

**Minutes
Minneapolis Civilian Police Review Authority
Regular Monthly Board Meeting
Wednesday, January 4, 2012
241 City Hall
5:30 p.m.**

Board members present: Bellfield, Kvidera, Pargo, Terrell, Wetternach and Zuege

Also present: Assistant Civil Rights Director Lee Reid
Assistant City Attorney Joel Fussy
Deputy Police Chief Scott Gerlicher

I. Call to Order

Chair Bellfield called the meeting to order.

II. Approval of Agenda

Terrell **moved** the agenda be adopted. Kvidera seconded.

Motion passed unanimously

III. Approval Of Minutes – December 7, 2011 Board meeting

Terrell **moved** approval of the minutes of the December 7, 2011 Board meeting.

Zuege seconded.

Motion passed unanimously.

IV. Reports

Chair

Applications are being accepted until January 6 by the City Clerk's Office for CRA board vacancies.

Assistant Director

Reid reviewed the [CRA Workload Report](#) for December 2011.

Committees

There were no committee reports.

V. Public Invitation – Comments limited to three minutes for each speaker

Michelle Gross – Communities United Against Police Brutality (CUAPB)

Gross and others came to the CRA office today to file complaints about misconduct on the part of Chief Dolan, for his ongoing refusal to discipline officers based on an illegal reason, disagreement with the facts as adjudicated by the CRA. Gross expects the complaints she and other community members filed today to be handled in exactly the same way as any other complaint the CRA receives. Nothing in the ordinance allows Assistant Director Reid to dispose of their complaints without proper consideration. She wishes to make the board aware of this and asks that they understand that the complaints need to be taken seriously. The little power the CRA has needs to be used appropriately.

Darryl Robinson – CUAPB

CUAPB has been at the table since CRA started. Since Bellfield has been chair, they have been appalled by the things Bellfield has done to violate the law. They understand that there are secret meetings going on between the CRA and the MPD Internal Affairs Unit. That is a violation of the law.

Chuck Turchick

Turchick thanked Bellfield for the comments he made in the *StarTribune* about the CRA Participation in the Performance Review of Chief Dolan report that was prematurely released. He thought those comments were correct; that the CRA process can't work unless the Chief takes CRA sustained complaints seriously. Turchick thinks Dolan is a good person, but it is crystal clear that for years he has been violating the law. When the highest ranking officer in the jurisdiction violates the law time after time and no elected official will ever say anything about it, that is a police state. He appreciates the board's critical reports over the years of how the chief is handling CRA sustained complaints. The board has been batting their heads against the wall. He has experienced this also. Nothing has changed, after all these reports.

Turchick offered the board an opportunity to try a new approach, by submitting a complaint alleging the chief had engaged in misconduct. The CRA has done everything in its power, and some things beyond its power, to get rid of his complaint. Turchick knows that Reid is very concerned about police accountability. He sees that in Reid's reports and presentations to the Public Safety Committee, and he appreciates the pressures that Reid is under. Turchick has contacted Reid about the seven violations of the CRA rules and ordinance that have been committed in the handling of his complaint. Not one time has Turchick received any communication from CRA staff or the board or the City Council disputing his allegations of improper handling of his complaint. He has been denied a hearing, his complaint was dismissed by Reid, and he has not been given a legal basis for that dismissal. The board has the power to hold a hearing on whether Turchick's complaint should have been dismissed. The CRA says that police officers have to be held accountable. At the same time, the CRA follows its own ordinance and rules as they please.

Dave Bicking

Bicking filed a complaint today. Misconduct on the part of the chief of police is the most important misconduct of all. These are violations of ordinances that were carefully considered in 2006 as a way to make the CRA more effective. The ordinances are being deliberately ignored. The chief says he disagrees with the facts. He deliberately and repeatedly states a reason for not disciplining that he knows is a clear violation of the city ordinance. It happens over and over again and it is a statement from the chief that he doesn't care about the CRA. There was discussion at a Public Safety committee meeting about a review of some of the business processes of the CRA. It appears that there has been no public acknowledgement that these discussions have been going on. Board members have had no input and have not even been notified of the discussions. One of the main participants in the discussions is the Internal Affairs Unit. Bicking's fear is that this is symptomatic of the fact that the CRA has become a gatekeeper to the IAU. Once complaints have been substantiated by the CRA, they go to IAU and get investigated all over again. How else could they have disagreements with the facts? That is not the purpose of the CRA.

Bicking doesn't know what these business process improvements are, but the process and the changes were important enough that several city council members had questions about how it was progressing. If it is important enough to be discussed at the Public Safety committee meeting, it is important enough the CRA board should know about it. He asks board members to make sure they know what is happening and take the independent role they have.

Pam Franklin

Franklin questioned where the CRA goes from here. The chief is totally overlooking the regulations about what CRA decisions mean. They just throw them out the window. They don't want to pay attention to the CRA board's decision. Who has power above the chief – anybody?

Janet Nye

Nye thanked Turchick for pointing out something rampant in government; he doesn't get a reply to his questions. The reason is because there is no answer. The public is not stupid. One of the manifestations that they are listening and they are tired of it is the Occupy movement. A lot of people in the public have lost faith in the electoral process and in the idea that an official who takes an oath of office to uphold the Constitution and the city charter actually even knows what's in these documents or feel they have to abide by any of them. She agrees that the public is being stonewalled.

Paul Hansen

A number of years ago, Hansen had a friend who was public safety director in Richfield, Minnesota. He told Hansen that no one is above the law – no one.

Terrell responded to Franklin's comments. He thanked her for her time of service on the CRA board. He stated that the mayor appoints the chief. Board members want to see an increase in discipline. Everyone who has made statements here this evening pays attention to the board and to what goes on with the CRA and the public officials who appoint the board members. Terrell encouraged the public to continue to seek avenues to reach their elected officials.

VI. Old Business

There was no old business.

VII. New Business

Terrell **moved** the board adopt his [resolution](#) to request a release of information from Minneapolis Police officers to inform CRA complainants of the determinations of the CRA board. Zuege seconded.

When Terrell was first appointed to the board, it was common practice for the CRA to advise the complainant of the hearing panel's determination. At this point, the board cannot do that. A few years ago, CRA ran into an issue with the state data practices law, as far as the CRA's ability to release determinations to complainants. As part of trying to resolve that issue, current policy was put into place. The CRA complaint process is a personnel hearing. This resolution is an attempt to let the community and

the officers know the board is trying to be transparent and keep everyone empowered and involved.

Terrell proposes CRA staff ask officers for their permission to release information about them. Most officers Terrell has spoken to have told him they would be willing to release that information, because a lot of officers believe they haven't done anything wrong. The motion includes a sample release of information form.

Gerlicher responded to Terrell's request for his opinion. Gerlicher doubts a police officer would voluntarily give up statutorily protected private personnel data on anything, regardless of what they may have told Terrell anecdotally. Minneapolis police officers are represented by the Police Officers Federation of Minneapolis, so even if an officer agreed, it still couldn't be done unless the union agreed. When the MPD comes to various agreements with officers, they have to be signed by the employee as well as their union representative. He doubts the union would sign off on that.

Fussy said he would have to look at the issue further. If it is simply for personnel data relating to a sole officer, he thinks the individual would have the right to make an intelligent waiver of that if they so choose. He thinks it highly unlikely that there would be very many officers who would sign such a waiver. There would also be a couple of things to look at: it couldn't be in any context that would look like there was coercion, it would have to be a revocable waiver, and other issues. The basic principle, Fussy believes, is legitimate – that people are empowered to waive private personnel data.

Wetternach said the issue revolves around the release document itself. The board may wish to amend the motion to request a release of information form formulated by staff with input from the City Attorney's office and the Human Resources department. Terrell agreed with Wetternach's suggestion.

Zuege said there is not a time limit on the proposal. An officer can find out what the determination is and then make a decision on whether their information can be released or not. Officers might wait until their complaint has been not sustained and then choose to release it for the purpose of clearing their name. Terrell would expect the release to be signed at the time of investigation. They would have to make the decision before the conclusion of the investigation. It may not be a bad thing for officers to have received the determination and to understand what is being said about them by the board and then make the decision to release or not.

Zuege said that with regard to complaints that involve multiple officers, which occurs fairly frequently, you could have findings of fact that are not clearly related to one officer or the other. If one officer wanted to sign a release and the other wouldn't, he is not sure how to handle this. Zuege requested that Fussy provide comments on this after he has had a chance to review this issue. Zuege added that the state's data practices act has been around for quite some time, and the trend of having civilian oversight boards for police departments came along after the data practices acts. They are somewhat in conflict. His experience has been, in dealing with individual CRA complaints, that the complainants are surprised and disappointed that they don't get the determination when the process is finished. There is a conflict with what complainants expect of the CRA and what the state data practices act allows.

Kvidera suggested the CRA file number be included in the release. It would be a matter for the CRA staff, if there are multiple officers involved and only one release, to sanitize the determination to show only the facts that pertain to that officer.

Bellfield said that as a retired public employee, he would never sign anything like this. He would be interested in Fussy's comments related to Zuege's and Wetternach's comments. Bellfield suggested tabling this motion until Fussy can provide the board with his advice.

Zuege **moved** Terrell's motion be tabled until they have further information from Fussy. Kvidera seconded.

Wetternach offered a friendly amendment for a time-certain postponement to the March 7, 2012 board meeting. Zuege accepted the amendment.

Motion passed unanimously.

VIII. Announcements

There were no announcements.

IX. Adjournment

Terrell **moved** the meeting be adjourned. Kvidera seconded.

Motion passed unanimously.

MINNEAPOLIS CIVILIAN POLICE REVIEW AUTHORITY
350 South 5th Street, Room 239
Minneapolis MN 55415
(612) 673-5500

TO: CRA Board

FROM: Samuel L. Reid II
Assistant Director

DATE: January 4, 2012

SUBJ: Monthly Report – **December 2011**

1. Intake – 22
2. Signed Complaints – 9
3. Complaints by:

<u>Ward</u>	<u>Police Precinct</u>	
Ward 5 – 1	Precinct 1 – 7	Repeat Officers ¹ – 5
Ward 7 – 7	Precinct 3 – 1	Repeat Officers ² - 10
Ward 8 – 1	Precinct 4 – 1	New Officers – None

Allegations

Excessive Force – 1
Inappropriate Language – 5
Harassment – 1
Failure to Provide Adequate or Timely Police Protection – 3
Inappropriate Conduct – 18

4. Completed Investigations – 12

Complaints in Investigation	2009 – 7
	2010 – 39
	<u>2011 – 64</u>
	110

Redline complaints in investigation – 35

5. Mediations scheduled – 2
Mediations held – 2
Successful mediations – 1
6. Manager dismissals – None
7. Complaints awaiting Hearing as of 11/30/11 – 39 (12 scheduled for January)

¹ Officers with one or more prior complaint 1991 through 2007.

² Officers with one or more prior complaint 2008 - present.

8. Hearing Panels
 - Complaints heard – 6
 - Determinations Completed – 14
 - Sustained – 3
 - Not sustained – 10
 - Dismissed – 1
 - Determinations Pending – 3
9. Discipline Decisions Received From Chief of Police – 1
 - No Discipline Imposed – 1 officer
10. Complaints Awaiting Discipline Decision – 4

Justin Terrell
CRA Vice Chair
01/04/2012

Motion to request a release of information from Minneapolis Police Officers to inform CRA complainants the determination of the CRA board.

1. CRA Board requests that during investigative interviews, CRA staff explain to officers and complainants that officer personnel data is protected by state data practice laws and the determination of a CRA complaint may not be released to the complainant unless an officer grants permission. Therefore, during the interview process, CRA staff shall provide officers with a voluntary release of information form and shall ask the officers to sign the form. Complainants will be informed in writing by CRA staff as soon as an officer has agreed to release the determination of the complaint. If officers decline to release the results of the board determination to the complainant the CRA staff will inform the complainant of such declination.

2. CRA Board request that staff add the following to the manager's report:
 - a. Number of ROIs signed by officers.
 - b. Number of ROIs not signed by officers.

SAMPLE RELEASE OF INFORMATION:

Based on the template from the following:

http://www.businessformtemplate.com/preview/Consent_to_Release_Personnel_Information

I hereby authorize the release of personnel information as indicated in check boxes below.

CRA Determination

CRA Findings of Fact

Date

Employee