



CITIZEN POLICE REVIEW BOARD

816 Fifth Avenue, Suite 400
Pittsburgh PA 15219
412-765-8023 Telephone – 412-765-8059 Facsimile
cprb@city.pittsburgh.pa.us

Approved and
Adopted
12/4/07

Minutes of the CPRB Meeting Held on October 23, 2007
Kingsley Community Center
6435 Frankstown Avenue
Pittsburgh, PA 15206

Members Present: Ms. Marsha Hinton, Chair
Mr. Richard M. Carrington, Vice Chair
Mr. Malik G. Bankston
Ms. Erin Dalton
Dr. Mary Jo Guercio
Ms. Deborah Walker

Excused: Mr. John H. Bingler, Jr., Esq.

Absent: None
Vacancies: None

Solicitor: Mr. William Ward, Esq.

Staff Present: Ms. Elizabeth C. Pittinger, Executive Director
Ms. Rhonda Sears, Executive Assistant
Mr. Michael Ayoob, Intake Coordinator
Mrs. Kathy Carson, Investigator
Ms. Michelle Gamble, Investigator
Ms. Tamara Lefcowitz, Investigator

Excused: None

Administrative Matters:

- At 6:20 p.m. Ms. Hinton, Chair, called the meeting to order.
- Ms. Hinton called a Press Conference at 5:30 pm, prior to the Board Meeting. She provided a statement regarding the issue of Officer Involved Domestic Violence (OIDV) and the policies of the City of Pittsburgh and the Pittsburgh Bureau of Police. The Board supports a policy of zero tolerance of OIDV in the City. The Board is calling on members of City Council to adopt Bill No. 2007-1797 (“Domestic Abuse Policy for the Bureau of Police”) and implored the Mayor to sign it into law upon receipt. Ms. Hinton noted that the OIDV has been the focus of public debate for more than four months and the time has come to “get it done.” A silent slideshow of victims of OIDV provided the backdrop for the press conference.
- Pittinger reported that at least 35 Pittsburgh Police Officers have been subjects of PFA’s in recent years. While the allegations contained in the petitions for PFAs are criminal in nature (stalking, terroristic threats, assaults, assaults with a deadly weapon, etc) none had correlated arrests or criminal charges processed. Public attention was drawn to the problem of OIDV and firearm restrictions with recent reports on a case involving a Pittsburgh police officer who was subject of a PFA in which the court ordered relinquishment of all personal weapons and restricted access to the officer’s duty weapon to his shift only with its return to safekeeping at the end of each shift. This anomalous situation originates in the federal Gun Control Act.
- Legislative Background: A public hearing was held on 9/10/07 on the problem of Officer Involved Domestic Violence. On behalf of the CPRB, Pittinger was invited and participated in the discussion and offered several recommendations.
 - 9/25/07: Council President Doug Shields introduced Council Bill No. 2007-1797, Domestic Abuse Policy for the Pittsburgh Bureau of Police.

- 10/3/07: Council passed a motion to hold a public hearing.
 - 10/18/07: Council convened a public hearing.
 - 10/24/07: A preliminary vote was expected but the Bill was held in committee until 10/31/07.
- The Board Members asked if there were any patterns of complaints, information from any OMI investigations, or any ongoing investigations in our office related to OIDV. Pittinger replied that currently there are no direct OIDV incidents under investigation. Pittinger reported that at least 35 Pittsburgh Police Officers have been subjected to PFA's in recent years. While the allegations contained in the petitions for PFAs are criminal in nature (stalking, terroristic threats, assaults, assaults with a deadly weapon, etc) none had correlated arrests or criminal charges processed.
 - Public attention was drawn to the problem of OIDV and firearm restrictions with recent reports on a case involving a Pittsburgh police officer who was subject of a PFA in which the court ordered relinquishment of all personal weapons and restricted access to the officer's duty weapon to his shift only with its return to safekeeping at the end of each shift. This anomalous situation originates in the federal Gun Control Act. The resulting employment exemption permits police to have access to their weapons when required for official duties if there exists no other federal or state firearms' disability present. This exemption is discretionary and the local jurisdiction may impose conditions upon such authorization. The Pittsburgh Bureau of Police does not appear amenable to establishing criteria under which an officer is authorized to have possession and use a firearm or deadly force on behalf of the City. This would guide the exercise of discretion when extending the employment exemption and help protect the City from culpability in the event an officer under a PFA, without benefit of a threat assessment or compliance to authorizing criteria, commits an act of domestic violence.
 - Discussion turned to the pre-hiring screening of police officer applicants and promotional criteria. Ms. Hinton asked if criteria are being developed and if hiring and promotions have been suspended pending development of such criteria and enhanced standards for background checks. Pittinger responded that the Personnel and Civil Service Commission (PCSC) is working on a Pre-employment Background Investigations policy which will include guidance on screening related to domestic violence. Results of background investigations will be received, evaluated for employment worthiness, and retained as confidential (not shared with directors or anyone else), by Director Trant. Pittinger conveyed an objection to Director Trant regarding Trant's influence on CPRB hiring decisions. Pittinger explained the potential conflict of the executive branch deciding who could be hired by the CPRB, an independent entity authorized to hire its own staff. This presumably entitles the CPRB to have access to the background investigation. The theoretical conflict was amicably resolved but the practical application is pending a hiring opportunity.
 - Regarding promotions, Pittinger was provided with a list of candidates from the Bureau and was invited to respond with any concerns related to the individuals being considered for promotion. The Bureau has not yet shared any newly implemented policy or procedure related to promotional criteria as promised since June, following the promotion of the three officers with questionable histories related to OIDV. At that time, Pittinger recommended to the mayor and the Bureau of Police that specific qualifiers and disqualifiers be established and applied to all promotional considerations.

- A motion to adopt the meeting minutes for September 25, 2007 was offered by Mr. Carrington, seconded by Ms. Dalton, and approved unanimously.

Executive Director's Report:

- The CPRB is in receipt of 328 complaints as of 9-25-07.
- The Board was given additional material to accompany the Executive Director's Report:
- Periodically the Board issues reauthorization to the Executive Director to initiate inquiries and issue subpoenas. Members discussed whether a sunset provision should be included and determined that was unnecessary.

A motion to reauthorize and direct the Executive Director to initiate inquiries when no sworn complaint has been received at the time which would be most appropriate to determine facts and circumstances related to an incident involving Pittsburgh Police and is further authorized to use discretion when initiating such inquiries to insure compliance with the Board's mission was offered by Mr. Bingler, seconded by Mr. Carrington, and approved unanimously.

A motion to reauthorize and direct the Executive to issue subpoenas on behalf of the Citizen Police Review Board as necessary to facilitate prompt acquisition of materials, documents and information related to any authorized CPRB investigation and all other inquiries legitimately initiated on behalf of the Citizen Police Review Board and to summon parties to appear before CPRB panels convened to hear any matter to which the parties are related was offered by Mr. Bingler, seconded by Mr. Carrington, and approved unanimously.

- Legislative Recommendation: Discussion on the proposal regarding Private Picketing for Public Acts was deferred until December.
- A motion to adopt the meeting minutes for September 25, 2007 was offered by Mr. Carrington, seconded by Ms. Dalton, and approved unanimously.

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- Legislative Recommendation: Discussion on the proposal regarding Private Picketing or Retaliation for Public Acts was deferred until December.
- Ms. Pittinger attended the local observance of the National Protest against Police Brutality led by Celeste Taylor, B-PEP member, at Freedom Corner on October 22. A petition drive was launched through which a number of demands are articulated and directed to the District Attorney, the County Executive, Mayor, City and County Councils. Among the demands of the petition are adoption of police accountability measures, enhanced support for the CPRB, adoption of an OI/DV policy, criminal investigation into suspicious acts surrounding the investigation of Jerry Jackson's death.
- B-PEP and the Black and White Reunion have renewed the effort to have certain standards taken from the former consent decree codified into city law. Pittinger explained that there exists (since 1996) a provision in the City Code requiring the Chief of Police to attain and maintain accreditation of the Bureau of Police. Said accreditation has never been achieved. Pittinger recommended to Council in 2005, 2006 and 2007, and the Mayor and Chief in 2007, that the Chief should be compelled to comply to this code provision as the accreditation standards meet and exceed the performance standards expressed in the former consent decree.
- The Black and White Reunion is scheduled for Saturday, January 26, 2008. Pittinger is coordinating a workshop that will focus on police/community relations.
- The CPRB sponsored its first of eight forum workshops related to Pittsburgh Politics, Policing, and Public Perceptions, on October 9, 2007. The event was held at Duquesne University. Panelists included Ms. Jeanne Clark, NOW, P.O. Bob Swartzwelder, Mr. Rich Lord, reporter and author, and moderated by Chuck Bosetti, police officer and writer. These forums will analyze key events affecting the community and local law enforcement in the last decade and their impact on Pittsburgh. The event was documented through a video recording and will be formatted for web publication and on DVD for distribution. The next forum will be scheduled in January, 2008.
- The terms of three members will expire on October 31, 2007. The affected members are Mr. Bingler and Mr. Bankston who hold seats designated as mayoral choices and Dr. Guercio who holds a council-designated seat. The Mayor and Council were informed and we are awaiting reappointment or successor appointment actions.
- Investigators Gamble and Lefcowitz attended the NACOLE annual training conference in San Jose, CA 9/24 – 9/29/07. The conference was heavily focused on the development of international review boards with 16 countries in attendance (New Zealand, Africa, Australia, Ireland, Kosovo to name a few). The investigators established new contacts to coincide with the strong relationship they have with Philadelphia representatives. They mentioned the extreme power South Africa has within its oversight structure. Israel will be contacting Ms. Pittinger to discuss civilian oversight. Ms. Lefcowitz will be traveling to London and the Republic of Ireland. She plans to meet with representatives of Ireland to share and exchange information about Review Board policies and operating procedures. NACOLE will be in Cincinnati, OH in 2008. Ms. Pittinger would like to partner with Mr. Jackson to present the "Enough is Enough" film with group dialog and conversation.

Case Review

Ms. Hinton 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/>)

Ms. Pittinger will evaluate the Use of Taser Report printed from the Pittsburgh City Paper on November 15, 2007. The news article was titled Charged Debate – Stun guns were supposed to make both police and citizens safer. But critics in Pittsburgh and elsewhere say they are dangerous – and that police are too quick to use them. Usage, statistical, and restriction information in the report is a concern of the Board. The Pittsburgh Police Bureau is working toward every police officer being equipped with a Taser Gun.

Board Action Date: 10/23/07

Case Review Agenda

(18 cases)

<u>CPRB# / Investigator</u>	ALLEGATION	SUMMARY	REASON
<i>Public Hearing (3)</i>			
46-07 Gamble	Use of Force (PBP 12-6, 3.0) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct toward the Public (PBP 16-1, 3.7)	Cx. alleges the S.O. used excessive force while he was trying to cross the street.	Authorize Public Hearing
59-07 Carson	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 the S.O. attacked the Victim and made false statements in order to have Victim charged with assault.	Authorize Public Hearing
113-07 Gamble (Companion Case #90-07)	Use of Force (PBP 12-6, 3.0) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct toward the Public (PBP 16-1, 3.7)	Cx. alleges the S.O. used excessive force against him for taking a photo of the Officer during a protest.	Authorize Public Hearing
<i>30-Day Extension of Full Investigation (7)</i>			
85-07 Carson	Use of Force (PBP 12-6, 3.0) Pepper Aerosol Restraint Spray (PBP 12-9, 4.3) Conduct Unbecoming a Member (PBP 16-1, 3.6) Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges the S.O. used excessive force while arresting him.	Authorize 30 Day Extension

105-07 Gamble	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, 6.0 & 7.0)	Cx. alleges the S.O.'s searched himself and his vehicle without probable cause.	Authorize 30 Day Extension
207-07 Gamble	Conduct Unbecoming a Member (PBP 16-1, 3.6)	Cx. alleges S.O.'s acted unprofessionally.	Authorize 30 Day Extension
232-07 Carson	Use of Force (PBP 12-6, 3.0) Discharge of Firearms (PBP 12-7, 4.0) 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 S.O.'s used excessive force against him and shot his friend.	Authorize 30 Day Extension
241-07 Gamble	Use of Force (PBP 12-6, 3.0) Taser (PBP 12-13, 5.0) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct toward the Public (PBP 16-1, 3.7)	Cx. alleges the S.O.'s used excessive force against him for no reason.	Authorize 30 Day Extension
262-07 Gamble	Use of Force (PBP 12-6, 3.0) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct toward the Public (PBP 16-1, 3.7)	Cx. alleges the S.O. entered her home through a window and used excessive force against her while serving a warrant.	Authorize 30 Day Extension
287-07-ED Carson	Use of Force (PBP 12-6, 3.0) Handling of Prisoners (PBP 50-1, 2.1) Taser (PBP 12-13, 5.3)	Executive Director requests inquiry into death while in custody.	Authorize 30 Day Extension
FULL INVESTIGATION (1)			
205-07 Lefcowitz	Conduct Unbecoming a Member (PBP 16-1, 3.6) Neglect of Duty (PBP 16-1, 3.13) Motor Vehicle Pursuits (PBP 40-5, 4.2)	Cx. alleges the S.O.'s pursued Witness 1 without proper sirens or lights activated causing him to crash into and kill Victim without warning.	Authorize Full Investigation
DISMISSALS (6-TOTAL)			
UNSUSTAINABLE (2)			

94-07 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, 5.2, 7.8, 11.1.1)	Cx. alleges the S.O. illegally searched her and discriminated against her for her sexual orientation.	Dismiss as Unsustainable
<u>CPRB# / Investigator</u>	ALLEGATION	SUMMARY	REASON
198-07 Carson	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct toward the Public (PBP 16-1, 3.7) Neglect of Duty (PBP 16-1, 3.13) Towing and Tow Pound Procedures (PBP 41-4, 1.1)	Cx. alleges his license plate was confiscated by the S.O. unjustly.	Dismiss as Unsustainable
UNFOUNDED (3)			
98-07 Lefcowitz	Conduct Unbecoming a Member (PBP 16-1, 3.6)	Cx. alleges the S.O. conspired with his insurance company to stage a dog attack and assassinate his character.	Dismiss as Unfounded
161-07 Lefcowitz	Use of Force (PBP 12-6, 3.0) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct toward the Public (PBP 16-1, 3.7) Truthfulness (PBP 16-1, 3.19) False Report (PBP 62-1, 2.10)	Cx. alleges the S.O. assaulted her and filed false charges against her.	Dismiss as Unfounded <i>*Also Dismissed for Lack of Cooperation</i>
163-07 Gamble	Conduct Unbecoming a Member (PBP 16-1, 3.6) Truthfulness (PBP 16-1, 3.19) Warrantless Search & Seizure (PBP 45-2, 6.0 & 7.0) False Report (PBP 62-1, 2.10)	Cx. alleges the S.O. falsely arrested him on narcotics charges.	Dismiss as Unfounded
WITHDRAWN (0)			
OUT OF JURISDICTION (0)			
LACK OF COOPERATION (0)			
OTHER (1)			

265-07 Gamble	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct toward the Public (PBP 16-1, 3.7) Warrantless Search & Seizure (PBP 45-2, 6.0)	Cx. alleges the S.O. acted inappropriately during a traffic stop.	Recommend Rude and Discourteous Hearing
SUSPENSIONS (0)			
<u>CPRB# / Investigator</u>	ALLEGATION	SUMMARY	REASON
<i>Status/Information Update Only – No Action Requested</i>			
313-06 Gamble/Lefcowitz	Use of Force (PBP 12-6, 3.0) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct toward the Public (PBP 16-1, 3.7)	Cx. alleges S.O. acted inappropriately by threatening her and her children during a traffic stop.	Suspension occurred 12/15/2006. (Pending Cx's response to certified letter)

Next Meeting:

Ms. Hinton announced that the next regular meeting is scheduled for 6:00 p.m., Tuesday, December 4, 2007 in City Council Chambers, 510 City-County Building, 414 Grant Street, Pittsburgh, PA 15219.

The meeting was adjourned at 8:11 p.m.

Respectfully submitted,

Rhonda J. Sears
Executive Assistant