

**Minutes
Minneapolis Civilian Police Review Authority
Regular Monthly Board Meeting
Wednesday, April 1, 2009
333 City Hall
6:00 p.m.**

Board Members Present: Bellfield, Benson, Bicking, Franklin, Hall, Kvidera, Terrell, Turner, Wetternach, Zuege

Also Present:
CRA Manager Samuel L. Reid, II
Assistant Chief Sharon Lubinski
Assistant City Attorney Peter Ginder

I. Approval of Agenda

Turner **moved** the agenda be approved. Benson seconded. **Motion passed unanimously.**

II. Acceptance of the minutes of the regular Board meeting of March 4, 2009

Benson **moved** the March 4, 2009 minutes be accepted. Zuege seconded.
Motion passed unanimously.

III. Review of Disciplinary Decisions

Zuege **moved** this portion of the meeting be closed to the public, pursuant to the Minnesota Government Data Practices Act, for discussion of MPD disciplinary decisions on CRA complaints, for no longer than 30 minutes. Benson seconded. **Motion passed unanimously.**

IV. Reports

Chair – Bellfield

- The Chair welcomed new Board member, Vernon Wetternach.
- There will be a Police Accountability Coordinating Committee (PACC) meeting April 8.
- The MPD training documents requested by the Board will be delivered to Reid tomorrow.
- The City Council approved a change to the CRA ordinance providing for a vice-chair and acting chair.

CRA Members

Terrell

- The CRA Community Forum held on March 24 was a success. There were about 16 attendees. They had a good discussion. Reid added that the Outreach Committee did a good job in planning the forum. It gave the community an opportunity to see what the Board is doing. Community outreach is an important part of the CRA function. He would like to see forums held on a quarterly basis. The Board can also use the forum to address specific issues. Terrell urged Board members to use the informational packets put together for the forum when they do outreach individually.
- Terrell suggested every Board member talk to their Council member and do a ride-along.

Bicking

The PS&RS Committee met this afternoon. There was a presentation by the MPD related to the IAU audit. Bicking suggested Board members review the PowerPoint presentation which is included in the PS&RS meeting minutes.

A staff directive was issued for the MPD to report back to PS&RS no later than July 22 with a report on the current procedure for changing the Police Policy and Procedure Manual; and propose a process for including input from the City Attorney's Office, Police Federation, MPD Staff, the Minneapolis Civilian Police Review Board, City Council and Mayor's Office. Bicking added that a Council member has asked that the CRA be involved in this and be prepared to discuss this subject by the July 22 meeting and possibly have recommendations.

Manager

- Reid reviewed the [CRA Workload Report](#) for March 2009. AC Lubinski noted that the report states no discipline was issued on the four disciplinary decisions received by the CRA office from the MPD in March. She explained that in some of those complaints, discipline would have been issued, but it was beyond the reckoning period.
- Reid asked Board members to complete their hearing determinations in a timely manner. The most important duty of Board members is to complete hearing determinations. It takes time for a complaint to go through the investigative process and time to schedule and hold hearings. The complainant and officer expect some action 30 days after the hearing. When Reid reports there is an outstanding number of determinations waiting for hearing panel decision, it doesn't look good for the CRA as an agency. If any Board members need help beyond the additional training that was held last month, Reid is available. Starting next month, compensation vouchers for hearings will not be processed until the determination is completed.
- Zuege asked about the status of remands. Reid explained that if a dismissal was remanded to a hearing, it will go through a complete investigation and then will be scheduled for a hearing with a new hearing panel. If it is a remand for further investigation, it will go back to the same hearing panel to make a decision with the additional information.
- Reid met with a group who are working on starting a civilian oversight agency in Duluth, Minnesota. They may also contact Board members.
- Over the last six weeks, the CRA and MPD have jointly created an online complaint form. It is now live and citizens can access the form through the CRA or MPD websites. The CRA has already received four online contacts using that form.
- Reid met with residents of Little Earth yesterday. Little Earth Housing contracts with MPD officers to provide security and the residents have some concerns about police activities. They discussed some ways the CRA can be involved to help resolve these issues.
- Reid reminded Board members that their meetings need to be noticed to the public.
- Members should start scheduling ride-alongs. All Board members are responsible for attending certain classes at the MPD Citizens' Academy. This fall all Board members who have not already attended should plan on attending the required classes.

V. Committee Reports

- Policy Committee – Bicking
The Committee met March 18 and worked on the taser policy issue. At the March meeting, the CRA Board passed a recommendation to the Police Accountability Coordinating Committee. There were two supporting documents attached to that recommendation. They were passed as preliminary with the idea that they would be reviewed at tonight's meeting. The Committee sent out an email before the March 18 meeting reminding members to review those documents. At their meeting, the Committee went over the documents and incorporated some suggestions in the document, ["Reasons for CRA Recommendation that CED \(Taser\) Policy be Explicitly Incorporated in the MPD Policy and Procedure Manual."](#) There were no changes recommended to "MPD CED (Taser) Policy Timeline and Documentation."

Zuege added that at the Committee meeting he proposed the CRA organize an event, tentatively scheduled for June 2009, where the Board could accept public comment about things related to the Republican National Convention (RNC), held in September 2008. Events like that happen infrequently, but it is likely that the Twin Cities area may host a large event like that sometime in the future. While some other City departments may be looking into issues surrounding that, there wasn't any public forum being held in Minneapolis. This would be an opportunity to listen to public comment, document the comments received, generate a report, and potentially submit policy recommendation to the PACC. Discussion would include specific incidents that happened and commentary about the joint powers agreement that Minneapolis had with other police departments that were involved. Zuege encouraged Board members to offer their comments and thoughts on this proposal. The Committee will be looking into this further at its next meeting. He invited other Board members who are interested in this topic to attend the next Policy Committee meeting.

Bicking added that several topics could be discussed: the civil disturbance policy in the MPD Policy and Procedure Manual, the City Council policy about public gatherings, the question of mass arrests, use of less lethal munitions and the treatment of journalists. Some people are concerned about these issues and the Policy Committee will try to see what the concerns are and prioritize and deal with those, within the limits of their ability. On September 11, 2008, Mayor Rybak released a memo in which he talked about the MPD doing an After Action Review and report to the Mayor and PS&RS, as well as the City Attorney's Office doing a review and report to the Mayor and the Ways and Means Committee. The Policy Committee may wish to become involved in discussions or policy reviews already in process.

- Reports and Statistics Committee – Benson
The Committee met March 31. They are in the process of drafting a quarterly report for the PS&RS Committee. Some items on that report are a review of Board member training, IPAD decision concerns, Taser policy concerns, CRA investigator backlog, statistics about number of cases that the Board has heard and decisions issued. The Committee asks Board members for input on other things that need to be included in this report. The next Reports Committee meeting will be held April 14.

VI. Public Invitation – Comments to be limited to three minutes

Darrell Robinson- Communities United Against Police Brutality (CUAPB)

The CUAPB get 5-12 complaints each week. He is bothered by what is going on in the community. Every year there is a Stolen Life ceremony, which he narrates, and every year his narration gets longer and longer. They give a Survival Dinner every year, and every year he is consoling more and more family members. More and more community members are being brutalized and are losing their lives. There has to be a change now.

Michelle Gross – President, Communities United Against Police Brutality

The CRA Policy Committee forum about the RNC may be useful. There was recently an event in support of the RNC 8. It was a family-friendly bicycle ride. There were a fleet of MPD squad cars following the riders, along with many MPD bicycle officers. It was reported to the media as trying to keep people safe, but there was nothing about it that made it safe. The police surrounded Walker Church where the luncheon was held and took pictures of everyone entering the church. This is blatant intimidation and is completely inappropriate. No one was engaged in any illegal activity and no one had any reason to believe illegal activity was going to happen. It was an outrage and she considers it a continuation to the ongoing harassment related to the RNC.

Gross reviewed the MPD/CRA online complaint forms and agrees that it makes communicating with the City easier for people who have access to that technology. She noted that the form that people complete to file with Internal Affairs does not state that should a person make a complaint to the MPD that the person could not prove, they could be charged with false reporting of police brutality. Gross stated it is highly important the public be notified of that, if they choose to file with Internal Affairs instead of CRA.

Dan Przynski

He asked about the procedure that follows completing the online complaint form. Reid explained the CRA process. Przynski suggested the process be explained better online.

Jan Nye

She was on the ride referred to by Gross and heard that an officer said, *Well, I tried to talk to these nice young people, but they didn't seem to be interested in talking with me. And so I guess they weren't interested in having a safe ride.* She took that as a veiled threat. She wonders what was going on elsewhere in the city while the number of squad cars were at the ride.

VII. Business

Bicking reminded the Board that at the March 4 meeting, they passed the recommendation to put Taser policy recommendations on the PACC agenda. There are supporting documents to give reasons for the policy recommendation and to give background information to be used by the PACC members to evaluate the recommendations.

The Policy Committee created two documents. One is a historical document, referred to as “MPD CED (Taser) Policy Timeline and Documentation.” It was available to those in attendance at the March 4 Board meeting. During the last month, the Policy Committee has not received any comments on that document from Board members.

The second document is “Reasons for CRA Recommendation that CED (Taser) Policy be Explicitly Incorporated in the MPD Policy and Procedure Manual.” That has been modified since it was presented at the March 4 meeting. The changes were described in an email Bicking sent to the Board a few days ago.

Bicking **moved** that “MPD CED (Taser) Policy Timeline and Documentation” and [“Reasons for CRA Recommendation that CED \(Taser\) Policy be Explicitly Incorporated in the MPD Policy and Procedure Manual”](#) be approved in their current form and submitted to the PACC.

Zuege seconded.

Discussion

Wetternach will abstain from voting on the motion, as he has not had the opportunity to become familiar with the documents.

Motion passed:

Yes: Bellfield, Benson, Bicking, Franklin, Hall, Kvidera, Terrell, Turner, Zuege

Abstain: Wetternach

VIII. Announcements

Reid asked Board members to email CRA staff with any changes to the hearing panel schedule.

IX. Adjournment

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

Motion passed unanimously.

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TO: CRA Board

FROM: Samuel L. Reid, II
Manager

DATE: April 1, 2009

SUBJ: Monthly Report – **MARCH 2009**

1. Intake – 39
2. Signed Complaints – 8

By Ward	By Police Precinct	Repeat Officers – 7
Ward 1 – 1	Precinct 1 – 3	New Officers – 2
Ward 4 – 1	Precinct 2 – 1	
Ward 5 – 2	Precinct 3 – 1	
Ward 7 – 3	Precinct 4 – 1	
Ward 9 – 1	Precinct 5 – 2	
- Allegations

Excessive Force – 4

Inappropriate Language – 1

Harassment – 4

Failure to Provide Adequate or Timely Police Protection – 2

Inappropriate Conduct – 2
3. Completed Investigations – 3

Complaints in Investigation	2006 – 1
	2007 – 19
	2008 – 34
	2009 – <u>21</u>
	75
4. Mediations Scheduled – 1
Mediations Held – None
5. Complaints awaiting Hearing as of 3/31/09 – 9
(Eight have been scheduled for April)

6. Hearing Panels
 - Complaints heard – 8
 - Determinations Completed – 8
 - Sustained or Partially Sustained – 4
 - Not Sustained – 3
 - Dismissed – 1

 - Determinations Pending – 23
 - Hearings held in 2008 – 13
 - Hearings held in 2009 – 10
7. Discipline Decisions Received From Chief of Police – 4
 - No Discipline issued – 4
8. Complaints Awaiting Discipline Decision – None

preliminary – subject to final consideration at April 1, 2009 CRA Board meeting

Reasons for CRA Recommendation that CED (Taser) Policy be Explicitly Incorporated in the MPD Policy and Procedure Manual

The Minneapolis Civilian Police Review Authority (CRA) is recommending the following change to the MPD Policy and Procedure Manual:

“That Section 5-314 of the MPD Policy and Procedure Manual be revised to contain exactly the same text as appeared in Section 5-318 of the MPD Policy and Procedure Manual prior to the change made on August 17, 2007.”

There are two aspects to this recommendation:

- 1) That the substance of the Conducted Energy Device (CED) policy be the same as that which was established on April 14, 2006.
- 2) That the CED policy be stated explicitly in the MPD Policy and Procedure Manual, without need for reference to training.

Note: There is some concern that we may not know the actual status of the current CED policy. Has the substance of the policy remained exactly the same, but been moved to training? Or have all the guidelines for CED deployment that were previously in the MPD Policy and Procedure Manual been dropped completely, so that the policy is no more than what is explicitly stated in the Manual, plus the minimum guidelines set by the US Constitution and its judicial interpretations? Or is the truth somewhere in between? This paper argues for explicitly including all the previous guidelines in the MPD Policy and Procedure Manual, but it takes no position on what the current status is regarding the substance of the CED policy.

1) The substance of the CED policy should be that which was established on April 14, 2006

- a) The reasons why this policy was requested by the City Council, developed and recommended by the CRA, agreed to by the MPD, mandated by the City Council, and incorporated into the MPD Policy and Procedure Manual in 2006, are all still valid. We see no reason to do more than to refer to the CRA report, “Minneapolis Civilian Police Review Authority Taser Policy and Training Recommendations,” agreed to unanimously by the CRA board on February 1, 2006. The studies that are referred to in the appendices to that report, the September 2005 Taser Study by the American Civil Liberties Union (ACLU) of Northern California, titled, “Stun Gun Fallacy: How the Lack of Taser Regulation Endangers Lives”, and the October 25, 2005 report by the Police Executive Research Forum (PERF), titled, “PERF Conducted Energy Device Policy and Training Guidelines for Consideration,” are also still valid.
- b) That previous policy was developed, agreed to, and implemented in a manner that was open and transparent, with opportunities for public comment and input. Consensus was obtained by consulting with all interested city departments. That policy should remain the policy unless or until a similar process occurs to change it.
- c) By contrast, the change to the text of the MPD Policy and Procedure Manual on 8/17/07 was made without consultation with, or even notification to, most of the interested and affected parties.
- d) Specific guidelines, such as those in the previous policy, facilitate easier decision making in the heat of the moment. Guidelines such as, “Only one officer should activate a Taser against a person at a time” are easier to apply than the complex guidelines established by court cases or the Constitution. “Reasonableness” standards can lead to wide variations in application from officer to officer.

- e) Improvements and/or additions to the CED policy can be made at a later date. We intend to continue study of CED policy to determine what, if anything, should be improved, based on experience and the latest research. For now, we feel that this policy change is simple, well-justified, and urgent.

2) The CED policy should be stated explicitly in the MPD Policy and Procedure Manual, without need for reference to training

- a) Greater transparency. Anyone with internet access can determine what the policy is.
- b) Public reassurance. Taser usage is controversial. As stated by the MPD in its 1/24/06 report, “Conducted Energy Device (CED) Support Paper”: “The key to reducing community fear about the CED abuses is good policy and oversight.” The “good policy” must be publicly known if it is to have that effect.
- c) Verifiability. There is no question as to what policy is in effect on a given date.
- d) Easier version control. If officers are to be held accountable for following current policy at the time of a given incident, it is necessary to know which version of the policy was in effect at that time. There is already a system for controlling and documenting updates to the MPD Policy and Procedure Manual. It appears that no such system exists for training, and it would be difficult to implement such a system.
- e) Ease of use by the CRA and the Internal Affairs Unit. Both of these organizations provide oversight and accountability by judging officers’ conduct based on their adherence to MPD policy. It is much more difficult to verify current policy if it is contained in a variety of training manuals, rather than in one comprehensive document. The CRA is concerned that it cannot properly carry out its mission without clear knowledge of MPD policy, so as to be fair to both complainants and officers.
- f) Ease of reference for officers. The MPD Policy and Procedure Manual can be referred to at any time. By contrast, written materials distributed during training may or may not be kept well-organized for reference. Officers cannot be expected to remember all the details of their training, even with annual recertification.
- g) Consistency. If the policy is in the MPD Policy and Procedure Manual, all officers are informed of exactly the same policy. If the policy is in training, it may be conveyed differently by different trainers, or at different times.
- h) Does not significantly increase the length of the MPD Policy and Procedure Manual. There has been an interest expressed in shortening and streamlining an admittedly bulky manual. But the addition of three more pages, at the most, would be insignificant. If any streamlining is to be done, it should be in an area far less critical than CED policy.
- i) No effect, in theory, on officer accountability. Officers are accountable to the policy in the Manual. If the Manual refers to training, then the policies in that training have the same effect as if they were explicitly included in the Manual. Having policy explicitly stated in the Manual would not change the standards the officers are held to, so there should be no objection from officers or their representatives, if indeed the substance of the policy is the same.
- j) Policies can still be included in training also, if desired by the MPD. There should be no need to revise the training manuals, if the previous policy has in fact been simply moved to training.
- k) This change is simple to make. The wording is already prepared.