



CITIZEN POLICE REVIEW BOARD

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Minutes of the CPRB Meeting Held on April 26, 2005 Council Chambers, 510 City-County Building Pittsburgh, PA 15219

Members Present: Ms. Marsha Hinton, Chair, **Excused:** Mr. Ron Freeman
Mr. John H. Bingler, 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. Carolyn Gaskin
Ms. Phyllis B. Bianculli
Ms. Michelle Gamble
Mr. Brian Matts
Ms. Rhonda Sears

DRAFT

Administrative Matters:

At 6:15 p.m. Ms. Marsha Hinton, Chair, called the meeting to order.

A motion to adopt the meeting minutes for March 2005 was offered by Mr. Bingler, seconded by Mr. Carrington and approved unanimously.

Ms. Hinton and the Board submitted a letter to Mr. Freeman regarding his intentions as a Board Member. She plans to call him on Friday, April 29, 2005 to confirm receipt of the letter.

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

- New business for consideration to render a decision to request Case #: 210-04 recommended the Board to dismiss the complaint due to Statue of Limitation. The complainant called and asked if the Board's decision could be reconsidered and he provided additional information. Ms. Pittinger directed him to provide his request in writing to reconsider the original decision.
- Board Member Attendance Report from 1999 to 2004. It is a summary of all the seats with a breakdown of each member's seat and it correlates to the appointment by City Council or Mayor. It provides the members, meetings, and vacancies through 2004. The attendance rate is not adjusted for vacancies. We had City Council nominated incumbent at 59% attendance and Mayoral nominated incumbent at 8.54% attendance.
- Update of information pertaining to scheduled hearings through May 2005. Ms. Pittinger presented a summary the Board issues periodically for the findings and recommendations in the number of hearings held, complaints, charges heard, the officers involved, etc.

- There has been no further action regarding the one Council seat that remains vacant. Father D'Amico for consideration in January 2005. We had an inquiry by City Clerk in February regarding the vacancy. No action has taken place to date. The Board discussed their options at the March meeting to fill the vacancy. The Mayor is the appointee authority for Mr. Freeman's seat. Council would not have received the notice sent by the Board to Mr. Freeman.
- Ms. Pittinger attended the Citizen Police Academy graduation on Thursday, April 21. She plans to meet with the academy staff to partner with the bureau and coordinate the Citizen Police Academy classes starting in the fall 2005. It would involve the contacts, registration, coordinating background checks with O.M.I., and preparing materials. Ms. Pittinger may have an opportunity to speak with the new police recruit class. Our potential role is to improve our relations with the police bureau and provide community outreach to the citizens.
- Public Hearing Matters. Case 282-03 was scheduled to be heard on April 20, 2005. The complainant is illusive and we recommend the Board to dismiss due to lack of cooperation. We have made numerous attempts to locate this person in the year. There is no relative willing to provide information of his whereabouts. There is a current warrant for his arrest.

A motion to withdraw and dismiss Case 282-03 for lack of cooperation was offered by Mr. Bingler, seconded by Mr. Bankston and approved unanimously.

Case 318-03 was scheduled to be heard on April 20, 2005 at 5:00 pm. Due to legitimate issues with the complainant's availability, the case had to be rescheduled. It was scheduled to reconvene the case on May 5. The original panel has been relinquished to Ms. Hinton, Ms. Dalton, and Mr. Carrington. Officers for this particular case were served subpoenas through Mr. Campbell.

Officers represented by Mr. Campbell in an incident or continuation of an incident, he will accept service delivery of subpoenas for those officers and the officers will receive a copy via email of the subpoena and notification of Mr. Campbell's involvement. This should alleviate any problems that may occur in accepting services and ensuring the process will work. For the clients Mr. Campbell doesn't represent, the investigators have to use creative methods to deliver subpoenas to the appropriate officers.

Officer Holland reported to the CPRB that the complaint brought before the Board was investigated and sustained by O.M.I. He was disciplined by Chief McNeilly. You may accept the action of O.M.I. The nature of the complaint was Conduct Unbecoming (General) and Unbecoming Conduct Toward the Public. The complaint has not received notice of the action and has yet to respond to our office. The Board is awaiting written confirmation of disposition from O.M.I. or the Chief. O.M.I. will not report publicly on their findings and they claim not to be aware of the disciplinary action of the Chief.

- Schedule of Pending Hearings:
Case 318-03 – May 5, 5:00 PM – City Council Chambers
Case 205-02 – May 5, 6:15 PM - City Council Chambers

Case 348-03 – May 5, 7:30 PM – City Council Chambers
 Case 282-03 - Dismissed for Lack of Cooperation

- Mr. Thieman informed the Board there is nothing contrary in the Ordinance that the CPRB cannot participate in a partnership with the Citizen Police Academy. Also, the Declaration of Policy states to improve relations between the Police and General Members of the Public. One of the specific duties of the Board states the Board shall have the responsibility informing the public about the Board and its duties and shall develop and administer an ongoing program for the education of the public regarding the provisions of this Chapter.

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/>)

Board Actions

Board Action Date: 4/26/05

Case Review Agenda

<u>CPRB# / Investigator</u>	ALLEGATION	SUMMARY	REASON
<i>Public Hearings (1)</i>			
59-04 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.s acted inappropriately while falsely arresting him.	Authorize a Public Hearing. (Suspend until scheduled court hearing: June 30, 2005).
PRELIMINARY INQUIRY (0)			
FULL INVESTIGATIONS (5)			
199-04 Gamble ECP	Warrantless Searches & Seizures (PBP 45-2) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. did not act appropriately during several incidents involving a neighborhood dispute.	Authorize a Full Investigation. (Dismiss charges of Warrantless Searches & Seizures PBP 45-2).
290-04 Matts ECP	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O. acted inappropriately while attempting to handle an accident scene.	Authorize a Full Investigation.
313-04 Gamble ECP	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Truthfulness (PBP 16-1, 3.19)	Cx. alleges that the off-duty S.O. acted inappropriately during a traffic incident.	Authorize a Full Investigation.

349-04 Gamble ECP	Warrantless Searches & Seizures (PBP 45-2) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O.s failed to immediately call medics for his gunshot wounds.	Authorize a Full Investigation.
381-04 Matts ECP	Conduct Toward the Public (PBP 16-1, 3.7) Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges that the S.O. did not properly handle a situation where he was assaulted.	Authorize a Full Investigation.

<u>CPRB# / Investigator</u>	ALLEGATION	SUMMARY	REASON
30-DAY EXTENSION OF FULL INVESTIGATION (1)			
413-04 Gamble	Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges that the S.O.s failed to intervene while he was being assaulted by Witness #2.	Authorize a 30-day extension.
OTHERS (11)			
<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>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).
<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).
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.

189-04 Gamble	Use of Force (PBP 12-6)	Cx. alleges the S.O.s used excessive force while arresting him.	Suspension Occurred 2/25/05: Pending Complainant's release date.
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.	Suspension Occurred: 1/25/05 (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.	Suspension Occurred: 1/25/05 Pending possible reclassification of complaint.
<u>CPRB# / Investigator</u>	ALLEGATION	SUMMARY	REASON
<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.
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.	Suspension Occurred: 2/25/05 Until S.O. statements can be obtained and evaluated.
DISMISSALS (5)			
UNSUSTAINABLE (1)			
02-05 Matts ECP	Conduct Unbecoming a Member (PBP 16-1, 3.6)	Cx. alleges that the S.O. was rude and discourteous towards him.	Dismiss as Unsustainable.
UNFOUNDED (3)			
437-04 Gamble ECP	Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O.s acted inappropriately towards him during the arrest of Witness #1.	Dismiss as Unfounded.
01-05-T Matts ECP	Conduct Unbecoming a Member (PBP16-1, 3.6)	Cx. alleges that the S.O.s were rude and told him not to come out of his home for the rest of the night.	Dismiss as Unfounded.
55-05 Matts ECP	Towing and Tow Pound (PBP 41-4)	Cx. alleges that the S.O. towed his vehicle without having a proper hearing.	Dismiss as Unfounded.
WITHDRAWAL (0)			
LACK OF COOPERATION (1)			
379-04 Gamble	Use of Force (PBP 12-6) Conduct Toward the Public (PBP 16-1, 3.7) Towing and Tow Pound (PBP 41-1) Warrantless Searches & Seizures (PBP 45-2)	Cx. alleges that the S.O. acted inappropriately after his vehicle broke down.	Dismiss due to Lack of Cooperation.

*** 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 (11)” section are status updates only. Summaries are not provided for these cases until such time as a change in status occurs.

02-05 – Matts – questioned by Mrs. Dalton to Mr. Matts – Does the complainant have several cases? Yes. Questioned by Mr. Bingler to Mr. Matts – Is this another credibility case? Yes. The complainant approached a Police Officer in a diner with questions about a Polygraph. The Police Officers asked the complainant to move away. His demeanor to the staff is disrespectful. Prior CPRB case have proven to unreasonable and unrealistic. Questioned by Mr. Bingler to Mr. Matts – Do you believe the officer did not speak to complainant in a rude and discourteous manner? The complainant probably irritated the officer while at dinner. The complainant has several complaints with similar demands (Case 01-05-T – Matts and Case 55-05 – Matts). Mr. Bingler has a real concern for the language used and the lack of politeness by some Pittsburgh Officers.

437-04 – Gamble/ECP – questioned by Ms. Hinton to Ms. Gamble – Is this the case where the complainant was threatened to be arrested because he was looking at an arrest being handled by undercover officers? Yes. The complainant was involved with the person being arrested. Did the officers ask the complainant if he was on drugs? Yes. The complainant did not know who the officers were and could not pinpoint a time of the incident. There were no witnesses to state what had happened. Mr. Bingler stated it is hard to identify an officer if they tell the person not to look at them. He wishes to change to recommendation from Unfounded to Unsustainable.

A recommendation to dismiss as Unfounded Case 01-05 and Case 55-05 and a recommendation to dismiss as Unsustainable Case 437-04 due to the inability to identify the officers involved. The Board approved unanimously.

379-04 – Gamble/ECP – questioned by Mr. Carrington to Ms. Gamble – Is this the student that is unable to locate? Yes. Ms. Gamble left several messages. He would call late at night and on the weekends with messages that he would schedule an interview. However, no interviews have been schedule to date.

Public Comment:

The Chair opened the meeting for public comment, limited to three minutes each, at this time. Mr. Harry Liller offered public comment to the Board.

Next Meeting:

The next regular meeting is scheduled for 6:00 p.m., Tuesday, May 24, 2005 at Council Chambers, 510 City-County Building, Pittsburgh, PA 15219. The meeting was adjourned at 7:23 p.m.

Respectfully submitted,

Rhonda J. Sears

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

Attachment: Executive Director's Report