

Minutes
Minneapolis Civilian Police Review Authority
Regular Monthly Board Meeting
Wednesday, June 2, 2010
333 City Hall
6:30 p.m.

Board members present: Bellfield, Benson, Elayaperumal, Franklin, Kallenbach, Kvidera, Pargo, Santiago, Terrell, Wetternach, Zuege

Also present: CRA Manager Lee Reid
Assistant City Attorney Joel Fussy
MPD Deputy Chief Scott Gerlicher

I. Call to Order

Chair Bellfield called the meeting to order.

II. Approval of Agenda

Wetternach **moved** the agenda be adopted. Terrell seconded. **Motion passed unanimously.**

III. Approval of Minutes – May 5, 2010 Civilian Police Review Authority board meeting
This Item was not addressed.

IV. Velma Korbel, Director, Minneapolis Department of Civil Rights

Bellfield introduced Velma Korbel, the newly appointed director of the Minneapolis Department of Civil Rights.

Korbel stated that although yesterday was her first official day on the job, she has spent the last month getting to know Reid and the CRA staff, as well as the Civil Rights Department staff. She explained that she moved to Minnesota in 1989 and has been doing civil rights work since the 1980s. She understands from talking to people in the city and colleagues around the country that the Minneapolis CRA is a model of what civilian oversight is, so she is looking forward to learning from the board, as well as people from the community. She talks to Reid on a daily basis and plans to have the CRA office location combined with the rest of the Department of Civil Rights, so that communication can improve. She is aware of the issues the board is working on now and hopes to attend meetings periodically to see what the board is thinking. She looks forward to getting to know board members and urged them to feel free to contact her.

V. Reports

Chair

- Bellfield thanked everyone for their get well wishes, good thoughts and cards they sent. He is glad to report he is cancer free, and can get on with his life.
- There was a ruling on the Communities United Against Police Brutality (CUAPB) lawsuit concerning not sustained complaints. The status of “not sustained” is public information.
- The new board members will receive Use of Force training from the MPD one Monday in June.
- The City Attorney’s Office will be providing training to new board members in June.
- The board will hold a discipline discussion at the July meeting.

- Hearing are scheduled for June 23 and 30. Board members were provided with an assignment schedule. Bellfield asked new members to contact Reid if they wish to shadow these hearings. Kallenbach asked that members be provided with the complaint files a week in advance of the hearing.

CRA Members

- There were no member reports.

Manager

- Reid reviewed the [CRA Workload Report](#) for May 2010. Reid praised the board for completing their determinations. Terrell asked Reid for the status of the ten complaints awaiting an MPD disciplinary decision. Reid explained the complaints are in various stages of the MPD disciplinary process. Once the process is completed, the CRA will be notified of the disciplinary decision.
- Reid reminded board members to state their names before speaking at the board meetings, as well as to speak louder. This will help staff in transcribing minutes. Staff is experimenting with new recording equipment.
- In July the board will discuss past disciplinary decisions. Board members will be sent copies of the disciplinary decisions, as well as the hearing panel determinations in advance, so they are ready for discussion. Reid suggested the board consider moving the meeting start time to 5:30 p.m. or move the business meeting start time to 7 p.m., to allow an hour to discuss all the decisions.
- Reid explained that ordinance changes and changes to the administrative rules will need to be considered some time this year. There will need to be a public meeting held to discuss proposed changes.
- There was a PACC meeting today. Process issues between the CRA and the MPD were discussed, such as how to get information to each other, and how to avoid duplicate complaint filing.
- Reid explained that the CUAPB lawsuit talks only about the status of the not sustained complaints, not the investigation itself. Terrell asked if that means the complainant will be told that the complaint was not sustained, or that it has been forwarded to the chief. Kallenbach stated that if it has been forwarded to the chief, it could be intimated that it was sustained. He asked why the complainant cannot be told the complaint was sustained. Reid said that stating that there is merit to the complaint, before the chief makes a disciplinary decision, would be premature. That would be releasing more than the status. Franklin asked if that allows the complainant to ask for a reconsideration. Reid stated that it will. Zuege asked what will be the operating procedure for cases where there are some allegations that are not sustained and some that are sustained. Will that case be forwarded to the chief, or will the complainant be informed of a partial not-sustained finding? Reid said in the past, complainants were able to know that part of the complaint was sustained, while another part of it was not sustained, and they were able to request a reconsideration. The city attorney will be advising Reid on that. Elayaperumal asked if the reason for not reporting the sustained status is because it attaches undue or excessive merit. His understanding is that the board does attach merit to a case when it makes a sustained finding and the chief considers it based on the evidence, at his discretion. To say that the board does not want to attach merit suggests the board might not fully believe in the process of their determinations. The city attorney was asked to comment.

Fussy stated that his understanding of the court's ruling is that it is a technical application of the data practices law. Since the disciplinary authority is the police chief, until he makes that determination, there has been no determination of discipline. The City's interest was in delineating what portions can be released and what cannot. Hopefully, this ruling will bring some clarity to that and procedures can be established. He stated that it is still in the appeal period. He is not aware of any plans by the City to appeal, but there are other parties involved in the lawsuit, so until the appeal period is over, it is not a final determination. There is still some interpretation that needs to be done on the court's ruling. Reid added that until the CRA is advised by the City Attorney's office, it will not be releasing this data.

Kallenbach said it is his understanding that the ordinance and the charter gives the responsibility for discipline to the mayor and the mayor has the right to delegate that to the chief. Kallenbach asked Reid where he is at in scheduling a meeting with Council Member Lilligren and Sherman Patterson, Mayor Rybak's policy aide, to address some of the board's concerns about the lack of discipline being imposed by the MPD, and the accountability of the mayor's office in rubber-stamping these decisions. Reid hopes that a meeting will be held soon. He will keep the board posted.

Committees

Data Practices working group – Zuege

The group, which was formed last month, attempted to meet but were unable to come up with a time that worked for all. They will try to schedule a meeting in June. Zuege will notify all board members once a meeting date is set.

Zuege asked for status on re-forming board committees. Bellfield hopes to discuss this at the board retreat. He will send out something to all the board members this month.

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

Chuck Turchick

In 1968 in Paris, France there was almost a revolution. The slogan people were chanting in the streets was "be realistic, demand the impossible." He is demanding the impossible. He referred to an email he sent the board where he asked the board to disband. The reason this board was formed was because of the issue of credibility. No other agency in the city can say that. The Civil Rights Department was formed because there were allegations of discrimination. The CRA was formed because there was a lack of credibility in a process that already existed – the MPD internal affairs unit. Credibility is crucial for the CRA. Appearances determines credibility. How things seem to the public, whether factual or not, determines whether there is credibility in this process. When the police chief says that he has disputes with the facts, so he will not impose discipline, and an ordinance says the chief's disciplinary decision shall be based on the adjudicated facts as determined by the Civilian Review Authority board, then there is an appearance, whether the chief is actually overturning the CRA's decisions or not, that the chief is overturning the decisions. With that appearance, this process lacks credibility. He quoted from his email:

Now, you may say, "Whoa, Chuck. You might believe this appearance that our decisions are being overturned means the process lacks credibility, but that doesn't mean the wider community, the public, does."
Well, then I suggest you tell every person whose complaint is going to a

hearing that you will make findings of fact, and then look to see if those findings constitute officer misconduct, and sustain or not sustain the complaint on that basis. But then the Chief, in deciding on discipline, may refuse to impose discipline because of a dispute with the facts. That's just the way the process works. Tell them that, and see if anyone believes the process is credible.

Turchick thinks the board should call a halt to hearings until this whole issue of whether a dispute with the facts by the police chief violates the ordinance is resolved.

Zuege added that he spoke with a former CRA board chair about six weeks ago and he gave the same recommendation that Turchick has just stated, that the board should refuse to hold further hearings ~~(rest of comments inaudible)~~. if the board was not getting discipline on sustained cases.

Michelle Gross, President, CUAPB

She has passed out a copy of the Court of Appeals decision in the case, Communities United Against Police Brutality vs. City of Minneapolis. This is a ruling that changes the city's position on the status of CRA cases, whether that is public or not. She is proud of the ruling. She thinks that they did the community a huge service by bringing forth this lawsuit at CUAPB's own expense. They recognized that the CRA board could not take that step, as a board. She urged the board not to take the position to wait to see if there is any possibility for appeal. This is the rule of law right now. That makes it something the board needs to follow. She has submitted a data practice request to the CRA. She expects the request to be handled expeditiously. She has contacted CRA staff to explain that she would be flexible about the timetable, as the normal timeline to respond to a data request is ten days. She does expect her request to be responded to, and not put on the back shelf until the CRA sees if the city is going to file an appeal. If the CRA fails to follow the rule of law and tell people the status of their complaints, it continues that people file a complaint and it falls into a black hole. That's what's been going on since 2007. It is a huge issue for the community. It is hard for CUAPB to say good things about the CRA when people come in here and their complaints fall in a black hole. The CRA now has the opportunity to fix that, and she urges the board to take that opportunity.

Gross referred to remarks that Terrell made at the May 5 meeting about going to a school and speaking at the school. Gross interpreted Terrell's purpose in speaking to the students as trying to convince them that cops aren't such bad guys after all. She is trying to figure out how this is a neutral position, and if it isn't a neutral position, did Terrell seek permission from the board to take that stand and represent the board in this way. It seems to her that if it is anything that involves helping the community or advocating for the community, it is suspect, but if it's anything that involves helping the community be pro-cop, then it is not suspect. The CUAPB has asked board members to come out and join them in cop watch and other activities so that they can do a "ride-along" with the community. They have never had a single member take them up on the offer. To her, that speaks volumes about the board's position with the community versus their position with the MPD. If board members are going to go out and promote police officers, they should not do it in the name of the CRA.

Terrell stated when he goes to the school, he is promoting the CRA process. He has conversations with a population of kids who have questions about police officers and who

have struggles in their community, so they talk about those issues. It doesn't mean he is promoting police, it means they are having quite fascinating conversations about community-police relations. They went to the MPD citizens academy – Terrell didn't take them to the citizens academy. He encouraged them to go because that is the kind of stuff that citizens should be involved in.

Dave Bicking

This is a very promising time for the CRA right now. There are eleven board members at this meeting, which is the first time in at least 3 ½ years. The board can get a lot of work done, keep up on the hearings and committee work. He agreed with Korbel's comments that the Minneapolis CRA is one of the best models in the country in terms of its setup – having its own investigators, etc. He would like to see it work and he agrees with Turchick and Zuege that there are problems and maybe it's not going to work. It is a board function to make it work. He went to a conference of the National Association for Civilian Oversight of Law Enforcement (NACOLE) about two years ago. It is coming up again in September in Seattle, Washington. It's not too early for people to think about going to that conference, or members may want to join the NACOLE listserv, which is very interesting. A CRA investigator posts to the listserv occasionally, and Bicking has found it helpful.

The ruling on the IPAD decision, which people have already talked about, is excellent except for one small detail, it brings the CRA back to where it was. The sustained cases will take a little longer to be revealed, but they can be revealed. He thinks it is shameful that the CRA has been put through this process for almost three years now. He doesn't blame the police officers' union, it is their job to look out for their members. He does blame the City Attorney's Office, which has given bad advice, which the court has now recognized as bad advice. That is the same city attorney's office which is supposedly representing the board. This continues to be a problem. This will make a lot of work for the board and for the staff to catch up for three years. It is also encouraging that some of the administrative rules can be brought up to date.

To make the CRA really effective, the thing is the discipline. There were some very encouraging results on that this month. This Friday, at 8:30 a.m., 757 Government Center, Chief Dolan has been ordered to appear at the court to say that he is disciplining in accordance with the ordinance or to show cause why he doesn't have to. They have heard that he is not going to show up, but nevertheless the process will surely go on. He encourages people to follow that, talk to their city council members – this is important. The City Attorney's office is representing both Chief Dolan and the CRA, which is problematic.

The situation with Chair Bellfield could be ended very easily by his making notification to the Executive Committee. In December, he said he would do it after the report was issued. In February, it was discussed but Bellfield wasn't able to be at that meeting, so it was put off. The March meeting was cancelled. At the April meeting, it was brought up to have Reid do that. At the May meeting, we found out that is not Reid's job, to which Bicking agrees. It has now been six months but it is not too late to direct the chair to make that notification to the Executive Committee. It would save a lot of time and trouble for a whole lot of people, including the chair. He asks the board to go forward and do that at this meeting.

Hugh Mandel

He is questioning if the Minneapolis charter states that the police chief only has to report to the mayor, then the mayor should be taken into court. He wonders why 311 operators

won't give out the police administration telephone number. He asked the 311 manager to look into it and he couldn't provide any reason, just that they were told not to give it out. It is another way to restrict the public's communication with police administration. He thinks that although Minneapolis was recently voted the most bike-friendly city in the nation, the MPD doesn't report any bike patrol statistics. There is no way to measure the bike patrol effectiveness.

VII. Business

Terrell

After discussion, the board decided to hold their retreat on Saturday, August 14. The location is to be determined. Terrell said the board will meet in the morning about 8:30, at 9:00 will start presentations from board members or speakers. The second half of the retreat will be break out sessions, where the members can discuss in detail some of the issues that the board is dealing with and try to develop strategies. Terrell would like to use the services of a moderator for the break out sessions. He expects the retreat to end at 4 PM at the latest. He said if they can get some funding, lunch will be provided. Otherwise, members can go out for lunch or hold a potluck.

Zuege

He hopes the board can issue a formal request that the Mayor's office notify the board when the chief's next performance review is going to take place so that the board can be sure to have a report ready in advance of that date. He suggested either Bellfield or Reid do this. Bellfield replied that he and Reid will handle this. Zuege added that the board had talked about doing this on a yearly basis, and based on the timing covered by the last report, it would be in the third quarter of the year. Zuege believes that if the board does want to do this on a yearly basis, they should start working on it now. He suggested a committee be established tonight.

Zuege **moved** that a working group is created to prepare the CRA's participation in the performance evaluation of the chief for 2010. Terrell seconded.

Discussion

Kvidera asked if an existing committee could take this assignment. Bellfield would prefer to ask for volunteers for this work.

Terrell stated that the outline is in place, so they have a template.

Motion passed unanimously.

Bellfield asked for volunteers to serve on the working group. Elayaperumal, Bellfield and Terrell volunteered to serve. Bellfield suggested they talk and set up a time to meet.

Kallenbach suggested that before the board discusses ordinance issues, they get feedback from the community and from the Federation as to suggestions that they feel would be helpful to strengthen the ordinance. If the board could get those suggestions before the August retreat, it would help discussions about where the board may want to focus their agenda.

Bellfield said that if the Federation or any member of the community has some suggestions on the ordinance, they send those suggestions to Reid at

Samuel.Reid@ci.minneapolis.mn.us

VIII. Announcements

Terrell reminded board members that the board has a Facebook page for outreach. He has been working with a CRA staff member, who has done remarkable work, to improve

on the start Terrell made. She has made it look very professional. He urged members to become a [fan of CRA on Facebook](#).

Zuege

- Registration for the fall session of the MPD citizens academy is now open. It will be on Wednesday evenings, September 29 through December 8, 6 p.m. to 9 p.m. in South Minneapolis. The deadline is Friday, August 27. It does fill up fast. Registration should be sent to Carol Oosterhuis at the MPD. The information and application is on the MPD's website. Reid advised members to indicate on their application that they are CRA board members.
- Zuege said the City has settled a lawsuit about police misconduct recently for \$235,000. It involved a video of a stop about a year ago.

IX. Adjournment

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

Motion passed unanimously.

MINNEAPOLIS CIVILIAN POLICE REVIEW AUTHORITY
301 4th Avenue South, Suite 670
Minneapolis MN 55415
(612) 673-5500

TO: CRA Board

FROM: Samuel L. Reid, II
Manager

DATE: June 2, 2010

SUBJ: Monthly Report – **May 2010**

1. Intake – 38
2. Signed Complaints – 3
3. Complaints by:

<u>Ward</u>	<u>Police Precinct</u>	
Ward 5 – 1	Precinct 4 – 1	Repeat Officers ¹ – 2
Ward 6 – 1	Precinct 5 – 2	Repeat Officers ² – 3
Ward 10 – 1		New Officers – 1

- Allegations

Excessive Force – 1

Inappropriate Language – 3

Harassment – 1

Inappropriate Conduct – 3
4. Completed Investigations – 7

Complaints in Investigation	2008 – 13
	2009 – 59
	2010 – <u>24</u>
	96
5. Mediations scheduled – 1

Mediations held – 1
Mediations successful – none
6. Manager dismissals – 1
7. Complaints awaiting Hearing as of 5/28/10 – 15

¹ Officers with one or more prior complaint 1991 through 2006.

² Officers with one or more prior complaint 2007 - present.

8. Hearing Panels
 - Complaints heard – 8
 - Determinations Completed – 9
 - Sustained – 2
 - Partially Sustained – 1
 - Not Sustained – 2
 - Dismissed – 4
 - Determinations Pending – 5
 - Hearings held in 2009 – 1
 - Hearings held in 2010 – 4
 - Remands – 1
9. Discipline Decisions Received From Chief of Police – None
10. Complaints Awaiting Discipline Decision – 10