

Minutes for October 12, 2017
Civilian Law Enforcement Review Board
City of Memphis

Call to Order

The meeting of the Civilian Law Enforcement Review Board was formally called to order by Chairman White at 4:20pm.

Board Members Present:

Ralph White, Chair	Sandeep Pednekar
Casey Bryant	David Acey
Dwan Gilliom	June Chinn-Jointer
John Marek	Alfredo Pena

Board Members Absent:

CM Worth Morgan
Floridia Jackson

Approval of Agenda and Minutes:

A motion was made by Mr. Gilliom to approve the September minutes with any necessary changes. It was seconded by Mr. Acey and passed by the board.

Items of Discussion:

Old Business

- a) Chairman White greeted the Board and moved on to old business, a continuation of the case of Ms. Likisha Clark / case # I2016-032. CLERB Investigator Arthur Robinson stated that Ms. Clark's case was continued for two reasons: First, to find the disposition of her charges, which were resistance, tinted window law, disorderly conduct, and violation of notice law. Each case has been dismissed. Second, to find if the officer involved in her dispute had any other violations in his personnel file.

- b) Mr. Robinson stated that Ms. Clark could contact the Court Clerk's office, to get advice on how to get her cases expunged.
- c) Mr. Robinson stated that in regard to the second question, the officer had several disputes in his personnel file:
1. A July 2013 failure to properly check his vehicle after he did not catch/report marijuana that was left in the vehicle after change of shift.
 2. On March 15th, he was involved in a traffic accident while on duty, and he received a ticket.
 3. On November 16th, he was charged with disobeying an order and insubordination from an incident where he had his body cam damaged. His superior wanted him to file a charge against the person who did it, and he didn't do that.
- Mr. Robinson stated that the officer received a written reprimand for the first two incidents. The other two were dismissed.
- d) Mr. Gilliom stated that the files mentioned that the disobedience of order during an encounter involving the body cam sustained a one-day suspension without pay. Mr. Robinson stated that they must have changed it, because when he checked, it showed "dismissed" on January 4th.
- e) Chairman White stated to Ms. Clark that there was a place where she needed to go to make sure all of this was taken care of, and that this was not on her record, which was one of his concerns. Ms. Clark said she was aware and thanked Chairman White.
- f) Chairman White asked the board if they would recommend to follow up with a letter of response to Director Rallings and the Board agreed.
- g) Mr. Robinson made a correction, stating that Mr. Gilliom was correct regarding the officer's charge for disobeying an order, as the officer did in fact receive a one day suspension without pay.
- h) Chairman White asked what actual charges were being brought against Ms. Clark. Mr. Gilliom stated that it was understood that the officer was reprimanded based on how he handled the situation involving Ms. Clark, but she (Clark) did not think that was sufficient for the abuse she had sustained that evening. She requested more than the reprimands that were issued for towing her car when there was no justification. Chairman White asked Ms. Clark if she still had to pay the fine to get her car, and she said yes. She also had to pay

attorney fees, hospital bills, and other expenses. Per a previous request by Mr. Sandeep, Ms. Clark drafted a letter to the body detailing her feelings on this incident and the abuse she suffered per her encounter with the police. Chairman White requested that Ms. Clark give the board the letter so the Board can make a recommendation to the Director Rallings. She (Clark) agreed.

- i) Mr. Acey asked Ms. Clark if she had hired an attorney. Ms. Clark stated she paid an attorney for the criminal court case. Mr. Acey asked if the Board was supposed to hear cases if the complainants have hired an attorney. Mr. Gilliom clarified that Ms. Clark hired an attorney to deal with the charges that she was charged with. Mr. Acey replied that he understood.

- j) Chairman White stated that the board would give Ms. Clark's letter to some of their attorneys to draft for the board, after which he (White) would share the letter with the board for approval. Mr. Pena moved to accept Ms. Clark's two letters. Mr. Gilliom said there had not been a motion to sustain, unfounded. Chairman White and Mr. Pena agreed. Ms. Wilson stated that they weren't quite ready to make that motion yet.

- k) Chairman White stated that the complaint disposition must be one of the following four findings: that the complaint would be either (1) Not Sustained; (2) Unfounded; (3) Exonerated; or (4) Sustained. He asked the board who was in favor of sustaining the charges with follow-up. The board voted yes. Mr. Marek, Mr. Pena, and Ms. Bryant abstained because they were not present at the previous meeting.

- l) Chairman White suggested Mr. Marek draft the letter and he(Marek) agreed. Mr. Gilliom noted that the officer in question was disciplined for two things – failure to notify the supervisor of injury to a suspect, and towing a car that didn't need to be towed because the boyfriend arrived on the scene - neither of which were related to using excessive force.

- m) Ms. Clark thanked the board. Mr. Pednekar requested a copy of Ms. Clark's letter, which Ms. Wilson agreed to send to the board members.

New Business

- a) Chairman White moved on to new business: ISB Case #12016-057 with Sherrita Warr. Ms. Warr is a minor, her mother was there with her, and her father was there to testify, but not her mother.

- b) Sherrita Warr was called as a witness and sworn in by Chairman White and he (White) stated that he wanted to do things as painlessly as possible and he (White) introduced the case:
 - a. On September 21st, 2016 at 2 p.m. Officer Jason Matthews conducted a traffic stop at 2329 Staten. Officer Matthews requested assistance, and Officer Enis Jackson responded. Upon his arrival, Officer Jackson encountered Sherrita Warr in the presence of her father Mr. Warr. The encounter escalated and Officer Jackson placed Sherrita Warr in the back seat of his squad car. Body-worn camera footage captured the incident. An internal investigation was initiated due to the allegations.
- c) Chairman White stated that they would show the video and get a brief of what happened. Mr. Robinson suggested to Chairman White to let the father testify and show the video last. Chairman White agreed.
- d) The video was played for the board.
- e) Mr. Gilliom stated that they would be more than willing to make a motion and second to sustain this case, but not without noting that there were a lot of things that went wrong on the part of the police department and the Warr family. Without the video, which seemed to be unaltered, he would have a problem with some of the testimony given today and to internal affairs because the video does not support many of these things that have been testified to. His decision to support and move to sustain would be based on the four to five seconds relevant in the video. Everything else is mostly irrelevant.
- f) Mr. Marek emphasized the primary issue is that 3-4 police cars and many taxpayer resources were used for an incident that started with an expired tag. Enforcing laws are important, but an issue this small should never get to the point of force. In this case, the officer was disciplined, and it was sustained against the officer by internal affairs. Some things they heard today did not show up in the video, but they can agree that the chokehold was unnecessary (especially in a case where a passenger is asked to produce a driver's license, but is not required to do so). Mr. Pena stated that the officer mentioned that because Ms. Warr was a passenger, he (officer) would have to search her (Warr) per the law. Ms. Bryant stated, however, that there was no danger.
- g) Mr. Marek stated that Internal Affairs sustained the officer charges yet dismissed them at the hearing. When watching the video, he (Marek) requested a recommendation for anger management courses should be included in whatever punishment the board recommends.

- h) Mr. Acey asked if an officer has a right to use whatever force necessary to put someone in a car, they're going to arrest them by any means necessary to make the apprehension or to get them to follow the command. What about the officer's side? Mr. Gilliom states that it's clear there is one level of force above, as she was resisting, but a chokehold is considered deadly force. Excessive force/unnecessary force is defined as the amount of force which is beyond the need and circumstances of the particular event.
- i) Chairman White reiterated that police are not the enemy, and the Board's goal is to bring peace to the community.
- j) Mr. Gilliom mentioned that his motion is to sustain it. Mr. Marek stated that while the Warrs should not have been cursing, the officers were also using the wrong tone, cursing, and ended up putting somebody in a headlock. Something can be said for both sides. It seems like officers need training to understand that they are authority figures.
- k) Ms. Bryant mentioned that the board had not voted to sustain. Chairman White said no, and the board would make a motion first. Mr. Gilliom moved to sustain the case, seconded by Ms. Bryant. Ms. Bryant, Mr. Gilliom, Ms. Chinn-Jointer, Mr. Pednekar, Mr. Marek, Mr. Pena, and Chairman White voted yes. The motion carried.
- l) Mr. Marek asked who would draft a letter to Director Rallings. Ms. Bryant agreed to do so. Mr. Marek then asked if the board needed to vote on what punishments they would recommend, or if Ms. Bryant would put it all in a letter to see if everyone agreed to it and they would vote on it at the next meeting. Ms. Bryant agreed to drafting the letter so they could vote on it at the next meeting. Chairman White suggested that as they come to these kinds of situations and are putting the language together, that they're going to send it to the Director. Mr. Gilliom volunteered to assist with the letter.
- m) Ms. Wilson clarified that they have a committee of three, Ms. Bryant, Mr. Marek, and Mr. Gilliom, as the letter writing committee. The Chairman talked some time ago about forming committees to help expedite processes. The other current committee is the website committee. Ms. Wilson stated that at the November meeting, the website committee will be ready to do their final presentation to the board.

- n) Mr. Robinson mentioned to Chairman White that the Board has a new member, Ms. Marie Finney, whom the mayor appointed but who has not yet be approved by the city council, present at the meeting. Chairman White recognized Ms. Finney.

- o) Ms. Chinn-Jointer asked Chairman White about the board's letter concerning Attorney Kramer. Chairman White stated that they sent it and had not heard back. He expects to hear something by the November meeting, and if not, he would call.

- p) Mr. Marek asked if they had any more vacancies, to which Mr. Gilliom replied that they had a lot more. Chairman White stated that at one time the board had 14 members. Ms. Wilson said they were looking at four vacancies.

- q) Mr. Paul Garner stated that based on the last meeting, they would get an update on revised letters they sent to Director Rallings regarding his and Reginald Johnson's cases. Ms. Wilson stated that the board had not received an update. Mr. Johnson asked as well, stating it seemed it wasn't going anywhere. Ms. Wilson asked him (Johnson) to state his name for the record, and he did.

- r) Chairman White said the board must go through city council, and had recently discussed the board's lack of subpoena power, which subpoena power is almost nothing. They have a city council member who has missed ten of the board's meetings, which indicates a lack of importance. Marek added that when they pushed this legislation, there were some in city council who were involved on the board and some outside groups, because transparency is not a power grab.

Adjournment

A motion to adjourn the meeting was made by Marek and seconded by Mr. Pednekar. The meeting was formally adjourned by Chairman White.