

**CITIZENS' POLICE REVIEW BOARD
MEETING OF THURSDAY, July 27, 2017 – 6:15 P.M.
Council Chamber – Third Floor**

I. CALL TO ORDER BY CHAIR BROWN at 6:15 P.M.

II. ROLL CALL AND ATTENDANCE

Present: Chair Chris Brown
Vice-Chair Charlette Green
Commissioner Sharon Ball
Commissioner Brian Bingham
Commissioner Colette McPherson
Commissioner Howard Tevelson
Commissioner Jose Dorado (Late Arrival: 6:20 p.m.)

Meredith Brown, Board Counsel

Executive Director Anthony Finnell
CPRB Policy Analyst Juanito Rus
Karen Tom, Complaint Investigator
Nikki Greer, Complaint Investigator
Emma Dill, Complaint Investigator

Excused: Commissioner Mauricio Wilson
Joan Saupe, Complaint Investigator
Andrew Lee, Complaint Investigator

III. MINUTES

A. July 13, 2017

Chair Brown asked members to review Attachment 1 in the Agenda Meeting Packet.

A motion was made by Commissioner Ball to accept the July 13, 2017 Minutes with any corrections based on discussion. Commissioner Tevelson seconded. Commissioner Dill mentioned that there is a correction to the Minutes as follows: Page 1, change her attendance to reflect Excused and not Present. The motion passed. The Board voted unanimously.

IV. OPEN FORUM

Assata Olugbala came to speak and gave comments. She spent time looking at the new Police Commission. She read the new Ordinance this week and wanted to share some concerns. Within the language, it references that the Police Commission would deal with Class 1 issues. She had to go through a lot to find that there is a difference between Class 1 and Class 2. In your language, she had never seen that. In your language, you deal with all submitted issues to some degree. She thought that was a little different and she doesn't know what that means.

Ms. Olugbala gave comments on other issues. Firing of the Chief: The new Commission will be able to fire the Chief with just cause but the Mayor can fire the Chief and it doesn't have to be with just cause. The training of the IG is mandatory before he or she can assume the position. It doesn't list that the requirement must be in place for the Commissioners – that the training must be completed before they take their duties. [She said that she left her written notes at home this evening and is leaving out some concerns]. The hiring/firing of the Investigators will be in the hands of the Administrator so the Commission has nothing to say who will be appointed as Investigators. The language says that the training of Commissioners and other people involves implicit bias training and doesn't mention anything about racial profiling or explicit bias. There are two types of biases – implicit (unconscious awareness of what you do) and explicit (you are very much aware of what you do). For some reason, we continue as an enforcement procedure to dialogue only with implicit bias. She finds it very offensive that we do not deal with explicit bias as well. On the Application, it says that people who apply for the position of Commissioner - a part of that is that you must explain your education and your job and she does not know why, is that mandatory and in what way do they weigh in on that, it is not explained, does it mean that you must have a job or not to be on the Commission.

Rashidah Grinage came to speak and gave comments. She was disappointed that the only member that appeared at the Norm Stamper event that was held last night at the Lakeshore Avenue Baptist Church was Jose Dorado. People were impressed. Mr. Stamper did an interview this morning with KPFA; it was taped and she will let members know when it will be aired. She urged members to purchase his book.

V. DIRECTOR'S REPORT

(Executive Director Anthony Finnell)

A. Announcements

Director Finnell asked members to review Attachment 2 in the Agenda Meeting Packet. He reviewed CPRB AGO 3.3 (Non-Confidential Investigative Summary Procedure). He said that we were planning to do this on August 1, 2017 but he learned yesterday that we have had a legal challenge from the Police Union so the City Attorney's office is now reviewing that challenge. He will keep members informed.

Director Finnell reported that we are in the process of interviewing candidates for the Intake Technician position. Juanito Rus and he interviewed two candidates yesterday and will interview two more candidates tomorrow. We will then

determine if we need to interview additional candidates, etc.
The hiring process for Investigators II and III will begin in the next two weeks.
We have been in the process of securing Summer Interns for CPRB.
We got one intern (Kalekidan Gebrekidan) and she will work 100 hours.
Ms. Gebrekidan is attending tonight's Board meeting. Members welcomed her.

Director Finnell announced that there will not be CPRB meetings during August (Recess); the next meeting will be on September 28 (he and most of the CPRB staff will be attending the NACOLE Annual Conference September 10 through September 14 in Spokane, Washington).

Rashidah Grinage gave comments. She asked Director Finnell if he is at liberty to disclose the nature of the challenge/concern. He said that he does not have that information since he was contacted yesterday. Ms. Grinage asked about the form. She has not seen the Investigative Report template for many years since Copley. She used to get them regularly, the entire report unredacted before Copley. One section of it had facts that were not in dispute and facts that were in dispute. It also had citations of the specific Manual of Rules that were implicated in the allegations. Will those be elements within this template under one of these categories. Have you considered those? Director Finnell said that yes, we have and some of those elements will be included within the allegations section of the template. Ms. Grinage inquired if this is the template that you intend to present to the Commission once it is established when you are seeking their approval to administratively close? Is this the template that you intend to utilize in that context?

Board Counsel Brown stated to Ms. Grinage that there are certain clarifications that can happen in Open Forum under the Brown Act, certain clarifications that can be given. If there is specific information that you need, it is probably best to give Director Finnell a call and ask the questions that you have so that we won't be cutting to the edge of the Brown Act. If there is going to be a presentation where you can ask questions, that is one thing, but if there is going to be a back and forth where you are asking from Open Forum questions - Ms. Grinage then interrupted and said that this is not Open Forum, it is an agendized item. Board Counsel Brown said that the comments that are made from the floor are part of the open comment process regardless of where on the agenda you ask them to be placed, so it is still open comment under the Brown Act and for that reason I am suggesting that you give Director Finnell a call and he will answer your questions or send him an email. Ms. Grinage said that is not what currently happens in City Council but she will take Ms. Brown's advice.

Assata Olugbala gave comments. I think in the spirit of how we are trying to build a healthy relationship and trust in the community that when you have community members who come before this body with legitimate concerns and there is the flexibility for you to respond, I think that it would help to respond. If you can't speak to something because of legal issues, she can understand that. We have a long way to go in terms of trying to get to the level with a true relationship with true resolve issues as well with the Police Commission, the officers, etc. I am just making a friendly suggestion. She thanked members for the effort for putting something like this in place, it is the beginning of transparency, the beginning of having full understanding by the complainant of the process, the beginning of

expanding accountability – and this has so much of making it so that confidentiality at every level is in place. I can't begin to feel what could be revealed that officers would feel that something that is not in their best interests. Can you answer this question – Is this something that can be mediated or something that can bring the whole process to an end in your way of thinking, Director. Director Finnell mentioned that the first step will be to mediate and work through the issue. Hopefully, we will be able to get a document. Ms. Olugbala said that now of what we have just leaves a lot of unanswered questions. The language is so generic that you don't have full understanding of what happened in this case. This just opens the door a little broader to truth and justice. She hopes it can be worked out.

B. Pending Cases as of July 27, 2017

Director Finnell reported that as of July 27, 2017, there are 56 CPRB cases: 45 are active cases, 8 cases pending closure, 3 tolled cases, and zero cases scheduled for an Evidentiary Hearing. Since the last report was given on July 13, 2017, three new cases have been added. Commissioner Tevelson inquired as to how case number 16-0757 (3304 date 8/21/17) and case number 16-0777 (3304 date 8/26/17) will be handled. Director Finnell stated that a direct recommendation to the City Administrator will be made and a report will be made to the Board.

VI. CPRB SPECIAL COMMITTEE REPORT

A. Transparency and Legislation

1. General Updates

Chair Brown asked Commissioner Ball to give a report. She reported that we are in the process of putting together a report of the work the subcommittee has done to date. We will present the report at the September 28 Board meeting.

Commissioner Ball reported that we started with three objectives. One was to track the law that was going through the State legislature at the time that was being championed by Senator Leno (it failed) so we did not do much tracking. The second objective was with the improvement of the process of the communication with the City Administrator around our findings and evidentiary hearings. That has progressed; there has been a lot of work in that area. The final objective was with respect to improving the visibility of information to the public – massive changes to the website. We have put together templates and ideas for those improvements in working with Policy Analyst Rus, Director Finnell, and the IT staff – and even with the raised priority the City Administrator gave us, we are still waiting because of the problems with the management information system and the City redoing the entire website with City information being consistent.

2. Next Meeting

The Subcommittee will meet a few more times between now and September 28. [Dates to be determined].

VII. ACTION – CPRB 2017 SEMI-ANNUAL REPORT DRAFT

A. Presentation (Policy Analyst Juanito Rus)

Policy Analyst Rus asked members to review Attachment 3 in the Agenda Meeting Packet. The Report covers the first six months of 2017.

Policy Analyst Rus highlighted several items. He reported that after January 2017, the complaints have been down every month this year over last year. In the first six months, we closed 40 complaints and we are running slightly behind the pace of last year but well ahead of the previous years. This year there have been several complex cases. Two other items of note for the interest of the audience here today – Following with what we did this year with our Annual Report, we put in additional information that we did not do in previous years; with respect to Allegation Categories and MOR Violations and what our sustained rate is on each of those (Pages 8, 9). He pointed out the number of sustained violations that we had in the first six months that were on supervisors and commanding officers (Page 8). As a historical note, we are pushing things up the chain of command higher than what has been the historical norm that was in the previous years.

Policy Analyst Rus further reported that not included here – we report demographic information where it is reported by the complainants (it is a requirement that they self-report their demographic information) and we are not getting a high response rate. We must figure out how to strategize going to the complainants and have them give us demographic information otherwise we do not have guidance where these complaints are coming from on an aggregate demographic type basis. We had no 3304 violations in the first six months of the year.

Policy Analyst Rus said that as mentioned in the Director's Report, we had initially planned to release some of those Non-Confidential Summary Reports of Investigations for the first six months but that is on hold. If the Board approves the Report, this information (Appendix C, starting on Page 16) will not be included in the Semi-Annual Report.

B. Discussion

Commissioner Ball said that to her knowledge in her tenure here, this is the first Semi-Annual Report she has seen; they have always been Annual. Policy Analyst Rus said that there have always been Semi-Annual Reports and the Enabling Ordinance requires CPRB to submit these Semi-Annual Reports to the Public Safety Committee. Director Finnell said that you both are correct. He reported that last year in preparation for the Semi-Annual Report was when we discovered that the database and the information contained in that database was not comparable to the other information prior, and it was faulty information. He spoke with the Public Safety Chair and the City Administrator and it was determined that it was best that

we did an Annual Report once we clean up that information and get proper data. That is why we did not have this Report last year.

Board Counsel Brown referenced Evidentiary Hearings - Page 13; Paragraph 3 where it mentions case #16-0669 and an alternate method (Three-Member Panel) was designated to conduct the Board Hearing. She said that it might be helpful for the public that we note that the Three-Member Panel is included in the Ordinance under Section 10A.

C. Public Comment

Assata Olugbala came to speak and gave comments as follows:

Ms. Olugbala mentioned that previous reports have indicated complainants by race/gender and she does not see that in this report. Does Page 2 reflect one of two things: the reduction that we see reflect better policing or does it reflect a failure to use the CPRB system because the numbers of cases have gone down? Will you be doing a summation of the why cases have gone down?

Ms. Olugbala referenced Page 3 which identifies location and is there a reason why the location is prevalent to the flat lands and not to the hills; any analysis of why that exists. Is it necessary to look at that as a potential disparate or lack of equity in some form or another?

Ms. Olugbala referenced Page 4. It notes 214 complaints and 143 were declined; the rationale for that is that it declined for several reasons and these include ... Will there be a little more detail since there is a lot of cases declined?

Ms. Olugbala referenced Page 5. She doesn't get the numbers being collaborately put together when it relates to use of force and racial profiling. Two separate distinct categories that have a need to be weighed on separately and not thrown in and bundled together.

Ms. Olugbala referenced Page 6. The hearings and the numbers and eventually evidentiary hearings, etc. The process – You always learn something when you get information. She just read this today. She did not know that when you go through the process of investigation, you do a pre-investigation to some degree. You determine that we do not need to go any more in the investigative process. She requested that this be explained a little more to the public.

Ms. Olugbala referenced Page 10. When you have a pie chart, the percentages should add up to 100; she said the chart is confusing. Policy Analyst Rus then explained the pie chart numbers: the chart has both the number of cases and the percentages. **Commissioner Bingham recommended further clarification of the two numbers – since members of the public are confused and she is not the only person.**

D. Action

Chair Brown stated that the Agenda Item is proposed for Action this evening. **A motion was made by Commissioner Tevelson to accept the Semi-Annual Report as amended. Commissioner Dorado seconded. The motion passed. The Board voted unanimously.**

VIII. ACTION – POLICY ANALYST REPORT

A. Presentation (Policy Analyst Juanito Rus)

Policy Analyst Rus reported that Investigator Dill set up the meeting between policy staff at OPD and CPRB that is referenced in the report. It was a very productive meeting. They have agreed to give all CPRB Investigators, Director Finnell, and himself their own access to their power DMS so that CPRB obtains updates on policy changes as they occur. Previously, we had one for the office that we shared; now we each will have our own. The meeting opened a productive relationship with Tim Burch, the policy person in the Chief's Office at OPD.

Commissioner Ball commended everyone for getting that meeting. She inquired as part of your discussion, will this be an ongoing dialogue - will they let you know when the revised policy will be out. Policy Analyst Rus stated that it will be an ongoing/productive relationship and as having access to the power DMS, we will get the pushes as soon as new data comes out.

Commissioner Bingham said that he recalls seeing a document that listed the policies that we were working on, policies accepted – what was that? Director Finnell stated that was created when Director Knight was here, Marti Paschal expounded on it, and Policy Analyst Rus took it and incorporated it into the Annual Report (it is now an ongoing document that we track policy recommendations and their status). Policy Analyst Rus stated that in terms of the one that was in the Annual Report this last year, part of the thinking was that broad thing that was all of them from 2000 to 2016, was that it was going to be the summary of policy reports that the CPRB as a Board going forward and it will be up to the Commission and the policy making apparatus will be substantially different; it is something that we cannot answer at this point. That said, we are tracking them now.

Policy Analyst Rus reviewed the first item: Vehicular Pursuit of Suspects Fleeing on Foot or Bicycle. He discussed this with Tim Burch. It is on OPD's radar and this is an issue that we have these types of cases falling in the cracks between foot pursuit and vehicle pursuit. He does not have a report to what will be done. It opens the door to open discussion.

Policy analyst Rus stated that the second major sets of policies pertain to PDRDs. There is a collection of them that have come from members in the past six months, parts are input from previous years. Mr. Burch said they are currently updating their PDRD policies. He provided he and Investigator Dill with their Draft policies that

they are working on. – it is not public information so he cannot provide this to members. They know that several recommendations/feedbacks provided to him show that they came from the CPRB. They will finalize drafts soon.

B. Discussion

Investigator Greer inquired about the discussions regarding the Pursuit Policy with the bikes, etc. Did you have discussions regarding officers using their vehicles to head off people? Policy Analyst Rus said that is in the packet and those are part of the policies that we did have a serious discussion about and they got that, took it seriously (legal jeopardy and to head future mistakes off).

C. Public Comment

Assata Olugbala came to speak and gave comments. She remembers a discussion about the body cameras at a meeting and a crucial unsolved issue was data storage. The CPRB investigative process can go a year. Did you get in a discussion regarding this matter – how long data is stored, access for what period is available?

Policy Analyst Rus stated that data storage is an issue from a cost perspective because in video there are large files and it costs a lot. OPD does not foresee that as an issue going forward. They are going to also push for a more expansive use of PDRDs.

Ms. Olugbala said that another issue is out of jurisdiction violations – CPRB had no ability to deal with it; holding officers accountable with misconduct issues from another jurisdiction. Policy Analyst Rus reported that this was a previous policy recommendation that this Board forwarded to them. As for a few of these, they got stuck in limbo last year when the Chiefs left and there was no one left to get them on the OPD side. They are now going back to these previous policies. They do have it and it is in the mix. Commissioner Tevelson said that the one with the jurisdiction he was under the impression that the City Administrator stopped that – it never went forward; that was the one he brought up. Director Finnell reported that it was stopped/not killed at that time but it is part of the policy packet that has been forwarded to the Chief and the Administration. Commissioner Tevelson thanked everyone for their work on the policies.

Ms. Olugbala mentioned that many times you drop cases because of service related issues. Can a policy be developed where police commissions can look at service related issues; there seems to be a many of them. What are service related issues?

D. Action

Topics were discussed; suggestions and feedback are listed above.

IX. CLOSED SESSION: NEW BUSINESS (Convened at 7:11 p.m.)

- A. 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.

1. Based on the findings of the investigation

Case No. 15-0618, OPD Officer Involved Shooting
(Antonio Clements – Decedent)

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

This investigation was initiated by the CPRB Executive Director upon notification of an officer involved shooting (OIS) from OPD IAD.

Case No. 16-0816, Denisha Johnson

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

Complainant alleges OPD officers failed to prepare a police report to document the crime she reported; a Dispatcher Supervisor failed to accept her complaint; she was upset as she could not locate an officer to write a report when she went to the police station; and it took too long for an officer to respond to take the report. During the course of the investigation, the CPRB investigator identified an additional allegation of failure to activate the PDRDs.

Case No. 16-0887, Gisel Cabanas

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

Complainant alleges OPD officers regularly sleep in their patrol cars while on duty.

B. Pending Cases

Director Finnell reported that as noted earlier, the cases that will meet the 3304 date during recess will be taken directly to the City Administrator; we do not have any cases that would go to a hearing – they will be administratively closed. As of now, we do not have any cases coming to a Hearing within the next couple of months, but that could change.

Vice-Chair Green mentioned that she was looking for the City Administrator's responses to prior cases. Director Finnell stated they were not agendaized; he received those responses yesterday. By the time he returns, he should have responses to all the cases from the City Administrator.

The Board reconvened open session at 7:33 p.m.

X. OPEN SESSION DISCLOSURE OF NON-CONFIDENTIAL CLOSED SESSION MATTERS.

BY MOTION AND VOTE IN OPEN SESSION, BOARD ELECTS EITHER TO DISCLOSE NONCONFIDENTIAL INFORMATION OR TO DISCLOSE CONFIDENTIAL INFORMATION THAT THE MAJORITY DEEM TO BE IN THE PUBLIC INTEREST.

XI. ADJOURNMENT

The Board adjourned at 7:34 p.m.