

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

August 17, 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
Evangula Brown, CRB Investigator
Shaun Clark, CRB Investigator
Deputy Eric Cox, Sheriff's Office
Sergeant Tiffany Willis, Office of Professional Responsibility
Major Ian Dombroski, Office of Professional Responsibility
Lieutenant Michael Norris
Bryana Spann, CRB Intern
Troy Pumphrey, CRB Volunteer

Members of the public and community members were also present.

I. Welcome

Chair Pearson welcomed everyone and called the meeting to order at 6:08. He recognized and introduced non-voting members of the Board, Director Carter, and staff. He recognized that a quorum was present and thanked Board members for their attendance.

II. Approval of the Minutes from July 27, 2017

Chair Pearson motioned to approve the minutes from July 27, 2017. Blair Thompson seconded, and all were in favor.

III. Director's Report

Director Carter began her report by noting that the selection process for the independent monitor was underway, and that 4 teams were being reviewed for recommendation to Judge Bedar, who will ultimately sign off on the monitor selection. She spoke briefly about the merits of all teams and asked Board members to encourage the public to submit written comments to the DOJ email address by August 23rd. She also noted that two public forums had taken place at Coppin and at Morgan. She noted that final deliberations are taking place, and that the goal would be to narrow the teams down to one to recommend to the judge.

Director Carter stated that the Community Oversight Task Force were having weekly meetings, but they had only posted the minutes from one of their meeting for review. She stated that she would be meeting with the chair, and that the CRB and COTF would be part of a collaborative effort to review civilian oversight, as the main charge of the COTF is to review the CRB.

Director Carter noted that final recommendations on the monitor would be made on August 25th.

She stated that in the previous meeting she had discussed investigator access to BPD files. Director Carter noted that a letter had been sent to Chief Hill, but that she had not yet received a response to the letter. She stated that she would follow up, and noted that the letters requests that investigators become designees to retrieve files and expedite evidence.

Director Carter stated that the CRB had received a complaint on the Unified Complaint Form in spite of the fact that it was still in the editing process and had not been officially approved. Director Carter noted that the Board would need to vote on the final form at an upcoming meeting.

Finally, Director Carter advised Board members that the Annual Civil Rights Breakfast would be taking place on September 25th and urged Board members to pass along information about the breakfast.

IV. New Complaints

CRB2017-0115 IAD Only

Mel Currie noted that the officers in this complaint recognized and admitted their mistake, and that IAD should handle the initial investigation, since the Board would have plenty of time to review it and request additional information if necessary.

Leslie Parker Blyther stated that she did not feel the narrative supported harassment and felt she would like to refer the victim to the City Solicitor's office. Blair Thompson agreed that the complainant seemed to be seeking relief. Board members voted unanimously for IAD only.

CRB2017-0133 CRB Investigation

Board members felt that they needed additional information on this complaint. Leslie Parker Blyther asked what the policy was for an investigative stop on a juvenile, and Lt. Dombroski noted that for the initial contact, the policy is the same as for an adult. Board members unanimously voted to authorize a CRB investigation.

CRB2017-0138 CRB Investigation

Fred Jackson expressed some confusion about the order of events in the narrative of the complaint. Leslie Parker Blyther noted that one of the officers had a body-worn camera that was not turned on. Mel Currie questioned why her car was towed from the front of her house, and Fred Jackson felt that that was suspicious, as the officer

should not have towed her car if it was legally parked. Mel Currie guessed that the officer was acting in agitation. Chair Pearson felt the Board needed more information. Director Carter asked Lt. Dombroski if the ADP would pick this case up since the BWC was not turned on, and Lt. Dombroski stated that it would, and that 95% of cases in the Accelerated Disposition Program are cases having to do with Body Worn Cameras. He stated that in these cases, immediate disciplinary action is taken, and officers usually accept this discipline. Fred Jackson asked if there was an indicator that lets the public know that the camera is recording, and Lt. Dombroski stated that there is a light, but it's not always certain. Leslie Parker Blyther asked if there was any automation to track when cameras were on, and Lt. Dombroski answered that there was, and that the BWC unit would randomly audit the footage, as well as the State's Attorney in cases where an arrest had been made and evidence was needed. He noted that officers were also disciplined for turning off their cameras early. He then stated that the department had recently issued a clarification as to when BWCs could be turned on and off due to the number of videos surfacing in the news. The policy states that officers must keep their cameras on whenever officers are on a scene. Investigator Clark asked whether there was an automatic trigger for the body camera, and Lt. Dombroski stated that the specific company they had contracted with did not offer this feature, and that cameras were self-initiated. Leslie Parker Blyther asked how long the footage was kept, and Lt. Dombroski answered that it was kept for 10 years. Board members unanimously voted to authorize a CRB investigation.

CRB2017-0140 CRB Investigation

Leslie Parker Blyther stated that she initially hesitated because while abusive language was bad, it was not her priority for utilizing the resources of the CRB investigator, however she stated that it seemed like the officers entered the home illegally. She stated that for a summons, police may enter if they have a verified warrant and know the person is wanted. Fred Jackson clarified the date of the complaint, and that the events took place in June of 2017. Leslie Parker Blyther wondered if the entry constituted abusive language, and Director Carter noted that it could be considered harassment. Mel Currie agreed. It was noted that Director Carter could amend the complaint to add the allegation of harassment, if it was necessary. Board members unanimously voted to authorize a CRB investigation and asked that the complaint be amended as necessary to add any additional allegations.

CRB2017-0141 CRB Investigation

Fred Jackson stated that he had viewed the video from 3 different angles and noted that the complainant stood up and did not follow instructions. He stated that the police officers trying to handle the situation were being approached by others. He stated that he felt the police needed to do what they were assigned to do, and noted an occasion in which a councilman had been killed. He stated that he felt the police had not acted incorrectly. He also noted that the video was on Youtube. Sgt. Willis and Lt. Dombroski clarified that an IAD report would be prepared regardless, particularly since there was a use of force. Bridal Pearson asked if it would be possible to table case until the Board had been able to review the video. Leslie Parker Blyther stated

that she urged civilians to comply because it put them in a better position when they did make their complaint. Blair Thompson agreed, but stated that she felt that since a City Council meeting was a public meeting where citizens are allowed to speak. Board members briefly discussed tabling the vote. Leslie Parker Blyther stated that it was still relevant how much force was used even if the civilian was non-compliant. Board members ultimately decided to cast their votes. Mel Currie voted for IAD, all other Board members voted for CRB.

CRB2017-0145 CRB Investigation

Fred Jackson stated that he initially voted IAD because what the complainant was alleging was egregious. Leslie Parker Blyther stated that she could not ascertain whether the broken collarbone was a result of excessive force, and felt because of the excessive injury the Board should authorize a CRB investigation. Blair Thompson and Bridal Pearson both noted that they needed additional information. Board members voted unanimously to authorize a CRB investigation.

V. Disciplinary Recommendations

PD069-16 16-0303

10 Days Suspension, Middle Letter of Reprimand, Minimum of 4 hours training in Probable Cause, Minimum of 4 hours training in Report Writing

Mel Currie noted that he sustained the case because there was no probable cause, and the complainant had to be hospitalized. He stated that the officer saw him go to the shed and had nothing on him, and decided there was a connection without sufficient evidence. Mel Currie noted that he sustained against only the arresting officer. Leslie Parker Blyther noted that the officer told him that the complainant had something that he did not have, and that the complainant did not give permission for the CRB investigator to view his medical records. She then asked whether the officer was a repeat offender, and Fred Jackson stated that he had not seen him before. Lt. Dombroski stated that he could not share background information on the officer, and Norris agreed that it was a personnel matter, although they could possibly share if both agencies sustained the allegations. Mel Currie noted that Chief Hill had shared information previously that an officer did not have a prior record. Bridal Pearson wanted the public to know that the Board's hands were tied. Director Carter suggested an if/then scale, in which Board members could make different recommendations based on whether this was the officer's first, second or third offense. Mel Currie noted that the greatest suspension was a 30 day suspension, which the officer served in chunks of five days each, and noted that suspension without pay was based on hours. Fred Jackson stated that there was a difference between a false arrest and a bad arrest, and that a false arrest indicates malice aforethought, which he didn't think was the case here. Director Carter urged Board members to come up with their own ideas of what discipline should be administered and then compare them against the matrix. Leslie Parker Blyther suggested 10 days suspension and a severe letter of reprimand because of the injury to the complainant.

Blair Thompson agreed. Board members asked for copies of the letter of reprimand so that they could better understand what it contained, and Lt. Dombroski stated that he thought he could provide a form letter. Mel Currie agreed with a 10 days suspension, but felt that a middle letter of reprimand more accurately corresponded with that suspension. Bridal Pearson voted for 10 days suspension and a severe letter of reprimand but asked that training be added to deter the behavior. Leslie Parker Blyther agreed. Fred Jackson stated that for a first offense, they should only issue a middle letter of reprimand. Bridal Pearson asked for clarification between a severe and a middle letter of reprimand, and Lt. Dombroski stated that a bad excessive force case would warrant a severe letter, and that a severe letter was issued right before termination. Bridal Pearson amended his vote to a middle letter of reprimand. Leslie Parker Blyther stated that she felt a minimum of four hours of training were necessary. Lt. Dombroski noted that the Training Academy determined the number of hours, and Director Carter asked if trainings were classroom based or scenario based. Lt. Norris noted that there was often a problem with officers not articulating probable cause well due to poor writing skills. Leslie Parker Blyther noted that according to the Maryland Police Training Center, officers only needed to articulate 70% mastery of report writing as a skill, which left a significant gap. Fred Jackson asked if BPD follows up on poorly written reports, and Lt. Dombroski stated that it would depend on the sergeant.

PD070-16

16-0344

5 days suspension, Letter of Reprimand (severity to be voted on through email by 8/25)

Lt. Norris stated that the complainant was found guilty, and Bridal Pearson noted that the complainant's criminal history should not be discussed. Mel Currie felt that the testimony from the officers was conflicting. Bridal Pearson stated that the subjects were initially patted down, and no gun was found, but a gun was found later. Lt. Norris stated that only a cursory search is performed once a complainant is removed from their car. Mel Currie stated that he voted for 5 days suspension and a simple letter of reprimand because a windshield was cracked which indicated significant force, and because of the inconsistency of the officers' testimony, particularly in the amount of marijuana the complainant possessed. Blair Thompson stated that she had voted for 10 days suspension and a severe letter of reprimand because while they were not escalating, they were being too rough. Fred Jackson voted for a simple letter of reprimand and 5 days suspension because he felt that while the officers had probable cause, the force was excessive. Bridal Pearson voted for 10 days suspension and a severe letter of reprimand. Leslie Parker Blyther also felt the letter of reprimand should be severe. Bridal Pearson noted that he had an issue with the appearance of a gun, and Fred Jackson stated that he had not considered the gun, but he thought that throwing the complainant into a windshield was too much. Blair Thompson noted that arrests like these only took place in certain neighborhoods. Director Carter felt that all of the events were excessive if the basis of the stop was the odor of marijuana. Sgt. Willis noted that the stop began with marijuana, but there could have been other

underlying issues. Lt. Dombroski stated that this was why body worn cameras were so important. Mel Currie, Bridal Pearson and Fred Jackson agreed on 10 days suspension, and Blair Thompson and Leslie Parker Blyther voted on 5 days suspension. Board members discussed the letter of reprimand and could not agree on middle, simple or severe. Director asked again for copies of the letters which Lt. Dombroski stated that they could provide. She asked if the letter accomplished anything additional in terms of discipline, and Lt. Dombroski stated that the letter makes the discipline more significant, especially when there are fewer days. Board members agreed to continue to consider the letter of reprimand and submit votes via email no later than Friday, August 25th.

VI. Completed Cases

PD077-16 16-0377 H Sustained- Recommend Termination

Fred Jackson initially voted to administratively close the case because the officer had been fired and was in prison. Lt. Dombroski clarified that the officer had not been fired yet, but would likely resign or be terminated upon conviction. It was noted that the officer was one of the seven indicted. Board members unanimously voted to sustain the allegations and recommend termination.

PD079-16 16-0386 AL Not Sustained

Mel Currie noted that if the mandate were broader he might have been able to sustain for conduct unbecoming, however as it stood his vote was to not sustain. Dombroski noted that IAD had sustained an allegation of inappropriate comment and the officer had resigned. Leslie Parker Blyther sustained because she felt any language that discouraged a complainant from filing was abusive. Blair Thompson agreed that it was demeaning. Board members noted that the category was broad. Bridal Pearson did not sustain because he felt the comment did not rise to the level of abusive. Fred Jackson agreed for the same reason, and stated that the officer told him he was in the wrong place, which gave rise to the argument. Leslie Parker Blyther and Blair Thompson sustained, and Mel Currie, Fred Jackson and Bridal Pearson voted to not sustain.

PD086-16 16-0384 H Not Sustained

Leslie Parker Blyther asked what limitation applied to an officer in secondary employment in terms of police power. Lt. Norris clarified that if someone committed a crime in their presence, they had the authority to arrest. Fred Jackson stated that he was fired because he was trying to take over the contracts, the texts were not threatening, and the wife could not identify the officer. Mel Currie noted that the owner and others confirmed that he was trying to take the contract. Blair Thompson stated that it seemed like a private matter. Leslie Parker Blyther abstained, and all other board members voted to not sustain.

PD088-16 16-0401 AL Sustained

Bridal Pearson stated that he voted to sustain because a civilian witness corroborated and the video did capture some abusive language. All Board members agreed that they had sustained for the same reason. Lt. Dombroski noted that the officer in this case had been disciplined for failure to turn on his body worn camera. Board members noted that they would decide on disciplinary recommendations via email in order to get the recommendations in before expiration.

PD095-16 16-0415 FA FI H Not Sustained

Mel Currie voted not to sustain because the testimony from the victim was inconsistent, and the identification was strong, and did not feel the officer acted inappropriately. All Board members agreed and voted unanimously to not sustain the allegation.

PD097-16 16-0414 H Not Sustained

Board members noted that the complainant was not able to identify the officer. Lt. Dombroski stated that IAD was not able to make contact with the complainant to show him photo arrays. Bridal Pearson felt that there was not enough evidence, and all Board members agreed. They voted unanimously to not sustain.

PD109-16 16-0427 FA FI Not Sustained

Bridal Pearson felt that the officer had reasonable justification to make the arrest based on the eyewitness account and the fact that he matched the description. Mel Currie noted that they had brought the witness and asked him, and he identified him on the bus. Director Carter noted that they could have been coercive and the victim could have been influenced if the officers pointed him out. Mel Currie stated that he didn't feel it was reasonable for the officer to let him go and go and get a photo array. Blair Thompson felt that a photo array and further investigation was the correct way to go about it. Mel Currie felt the officer's actions were reasonable. Mel Currie, Fred Jackson, Leslie Parker Blyther did not sustain. Blair Thompson abstained.

PD113-16 16-0433 EF FA FI H AL Not Sustained

Blair Thompson did not sustain because she felt that the officer did the correct thing by getting an emergency petition and evaluation based on the complainant's behavior. All Board members agreed. Leslie Parker Blyther asked what the policy was on emergency behaviors. Lt. Dombroski stated that if there was a behavioral crisis and explained the particulars of the emergency petition policy and the BEST officer program. Board members voted unanimously to not sustain.

PD114-16 16-0437 H Sustained

Mel Currie sustained because he believed that the officer's behavior was unwarranted. Fred Jackson sustained because the officer marked the ticket incorrectly and the officer's story was inconsistent. Leslie Parker Blyther asked if the officer was a veteran officer, and Lt. Dombroski confirmed that she was new and that she now

VII. Old Business

Board members discussed whether they wanted to review final letters in Sustained cases. Special Assistant Muth noted that she would have letters for Sustained cases from the previous meeting for the Board members to review after the meeting. Board members stated that they agreed with the general templates being sent out without further review, however Sustained letters would be reviewed by Mr. Currie before being sent out.

Leslie Parker Blyther updated the Board on her previous research on whether an automatic system can be created for both IAD and CRB members to review and classify complaints. She noted that she had spoken to Sgt. Scott at IAD, who stated that with the Chief's approval, they could be going to form a team to look into this issue. Leslie Parker Blyther was also interested in any citizen who might like to be a part of this task force.

Leslie Parker Blyther also noted that she had attempted to reach out to UB to get space for a Board meeting but noted that there was a lot of paperwork, and Bridal Pearson stated that he would speak to the Dean and try to confirm the space. Mel Currie noted that he tentatively found a free location in the Southwestern District, and that he would forward the information to Special Assistant Muth. Mr. Currie noted that he would coordinate with the Southwest Leadership Roundtable to get the word out in the community about the meeting.

Director Carter noted that someone from the ACLU wanted to make a presentation to the Board at a later date to weigh in on the gag order policy decision.

VIII. New Business

Mel Currie noted that he felt Board members should put their names on the placards for the citizens, along with the initials of their districts. Board members did not object.

IX. Public Comment

Ms. Gotse asked, relevant to the previous case, at which point the gentleman was slammed into the police car, and Mel Currie noted that it was before the gun was found. Mr. Gotse noted that there seemed to be holes in the report, and wanted to express that he felt the force was definitely excessive, and was concerned about the conflicting accounts. Leslie Parker Blyther noted that the Board was limited by the complaint categories, and that they were unfortunately unable to review false report allegations. Mr. Gotse asked whether the Board was coordinating with the Independent Monitor Team, and what their connection was to Internal Affairs. Leslie Parker Blyther noted that the consent decree required the monitor teams to work with the Board and the Community Oversight Task Force. Blair Thompson

clarified that the Board was not connected to IAD or any law enforcement agency. Mel Currie noted that IAD was at the table as non-voting members.

Mr. Murray wanted to inform the Board that he was at the council meeting in question from complaint CRB2017-0141, and that he would be willing to give testimony of his eyewitness account of the events. Board members advised him to provide his contact information to Special Assistant Muth.

Ms. Zoe stated that she had attended a Community Oversight Task Force meeting and felt that they did not demonstrate an understanding of the Civilian Review Board, and recommended that as many people as possible go to the meetings, and that meetings were posted on their website. Bridal Pearson noted that staff was preparing a report for the COTF, and the Director and CRB would be meeting with the Chair.

Mr. Chris wanted to make a comment regarding PD070-16, and urged the Board to err on the side of caution and public safety. He stated that nothing was lost by stern discipline, and nothing was gained by leniency. Board members asked him to expand on his thoughts, and he stated that he felt Board members should think about what precedents are set by leniency, and that he felt that they were lenient in that case. Blair Thompson noted that the Board was new and still learning and struggling with how to best send the message of high expectations. Mel Currie noted that he tried to use the whole disciplinary spectrum, and that the Board was learning and growing. He noted that the Board had recommended termination in at least 3 cases. Fred Jackson stated that the police department was an agency of progressive discipline and corrective action was very important, especially since many of the officers were very new. Bridal Pearson noted that he appreciated public comments and honest feedback. Mr. Chris noted that he felt it was important to balance the interests of the police department with the needs of the community. Fred Jackson noted that the Board also had to operate within the LEOBR.

X. Adjournment

Board members confirmed that the next meeting would take place at the Office of Civil Rights. Bridal Pearson motioned to adjourn, Blair Thompson seconded, and all were in favor.

Respectfully submitted,

Jill Muth