

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

March 15, 2018

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

Also present were:

Charles Byrd, Deputy Director of the Office of Civil Rights
Jesmond Riggins, CRB Supervisor
Evangula Brown, CRB Investigator
Shaun Clark, CRB Investigator
Randy Williams, Caucus of African American Leaders
Amy Cruice, ACLU
Eric Cox, Sheriff's Department
Maureen Johnston, DOJ
Earl Saunders, DOJ
Jillian Aldebron, Howard University

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 6:04. He recognized and introduced non-voting members of the Board and staff. He noted that the meeting was being broadcast via Facebook live.

II. Director's Report

Deputy Director Charles Byrd advised that Director Carter could not be present, and stated that he would be reporting on her behalf.

He noted that he had attended the Community Oversight Task Force meeting on March 7th, during which the members of the COTF had adopted a set of principles. He advised the Board of their upcoming meetings, and advised them that per the COTF's January minutes, they want to resume meeting with CRB in smaller group settings. He noted that staff will facilitate those meetings. He stated that their report would not be due until the end of June, and they will have two Town Hall meetings between April and June in order to get public feedback.

He stated that he and Director Carter had attended a meeting with the City Solicitor and proposed a set of communications protocols in connection with Consent Decree. He stated that subsequent meetings were pending and they were assured that CRB

would have a full seat at the table during the implementation of the Consent Decree. He noted that Judge Bredar wanted to meet with the CRB and hear their perspective.

Deputy Director Byrd also noted that staff had met with BPD and discussed several issues including the Unified Complaint Form. He advised that there were issues with BPD's latest version of the form, specifically that they included a commendation section on the complaint form. He stated that BPD and CRB have reached an impasse, and both forms will be submitted to the Monitor and Judge for review and final decision. He noted that they discussed other issues including transfer of information to investigators. He stated that this had become an ongoing issue. He noted that Chief Hill would be retiring, and that staff were introduced to Deputy Tuggle, who would be their main contact during the transition. He stated that they would continue to press for investigators to get the information that they need. He stated that they had some proposed solutions and would not need to issues subpoenas at this time, but that subpoenas could be a possibility in the near future.

He stated that staff would meet with Commissioner DeSousa on the following Monday, and begin having regular meetings with the Commissioner to advise him of issues and seek solutions.

III. Approval of Minutes from February 15, 2018

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

IV. New Complaints

CRB2018-0009 FA FI

Board members unanimously voted to authorize a CRB investigation.

CRB2018-0012 ?

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

Bridal Pearson noted that he wanted additional information, which is why he voted for a CRB investigation. George Buntin felt that a CRB investigation was warranted based on the nature of the allegations, and the fact that the officer intentionally targeted the complainant to obtain a search warrant.

CRB2018-0015 FA FI AL H

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

CRB2018-0024 FA FI H EF

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

CRB2018-0029 AL

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

CRB2018-0030 AL H

Board members unanimously voted to authorize a CRB investigation.

V. Completed Investigations Noted on Via Email to Avoid Expiration

<u>CRB#</u>	<u>IAD#</u>	<u>Allegations</u>	<u>Findings</u>
CRB2017-0006	17-0023	EF FI H AL	NS
<p>Bridal Pearson clarified that the Board were only voting on findings for the unidentified officers, since they had not addressed them in the previous meeting. Board members voted not to sustain because the officers because it was not clear what the unidentified officers had done that fit the allegations. Leslie Parker Blyther wanted to know why the officers were following the complainant if the man who was a suspect had identified himself as white to the 911 dispatch operator. The investigator clarified that the 911 operators did not convey the race of the complainant to the officers.</p>			
CRB2017-0037	17-0073	EF FA FI H	S
<p>Mel Currie felt Officer L went above and beyond when he forced the complainant's face into the sidewalk. Bridal Pearson noted that the investigation revealed corroborating medical evidence consistent with her face being slammed into the sidewalk. Mel Currie noted that there was a civilian witness who called the police and stated that the officer had used excessive force. Ebony Harvin noted that the body worn camera footage showed the entire interaction except for the force, and found this suspicious. Board members unanimously sustained excessive force for Officer L. The Board members voted to recommend termination because they felt the force used went far above and beyond what was necessary to gain compliance, causing the person to sustain physical and emotional trauma, and warranting the most severe penalty.</p>			
CRB2017-0045	17-0019	H	S
<p>Bridal Pearson stated that he felt that the crime scene was not handled properly. The investigator confirmed that the officer had failed to close off the scene properly, and allowed multiple vehicles to drive through the area where the crime occurred. Board members agreed that this may have resulted in the destruction of evidence, and represented poor management on the part of the officer. Board members discussed the fact that while they believed the officer was negligent, they did not believe the officer's actions fit the definition of harassment. Board members noted that this case was a perfect example of the reason that the scope of the CRB should be expanded and expressed frustration that they were limited to five allegation types. Leslie Parker Blyther noted that the letter sent to the Commissioner should state that Board members were appalled by the officer's</p>			

negligence. George Buntin felt that the Board members should advocate publicly for the case as a reason the Board should have a larger purview, and felt the recommendation letters should be published on the CRB website. Mel Currie noted that the minutes of the meeting would be made public, and additional letters could be sent to the Baltimore Sun and other media outlets. Leslie Parker Blyther stated that they could not sustain harassment, but that they should consider other avenues to address the negligence. Family members of the victim were present, and Bridal Pearson invited them to speak. The victim's father stated that he had seen the video of the events, and 17 or 18 shots were fired while police were across the street. He stated that his son had crawled into the middle of Harford Road and a passerby tried to alert the officers, but they didn't respond. He stated that the officers finally came to the scene, and saw his son get by the car, but the impact of the car was what killed him because they did not respond in time. George Buntin felt that the CRB could not submit a letter stating that the allegations were not sustained. Fred Jackson felt that what had occurred was beyond harassment and something needed to be done to address it. Mel Currie stated that he thought that the Director of the Office of Civil Rights could reclassify allegations in certain cases. Charles Byrd clarified that the Director could amend an allegation classification and that in the new proposed unified complaint form, there were no classification boxes, allowing staff to classify allegations based on the complainant's narrative. He noted that the Board was also looking to expand their jurisdiction in the future. George Buntin stated that the letter should list the allegations as extreme negligence and dereliction of duty and be sent to media outlets, as well as posted on the Civilian Review Board website. He felt that the Board's findings should be made as public as possible. He stated that the case was especially egregious because there was a loss of life that could have been saved. Amy Cruice echoed the idea that the letter should be sent to the public, but felt the Board should sustain harassment at a minimum. Leslie Parker Blyther suggested that the Board asked the State's Attorney to investigate the case, and George Buntin noted that the letter could also be sent to the State's Attorney. **George Buntin motioned to sustain the case as negligence and dereliction of duty and draft a letter to the police department asking that it be investigated, explaining why the CRB's scope needs to be expanded, copying all relevant bodies. Leslie Parker Blyther added that the letter should be amended to include the charge of negligent homicide. Bridal Pearson seconded, and all were in favor.** George Buntin clarified that the Board would not vote on the harassment allegation. He stated that he would assist with drafting the letter, and Leslie Parker Blyther, Marcus Nole, and Bridal Pearson stated that they would help as well. George Buntin specified that the letter should be completed and sent before the next meeting. Leslie Parker Blyther asked whether the officers could be subpoenaed, and Mel Currie clarified that the CRB could not subpoena the accused officer.

CRB2017-0046 17-0311 FA H EF S

Bridal Pearson stated that he sustained because the officer admitted that he had arrested the wrong person, and noted that the body worn camera footage showed the other officer mocking the complainant. Board members were also concerned about the number of complaints that officer M had received. **Board members voted to sustain false arrest for Officer B and recommend termination. Board members voted to sustain harassment and excessive force against Officer M and recommend termination.** The investigator noted that after the report was handed in, she received the hospital report confirming that the complainant had gone to the hospital for their injuries. Mel Currie questioned whether the injury was confirmed to have occurred during that period. He noted that the complainant had a prior injury. Ebony Harvin noted that the officer in this case has been involved in several excessive force cases before. Leslie Parker Blyther noted that these uses of force only happen in this community, and the Board should send a strong message that this was unacceptable. She felt that the Board should send a letter to the Monitor, DOJ, and Police Commissioner regarding repeat offenders. Mel Currie stated that he was not ready to make a disciplinary recommendation, and needed additional time.

VI. Completed Investigations

<u>CRB#</u>	<u>IAD#</u>	<u>Allegations</u>	<u>Finding</u>
PD041-15	15J-0018	EF	S

Bridal Pearson noted that Board members had previously voted to subpoena the witness officers in this case, and since then had received their sworn courtroom testimony, and felt that the information presented in that testimony was sufficient to make a decision. **Bridal Pearson motioned to vote on a finding without pursuing subpoenas. George Buntin seconded and all were in favor.** Mel Currie stated that when an updated file was sent to the drive, staff should specify which parts of the file were new. Betty Robinson submitted her written vote and reasoning which was read by the Special Assistant. She sustained the allegation for all officers because the crime lab determined that the gun was never fired, and the officers' guns account for all of the bullets fired on the scene. She noted that there was only one exit and entrance to the garage, and the officers had agreed to go in and strike although there were no bullets being fired, and they had the option to wait the complainant out. She felt that the officers were not being truthful about their knowledge of whether gun was there or being fired, and that they would have had to have consulted with each other regarding their testimony. Marcus Nole noted that there were significant discrepancies between their IAD testimonies and court testimonies. Charles Byrd stated that the investigator noted that there appeared to be significant credibility issues regarding the officers, who said that they never saw the gun in cross examination. Mel Currie stated that this was the worst case the Board had reviewed with regards to inconsistencies. Mel Currie stated that a second gun was recovered which was never mentioned. He

stated that the accounts were inconsistent as to whether the victim had a gun. He stated that he did not believe the victim had a gun. The investigator clarified that the EMT was a credible consistent witness and said that he did not have the gun. He stated that he did not see a gun, and he should have seen it given where it was found. Mel Currie stated that the woman who ran out of the garage stated that the victim had a gun, and that he would have liked to have seen the transcript from the EMT. George Buntin stated that the officers were wrong to fire 40 shots into the garage regardless of whether the victim had a gun. Marcus Nole noted that the officers claimed that the victim said they should have killed him, but that this claim was impossible because his jaw was fractured and he was unable to speak. Ebony Harvin stated that the female officer's story was also inconsistent. She felt that for the officers to enter and start shooting without any attempts at de-escalation was wrong. Marcus Nole stated that he was distraught to see that the IAD report found that the officers were in policy. Mel Currie sustained because he questioned whether the complainant had a gun, and he felt that the officers should not have approached the situation the way they did. **Board members unanimously voted to sustain the allegations against all officers. They recommended termination for officers E and S and recommended 30 days suspension and a severe letter of reprimand for officers F and L.** Leslie Parker Blyther noted that having a gun in your possession as a suspect does not dictate that the officers should use force if there is an opportunity to deescalate the situation.

Ebony Harvin asked whether Board members would be trained on body worn cameras, and asked some questions about their functions. She noted that she would like the Board to receive training regarding the body worn camera program. Supervisor Riggins stated that the Consent Decree requires a new regime of training for officers, and that he would like Board members to be included in these trainings. Charles Byrd clarified that this case occurred before the body worn camera program existed.

CRB2017-0053

17-0168

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Ebony Harvin noted that this officer was involved in several cases, and felt that the repeated complaints needed to be addressed. Mel Currie felt that the Board should address the officer's repeated complaints outside of this case and write a separate letter. Board members were concerned that the investigator was not able to get in contact with the complainant. **Board members unanimously voted not to sustain due to lack of evidence.**

CRB2017-0073

17-0134

EF

NS

Mel Currie did not sustain because the body worn camera footage did not support the complainant's allegations, and the complainant did not seek medical attention. Ebony Harvin wanted to know when the camera was turned on. Marcus Nole felt that it was odd that this officer received so many repeated complaints. Bridal Pearson stated that there was not sufficient evidence to sustain. George Buntin

was disturbed by the fact that officers can choose when to turn the camera on and off, and can manipulate the camera to omit certain footage. Bridal Pearson noted that the force couldn't have happened based on the timeline the complainant provided, and the body worn camera footage covered the time when the force was alleged to have occurred, and did not show force being used. Leslie Parker Blyther noted that she wanted to express reservations about the number of complaints the officer had received. Mel Currie noted that the Board members should compile notes about repeat offenders and write a letter based on those notes. Amy Cruice suggested that if the Board members voted not to sustain, they could send a letter to everyone who filed complaints against that officer expressing their concern over the number of complaints he had received. Bridal Pearson stated that he felt that they should address these issues on a case by case basis. He stated that he wanted to be careful about making decisions based solely on patterns without a supporting evidentiary base. Fred Jackson noted that the Board has had these concerns before, and needed to review some cases based on the repeat allegations. He stated that there was an inherent problem in BPD structures and systems. He stated that he voted not to sustain, but with an additional letter of concern. George Buntin stated that in many cases the Board did not have the evidence they needed, and the decisions had to be made simply on officers' and complainants' accounts. He stated that in court, prior behavior is taken into consideration. He felt that video evidence was inconclusive, and noted that the officer can turn the camera on whenever he wants. He felt the Board should take this into consideration. He stated that the police automatically believe officers when there is no physical evidence, and the Board only had precedence to go on in this case. He noted that the officer had been involved in a case before with similar allegations, and expressed frustration that the Board had to make decisions without the full record. The Special Assistant clarified that the Board wanted to receive information about repeat offenses when deliberating discipline, and not when deciding on a finding. **A majority of Board members voted not to sustain the allegation.**

CRB2017-0085

17-0263

FA FI

NS

Mel Currie stated that in this case the dispatcher got confused, and was processing two different VIN numbers at once. He stated that she mistakenly labeled the complainants vehicle as a car of interest, and the officer handcuffed the driver due to the false information, and eventually released her. He stated that this was dispatcher's mistake and not the officer's misconduct. Marcus Nole stated that he felt conflicted but viewed the situation from a perspective of guilt versus responsibility and felt that the dispatcher was ultimately at fault. Leslie Parker Blyther felt that the officer should have taken responsibility for remedying the situation. Deputy Director Byrd stated that false arrest and false imprisonment are defined by an arrest without probable cause, and noted that officers are allowed to rely on credible information relayed to them via dispatch. Marcus Nole stated that the complainant had identification to corroborate her account, and the officer did not review the complainant's information. Fred Jackson noted that officers have

to be able to depend on the information they receive from the dispatcher. Ebony Harvin felt that the officer should have made her wait in the car and confirmed the information before handcuffing her. Leslie Parker Blyther felt that this could be the basis for excessive force, and questioned whether the events would have been the same if the complainant was a white female. She felt that the officer neglected her responsibility to promote community policing. Mel Currie clarified that the vehicle was identified as stolen once the officer had already sent the VIN number to dispatch, and the handcuffs were only applied after dispatch had confirmed that the car was stolen. He stated that a moment later, dispatch identified their mistake and the officer removed the handcuffs. Fred Jackson noted that the officer did not take action until they received the information from dispatch. Eric Cox stated that officers have to rely on information from dispatch, and must make an arrest if they are given information that a crime has occurred. Amy Cruice clarified that the dispatch officer was a civilian. **A majority of Board members voted not to sustain the allegation.**

CRB2017-0094

17-0300

AL

Bridal Pearson clarified that the allegation of abusive language was not limited to insulting a person, but also included any language that could be considered demeaning humiliating and insulting. He was disturbed by the fact that the complainant had gone to the police to seek help, and the officer had mocked him in response. Mel Curie added that the officer was dismissive and made inappropriate comments. Mel Currie stated that although what the complainant claimed the officer had said was not captured on video, the officer's general attitude and comments that were captured on audio made him feel that the trajectory of their conversation alone corroborated the complainant's claims and fulfilled the preponderance of evidence. **Board members unanimously sustained the allegation.** George Buntin voted for termination due to the fact that IAD would not share prior disciplinary records. Mel Currie stated that he would only recommend discipline based on what could be verified. **By majority vote, board members recommended a middle letter of reprimand and 17 days' suspension.**

VII. Public Comment

A member of the public asked how Board members decide what cases to review, and Supervisor Riggins explained the process.

Sgt. Anthony Russell asked how the Board is formed, and whether they received continuous scenario based training. He felt that Board members could get a broader perspective through scenario based training, and stated his belief that it should be mandatory. Leslie Parker Blyther clarified that the Board members had received training, but not specifically scenario based training. Sgt. Russell asked whether there was a representative from the State's Attorney on the Board. Chair Pearson clarified that there was not a representative of the State's Attorney on the Board and listed the

non-voting members. He stated that the Board wanted to have much representation as possible and that they were pursuing different types of trainings. Amy Cruice stated that the prior Board had attended de-escalation and use of force trainings, but found them to be problematic. Chair Pearson stated that the Board had been catching up on a backlog of issues, but hoped to continue to expand and improve their process.

Randy Williams advised the Board that they had the option of sending their list of repeat offenders to the State's Attorney and filing an official complaint. He stated that a representative of the State's Attorney should be present at the meeting to hear these issues in real time. He noted that they would be able to advocate for the CRB. He stated that they were trying to begin the process of instituting a civilian review board for Baltimore County. Leslie Parker Blyther stated that he should speak to Director Carter and Supervisor Riggins, as the Board's ultimate goal was to expand beyond their present scope, and model other successful civilian review boards around the country. George Buntin asked if the Board could reach out to the State's Attorney and ask them to send a representative to the CRB meetings. Special Assistant Muth noted that the State's Attorney had a Police Integrity Unit and that staff would extend the invitation. Mr. Williams noted that Lt. Col. Melvin Russell was the head of the Community Collaboration Division, and that they should have a representative attending CRB meetings as well.

Sgt. Russell asked whether the CRB was aware of an early intervention system for repeat offenders. Bridal Pearson noted that this system might exist, but the Board's biggest problem was that they were restricted from it, as well as from sending subpoenas to subject officers, by the Law Enforcement Officer's Bill of Rights. He stated that Board members could track information about repeat offenders in a piecemeal way, but do not have the information they need to make the best decisions. Ebony Harvin noted that sometimes Chief Hill would provide additional information in the meetings. Fred Jackson stated that BPD knew who these officers were, but refused to share the information with CRB. George Buntin stated that he recommended termination unilaterally because of BPD's refusal to cooperate. Sgt. Russell asked whether any of the cases went to trial boards, and Board members stated that they would not know. Sgt. Russell advised that the Board could order the transcripts from the trial boards. Fred Jackson stated that BPD was likely reluctant to fire officers due to the shortage, and so many would not be recommended for termination.

Bridal Pearson noted that there was a larger scope to the issue, and stated that the DOJ report found little or no functional accountability structures from an administrative standpoint. Leslie Parker Blyther asked how she could learn about upcoming trial boards, and Mr. Williams stated that it would be posted on the BPD website, and that Board members could learn about what recommendation was made through the transcripts. Amy Cruice suggested that it could be a project for an intern. Bridal Pearson stated that tracking information from the trial boards would be a good idea, and that the Board should keep expanding its knowledge. Supervisor Riggins

noted that the Police Commissioner makes the final decision in the end regardless of the outcome of the trial board, and the CRB does not receive that information.

VIII. Old Business

Bridal Pearson stated that he would like Board members to be active in going out into their communities to provide information. Ebony Harvin advised that she had scheduled a community meeting to present information about the CRB to the Cherry Hill community on the third Wednesday of April. George Buntin stated that he would reach out to the Frederick Douglass Community School to plan an event for the Western District. A member of the public stated that interaction with the community was also an important source of information, as community members would let the Board know about problematic officers and other issues.

Leslie Parker Blyther wanted to discuss the Unified Complaint Form and noted that she did not see where the complainant could identify their complaint. Supervisor Riggins clarified that allowing staff to identify the allegations based on the narrative prevented BPD from withholding forms to which CRB was entitled based on the allegations. This would also allow staff to incorporate all data into quarterly reports. Leslie Parker Blyther felt that the complainant should be part of this process, and Supervisor Riggins noted that the complainant would receive a letter detailing how their complaint had been classified, and could work through any issues with staff. George Buntin agreed, and noted that he hoped the issue could be resolved quickly. Charles Byrd noted that they had reached an impasse in deciding between the two forms, and so they had sent both to the Monitor and judge to for a final decision. He stated he believed it would be resolved soon. George Buntin clarified with Supervisor Riggins that investigative staff along with the supervisor would review the form and make the final decision.

Jillian Aldebron from Howard University noted that she had done a research project looking at civilian review boards across the country, prioritizing those in which there was a DOJ intervention, and stated she had never seen a form where the complainant was asked to choose their allegations. She felt that the complainant was unlikely to know the policy, and therefore would be unable to decide which allegation would be appropriate. Leslie Parker Blyther asked her to send a statement summarizing this to Supervisor Riggins so that the CRB would have evidentiary support for their position. Charles Byrd noted that the only major in dispute was the fact that the form was a combined complaint/commendation form.

Leslie Parker Blyther stated that she felt future version of the form should be electronic and submitted online with an esignature through an automatic system. More importantly, when you hit submit, should be submitted immediately to staff.

IX. New Business

Amy Cruice spoke about a new bill, SB1179 that could begin to address the issues with the LEOBR. She noted that specifically, the bill allows the commissioner to impose discipline regardless of the findings of the hearing board. She noted that the bill was heard in the Judicial Proceedings Committee on the previous Tuesday, and would be voted on at a later date, and encouraged Board members to submit testimony.

Amy Cruice also stated that staff should flag cases in the minutes that are good examples of barriers to effective civilian oversight, and cases that would be good advocacy points.

Supervisors Riggins noted that Board members would start receiving cases requiring email votes, due to the fact that the statute requires that a decision be rendered 30 days after receiving the IAD casebooks. Mel Currie stated that he disliked voting via email, as the discussions that Board members had were often integral to their decisions. Deputy Director Byrd suggested conference calls or more frequent meetings.

Eric Cox noted that he would be retiring. He stated that he felt the CRB's greatest obstacle would be to get the final disposition, and that unless they had officers' disciplinary history, it would be difficult to give a justifiable conclusion for a recommendation.

X. Adjournment

There being no further business, the meeting was adjourned.

Respectfully submitted,

Jill Muth