

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

September 21, 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
Chief Rodney Hill, Office of Professional Responsibility
Amy Cruice, ACLU
Sgt. Azalee Johnson, Baltimore Police Department
Sgt. Darren Belechto, Baltimore Police Department
Elizabeth Wexler, Crisis Intervention Team

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. He introduced the officer from the BEST/Crisis Intervention Team and noted that they would be presenting for the Board. Director Carter noted that the meeting was being broadcast via Facebook live in order to foster a sense of transparency and public involvement.

II. Approval of the Minutes from August 17, 2017

Mel Currie motioned to approve the minutes from August 17, 2017. Blair Thompson seconded, and all were in favor.

III. New Complaints

CRB2017-0046 CRB Investigation
Blair Thompson noted that she felt the complaint should be investigated by the CRB due to the severity of the excessive force allegations, and all Board members agreed.

CRB2017-0131 CRB Investigation
Board members noted that they had heard a case by this complainant before against this officer, and noted that it was a recurring problem. They expressed concern that the complainant was admitting to breaking the law, so the officer had lawful reason to

approach him. Leslie Parker Blyther noted that this was a case that seemed like it should be successfully resolved through mediation, and Director Carter suggested that the Board send a letter to the complainant recommending mediation, and the Board agreed and unanimously voted IAD only. Board members noted that there may have been some issues with permitting, and Amy Cruice noted that a non-amplified performance should not require a permit since it was protected speech.

CRB2017-0142 CRB Investigation

Board members unanimously voted to authorize a CRB investigation.

CRB2017-0151 CRB Investigation

Board members unanimously voted CRB because they felt they needed additional clarification of the facts and of the accused officer's identity.

CRB2017-0152 CRB Investigation

Board members unanimously voted CRB because they felt they needed additional clarification of the facts of the complaints. Board members noted that the complaint was initially filled out on an unapproved version of the Unified Complaint Form and attached to the correct form.

CRB2017-0160 CRB Investigation

It was noted that there was some dispute about jurisdiction in this case between CRB and IAD due to the fact that the events took place while the officer was off duty. Leslie Parker Blyther clarified with Chief Hill that an off duty officer must identify themselves if they are taking police action. Board member unanimously voted for a CRB investigation.

IV. BEST/CIT Officer Presentation

Elizabeth Wexler and Sgt. Johnson and Officer Belecho presented on the BEST officer program and Crisis Intervention Team, which specially trains officers to handle civilians who are in the midst of mental health crisis, and focuses on response to behavioral health issues, mental health issues, and substance abuse issues. The guests explained the history, purpose and scope of the program to the Board members. Leslie Parker Blyther asked whether the officers could be utilized as resource for complainants dealing with mental and emotional health problems. Chief Hill noted that the CIT team was notified when they received complaints that appeared to involve mental health issues. It was also noted that when calling the police to respond to a person in crisis, civilians are encouraged to request a CIT officer.

V. Request to Appeal

The complainant from case PD024-15 asked to appeal the Board's decision of Not Sustained in his case. The Board originally read the narrative from the agenda, and then at the complainant's request read his original statement. The complainant wished to have additional investigation into his case because he had concerns about the quality of his investigation and did not believe that all the witnesses were adequately interviewed. Leslie Parker Blyther asked why the Board did not sustain the case, and Supervisor Riggins stated that Board members did not sustain because they felt the case lacked independent witness testimony. The complainant stated that he was misled about the time restrictions in his case, and Board members noted that the rules had been changed since his case. Supervisor Riggins explained the facts and timeline of the case. The complainant noted that the officer was a repeat offender and that other charges had been sustained against him. Mel Currie motioned to reopen the case, Blair Thompson seconded, and all were in favor. Board members noted that they would need to develop a formal process for these appeals.

VI. Disciplinary Recommendations

PD114-16 16-0437
3 Days Suspension, Middle Letter of Reprimand

Fred Jackson confirmed with Chief Hill that the formal letters from CRB were placed in the officer's files regardless of the outcome. Fred Jackson asked if the officer's records were flagged, and Chief Hill noted that they were only flagged if the case was sustained by Internal Affairs. Chief Hill stated that if an officer applies to another law enforcement agency with an open investigation or a sustained case on their record, their Internal Affairs records are flagged. Leslie Parker Blyther stated that since that was the case, the Board should not administratively close cases if the officer was retired or had resigned. Amy Cruice stated that she felt that in excessive force cases in particular it would be worth having the Board's disciplinary recommendations on file for records purposes.

For this particular case, Fred Jackson noted that he was disturbed by the officer's insubordination. Leslie Parker Blyther recommended a Middle Letter of Reprimand and 3 days suspension. All Board members were in agreement.

Mel Currie noted that there should be some mechanism for a tie-breaker in the event that the Board was having trouble coming to a decision about disciplinary recommendations, and Bridal Pearson noted that it would be something that would be discussed and included in the development of the bylaws. Amy Cruice noted that she felt that disciplinary recommendations were important records to compare and contrast with Internal Affairs' finding, and that the CRB should advocate for more

access to these records. Fred Jackson stated that this would require a change to the LEOBR.

PD070-16 16-0344
5 days suspension, Middle Letter of Reprimand

This case's disciplinary recommendations were voted on via email prior to the Board meeting. Board members read their votes individually for the public record. Fred Jackson noted that there were significant injuries to the complainant, and believed that the complainants head hit the windshield. He also noted that he felt there was a difference between a pat down and a search. Board members unanimously agreed to the 5 days suspension and middle letter of reprimand due to the injuries sustained by the complainant and the circumstances under which the gun was allegedly found.

PD088-16 16-0401
2 days suspension, 2 days loss of leave, Simple Letter of Reprimand

Fred Jackson noted that he did not agree with the 2 days loss of leave and noted that it should be four days suspension. All other Board members agreed on the 2 days suspension, 2 days loss of leave, and simple letter of reprimand.

CRB2017-0112 17-0377
Simple Letter of Reprimand

Leslie Parker Blyther stated that she felt the officer failed to properly investigate. Board members unanimously voted for a simple letter of reprimand.

VII. Completed Cases

PD038-14 14-0569 EF Sustained

Board members clarified with Supervisor Riggins that the only viable allegation was the excessive force allegation, and the investigator recommended to not sustain the allegation. The investigator noted that there were difficulties in contacting the witness. Supervisor Riggins confirmed that this was one of the backlog cases that had been waiting on final determination due to the fact that excessive force cases do not expire. Leslie Parker Blyther confirmed with Supervisor Riggins that there were around 15-20 of these cases. Leslie Parker Blyther asked whether these complainants were notified that their complaints were being heard. Supervisor Riggins stated that there was not a form letter, and the investigator noted that she kept in contact with her complainants in an effort to notify them. Amy Cruice suggested a letter to complainants explaining to them how to best preserve evidence. Leslie Parker initially did not sustain due to lack of substantiating information, and Bridal Pearson agreed. Blair Thompson noted that she sustained because the officer admitted to grabbing the complainant, which the officer described as a tactical procedure and the

complainant described as choking. Mel Currie sustained because he felt the extent of the cavity search was excessive and inappropriate, and he felt that the officer's statement confirmed the use of abusive language. Mel Currie noted that he felt that the arrest was unwarranted and noted that there was a minor in the car. Leslie Parker Blyther noted that she would change her vote and yield to her colleagues, and noted that she felt that cases should not be left for such long periods, and that there was a need for additional investigative staff.

PD039-14 14-0315 EF Sustained

Fred Jackson sustained against the officer who used the taser because he felt that it was excessive. Bridal Pearson and Mel Currie agreed. Leslie Parker Blyther noted that other officers were involved and that "hog-tying" was not a recommended process for restraining a complainant. Fred Jackson noted that the main issue was the fact that the complainant was drive stunned and then shot with the taser prongs. Board members unanimously sustained. Amy Cruice noted that she would like to see what facts were substantiated by investigators included in the complaint summaries. Leslie Parker Blyther agreed and Supervisor Riggins stated that it could be possible when more resources were available to the Board.

PD016-15 15-0623 EF Sustained

Mel Currie clarified that the owner of a home could not be threatened with arrest if they refused to consent to a search and noted that it was a major problem. It was noted that two of the seven indicted officers were involved. Blair Thompson sustained because those officers were involved, and Mel Currie agreed for the same reason, and because of the nature of the arrest. All Board members agreed and unanimously sustained.

PD055-15 15-0378 EF Sustained

Mel Currie noted that he felt strongly that if officers fail to loosen handcuffs that are too tight, it constituted an act of excessive force. He noted that these facts were not disputed in the case. Blair Thompson felt that there was no reason to grab and handcuff the complainant and that their treatment of people in this area reflected a negative attitude, and that they did not mention conclusive evidence that she was using CDS. Mel Currie noted that she was not required to carry an ID. Blair Thompson noted that she was charged with failure to obey and disorderly conduct, and that she did not even get a court date, and that she was a local volunteer in the area. Leslie Parker Blyther was concerned that the complainant was not properly secured in the transport wagon. Board members unanimously sustained.

PD118-16 16-0359 EF FA FI AL Sustained-Recommend Termination

Mel Currie noted that the protective order was for the complainant's wife's home, and not the complainant's home, and that neither officer read or correctly executed the protective order. Bridal Pearson noted that the complainant was in his own home. Mel Currie felt that the officers could have made different choices to deescalate the situation and chose not to, and ultimately violated the complainant's rights by

incorrectly enforcing the protective order. Bridal Pearson noted that there was no probable cause if the protective order did not apply to the complainant's home and the complainant was arrested for being in his own home. Bridal Pearson noted that the other officer did not agree with what occurred. Amy Cruice clarified that all parties involved were white, and that the incident took place in a middle class/working class neighborhood in the Southern District. Board members unanimously sustained. Blair Thompson, Leslie Parker Blyther and Bridal Pearson recommended termination because the officer acted contrary to a legal document, the officer had other options that he did not exercise, and the home should be the most constitutionally protected place. Mel Currie and Fred Jackson voted for 30 days suspension and severe letter of reprimand.

PD122-16 16-0455 HA AL Sustained-Recommend Termination
Blair Thompson stated that she sustained because the officers involved were members of the group of seven that were federally indicted. Board members agreed, unanimously sustained and recommended termination.

PD134-16 16-0503 H Not Sustain
Mel Currie and Fred Jackson did not sustain because they felt the officer had a warrant that was properly obtained. Bridal Pearson noted that he felt that the police action did not fall under the definition of harassment. Board members unanimously voted to sustain.

PD135-16 16-0507 FA Not Sustain
Mel Currie did not sustain because he felt the complainant had a chance to return the phone initially and refused and locked herself in, holding the property hostage, which ultimately resulted in her arrest. Fred Jackson noted that she admitted to taking the phone, giving the officer justification to arrest. Board members unanimously voted to not sustain. Leslie Parker Blyther noted that although the officers had cause to arrest, she felt that they could have exercised other options, and felt that their actions were poor community relations.

VIII. Consent Calendar

Supervisor Riggins advised that the Consent Calendar contained a number of administrative closures. Mel Currie motioned to approve administrative closure of cases on the consent calendar, Bridal Pearson seconded, and all were in favor.

IX. Director's Report

Director Carter announced that the Annual Civil Rights Breakfast would be held the following Monday September 25th and encouraged all Board members to attend.

Director Carter went on to state that she attended the NACOLE conference along with Supervisor Riggins and other investigators. She noted that the conference was successful, and that she had met heads of other agencies that could be used as a potential model for the Board's future goals. She stated that the Board was at a

critical stage for reform due to the Consent Decree and the Civilian Oversight Task Force. She noted that Col. Jackson and Ray Kelley had attended the conference on behalf of the Civilian Oversight Task Force.

She recognized that Andrew Reinel was present from the Civilian Oversight Task Force, and noted that she wanted to meet with members of the COTF as soon as possible as time was of the essence. Mr. Reinel agreed that it was a priority.

Amy Cruice asked which specific agencies were considered the best model agencies for the Board. Director Carter and Supervisor Riggins noted that the Chicago model was set up for success in terms of powers and resources.

Director Carter noted that Chief Hill had contacted her and advised that Internal Affairs had unilaterally made the decision without consulting the Board to change the process for review of cases where there was conflict between Internal Affairs' and the CRB's findings. The review will no longer be in the hands of the Legal Consultant but with the Law Department. Director Carter expressed concerns about the fact the Law Department covers a broad range of areas for the city, and that there could be potential for conflict and bias, making them problematic as a neutral third party. Supervisor Riggins had asked who specifically in the Law Department would be reviewing the cases, and had not received a definitive answer. Director Carter noted that she felt it was problematic that the Board was not included in that discussion, and that Board members should advocate for a voice in that decision. Director Carter noted that in a previous proposed statute that was rejected, the Board's decision was the primary one, and that the Board should continue to push for that. Director Carter noted that staff would express these thoughts in a letter and keep the Board informed.

Director Carter noted that one of the complainants whose case was sustained had been in an article in the Afro and expressed their feeling that they had finally received some measure of justice from the Board.

Director Carter also noted that there was a question of jurisdiction over a case involving a Baltimore Police officer regarding events that had taken place in Anne Arundel County. Director Carter noted that Supervisor Riggins had pushed back on BPD's assertion that the complaint was not within the Board's jurisdiction, as the involved officer was a BPD officer, and the statute did not specify that the officer had to be on duty.

Director Carter when on to note that the previous request to designate investigator to have been denied by BPD, and that it was problematic that investigators had to depend on the discretion of IAD. Chair Pearson was concerned that IAD was controlling the quality of information that investigators can receive. Board members felt that this was unacceptable.

Director Carter noted that after the Board had already accepted the Unified Complaint Form, Internal Affairs stated that they had additional changes. Board members were concerned that Internal Affairs wanted to make additional changes after they had approved the form, and expressed concern again about BPD's actions. Director Carter noted that she believed the best option for changing this relationship would be working together with the Civilian Oversight Task Force through the Consent Decree. Mr. Reinel noted that he was observing and would be reporting back to the COTF, and wanted to get all of these issues on the record.

Director Carter noted that the semi-annual report would be issued in the near future. Leslie Parker Blyther noted that a comparative analysis should also be done with other civilian oversight agencies that have adequate resources and powers.

Director Carter noted she was also awaiting the official appointment of four new Board members.

X. Old Business

There was no old business to discuss.

XI. New Business

Board members briefly discussed a location within their districts for the next Civilian Review Board meeting. Bridal Pearson agreed to look into having a meeting at the University of Baltimore for one of the future dates. It was noted that there was also a space that could be potentially be used for the October meeting in the Southwestern District at the Fred B. Leidig Rec Center. Mel Currie noted that he would be inviting the Community Leaders to this meeting. Bridal Pearson noted he would coordinate with Special Assistant Muth on the dates for the meeting at UB.

XII. Public Comment

A member of the public stated that he wanted to learn more about the issue with the law department. He also noted that the Board should do additional research into the finite structures of other civilian review boards in the country, and also noted that in terms of local structures, the Board should focus on fidelity to their statute. He also expressed the importance of evaluation and that evaluation would be helpful for groups outside of Baltimore as well as within the city.

Andrew Reinel from the Civilian Oversight Task Force stated that he was glad to be able to attend a Board meeting and see firsthand the work of the Board, and noted that they were aware of some of the impediments and would report back to the task force. He also stated that the group would be in contact with the office soon to schedule a meeting.

Ms. Hellerath wondered if there was a way to document the additional information in the report and specify which details were confirmed by the investigators to show the

public the additional information that the Board was receiving. She also wanted to know who the best person would be to serve as the independent third party to review these cases. Chair Pearson noted that they had discussed and interdisciplinary team of stakeholders to review the issue, and Director Carter noted that she felt that civilians should be in control of decisions regarding their police department, and the Civilian Review Board's weight should ultimately prevail.

Elizabeth Wallace from Takoma Park noted that she was part of an ACLU working group that was working towards getting their own Civilian Review Board for the area, and stated that she would bring back a report to her Takoma Park group and County Council. She also stated she would like to reach out to the Board for additional information.

XIII. Adjournment

Mel Currie motioned to adjourn, Blair Thompson seconded, and all were in favor.

Respectfully submitted,

Jill Muth