

C I V I L I A N R E V I E W B O A R D
PUBLIC SESSION MINUTES
November 9, 2017

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

Also present were:

Jesmond Riggins, CRB Supervisor
Evangula Brown, CRB Investigator
Shaun Clark, CRB Investigator
Amy Cruice, ACLU
Officer Anthony Stokes, Baltimore City School Police

Members of the public and community members were also present.

I. Welcome and Introduction of New Board Members

Chair Pearson welcomed everyone and called the meeting to order at 6:39 PM. He welcomed new Board Members Ebony Harvin (Southern District), Marcus Nole (Eastern District), George Buntin (Western District), and Betty Robinson (Northeastern District).

II. Discussion on Administrative Procedures for Disciplinary Recommendations

Chair Pearson noted that the Board members had been struggling with making disciplinary recommendations, and that they had had an issue with the LEOBR preventing them from seeing the officers' full personnel files that would indicate whether there were any previous occurrences of misconduct, which is important given that the severity of the recommendation is relevant to the number occurrences. Chair Pearson noted that this has been a consistent problem, as well as the fact that deciding on a finding was becoming time consuming in instances where Board members were unable to agree on a finding.

Chair Pearson noted that this was one of many issues that the Board was hoping to address. Chair Pearson noted that staff had the institutional memory and that new Board members were working their way through these new processes collaboratively.

Amy Cruice introduced herself as a non-voting member representing the ACLU, and described her role in the Board meetings and her background. She noted that there was a lawsuit in which the FOP had sued the CRB for sharing internal records, and that the ACLU had filed an amicus curiae brief. She noted that not allowing these records to be released to the CRB undermines the purpose of the Board. She noted that with regards to

the lawsuit, the judge had dismissed the case. She wanted to note that the Law Department had considered this question, but she did not want to take that as the final answer and urged the Board to continue to push for access to the officers' full disciplinary matrix. She also noted that she had had an intern put together a list of all disciplinary options and presented them to the Board. She noted that they had attempted to make a list of training that the Board could recommend, but the list was very long and complicated. She questioned whether Chief Hill could provide a shorter list.

Chair Pearson thanked Ms. Cruice for the information, and noted that the Board would not be accepting this position as the final answer, and noted that it was detailed as a legislative change in the Preliminary Report that staff had presented to the Community Oversight Task Force. He noted that for the time being, the Board wanted to develop a system while those legislative possibilities were being explored.

Supervisor Riggins clarified that the Board was receiving casebooks that included limited personnel records, however those records do not include the full disciplinary history, and also noted that the Board was not privy to the final discipline that the officer received.

Mel Currie noted that he felt that the City and Department was decreasing the transparency with regards to the ways that these policies were being written. Supervisor Riggins stated that he felt civilian oversight was often overlooked and that the CRB was not present at the table when these policies were decided. Mr. Currie and Chair Pearson agreed that the issue was the lack of transparency and accountability.

Mr. Buntin clarified with Ms. Cruice that the reason and timing for the FOP lawsuit. He questioned why the lawsuit had occurred after so many years. Supervisor Riggins noted that the new Director that had been appointed at the time, former Director Kisha Brown, was aggressive, which prompted the FOP to respond with the lawsuit. Ms. Cruice noted that there had also been a fight over the last few years to seal off anything that the police deemed a personnel record, including citizen complaints, and that the initial attempt was to seal off records even more. Mr. Buntin questioned whether that had set a precedent that should be used to get the additional information needed. Supervisor Riggins noted that LEOBR was structurally set up to prevent this specific information from being released. Ms. Cruice asked whether the CRB could file a lawsuit and Board members were not sure.

Fred Jackson noted that the police department did not trust the Board with the entirety of the records that would allow them to make a competent decision. He felt that the police department was resistant to change. He noted that he felt that the department would need to adapt to the Civilian Review Board and needed information to accurately apply their decisions. He noted that the Board needed to be empowered to make positive change. He noted that the Board wanted progressive discipline, and needed the information.

Mel Currie noted that if the Board kept track of what they had seen, they could have insight into which officers were repeat offenders, and felt that they needed to start

building that capability. Special Assistant Muth noted that repeat offenders were tracked via the semi-annual reports, and Chair Pearson noted that a long term database needed to be kept. Mel Currie agreed and noted that the Board needed to do more in the cases of repeat offenders to track them over a longer time period. Fred Jackson asked if the number of sustained cases could be added to the letters to the Commissioner as part of the rationale for the Board's decision and disciplinary recommendation, and Special Assistant Muth noted that it could. Ms. Cruice suggested that the Board add a disclaimer to their letters noting that they had come to recommend a particular finding with no prior knowledge but would have imposed harsher punishment if they were aware of any additional sustained allegations.

Chair Pearson noted that this was a good starting place and members needed to discuss solution oriented thinking. He asked for suggestions on solutions. He noted that the current limitations could be temporary. He also noted that the Board could write op-eds and make themselves visual and outspoken in the community on these issues in order to spread public awareness. He noted that various Board members had had media interviews the prior week, and could continue to amplify these issues through the media. Mel Currie noted that he had spoken to a reporter who he thought could be useful in communicating these issues to the public. He felt that the Board could issue a series of reports to publicize the issues that they were having. Betty Robinson asked how knowledgeable the community is about the CRB, and noted that the report Mel Currie mentioned could be useful to the community. Chair Pearson suggested that all Board members could communicate with their communities and the press. Ebony Harvin noted that the Board members could take responsibility for communicating with their community members in their districts. Mel Currie noted that he felt meetings in the community helped, and Chair Pearson asked new Board members to identify locations in their community where they could hold meetings.

Mr. Nole questioned what the historical relationship was between the CRB and law enforcement, and how that relationship could be improved, expressing a need for positive change in police-community relations. Chair Pearson noted that a BPD representative regularly attended the meetings and sat at the table and provided information in response to Board members' questions.

Ms. Cruice stated that she felt it would be helpful to make note when there was an issue outside of the individual cases, such as policy recommendations or communications, and designate subcommittees. Chair Pearson agreed, and noted that he wanted to focus on solutions.

Chair Pearson called attention to the rough draft of the recommendation model that a citizen had provided. He noted that the matrix could be confusing and was based on progressive disciplinary action, which the Board did not have the proper information to enact. Chair Pearson noted that he felt the draft was helpful because it designated specific discipline for specific allegations. Mel Currie noted that he did not feel compelled to use the matrix and used his judgment. He felt that it was difficult to give an assessment of

recommending 7 days of suspension versus 8 days of suspension, and calibrating the differences between the different sets of recommendations. He felt that a formulaic approach was the best one.

Fred Jackson asked Ms. Cruice if she felt that the main roadblock was an issue of lack of police trust in the Board. She stated it was partly lack of trust, and partly protection of the information. She stated that Board members should not feel bound to the matrix, since the Civilian Review Board represented the perspective of the civilian, and should make decisions based on their feelings and the feelings of the public. Fred Jackson expressed that he wished to approach these recommendations from a variety of perspectives, including potential for de-escalation or other factors.

Chair Pearson felt that the Board needed a set model to operate from. Fred Jackson stated that he had spoken to Chief Hill, who said that it didn't matter what he found, as his decision could still be reversed by command, so the Board should not feel bound to the matrix. Chair Pearson noted that the police department matrix was very confusing and convoluted, and agreed that they did not have to be bound to this model, but rather should develop their own.

Mel Currie and Amy Cruice advocated for an averaging model. She noted that the issue was that occasionally an average was not possible and suggested assigning different actions a numerical value which could ultimately be averaged out.

Mr. Buntin suggested that the Board recommend termination for every single case, given that they do not have access to the necessary records to make an informed decision. He noted that the police department would not cooperate, and so when the Board sustained, they should recommend termination across the board and make these recommendations public, highlighting the police department's refusal to follow recommendations or release the necessary information. Chair Pearson asked him to read some cases to gain perspective before forming an opinion. Mel Currie made the case that it was equally effective to publish all disciplinary recommendations within the range that were commensurate within the level of offense, noting that sometimes termination was not called for. Amy Cruice noted that she would argue that sometimes Board members may receive video or other compelling evidence that prove the truth of the officer's statements, and that he could vote for termination at every case, however with the improvement of data systems and body of knowledge, the Board had consistently been thoughtful, careful and fair through their own systems, even when the police department was not. She wanted to point out the fact that the Board had done everything to be reasonable and fair and still was not heeded. Officer Stokes from the School Police noted that recommending termination for every case would only increase pushback with regards to receiving the officers' files. Fred Jackson noted that in order to be trusted by the public and the organizations that the Board worked with, they needed to make measured, thoughtful decisions. Fred Jackson clarified that the Board had sent notification to City Administration in the past as well as the Police Commissioner expressing these concerns. Chair Pearson noted that he wanted to be thoughtful and fair

to each person, both the complainant and the officer. Mr. Buntin advocated for a strong response in response to their longtime refusal to cooperate. Chair Pearson and Mr. Buntin continued to debate the power of sending a message versus making individual disciplinary decisions. Fred Jackson noted that the power began with the public, and noted as an example that the verdict from the Caesar Goodson administrative hearing was not originally scheduled to be released, and the public responded requesting its release. Mel Currie argued that the most important decision was whether the case was sustained or not sustained, and the Board should protect their credibility. Mr. Buntin asked what would happen if IAD sustained the complaint and the CRB did not.

Amy Cruice wanted to suggest that the averaging model presented alongside a second section detailing alternatives would be the most effective, and noted that everyone could state their vote, note why, and it could be averaged at the end. Special Assistant Muth noted that a process that allowed the Board to sustain a case and recommend discipline all at the same time would be ideal. Supervisor Riggins urged the Board to have patience with the process and development, and noted that the Board could start with one model, and then make changes as they gained experience and information.

Mel Currie noted that he felt members should read the cases, each make their vote on the disciplinary recommendations with limited discussion, and then if majority is not reached, average the results, rounding to the next highest integer. He noted that he felt that was the best system to start with.

Ms. Cruice noted that it was possible to make an Excel formula that could calculate the averages in real time during the meeting, and then there could be a note in the minutes if there was a significant number who had a dissenting opinion.

Mr. Nole questioned whether the majority of cases were found to require a loss of leave, and Chair Pearson noted that it depended on the case. He questioned what would happen if he wanted to add a separate training component because he wanted to ensure that the discipline was rehabilitative and was in favor of training and mediation. Supervisor Riggins clarified the mediation process, and Chair Pearson agreed with the value of recommending training. Fred Jackson noted that the suspension and loss of pay was also a significant consequence.

Ms. Harvin questioned whether the officers knew about the CRB. It was noted that some did, and some did not, and with more public attention, more people would know about the Board. Chair Pearson felt that there needed to be more outreach. Amy Cruice noted that information about the Board only was disseminated to officers who had received complaints. She noted that Chief Hill had given insight into the severity of punishments, and that further discussion in meetings with BPD officers would help inform the Board's decisions. Ms. Cruice noted that in her personal opinion, the BPD training was extremely problematic. Mr. Nole asked whether there was something that they could do to improve the training, and Chair Pearson noted that this was part of the

DOJ report. Chair Pearson asked Supervisor Riggins to speak on the consent decree and how it relates to the training and the role of the CRB..

Supervisor Riggins noted that with regards to civilian oversight, the Consent Decree had mandated the creation of the Community Oversight Task Force to make recommendations to make the CRB more effective. He stated that he could send Board members a spreadsheet outlining the parts of the Consent Decree that specifically references matters relevant to the Board, and gave some examples. He noted a specific example regarding the classification of complaints that was codified in the Consent Decree, and otherwise noted that there were some small provisions to guide the work. Special Assistant Muth gave some background on the training that the Board had attended and noted that they had subsequently sent letters to City Administration expressing their concerns about these training.

Mel Currie clarified that the solution to the disciplinary recommendations issue would be presented, motioned and voted on in the next meeting, specifically the averaging solution.

Fred Jackson, noted that he would not be able to attend the next meeting.

Betty Robinson noted that she would not be able to attend the next meeting either, and stated that there would be changes to impact the police department at large and was excited about doing the work of the Board, as her niche was transparency and community engagement.

Ms. Harvin noted she was happy to listen and learn and urged more community engagement.

Supervisor Riggins encouraged Board members to use their collective voices to amplify the need for civilian oversight. Chair Pearson noted that everyone had strengths and needed to pull on them.

Mr. Nole thanked everyone for the opportunity and hoped to communicate with the younger generation to positively change the police's tainted relationship with the youth.

Special Assistant Muth and Chair Pearson clarified the reasoning for the new members not voting in the first meeting, and clarified that they would be provided with the cases to read. Chair Pearson and Mel Currie noted the issue of quorum and Special Assistant Muth clarified that Mr. Jackson could submit email votes prior to the meeting.

III. Public Comments

Hillary Hellerath noted that she appreciated the time the Board was spending on deliberating these issues, and noted the importance of changing the process. She stated that in every sustained decision, the Board can note that they do not have the officer's prior personnel record, and that their decision would be different if they had this

information. She hoped that the note and criticism would be added to each letter and shared with the community. She also urged community service as a recommendation.

Another community member noted that he was coming from Annapolis where there were a lot of systemic issues with the police department, and that often the problematic officers from BPD went on to be hired in Annapolis. He encouraged the Board to continue their process and evaluate what would work and not work because it could help other jurisdictions like his that wanted a CRB. He noted that it would eventually spill over into more cities and municipalities, and would like to see the Board's processes become useful to other places. He would like to arrange a field trip for the Board to meet with people in Annapolis.

IV. Adjournment

There being no further business, the meeting was adjourned.

Respectfully submitted,

Jill Muth