

CIVILIAN POLICE REVIEW BOARD



FY 2020 - 2021 Annual Report

101 City Hall Plaza
Durham, North Carolina 27701

ACKNOWLEDGMENTS

The Civilian Police Review Board for the City of Durham (CPRB) would like to express thanks to Celia Bradshaw, PhD for her time, commitment, and service to impartially review requests to determine whether to hold a hearing, develop recommendations and work to improve community-police relations. Dr. Bradshaw served from September 3, 2019 until June 17, 2021.

The CPRB also expresses sincere appreciation and thanks:

- Secretary to the Board, Tonette Amos, Assistant City Clerk for the Office of the City Clerk, for keeping minutes of meetings and maintaining all records pertaining to the business of the CPRB;
- Counsel to the Board, Anna Davis, Assistant City Attorney for the Office of the City Attorney, for providing legal guidance to the CPRB by offering information about and interpretations of relevant federal, state and local laws, statutes regulations and policies; and
- Office of the City Manager Liaison to the Board, Karmisha Wallace, Senior Assistant to the City Manager for the Office of the City Manager, for administrative support, facilitating communication with the Office of the City Manager, and assisting in the work of the CPRB.

The effective and efficient assistance, availability, accommodations and professionalism of Ms. Amos, Attorney Davis and Ms. Wallace were invaluable in aiding the members of the CPRB in performing our duties.

The CPRB also expresses appreciation to Wanda Page, City Manager for the City of Durham, for the opportunity to serve and consideration of recommendations offered by the CPRB.

MEMBERSHIP

Pursuant to the Procedure Manual, Section 1. Organization, 1.6 Vacancies, the CPRB consists of nine residents of the City of Durham, all of whom are appointed by the City Manager and confirmed by the Durham City Council.

Members serve staggered four-year terms and are eligible for reappointment.

The members of the CPRB were as follows:

Name	Original Appointment	Term Expiration
Celia Bradshaw	September 3, 2019	June 30, 2023
Kelli Dugan	March 16, 2015	June 30, 2022
Myra L. Griffin	June 4, 2018	June 30, 2022
Cassandra R. Johnson	June 20, 2016	June 30, 2023
DeWarren K. Langley	October 27, 2009	June 30, 2023
Kendra J. Pressley	June 4, 2018	June 30, 2022
Donald B. Salmon, Jr.	September 3, 2019	June 30, 2023
David A. Smith	January 19, 2010	June 30, 2022
Jeffrey L. Thomas	June 4, 2018	June 30, 2022

DeWarren K. Langley served as Chair and Cassandra R. Johnson served as Vice Chair.

There was one vacancy as a result of the resignation of Celia Bradshaw, effective June 17, 2021.

NUMBER OF MEETINGS

Pursuant to the Procedure Manual, Section 3. Meetings and Hearings, 3.1 Meetings, the CPRB holds meetings when necessary for the purpose of conducting business, training, work sessions, hearings and forums. Pursuant to the Procedure Manual, Section 3. Meetings and Hearings, 3.4 Meeting Frequency, the CPRB is required to meet at least once per quarter.

The CPRB held four regular quarterly meetings: (1) September 30, 2020, (2) December 2, 2020, (3) March 17, 2021, and (4) June 9, 2021.

The CPRB held a hearing on June 16, 2021.

The CPRB held two special meetings on May 26, 2021 and June 21, 2021.

The purpose of the special meeting on May 26, 2021 was an introduction meeting with City Manager Wanda Page. Manager Page urged the CPRB to consider how the CPRB can be more responsive to the community.

The CPRB affirmed that there would be a decision on a process for discussing the roles and responsibilities of the CPRB with feedback from the community and research on best practices for civilian review and oversight of police. The CPRB will use the feedback and research gathered to develop, and issue written recommendations to the City Manager on the functions of the CPRB to take such action as the City Manager deem appropriate. The focus of the CPRB will be to ensure the

recommendations are responsive to the needs of the community and align with best practices within statutory authority.

The purpose of the special meeting on June 21, 2021 was to determine (1) whether the investigation conducted by the Police Department was deficient because of an abuse of its discretion, (2) whether the findings of the investigation were deficient because of an abuse of discretion and (3) develop recommendations based on the testimony and evidence presented during the hearing held on June 16, 2021.

Pursuant to the Procedure Manual, Section 3.1, Meetings, the CPRB must host one (1) community forum per fiscal year to receive feedback from the public on the Durham Police Department complaint process and community-police relations.

The Community Police Relations Forum for fiscal year 2019-2020 was scheduled for March 25, 2020, however, was canceled as a public health precaution due to the COVID-19 (coronavirus) pandemic and the closure of City Hall to the public. A virtual Community Police Relations Forum was held on October 14, 2020.

During the Community Police Relations Forum, Chair Langley presented a PowerPoint presentation entitled, "Civilian Police Review Board & Complaint Process." The following topics were mentioned during the presentation:

- Authority
- Eligibility of Appointment
- Current Members
- Officers
- Training
- Purpose
- Duties & Responsibilities
- Jurisdiction
- Police Department Findings
- Complaint Process
- Appeals Process
- Determination of the Board
- Hearing
- Confidentiality
- Annual Report
- Caseloads
- Additional Information
- Questions

Chris Tiffany made unfavorable comments about how police officers treat him. He mentioned various incidents that occurred in Rochelle Manor and incidents that the Police Department would not accept complaints from citizens who tried to submit complaints against the police and were turned away.

Council Member Pierce Freelon stated that he is part of the Legislative Committee of the Durham City Council and asked community members to personally inform him of any changes that may be

needed to improve the accountability mechanism. He stated that he can bring forth those recommendations before the Durham Delegation so they can move it forward to State Legislatures.

Since it was the first time a Council Member had approached the CPRB and offered an opportunity to share recommendations on legislative initiatives as it relates to the CPRB, Chair Langley suggested the CPRB hold internal conversation before a formal presentation can be brought before the Legislative Committee or the Durham Delegation.

The virtual Community Police Relation Forum for fiscal year 2020-2021 was held on April 28, 2021.

During the Community Police Relations Forum, Chair Langley presented a PowerPoint presentation entitled, "Civilian Police Review Board & Complaint Process." The following topics were mentioned during the presentation:

- Authority
- Eligibility of Appointment
- Current Members
- Officers
- Training
- Purpose
- Duties & Responsibilities
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- Questions

There were no public comments.

ATTENDANCE

Pursuant to the Procedure Manual, Section 2. Conduct of Members and 2.1 Attendance, members must faithfully attend meetings and perform their duties. Members must attend at least 75% of the yearly (July 1 - June 30) meetings.

Name	09/30/20	10/14/20	12/02/20	03/17/21	04/28/21	05/26/21	06/09/21	06/16/21	06/21/21	%
Celia Bradshaw	P	P	P	P	EA	P	P	P		88%
Kelli Dugan	P	P	P	P	P	P	P	P	P	100%
Myra L. Griffin	P	P	P	P	P	EA	P	P	P	89%
Cassandra R. Johnson	P	P	P	P	P	P	P	P	P	100%
DeWarren K. Langley	P	P	P	P	P	P	P	P	P	100%
Kendra J. Pressley	P	P	P	P	P	P	P	P	P	100%
Donald B. Salmon, Jr.	P	P	P	P	P	P	P	P	P	100%
David A. Smith	P	P	P	P	P	P	P	P	P	100%
Jeffrey L. Thomas	P	P	P	P	EA	P	P	P	P	89%

P = Present A = Absent EA = Excused Absence

NUMBER OF REQUESTS FOR APPEAL HEARINGS & SUMMARY OF CASES

The CPRB received and reviewed five Requests for Appeal Hearings from complainants who were not satisfied with the conclusions of the investigation conducted by the Professional Standards Division of the Durham Police Department. The Request for Appeal Hearings were submitted by the following individuals:

1. Steven Matthews (Conduct unbecoming of Police Department personnel and Search & Seizure)
2. Carl Lee (Conduct unbecoming of Police Department personnel)
3. Shahsultan Jaffer (Conduct unbecoming of Police Department personnel)
4. Ashley Harris (Use of Force and Conduct unbecoming of Police Department personnel)
5. Sharron D. Hunter-Rainey, PhD (Conduct unbecoming of Police Department personnel)

The CPRB carefully reviewed the materials the complainants provided to the City Clerk as the basis for an appeal hearing, as well as the investigative materials submitted by the Professional Standards Division of the Durham Police Department, in the review of the complaints.

STEVEN MATTHEWS

The CPRB voted unanimously, nine affirmatives, to grant a hearing for Mr. Matthews.

CARL LEE

The CPRB voted unanimously, nine affirmatives, not to grant a hearing for Mr. Lee.

Based on the investigative file, the CPRB made the following recommendation:

1. Disclose the disposition of an internal investigation of a performance review of an officer that is originating from the citizen complaint if the disclosure does not violate North Carolina State law or City/Department policy.

City Manager Page provided the following response to the recommendation:

1. The Professional Standards Division is in agreement with this recommendation. Policy violations identified in the course of an investigation are called “findings,” and Professional Standards Division will include findings in the disposition letters sent to complainants.

SHAHSULTAN JAFFER

The CPRB voted unanimously, nine affirmatives, not to grant a hearing for Ms. Jaffer.

There were no recommendations offered based on the complaint or investigative file.

ASHLEY HARRIS

The CPRB voted unanimously, nine affirmatives, to grant a hearing for Ms. Harris.

SHARRON D. HUNTER-RAINEY, PHD

The CPRB voted five affirmatives to grant a hearing and four votes not to grant a hearing therefore, a hearing was granted for Dr. Hunter-Rainey.

Pursuant to Procedure Manual, Section 4. Hearing Process; Written Decisions; Transmittal, Section 4.2, Jurisdiction, the jurisdiction of the CPRB is limited to the results of investigations involving use of force, unethical conduct and/or conduct unbecoming of Police Department personnel and arrest, search and seizure.

NUMBER OF HEARINGS

The CPRB granted three Requests for Appeal Hearings. The hearings were for Steven Matthews, Ashley Harris and Sharron D. Hunter-Rainey, PhD.

STEVEN MATTHEWS

The CPRB was notified that Mr. Matthews retained legal counsel to represent him in litigation against the City of Durham.

Pursuant to Procedure Manual, Section 4. Hearing Process; Written Decisions; Transmittal, Section 4.5, Appeals Procedures, the CPRB may not hear any appeal in which a claim for damages has been presented to the City or a lawsuit has been filed in any court of competent jurisdiction regarding the subject matter of the appeal before the CPRB.

Therefore, the CPRB did not schedule a hearing.

ASHLEY HARRIS

The CPRB held a hearing on June 16, 2021 for Ms. Harris.

Based on the testimony and evidence presented during the hearing, the CPRB made the following recommendations to City Manager Page and Interim Chief of Police Montgomery:

1. The Internal Affairs Unit of the Professional Standards Division of the Police Department should provide an explanation of which complaint violations were investigated and how the conclusions of the investigation were reached in the disposition letter to the complainant.
2. The Internal Affairs Unit of the Professional Standards Division of the Police Department should provide the CPRB with the complaint and disciplinary history of officers that are the subject of a Request for Appeal Hearing.
3. The Internal Affairs Unit of the Professional Standards Division of the Police Department should provide all training materials, reference documents and precedent upon which investigators rely to make determinations in the investigation of complaints.
4. The Internal Affairs Unit of the Professional Standards Division of the Police Department should include notation and explanation if there is questioning or investigation into a specific policy violation in a complaint that is resolved without a formal finding.
5. The Internal Affairs Unit of the Professional Standards Division of the Police Department should interview all potential witness(es) provided by the complainant as part of the investigation into the complaint. If the Internal Affairs Unit declines to interview the witness(es), documentation should be included in the investigative file explaining why the Internal Affairs Unit determined the witness(es) testimony was not germane or necessary to properly complete the investigation. The Internal Affairs Unit should provide a letter to the complainant explaining how and why the witness(es) testimony was determined not to be germane or necessary to properly complete the investigation.
6. The Investigator of the Internal Affairs Unit of the Professional Standards Division of the Police Department assigned to investigate the nature of a complaint should ask neutral and open-ended questions of the complainant(s), witness(es), officer(s) and/or personnel of the Police Department during the investigation without use of leading questions. A leading question is generally defined as a question which suggests the desired response and may frequently be answered yes or no. Open-ended questions allow the officer to explain the answer without any prompting and gives the appearance of a fair and impartial investigation.
7. The Internal Affairs Unit of the Professional Standards Division of the Police Department should appoint a liaison to individuals who file a complaint to explain the deposition letter and answer questions about the investigative process to provide more transparency.
8. The 911 Communications Center should request more detailed information about the appearance of persons of interest or suspect to relay to responding officers to accurately identify persons of interest or suspects which would benefit the community and the safety of the officers who are responding to the unknown situation.
9. The Police Department should increase implicit and unconscious bias training for officers including completion of an annual implicit bias assessment.
10. The Police Department should require officers to walk and engage the communities they patrol to learn about residents and build relationships to better serve and protect residents.
11. The Police Department should ban the use of the term, "wife beater" to refer to a white tank top t-shirt.
12. The Police Department should consider whenever an officer unholsters, maintains in a low-ready position or at his/her side or points his/her firearm as a Use of Force.

13. The Police Department should require the completion of a Use of Force Report whenever an officer unholsters, maintains in a low-ready position or at his/her side or points his/her firearm.
14. The Police Department should revise Rules & Regulations - 1.3 Conduct Unbecoming Police Department Personnel to include the following:
 - a. Language based on 3.1 Respect for Fellow Employees: Members shall treat [citizens] with respect. They shall be courteous, civil and respectful and shall not use [profane], threatening, or insulting language.
 - b. Expand guidelines to include officers and members of law enforcement shall afford citizens the highest level of dignity and respect in tone, delivery, and language in their communications and interactions with citizens regardless of their race, creed, color, religion, sexual orientation, socio-economic status, or any other characteristics or identification.
15. The Police Department should amend the Code of Conduct Policy to explicitly state, "Durham Police Department acknowledges that everyone has implicit biases, and they may manifest in one or more ways. However, every employee shall make every effort to mitigate the effect of such biases when performing their duties - especially when interacting with citizens and representing the Durham Police Department.
16. The Police Department should eliminate the ability of officers to turn off cameras once activated other than for bathroom breaks, personal privacy, and as outlined in General Order 4083 for no longer than 10-15 minutes. When the deactivation period is exceeded, the officer shall be required to submit a written explanation and/or face disciplinary action. Implement guidelines to prohibit officers from muting audio or obstructing the camera.
17. The Police Department should define and implement guidelines for interactions when anonymous calls or officers are not able to obtain additional information. Person and any interactions shall be as someone of interest rather than a suspect. Person shall be assumed innocent unless insurmountable evidence or probable cause is present - reasonable suspicion shall not be sufficient to escalate the treatment of such person as a suspect. Persons shall only be treated as a suspect when insurmountable evidence or probable cause is present.
18. The Police Department should develop set guidelines and criteria to define and determine what constitutes conduct unbecoming to establish an objective standard rather than subjective standard.

Interim Chief of Police Montgomery provided the following response to the recommendation:

1. The Internal Affairs Unit of the Professional Standards Division of the Durham Police Department investigates all aspects of a citizen's complaint, as well as potential policy violations identified administratively during the course of the investigation. The complainant is provided with notice of the policies that were investigated (i.e. the administrative charges) and the disposition of those charges.
2. The Durham Police Department will provide the CPRB with all information that is within the scope of their functions and is otherwise permitted to be disclosed by law.
3. All evidence upon which an administrative investigation relies is included within the administrative case file which is provided to the CPRB in accordance with applicable law. Portions of relevant policies may be quoted within the case file. The full policies are public records and available online or upon request to any member of the public.
4. Policies investigated for potential violations result in formal findings (i.e. dispositions).
5. The Internal Affairs Division of the Professional Standards Division of the Durham Police Department attempts to interview witnesses identified by the complainant, any other

involved party, and the assigned investigator which the investigator believes, in their training and experience, may possess information that is relevant and useful in the investigation. However, to ensure that the complainant feels that they have been fully heard, the Internal Affairs Unit will attempt to interview any witness identified by the complainant who has first-hand knowledge of the matter being investigated.

6. While neutral and open-ended questions are preferable and comprise the majority of any investigation, leading questions are not always inappropriate and may be useful to address uncontested background issues, steer the witness away from irrelevant matters, illicit statements from an adverse witness, or to develop a witness' testimony.
7. Complainants are provided with the name and contact information of the commander or assistant commander of the Professional Standards Division at the outset of the investigation. Complainants are also welcomed to contact the assigned investigator at any time during or after the administrative investigation with any related questions or concerns. In addition, the Professional Standards Division has now added the commander's name and contact information to the final disposition letter.
8. While detailed information is always preferable, the Police Department recognizes that callers are not always willing or able to provide additional specific information.
9. In addition to its Bias Based Policing policy, the Durham Police Department requires and provides bias based policing training to its officers on an annual basis.
10. The Durham Police Department values its relationships with the communities it serves. The Police Department consistently looks for opportunities to increase community engagement as staffing and resources allow.
11. The Police Department whole-heartedly agrees and has taken steps to address this concern with department commanders.
12. The Durham Police Department considers pointing a firearm at any individual to be a show of force, and while the terminology is different, the department utilizes the same administrative procedures for reporting and investigating a show of force as it does for a use of force.
13. Officers who point a firearm at an individual are required to complete a show of force report which is submitted and administratively investigated in exactly the same manner as a use of force.
14. The Police Department is constantly reviewing and revising its policies to reflect current laws, evolving accreditation standards, and best practices. The Department is in the process of updating its various Rules and Regulations which will incorporate a prohibition against the use of abusive and profane language, which was already implemented by memo, as well as expanding language related to the professionalism of its officers when interacting with other individuals.
15. As previously noted, the Durham Police Department provides annual bias-based training. The Durham Police Department's Code of Conduct and Bias Based Policing policy reinforces that training setting forth expectations and requirements for the fair and impartial performance of duties.
16. Current policy dictates that officers place their body worn camera so that the camera's recording capabilities are not obstructed. With limited exceptions, officers are required to activate their body worn cameras when investigating potential violations of the law which are likely to involve interactions with members of the public, and when conducting searches of individuals, personal property, vehicles and premises. The cameras do not have sufficient battery life to remain in record mode for an officer's entire shift.

17. Guidance and legal standards for responding to anonymous tips, and for the detention and arrest of individuals, is established by federal and state appellate case law.
18. Determination of a violation of conduct unbecoming is based upon the totality of the particular circumstances. Factors taken into consideration include but are not limited to: the language of the rule; historical application of the rule; egregiousness of the conduct; experience and apparent intent of the involved officer(s); direct and/or indirect impact upon department operations/efficiency; and whether a different rule and regulation or policy would more precisely address the conduct/incident. It is impossible to predict and define the entire universe of conduct which could constitute a violation. Attempting to do so would inevitably hinder the department's ability to appropriately address conduct issues when an act arises that was not previously anticipated and explicitly prohibited.

SHARRON D. HUNTER-RAINEY, PHD.

The hearing for Dr. Hunter-Rainey is scheduled for September 22, 2021.

LITIGATION

On February 19, 2021, Ms. Jaffer filed a petition for a Contested Case Hearing pursuant to G.S. § 150B-23(a) in the Office of Administrative Hearings (OAH).

The complaint alleged deprivation of property, substantial prejudice of her rights and the CPRB exceeded its authority or jurisdiction, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously, or failed to act as required by law or rule.

Assistant City Attorney and Counsel to the Board Davis filed a motion to dismiss. The motion to dismiss was granted by OAH.

On June 21, 2021, Attorney Daniel Meier on behalf of John Doe 1, John Doe 2, John Doe 3 and John Doe 4, filed a Complaint with Motion to Proceed with Pseudonyms and Preliminary Injunction and Temporary Restraining Order against the CPRB and Chair Langley in Durham County Superior Court.

The complaint alleged violation of the Open Meetings Law, N.C. Gen. Stat. § 143.318.9 to 143-318.18 as well as the Procedure Manual. Attorney Meier moved for a preliminary injunction to delay the conclusion of the CPRB hearing and that John Doe 1, John Doe 2, John Doe 3 and John Doe 4 would suffer irreparable harm by having the CRPB conclude its meeting and submit recommendations without addressing the violations of the Open Meetings Laws.

Assistant City Attorney and Counsel to the Board Davis argued that the Open Meetings Laws were not violated, and the Procedure Manual was created by the City of Durham and it did not provide the officers with a basis for a claim.

Senior Resident Superior Court Judge Orlando Hudson granted the motion to proceed with pseudonyms and denied the motion for preliminary injunction and temporary restraining order.

COMMUNITY OUTREACH

Pursuant to the Procedure Manual, Section 3, Meetings and Hearings, 3.1 Meetings, the CPRB shall send a delegation of its members to present to at least two (2) community/civic/neighborhood groups per fiscal year to explain the role of the Civilian Police Review Board and the complaint process.

Chair Langley attended the virtual 2021 RTI Policing Symposium: Data Driven Reform in Policing on February 11, 2021 hosted by RTI International.

The symposium focused on how law enforcement agencies can leverage data to inform various reform efforts within their organization including alternative models for crisis response, use of force, community engagement, and hiring and recruitment practices.

Chair Langley was featured on the You & Five-O Podcast, Episode 25 - Unapologetic on April 14, 2021. The podcast covered the role and responsibilities of the CPRB and the importance for communities to have civilian oversight of police. The discussion also covered the complaint process and how to make filing complaints easier for the community. To view the podcast, [click here](#).

You & Five-O is a community-focused, woman-owned organization that offers engaging, interactive, and candid workshops designed to educate participants on practical, life-saving strategies to employ when interacting with law enforcement. Participants learn about their constitutional rights, how to safely exercise their rights during vehicle and on-street encounters, as well as law enforcement's role in protecting citizenry.

Chair Langley attended the Healing the Community - Interactions with Law Enforcement on June 2, 2021 from 6:00pm until 8:00pm on Zoom hosted by Durham Community Engagement and lead by BJ Council of You & Five-O. Chair Langley also shared information about the role and work of the CPRB.

Chair Langley served as Guest Speaker for Partners Against Crime - District 4 and gave a presentation on the CPRB & Compliant Appeal Process to explain the role of the CPRB and the complaint appeal process on June 12, 2021 from 10:00am until 12 Noon on Zoom.

Chair Langley served as Guest Speaker for Partners Against Crime - District 2 and gave a presentation on the CPRB & Compliant Appeal Process to explain the role of the CPRB and the complaint appeal process on June 14, 2021 from 6:00pm until 8:00pm on Zoom.

Civilian Police Review Board – City of Durham
Presents



Community Police Relations Forum

LET YOUR VOICE BE HEARD

WEDNESDAY, OCTOBER 14, 2020

6:00PM

Dial-in Number: 929-205-6099

Zoom Meeting ID: 997 7924 2087

Passcode: 016856

**Public feedback on the Durham Police Department
complaint process and community-police
relations.**

For more information:

DeWarren K. Langley, JD, MPA, MHFA

Chair, Civilian Police Review Board - City of Durham

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Civilian Police Review Board City of Durham

COMMUNITY POLICE RELATIONS FORUM

Residents are invited to provide feedback on the Durham Police Department complaint process and community police relations.

**Wednesday, April 28, 2021
6:00PM**

Dial-in Number: 929-205-6099
Zoom Meeting ID: 951 6384 9823
Passcode: 923777

For more information:

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