

Minutes
Minneapolis Civilian Police Review Authority
Regular Monthly Board Meeting
Wednesday, October 1, 2008
333 City Hall
6:30 p.m.

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

Board Members Absent: Turner

Also Present:

CRA Manager Samuel L. Reid, II Assistant Chief Sharon Lubinski
Assistant City Attorney Lisa Needham Sherman Patterson, Mayoral Aide
Michael Salchert, Minneapolis Police Federation

I. Call to Order

Chair Bellfield called the meeting to order at 6:30 p.m. and called the roll.

II. Approval of Agenda

Benson **moved** the Agenda be adopted. Kvidera seconded.

Motion passed unanimously.

III. Acceptance of the minutes of the regular board meeting of September 10, 2008

Zuege **moved** the September 10, 2008 minutes be accepted with the following **amendment**: Item 7, paragraph 1 be corrected to show that comments attributed to Assistant Chief Lubinski were actually made by Lieutenant Piontek.

Bicking seconded.

Motion passed unanimously.

IV. Public Invitation

Michael Salchert

He asked if it is inappropriate to have this item this early in the meeting, before any substantive items have been discussed, which the public may have something to comment on. Bellfield will take Salchert's comments under advisement.

V. Reports

Chair

Hearing panel schedule and assignments for October have been sent out to board members. Bellfield will be unavailable October 6-22. After October 22, he will be available to substitute for members who cannot serve on a scheduled hearing panel in October. He reminded members that if they cannot serve on a panel, it is their responsibility to find a replacement.

CRA Members

Bicking has registered to attend the National Association for Civilian Oversight of Law Enforcement (NACOLE) Conference in Cincinnati, Ohio, October 27-30, 2008.

Manager

- Reid reviewed the [CRA Workload Report](#) for September 2008.

- Reid questioned Needham if a complainant of a dismissed complaint can be offered a reconsideration. Needham advised they cannot be notified that their complaint has been dismissed, as it informs them of where they are in the process.
- Reid reminded board members to provide him with their availability for ride-alongs with MPD officers, so that he can set those up through Lubinski.
- On September 20, CRA participated in an outreach effort with the Hmong-American Mutual Assistance Association. There was a good discussion of community concerns and the CRA process. Reid hopes to increase outreach with the Hmong community.

City Attorney

Bellfield stated that since Needham has informed him that the City Attorney's Office does not routinely provide status reports, he will address issues of concern to him and invited other board members to participate.

- Bellfield asked Needham for an update on the Police Officers Federation lawsuit, since it concerns the CRA and how the CRA conducts its business. Needham informed Bellfield that she is not handling this lawsuit. Bellfield will talk with Reid and the City Attorney's Office to get that information.
- Bellfield asked about the proposed ordinance changes brought about by the IPAD opinion. He wants the board to see the proposed changes to the ordinance before it is presented to the City Council. That will allow the board to make recommendations. Bellfield will be expecting status reports on subjects of interest and concern that the CRA board deals with.

Needham responded that the City Attorney's Office has no problem reporting, they just don't prepare a report as a matter of course. Needham explained that there are three pending ordinance changes: 1) Language concerning reconsiderations and public data related to the IPAD opinion. The City Attorney's Office has directive from Council Member Benson to provide a draft of ordinance changes to him. It is up to Benson and the board to decide where the board should be in that process. The City Attorney's Office does not have any opinion of where CRA is in the process, they are just preparing the draft of what they believe the IPAD opinion requires. 2) Acting chair issue and 3) Not sustained files going over to Chief's office. Originally, all these ordinance changes were to be considered as a package, but given that issue #1 is a more involved issue, the board may want to consider dealing with issues #2 and #3 more quickly. If so, Needham will accept direction to draft possible ordinance changes.

Committee Reports

Reports Committee – Terrell

- Terrell reviewed the **CRA Reports Committee Notes of 9/25/08**
- The Reports Committee is interested in discussing early warning issues.
- There needs to be discussion about how to report the CRA board's work to the community without violating data privacy. The manager's report is thorough about what work is getting done, but how does the board help the public understand the data.

- The Reports Committee wants to educate the community about what the CRA is hearing and why some of the things brought to the CRA are not complaints.

Lubinski commented that in response to the Reports Committee report there are a similar number of 911 calls and crimes in the 3rd and 4th precincts, but there is a difference in the type of calls and crimes. The 3rd precinct has a lot of property crimes and the 4th precinct has significantly more violent crime.

Lubinski added that there is some good information in the CRA's 2007 annual report. For example, a disproportionate number of officers with 11 or more years of service had complaints. She is passing that information along to the commanders.

Policy Committee - Bicking

- The committee agreed that since all are new to the board, they would do a case study on what's been done on policy before. The Taser Policy and Training Recommendations report was a good model of how the CRA responded quickly to a Council request and how the policy was placed by the Chief in the MPD policy and procedure manual. A portion of the taser policy has disappeared from the manual, having been moved to training, without the CRA being notified. The committee will want to look at notification to the CRA by the MPD when changes happen in the manual.
- Concerning the RNC, nothing passed by the City Council in June and July 2008 regarding public gathering policies is in the manual and a policy passed in 2000 regarding public gatherings never really got published. That is an area the committee wants to follow up on.

Lubinski said those resolutions are already in the MPD policies or are Constitutional law or state law or training practices. The only thing that is not in there is direction specific to the RNC about providing information to arrested parties on how to make a complaint with IA or CRA.

- Bicking announced the next Policy Committee meeting will be held on Wednesday, October 22 at 6:30 p.m.

Steering Committee – Bellfield

- The committee feels strongly that there should not be any reference to a vice chair in the ordinance itself. If there is going to be a change, it should happen in the Administrative Rules or in bylaws created by the board. The committee believes anything that has to do with the makeup of the CRA board should be discussed by the board and the board should be able to make recommendations to the City before the City Attorney's Office recommends changes.

Kvidera said this is a unique situation where the organization is constituted by the City Council. The board is not allowed to have its own bylaws, it either has to get the ordinance changed so the board can have its own bylaws and can elect their own vice-chair or get the ordinance changed so there is a way to appoint an acting chair.

Bicking said the ordinance gives some specific responsibilities to the board chair only. There should be a mechanism in place so that if the chair is not appointed or

not available for some other reason, there is another process that allows the board to take action.

Needham advised that the board is free to propose anything it likes but what they are proposing is a fairly radical structure change, by which the board is greatly devolving the Mayor's authority. Right now the Mayor appoints the chair and is able to exert some control over the board. Before the board drafts bylaws or adds to the Administrative Rules, they will need to get a sponsor in the City Council and follow that mechanism. It is more the purview of the Mayor than the City Council, however.

Bicking agrees with Needham, but the inability to act in the absence of the chair gives the Mayor a greater authority over what is supposed to be an independent board than most of the board members would like to see. They would like to try to make that case to the City Council.

Reid asked Needham when the board will have received something they can review from the City Attorney's Office regarding the ordinance changes due to the IPAD opinion. Needham hopes to have a draft to Council Member Benson before the end of the month.

Bicking **moved** that: 1. The CRA board withdraws their recommendation passed on August 6, 2008 regarding an ordinance change to provide for an acting chair; 2. The CRA board recommends that the HE&E agenda item currently on the October 16, 2008 agenda be postponed until such time as other ordinance changes are ready for consideration by the City Council, and; 3. The CRA Steering Committee prepare suggested wording for an ordinance change regarding an acting chair or vice-chair by the December CRA board meeting. Benson seconded.

Motion passed unanimously.

The Steering Committee discussed the IPAD opinion and how the board will function until the ordinance issues are resolved. The Operations Committee will need to meet and discuss how to change the operational structure to comply with the IPAD opinion.

In answer to a question, Needham said that is her job to advise the board about whether to follow the IPAD opinion or the ordinance. IPAD has said the ordinance is flawed in relation to data practices. It is an advisory opinion, not a court issued opinion, however the court is required to give deference to an administrative opinion. Needham can't see a situation where the court would rule otherwise. The bulk of IPAD's thinking on this issue is formed by the *Navarre* case, so it's actually devolved from case law. It is unlikely that a court would disregard both the IPAD opinion and court cases.

In terms of what the board does moving forward, the decision to follow or not the IPAD opinion is not the board's to make but the City Council's. The board does not have the discretion to defy the IPAD opinion, absent City Council permission to do so. In terms of solving infrastructure problem, the board is not obliged under the IPAD opinion to not offer reconsiderations, they are obliged to not inform people

- whether or not the matter is sustained. Data Practices allows the board to offer everyone a reconsideration.
- Bellfield addressed a concern of Salchert's regarding the change of public input on the agenda. Now that the board will have regularly scheduled public committee meetings, most of the discussion will take place at the committee meetings and move forward for a short discussion at the following board meeting. The public can participate in discussion at committee meetings, as well as at the monthly board meeting.

Bellfield asked committee chairs to bring meeting notes to the CRA board meetings. They will then be included in the record of the meeting.

Needham advised that if a committee is having a meeting where the body is transacting any business, the meeting is subject to the open meeting law. The board will need to keep same types of records for committee meetings as are kept for the monthly board meetings. Bicking said the committees are for discussion purposes and research only. Any action or decision of the CRA will be done by the full board. Needham will prepare something for the board about what the courts have determined is "transacting business" in terms of the open meeting law. If the board moves some of their business to committee, they will need to comply with the open meeting laws. The City Attorney's Office advises the City Council that if there is any doubt, consider the meeting in question a public meeting. Needham will send information to Reid about recent changes to the open meeting law.

VI. Business

There were no items for discussion.

VII. Announcements

There were no announcements.

VIII. Adjournment

Terrell **moved** the meeting be adjourned. Zuege seconded.
Motion passed unanimously.

MINNEAPOLIS CIVILIAN POLICE REVIEW AUTHORITY
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TO: CRA Board

FROM: Samuel L. Reid, II
Manager

DATE: October 1, 2008

SUBJ: Monthly Report – **SEPTEMBER 2008**

1. Intake – 27
2. Signed Complaints – 9
 - By Ward
 - Ward 1 – 1
 - Ward 2 – 1
 - Ward 4 – 1
 - Ward 5 – 1
 - Ward 7 – 3
 - Ward 8 – 1
 - Ward 9 – 1
 - By Police Precinct
 - Precinct 1 – 3
 - Precinct 2 – 2
 - Precinct 3 – 2
 - Precinct 4 – 2
 - Repeat Officers – 11
 - New Officers – 1
 - Allegations
 - Excessive Force – 9
 - Inappropriate Language – 21
 - Harassment – 13
 - Discrimination in Conduct or Providing Service – 3
 - Inappropriate Conduct – 10
 - Retaliation – 1
3. Completed Investigations – 9
 - Complaints in Investigation
 - 2006 – 1
 - 2007 – 30
 - 2008 – 24
 - 55
4. Mediations Scheduled – 4
 - Mediations Heard – 2
 - Successful Mediations – 1
5. Complaints awaiting Hearing as of 9/30/08 – 56
 - Scheduled for hearing in October – 27

6. Hearing Panels
 - Complaints heard – 12
 - Determinations Completed – 19
 - Sustained – 1
 - Not Sustained – 9
 - Board Dismissed – 8
 - Manager Dismissed – 1
 - Determinations Pending – 3
 - Hearings held in 2006 – 1
 - Hearings held in 2007 – 2
7. Discipline Decisions Received From Chief of Police – None
8. Complaints Awaiting Discipline Decision – 4

CRA Reports Committee Notes
09/25/08

Present: Benson, Kvidera, Terrell

Upon review of the 2007 CRA Annual Report, the Reports Committee developed the following ideas:

1). The CRA Annual Report suggest the CRA collect data from precincts about complaints made to precincts and the affect of precinct leadership in regards to addressing and reducing complaints.

The 2007 CRA Annual report suggest that a change in leadership in the 3rd precinct may have resulted in a significant reduction in complaints. When compared to the 4th precinct which has a similar volume of service calls, yet a significantly higher number of complaints.

A CRA report would explore the affect of precinct leadership in addressing complaints filed with the precinct and not the CRA. In addition, the CRA report would outline the process of a complaint filed with a precinct and document the results of that process. This information would be used to determine if leadership in the precinct is able to address officer behavior as well as understanding if the community is informed about all options to file a complaint.

2). In interest of informing the community of the full process for a complaint filed with the CRA. The CRA should explore developing a summary report that list anonymously the status of complaints that have completed the joint process between the CRA and MPD.