

**Minutes**  
**Minneapolis Civilian Police Review Authority**  
**Regular Monthly Board Meeting**  
**Wednesday, November 3, 2010**  
**333 City Hall**  
**5:30 p.m.**

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

**Board members absent:** Pargo, Santiago

**Also present:** Council Member Don Samuels  
CRA Manager Lee Reid  
Deputy Chief Scott Gerlicher  
Assistant City Attorney Joel Fussy

**I. Call to Order**

Chair Bellfield called the meeting to order.

**II. Approval of Agenda**

Zuege **moved** the agenda be adopted. Wetternach 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. Elayaperumal seconded.

**Motion passed unanimously.**

Kallenbach **moved** to reopen the meeting. Terrell seconded.

**Motion passed unanimously.**

**IV. Approval Of Minutes – October 6, 2010 Board meeting**

Benson **moved** to approve the minutes of the October 6, 2010 Board meeting.

Kallenbach seconded.

**Motion passed unanimously.**

**V. Reports**

**Chair**

- Hearings will be held on Thursday, November 18. Elayaperumal will substitute for Benson.
- A PACC meeting was held today. There were four items on the agenda: 1) Officer notification of discipline on CRA cases – this has been resolved; 2) Squad tape inventory process; 3) Mounted patrol training manual for CRA investigators; and 4) CRA notification of officer schedules for interview and mediation scheduling – this was resolved.

Kallenbach asked for more information about the discussion of item 2 of the PACC agenda. Reid explained that he has been reviewing the CRA process overall to look for any delays that can be improved upon. This is one part that came to his attention. Part of the CRA mission is to notify complainants timely of any discipline issued as a

result of the complaint. In a few cases, CRA has received letters about MPD discipline issued, but the officers weren't notified at that time. An officer appeal period begins upon receipt of the officer's notification of the discipline that's imposed. The MPD is resolving the issue by writing some new policy and practices regarding notification. The MPD will notify officers within a week of the CRA notification, barring vacation or leave of absence. Once the officer is notified, if the discipline is one which can be appealed, the 20-day count begins. If the 20 days pass without appeal, the CRA can let the complainant know about the discipline imposed upon the officer. Kallenbach asked to be kept aware of how this progresses. He wants to be sure things are kept as tight as possible.

- Wetternach and Bellfield thanked Council Member Don Samuels for attending tonight's meeting.

### **Manager**

- Reid reviewed the [CRA Workload Report](#) for October 2010.
- Reid explained the priority investigation method staff is using on a trial basis. Approximately 20 complaints have been identified as priority and have a 60-90 day completion target. Once those complaint investigations are completed, they will need to go to a hearing panel immediately. Even if every ordinance deadline is met, it will still take five to six months to complete the process. That leaves only six months to deal with disciplining an officer, for an A level violation, based on the Chief's use of a reckoning period. As new complaints come in, they will be evaluated for priority classification. A goal for 2011 is to have more community engagement about the CRA process. There will be an opportunity for the public to weigh in on this process.

Kallenbach commented that there are no 2008 complaints in investigation but that there are currently 56 complaints from 2009 in investigation and 54 from 2010. He asked how Reid plans to eliminate the backlog in investigation, so the CRA will be in compliance with the ordinance.

Reid responded that one issue is to look at is how to process complaints that will most likely be not sustained. The board and the public will need to decide how much investigative time and effort should go into those complaints. Is it about taking the complaints and abbreviating the investigation, if it is clear that nothing will happen to them, or is it about every complaint coming in has its due time for an investigation? What is the ultimate service the CRA is trying to provide to the public? If civilian oversight in Minneapolis is supposed to be about making sure that officers who do something wrong, as adjudicated by the board, are disciplined, then the number of cases that are in the backlog is not going to be as important unless they are priority cases that have a high probability of getting discipline. If correcting officer behavior is not the focus, but more of numbers in investigation, then the backlog numbers will be important, and in the current climate, what can be done about it? Can we get more resources? Should the ordinance be changed to say the CRA is only taking excessive force complaints? At some point, language complaints may not be a complaint that can be taken unless it is on videotape and witnessed. It might make everyone feel good, but the MPD is not going to do anything with it. Those are discussions the board needs to have when talking about backlog and the number of cases. Staff is

well aware of the problem, but at this point, with the priority investigation method, Reid wants to make sure that the cases that can get discipline are not put in jeopardy because of this MPD reckoning period policy. If cases are investigated as they come in, good cases that should get discipline are not getting discipline because the MPD has decided that the case is too old.

Council Member Samuels said that for even the most minor of complaints, there should be some way for the MPD to read all of them, even if they are dismissed. There might be a cultural thing happening – a preponderance of slight offenses of a certain nature. If police leadership knew about it, they could address it on a larger scale. Reid agreed and stated he will make sure that is in there. The priority assignment is the first step. There are several pieces to how this backlog will be dealt with.

Terrell said there's two sides to this argument. Right now, the net is cast pretty wide and he hears Reid suggesting that the scope be narrowed a little bit and there be a focus on cases where there can be discipline. Reid explained that through the priority system, the other cases that aren't labeled "priority" are not being ignored. But a way will need to be found to handle them appropriately. Terrell added that the time frames in place right now are not realistic with the resources the CRA has.

Kallenbach said that changes are being considered that are not consistent with the ordinance language. He asked if the authority exists to prioritize. Reid responded that the ordinance does not prohibit prioritizing. The CRA has to be flexible enough to make needed changes. This became an issue when the CRA started receiving notice from MPD that discipline was denied because of the reckoning period. It is not fair to the CRA or the complainants where resources are invested in a complaint and there is no discipline issued because the MPD deems it to be too old. There has to be some process to deal with this. Conversations with citizens and elected officials should happen. The problem with trying to have those conversations before having any data is that changes could be made that may not work.

Zuege added that part of this came at the suggestion of Assistant Chief Sharon Lubinski. She said there were certain cases coming to her too late to be able to do anything about. She would have liked to have done something and only felt she could if the case had come to her sooner.

## **Committees**

### Policy Committee - Zuege

The committee will be addressing a few items that have accumulated over the past year. He will try to schedule a meeting in early December.

### CRA Participation in the Performance Review of MPD Chief Dolan working group - Zuege

A draft copy of the final product of the working group was made available to meeting attendees. Zuege **moved** the board accept the draft report of the working group. Terrell seconded.

**Discussion**

Zuege pointed out two typographical errors that will be corrected. He said that once a final version is prepared, it will be available on the CRA website and a copy will go to the Chief as well as to the Executive Committee.

Kallenbach thanked Zuege for the great job he has done with putting this report together.

Bellfield will be preparing a cover letter. Time will be set aside at the December board meeting for public comment about this report.

**Motion passed unanimously.**

Steering Committee – Wetternach

Wetternach, Benson and Kallenbach will be meeting in two weeks to discuss ordinance changes. The meeting will be noticed to the public. Kallenbach asked that board members submit suggestions to committee members within the next week.

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

There was no public comment.

**VII. Business**

Elayaperumal commented on a news report about the City Attorney's office seven year, 57 case winning streak. He said that those 57 cases only represent 16 percent of the cases before the City Attorney's office. Approximately 84 percent of their cases were settled. These numbers speak volumes about the need to assess the effectiveness of the CRA in addressing police misconduct.

Elayaperumal **moved** that the board request data from the CRA, Internal Affairs Unit and the City Attorney's office regarding the number of cases they have handled in the last seven years, the outcome of the investigations, whether they resulted in discipline of officers or if they resulted in settlements or jury or judgment verdicts and the associated costs of those verdicts. Kallenbach seconded.

**Discussion**

Elayaperumal explained that the purpose of this data request is to assess public awareness of the CRA and since civil lawsuits are based on the preponderance of evidence standard, as are CRA findings, to see if the CRA is doing a better or worse job than juries. It is also worthwhile to assess if there are any mitigating effects of a CRA or IAU disciplined case on a civil case. This information can be worthwhile in policy or ordinance changes or discussions.

Elayaperumal feels this data request is best handled as a motion of the board rather than that of an individual citizen. He has specifically mentioned a 7 year period because the City Attorney's office has a good grasp on tracking those last seven years, since those were the numbers they discussed in the news report. The data request to IAU, City Attorney's Office and CRA would be for information regarding the number of cases, what the result was and the cost associated with those.

Bellfield agreed that Elayaperumal's idea is good, but that the work should be done through committee. If the motion is adopted, he will send out a communication to the board of what committee will take this on.

Kallenbach supports the motion because the City has just been ordered to pay out 1.8 million dollars. Elayaperumal's motion tries to figure out what the cost is to the City of all of these complaints and how many of those cases came before the CRA or IAU. He said this is not a difficult data request to complete. If Elayaperumal were to put a time parameter on his request, it shouldn't take much to cross-reference those cases. Was there a CRA complaint filed, was there an IAU complaint filed? The number of cases involved is not that big. Kallenbach added that given the City is now in the budget cycle, it would be helpful to Council members to know how many cases have been out there in the last ten years and what it cost to settle them, what it cost the City to defend them, were there findings by IAU or CRA, was discipline issued, did the City settle or did the case go to trial. Sending this to committee would put it into December.

Terrell thinks Elayaperumal has the makings of a good idea but some parameters need to be put on this. It could be used to raise awareness. It could be used to make the case that the CRA is a service for the MPD, the citizens and the City.

Zuege questioned who is being asked for this information, and what the time frame covered will be. Some information will be available only from the City Attorney's office and some may need to come from the MPD. IAU does produce annual reports which contains a lot of the data that Elayaperumal wants gathered. Zuege said that what Elayaperumal is looking for is how this data fits together. Does someone go to CRA and file a lawsuit? What civil actions are occurring? Zuege thinks it would be useful information for a lot of things the board does in terms of how the CRA is organized.

Zuege added that a practical complication is that even though a lot of the data is out there in some form, combining it would be more difficult than it may seem. It may be difficult to match IAU data, for example with data from the City Attorney's office, based on what is in the public reports. It will be easier to compare CRA data, since non-public information is available to board members.

Fussy said that the data Elayaperumal references is largely public and has been put together by some of these offices. The City Attorney's office tracks every verdict and every settlement that they have. Those are all completely public. He advises that the entire board can adopt a motion and make such a request or it can be referred to committee. The board doesn't even need a motion. Anyone can make a data request for public data to the City Clerk and the clerk acts as the clearinghouse to contact whatever department might have some of this data.

Gerlicher reminded the board that they are asking for data, but they will have to do the analysis themselves. The IAU data can be provided right away. The board can query IAU for the past years data and what they will get is numbers of cases and whatever other

information would be deemed public under Data Practices. It may not necessarily give the board everything it needs to make the connection to cases in the City Attorney's office.

Samuels added that the information the board gets regarding City settlements may need more analysis than the board even has access to, because why the City settles a case might not just be dependent on the culpability of it. The Council might decide that it is a very sympathetic victim and it was a very unfortunate outcome, even though the officers handled themselves well. That may not be picked up in the data.

Bellfield called the question.  
**Motion carried unanimously.**

**VIII. Announcements**

There were no announcements.

**IX. Adjournment**

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

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

**TO:** CRA Board

**FROM:** Samuel L. Reid II  
Assistant Director

**DATE:** November 3, 2010

**SUBJ:** Monthly Report – **October 2010**

1. Intake – 27
2. Signed Complaints – 4
3. Complaints by:

<u>Ward</u>	<u>Police Precinct</u>	
Ward 2 – 1	Precinct 1 – 1	Repeat Officers <sup>1</sup> – 1
Ward 5 – 1	Precinct 3 – 1	Repeat Officers <sup>2</sup> – 4
Ward 6 – 1	Precinct 4 – 1	New Officers – 1
Ward 9 – 1	Precinct 5 – 1	

Allegations  
Excessive Force – 1  
Inappropriate Language – 3  
Harassment – 5  
Discrimination – 4  
Inappropriate Conduct – 7
4. Completed Investigations – 4

Complaints in Investigation	2009– 56
	2010 – <u>54</u>
	110
5. Mediations scheduled – 2  
Mediations held – 2  
Successful mediations – 1

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

6. Manager dismissals – None
7. Complaints awaiting Hearing as of 10/29/10 – 9
8. Hearing Panels
  - Complaints heard – 7
  - Determinations Completed – 6
    - Partially Sustained – 1
    - Not Sustained – 1
    - Dismissed – 4
  - Determinations Pending – 12
    - Hearings held in 2009 – 1
    - Hearings held in 2010 – 11
    - Remands – 2
  - Reconsideration determinations pending – 1
9. Discipline Decisions Received From Chief of Police – 2
  - No Discipline – 2 officers
10. Complaints Awaiting Discipline Decision – 4