



CITIZEN POLICE REVIEW BOARD

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DRAFT
For
Board Review
7/25/06

Minutes of the CPRB Meeting Held on June 27, 2006 Kingsley Community Center, 6435 Frankstown Avenue Pittsburgh, PA 15206

Members Present: Mr. Richard M. Carrington, Vice Chair
Mr. John H. Bingler, Jr., Esq.
Mr. Malik G. Bankston
Ms. Deborah Walker

Excused: Ms. Marsha Hinton, Chair
Ms. Erin Dalton
Dr. Mary Jo Guercio

Absent: NA

Vacancies: None

Solicitor: Mr. Fred Thieman, Esq.

Staff Present: Ms. Elizabeth C. Pittinger, Executive Director
Ms. Phyllis B. Bianculli, Intake Coordinator
Michelle Gamble, Investigator
Ms. Tamara Lefcowitz, Investigator
Ms. Rhonda Sears, Executive Assistant

Excused: NA

Administrative Matters:

- At 6:05 p.m. Mr. Carrington, Vice-Chair, called the meeting to order.
- A motion to adopt the meeting minutes for May 23, 2006 was offered by Mr. Bingler, seconded by Mr. Bankston, and approved unanimously.

Public Comment

The Board adopted an amended agenda to review material and receive public comment related to police pursuits in the City of Pittsburgh prior to the conduction of regular business. Ms. Pittinger provided Board members with a short briefing on police pursuits. Several members of the public voiced concern about the manner in which police pursuits are conducted, their negative impact on neighborhood life and general concerns related to public safety. The role of the Street Response Units (SRU's) was discussed briefly. Mr. Bankston directed Ms. Pittinger to make an inquiry of the Chief regarding the selection process for assignment to the SRU details, any special guidelines or training that SRU's operate under, and the scope of the SRU mission. Pittinger reported that she had already sent a request for that information to the Chief but will follow-up with him in accord with Mr. Bankston's request.

Pursuant to the City Code §622.05(o)(1)&(2) Duties Limitations and Operations of the Review Board, and §622.05(o) of the CPRB Rules & Operating Procedures, the Board entertained a motion to initiate an investigation into two crashes related to pursuits involving Pittsburgh police and to authorize the issuance of a subpoena to the Allegheny Co. Emergency Operations Center to obtain audio-tapes and other material related to those pursuits. The motion was offered by Mr. Bingler, seconded by Mr. Bankston, and approved unanimously by the four members present.

Executive Director's Report:

- No written report was submitted.

- On 5/30/06, a private meeting between a representative of the Anti-Sweatshop Alliance and a police representative was facilitated by Pittinger. The Alliance plans several demonstrations to coincide with Major League Baseball's All-Star game at PNC Park on July 11, 2006. Our effort is to foster a relationship of mutual respect and understanding between the Alliance and the police at the basic planning level.
- On 6/12/06, Dr. John Burkoff, University of Pittsburgh School of Law, and Ms. Pittinger met privately with a delegation of six Albanian officials to discuss community-police relations.
- On 5/31/06, Ms. Hinton and Ms. Pittinger met with the Mayor and Chief of Police. Ms. Hinton conveyed the Board's interest in convening a community forum to discuss local policing issues, to which the Mayor and Chief expressed a willingness to consider participating. The development of a Crisis Intervention Team (CIT) of specially trained police officers prepared to intervene in mental health calls was also discussed. There had been an unsuccessful effort to develop a CIT with the former administration. Chief Costa indicated that the effort has been positively renewed and we should continue our efforts with the County Office of Behavioral Health.
- On 6/9/06, Ms. Pittinger met with officials of the Allegheny County Office of Behavioral Health. Talks resumed with the new City administration to place emphasis on training police officers to deal with people experiencing a mental health crisis.
- On 6/14/06, Ms. Bianculli facilitated the Carrick Community Council meeting. Several police representatives were present and offered information and advice to the neighborhood residents about local crime and vigilance.

Case Review

Mr. Carrington moved to the case review agenda. Copies were available to the public. Each case summary was reviewed and acted upon as noted (votes unanimous among attending members unless stated otherwise).

(Actions taken are published here and on the CPRB website, <http://www.city.pittsburgh.pa.us/cprb/>)

Board Action Date: 6/27/06
FINAL

CPRB# / Investigator	ALLEGATION	SUMMARY	REASON
PUBLIC HEARING (2)			
417-05 Lefcowitz	Conduct Toward the Public (PBP 16-1, 3.7) Use of Force (PBP 12-6) Warrantless Search & Seizure (PBP 45-2)	Cx. alleges the S.O.s detained, searched and physically assaulted the Victim, who was mistaken for someone else.	Authorized Public Hearing (Suspend Pending receipt of S.O. Statements)
70-06-S Gamble (Companion Case to 72-06-S)	Conduct Unbecoming a Member (PBP 16-1, 3.6) Use of Force (PBP 12-6) Truthfulness (PBP 16-1, 3.19)	Cx. alleges the S.O.s K-9 partner bit her during an anti-recruitment rally and the S.O. later lied about the circumstances in court.	Authorized Public Hearing (Suspend Pending receipt of S.O. Statements)
30-DAY EXTENSION OF FULL INVESTIGATION (1)			
79-06-S Gamble (ECP)	Conduct Toward The Public (PBP 16-1, 3.7)	Cx. alleges the S.O.s handcuffed her for no reason and then made remarks about her mentality.	Authorized 30- Day Extension.
FULL INVESTIGATION (6)			
16-06 Gamble	Use of Force (PBP 12-6) Conduct Toward The Public (PBP 16-1, 3.7)	Cx. alleges the S.O.s used excessive force on during her arrest.	Authorized Full Investigation; Dismissed charges against S.O. #2, #3, & #4
34-06 Lefcowitz (Companion case to 35-06)	Use of Force (PBP 12-6) Conduct Toward The Public (PBP 16-1, 3.7)	Cx. alleges the S.O.s used excessive force against the Victim and used foul language towards her.	Authorized Full Investigation
35-06 Lefcowitz	Use of Force (PBP 12-6) Conduct Toward The Public (PBP 16-1, 3.7)	Cx. alleges the S.O.s used foul language and excessive force during his arrest.	Authorized Full Investigation
114-06-S Lefcowitz	Use of Force (PBP 12-6) Neglect of Duty (PBP 16-1, 3.13) Conduct Toward The Public (PBP 16-1, 3.7)	<u>Incident A:</u> Cx. alleges the S.O. used foul language, failed to take a report and choked him. <u>Incident B:</u> Cx. alleges the S.O. failed to take a report when the Cx. was assaulted.	Authorized Full Investigation; Dismissed charges against S.O. #2.
133-06 Gamble	Use of Force (PBP 12-6) Conduct Toward The Public (PBP 16-1, 3.7)	Cx. alleges the S.O. used excessive force after he was arrested for burglary.	Authorized Full Investigation.
181-06-ED Gamble	Confidential or Privileged Information (PBP 16-1, 3.40)	Cx. alleges the S.O. distributed confidential information concerning a juvenile's arrest.	Authorized Full Investigation.

DISMISSALS (7)			
UNSUSTAINABLE (2)			
CPRB# / Investigator	ALLEGATION	SUMMARY	REASON
38-06 Lefcowitz	Use of Force (PBP 12-6)	Cx. alleges that the S.O.s used excessive force when they arrested him.	Dismissed As Unsustainable.
67-06 Gamble	Obedience to Orders & Laws (PBP 16-1, 3.7) Conduct Toward the Public (PBP 16-1, 3.7) Warrantless Search & Seizure (PBP 45-2) Safe Handling of Firearms (PBP 12-7, 5.1) Motor Vehicle Stops (PBP 40-4, 6.0 & 7.0)	Cx. alleges the S.O. pulled his weapon out for a traffic stop, and then searched him and his vehicle for no reason.	Dismissed As Unsustainable.
UNFOUNDED (3)			
31-06 Gamble	Conduct Unbecoming a Member (PBP 16-1, 3.6) Use of Force (PBP 12-6) Warrantless Search and Seizures (PBP 45-2)	Cx. alleges the S.O. acted inappropriately while serving a warrant for her arrest.	Dismissed As Unfounded.
95-06 Lefcowitz	Use of Force (PBP 12-6) Conduct Unbecoming a Member (PBP 16-1, 3.6)	Cx. alleges the S.O.s used excessive force during a traffic stop.	Dismissed As Unfounded.
113-06 Lefcowitz	Truthfulness (PBP 16-1, 3.19) Neglect of Duty (PBP 16-1, 3.13) Conduct Unbecoming a Member (PBP 16-1, 3.6)	Cx. alleges the S.O. failed to retrieve her finger after it was amputated in an assault and then lied about the matter in court.	Dismissed As Unfounded.
WITHDRAWAL (0)			
OUT OF JURISDICTION (0)			
LACK OF COOPERATION (1)			
51-05 Gamble	Obedience to Orders & Laws (PBP 16-1,3.1) Neglect Of Duty (PBP 16-1,3.13) Warrantless Search & Seizure (PBP 45-2) Conduct Unbecoming a Member (PBP 16-1, 3.6)	<u>Incident #1:</u> Cx. alleges the S.O.s arrested her for fighting and neglected to arrest the other party involved. <u>Incident #2:</u> Cx. alleges the S.O.s 302'd and TASED her without cause.	Dismissed Due to the Cx. lack of Cooperation. <u>Note:</u> Amended charges may be filed against S.O. #1 a later time by Executive Director.
OTHER (1)			

CPRB# / Investigator	ALLEGATION	SUMMARY	REASON
40-06 Gamble (ECP)	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward The Public (PBP 16-1, 3.7)	Complainant alleges the Subject Officer acted unprofessionally during their interaction over a designated taxi parking space.	Accept the Findings and recommendations from the Office of Municipal Investigations.
SUSPENSIONS (1)			
23-06 Gamble	Truthfulness (PBP 16-1, 3.19)	Cx. alleges the S.O. perjured himself while testifying at the Cx.'s trial.	Authorized Suspension Pending Receipt Of Additional Information.
STATUS/OTHERS (13)			
<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>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 re-evaluation 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 re-evaluation due to the investigator's separation from the agency.)
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: 01/25/05 (Pending re-evaluation by the Executive Director.)
42-04 Matts (Gamble)	Use of Force (PBP 12-6) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (16-1, 3.7) Warrantless Searches & Seizures (PBP 45-2)	Cx. alleges the S.O.s used unnecessary force against him after he had stopped his vehicle to look for an address.	Suspension Occurred: 02/22/05 (Pending receipt of S.O. statements.)

87-05 Gamble	Conduct Unbecoming a Member (PBP 16-1, 3.6) Juvenile Policy-Regulations and Procedures (PBP 43-10)	Cx. alleges that the S.O.s acted inappropriately after falsely arresting the Victim.	Suspension Occurred: 1/24/06 Pending S.O. #2's return from disability.
15-06 Lefcowitz	Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges the S.O.s were threatening and used inappropriate language when they entered her home.	Suspension Occurred: 5/23/06 Pending Receipt Of Additional Information.
RECLASSIFICATION/ SUSPENSIONS RELATED TO UNBECOMING CONDUCT FOR 9-18-06 HEARING			
22-06 Lefcowitz	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Truthfulness (PBP 16-1, 3.19) Warrantless Search & Seizure (PBP 45-2)	Cx. alleges that the S.O.s acted inappropriately during Witness #1's arrest and made false statements in the Investigative Report.	Authorized General Courtesy Hearing; Dismissed Truthfulness and Warrantless Search & Seizure Charges.
(Previously listed cases have been moved to a separate agenda for the 9/18/06 hearing. Cases appearing here are for authorization to include it/them in the hearing group.)			

*** ECP = Executive Director reviewed fact-finding summary and Authorized a Preliminary Inquiry or concurred with investigator's recommendations of Dismissal. Before this meeting, the Board has not seen these cases and retains final action on these "new" cases.**

New Business

Public Hearing Set

- Members changed the date of an upcoming public hearing for CPRB Case #: 21-06-S.
- The date and time was set for **Tuesday, August 1, 2006, 6:00 p.m.**

Next Meeting:

Mr. Carrington announced that the next regular meeting is scheduled for 6:00 p.m., Tuesday, July 25, 2006 at the City Council Chambers, 510 City County Building, 414 Grant Street, Pittsburgh, PA 15219.

The meeting was adjourned at 7:41 p.m.

Respectfully submitted,

Rhonda J. Sears

Attachment: Police Pursuit Briefing

Police Pursuit Background Information

Pursuit is defined by the PA Vehicle Code as *“an active attempt by a police officer operating a motor vehicle to apprehend one or more occupants of a motor vehicle when the driver of the vehicle is resisting the apprehension by maintaining or increasing his speed or by ignoring the police officer’s audible or visual signal to stop.”*

Police pursuit is addressed by Title 75 of the Pennsylvania Consolidated and related Statutes. It is commonly known as the Vehicle Code. Specific references:

- Subchapter C: Pursuit of Vehicles (§6341 – §6345) *Requires police agencies to develop and implement written policies and procedures governing pursuits (also makes such policies confidential); maintain records of pursuits; report pursuits to the PA State Police.*
- 75 Pa.C.S. §3105. Drivers of emergency vehicles.
Extends certain privileges to police and other drivers of emergency vehicles engaged in an emergency response.
- 75 Pa.C.S. §3733. Fleeing or attempting to elude police officer.
Establishes an effort to flee police in pursuit as a Misdemeanor of the 2nd degree and imposes a \$500.00 fine (in addition to any other fines that may be incurred during the pursuit).

Since 1996, all PA police agencies have been required to keep a record of all vehicle pursuits and to report them to the PSP monthly. The PSP compiles an annual report, Pennsylvania Police Pursuits, which is available to the public. The

report does not provide data to the local level. Currently, there is not a national database of police pursuit data.

The following is taken from the report, 2005 Pennsylvania Police Pursuits:

- 2215 pursuits were reported
 - 745 pursuits resulted in 989 crashes (44.65%)
 - 13 people were killed
 - 10 violators
 - 3 uninvolved people
 - 0 police officers
- 48.58% were initiated for Other Traffic Violations (speeding, traffic signal, stop signs, etc.)
 - 17.70% were initiated for stolen or suspected stolen vehicle status
 - 14.22% were initiated due to felony crimes
 - Violation of Crimes Code: 1285 violations resulted
 - Violation of Vehicle Code: 7986 violations resulted
- 71.43% resulted in an arrest (62.17% apprehended during the pursuit; 9.26% delayed arrest)
- 25.06% were terminated by police
 - 26.37% violator voluntarily stopped
 - 18.92% were terminated due to crashes
- 989 crashes resulted in the course of 745 pursuits, among those:
 - 514: violator crashed

- 42: police crashed
 - 27: uninvolved crashes secondary to the chase
 - 94: involved violator & police crash
 - 165: violator & uninvolved unoccupied crash
 - 84.20% involved marked police vehicles
 - 6.86% involved unmarked vehicles
 - 8.94% involved both marked & unmarked police vehicles
 - 272 of the 2215 pursuits resulted in injuries (12.28%):
 - 201 (73.90%) injured violators
 - 74 (27.21%) injured police
 - 42 (16.54%) uninvolved persons
 - Average property damage to violator: \$530.97 (2005: \$1,176,098.00)
 - To police unit: \$182.79 (2005: \$404,887)
 - To uninvolved person: \$394.20 (2005: \$873,156)
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50% of all pursuit crashes happen within the first 2 minutes; more than 70% of crashes occur before the 6th minute of the pursuit.

The results: of a May 1997 report compared the effects of policy changes made in Metro-Dade and Omaha:

Table 2: Numbers of Police Pursuits Before and After Policy Changes

Jurisdiction	Nature of Policy Change	Before Change	After Change
Metro-Dade, Florida	more restrictive	279	51
Omaha, Nebraska	more permissive	17	122

Table 3: When Police Officers Say They Would Engage in Pursuits

Violation	Level of Risk*	
	Low	High
Traffic Violation	43%	10%
Property Crime: Misdemeanor	42%	17%
Property Crime: Felony	64%	34%
Stolen Vehicle	65%	37%
DUI	70%	43%
Violent Felony: No Death	87%	80%
Violent Felony: With Death	96%	95%
Officer Shot	96%	95%

* Risk was defined by level of traffic congestion, weather conditions, type of road (e.g., whether surface street, highway, or interstate), and area of pursuit (e.g., whether urban, rural, or commercial). In filling out the questionnaire, respondents themselves determined whether they felt their risk was high or low.

(Alpert, G., NIJ, Police Pursuit: Policies & Training, May 1997)

Around 2002 Los Angeles and Atlanta imposed restrictive guidelines around police pursuits, limiting to felony apprehension. Boston excluded pursuit of minor traffic violations and stolen vehicles.

Many insurance companies, police research groups, and public policy analysts encourage policy makers to think of police pursuits as a public safety issue, not a police apprehension issue. This promotes balancing the risk to the public and

pursuing officers caused by the pursuit as opposed to the risk imposed to the public and pursuing officers if the offender is not apprehended.

Model policies have been reviewed and the Pittsburgh policy complies with recommended principles.

Recommendation considerations:

- Caution with regard to tampering with officers' discretionary judgment (*discretion is a necessary tool for police officers; restraint of discretion should be minimal and done without ambiguity in the policy language. For example, if pursuit of a stolen vehicle just because it is stolen is not going to be accepted every time, then it should not be acceptable at any time*).
- Organizational values and culture influence the decision-making environment (*influences that contribute to the decision-making include: pressure to arrest, pressure to respond to community demands, acceptance of rogue behavior.*)
- Adherence to policy (*including disciplinary actions pursued by police management; severe penalties and loss of work for violations are effective deterrents*).
- Enhanced after-action analysis (*thorough investigation, verification of legitimate probable cause to initiate, reconstruction and evaluation of policy adherence by involved parties*)
- Training must include annual defensive driving with consideration given to usual climate and road conditions. Training must also clearly convey the organization's values and accepted conduct. It must also emphasize the effectiveness of stopping a pursuit when it is clearly evident that the offender will do anything to elude police – data suggest that when a pursuit is terminated, the offender usually slows or stops which quickly minimizes any remaining risk to public safety.

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ECP