# CIVILIAN POLICE REVIEW BOARD OFFICE OF PROFESSIONAL STANDARDS

April 11, 2023 **MEETING MINUTES** 

# THE NEXT CPRB BOARD MEETING IS IN ROOM 514 AT CITY HALL

# CPRB MEMBERS

ATTENDANCE
Michael Hess, Chair
Dave Gatian, Vice Chair
Ken Mountcastle
Billy Sharp
Sherall Hardy
Brandon Brown
Michael Graham (ABSENT)
Chenoa Miller (ABSENT)

**OPS STAFF** 

ATTENDANCE Jonathan Cudnik, Interim Administrator

Christopher Heltzel, Staff Council

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

- I. APPROVAL OF MINUTES
- II. PUBLIC COMMENT
- III. NEW BUSINESS
- IV. PRESENTATION OF INVESTIGATIONS
- VII. OPS REPORT
  - A. REVIEW OF CHIEF DISCIPLINARY DECISIONS
- VIII. OPS REPORT
- IX. POLICY UPDATES (None)
- X. COMMITTEE REPORTS (None)
- XI. UNFINISHED BUSINESS (None)
- XII. ADJOURNMENT

Jonathan Cudnik, Interim Administrator Jonathan Cudnik, Interim Administrator

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# I. MEETING CALLED TO ORDER AT 9:14 A.M.

# II. ROLL CALL AT 9:15 A.M.

# III. APPROVAL OF MINUTES 9:16

Mountcastle: Motion to approve minutes. 2<sup>nd</sup> by Hardy. Motion Carried

- IV. PUBLIC COMMENT (NONE)
- V. NEW BUSINESS (NONE)
- VI. PRESENTATION OF INVESTIGATIONS:
  - 1. 2021-0158: P.O. Brightharp #699

Allegation: Unprofessional Behavior/Conduct

Recommendation: Unfounded

Motion: Gatian
Second: Brown
Motion carried

# 2. 2021-0190: P.O. Aaron Thompson #551

Allegation: Improper Search Recommendation: Exonerated

Motion: Sharp

Second: Mountcastle *Motion carried* 

Allegation: Bias Policing

Recommendation: Unfounded

Motion: Sharp Second: Mountcastle Motion carried

P.O. Coffee #748

Allegation: Improper Search Recommendation: Exonerated

Motion: Sharp Second: Mountcastle Motion carried

Allegation: Bias Policing

Recommendation: Unfounded

Motion: Sharp Second: Mountcastle Motion carried

# Sgt Day #9182

Recommendation: Exonerated

Motion: Sharp Second: Mountcastle Motion carried

**Allegation: Bias Policing** Recommendation: Unfounded

Motion: Sharp Second: Mountcastle Motion carried

# 3. 2021-0202 P.O. Sylvester #1739

Allegation: Unprofessional Behavior/Conduct

Recommendation: Unfounded

Motion: Hardy Second: Mountcastle Motion carried

**Allegation: Lack of Service** Recommendation: Unfounded

Motion: Hardy Second: Mountcastle Motion carried

# 4. 2021-0090: P.O. Kvach #254 Allegation: Lack of Service

Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

## P.O. Schinke #2448

**Allegation: Lack of Service** Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

# P.O. Campbell #2533

Allegation: Lack of Service

Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

Allegation: Unprofessional Conduct/Harassment

Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

Allegation: Improper Procedure/Failure to provide name and badge

Recommendation: Sustained

Motion: Gatian Second: Hardy Motion carried

P.O. Brown #1869

Allegation: Lack of Service Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

Allegation: Unprofessional Conduct/Harassment

Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

Allegation: Improper Procedure/Failure to provide name and badge

Recommendation: Sustained

Motion: Gatian Second: Hardy Motion carried

P.O. Stevens #2423

Allegation: Lack of Service Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

# Allegation Unprofessional Conduct/Harassment

Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

# Allegation: Improper Procedure/Failure to provide name and badge number

Recommendation: Sustained

Motion: Gatian Second: Hardy Motion carried

## Sgt. David #9140

**Allegation: Lack of Service** Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

# Allegation Unprofessional Conduct/Harassment

Recommendation: Exonerated

Motion: Gatian Second: Hardy Motion carried

# Allegation: Improper Procedure/Failure to provide name and badge number

Recommendation: Insufficient Evidence

Motion: Gatian Second: Hardy Motion carried

# 5. 2021-0094: P.O. Marquard #1769

Allegation: Lack of Service/No Service

Recommendation: Exonerated

Motion: Hess Second: Sharp Motion carried

**Allegation: WCS Violation** Recommendation: Sustained

Motion: Hess

Second: Mountcastle

Motion carried

## 6. 2021-0169: P.O. Gaston #2294

Allegation: Improper Investigation

Recommendation: Unfounded

Motion: Hess Second: Gatian Motion carried

#### P.O. Robinson #408

Allegation: Improper Investigation

Recommendation: Unfounded

Motion: Hess Second: Gatian Motion carried

# 7. 2021-0163: Sgt. Body #9254

Allegation: Improper Procedure

Recommendation: Exonerated

Motion: Hess Second: Gatian Motion carried

# 8. 2022-0063: P.O. Morrison 31017

Allegation: Lack of Service

Recommendation: Exonerated

Motion: Sharp

Second: Mountcastle

Motion carried

## P.O. Schmitz #1875

Allegation: Lack of Service

Recommendation: Exonerated

Motion: Sharp

Second: Mountcastle

Motion carried

#### 9. 2021-0183: P.O. Ortiz #273

Allegation: Unprofessional Behavior/Conduct

Recommendation: Unfounded

Motion: Sharp

Second: Mountcastle

Motion carried

# 10. 2021-0206 P.O. Florentz #2586 (Tabled due to no WCS footage)

Allegation: Lack of Service

Recommendation:

Motion:

Second:

# **Allegation: Improper Procedure**

Recommendation:

Motion: Second:

# 11. 2022-0099 P.O. Fredd #805

**Allegation: Lack of Service** Recommendation: Sustained

Motion: Hardy Second: Sharp Motion carried

**Allegation: Missing Property** Recommendation: Sustained

Motion: Hardy Second: Sharp Motion carried

# P.O. Poff #1029

**Allegation: Lack of Service** Recommendation: Sustained

Motion: Hardy Second: Sharp Motion carried

Allegation: Missing Property

Recommendation: Sustained

Motion: Hardy Second: Sharp Motion carried

## Michael Cooper: 1:35-1:43.

I was moving from Lakewood to University. The Uber driver was confused and left twice so I'm going to meet you at the gate to make it easier. The officer came on a warrant. I was running out for Ledger Gym on 619 Prospect Avenue, Fitworks bought it so I'm in the cooler getting drinks. I give all team and police free membership and free drinks. I was homeless for about a month and I was helping my friend run his club. I was telling the police I got over \$100,000.00 in this cart. I got it covered up. I'm working outside trying to get University. There's probably \$20,000.00 worth of liquor at the bottom of my cart. It took me eight years to get all of this stuff. I could have been a bum, but so what, can I have my toothbrush and stuff when I get out of jail. Why is that not important? Thank you for your time

## 12. 2021-0244: P.O. Ellis #1524

**Allegation: Lack of Service** Recommendation: Sustained

Recommendation: Sustained

Motion: Gatian Second: Sharp Motion carried

# 13. 2022-0115: P.O. Marzan #1135

Allegation: Lack of Service

Recommendation: Failure to De-Escalate

Motion: Hess Second: Sharp Motion carried

**Allegation: Excessive Force** 

Recommendation: Exonerated

Motion: Hess Second: Gatian Motion Carried

**Allegation: Unprofessional Conduct** 

Recommendation: Sustained

Motion: Hess Second: Hardy Motion Passed

Sgt. Katynski #9302

Allegation: Failure to De-Escalate

Recommendation: Sustained

Motion: Hess Second: Sharp Motion carried

**Allegation: Unprofessional Conduct** 

Recommendation: Sustained

Motion: Hess Second: Sharp Motion Carried

**Allegation: Improper Procedure** 

Recommendation: Sustained

Motion: Hess

Second: Mountcastle

**Motion Passed** 

Sgt. Foglyano #9283

Allegation: Unprofessional Behavior/Conduct

Recommendation: Unfounded

Motion: Hess

Second: Mountcastle Motion carried

P.O. Ryan McCarthy #1009

Allegation: Unprofessional Behavior/Conduct

Recommendation: Unfounded

Motion: Hess

Second: Mountcastle **Motion Carried** 

**Allegation: Excessive Force** Recommendation: Exonerated

Motion: Hess

Second: Mountcastle

Motion Passed

Det. Rodriguez #2285

**Allegation: Unprofessional Conduct** 

Recommendation: Unfounded

Motion: Hess

Second: Mountcastle

Motion carried

Catherine Toth: 44:07-49:00

THIS STATEMENT IS A JOINT STATEMENT ON BEHALF OF MYSELF AND MY WIFE, MAUREEN. WE RESPECTFULLY REQUEST SIX MINUTES TO PROVIDE THIS JOINT STATEMENT. WE PAY OVER \$16,000 PER YEAR IN TAXES TO THIS CITY.

I AM A BORN CLEVELANDER. I ATTENDED THE UNIVERISTY OF MARYLAND AND THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL. I RECEIVED MY JURIS DOCTORATE IN 1987 AND AM A MEMBR OF THE CALIFORNIA BAR IN GOOD STANDING. I AM A RECOGNIZED EXPERT IN COMBATTING REDLINING AND DISCRIMINATION IN LENDING, A SERIOUS PROBLEM FOR THE CITY OF CLEVELAND. I HAVE AN OPEN FEDERAL WHISTLE BLOWER CASE WITH ROCKET MORTGAGE.

MY WIFE HAS BEEN A WELL---RESPECTED COURT REPORTER IN THE STATE AND FEDERAL COURTS FOR OVER 30 YEARS. I SPENT THE 1990s ENGAGED IN ANTI---CORRUPTION AND BANKING REFORM IN THE FORMER SOVIET UNION, ONLY TO RETURN HOME TO FIND THAT CLEVELAND IS IN MORE NEED OF FUNDAMENTAL MUNICIPAL AND POLICE REFORM THAN THE FORMER SOVIET UNION. IT IS TRULY SHOCKING.

THE CIVILIAN POLICE REVIEW BOARD CAN CHANGE THE WAY YOU ARE VIEWED HISTORICALLY AT THIS INFLECTION POINT FOR POLICE ACCOUNTABILITY AND PERHAPS PREVENT THIS FROM HAPPENING AGAIN TO ANOTHER LGBTQ FAMILY.

Next Meeting: Tuesday, May 9, 2023 at 9:00 am

WHATEVER YOU DECIDE TODAY COULD BE IMPORTANT, BUT IT WON'T CHANGE ANYTHING FOR MY FAMILY.

YOUR DECISION WON'T CHANGE THE TRAUMA AND ITS CONSTANT AFTERSHOCKS. YOUR DECISION WON'T GIVE US OUR HEALTH BACK. WE WILL CONTINUE TO EXPERIENCE THE MENTAL AND PHYSICAL PAIN FROM THE EXCESSIVE FORCE AND BIAS DISPLAYED BY THE CLEVELAND POLICE. THIS IS PEMANENT. YOUR DECISION WON'T GIVE US BACK THE SANCTITY, THE SAFETY AND THE SECURITY OF OUR HOME, OF OUR ENTIRE NEIGHBORHOOD.

IT WON'T CHANGE THE FACT THAT THE FIRST DISTRICT POLICE DEPARTMENT HAS AT LEAST FIVE SWORN MEMBERS WHO HAVE, ON BODY CAMERA, REFERRED TO THE TRAUMA AND PTSD THAT THEY CAUSED AS ME BEING "WHACKED OUT," INCLUDING SERGEANTS STATING TO A NEIGHBOR I WAS "OFF MY ROCKER," WHILE ENGAGING IN CASUAL DEFAMATORY GOSSIP WHILE GATHERING TOMATOES AND POP IN THE NEIGHBOR'S BACK YARD WHILE I WAS BEING ILLEGALLY DETAINED. I WAS "OFF MY ROCKER" FOR EFFUSIVELY PROTESTING BEING ILLEGALLY DETAINED ------ WHICH OF COURSE CAUSED EXTREME PSYCHOLOGICAL COMPROMISE. A STATE I WAS NOT IN PRIOR TO THE INNAPROPRIATE AND ILLEGAL POLICE ACTIONS.

THE STILL IMAGES YOU ARE VIEWING FROM THE BODY CAMERAS DEMONSTRATE VARIOUS INAPPROPRIATE ACTIONS AND DEMEANOR.

THE BODY CAMERA WAS POINTED TO BY SARGENT FOGLIANO TO WARN THE OTHER SWORN MEMBERS AND THE NEIGBORS TO BE POLITICALLY CORRECT WHILE BEING TAPED AND THEN THE CAMERAS WERE TURNED OFF. WE WOULD LIKE TESTIMONY ON WHAT WAS SAID BY SEARGENTS FOGLIANO AND THEY SHOW SMIRKING WHILE I AM HANDCUFFED ON THE MUDDY GROUND IN A TORRENTIAL DOWNPOUR. THEY SHOW LAUGHING WHILE I AM BEING ILLEGALLY DETAINED. THEY SHOW POLICE OPENING A NEIGHBOR JUDGE'S MAILBOX WHILE NOT EFFUSIVELY SEARCHING FOR ME.

IF BRENDAN MARAZAN KNEW I WAS A DRAMATIC "LESBIAN" LESBIAN WHY DID HE NOT KNOW WHERE MY HOME WAS? HOW DID THE POLICE NOT FIND MY CAR AT THE BEACH WHERE IT WAS PARKED AND WHERE THEY PRETENDED TO SEARCH?

IS THIS COMMUNITY POLICING? IS THIS COMPETENT POLICING?
IS THIS BUILDING BRIDGES BETWEEN THE POLICE AND THE COMMUNITY? DOES THIS FIT WITHIN THE GUIDELINES OF THE DEPARTMENT OF JUSTICE CONSENT DECREE? WE NOW NOT ONLY FEAR OUR VIOLENT AND HOMOPHOBIC NEIGHBORS ------- BUT WE ALSO FEAR THE POLICE, WHO FAILED ON MULTIPLE OCCASSIONS TO PROTECT MY FAMILY FROM THESE NEIGHBORS.

THIS INCUDES CHARGING US FOR REPORTING THE NEIGHBORS' DISHONEST, ANTAGONISTIC, RACIST AND HOMOPHOBIC LANGUAGE ON JULY 8, 2022 ANOTHER CASE WE WILL HAVE TO BE HERE FOR, MISSING WORK AND BEING TRAUMATIZED.

WE WILL PERMANENTLY FEAR THESE SWORN MEMBERS OF THE CPD ------ WHOSE SALARIES, MISTAKES AND BIGOTRY WE HAVE TO PAY FOR NOT ONLY WITH OUR HEALTH, OUR REPUTATIONS, OUR LIVELIHOODS AND OUR SECURITY ------- BUT ALSO WITH OUR HARD---EARNED TAX DOLLARS.

WE STILL FIND IT DIFFICULT TO WALK DOWN THE FRONT STAIRCASE OF OUR HISTORIC CLEVELAND HOME, FROM WHICH YOU CAN SEE THE FRONT WALKWAY AND STREET, BECAUSE OF THE MEMORY OF

THIS EVENING. WE HAVE HAD THE PLEASURE OF HOSTING MANY LARGE FUNDRAISING EVENTS AT OUR HOME, WITH FORMER MAYORS AND JUDGES, AND HAVE ATTEMPTED TO BUILD BRIDGES WITH AS MANY GROUPS AND INDIVIDUALS IN THE COMMUNITY AS POSSIBLE. OUR HOME ON THIS EVENING WAS NOW SURROUNDED BY POLICE WHO HAD LACIDASICALLY AND WITHOUT ANY EMPATHY SHOWN UP MANY, MANY HOURS AFTER NOT DOING ANYTHING URGENT TO MEET THE PURPORTED NEEDS OF A MENTALLY DISTRESSED CITIZEN, IN FACT THEY GAVE UP AND WHERE LEAVEIN WHEN THEY FINALLY FOUND THE RIGHT HOUSE.

WE WERE MET AT OUR FRONT DOOR ----- WHILE OUR ALARM WAS BLARING FROM BEING TRIGGERED BY THE POLICE IN OUR BACK YARD ------ BY FOUR, AND EVENTUALLY 12, SWORN MEMBERS OF THE CPD WHO CLEARLY DEMONSTRATED DISDAIN, BULLYING AND A CALLOUS REFUSAL TO ACCEPT OUR ASSURANCES THAT A FALSELY REPORTED WELFARE VISIT WAS UNNECESSARY. YOU CAN'T CHANGE ANY OF THIS. EVEN IF YOU SANCTION THE POLICE, WE WOULD STILL FEAR RETRIBUTION AND RETALIATION AT THE HANDS OF THE POLICE. THE BODY CAMERA VIDEO DEMONSTRATED POLICE HUDDLING TOGETHER TO ALIGN THEIR NARRATIVES ABOUT THE EVENT AND A DESIRE TO FILE CHARGES, CHARGES THAT WERE DISMISSED AFTER MANY LONG MONTHS. THE VIDEO DOES NOT DEMONSTRATE CARE OR CONCERN FOR CITIZENS.

THE VIDEO MAKES REFERENCE BY POLICE TO, "GEE, SOMEONE HAS MONEY." THE VIDEO DOES NOT SHOW COMMUNITY POLICING. THE CONVERSATIONS IN THE HOSPITAL ABOUR HOW "SOMEONE IN THAT HOUSE HAS MONEY AND DID YOU HEAR SHE'S A LWYER. HA HA HA" WAS PERMANETLY DAMAGING TO HEAR.

WE DO NOT FEEL HOPEFUL THAT TRAINING OR ANY OTHER INTERVENTION CAN FIX THE HOLLOW---EYED INHUMANITY OF PEOPLE WHO ABUSE POSITIONS OF PUBLIC TRUST BY TREATING CITIZENS IN THIS MANNER. IT'S NOT REDEEMABLE. THEY ARE NOT REEDEEMABLE. TRAINING WON'T WORK. WE BELIEVE IN SHIFTING SIGNIFICANT FUNDING INTO OTHER SOCIAL SERVICES.

THE CPD AND THE US DOJ AGREED TO THE TERMS OF THE 2015 CONSENT DECREE. AFTER EIGHT LONG YEARS, WE DO NOT SEE ANY IMPACT OF THE AGREED---UPON BLUEPRINT TO REPAIR COMMUNITY RELATIONSHIPS AND ELIMINATE EXCESSIVE FORCE COMPLAINTS, PARTICULARLY IN MENTAL HEALTH INTERVENTIONS, REAL OR IMAGINED.

AFTER EIGHT YEARS OF THE CONSENT DECREE NOT WORKING TO CHANGE POLICE CULTURE --------QUOTING FROM A RECENT ARTICLE FROM THE MARSHALL PROJECT "CLEVELAND RESIDENTS HAVE LOST HOPE AND THE COMMUNITY IS GROWING IMPATIENT."

"WE NEED TO GET OUR SYSTEM OF GOVERNMENT ACCOUNTABILITY [OVER THE POLICE] WORKING BETTER THAN IT DOES, NO MATTER WHAT OUR SYSTEM OF PUBLIC SAFETY LOOKS LIKE. AND WE NEED TO GET STARTED WITHOUT DELAY."

AT THIS HISTORIC INFLECTION POINT, THE CIVILIAN POLICE REVIEW BOARD CAN ACCOMPLISH JUST THAT BY REQUIRING PERSONAL RESPONSIBILITY IN THE NAME OF POLICE ACCOUNTABILTY. YOUR

ACTIONS ARE THE ONLY WAY THIS CULTURE WILL CHANGE. HOLD THESE OFFICERS PERSONALLY ACCOUNTABLE FOR TAKING OUR LIVES FROM US, FOR TAKING OUR REPUTATIONS AND OUR VERY HOME FROM US, AGAINST MORALITY, AGAINST POLICY, AND AGAINST THE LAW.

## 14. 2022-0041 P.O. Earl Holcomb

Allegation: improper Tow

Recommendation: Exonerated

Motion: Sharp Second: Mountcastle Motion carried

**Allegation: WCS Violation** Recommendation: Sustained

Motion: Sharp

Second: Mountcastle: Motion Carried

# Sgt. Donegan #9064

Allegation: Unprofessional Behavior/Conduct

Recommendation: Insufficient Evidence

Motion: Hess

Second: Mountcastle Motion Carried

# 15. 2021-0083: P.O. Cardona #308/Resigned (Tabled until May Meeting)

Allegation: Unprofessional Conduct

Recommendation:

Motion: Second:

**Allegation: Missing Property** 

Recommendation:

Motion: Second:

#### P.O. Sanchez #966

Allegation: Unprofessional Conduct

Recommendation:

Motion: Second:

**Allegation: Missing Property** 

Recommendation:

Motion: Second:

#### 16. Lt. Schlacht #8553 now Commander #6138

Allegation: Unprofessional Conduct

Recommendation: Unfounded

Motion: Sharp Second: Mountcastle

Allegation: Lack of Service

Recommendation: Unfounded Complaint

Motion: Sharp

Second: Mountcastle

# 17. P.O. Chasar #2397 (Tabled until May)

Allegation: Lack of Service

Recommendation:

Motion: Second:

Allegation: Unprofessional Behavior/Conduct

Recommendation:

Motion: Second:

## **CHIEF'S DEPARTURES:**

THE CPRB will appeal the Chief's Departures for case, 2021-0250

## XII. ADJOURNMENT

Motion to adjourn the meeting by Hess, 2<sup>nd</sup> by Hardy at 2.00 P.M., Motion carried.