

**CIVILIAN POLICE REVIEW BOARD
OFFICE OF PROFESSIONAL STANDARDS**

February 14, 2023

MEETING MINUTES

I. CALL TO ORDER

Michael Hess, Chairperson

II. ROLL CALL

Chairperson Hess

CPRB MEMBERS

OPS STAFF

ATTENDANCE

Michael Hess, Chair
Dave Gatian, Vice Chair
Brandon Brown
David Frantz
Christopher Heltzel
Chenoa Miller
Ken Mountcastle
Billy Sharp
Christopher Heltzel, Staff Council
Sherall Hardy (Absent)
Michael Graham (Absent)

ATTENDANCE

Jonathan Cudnik, Interim Administrator

Eric Richardson, Interim Senior Investigator
Julie Delaney, Investigator
Maryum Ali,
Art Bowker, Investigator
Vincent Funari, Investigator
Hercules Harris, Investigator
Eric Richardson, Investigator
David Hammons, Investigator
Joe Szymanski, Investigator
Robert McEvoy, Investigator

III. APPROVAL OF MINUTES

IV. PUBLIC COMMENT

V. NEW BUSINESS

Jonathan Cudnik, Interim Administrator

VI. PRESENTATION OF INVESTIGATIONS

Jonathan Cudnik, Interim Administrator

VII. OPS REPORT

Jonathan Cudnik, Interim Administrator

A. REVIEW OF CHIEF DISCIPLINARY DECISIONS

Jonathan Cudnik, Interim Administrator

VIII. OPS REPORT

Jonathan Cudnik, Interim Administrator

IX. POLICY UPDATES (None)

X. COMMITTEE REPORTS (None)

XI. UNFINISHED BUSINESS (None)

XII. ADJOURNMENT

Next Meeting: Tuesday, April 11, 2023 at 9:00 am

I. MEETING CALLED TO ORDER AT 9:19 A.M.

II. ROLL CALL AT 9:20 A.M.

III. APPROVAL OF MINUTES 20:46-21:21

MH: I did not receive a copy of the minutes. Has anyone received a copy of the minutes?

KM: I have.

KM: I make a motion to approve the minutes as written. 2nd by Mr. Sharp. Motion carries.

IV. PUBLIC COMMENT

JC: We have many people here today for the public comment.

Rosie Palfy: I am a member of the Cleveland mental health response advisory committee also known as MREC. It was created as one of the mandates under the Consent Decree and we work with the Cleveland Division of Police to recommend policy updates, training and curriculum. We help them write that and we also analyze data. I have several concerns. I came here over a year ago and made a public comment and nothing seems to have been addressed as far as the Civilian Police Review Board goes. One of my concerns is cases are coming before you and they appear to be investigated for, in some cases, racial bias, but the bias free police policy also includes things like age and disability. Sid Standifer from the Marshall Project recently did a story that was basically everywhere about youth in crises and how some of the cases were not being handled properly that were with children and in some cases the officers were African-American. The monitoring team did this analysis and they're looking at it and they said if this was a police officer of a different race, we would be looking at this for racial bias. That's one thing that I want you to consider is that some individuals in crises might be getting treated differently because they have a disability or because they're youth or they're elderly. The other thing I wanted to mention is I am absolutely disgusted with what this OPS administrator hiring process. There's been no transparency. The community wasn't involved, the old Cleveland Police Commission held an event years ago with the top three candidates last time. That did not happen this time. Why would you hire somebody with no experience investigating civilian complaints, who cannot start for six months? This individual seems to be a highly qualified candidate, but seems to be possibly a better fit for the Inspector General role the city is looking to hire. The other thing is OPS. I want to praise whoever does community engagement. They put something on twitter last month about a National Police oversight virtual Town Hall. I attended and there were some interesting things said about what is happening in other cities. For instance, in Chicago, they put their investigations online. I've tried to get investigations to share with my committee and the city takes almost three months to respond to a public records request and then instead of sending me the investigation, all they send you is the complaint. If CPRB put these investigations online, residents wouldn't have to jump through hoops for that. The other thing that was interesting was one of the cities said they have some sort of peer support for their investigators because they said it's traumatic for them to have to continue to re-watch body camera footage and I imagine that would also apply to the members of the Civilian Police Review Board. Finally, I was looking at a roster on the city's public records website and I don't think a roster of city employees where dates of hire and dates of their current pay rate was dated 2021. You have employees that are getting paid the same amount as when they were hired. You have one employee who had been there for at least five years and another one had been there for at least ten years. I don't know if these individuals are still employed by the City, but I think you get what

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you pay for and you guys are severely understaffed and I think if police officers are getting raises, so should OPS Staff.

Rico Dancy: My name is Rico Dancy and I'm the president of Black Lives Matter for the deaf in DC. One thing caught my eyes was a deaf guy in Baltimore got murdered by a person who don't have a disability who choked him to death till he gave his last breath. What are we doing with the police department if the police would do that kind of behavior, because I'm fighting every day for people who are deaf/hard of hearing, to make sure we provide equal access? OPS need to also provide interpreter service. You never know if a person is deaf or hard of hearing. The City gets ADA funding for Americans with disability to provide them kind of services. We have not seen that yet and I'm going to continue to fight to make sure every citizen, every elder, every person who have a disability is being treated fair, so what we've seen what happened in Memphis, George Floyd, we've seen these police using these kind of illegal force. What kind of policy is the Cleveland Police making to make sure this kind of behavior, this kind of un-trust will never happen again?

McCree Wilson 31:04-36:57: The last time I was in front of this board was in February of last year for a case that was related to the rest of the cases that you'll hear today. Once I received the disposition of that case in the mail, I reached out to the interim administrator at that time, Mr. Roney, and expressed to him some concerns I had both with deliberation and the disposition that the board provided me. One of those concerns was an allegation of implicit bias based on my mental health condition, my disability to Miss Rosie Palfy's point, Mr. Hammond recommended that that allegation against that officer be sustained. He provided several points of evidence to sustain the allegation and the board departed from his recommendation, as is their right, however, in their manual it requires and I'll read to you from it, "if the board recommended disposition departs from OPS'S written disposition, the final summary shall include a written justification for the departure. So, I requested that written justification for that departure from that investigator's disposition from Mr. Roney, I requested it again from Mr. Fisher and I've requested it again from Mr. Cudnik. I don't know whose responsibility it is to make sure that I'm provided that, but I'm still requesting it here, one year later. I've also requested both from the city records department and Mr. Roney and Mr. Fisher, I don't think Mr. Cudnik and I had the opportunity to get into much of a discussion regarding this, but I requested the investigatory file, along with the hearing checklist and the just cause checklist that are required to be completed by the board and provided to the secretary at the end of the case. So the responses from Mr. Roney just went on until he wasn't there anymore. The City let me know the case was still open and that's why I wasn't able to receive the investigatory file. I've checked in with them a couple of additional times and I still haven't been able to receive those documents. Finally, because of the nature of the discussion regarding the allegations that were made, a couple of different board members made some pretty shocking statements that made clear their own implicit bias. Mr. Gatian wasn't even aware if my complaint was related to race or gender and Mr. Hammons had to let him know that it was a complaint based on the ADA. I did some research to get an understanding of what the board's training was at the time. I did a public records request. The public records request came back that there was no record of the initial and annual training as required by City Charter that was available and I'm from a school that if it's not documented, it didn't happen. However, sometimes records get lost. I reached out to Mr. Roney again and he let me know that there wasn't any training happening at the time that the prior administrator, Mr. Smith, had done to make sure people were getting trained, but he blamed it on the pandemic to explain why board members weren't receiving initial and annual training and it was very clear by their lack of understanding and their own policies and procedures, a lack of understanding and what the preponderance of the evidence means, a lack of understanding that it's inappropriate to ask someone that is making a complaint about implicit bias about a disability, if that person is on medication. It's apparent that the board wasn't receiving the training as required by the charter. I'm still requesting written justification for the departure from Mr. Hammons' sustained recommendation. I'm still requesting the just cause hearing checklist and I have another pending public records request to get an understanding of what type of training that CPRB members are receiving that

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qualifies them to make some of these decisions that are being made. I find the hypocrisy surrounding you guys being responsible for ensuring that Cleveland Police Officers are following their GPO'S and you aren't following your manuals to be baffling. That's all I really have to say. I'm going to follow-up with this in an email to make my requests more clear.

LaTonya Goolsby 37:27-42:00: My question generally stems around what the young lady stated, the completion of the manual. The last time I was on a call, I was told that the manuals were with the Law Director and I wanted to get an update as to where we are on the completion of the manual?

MH: We were just looking at a draft of it the other day, well I was. Christ do you have an update on what the timeline might look like for that?

CH: It's going to be sooner rather than later. At this point. I know the chairman as well as myself have made a couple of different calls over the last couple of weeks going over incorporated changes from the DOJ from late last year in the context of other comments that we had received from the monitoring team and we are just now in the process of finalizing those incorporations, but also trying to keep flexibility that'll be necessary to accommodate the CPC Manual once that gets put into place, so in terms of having completed OPS and CPRB manuals ready for implantation, we are getting close in terms of the entire framework of civilian police oversight as a whole, we are still trying to keep that in mind while the CPC is getting its footing even more firmly established. Short answer, we are closer than we were last meeting, but we still have a few more discrepancies to iron out.

MH: I think that the major points that we've being disagreed upon, I think that there's a resolution on just about everything between the City and the Department of Justice. So there's nothing as far as the last few times that we spoke, there was a lot of back and forth between the City and the DOJ about what to include, how to phrase it and what to exclude from the manual. I think most of those issues have been hammered out. I think it's really more of just a matter of finalizing the document than it is debating the content of it. So that gives us hope that the timeline is pretty short here moving forward, if that make any sense.

LG: I definitely heard about the process of the hiring of the administrator. I'm concerned that this body would agree to hire someone and they can't start for six months, considering you all haven't had an administrator for quite some time now. I think it was a sense of urgency that should have been applied to that in making a determination of when that person should start. This board is still currently in violation of Issue 24, Charter Section 115 because you all are not operating with the current updated manual, so you're not complying with the consent decree.

Brenda Bickerstaff 42:00- 45:10: I have to agree with Rosie and Miss Goolsby concerning the administrator, that you're holding their position for six months and the manual. Mr. Hess, I heard you say that it was a lot of going back and forth between the DOJ and the City on what to include and not to include in the manual. Can you kind of elaborate on that for me?

MH: I really can't because it's an ongoing legal case.

BB: How long has this been going on now?

MH: Since 2015.

BB: So you've been trying to get a manual since 2015? It's two people talking to me and I'm trying to get an understanding.

MH: We've been trying to rewrite the manual since January of last year when Issue 24 became a charter amendment.

BB: So this has been going on about a year and a month because now we're in February, correct? Am I accurate to say that?

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MH: Yes

BB: Do you have a deadline date or are you waiting on the Department of Justice and the Law Department?

MH: There is not a deadline per se.

BB: I'm going to be honest. I think you guys should be held in contempt by the judge because this has been prolonged and not only that, as LaTonya and Rosie just mentioned and we've been watching this too, that you got an administrator that you're holding their job and that's not good either. Not only that, once again the old commission that was created by the consent decree had a forum when they had the administrators before, we could see. I don't even know who this person is. I think you guys are prolonging this and I think you're doing it intentionally, so me personally, I'm going to get in touch with the judge because he needs to hold you in contempt. Thank you and that's all I have to say.

MH: Thank you.

Kareem Hinton 45:21-47:35: Just to kind of reiterate what's been said previously and I would hope that you guys would have a sense of urgency in filling the needed positions and also have a sense of urgency in regards to actually creating the policy and not rely on the City to do so. You are supposed to be a bit independent. I would hope that you have a sense of urgency in regards to that and since you have additional monies in your budget in order to be able to hire additional staff, even if temporary. I would request or advise that perhaps you hire additional staff to construct your new manual because you weren't able to give any type of deadline or any kind of estimation of when you might be able to complete said manual. As we move on, I just think that what's going to happen is as long as you're not in compliance, there could be some legal actions that could be taken by folks that come before you and we don't want that to happen.

MH: Thank you for the comment and we'll take that into consideration.

V. NEW BUSINESS 47:45-1:06

MH: Anyone aware of any new business?

BS: As I and many of my colleagues are out in the community, there is a cry for our meetings to be held in person. I think listening to some of the comments we heard today, I think it does the public good to be able to air those in person hopefully. I'd like to Chair, Vice-chair and guests to make a motion that we set a date to instruct OPS with the guidance of Council to set in-person dates beginning March 14th of 2023, with the caveat that we would in December, January and February, go into what would be a winter session and utilize this medium that we use now, which would be virtual meeting so we kind of would only be meeting in person nine months and three months for safety reasons, (we don't know what the weather may be) meet for three months during the winter months. I'd like to put that motion forward to the board.

MH: To expedite that before we take a vote on it. I'd like to discuss that a little bit, particularly I would ask Chris and John if you think that is feasible and if you think we could move forward that way. I would tend to agree generally speaking, I think we need to start to move these to an in person location.

JC: As far as the March 14th date, I would have to take a look to see if that would even be feasible.

CH: We would need to know what time, place, cost and parameters the board had in mind.

MH: Keep the meetings more or less the same time (second Tuesday at 9:00), but I know in the past, we've had trouble securing a space at City Hall. In the past, meetings were Wednesday instead of Tuesdays and I think we moved it specifically so that we could keep using that same room. The better

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thing for us to do is to ask OPS to come back with a report on what spaces within City Hall or some other city buildings might be suitable.

BS: The public theatre would be one. There is space in the basement or on some other floors that could accommodate.

MH: The meetings were moved to City Hall because of security issues. City Hall has the strongest security. I know that was a consideration in the first place. I don't know if any other board members have an opinion on this one way or other. If we could have OPS report back to us what our options might be and take it from there rather than saying that our next meeting is going to be in person. I think that's going to be a lot to ask to happen in what month.

KM: I agree with Mr. Sharp. We need to put a deadline on this. We've been talking about this since December.

BS: Let's vote it up or down. If we're going to do it, let's move towards that. Obviously, you're correct and it would take some process and if the 14th date is not feasible, at least let's get the groundwork going. Let's see if this is something that the board even wants to do because if the answer is no, there is no reason to kick it down the road, it'll be a settled issue.

DG: Is the motion whether or not we want to return to public meetings because we can't say let's have public meetings March 15th or whatever that date would be if we don't have a space so I think the first thing is do we have a desire to return to public meetings. I thought in December we were waiting for a location for us to have our meetings. I would say there are various Public Utility locations. I think all of them have conference rooms and all of them are secure locations.

CH: If look into Public Utilities, it'll have to be paid for out of the OPS budge so then there's a cost consideration.

DG: We just need to find a place. I don't know. I just threw that out. We can have it at Tower City for all I care. We do need to return back to live meetings and maybe we have a motion that says we want to do that. I don't know what the holdup is. Meetings are held all the time within the City of Cleveland, they we can't find a place big enough for 10 and typically we would have 10 people sitting in the audience. We're not asking for an auditorium, we're asking for a conference room.

BS: I think with this motion, OPS would have to come back with a space instead of it looks to me like we're looking but nobody's really looking. Even at this point, we should have a report saying why we don't have a space since December, what was done to find a space and what the reason why we couldn't find a space. I know we're not hung up on a room that no longer exists.

DG: Who's the person in charge of finding a room?

CH: No one.

DG: That seems to be the problem. We need to have someone to say this is my responsibility, I'll find a room and I'll report back with where it's going to be.

CH: I'll include in the motion a delegation of that responsibility with the requisite authority to do what it is that the board wants to proceed. I think it was Mr. Hess mentioning having OPS come back with a report that I'm assuming would be a list of options that the board could then select from or do you want to delegate the entire authority to find a location to OPS administrator and set a deadline on that with instructions to keep it as close to the current meeting time as possible. My point is if they're coming back with a list of options, then the board is going to have to decide how it wants to select. So is it going to be that the chairman selects a location out of the final options presented by OPS and then the board will vote to approve or disapprove that selection or will it be like a ranked choice voting system where people

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vote on their top three preferences? These are things that we have to take into consideration when the board is deciding where and when it's going to meet.

DG: OPS knows how big a place we need. We have nine board members, a couple of administrative people, so we need a table up front for a dozen people. We need chairs in the front of that for 20 people and room for a camera. I don't think it's crazy what we're asking for. I don't think we need to go for voting. That just slows things up again. I would say OPS should submit options to Mr. Hess. I'd be fine with letting Mr. Hess select where we go and if we get there and we say we can't deal with this, then we reserve the right to say you picked a place 20 miles away, we don't want to go there. I don't know that this should be this difficult.

BS: I'd be willing to serve on a sub-committee that if you needed help putting this thing together within a certain time frame, I'd be willing to help serve on that.

JC: I would submit to the board that these meetings are the CPRB, so if assistance would be helpful for members of the board in order to find locations and options, certainly OPS is ready to assist, but looking for locations and reporting back depending on how the board votes on this particular issue, I think assistance from the board with OPS and figuring this out would be quite beneficial.

MH: It sounds like everybody wants a hard deadline when we're going start in-person meetings. I'm going to recommend that we do that in April instead of March, just so that we're not dropping this in OPS'S lap and they've only got 20 days to figure it out.

BS: I will amend my motion with number one, that we take the April meeting date. Number two, that we form a sub-committee and by the March 14th meeting we present the board with options or the best option of where we are to meet. I think that gets us to the amended timeline of April.

MH: It sounds like we're going to put some trust in the sub-committee to make the decision and it sounds like it may not need to go in front of the board which does kind of make sense to me. We've obviously got the same goals as far as finding a safe place to meet that's convenient for everybody. If we're going to have a sub-committee, maybe it's just you and me and maybe somebody else has some interest in being involved in that.

MH: You can add me.

MH: So it will be Ken Mountcastle, Mr. Sharp and myself.

CH: Three would be ideal based on the CPRB rule book. There's at least guidance for a three panels.

MH: The board is going to delegate to the three member panel the authority to find and secure a location and that it's going to be John and Toni primarily from OPS are going to assist in communication and just pointing us in the right direction on who it is in the city that we need to talk to.

JC: I will also add out Community Engagement Coordinator, Maryum Ali.

BS: I'm retracting the former motion and putting a new motion on the floor. My new motion is that we return to in-person meetings. There will be a three person committee assembled to identify and select a location with the assistance of OPS.

MH: Second by Gatian. Motion passed.

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VI. PRESENTATION OF INVESTIGATIONS:

1. 2022-0116: Sgt. Henderson

Allegation: Improper stop

Recommendation: Sustained

Motion: Brown

Second: Mountcastle

Motion carried

Allegation: Improper Arrest

Recommendation: Sustained

Motion: Brown

Second: Mountcastle

Motion carried

Allegation: Improper Procedure

Recommendation: Sustained

Motion: Brown

Second: Mountcastle

Motion carried

Allegation: Improper Tow

Recommendation: Sustained

Motion: Brown

Second: Mountcastle

Motion carried

Capt. Mandzak #6563

Allegation: WCS Violation

Recommendation: Sustained

Motion: Hess

Second: Sharp

Motion carried

Lt. Skrletts #8550

Allegation: WCS Violation

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Recommendation: Sustained

Motion: Hess

Second: Mountcastle

Motion carried

Sgt. Sedlak #9177

Allegation: WCS Violation

Recommendation: Sustained

Motion: Hess

Second: Miller

Motion carried

Det. McManamon #1155

Allegation: WCS Violation

Recommendation: Sustained

Motion: Hess

Second: Sharp

Motion carried

Det. Sullivan #117

Allegation: WCS Violation

Recommendation: Sustained

Motion: Hess

Second: Sharp

Motion carried

Det. Bohlen #2428

Allegation: WCS Violation

Recommendation: Sustained

Motion: Hess

Second: Sharp

Motion carried

Det. Schade #290

Allegation: WCS Violation

Recommendation: Sustained

Motion: Hess

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Second: Sharp

Motion carried

2. 2021-0304: P.O. Petry #353

Allegation: Lack of Service

Recommendation: Exonerated

Motion: Sharp

Second: Mountcastle

Motion carries

Det. Wynn #594

Allegation: Lack of Service

Recommendation: Sustained

Motion: Brown

Second: Mountcastle

Motion Carried

P.O. Quinones #358

Allegation: Lack of Service

Recommendation: Exonerated

Motion: Brown

Second: Mountcastle

Motion carried

3. 2022-0084: P.O. Villafuerte 31608

Allegation: Lack of Service

Recommendation: Sustained

Motion: Brown

Second: Gatian

Motion carried

Bias Policing

Recommendation: Insufficient Evidence

Motion: Brown

Second: Gatian

Motion carried

P.O. White #37

Lack of Service

Recommendation: Sustained

Motion: Brown

Second: Sharp

Motion carried

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Bias Policing

Recommendation: Insufficient Evidence

Motion: Brown

Second: Gatian

Motion carries

4. 202-0150: Sgt Wells #9281

Lack of Service

Recommendation: Unfounded

Motion: Sharp

Second: Gatian

Motion carried

5. 2021-0108: P.O. Wright #2206

Unprofessional Behavior/Conduct

Recommendation: Unfounded

Motion: Gatian

Second: Mountcastle

Motion carried

Lack of Service

Recommendation: Unfounded

Motion: Gatian

Second: Mountcastle

Motion carried

Sgt. Walker #9234

Unprofessional Behavior/Conduct

Recommendation: Unfounded

Motion: Gatian

Second: Mountcastle

Motion carried

XII. ADJOURNMENT

Dave Gatian made the motion to adjourn the meeting 2:08 P.M., 2nd by Billy Sharp. Motion carried.

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