

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

January 9, 2024

MEETING MINUTES

*****The times reflected in the minutes are a reflection of the time on the YouTube video*****

The next meeting will be in person at 601 Lakeside City

Hall in Room 514

<https://cityclevelandoh.webex.com/cityclevelandoh/j.php?MTID=m1d33399dc7219eb4e936d8c4d23942c5>

CPRB MEMBERS

Billy Sharp, Chair
Mike Hess, Vice Chair
Kenneth Mountcastle
Dave Gatian
Sherall Hardy
Brandon Brown
Michael Graham
Diana Cyganovich
Chenoa Miller

OPS

Marcus Perez, Administrator
Hamza Khabir, Investigator
Vincent Funari, Sr. Investigator
Hercules Harris, Investigator
Joe Szymanski, Investigator
Susan Lanman, Investigator
Kristen Traxler, Investigator
Jermaine Smith, Investigator
Art Bowker, Investigator
Abby O'Neill, General Manager

LEGAL COUNSEL

Lillian Hall

BOLD: IN ATTENDANCE

- | | | |
|-------|---|--------------------------------|
| I. | APPROVAL OF MINUTES | Billy Sharp, Chair |
| II. | PUBLIC COMMENT | |
| III. | NEW BUSINESS | |
| IV. | PRESENTATION OF INVESTIGATIONS | Vince Funari, Sr. Investigator |
| V. | OPS REPORT | Vince Funari, Sr. Investigator |
| | A. REVIEW OF CHIEF DISCIPLINARY DECISIONS | Vince Funari, Sr. Investigator |
| VI. | POLICY UPDATES | Vince Funari, Sr. Investigator |
| VII. | COMMITTEE REPORTS | |
| VIII. | UNFINISHED BUSINESS | |
| IX. | ADJOURNMENT | |

Next Meeting: February 13, 2024

I. MEETING CALLED TO ORDER.

ROLL CALL AND INTRODUCTIONS: Not recorded

II. MOTION TO APPROVE MINUTES

Not recorded

III. PUBLIC COMMENT

Not Recorded

IV. PRESENTATION OF INVESTIGATIONS: (NO COMPLAINANTS PRESENT)

1. 2021-0266: P.O. Nathaniel Ellis, #1524 - Not Recorded

2. 2023-0135: 2nd YouTube Video Timestamps (0:01 – 21:00)

4th District Detective Unit

Allegation: Lack of Service/No Service

Recommendation: Unfounded

Motion: Chair Sharp

Second: Member Mountcastle

Motion : Carried

Abstention: Member Hess & Member Hardy: believes the board does not have the authority to recommend discipline, or lack thereof, against an entire unit. Stating this issue may fall outside the board's purview.

Det. Richard Adams, #12

Allegation: Lack of Service

Recommendation: Unfounded

Motion: Chair Sharp

Second: Member Mountcastle

Motion : Carried

Det. Richard Adams, #12

Allegation: Unprofessional Behavior/Conduct

Recommendation: Unfounded

Motion: Chair Sharp

Second: Member Mountcastle

Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board indicates conduct did not occur for all allegations.

3. 2023-0147: 2nd Video Timestamps 21:00 – 28:00)

P.O. Kenneth Potchatek, #2016

Allegation: Lack of Service

Recommendation: Exonerated

Motion: Chair Sharp

Second: Vice Chair Hess

Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board indicates conduct did occur, but was consistent with Manual Rules, General Police Orders, and CDP Policy and Procedures.

P.O. Kenneth Potchatek, #2016

Allegation: Lack of Service

Recommendation: Unfounded

Motion: Chair Sharp

Second: Vice Chair Hess

Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board indicates conduct did not occur.

4. 2023-0259: 2nd Video Timestamps 28:00 – 35:09)

P.O. Angela Craddock, #702

Allegation: Lack of Service

Recommendation: Exonerated

Motion: Vice Chair Hess

Second: Member Cyganovich

Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board indicates conduct did occur, but was consistent with Manual Rule 4.06, General Police Orders, and CDP Policy and Procedures.

P.O. Kenneth Potchatek, #2016

Allegation: Unprofessional Behavior/Conduct

Recommendation: Insufficient Evidence

Motion: Vice Chair Hess

Second: Member Cyganovich

Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board did not indicate whether the conduct did or did not occur.

5. 2023-0136: 2nd Video Timestamps 35:09 – 55:55)

P.O. Dimand Murphy, #1264

Allegation: Missing/Damaged Property

Recommendation: Insufficient Evidence

Motion: Vice Chair Hess

Second: Member Gatian

Motion : Carried

P.O. Dylan O'Donnell, #1280

Allegation: Missing/Damaged Property

Recommendation: Insufficient Evidence

Motion: Vice Chair Hess

Second: Member Gatian

Motion: Carried.

P.O. Amanda Rock, #1325

Allegation: Missing/Damaged Property

Recommendation: Insufficient Evidence

Motion: Vice Chair Hess

Second: Member Gatian

Motion : Carried

P.O. Christian Crane, #1067

Allegation: Missing/Damaged Property

Recommendation: Insufficient Evidence

Motion: Vice Chair Hess

Second: Member Gatian

Motion : Carried

P.O. Jordan Blade, #1129

Allegation: Missing/Damaged Property

Recommendation: Insufficient Evidence

Motion: Vice Chair Hess

Second: Member Gatian

Motion : Carried

P.O. Darren Sylvester, #1739

Allegation: Missing/Damaged Property

Recommendation: Insufficient Evidence

Motion: Vice Chair Hess

Second: Member Gatian
Motion : Carried

Sgt. Brian Crites, #9299
Allegation: Missing/Damaged Property
Recommendation: Insufficient Evidence
Motion: Vice Chair Hess
Second: Member Gatian
Motion : Carried

P.O. Samuel Ortiz, #102
Allegation: Missing/Damaged Property
Recommendation: Insufficient Evidence
Motion: Vice Chair Hess
Second: Member Gatian
Motion : Carried

P.O. James Bush, #1241
Allegation: Missing/Damaged Property
Recommendation: Insufficient Evidence
Motion: Vice Chair Hess
Second: Member Hardy
Motion : Carried

P.O. Jason Hyrn, #578
Allegation: Missing/Damaged Property
Recommendation: Insufficient Evidence
Motion: Vice Chair Hess
Second: Member Gatian
Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board failed to establish whether the conduct did or did not occur for all allegations above in this case.

6. 2023-0186: 2nd YouTube Video Timestamps (55:56 – 1:00:05)

P.O. Hector Vazquez, #1203
Allegation: Lack of Service/No Service
Recommendation: Insufficient Evidence
Motion: Chair Sharp
Second: Member Hardy
Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board failed to establish whether the conduct did or did not occur.

7. 2023-0067: 2nd YouTube Video Timestamps (1:00:05 – 1:04:35)

P.O. Jeriana Yuhasz, #1814

Allegation: Unprofessional Behavior/Conduct

Recommendation: Insufficient Evidence

Motion: Chair Sharp

Second: Member Mountcastle

Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board failed to establish whether the conduct did or did not occur.

8. 2023-0250: 2nd YouTube Video Timestamps (1:04:35 – 1:17:52)

P.O. Rashuan Searles-Fowler, #2157

Allegation: Unprofessional Behavior/Conduct

Recommendation: Sustained

Motion: Member Hardy

Second: Member Cyganovich

Motion Status: Carried

Group Level: Group III

Explanation: Based on findings of gross negligence of duty and sexual harassment, as defined in General Police Order 1-17. Chair Sharp expressed strong outrage over the officer's conduct, specifically citing the inappropriate act of looking up someone's phone number and initiating a text conversation of a harassing nature.

Motion: Member Hardy

Second: Chair Sharp

Motion Status: Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board indicates the alleged conduct occur and was inconsistent with Manual rule 5.08, 5.09, and 9.15 and GPO 1.01.07.

9. 2023-0058: 2nd YouTube Video Timestamps (1:17:53 – 1:24:24)

Dispatcher Celia Holian, #5

Allegation: Unprofessional Behavior/Conduct

Recommendation: Exonerated

Motion: Vice Chair Hess

Second: Member Hardy

Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board indicates conduct did occur, but was consistent with CCS Rules 1.01.17 and 1.01.18.

10. 2023-0212: 2nd YouTube Video Timestamps (1:24:24– 1:32:06)

Det. Orville Taylor, #2361

Allegation: Lack of Service/No Service

Recommendation: Unfounded

Motion: Chair Sharp

Second: Member Cyganovich

Motion : Carried

The preponderance of the evidence which includes WCS, interviews, witness statements and incident reports presented to the board indicates conduct did not occur.

Det. Orville Taylor, #2361

Allegation: Improper Procedure: Arrest

Recommendation: Exonerated

Motion: Chair Sharp

Second: Member Cyganovich

Motion : Carried

The preponderance of the evidence which includes WCS, interviews and photos presented to the board indicates conduct did occur, but was consistent with Detective Responsibilities, CDP Manual Rules, and General Police Orders.

11. 2023-0212: 2nd YouTube Video Timestamps (1:32:07– 1:36:29)

P.O. Brandon Troutman, #676

Allegation: Lack of Service/No Service

Recommendation: Unfounded

Motion: Vice Chair Hess

Second: Member Hardy

Motion : Carried

The preponderance of the evidence which includes WCS, interviews, witness statements and incident reports presented to the board indicates conduct did not occur.

Brief 20 Minute Recess

V. OPS REPORT

A. REVIEW OF CHIEF DISCIPLINARY DECISIONS

1. 2019-0118: 2nd YouTube Video Timestamps (2:00:59– 2:14:31)

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CPRB Recommendation: Group I discipline level for Lt. Ralph Valentino #8554 for conducting an improper search of a legally parked vehicle that was not included in the search warrant, in violation of General Police Order 2.3.10.

Chief's Departure: Chief Drummond departed from the CPRB's recommendation and dismissed the Improper Search allegation, stating that although the vehicle was not included in the search warrant, the search was justified based on probable cause that it contained evidence or contraband.

Board Decision: The board decided not to take any action regarding Chief Drummond's departure from the CPRB recommendation. A member expressed that there was not enough information to make a sound decision, and another clarified that they did not see sufficient reason to appeal the Chief's decision, citing that probable cause had been established for the search in question.

2. 2021-0044: 2nd YouTube Video Timestamps (2:14:32– 2:25:45)

CPRB Recommendation: The CPRB recommended a Group I discipline level for P.O. Jeffrey Simko #629 for Lack of Service, citing his failure to properly complete the complainant's accident report.

Chief's Departure: Chief Drummond departed from the CPRB recommendation and dismissed the allegation of Lack of Service. He explained that P.O. Simko mistakenly switched the names of the driver and passenger in the OH-1 Crash Report. Although this caused inconvenience, Simko corrected the error the same day after being notified and offered further assistance. Additionally, the complaint was filed more than six months after the incident, exceeding the disciplinary time limit outlined in the Collective Bargaining Agreement.

Board Decision: Board members expressed frustration with the rigid six-month disciplinary deadline outlined in the Collective Bargaining Agreement (CBA). They noted that the complainant was unaware of the reporting error until her insurance company notified her—after the deadline had passed. Some members felt this situation warranted an exception, especially since the officer admitted the mistake within the timeline. However, they acknowledged that the CBA allows no flexibility, and realistically, the union would not support an exception. Ultimately, the board agreed there was nothing they could do procedurally and officially decided not to take further action.

3. 2022-0259: 2nd YouTube Video Timestamps (2:25:45– 2:36:16)

CPRB Recommendation: The CPRB recommended a Group I discipline level for Sgt. Mathias Varga #9298 for Unprofessional Behavior/Conduct. During a phone interview with the complainant, Sgt. Varga became defensive and frustrated, told her he was not her personal police officer, accused her of being disruptive and unkind, said he had nothing to learn from her, and questioned whether she knew the definition of belittlement. These actions were found to violate Manual Rules 5.01, 5.08, and 5.09.

Chief's Departure: Chief Drummond dismissed the allegation of Unprofessional Behavior/Conduct and the related WCS Violation. He stated that Sgt. Varga's conduct during the conversation was within Division policy.

Board Decision: Board members disagreed with the Chief's decision, stating that Sgt. Varga's comments were unprofessional regardless of the situation. They emphasized the importance of ruling based on documented facts and policy, not personal feelings or situational context. Members cited Manual Rules 5.01, 5.08, and 5.09 as clear grounds for discipline.

Motion: A motion to appeal the Chief's departure

Motion By: Chair Sharp

Seconded: Member Mountcastle

Motion Status: Carried

Abstentions: Member Gatian - due to lack of recollection of the case

4. 2022-0068: 2nd YouTube Video Timestamps (2:36:16– 2:41:29)

CPRB Recommendation: The CPRB recommended a Group I discipline level for P.O. David Morova #1117 for Unprofessional Behavior/Conduct. During an interview, he asked the complainant and her son to describe the abuse using triggering language such as "beating" and "wailing" while making punching gestures. The CPRB also found a WCS Violation, as Morova failed to activate his Wearable Camera System during the interaction, violating General Police Order 4.06.04.

Chief's Departure: Chief Drummond dismissed the Unprofessional Behavior/Conduct allegation, stating that Morova was attempting to gather preliminary information about the type of abuse and received only vague responses. He noted that Morova used physical gestures to clarify whether the abuse was physical. However, the Chief concurred with the CPRB on the WCS Violation and issued a Letter of Reinstruction, emphasizing that Morova should have had his camera activated while in the lobby.

Board Decision: Board members expressed concern over the lack of privacy during the conversation, especially given the sensitive nature of child abuse. They felt the officer's language and gestures were inappropriate and that the setting contributed to the complainant's hesitance to respond. Members agreed that the conversation could have been handled more professionally and in a private space. Based on these concerns, the board leaned toward appealing the Chief's dismissal of the Unprofessional Behavior/Conduct allegation.

Motion: A motion to appeal the Chief's departure

Motion By: Chair Sharp

Seconded: Vice Chair Hess

Motion Status: Carried

5. **2022-0124: 2nd YouTube Video Timestamps (2:41:29– 2:45:38)**

CPRB Recommendation: The CPRB recommended a Group I discipline level for Det. Martina Latessa #2553 for Lack of Service. The board found that she made only one attempt to interview a suspect and failed to obtain a statement.

Chief's Departure: Chief Drummond departed from the CPRB recommendation and dismissed the allegation. He stated that Det. Latessa made a reasonable attempt to interview the suspect, but was informed by the suspect's attorney that no statement would be provided.

Board Decision: Board members acknowledged that during their initial review, they were unaware that an attorney had intervened and advised the suspect not to speak. This new information, along with documentation showing that Det. Latessa attempted to interview the suspect at the Sally Port, led members to conclude that her actions met the standards outlined in the detective manual. The board agreed not to appeal the Chief's decision, noting that their earlier recommendation was based on incomplete information.

6. **2022-0092: 2nd YouTube Video Timestamps (2:45:38– 2:59:49)**

CPRB Recommendation: The CPRB recommended a Group I discipline level for Det. Michael Cox #163 for a Wearable Camera System (WCS) Violation. He failed to activate his WCS during an encounter with a complainant, in violation of General Police Order 4.06.04.

Chief's Departure: Chief Drummond dismissed the WCS Violation, stating that Det. Cox was not anticipating contact with a civilian when he left his office. He was asked by a Platoon Lieutenant to speak with the complainant while passing through the building. The Chief concluded the conversation was not investigative or confrontational, and since Cox did not have his WCS on him at the time, no violation occurred.

Board Decision: Board members disagreed with the Chief's rationale. They emphasized that once Det. Cox was directed to speak with a civilian, he had a duty to retrieve and activate his WCS. Members cited General Police Order 4.06.04, which requires activation prior to any investigative or enforcement contact. They rejected the idea that inconvenience or lack of anticipation excused noncompliance. Several members warned that accepting this justification would set a problematic precedent. The board unanimously supported a motion to appeal the Chief's decision.

Motion: A motion to appeal the Chief's departure

Motion By: Chair Sharp

Seconded: Member Mountcastle

Motion Status: Carried

7. **2022-0073: 2nd YouTube Video Timestamps (2:59:50– 3:12:10)**

CPRB Recommendation: The CPRB recommended a Group II discipline level for P.O. Joseph Danczak #1828 for Harassment. The board found that he exhibited a pattern of unprofessional behavior toward the complainant on multiple occasions, violating Manual Rules 5.08 and 5.09.

Chief's Departure: Chief Drummond dismissed the Harassment allegation, stating that the complainant repeatedly violated posted "No Parking Anytime" signage and that P.O. Danczak was simply enforcing the law.

Board Decision: Board members disagreed with the Chief's rationale. They acknowledged that while the officer had legal grounds to issue citations, his repeated interactions with the complainant showed a pattern of unprofessional conduct. Examples included selectively citing only the complainant while ignoring other violators, using aggressive and intimidating language, prolonging interactions unnecessarily, and making mocking comments. All of these behaviors were documented on the Wearable Camera System and cited in the investigative report. Members emphasized that the officer's conduct violated the standards outlined in the manual and that enforcement of the law must still be carried out professionally and consistently. The board voted to appeal the Chief's decision.

Motion: A motion to appeal the Chief's departure

Motion By: Chair Sharp

Seconded: Member Hardy

Motion Status: Carried

Motion: Incorporate Vice Chair Hess Rationale for sustaining allegation

Motion By: Chair Sharp

Seconded: Vice Chair Hess

Motion Status: Carried

VI. POLICY UPDATES (3:12:10-3:26:31)

a. Chief's Disciplinary Procedures and Officer Training

- **Policy Updates:** CDP policies may change due to legal updates, case law, technology, administrative revisions, annual reviews, or consent decree requirements.
- **Training Methods:**
 - **Target Solutions:** Officers read new policies and must pass an exam to confirm understanding.
 - **In-Service Training:** Used for topics like use of force, bias-free policing, de-escalation, and crisis intervention.
- **Follow-Up Question:** A board member asked how quickly officers are trained after a new policy goes into effect. The presenter agreed to follow up and gather that information.

b. Policy Recommendation Process and Transparency

- **72-Hour Posting Rule Clarified:** CPRB is not legally required to post policy recommendations 72 hours before meetings. This was a misunderstanding from a prior meeting.
- **Administrator's Initiative:** The administrator aims to promote transparency by posting policy recommendations for 14 days to gather public feedback. This is a voluntary practice, not mandated by law or the CPRB manual.

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- **Standard Workflow:**

1. Investigator drafts a recommendation.
2. Administrator reviews and may post it publicly.
3. Public feedback is collected and incorporated.
4. Final version is sent to the CPRB chair for approval.
5. Recommendation is forwarded to the Chief or Director.

c. Board Authority and Manual Compliance

- **Board's Role Affirmed:** Members emphasized that all policy recommendations must be:
 - Presented to the board
 - Voted on by the board
 - Then forwarded through the approval chain
- **Transparency vs. Feedback:** Members distinguished between informing the public (transparency) and soliciting input (feedback). While transparency is essential, mandatory public feedback before board review is not required and could delay action.
- **Manual-Based Governance:** The CPRB manual outlines the board's authority to initiate and vote on policy recommendations. Members stressed that bypassing the board or shifting approval solely to the chair violates this structure.
- **Example Provided:** A past recommendation by Michael Graham regarding quorum rules was legislated into law, demonstrating the board's power to influence policy.

d. Final Resolution

- The board agreed that investigators may prepare recommendations internally, but they must be formally presented to the board for discussion and vote.
- Public feedback may be considered after the board's vote, but it is not a prerequisite.
- A directive was issued for Mr. Voul's policy recommendation to be presented and voted on at the next meeting.

VII. COMMITTEE REPORT (3:26:31- 3:28:02).

Member Miller was not available to give an update on NACOLE Convention

VIII: NEW BUSINESS: (3:28:03 – 3:46:55)

During the meeting, the board was informed that the Cleveland Community Police Commission (CPC) submitted its first formal request to review an OPS case, specifically Case #2019-0141 involving complainant Dorena Johnson. The case, originally filed in 2019, alleged lack of service by Patrol Officer Luther Rody for not filing an identity theft report or expunging traffic citations Johnson claimed were issued due to identity theft between 1999 and 2002.

OPS investigated the complaint and found that Officer Rody acted within policy. He informed Johnson that expungement must be handled by the courts and that there was no current evidence to support an

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identity theft report. The CPRB reviewed the case in 2020 and exonerated the officer based on WCS footage and documentation.

Board members raised concerns about the CPC's authority to review or potentially challenge CPRB decisions. Legal counsel clarified that under the City Charter, CPC has the right to access case files but cannot overturn CPRB rulings. OPS must redact sensitive information before transferring files to CPC.

The board acknowledged that while CPC has a self-imposed 15-day review timeline, CPRB is not bound by it. The file transfer will proceed following a board vote and necessary redactions by OPS and the legal department.

Motion: A motion to turn over Case 2019-0141 with OPS and Legal Department redactions to CPC

Motion By: Chair Sharp

Seconded: Vice Chair Hess

Motion Status: Carried (5 Favor/1 Opposed)

Opposed: Member Mountcastle

OLD BUSINESS: (3:46:55- 3:49:57)

Board Member Hardy revisited a prior issue regarding the ability to review Wearable Camera System (WCS) footage during executive sessions. She emphasized the importance of rewatching video evidence to catch details that may be missed initially, citing a past case where a board member's dissent was based on what he observed in the footage. Hardy requested that the topic be tabled for future discussion since it wasn't on the current agenda and the relevant staff member was on leave.

Legal counsel responded that the issue involves complex legal considerations and will be addressed through a formal memorandum from the Law Department. The board agreed to wait for that guidance before proceeding with any changes to video review procedures.

Other members echoed Hardy's concerns, supporting the idea of group video review to ensure thorough case evaluation. The chair confirmed that the legal memo will clarify what is permissible and guide future discussions.

Before adjourning, the board clarified the date of the next meeting (February 13, virtual) and confirmed that follow-up communications regarding appeals would be sent to the Director of Public Safety, with the chair and vice chair copied.

IX. ADJOURNMENT (3:52:30)

Motion to adjourn the meeting by Vice Chair Mike Hess. 2nd by Member Cyganovich.

Motion carried.

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