

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

January 12, 2021

MEETING MINUTES

I. CALL TO ORDER – 10:15

Michael Graham, Chairperson

II. ROLL CALL

Chairperson Graham

CPRB MEMBERS

ATTENDANCE

Michael Graham, Chair
Roslyn Quarto
Ernest Turner
Mary Clark
Ken Mountcastle
David Gatian
Michael Hess
Gerri Butler, Staff Counsel
LeeAnn Hanlon, Secretary

OPS STAFF

ATTENDANCE

Roger Smith, Administrator
Julie Delaney, investigator
Art Bowker, Investigator
Vincent Funari, Investigator
Barbara Williams-Bennett, Investigator
David Hammons, Investigator
Kevin Wynne, Investigator
Eric Richardson, Investigator
Anitra Merritt, Investigator

III. APPROVAL OF MINUTES

IV. PUBLIC COMMENT

V. PRESENTATION OF INVESTIGATIONS

Administrator Smith

VI. ANNOUNCEMENTS AND COMMUNICATIONS

VII. OPS REPORT

Administrator Smith

A. REVIEW OF CHIEF DISCIPLINARY DECISIONS

B. REVIEW OF DIRECTOR DISCIPLINARY DECISIONS

VIII. POLICY UPDATES

IX. COMMITTEE REPORTS

X. UNFINISHED BUSINESS

XI. NEW BUSINESS

XII. ADJOURNMENT

Next Meeting: Tuesday, February 9, 2021 at 10:00 am

III. APPROVAL OF MINUTES

Mr. Graham made a motion to approve the minutes. Motion seconded by Mr. Turner and the motion to approve the minutes passed with two abstentions.

IV. PUBLIC COMMENT – Mr. Graham reminded everyone of the three (3) minute time limit.

Dave Lima, SURJ –

Disciplinary decisions are made by this Board, the Chief and the Director of Public Safety based on comparing an officer's behavior with written policy. If an officer's behavior falls outside of policy then a citizen's complaint would typically result in a sustained finding followed by a disciplinary decision. Critical to this procedure and the disciplinary decisions made are the words used to describe the policy.

Policies can be written that place limits on what an officer can and cannot do or they can be written providing “discretion”. Since the 1960's policies across the nation have been promoted by scholars, police executives and law enforcement experts that would limit discretion. However, Supreme Court rulings in the 1980's provided officers with significant discretion notably in two cases, Graham v. Conner and Tennessee v. Garner. Since that time there has been a trend to add discretionary language to police policies.

Private for-profit companies have emerged and provide police departments (for a price) with policies replete with discretionary language. One company promotes itself by saying they provide departments with policies that are always up to date containing legally defensible content that will “protect your agency today”. Policies created in this manner flow directly from the company to the police department without city councils and community involvement in the promulgation of policy. This is especially attractive to smaller police departments who may not have the resources to write their own policies. Policies written with discretionary language limits the liability departments face when complaints are made concerning an officer's behavior. The more discretion allowed means that an officer's behavior will more likely fall within policy disallowing the complaint, avoiding disciplinary action and liability. However, expanded discretion may also reduce the clarity of guidance to officers who often have limited education and experience increasing the likelihood of errors in certain situations. Liability-limiting policies shy away from words like “shall” and prefer words like “should” or “if possible” or include phrases like “take appropriate action” without defining appropriate action. A number of CDP's General Police Orders contain discretionary language. As an example and as I mentioned in my comments last month, GPO 1.07.06 states that discretion is necessary to maintain fairness and for the good order of the Division, whatever that means.

The implementation of the Consent Decree and reform efforts do provide for more accountability but discretionary language will compromise adjudication and disciplinary decisions of this Board and make departure from the Board's recommendations more likely to occur.

Next Meeting: Tuesday, February 9, 2021 at 10:00 am

V. PRESENTATION OF INVESTIGATIONS

a. 18-157: Randall

P.O. Hoover #2107

Allegation: Unprofessional Conduct

Recommendation: ****Tabled for next meeting due to missing WCS video****

P.O. Ziegler #2330

Allegation: Unprofessional Conduct

Recommendation: ****Tabled for next meeting due to missing WCS video****

Sgt. Guerra #9144

Allegation: Unprofessional Conduct

Recommendation: ****Tabled for next meeting due to missing WCS video****

b. 19-119: Thomas

P.O. Kelley #1776

Allegation: Lack of Service

Recommendation: Insufficient Evidence

Motion: Graham

Second: Gatian

Motion passed

Allegation: WCS Violation

Recommendation: Sustained

Motion: Graham

Second: Gatian

Motion passed

P.O. Russell #155

Allegation: Lack of Service

Recommendation: Insufficient Evidence

Motion: Graham

Second: Clark

Motion passed

Allegation: WCS Violation

Recommendation: Sustained

Motion: Graham

Second: Turner

Motion passed

Next Meeting: Tuesday, February 9, 2021 at 10:00 am

c. 19-147: Blanche

Sgt. Keane #9198

Allegation: Improper Arrest
Recommendation: Sustained
Motion: Quarto
Second: Mountcastle
Motion passed with one abstention

Allegation: Lack of Service – Failure to Conduct Investigation
Recommendation: Sustained
Motion: Quarto
Second: Mountcastle
Motion passed with one abstention

Allegation: Lack of Service – Failure to Report
Recommendation: Sustained
Motion: Quarto
Second: Clark
Motion passed with one abstention

Allegation: Improper Procedure – Wrong Determination of Child Custody
Recommendation: Sustained
Motion: Quarto
Second: Mountcastle
Motion passed with one abstention

Allegation: Unprofessional Conduct
Recommendation: Sustained
Motion: Quarto
Second: Turner
Motion passed with one abstention

Allegation: Biased Policing
Recommendation: Sustained
Motion: Quarto
Second: Clark
Motion passed with one abstention

P.O. Turchon #774

Allegation: Lack of Service – Failure to Report
Recommendation: Sustained
Motion: Quarto
Second: Clark
Motion passed with one abstention

Allegation: Improper Procedure – Failure to Report Controversial Incident
Recommendation: Sustained
Motion: Quarto
Second: Clark
Motion passed with one abstention

P.O. Makris #2180

Allegation: Improper Procedure – Failure to Report Controversial Incident
Recommendation: Sustained
Motion: Quarto
Second: Turner
Motion passed with one abstention

d. 19-195: Lowe

Sgt. Hayes #9188

Allegation: Improper Arrest
Recommendation: Exonerated
Motion: Graham
Second: Quarto
Motion passed

Det. James #928

Allegation: Lack of Service
Recommendation: Exonerated
Motion: Graham
Second: Quarto
Motion passed

e. 19-212: Mishka

P.O. Latson #2309

Allegation: Lack of Service
Recommendation: Insufficient Evidence
Motion: Graham
Second: Quarto
Motion passed

Allegation: WCS Violation
Recommendation: Sustained
Motion: Graham
Second: Clark
Motion passed

f. 19-220: Mack

P.O. Corrigan #2572

Allegation: Lack of Service
Recommendation: Unfounded
Motion: Graham
Second: Quarto
Motion passed

g. 20-006: Jones

P.O. Latson #2309

Allegation: Lack of Service
Recommendation: Exonerated
Motion: Graham
Second: Clark
Motion passed

P.O. Strehle #658

Allegation: Lack of Service
Recommendation: Exonerated
Motion: Graham
Second: Clark
Motion passed

h. 20-016: Gubanich

P.O. Holcomb #877

Allegation: Improper Tow
Recommendation: Sustained
Motion: Graham
Second: Gatian
Motion passed

P.O. Pesta #576

Allegation: Improper Tow
Recommendation: Exonerated
Motion: Graham
Second: Turner
Motion passed

i. 20-046: Bridges

Sgt. O'Neill #9041

Allegation: Lack of Harassment

Recommendation: Unfounded

Motion: Graham

Second: Quarto

Motion passed

j. 20-056: Sikler

P.O. Jones #1239

Allegation: Lack of Service

Recommendation: Insufficient Evidence

Motion: Graham

Second: Clark

Motion passed

Allegation: WCS Violation

Recommendation: Sustained

Motion: Graham

Second: Gatian

Motion passed

k. 20-064: Zingale

P.O. Troche #1878

Allegation: Lack of Service

Recommendation: Exonerated

Motion: Graham

Second: Gatian

Motion passed

P.O. Kelley #1242

Allegation: Lack of Service

Recommendation: Exonerated

Motion: Graham

Second: Gatian

Motion passed

l. 20-111: Farmer

P.O. Sheets #1276

Allegation: Lack of Service
Recommendation: Sustained
Motion: Graham
Second: Quarto
Motion passed with one opposed

P.O. Fitchwell #134

Allegation: Lack of Service
Recommendation: Sustained
Motion: Graham
Second: Turner
Motion passed with one opposed

m. 20-190: Webb

P.O. Royko #1733

Allegation: Lack of Service
Recommendation: Exonerated
Motion: Graham
Second: Gatian
Motion passed

n. 20-198: Kirkland

P.O. Anderson #1753

Allegation: Lack of Service
Recommendation: Exonerated
Motion: Graham
Second: Clark
Motion passed

o. 20-206: Whitlow

Sgt. Weaver #9172

Allegation: Unprofessional Conduct

Recommendation: Unfounded

Motion: Graham

Second: Gatian

Motion passed

Allegation: Improper Procedure

Recommendation: Sustained

Motion: Graham

Second: Mountcastle

Motion passed

VII (A). REVIEW OF CHIEF DECISIONS

18-133: CPRB accepted the Chief's decision.

18-200: CPRB accepted the Chief's decision.

19-019: CPRB accepted the Chief's decision.

19-087: CPRB accepted the Chief's decision.

19-163: CPRB voted to appeal the Chief's decision to the Safety Director.

VII (B). REVIEW OF DIRECTOR'S DECISION

16-216: Director Howard reversed the dismissal of the Chief and issued P.O. Ruma a verbal counseling

17-037: Director Howard upheld the Chief's dismissal.

XII. ADJOURNMENT

Motion to adjourn the meeting made by Mr. Graham and Mr. Hess seconded. Meeting adjourned at 2:12 pm.

Next Meeting: Tuesday, February 9, 2021 at 10:00 am