



## CITIZENS' POLICE REVIEW BOARD

**Meeting of Thursday, February 9, 2017 - 6:15 P.M.**

City Council Chamber, Third Floor

**ONE FRANK H. OGAWA PLAZA, OAKLAND, CALIFORNIA**

**(510) 238-3159**

	<b>Attachments</b>
I. Call to Order	
II. Roll Call	
III. Minutes – January 26, 2017	1
IV. Open Forum	(10 minutes)
V. Director's Report	(5 minutes) 2
A. Announcements	
B. Pending Cases as of February 3, 2017	
VI. CPRB Special Committee Reports	(10 minutes)
A. Transparency and Legislation	
1. General Updates	(10 minutes)
2. Next Meeting	
VII. Sign-up Sheet for Examiners for Hearings	(5 minutes) 3
VIII. Closed Session: New Business	(60 minutes)
A. Pursuant to Ordinance No. 12454 C.M.S., section 6, paragraph G subsection 10a, the Board may utilize different investigatory and complaint resolution processes, including but not limited to voluntary conciliation, voluntary mediation, three member panels, full Board hearing, <b>and staff recommendation to the City Manager for disposition without hearing.</b>	
1. Direct Recommendation to the City Administrator	
Case No. 16-0142, Caitlin Miller	
a. Executive Director's Comment	
b. Staff Report and Confidential Discipline Recommendation Memorandum	

Complainant alleged that OPD officers used excessive force by hitting the suspect with the patrol car and deploying the Electronic Control Weapon (taser).

**Rationale for direct recommendation to the City Administrator** – Due to the 3304 date for this complaint being February 16, 2017 (one week after the regularly scheduled CPRB meeting for February 9, 2017) it was necessary to make a direct recommendation to the City Administrator to comply with the 3304 deadline and provide the City Administrator with sufficient time to make a final determination.

The CPRB staff recommends administrative closure of this complaint with a finding of **Not Sustained** to allegation #1 as the investigation failed to disclose a preponderance of the evidence to either prove or disprove the allegation made in the complaint.

The CPRB staff recommends administrative closure of this complaint with a finding of **Exonerated** to allegation #2 as the investigation has determined that the act or acts which provided the basis for the complaint occurred; however, the investigation revealed that the acts were justified, lawful and proper.

The CPRB staff recommends administrative closure of this complaint with a finding of **Sustained** to allegation #3 as the investigation disclosed a preponderance of the evidence to prove the allegation made in the complaint.

B. Cases Proposed for Administrative Closure / Pursuant to Ordinance No. 12454 C.M.S. section 6, paragraph G subsection 9, hearing would not facilitate the fact-finding process and that no good cause is shown for further action.

2. Based on the findings of the investigation

Case No. 16-0606, Ben McBride

- a. Complainant's Comment
- b. Staff Report
- c. Discussion
- d. Action

Complainant alleged that in 2013 or 2014 he received information from “pimps” that OPD officers were having sex with prostitutes. The Complainant had initially provided this information to an OPD supervisor, but no further action resulted from this conversation.

**Rationale for administrative closure** –The CPRB staff recommends administrative closure of this complaint with a finding of **No Finding** as the investigator was unable to pursue the allegations due to the Complainant’s refusal to cooperate with the investigation.

The CPRB staff recommends administrative closure of this complaint on the basis a hearing would not facilitate the fact-finding process and that no good cause has been shown for further action.

Case No. 16-0662, Ben McBride

- a. Complainant’s Comment
- b. Staff Report
- c. Discussion
- d. Action

Complainant relayed allegations that he said he heard in November 2014 from an unnamed male who was involved with “moving” guns and drugs. The Complainant alleged that an OPD supervisor forced the unnamed male to pay a percentage of his profits for protection from the OPD supervisor. Complainant refused to provide the name of the male to OPD Internal Affairs. The Complainant stated he reached out to the unnamed male for permission to disclose his information but had not yet received a response.

**Rationale for administrative closure** –The CPRB staff recommends administrative closure of this complaint with a finding of **No Finding** to the allegations, as the investigator was unable to pursue the allegations due to the Complainant’s refusal to cooperate with the investigation.

The CPRB staff recommends administrative closure of this complaint on the basis a hearing would not facilitate the fact-finding process and that no good cause has been shown for further action.

Case No. 16-0663, Ben McBride

- a. Complainant’s Comment
- b. Staff Report
- c. Discussion
- d. Action

Complainant alleged that in 2013 or 2014 he received information from “pimps” that OPD officers were having sex with prostitutes. The Complainant also stated

an OPD officer was “the dirtiest cop in Oakland” because the OPD officer would take money from suspected gang members Complainant refused to provide the name or contact information of the suspected gang member to OPD Internal Affairs. The Complainant stated he reached out to the suspected gang member for permission to disclose his information but had not yet received a response.

The Complainant also received information from a community organizer serving sexually exploited minors, who stated unnamed OPD officers were having “interactions” with the minors.

**Rationale for administrative closure** –The CPRB staff recommends administrative closure of this complaint with a finding of **No Finding** to the allegations, as the investigator was unable to pursue the allegations due to the Complainant’s refusal to cooperate with the investigation.

The CPRB staff recommends administrative closure of this complaint on the basis a hearing would not facilitate the fact-finding process and that no good cause has been shown for further action.

Case No. 16-0309, Delvon D. Wash

- a. Complainant’s Comment
- b. Staff Report
- c. Discussion
- d. Action

Complainant alleged that OPD officers used excessive force on him when they slammed him to the ground; that one of them kicked him in the stomach; that an OPD officer threw him into the back seat of a police car; and that an OPD officer tried to spit on him.

**Rationale for administrative closure** –The CPRB staff recommends administrative closure of this complaint with a finding of **Unfounded** to the allegations as the investigation disclosed sufficient evidence to determine that the conduct did not occur.

The CPRB staff recommends administrative closure of this complaint on the basis a hearing would not facilitate the fact-finding process and that no good cause has been shown for further action.

Case No. 16-0158, Lavert Maxie

- a. Complainant's Comment
- b. Staff Report
- c. Discussion
- d. Action

Complainant alleged that responding OPD officers stole his gun.

**Rationale for administrative closure** –The CPRB staff recommends administrative closure of this complaint with a finding of **Unfounded** to the allegations as the investigation disclosed sufficient evidence to determine that the conduct did not occur.

The CPRB staff recommends administrative closure of this complaint on the basis a hearing would not facilitate the fact-finding process and that no good cause has been shown for further action.

Case No. 16-0147, Virginia Sorgi

- a. Complainant's Comment
- b. Staff Report
- c. Discussion
- d. Action

Complainant alleged that an OPD officer told her spouse she could not leave the scene of a vehicle accident until her car was towed. Complainant also alleged that an OPD officer was racially biased when he told her "Some people just want a free [ambulance] ride to the hospital."

**Rationale for administrative closure** –The CPRB staff recommends administrative closure of this complaint with a finding of **Exonerated** to allegation #1 as the investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper.

The CPRB staff recommends administrative closure of this complaint with a finding of **Unfounded** to allegation #2 as the investigation disclosed sufficient evidence to determine that the conduct did not occur.

The CPRB staff recommends administrative closure of this complaint with a finding of **Not Sustained** to allegation #3 as the investigation failed to disclose a preponderance of the evidence to either prove or disprove the allegation made in the complaint.

The CPRB staff recommends administrative closure of this complaint on the basis a hearing would not facilitate the fact-finding process and that no good cause has been shown for further action.

C. Pending Cases for Administrative Hearing Discussion

D. Response from City Administrator

a. Case #16-0015

b. Case #16-0018

- IX. Open Session  
Disclosure of non-confidential closed session matters (5 minutes)
- X. Adjournment

**NOTE:** Meetings of the Citizens' Police Review Board are accessible. Individuals requesting alternate format materials and/or auxiliary aids and services must do so no later than five working days before the scheduled meeting date, otherwise it may not be possible to arrange a specific accommodation. Such requests should be addressed to the Citizens' Police Review Board, 250 Frank H. Ogawa Plaza, 6th Floor, Suite 6302, Oakland, CA 94612, or by telephone by calling (510) 238-3159 ; TTY/TDD (238-2007).

**Because some persons are sensitive to certain chemicals, persons attending this meeting are requested to refrain from wearing scented products.**

### **CPRB MISSION STATEMENT**

The Citizens' Police Review Board strives to provide the community with a public forum to voice its concerns on policy matters and individual cases alleging police misconduct, through a mechanism of independent, impartial, fair, and transparent civilian oversight.