

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

April 19, 2018

Present at the meeting were Civilian Review Board members Bridal Pearson (Chair, Northern District), Mel Currie (Southwestern District), Ebony Harvin (Southern District), Betty Robinson (Northeastern), George Buntin (Western District), Fred Jackson (Northwestern District) and Leslie Parker Blyther (Central District).

Also present were:

Deputy Director Charles Byrd
Jesmond Riggins, CRB Supervisor
Evangula Brown, CRB Investigator
Shaun Clark, CRB Investigator
Samantha Jeffrey, CRB Investigator
Amy Cruice, ACLU
Maureen Johnston, DOJ
Earl Saunders, DOJ
Jillian Aldebron, Howard University
Lt. Michael Norris, BPD
Sgt. Raymond Lloyd, BPD
Bill Matthews, Sheriff's Department

Members of the public and community members were also present.

I. Welcome and Introductions

Chair Pearson welcomed everyone and called the meeting to order at 6:11. He recognized and introduced non-voting members of the Board and staff. He noted that the meeting was being broadcast via Facebook live.

II. Statement of Chair re: Community Support

Chair Pearson asked the community to be present at Board meetings and bring others so that they could express themselves and be heard, especially during the Consent Decree process. He stated that the diverse voices of the community should be represented in civilian oversight, and he encouraged community members to attend Community Oversight Task Force meetings and other relevant events. He also asked the public to disseminate information about CRB throughout community hubs. He advised Board members that the Office of Civil Rights staff could put together packets for distribution of information to the community. He reminded the public of the Preliminary Report for the Community Oversight Task Force containing 15 recommendations to make the Board more effective, and asked community members to advocate to their network and elected officials based on the recommendations in that report.

Supervisor Riggins noted that the Board and investigators were not receiving information from IAD within the 90 day deadline established by the statute. He noted that on February 7, 2018 Chief Hill issued a directive for IAD staff to stop providing investigators with information that they requested on active cases until IAD had completed their investigation and submitted their casebook. He noted that the casebooks contained foundational documents needed by the investigators to complete their investigations. He stated that on March 2nd, 2019 Chief Hill extended an invitation for investigators to come to IAD and retrieve documents, and then withdrew the invitation several days later due to his departure. He noted that he had followed up with Acting OPR Chief, Major Stephanie Lansey, at which point an attorney from the Law Department stated that this subject would be discussed in a joint meeting at a later date. He stated that this put investigators in a position where they were not receiving requested information, and IAD casebooks were not being completed and delivered within 90 days. Supervisor Riggins clarified that there was a new head of IAD coming onboard in the following month, and went on to clarify that IAD's failure to produce the casebooks within 90 days is in violation of the CRB statute. He listed the number of cases that had passed the 90 day deadline, of which there were 37. He noted that there were several cases on the Board's docket in which staff had to submit cases to the Board without their corresponding IAD casebook in order to allow the Board to vote on them before expiration. He clarified that all of the cases listed were cases which were being investigated by a CRB investigator. Deputy Director Byrd noted that if Internal Affairs could not provide their casebooks within 90 days, they should respond to investigators' requests for information, but were prevented from doing so by Chief Hill's directive.

Chair Pearson motioned to authorized the issuance of subpoenas in the following circumstances:

1. For the production of all documents, records and other evidentiary materials within and part of internal investigative files that the police department has not submitted to the Board within 90 days from the date of the complaint.
2. For the production of all documents, records and other evidentiary materials within and part of internal investigative files where the Board grants an extension of time and the police department fails to submit such by the Board's extended deadline.
3. For the production of all documents, records and other evidentiary materials requested by Board staff to perform investigations but where the police department fails to forward such within 30 calendar days of the request.
4. For the attendance and testimony of witnesses (law enforcement officers and other individuals) who refuse to be voluntarily interviewed by Board staff.

Leslie Parker Blyther asked if a time limit would be built into the subpoena to compel the documents within a certain time frame, and Deputy Director Byrd noted that a date would be included in the subpoena, generally allowing 15 to 30 days. Leslie Parker Blyther noted that she felt 10 business days would be sufficient.

Lt. Norris stated that the Office of Professional Responsibility did not have the personnel to comply with these requests, and stated that he felt the CRB investigation should be independent. He noted that Chief Hill had advised that BPD was the only jurisdiction that provided the casebooks, and that they provided more than what they were required to provide. Supervisor Riggins clarified that investigators conducted as much of the investigation as possible without the police department's foundational documents. Lt. Norris stated that the CRB could obtain the documents through the Freedom of Information Act. Leslie Parker Blyther stated that she felt that the understanding should be that the CRB would have a relationship with IAD that would allow them to freely access the information they needed. Lt. Norris reiterated that IAD was understaffed.

Mel Currie seconded Bridal Pearson's motion.

Deputy Director Byrd clarified that the Board would authorize the issuance of subpoenas to be signed by the chair. He noted that staff would likely choose to issue subpoenas in specific cases, and that the motion would allow them to issue the subpoenas without waiting for the monthly meeting. Leslie Parker Blyther asked if the motion was a blanket request to issue subpoenas at staff's discretion, and Deputy Director Byrd clarified the terms of the motion, and clarified that the Board would still have the authority to issue subpoenas on their own as well. She also asked if the Board would be advised of the issuance of subpoenas ahead of time, and expressed concern that they were relinquishing their authority. Deputy Director Byrd clarified that the chair or staff would advise the Board, and they could rescind the action if they chose. Chair Pearson stated that he felt the Board needed to utilize the power that they were granted by the statute. Mel Currie stated that the motion was an extension of what the Board had discussed in previous meetings regarding the issuance of subpoenas to witness officers but with the incorporation of a fuller range of issues. Betty Robinson felt that this could be an opportunity to rebuild trust with the community and show that we are taking our responsibilities seriously.

All were in favor and the motion passed. Leslie Parker Blyther advised that her recommendation was to allow for a time frame of no more than 10 business days to receive documents.

III. Director's Report

Deputy Director Byrd advised that he would present the Director's report in lieu of Director Carter. He noted that CRB had been invited by the Monitoring Team to join in on joint calls with the police department and the Office of Professional Responsibility, as well as the Law Department and the Monitoring Team later in the month. He noted that the Monitoring Team had expressed that they wanted to have occasional calls with the CRB, and that staff would be working on a schedule for quarterly calls, and would notify the Board of those dates so that they could

participate. He clarified that the calls would include the Board and staff, and that those who could not attend would be provided with notes. Bridal Pearson noted that he would like to have weekly calls with the staff and update the Board.

Deputy Director Byrd noted that he had attended a Community Oversight Task Force meeting, and the members of the COTF wanted to meet with the Board and staff. He noted that their chair had visited the office and had a conversation with staff about working together with the CRB. He noted that in the three meetings they had had since that time, it was clear that the COTF had already determined what their recommendations would be. He noted that he and Supervisor Riggins had attended a workshop where they rolled out their preliminary recommendations, which included the elimination of the CRB and creating a replacement Civilian Office of Police Accountability and Police Accountability Commission. He stated that at the meeting, some inaccurate, misrepresentative statements were made about the CRB. He noted that these issues would be discussed at their upcoming retreat.

Deputy Director Byrd noted that staff had met with Commissioner DeSousa and Tawanda Jones regarding the Tyrone West case. He noted that the Commissioner listened to her case. She stated that she felt that she was misled to believe that she had filed a CRB complaint, but her complaint was not filed within required time period. Commissioner DeSousa agreed to look into the case.

Deputy Director Byrd noted that staff had also met with the Commissioner on a separate occasion to discuss information access and electronic access to BPD files. He noted that the Board had a follow up meeting scheduled with the Commissioner on May 9th. He advised that Board members would be invited to attend, and the meeting would be a working session to work through some of these issues.

Deputy Director Byrd noted that staff had attended the Independent Monitor's Public Community Meeting on April 3, 2018, and that citizens in the audience were supportive of the CRB, and had insisted that the Board be included in the process and that their investigations should replace IAD's process.

He noted that staff had also attended the Quarterly Public Court Hearing, and that Judge Bredar had stated that he would not accept anything less than full compliance with the Consent Decree, and that the Department of Justice had mentioned the need for CRB investigators to be able to complete their investigations.

Deputy Director Byrd noted that the Board's decision in the Kelly Holsey/Keith Davis case had received a lot of media attention, and had reached both local and national news outlets. He noted that this allowed the citizens of Baltimore to see the value of the CRB.

He stated that staff and Board members had attended a Community Meeting with Ebony Harvin in Cherry Hill, and that they enjoyed being in community, answering

questions, and being of service. He expressed hope that the Board would have more events in each district.

Ebony Harvin noted that the feedback from the community was that they were excited to have a place to go with their complaints, and the presentation meant a lot to them. She noted that the Board would continue to plan events in the community.

IV. Approval of Minutes from March 15, 2018

Bridal Pearson motioned to approve the minutes from March 15, 2017. Mel Currie seconded, and all were in favor.

V. Discussion/Approval of Non-Unified Complaint Form

Supervisor Riggins presented the Non-Unified Complaint Form and clarified that this form would be applicable to police departments other than BPD that fall under the CRB's jurisdiction. He noted that the form had additional questions, and allowed complainants to provide more information at the beginning of the process. He noted that the allegations had been removed to allow staff to assess the complaint and noted the difference between said form and the Unified Complaint Form. He clarified that the Unified Complaint Form was required by the Consent Decree for CRB and the Baltimore Police Department, and that the Non-Unified Complaint Form would apply to other police departments. He clarified that any complaint could be filed on the form and it would be acceptable for review. Leslie Parker Blyther stated that she felt there should be one single form. Deputy Director Byrd clarified the requirements of the Consent Decree and noted that if BPD would accept the format of the Board's proposed Unified Complaint Form, there would not be an issue since it was similar to the Non-Unified Complaint form that was before the Board for consideration. He noted that if they would not, staff investigators could attach the correct form and ask the complainant to sign it.

Bridal Pearson motioned to approve the Non Unified Complaint Form, Mel Currie seconded, a majority were in favor and the motion passed.

VI. New Complaints

CRB2018-0020 FA FI H

A majority of Board members voted to authorize a CRB investigation.

CRB2018-0033 AL

A majority of Board members voted to authorize a CRB investigation.

CRB2018-0038 EF FA FI AL H

A majority of Board members voted to authorize a CRB investigation.

CRB2018-0040 H AL

A majority of Board members voted to authorize a CRB investigation.

CRB2018-0043 H AL

A majority of Board members voted to authorize a CRB investigation.

CRB2018-0044 FI H

A majority of Board members voted to review IAD's investigation.

CRB2018-0054 FA FI H

A majority of Board members voted to authorize a CRB investigation.

CRB2018-0056 EF

A majority of Board members voted to authorize a CRB investigation.

Leslie Parker Blyther asked when an officer was permitted to conduct a strip search, and Lt. Norris clarified that an officer of the same sex must take the subject to a secure area, and this search was only permissible in certain circumstances where probable cause had been established.

VII. Completed Investigations Noted on Via Email to Avoid Expiration

<u>CRB#</u>	<u>IAD#</u>	<u>Allegations</u>
CRB2017-0059	17-0178	AL

Board members sustained the allegation because they felt that the officer was using his power inappropriately, and were disturbed by the fact that he had removed the child and used her to gain access to her parent's home. Mel Currie felt that the officer had intentionally misled the adults who were caring for the child and that the events amounted to abduction. Lt Norris noted that IAD had turned the case over to the State's Attorney's Office to consider whether criminal charges would be filed against the officer. Board members unanimously sustained

the allegation. Bridal Pearson noted that the most severe allegations were outside the Board's jurisdiction. George Buntin clarified that the Board's concerns about those allegations outside of its jurisdiction should be included in the letter of findings.

George Buntin noted that the Board was in agreement with IAD's findings as they had also sustained the case, but that the Board's concerns should be included in the letter. Betty Robinson expressed her concern that the police officer thought his behavior was appropriate.

Ebony Harvin voted for termination, and Mel Currie noted that he could not recommend termination based on the allegation within the Board's jurisdiction, and Betty Robinson agreed. Other Board members voted for termination because of the egregious nature of the officer's actions.

Board members unanimously sustained the allegation of abusive language, and a majority voted for termination.

CRB2017-0066 17-0228 H

A majority of Board members voted not to sustain the allegation.

CRB2017-0069 17-0233 H EF FA FI

With regards to the first officer, Mel Currie felt that his actions were a matter of domination and not control. Bridal Pearson agreed that placing the knee in the complainant's back was unnecessary. Leslie Parker Blyther advised that this was an approved defensive tactic, but George Buntin felt that the complainant was not resisting and therefore the defensive tactic was unnecessary as he was already subdued. Fred Jackson agreed that the body camera footage showed that the complainant was not resisting. George Buntin felt that the officer's actions were intended to inflict pain. Fred Jackson felt that the officer's confiscation of the second complainant's phone was unnecessary.

George Buntin motioned that staff should use the last initial on the vote sheet to identify officers in cases where there were multiple accused officers, and in cases where the last initials of two officers were the same, they should use both initials to identify them. Bridal seconded the motion, and all were in favor.

Ebony Harvin asked why the officer was in another district, and noted that the one of the officers had had an interaction with the complainant before and told the other officer about that past interaction. She felt it was problematic that he had revealed the complainant's past to the other officer. Fred Jackson noted that the officer was likely there because three districts converged in that area. It was noted that the accused officer had received numerous complaints and was known to

have given false testimony. Betty Robinson noted that the officer had followed the complainant's car, and approached him only after he had parked. Betty Robinson felt that the officer did not have any reason to detain and arrest him.

George Buntin clarified that he always recommended termination because of the police department's failure to cooperate with the CRB, and that it would be easier to foster a relationship of trust if BPD provided the necessary information to give the Board insight into the full history of the officer's disciplinary record.

The Board voted to sustain the allegation of excessive force against Officer K and sustained the allegations of false arrest, false imprisonment and harassment against the Officer W. They voted not to sustain all other allegations against all other officers named in the complaint. The Board recommended a 15-day suspension and severe letter of reprimand for Officer K and termination for Officer W.

CRB2017-0075/0097

17-0241

FA H EF

Betty Robinson noted that with regards to the allegation of excessive force, the officer's statement contradicted the evidence on the body worn camera footage. Mel Currie asked whether it was possible for the Board members to view the footage, and Supervisor Riggins advised that Board members could come to the office to view the footage. Leslie Parker Blyther stated that there was never an acceptable situation in which an officer could use a chokehold. Betty Robinson noted that the complainant was not fleeing or resisting.

The Board voted to sustain the allegation of excessive force against Officer V and recommended termination. The Board voted not to sustain all other allegations against all other officers.

Upon Leslie Parker Blyther's request, it was identified that the officer had been named in previous complaints. Ebony Harvin asked if the Board could receive a report of repeat offenders and keep a record of those officers and follow up with them. Leslie Parker Blyther asked Lt. Norris if there was a rule or procedure for officers who had received multiple complaints. Lt. Norris stated that if they had sustained cases, the officers would always have the right to a trial board. George Buntin noted that if the officer had multiple complaints that weren't sustained, it would be as if they had no record. Leslie Parker Blyther asked if it would be possible to identify the number of complaints that CRB had received in their letters to complainants. George Buntin noted that he would second a motion to include this information if one were presented. Ebony Harvin asked what the police department would do in a case where an officer had multiple sustained allegations. Lt Norris stated that IAD would conduct a fact finding, and that the trial board would make the final decision.

Amy Cruice noted that very few cases were referred to trial boards, and that in some cases where allegations were sustained, the officer resigned. Lt. Norris noted that in the case of officers who were arrested, they would often elect to resign rather than go to a trial board. Lt Norris stated that they had to look at each case on an individual basis. Bridal Pearson noted that they would have additional discussion on this topic at the upcoming retreat.

Amy Cruice noted that trial board data was important, and could be accessed on the BPD website. She advised that only 10 cases had gone to a trial board in 2017.

Fred Jackson advised that officers who resign with an open investigation on their record are flagged, which makes them difficult to hire. George Buntin noted that the recommendation is not policy and that officers were often able to move on regardless of their history, and that this was problematic for the community.

VIII. Completed Investigations

<u>CRB#</u>	<u>IAD#</u>	<u>Allegations</u>
CRB2017-0048	17-0132	EF FA H AL

Ebony Harvin stated that she sustained because there was tape covering part of the officer's body worn camera, and because she questioned why the officer would take the complainant to another area. She stated that she found it suspicious that the drugs were only visible after the tape was removed, and every other part of the interaction was obscured. Fred Jackson noted that the complainant was injured, and he found it suspicious that they continued to walk the complainant around after they had found the CDS. Leslie Parker Blyther noted that this was a repeated offense. Betty Robinson noted that there was a seven second period where there was no video transmission. She noted that the CRB investigator said the body worn camera footage did not show excessive force.

The Board sustained all allegations against both officers and recommended termination.

CRB2017-0077	17-0249	H AL
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A majority of Board members voted not to sustain the allegation.

CRB2017-0078	17-0252	EF H
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A majority of Board members voted not to sustain the allegation. Lt. Norris advised that he had sent a mental health referral to the complainant.

CRB2017-0081	17-0244	H AL
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A majority of Board members voted not to sustain the allegation.

CRB2017-0090 17-0289 H AL

A majority of Board members voted not to sustain the allegation. They noted that the complainant was uncooperative and the officer was unknown.

CRB2017-0092 17-0286 H AL EF

The Board did not reach a decision as there was not enough information to evaluate the case.

CRB2017-0096 17-0298 H

A majority of Board members voted not to sustain the allegation. They noted that the complainant was not compliant with the requirement to report stolen items sold in her shop.

CRB2017-0115 17-0362 H

A majority of Board members voted not to sustain the allegation. Betty Robinson noted that the officer's warrant was legitimate as there was an allegation that a suspect was using the complainant's home, but wondered who would take responsibility for the property damage that was incurred. Lt. Norris advised that the City Solicitor would make the determination as to whether they would issue a reimbursement. Mel Currie clarified with Lt. Norris that the police would advise the complainant to follow up with the City Solicitor in those cases. Betty Robinson felt the incident was an example of unfriendly community practices, as the officers could have waited for them to arrive home. Lt. Norris advised that normally they knock, except in cases where there is a no knock warrant. Charles Byrd noted that all of BPD's policies were being revised, and that the Board could comment on proposed revisions and changes in policy. Lt. Norris noted that officers have a checklist to complete before executing a search and seizure warrant. He noted that the SWAT team is usually designated to do majority of searches and seizures as they are high risk, stressful situations.

Investigator Clark asked what a reasonable amount of time would be for an officer to wait before breaking in the door, and Lt Norris stated that the officer would interpret that based on the situation, and that there were factors that they considered that were not always immediately evident.

CRB2017-0203 17-0664 H AL

Bridal Pearson sustained, because there was an eyewitness that corroborated the complainants account. Mel Currie noted that the witness had gotten the officer's license plate number, and expressed concern about the officer's inability to control himself. Lt. Norris was asked if the officer had been disciplined, and he stated that he did not have that information.

A majority of Board members sustained the allegations and recommended termination.

Leslie Parker Blyther asked when officers were required to do a psychological evaluation, and Lt. Norris advised that they were evaluated when they showed signs of mental stress, or indicated that they were a danger to themselves or someone else. Ebony Harvin asked if officers were treated for trauma, and Lt. Norris advised that officers have psychologists that they can go to for treatment. Lt. Norris clarified that with regards to officers in high stress neighborhoods, staff can make the suggestion that they see the psychologist, but it is ultimately incumbent on the officer. He noted that BPD has a stress incident early intervention team that responds to shootings and officer deaths. He advised that if they felt there was a problem they would suspend the officer and take their weapon, and send them to counseling.

Bridal Pearson noted that counseling was supposed to be confidential, and that officers often don't want to be seen as weak or unstable, which stops them from seeking services.

George Buntin stated that he wanted to comment on the previous case and the problematic issue of Lt. Norris's statement that only the officers on the scene could understand and evaluate what was appropriate. He felt that this disconnect was the root of mistrust. He stated that camera footage should be sufficient evidence to make this determination and that this level of consideration is not afforded to the people on the other side of law enforcement encounters. He stated that the idea that civilians can't understand these situations because they're not officers is not acceptable in any other profession. He felt that officers were afraid to have civilians on trial boards who would look at situations from a different perspective. Mel Currie agreed that there was a perception that no one had the right to criticize police officers. Lt. Norris noted that body worn cameras only catch footage from certain angles and that sometimes other surveillance footage

refutes the findings from body worn camera footage. George Buntin noted that the issue in dispute was the amount of time the officer waited after knocking before entering the home, and this was a fact that could not be refuted by any additional footage.

IX. Public Comment

Amy Cruice reminded Board members that ACLU conducts free Know Your Rights Trainings upon request.

Marguerite Morris from Anne Arundel County told the story of her daughter who died under suspicious circumstances in police custody, and expressed that there was an urgent need for civilian oversight throughout the state. She advised of her struggles in getting the medical examiner to accurately report the cause of death, and the need for civilian oversight in these situations as well. She noted that she was aware of several other families that had experienced similar issues. She advised that she would be hosting a free forum and a brunch for anyone interested in police accountability and effective civilian oversight boards the following weekend and invited the Board and public to attend.

Jacqueline Robarge, Director of Power Inside, noted that there was a racial disparity in correctly reporting cause of death for African Americans related to the close relationship between police departments and medical examiners, and stated that police often influence their findings. She spoke about her concern regarding the lack of surveillance footage in areas where complainants were kept in custody. She advised that she worked with women involved in the street economy and had heard a wide variety of complaints about the police, including many complaints of sexual assault. She stated that they needed the CRB as an independent avenue to address these issues of sexual assault, coercion and harassment by police officers. She noted that a recent law had been passed, HB 1292, which criminalizes sex between police officers and persons in custody. She stated that officers often go to a vulnerable person and force sex on them, and that they are involved in widespread corruption. She stated that she had personally been harassed by Internal Affairs. Betty Robinson felt the Board should suggest adding sexual assault by a police officer as one of the allegations that they could review. Leslie Parker Blyther felt this could be added as a category when the legislation was changed. Betty Robinson asked for clarification on the rights of a complainant to file anonymously, and Supervisor Riggins advised that the police department could investigate, but that the CRB did not have that authority. Lt. Norris advised that in those cases the department had little to no information and that they were hard to investigate. Leslie Parker Blyther asked about the possibility of having an anonymous tip line, and Supervisor Riggins noted that staff could look into the possibility. Betty Robinson suggested that an advocate could file on their behalf. Jacqueline Robarge clarified that Maryland has a Victim's Bill of Rights, but women who are assaulted by police do not fall under that bill. She suggested that

the CRB could get this information from cohorts that work with these populations. Lt. Norris advised that in any case where sexual assault was alleged, IAD would send that case to the State's Attorney for criminal charges. Jacqueline Robarge indicated that that had not been her experience, and that the issue was a structural issue rather than an issue of individual cases. Ebony Harvin asked if Power Inside could provide a report, but Jacqueline Robarge indicated that they had no regular way to collect that data.

X. Old Business

There was no old business.

XI. New Business

George Buntin announced that he was planning a Western District Meet and Greet at the Dovecote Café.

XII. Adjournment

There being no further business, the meeting was adjourned.

Respectfully submitted,

Jill Muth