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HEADLINE: REVIEW BOARD WANTS ANSWERS;
SAYS MISCONDUCT REPORT FULL OF 'MISINFORMATION'

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BODY:

The Citizen **Police** Review Board yesterday asked the city **police** chief to explain why a commander's report about a misconduct complaint contains what the board called "blatant misinformation" contradicting an auditor's findings regarding the incident.

The complaint involved the search of an infant in East Liberty two years ago.

In a letter to Chief Robert McNeilly Jr., the board indicated that McNeilly may have been misled by a report from Cmdr. Regina McDonald when he rejected the board's recommendation that two narcotics detectives be disciplined.

McNeilly said yesterday he will look into the matter.

The letter came two days after the release of a quarterly report by an auditor appointed to oversee the city **Police** Bureau's compliance with a federal consent decree.

In that report, court-appointed auditor James Ginger criticized the Office of Municipal Investigations for laxity, saying the office has failed to investigate complaints aggressively, improperly cleared some officers, used poor investigative techniques and failed to train some staff members.

In one of Ginger's examples, Robert Morton claimed two detectives, Frederick Woodard and Patrick Kinavey, removed his infant son's diaper during a search for drugs in East Liberty on Feb. 25, 2000. Ginger said an investigator with the Office of Municipal Investigations appeared to ignore Morton's statement and those of three witnesses and also said the interviews of the officers involved were "spotty" and incomplete. Beyond the office's failings, he said, the search itself was a problem if it happened as described by Morton.

"If the search took place as stipulated by the complainant, it is behavior that shocks the conscience and falls well outside permitted **police** tactics," Ginger wrote.

But in a June 25 letter to McNeilly about the case, McDonald told McNeilly that Ginger "agreed" with Roy Dean, head of the Office of Municipal Investigations, that no strip search took place and that the detectives were within their powers to search the baby.

"The auditor did not report any problems with this case," McDonald wrote in the letter, which was signed by Assistant **Chief** William **Mullen** and Deputy **Chief** Charles Moffatt.

The Office of Municipal Investigations closed the case as "unfounded." On July 8, McNeilly told Beth Pittinger, executive director of the review board, that he was rejecting the board's

recommendation that charges of neglect of duty, withholding information and strip search violations be filed against Woodard and Kinavey.

Ginger's report indicates, however, that he did not agree that the detectives did nothing wrong.

McNeilly said yesterday that he wished Pittinger would have just called him with her concerns instead of writing the letter, but he said he will investigate McDonald's report.

"It appears to me that we need to look into this further," he said. "We're going to take a look at that [information]. We'll try to determine how that paragraph came to be."

In rejecting the board's recommendation, however, McNeilly said he relied on the entire report by the Office of Municipal Investigations and not just McDonald's letter.

McDonald didn't return a call yesterday, nor did city Solicitor Jacqueline Morrow.

Review board officials said they don't know where the contradictory information came from originally, but said it was a "very disturbing development."

"The content of that report as presented to the chief is very misleading," said John Bingler, vice chairman of the board.

"There's obviously something wrong," Pittinger said.

In addition to the discrepancy regarding the auditor's input, McDonald's report contains another contradiction. On the second page, it indicates that the Office of Municipal Investigations sustained charges against Kinavey, but on the fourth page it says the charges were not sustained.

McNeilly said the explanation is simple: It's a typo. He said the information on the second page should have indicated the charges were sustained by the review board, not by the office.

While the board and the city re-examine the incident, Morton is appealing his conviction in the case. During the search, Pittinger said, he was charged with tampering with evidence, resisting arrest and assaulting an officer. A Common Pleas judge found him guilty of those charges in January 2001.

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