



CITIZEN POLICE REVIEW BOARD

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Minutes of the CPRB Meeting Held on January 25, 2005 **Council Chambers, 510 City-County Building** **Pittsburgh, PA 15219**

Members Present: Ms. Marsha Hinton, Chair, **Absent:** Mr. Ron Freeman
Mr. John H. Bingle, Jr., Esq, Vice Chair
Mr. Malik G. Bankston
Mr. Richard M. Carrington
Ms. Erin Dalton

Solicitor: Mr. Frederick W. Thieman, Esq.

Vacancies: One (1 – Council nominee)

Staff Present: Ms. Elizabeth C. Pittinger, Exec. Dir. **Excused:** Ms. Phyllis B. Bianculli
Ms. Michelle Gamble
Ms. Rhonda Sears
Ms. Carolyn Gaskin
Mr. Brian Matts

DRAFT

Administrative Matters:

At 6:25 p.m. Ms. Marsha Hinton, Chair, called the meeting to order. She invited public comment, limited to three minutes each, at this time. No public comment was offered.

A motion to accept the meeting minutes, as corrected, for December 7, 2004 was offered by Mr. Bankston, seconded by Ms. Dalton and approved unanimously.

The board briefly discussed scheduling for upcoming public hearings. Mr. Thieman noted that the Rules contain a minimum requirement that a Pre-Hearing Conference (PHC) occur no less than 15 days before the Public Hearing, and that the public receive 10 days advance notice of the date of the Pre-Hearing Conference. In the matters currently being scheduled, Pre-Hearing Conferences were held some time ago. Therefore, as a courtesy, the notice of the Public Hearing should include a reminder to the parties that the PHC was held, and that the file remains open to the Subject Officer(s) and/or Counsel up until the Hearing is convened.

The Chair expressed concern with case dismissals seemingly due to loss of complainants, incarceration, loss of interest, officer separation, and other variables. Ms. Hinton said she would like staff to streamline the process so as to avoid the circumstances known to discourage citizens from pursuing their complaints at the CPRB.

Factors influencing the length of time a case is at the CPRB were discussed. The litigation involving subpoena enforcement at OMI and investigators' ability to acquire Officer statements emerged as the major procedural cause of cases being delayed. That issue has been resolved, though we may still experience delays due to the OMI investigation period of 120 days. OMI tends not to interview the Officer until the end of their investigation. In the CPRB process, the OMI statement may not be available until the CPRB case investigation is already 4 months old. Most of those CPRB cases will have to be suspended until statements are received and evaluated for investigative value. As a practical matter, a CPRB case should be done in 90 - 120 days (*i.e.*:

complaint received, Preliminary conducted & given to Board which could range 30 -60 days depending on when received & when Board meets; if a Full Investigation is authorized add 30 days, if extended, add 30 more days, then it should be going to a hearing or closed) The timing of an OMI investigation will continue to adversely affect the longevity of some CPRB investigations.

Case Review:

Ms. Hinton moved to the case review portion of the meeting. The audience was provided with summaries containing no specific personal identifiers. The Board reviewed investigative reports and acted on each case as noted (votes unanimous among attending members unless otherwise noted). (Actions taken are published here and on the CPRB website: <http://www.city.pittsburgh.pa.us/cprb/>)

CPRB# / Investigator	ALLEGATION	SUMMARY	ACTION
FULL INVESTIGATIONS (4)			
123-04 Gamble ECP	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Towing & Tow Pound Procedures (PBP 41-1)	Cxs. allege that the S.O. acted inappropriately while towing their car.	Authorized a Full Investigation.
207-04 Gamble ECP	Conduct Unbecoming a Member (PBP 16-1, 3.6)	Cx. alleges that the S.O. has filed false charges against her.	Authorized a Full Investigation.
266-04 Gamble ECP	Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges that the S.O. did not obtain a warrant for Witness #1.	Authorized a Full Investigation.
394-04 Gamble ECP	Property of Prisoners & Suspects-General Regulations (PBP 50-2) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that his property was not returned to him after his arrest.	Authorized a Full Investigation.
30-DAY EXTENSION OF FULL INVESTIGATION (5)			
42-04 Matts	Use of Force (PBP 12-6) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Warrantless Searches & Seizures (PBP 45-2)	Cx. alleges that while his vehicle was stopped, he was mistreated by four S.O.s	Authorized a 30-Day Extension.
189-04 Gamble	Use of Force (PBP 12-6)	Cx. alleges that the S.O.s used excessive force during his arrest.	Authorized a 30-Day Extension.
319-04 Matts	Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges that the S.O. has neglected to investigate his complaint.	Authorized a 30-Day Extension.

CPRB# / Investigator	ALLEGATION	SUMMARY	ACTION
351-04 Matts	Use of Force (S.O. #2) (PBP 12-6) Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges that the S.O. used excessive force during his arrest.	Authorized a 30-Day Extension.
374-04 Gamble	Use of Force (PBP 12-6)	Cx. alleges that the S.O.s intentionally hit him with their vehicle.	Authorized a 30-Day Extension.
OTHERS (9)			
<u>10-02-W GAMBLE</u>	Use of Force (PBP 12-6) Warrantless Searches and Seizures (PBP 45-2) Conduct Unbecoming a Member (PBP 16-1, 3.6)	Cx. alleges that the S.O.s used excessive force during his arrest.	Suspension Occurred: 10-22-02 (Awaiting Cx's possible release date).
<u>106-02 GAMBLE</u>	Records/Reports/Files-General Regulation (S.O. #1 & #2) (PBP 62-1) Truthfulness (S.O. #2) (PBP 16-1, 3.19) Conduct Unbecoming a Member (S.O. #2) (PBP 16-1, 3.6)	Cx. alleges that she received a false traffic citation after the S.O.'s vehicle hit the Cx.'s vehicle.	Suspension Occurred: 03-25-03 (S.O. #2, on military duty).
<u>269-03 MATTS</u>	Use of Force (PBP 12-6)	Cx. alleges the S.O. shot and killed the Victim before all non-lethal measures were attempted.	Suspension Occurred: 09-23-03 (Awaiting conclusion of coroner's investigation).
<u>363-03 MATTS</u>	Use of Force (PBP 12-6)	Cx. alleges the S.O.s used excessive force during his arrest.	Suspension Occurred: 02/24/04 (Pending reevaluation of complaint due to the investigator's separation from the agency).
<u>339-03 MATTS</u>	Use of Force (S.O. #1) (PBP 12-6) Conduct Unbecoming a Member (PBP 16-1, 3.6) Records/Reports/Files-General Regulations (S.O. #2, 3, &4) (PBP 62-1) Neglect of Duty (S.O. #1) (PBP 16-1, 3.13)	Cx. alleges that the S.O.s utilized excessive force and also wrote a false report.	Suspension Occurred: 02/24/04 (Pending reevaluation of complaint due to the investigator's separation from the agency).
101-04 Gamble	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. was rude to her while she was trying to file a police report.	Suspension Occurred: 12/7/04 Pending consideration of possible reclassification.

210-04 Matts	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Towing & Tow Pound Procedures (PBP 41-4)	Cx. alleges that the S.O. did not treat him properly and arrested him without cause.	DISMISSED: STATUTE OF LIMITATIONS Suspend: (Pending re-evaluation by the executive director).
228-04 Matts	Towing & Tow Pound Procedures (PBP 41-4) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that his vehicle was wrongfully towed.	Suspended: (Dismiss charges for Towing & Tow Pound Procedures). Pending a possible reclassification of complaint.
<u>245-04 MATTS</u>	Obedience to Orders &/or Laws (PBP 16-1, 3.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. was rude to him and issued an improper citation.	Suspension Occurred: 12/7/04 Pending possible reclassification of complaint. (S.O. #1) (Dismiss all charges as unfounded for: S.O. #2).
DISMISSALS (6)			
UNSUSTAINABLE (2)			
285-04 Gamble	Conduct Unbecoming a Member (PBP 16-1, 3.6) Neglect of Duty (PBP 16-1, 3.13) Truthfulness (PBP 16-1, 3.19)	Cx. alleges the S.O. has been rude to her and is not objective while performing her duties.	Dismissed as Unsustainable.
341-04 Gamble	Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges the S.O. failed to perform his duties.	Dismissed as Unsustainable.
UNFOUNDED (1)			
257-04 Gamble	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges the S.O.s acted inappropriately while he was in the process of moving to another residence.	Dismissed as Unfounded.
WITHDRAWAL (0)			
LACK OF COOPERATION (3)			
290-02 Matts	Use of Force (PBP 12-6) Warrantless Searches and Seizures (PBP 45-2) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that he was pulled over by the S.O.s for unknown reasons, and that they searched him and his vehicle without his permission.	Dismissed due to Lack of Cooperation.
206-03 Gamble	Warrantless Searches & Seizures (PBP 45-2) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O.s were not given permission to search her residence.	Dismissed due to Lack of Cooperation.

360-04 Gamble	Use of Force (PBP 12-6)	Cx. alleges that the S.O. used excessive force during her arrest, even though she notified him of her pregnancy.	Dismissed due to Lack of Cooperation.
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*** ECP = Executive Director reviewed fact-finding summary and authorized a Preliminary Inquiry or concurred with recommendations of dismissal. The Board before this meeting has not seen these cases and you retain final action on these “new” cases.**

Case Discussion:

The cases in the “Others (9)” section are status updates only. Summaries are not provided for these cases until such time as a change in status occurs.

207-04 – Gamble/ECP – questioned by Mr. Bankston and Ms. Hinton – This case is based on a neighbor dispute with much animosity amongst the neighbors. The harassment between the groups stems from a retaining wall that was built by one party. Q: How did the police officer become involved in the case? A: The neighbor reported being harassed by the complainant. The complainant feels her evidence and family statements were not heeded by the Subject Officer. Also, the complainant does not fully understand why she was issued a citation. The complainant feels the officer didn’t do a full investigation and hear her family’s side of the story. She wanted to tell the subject officer what occurred on her side. She was arrested for violating the No Contact Order. She feels she was falsely arrested. Ms. Hinton asked: The complainant is alleging a relationship existed between the Subject Officer and the neighbor. The complainant feels retaliation from the officer because she filed a complaint with the CPRB. Witnesses for both sides support their respective party’s interests. Are there any independent witnesses? The contractor who constructed the wall said the complainant harassed him. There seems to be no independent witness. Mr. Bankston questioned the rationale and recommendation. Q: What do you hope to learn from a full investigation that you don’t already know? Ms. Gamble: to find independent witnesses that can shed light on the case and she will canvass the neighborhood. Ms. Hinton does not believe there is a policy in place to state that the officer has to question all people involved. Mr. Bankston is unclear of the charges against the officer, the rationale, and recommendation, and if the officer actually failed to do something. What is the informal policy in the case of a neighbor dispute? What is the standard procedure in cases like this? A: Neighborhood disputes are referred to mediation coordinated by the Zone Crime Prevention Officer, who happens to be the Subject Officer in this complaint. The complainant refused to engage in mediation. Mr. Bankston and Mr. Bingler expressed concern that the Board should not be drawn into neighborhood disputes nor should the Board serve as an avenue to draw a police officer into such a dispute. Ms. Gamble would like to interview Witness #1 to find out additional evidence she has about the case.

266-04 – Gamble/ECP – questioned by Mr. Carrington – Why are we moving to a full investigation? Review the rationale. None of it relates to the Subject Officer. He needed a medical report to file damages and what charges to file. The complainant never got the medical reports so the officer couldn’t move forward. Is that reason enough for an officer not to pursue a charge? Police were on-scene, details need to be clarified.

394-04 – Gamble/ECP – questioned by Mr. Carrington – This is a case for the complainant’s lawyer. The lawyer should be able to obtain the wallet. There should not be an investigation against an officer for this. Ms. Gamble is awaiting a response from Subject Officer #2. Ms. Hinton stated the case relates to a homicide. If the wallet is evidence in a homicide, normally the detectives will secure as part of their investigation. The case is three years old and the officer has not told Ms. Gamble the status of the wallet. She is waiting to hear from him.

257-04 – Gamble – questioned by Mr. Bingler – He would like to make a record that this is another credibility case. We are deciding against the complainant without actually seeing the complainant or any witnesses. With the words “to confirm” means we are siding against the complainant. Ms. Gamble said there was no one present or no witnesses to confirm that the officer said anything inappropriate to the complainant.

Executive Director’s Report: *(Written report was submitted and is attached)*

- Intake statistics: The actual total for 2004 was lower than we experienced in the past. We finished with 61 sworn complaints, the same number as 2003. Sworn complaints and the % of complaints filed were higher. Attached is summary information on specific allegations and the complainant pool for 2004. The total number of allegations received is 815 contained in 489 complaints. The racial make-up of complainants in 2004: 69% declared themselves as white and 30% declared themselves as black.
- On January 4th, Rev. Carmen D’ Amico informed the CPRB of his withdrawal from consideration for appointment to the Board. This leaves one open Council-designated seat.
- The Executive Director presented the Board with a recommendation to dismiss CPRB # 210-04. A confidential explanatory memo was distributed.

A motion to accept Ms. Pittinger’s recommendation regarding CPRB 210-04 was offered by Mr. Bankston, seconded by Ms. Dalton and approved unanimously.

Next Meeting

The Chair announced Public Hearings will be scheduled at the end of the meeting. The next regular meeting is scheduled for 6:00 p.m., Tuesday, February 22, 2005 in Council Chambers, 510 City County Building, Pittsburgh PA 15219.

The meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Rhonda J. Sears
(As transcribed from audio-taped record of meeting.)

Attachment: Executive Director’s Report
Final Report 2004

MEMORANDUM

To: Ms. Marsha V. Hinton, Chair
Honorable Members of the Board
From: Elizabeth C. Pittinger
Executive Director
Date: January 25, 2005
Re: Executive Director's Report: January 25, 2005

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1) Intake as of: January 25, 2005

Citizen Complaints:	05	Pending Citizen Action:	11
Out of Jurisdiction:	02	Statute of Limitation:	02
Total Intake:	20		

- *Projection for 2005:* CC: 86; PCA: 191; OJ: 35; SL: 35 Total: 347
- Actual Totals for 2004: CC: 61; PCA: 352; OJ: 62; SL: 14 Total: 489
Projection for 2004: CC: 67; PCA: 412; OJ: 62; SL: 17 Total: 555
- (Actual Totals for 2003: CC: 61; PCA: 380; OJ: 66; SL: 20 Total: 527)
- (Actual Totals for 2002: CC: 75; PCA: 330; OJ: 83; SL: 26 Total: 514)
- (Actual Totals for 2001: CC: 77; PCA: 362; OJ: 87; SL: 11; Total: 537)
- (Actual Totals for 2000: CC: 75; PCA: 394; OJ: 92; SL: 30; Total: 590)
- (Actual Totals for 1999: CC: 80; PCA: 383; OJ: 27; SL: 11; Total: 501)

Attached is Summary information on specific allegations and the complainant pool for 2004.

2) Board Appointment

On January 4th, Rev. Carmen D'Amico informed the CPRB of his withdrawal from consideration for appointment to the Board. He was scheduled for a confirmation hearing by City Council on January 5, 2005.

3) Public Hearings

A master list of cases pending public hearings is provided tonight for Members. I respectfully request that panels be appointed for each, and that the Panel Members assign dates to conduct their respective hearings.

Respectfully submitted,

