

Minutes
Minneapolis Civilian Police Review Authority
Regular Monthly Board Meeting
Wednesday, August 4, 2010
333 City Hall
5:30 p.m.

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

Board members absent: Franklin, Santiago

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. Kvidera seconded. **Motion passed unanimously.**

III. Review Of Disciplinary Decisions

Zuege **moved** to close this portion of the meeting to the public pursuant to the Minnesota Government Data Practices Act. Kvidera seconded.
Motion passed unanimously.

Terrell **moved** to reopen the meeting. Benson seconded.
Motion passed unanimously.

IV. Approval Of Minutes – July 7, 2010 Board meeting

Benson **moved** to approve the minutes of the July 7, 2010 Board meeting. Terrell seconded.
Motion passed unanimously.

V. Reports

Chair

Bellfield read a statement in response to Mr. Chuck Turchick's "Animal Farm" letter:

As Chair of the CRA, I try to be as fair as possible in carrying out my duties. However, it seems that no matter how fair I think I might be, someone may think that I am not. In carrying out my duties, I will continue to call upon and recognize representatives of the Mayor's Office, City Attorney's Office and the Police Department if, in my opinion, they can add to our discussions.

I have also set aside time on our agenda for public comment, which is the appropriate venue for public input.

The CRA Board represents the citizens of Minneapolis. We are duly appointed by the City Council and the Mayor. We are not employees of the City nor are we elected officials. As such, we have an obligation to not be swayed by partisan interests, public clamor, or fear of criticism. I have repeatedly stated that our job is adjudication, and as such, neutrality and impartiality are to be expected. When these principles are brought into question, it has a direct impact on our mission, credibility and integrity and affects our effectiveness.

We do our duty as best we can and if individuals or groups disagree, or have concerns or issues with how we carry out our duties, the appropriate venue that should be pursued is with the City Council and/or the Mayor.

Manager

- Reid reviewed the [CRA Workload Report](#) for July 2010. Reid explained to the Board that when a large number of initial complaints (intakes) are received, it will affect the number of investigations that can be completed at that time. Reid further explained that staff will shortly begin using a priority system for complaint investigation. Staff is also working on completing initial complaints within 10 days of receipt.
- Reid asked that Board members review complaints that had been remanded, as all staff work has been completed on those cases. He suggested those files be reviewed on dates that members are already scheduled for hearings. Kallenbach suggested panels be created for new hearings that correspond with panel membership of the remanded complaints. Reid agreed to that.
- Terrell questioned the number of repeat officers on the report. Reid explained that one officer could be counted twice, once for having a complaint in the period 1991 through 2006 and again for another complaint in the period 2007 to present. Reid added that the issue of repeat officers will be one of the factors in the new priority system he is implementing for the CRA caseload.
- Elayaperumal asked about determining whether a number of officers with the same supervisor are getting complaints. Reid stated that would be good to know during the investigative or hearing panel stage, but not to be reported as a statistic. Terrell asked how many supervisors are in the precincts. Gerlicher estimated there are 20 patrol supervisors.

Kallenbach asked how supervisors are assigned. Do officers have one person they are responsible to for management, versus a sergeant in charge on a particular shift on a particular date? Gerlicher explained that if an officer works a permanent shift, there are 3 or 4 sergeants assigned. Days off are not coordinated between officers and sergeants, so on any given night, they

will be reporting to one of 3 or 4 sergeants. Usually, during the course of a year, they will be divided up so one person isn't doing performance evaluations for 30 people. Each sergeant will take a group and keep track of those on an ongoing basis. There is some variation night to night based on the officer's days off and the supervisor's days off, but it is pretty consistent amongst the 3 or 4 sergeants. Terrell asked when the Department is looking at officer conduct, do they track by the sergeant who evaluates those officers who have a high level of complaints? Do they pay attention to who is supervising them? Gerlicher replied that they try to pay attention to things like that with their early intervention system. It is not always obvious, but from time to time they do spot trends, based upon a particular shift, such as a type of force being used, which will cause them to do some training specific to that group, or to talk to the supervisors on that shift to reign the officers in, or compliment them on outstanding jobs. From time to time, they will hold supervisors accountable for not doing a very good job at supervising. It does not happen often, maybe 2-3 times a year on average. Kallenbach asked if sergeants' performance evaluations consider the number of complaints filed against the officers they supervise. Gerlicher said there is no direct correlation between performance and number of complaints, but it is taken into account. If a particular sergeant is not performing up to standards in their job of supervising and that is evidenced by a large numbers of complaints or other issues, that is a factor and that supervisor would be graded down or put on a remedial work track. Kallenbach added that it is important for the city to track this. Gerlicher agreed and said that they are doing it, just not numerically. There are other factors. He cited night shift at Precinct 4, where officers will tend to get more complaints because they are so busy, dealing with 10 times the calls for service than somebody working the south end of Precinct 3.

- Terrell commented that this is a pretty big spike in CRA complaints. Reid said that the CRA does get more complaints during the summer months. Kvidera explained that the weather has been hot and people have been out recreating in the street, so the CRA will see more complaints. Neighbors will hear things because windows are open. Reid noted that Precinct 1 received 7 of the 16 complaints, and a lot of that has to do with downtown events on the weekends.

Committees

Board retreat – Terrell

The working group met this week to discuss planning. They are finding that people they would like to have as speakers are unavailable in August. They will plan on holding the retreat on October 16 rather than the previously scheduled date of August 14. They will continue to invite people to come and be a part of the retreat. Terrell expects the retreat will be held in City Hall. Bellfield added that there will be a facilitator involved.

Zuege is concerned that committee organization discussion was to be held at the retreat. That will push back the wait for committee assignments to almost one year. Bellfield has the committee assignments prepared. He will send those out to Board members this weekend. He will allow the committees to appoint their own chairs.

Kallenbach asked if the Director of the Civil Rights Department has responded to Bellfield's letter about the Board's concerns with moving the CRA office into City Hall. Bellfield stated he has not received a response. Pargo asked if Bellfield told the Director that the Board would like to speak with her personally. Bellfield has done that.

Data Practices working group – Zuege

They did not meet this month. He will try to organize a meeting in the near future.

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

Chuck Turchick

He really appreciates Chair Bellfield's statement. He hopes people understood that his reference to Animal Farm was in reference to the book where there was a revolt among the farm animals and the farm animals that took power set up the same social class stratification that had existed previously. There's a famous expression, something like *all pigs are equal, but some are more equal than others*, which explained how they justified it. Bellfield indicated in his statement that he will continue to call on Mr. Patterson when he wants certain information. Turchick added that the discussion the Board has just had with DC Gerlicher was entirely appropriate. He was giving the Board factual information that no one in the room could possibly have had. At no time did the deputy chief suggest that the Board do something or not do something. Turchick's problem is that when Mr. Patterson raises his hand, there is no way the Board knows what he is going to say, so the chair is not asking for factual information from him that only the Mayor's Office has. Frequently, when he raises his hand, Patterson suggests things the Board should do. That is inappropriate.

Turchick went to the Mayor's open house on July 30. He talked to the Mayor and suggested that this is not appropriate since the CRA was set up because the Internal Affairs process, the only option previously, was deemed to be inadequate. That process is under the Mayor. The CRA definitely has to be independent of the Mayor. The Mayor asked Turchick for an example of something Patterson said. Turchick gave the example of when the Board was considering getting involved in the performance of the police chief and Patterson told the Board, "I think you have enough on your plate." Patterson made a suggestion that the Board delay it until January. That is inappropriate for someone from the Mayor's Office. The Mayor essentially agreed with Turchick. He said he was going to talk to Patterson about that. Turchick would be surprised if, in the future, Patterson raises his hand. If the Board wants factual information from the Mayor's Office that only Patterson can

provide, Turchick has no objection to that. But no one outside the Board, especially from the Mayor's Office, should be making suggestions about what the Board should do.

Dave Bicking

He is curious about how the discipline decisions have been going in the last year. It is one of the biggest problems the Board has. Looking through the monthly manager reports for the last year, he finds that July 2009 through June 2010, there were 20 cases on which discipline decisions were made, involving 29 officers. Two officers received 20 hour suspensions without pay. That is better than during the 21 month period in the last report. There were three officers who received a reprimand. There was one A level violation, which is not considered discipline, and a coaching. It still amounts to a very low level of discipline. When he thinks of the amount of work that the Board does, the amount of work that the staff does, the expectations that there are of the CRA, to have discipline in 20 percent of the cases, and 17 percent of the officers is still just unacceptable and does not accomplish what this Board is supposed to accomplish. Bicking is disappointed but not surprised to see that this month, they have yet one more discipline decision on three officers, who were determined by the Board and the CRA investigators to have misbehaved, where the officers did not get any discipline. He thinks this is the biggest thing that needs to be addressed.

Four years ago there was an amendment to the ordinance to address exactly that, that the chief has to base his discipline on the facts. The biggest need for discipline is of the chief himself, in accordance with the ordinance. Bicking doesn't know what it will take for that to happen. The Executive Committee is in charge of that. He wishes Bellfield had taken the time to write a letter to that committee. According to the City Attorney's Office, the Executive Committee were notified last December of the chief's failure to follow the ordinance. There has been nothing on their agenda, no discussion and no action by the Executive Committee since then. If Bicking were on the Board right now, he would make a motion for the Board to send a letter to the Executive Committee, asking what action or discussion they are planning to have about this failure to discipline and the fact that it could lead to discipline for the chief. It would be very much preferable if the letter came from the Board, but it is definitely going to come from Bicking or someone else pretty soon.

Michelle Gross – Communities United Against Police Brutality

She asked Reid for clarification of the priority system for processing complaints. She stated that for one investigation to have been completed last month when there are 113 pending is appalling to her. Having people wait since 2008 for any measure of anything is not good service, and it concerns her.

Gross stated that the issue of the chief failing to discipline is an ongoing situation and the continuance of it negates the work the Board does. It negates the value of the CRA to the community and is a way of thumbing the nose at the CRA and the work the Board is doing.

Last month Gross invited Board members to join CUAPB for a cop watch and no one took them up on the invitation. She reiterated the invitation, stating that things are quite out of control downtown. The Board can see that in their own numbers of complaints. CUAPB has videos of things like a police officer clocking a man in the head with a pepper spray canister and then turning around and spraying him in the face. The man wasn't doing anything except leaving a bar. They have other footage, too. They will be out this Saturday night doing a club closing cop watch and they invite Board members to come out to see for themselves what they see in the community. She is not trying to tell Board members they don't know what's going on, but seeing it firsthand is different. It is completely safe, they don't get arrested doing it because they are careful to follow the law.

Darryl Robinson, CUAPB

When the police commit misconduct, they have lawyers, their union and the city behind them. The media downplays all that. Community members who do something have their names dragged through the mud. CUAPB has to find psychologists to help people through their traumatic experiences and has to go to court with them and help them find an attorney. They have many cases. Then there is a retaliation process by the police to scare them more. As long as this keeps happening, they are going to take appropriate actions to do what they have to do. If they have to sue the CRA, if they have to sue the chair of the CRA, if they have to sue the police chief, they will.

Reid responded to Gross' question about the priority system by saying it is not yet complete. Once it is completed, he will discuss it with Board members and the public. Gross asked if the public will be notified at the time they file a complaint where they might stand in the priority. Reid said that one of the things he is wrestling with is, are they going to need to make some ordinance changes related to this. The public needs to be included in that. The truth is, with two investigators, there is only so much that can be done. You can only focus on a certain number of things and get those things right and make certain things happen. Or, bring in the resources that you need to be able to investigate everything thoroughly and handle the complaints as first come, first served. If you can't do that, you have to start looking at making priorities such as the complaints that affect the greatest number of people, patterns that are happening, repeat officers. There are criteria to look at. In doing that, they want to be fair to everybody who comes in. How is the best way to go about this? Those are the kind of things being discussed internally. Once it's where Reid wants it to be, he will let everyone know what they're thinking about, get some feedback and make adjustments that need to be made and decide where to go from there.

Gross suggested that high levels of excessive force be a priority. Reid agreed that will be a priority issue.

Unidentified woman

Recently there has been public attention on Officer Jason Andersen in an incident where other officers prevented him from kicking a young man in Crystal. She commends the Crystal Police for their intervention and wants to say that it is very possible for police to police themselves. It is not happening in Minneapolis. Officer Andersen's actually being afoot and having a gun scares her. This man is dangerous. He is clearly out of control and is like a time bomb. The CRA Board has huge responsibilities to do something about these people who are out there walking around. There were indications that he had a problem earlier. He was known to use racial epithets and she doesn't know if he received any discipline for that. She implores the Board to get it together here and demand something of the Minneapolis Police Department. It can be done and it needs to be done.

VII. **Business**

- Terrell is interested in a presentation from the MPD about their early warning system and how they consider CRA complaints, if at all. Gerlicher agreed to provide information to the Board at next month's meeting.
- Pargo asked once the Board makes a decision and it goes to the chief for review, what recourse does the Board have when the chief decides not to listen to the Board's suggestions? Reid explained that once the Board makes a determination, it is sent to the chief for a disciplinary decision. Under the ordinance, the chief has the authority to make whatever decision he is going to make, based on the facts that are determined by the CRA. That could mean discipline, no discipline or to ask for a reconsideration by the CRA Board. After the CRA releases the case to the chief, the CRA is done with the case. The only thing the CRA can do is report on the discipline decision through monthly reports, the annual report or to the City Council. Pargo asked if the Civil Rights Department has any part in this at all. Reid explained the firewall prevents case information sharing between the CRA and the Civil Rights Department. Pargo wants to reassure the public that the CRA is doing all it can. It seems like the Board's hands are tied after the complaint leaves the CRA office.

Bellfield stated that the Board is an adjudicating board. They make their determinations and they are done. They are not an advocacy, activist type of board.

- Kallenbach said it is appropriate for the Board to review the upcoming budgeting session and that the Board report any concerns they have regarding discipline. He asked Wetternach to explain the budgeting schedule so the Board can send a letter at an appropriate time, when it would have the most effectiveness, to the Executive Committee of the City Council, expressing the Board's concerns about discipline and tying in their concerns about investigative needs and other financial constraints.

Wetternach said August 16 is when the Mayor makes his budget address. That begins the process and once that is delivered, Council Member Hodges,

who is the chair of the Ways & Means Committee will schedule departments to be heard. Typically, the budget hearing schedule is published. Kallenbach asked Reid to make the Board aware when the Civil Rights Department is scheduled to go before the Ways & Means Committee. Reid agreed to do that.

Terrell encouraged Board members to contact their council member and the Mayor and advocate for the CRA process. Kallenbach added that the Board has to bear in mind that they are constrained by the ordinance. They have no say in discipline, they only are allowed to hear the cases and make determinations. The charter and the ordinance put discipline outside the Board's scope. That is why Terrell's comment is important. People in the community have concerns. Those concerns can be addressed to the policymakers who actually have some say in this. That would be the Mayor, City Council, and specifically the Committee of the Whole. The place to start is at committee level with the elected representatives who make the policy.

VIII. Announcements

There were no announcements.

IX. Adjournment

Kallenbach **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
Assistant Director

DATE: August 4, 2010

SUBJ: Monthly Report – **July 2010**

1. Intake – 50
2. Signed Complaints – 16
3. Complaints by:

<u>Ward</u>	<u>Police Precinct</u>	
Ward 1 – 1	Precinct 1 – 7	Repeat Officers ¹ – 16
Ward 2 – 1	Precinct 2 – 2	Repeat Officers ² – 15
Ward 3 – 1	Precinct 3 – 3	New Officers – 2
Ward 4 – 1	Precinct 4 – 3	
Ward 5 – 2	Precinct 5 – 1	
Ward 6 – 1		
Ward 7 – 6		
Ward 8 – 1		
Ward 11 – 1		
Ward 12 – 1		

Allegations

Excessive Force – 15

Inappropriate Language – 26

Harassment – 6

Discrimination in Conduct or providing service – 1

Inappropriate Conduct – 30

Retaliation – 2
4. Completed Investigations – 1

Complaints in Investigation	2008 – 10
	2009 – 62
	2010 – <u>41</u>
	113

¹ Officers with one or more prior complaint 1991 through 2006.
² Officers with one or more prior complaint 2007 - present.

5. Mediations scheduled – None
6. Manager dismissals – 2
7. Complaints awaiting Hearing as of 7/30/10 – 9
8. Hearing Panels
 - Complaints heard – 5
 - Determinations Completed – 2
 - Partially Sustained – 1
 - Dismissed – 1
 - Determinations Pending – 10
 - Hearings held in 2009 – 1
 - Hearings held in 2010 – 9
 - Remands – 4
9. Discipline Decisions Received From Chief of Police – 1
 - No discipline imposed – 3 officers
10. Complaints Awaiting Discipline Decision – 7

From: charles turchick
Posted At: Wednesday, July 07, 2010 8:54 PM
Subject: Animal Farm

Dear CRA Board Members:

I have raised this issue during the public comment portion of a previous meeting, but nothing has been done about it so I raise it again here.

It seems to have been decided that Sherman Patterson may participate in discussions at CRA Board meetings, but other citizens may only speak during the public comment portion of the meeting. At the meeting on July 7, 2010, during the Board's discussion of how to respond to the Civil Rights Department Director's suggestion that CRA move its offices to City Hall, Mr. Patterson raised his hand, was recognized by Chair Bellfield, and made a suggestion.

I have no idea whether this was Mr. Patterson's personal opinion, whether he was speaking for the Mayor, or whether he was just throwing something out for consideration. Later in the meeting, I raised my hand, and Mr. Bellfield said I had had my opportunity during the public comment portion of the meeting.

Frankly, I have had enough of this "All citizens are equal but some are more equal than others" business. I am not a lesser citizen of Minneapolis than either Mr. Patterson or the Mayor. If either of them is free to express opinions, make suggestions or participate in any other manner in the Board's discussion, as a full-fledged citizen of this City, I should be entitled to do likewise.

If Mr. Patterson has factual information that no other citizen could have, I have no objection to the Board requesting such information from him to aid in its decision-making. If Mr. Patterson volunteers factual information that I could just as easily have -- and at times in your discussions, I have indeed had factual information that may have been useful -- he should have no special privileges that I would not enjoy. The only time I can remember when Mr. Patterson had factual information available only to the Mayor's office was when he informed the Board that Chief Dolan's annual performance review had occurred at the end of August. And he so informed the Board after it had been discussing how to participate in that review for a good 15 to 20 minutes!

Moreover, a good case could be made that I as an ordinary citizen should have a greater right to inject my opinion into your discussions than either Mr. Patterson or the Mayor. After all, five of you are appointed by the Mayor, and you are appointed to be an independent body. If the Mayor is then permitted to opine on matters before the Board, your independence in the eyes of the public may well be severely diminished. You might well be perceived as "puppets of the Mayor."

I expect to hear from you in an official capacity about this matter either before or at your next monthly meeting. This is lawsuit material.

Sincerely,

Chuck Turchick
612-871-8793