, on 7 E. Redwood Street, 9<sup>th</sup> floor. The meeting was called to order at approximately 6:00 p.m.

**II. Minutes**

A motion to accept the October 20, 2016 public session minutes was made by John Wesby, seconded by Odessa Neale, and all were in favor. The public session minutes were approved as submitted.

**III. New Complaints**

New complaints PD135-16 through PD160-16, and PD026-16 were reviewed by the Board, who voted as follows:

PD135-16	Simultaneous Investigation
PD136-16	Simultaneous Investigation
PD137-16	IAD Only
PD138-16	Simultaneous Investigation
PD139-16	Simultaneous Investigation
PD140-16	Simultaneous Investigation
PD141-16	IAD Only
PD142-16	Simultaneous Investigation

PD143-16	Simultaneous Investigation
PD144-16	Simultaneous Investigation
PD145-16	Simultaneous Investigation
PD146-16	Simultaneous Investigation
PD147-16	Simultaneous Investigation
PD148-16	Simultaneous Investigation
PD149-16	Simultaneous Investigation
PD150-16	Simultaneous Investigation
PD151-16	Simultaneous Investigation
PD026-16	IAD Only
PD152-16	???
PD153-16	Simultaneous Investigation
PD154-16	IAD Only
PD155-16	Simultaneous Investigation
PD156-16	Simultaneous Investigation
PD157-16	Simultaneous Investigation
PD158-16	Simultaneous Investigation
PD159-16	Simultaneous Investigation
PD160-16	Simultaneous Investigation

Director Brown called the Board's attention to the fact that in the case of PD152-16, BPD has already completed an investigation of this incident in 2014. Sgt. Willis clarified that the details of the incident in the complaint were the same, but different allegations were investigated. Secretary Wesby asked Chief Hill if the Board would be able to review IAD's completed investigation. Board members expressed concerns that if a complaint was CRB eligible in 2013, it should have been sent over, and Chief Hill stated that at that time, if there was no notarized complaint, IAD would not have sent it. There was a discussion about complaint eligibility, with Board members taking the position that a complaint is CRB eligible if it is within subject matter jurisdiction, and Chief Hill stating that it does not become eligible until the CRB form is notarized. Chief Hill stated that he would check with Legal, but without the notarized CRB form, his position would be not to send the completed investigation. Secretary Wesby asked that an official request for the completed investigation be made in writing on behalf of the Board. Ms. Cruice from the ACLU suggested that if the request is not granted, the Board should file an MPPIA request and encourage the complainant to do the same.

#### **IV. Completed Investigations**

<b><u>CRB#</u></b>	<b><u>IAD#</u></b>	<b><u>Board's Finding</u></b>
PD018-14	13-0647	Not Sustained-EF, FA
PD005-15	14-0012	Not Sustained-EF, FI, FA, AL

Board members that chose to Sustain this case noted that there were two witnesses that corroborated the complainant's story, and questioned why the IAD had Not Sustained it given the testimony of these witnesses. IAD members in attendance did not provide an answer. Board members who voted to Not Sustain this case noted that accounts support that the complainant was aggressive and belligerent, and there were



some falsehoods in her account of the events. Other Board members noted that her reaction was a natural reaction to the stress of the events.

PD013-15            15-0135            Not Sustained-AL Sustained-EF, FA  
It was clarified by Chief Hill that in this case IAD sustained the misconduct charges, but did not sustain the other charges. Board members who voted to Sustain the charges of abusive language noted that there was a witness, but other Board members noted that the witness heard the comments, but did not see who they came from. Board members who voted to sustain false arrest and excessive force, noted that the men were not engaged in any illegal activity when they were approached, and those who ran initially came back. Board members felt that this case was an example of overly aggressive tactics and overpolicing.

PD020-15	15-0175	Not Sustained-EF
PD072-15	15-0800	Not Sustained-AL
PD074-15	15-0663	Not Sustained-EF, AL
PD075-15	15-0713	Not Sustained-FA, EF
PD010-16	15-0753	Admin closed-H

PD023-16            15-0764            Sustained-FA, FI  
Board members felt in this case that there was no probable cause to make the arrest, and the officer violated the complainant's constitutional rights, and clearly did not know the policy. Board members asked BPD reps present at the meeting why IAD did not sustain the complaint, and they failed to respond. Chief Hill stated that he did not read the report.

PD104-16/PD105-16    16-0127            Not Sustained-H, EF, AL  
Board members who voted to sustain noted that the officer knocked down the door without a warrant, and did not obtain viable evidence before pursuing, violating his right to be free from illegal search and seizure. Board members who voted to Not Sustain noted that the officer stated that he observed criminal activity, and without witnesses, there was no way to disprove his account of the events.

**V. Administrative Closures**

The following cases were administratively closed in the period before the Board meeting. These were cases that the Board never received the completed IAD investigatory report prior to the statute of limitations identified in the LEOBR statute.

PD023-14	PD030-14	PD036-14	PD040-14	PD041-14
PD045-14	PD051-14	PD012-15	PD021-15	PD022-15
PD031-15	PD036-15	PD044-15	PD050-15	PD053-15
PD058-15	PD077-15			

**VI. Discussion on Pending Cases**

It was noted that in the following cases, IAD has stated that they will not furnish the completed investigation due to lack of a notarized CRB form, although some of the forms originated with the IAD.

PD079-15

PD009-16

Board members questioned who is responsible for notarizing the complaint, and many were of the opinion that it was the responsibility of the agency taking the complaint. PD074-15 was originally part of this list, but member Wesby moved to strike it from the list of pending cases and cases we were going to request from IAD, as the Board had already voted on the completed CRB investigation (see page 3 of the minutes). He felt that to ask for the completed IAD investigation at this point would be doing a discredit to the work of the CRB investigators. Board members felt that this was a concern when deciding to not to request a CRB simultaneous investigation because of the fear that IAD would later withhold their investigatory report. Secretary Wesby asked that an official request for the completed investigations be made in writing on behalf of the Board.

**VII. Director's Report**

Director Brown began the report by thanking Brett Turlington who had come to give a report on the work that he did during his internship, and advised the Board members that he would be giving them a short presentation following her report.

Director Brown continued by sharing that following the State's Attorney's press release, she met with State Attorney Mosby who expressed her staff's willingness to work together moving forward, particularly with regards to the Public Integrity Unit that dealt with police misconduct.

Director Brown continued by noting that the mediation program was experiencing many difficulties, and that staff had recently discovered that CRB eligible cases were being sent by BPD directly to Community Mediation, causing the CRB to receive and vote on, and possibly authorize investigations for complaints that have already been mediated and closed. Chief Hill commented that if there is a notarized CRB form, the BPD allows the CRB staff to determine mediation eligibility and initiate the mediation process; however, he feels that an unnotarized complaint is not CRB eligible even if it falls within subject matter jurisdiction. He further noted that in those cases BPD determines mediation eligibility and sends it directly to mediation. Board members questioned if the complaint was sent to mediation with the complainant's consent, to which Chief Hill responded that both the complainant and the officer had to ultimately agree, and that if one party does not agree, a full investigation is conducted within a certain timeframe. Chief Hill did not know the exact timeframe, but believed it was about 30 days. Board members asked whether the CRB was notified when a complaint was sent to mediation, and Chief Hill stated



that no notification would be sent. Chief Hill went on to state that IAD and CRB would have to keep meeting to reach an agreement, and that it was not currently a dual process. Board members continued to ask if they could be notified by IAD in real time when cases were sent to mediation by the BPD. Chief Hill went on to state that without a notarized complaint IAD would not send any information except for the complaint, and that the CRB has no jurisdiction without notarization. Director Brown redirected Chief Hill to the Board member's original question, which was whether or not BPD would inform the Board when CRB eligible complaints were sent to mediation, and asked if he could answer that question. Chief Hill stated that he could not. Board members questioned whether mediation could happen for an unnotarized complaint, and Chief Hill stated that it could. Director Brown stated that the Solicitor had given the opinion that it is important for BPD to forward all complaints within subject matter jurisdiction. Chief Hill stated that in order for the CRB to investigate these cases or receive any additional information, they must have a notarized complaint. Member Green requested that the solicitor be invited to an upcoming meeting to answer these questions. Director Brown went on to advise the Board that some complaints were bypassing the CRB process and going straight from BPD to community mediation, meaning that the BPD has received CRB eligible cases that the CRB has never received for review. Director Brown went on to ask Chief Hill if there were always notaries on site at IAD to notarize forms, and he stated that most of the time, notaries were working, but many complaints are taken over the phone and email, and some complainants aren't interested in filling out the CRB form.

Director Brown went on to note that the lawsuit lodged by the Fraternal Order of Police was dismissed.

Director Brown informed the Board that on November 29<sup>th</sup>, the Office of Civil Rights and Wage Enforcement would be holding a Diamond Evening Reception celebrating 60 years of fighting discrimination, and encouraged Board members to attend.

Director Brown closed by informing the Board that the construction and office improvement was nearly finished, and inviting them to walk around the office to observe the changes.

#### **VIII. Intern's Report**

Director Brown introduced Brett Turlington, a 3<sup>rd</sup> year law student at UMD, and invited him to share the research he did during his internship.

Mr. Turlington thanked the Board for his invitation and remarked on some of his activities during his internship, including helping to draft motions in the lawsuit, doing analysis, and working on a report on the transmission of complaints from BPD. He stated that his findings were that about 80% of subject matter complaints were not transmitted by BPD. He also noted that in terms of subject matter jurisdiction, the allegations of Harassment, Excessive Force, False Arrest and False Imprisonment

were concurrent with BPD's allegations; Abusive Language was categorized by the BPD as either Inappropriate Comment or Discourtesy. He also noted that in terms of the disposition of complaints, a large overall amount was Not Sustained. He also noted that his researched showed that complaints were transmitted by BPD long after the 48 hour threshold, usually at an average of 30 days. Director Brown noted that the report was not fully completed and that staff would continue to work to finalize it. Ms. Cruice asked if the 80% that weren't sent were due to lack of notarization. Chief Hill responded that that was the most likely the reason although he did not offer any empirical information to substantiate his response. He went on to state that the DOJ had criticized BPD for not taking complaints via email over the phone, and that they had begun to take complaints in this format, but that they always informed the complainant of the CRB process and encouraged them to come in. Board members expressed concern about the notarization requirement, and noted that a letter should be sent to the Baltimore delegation. Another Board member expressed concern that allowing complaints to be mediated is not an effective deterrent for police misconduct.

**IX. Old Business**

There was no old business.

**X. New Business**

Director Brown noted some community presentations that CRB staff had given in recent weeks, including a presentation for the Northeastern District Community Relations Council Meeting, during which Member Ross presented, as well as presentations at Charmington's, University of Baltimore, and an upcoming presentation at the Be More Family Dinner. Member Ross noted some concerns among community members about being informed of Board vacancies and asked that community associations be notified.

**XI. Adjournment**

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

Respectfully submitted,

Jill Muth