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KISHA A. BROWN, DIRECTOR OF BALTIMORE'S OFFICE OF CIVIL RIGHTS AND WAGE ENFORCEMENT, AT HER OFFICE

POLICE MISCONDUCT INVESTIGATIONS

The Civilian Review Board ups its game

BY KAREN HOUPPERT

BALTIMORE RESIDENTS WHO WANT TO FILE A MISCONDUCT or brutality complaint against a police officer typically report to the police themselves—and most people think this is their only option.

It's not. Kisha Brown, who directs Baltimore's Office of Civil Rights & Wage Enforcement, oversees the city's little known Civilian Review Board and she would like to correct this misperception about police complaints. She is new,

in the job just over a year, and would like to make something clear: Hey, we exist—and we'll truly investigate your complaints.

"As we're talking about police reform [in the city], if you're only talking to police, they can't be the only entity that is part of the process. That's the definition of insanity," she says, talking in a coffee shop near her downtown office. She goes on: "Where are the checks and balances? Where is the independent view?"

Created in 1999, the Civilian Re-

view Board has been considered irrelevant by most (if they even know it exists) and marginalized by city officials who allowed it to limp along with a single investigator for years. But Brown says she determined to change all that and is speaking out, guns blazing.

"We are the only independent agency authorized to investigate police for misconduct, excessive force, false arrest, false imprisonment, and harassment and abusive language," she says. "I'm looking at engaging the community about

what civilian oversight is, what it should look like and how it should be a part of the work of police accountability." And while her agency may have been created as a pro forma response to resident's complaints in the '90s with few actual resources to execute its mission, Brown doesn't intend to play it that way.

The board, which has languished with large vacancies for years, will have eight out of nine members in place by the end of the month, pending City Council approval and

the mayor swearing them in (one civilian representative from each police district). Brown has successfully petitioned Mayor Stephanie Rawlings-Blake for more resources and recently hired two new investigators—with a third in the HR pipeline—a deputy director, and a public information officer to get the word out about filing complaints. The board is having regular, open meetings every third Thursday of the month at 6 p.m. and Brown says the board is aggressively investigating the complaints it receives.

But it's an uphill battle. Here's how it's supposed to work: people can file a complaint at the local police station and/or the Civilian Review Board offices. The police department is supposed to share copies of each eligible complaint it receives with the Civilian Review Board within 48 hours and vice versa. Each entity independently investigates and forwards the conclusions—sustained, unsustained, exonerated, requiring further investigation—to the police commissioner.

Then the commissioner makes a call to, say, fire or discipline the officer, and the officer has a chance to appeal the decision via the trial board.

The trial board, by the way, has been in the news lately regarding the police accountability bill that the state legislature passed in April. The bill doesn't exactly require, but pushes for civilians to be appointed to police trial review boards across the state. But as Commissioner Kevin Davis said in an interview that ran in City Paper last month, the Fraternal Order of Police, the police union, has a say through collective bargaining in whether civilians serve on the board and, as with jury selection in the courts, has the opportunity to strike a few members of the board hearing a case.

But the process doesn't always work as intended, Brown says. "With folks not knowing we exist, they inherently go to police," says Brown. "I'm working closely with the police commissioner but it's definitely a concern for us that complaints aren't being forwarded to us, the civilians authorized to review these complaints. You don't know what you don't know."

She questions the numbers of complaints that the police department is forwarding to her office. "In any given year the Civilian Review Board has a high of about 100 complaints ranging to a low of 51 [in 2014]," she says. "There's no way in one year we think only 51 people complained about excessive force or harassment."

So far this year, the Civilian Review Board has had 42 complaints forwarded. But the police department so far has had 75 eligible complaints filed for excessive force, discourtesy, false arrest, or false imprisonment, according to its own numbers.

In the first five months of 2015, the Civilian Review Board had only 23 complaints forwarded while the police department reports receiving 125 eligible complaints.

Brown says the police department doesn't always share the complaints within the required 48 hours, as the law demands. "The most egregious example I've seen has been 14 months after the person filed," she says, noting that complaints expire after one year so there is no way to act on a 14-month-old complaint. (An exception exists for excessive

force complaints, which have no clock.) Such time lags also make investigations much more difficult. Security tapes get erased and witnesses' memories fade.

In an emailed statement, police department spokesman T.J. Smith explained that the CRB forms have to be notarized by the person filing the complaint. "Unfortunately, complainants are often reluctant to complete the form," he writes. "This causes a delay in the process of notification to CRB." Police investigators have to track people down "to get a more formalized statement," he writes. "This process can be immediate or can take weeks or months, depending on the ability to contact the

MONEY IS STILL TIGHT AND DISTRIBUTION SKEWED. THE POLICE INTERNAL AFFAIRS BUDGET FOR 2015 WAS CLOSE TO \$6 MILLION WHILE THE CIVILIAN REVIEW BOARD HAD ONLY \$149,000. "WHEN YOU PUT THOSE NUMBERS UP NEXT TO EACH OTHER THEY SPEAK VOLUMES ABOUT THE VALUE WE PLACE ON THE CIVILIAN REVIEW BOARD AND POLICE ACCOUNTABILITY," SAYS BROWN. "NO OTHER CIVILIAN REVIEW BOARD IN THE COUNTRY OPERATED ON SUCH A SKELETON, AND YOU WONDER WHY WE'VE GOT WHAT WE'VE GOT."

complainant and the complainant's willingness to complete the form. This often causes a delay longer than 48 hours in CRB getting the information." Still, he writes, "Investigators have been given specific mandates about the importance of the [completion] of the CRB form in a timely manner," and "[d]iscipline will be administered to those investigators who don't act in accordance with our directive."

Brown says that the laws surrounding the filing of complaints need tweaking. Since most complaints need to be notarized, they can't be filed online like in major cities such as New York. "It's a huge impediment for some people," she says. Not only do people typically have to trek to the police station to fill out the form, they then have to leave and track down a notary, pay a notary, and return the form. If they don't have a driver's license or an accepted ID, like say, young people, the elderly, the homeless, and some immigrants, a notary can't give the OK. It's also increasingly difficult to find notaries as the practice is falling out of use among businesses and government entities that move toward more online efficiencies. (And while places like banks tend to still have notaries on staff, few will notarize forms unless you are an account holder.) Brown says she has made sure her staffers are certified notaries so those walking through her doors have one less hurdle when filing a complaint.

Money is still tight and distribution skewed. The police internal affairs budget for 2015 was

close to \$6 million while the Civilian Review Board had only \$149,000, according to the city's budget. "When you put those numbers up next to each other they speak volumes about the value we place on the Civilian Review Board and police accountability," says Brown. "No other Civilian Review Board in the country operated on such a skeleton, and you wonder why we've got what we've got."

Typically, the complaints are about police harassment, says Keisha Allen, who has served on the board for three years and is currently the chair. "You have a guy or a girl who walking down the street and a police car approaches and the officers jump out and say,

'Show us some I.D.,' and the person feels like they're being targeted. 'What are you doing? I know you're up to something,' the officer says and the person is just walking down the street."

Allen describes another common scenario that comes before the board: a person who files a complaint because he or she was stopped for something like a taillight being out. "In the county, they may just get a warning to get the light fixed," she says, going on to describe a scene where police then say they smell weed and ask to search the car. "Often the [complainant] will say they know they have a right to say no but they worry, 'It could be very bad for you to refuse' and so just find it easier to let the officer conduct the search. But they feel harassed and intimidated."

The complainants run the gamut, Allen says. "One could be a woman in her 70s complaining about the language an officer is using, so it's not just the guy in saggy pants who feels harassed and complains to the review board." The board also hears complaints from more than city police and has jurisdiction over the school and housing police, the sheriff and watershed police, and Morgan State University and Baltimore City Community College police.

Once the complaint is investigated and the board makes a ruling, it gets forwarded to the police commissioner and that is the last the board hears. There is no formal mechanism for letting the board know whether the

commissioner acted on its recommendation. State employment law precludes publicly sharing information on personnel sanctions, Allen says. (In fact, the board talks in a kind of code during its own public meetings, referring to people by case numbers.)

Already though, the police union is fighting back. In March, the Fraternal Order of Police filed a lawsuit alleging that it is a violation of officers' rights to share documents like the Internal Affairs Division casebooks, documents, and other records with the Civilian Review Board. The suit, filed on behalf of Detective Kimberly Starr, asks that the CRB "be prohibited from investigating in any manner" police officers and that the police department "be prohibited from aiding the Civilian Review Board, in any manner, in investigating any FOP Member or Officer." The details on why Starr is being investigated are not disclosed in the suit.

"As frustrating as [the lawsuit] is, it's also a compliment," says Brown. "This board had been here 15 years and it's never said a peep, now all of a sudden, they don't like the fact that we're investigating. It reinforces how crucial it is for the community to know what's going on."

This summer, the agency is getting three law clerks and Brown says she already has a to-do list for them. She will assign them tasks, like collecting data on the numbers of complaints filed with the police department to make sure her department is receiving all the copies of complaints it is entitled to. She will also have them look for patterns related to police policy, she says, explaining that they may look at police Taser policy and implementation or investigate how many people in Baltimore are being charged with disorderly conduct; is it on par with other municipalities or are people being charged because they are considered unruly or belligerent when they are asking to speak with a supervisor?

"I take very seriously my role as public servant in the work that I'm here to do," says Brown. "I tell my staff all the time that when people come to our office they feel like they've been wronged, been screwed by somebody, and our job is to investigate." The staff is still small, Brown says, but her investigators have done "a tremendous job" thus far. "They are doing hard work, digging, going places, going to MapQuest and seeing what gas station is nearby and getting the [station's] security camera footage, all these elements that paint a picture of what happened so that people can make an educated decision about what happened."

The Civilian Review Board can't control what decision the police commissioner or ultimately the trial board makes regarding complaints, but it can make sure the complaint is thoroughly investigated and that the process is transparent. "If you don't have those checks and balances on the front end, you never get to that end point," she says. "I honor the work that police do. I think [police] internal affairs works hard, but I encourage people to file a complaint with me."

Why?

She insists her "vision is different" from that of her predecessors. "This is a civilian oversight agency that acts as the checks and balances that the people of Baltimore have been asking for—and deserve."