

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

March 10, 2020

MEETING MINUTES

I. CALL TO ORDER – 10:05

Michael Graham, Chairperson

II. ROLL CALL

Chairperson Graham

CPRB MEMBERS

ATTENDANCE

Michael Graham, Chair
Ashley Mostella, Vice Chair
Michael Hess
Ernest Turner
Mary Clark
Ken Mountcastle
David Gatian
Mylonne Sullivan
Gerri Butler, Staff Counsel
LeeAnn Hanlon, Secretary

OPS STAFF

ATTENDANCE

Roger Smith, Administrator
Henry Roney, Senior Investigator
Art Bowker, Investigator
Julie Delaney, Investigator
Vincent Funari, Investigator
Keith Oliver, Investigator
David Hammons, Investigator
Kevin Wynne, Investigator
Anitra Merritt, Investigator
Eric Richardson, Investigator
Toni Shanks, OPS Secretary

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

VIII. POLICY UPDATES

A. PROPOSED AMENDMENT TO CPRB MANUAL AND PROCEDURES

IX. COMMITTEE REPORTS

X. UNFINISHED BUSINESS

XI. NEW BUSINESS

XII. ADJOURNMENT

III. APPROVAL OF MINUTES

Mr. Gatian made a motion to approve the minutes. Motion seconded by Mr. Turner and the motion to approve the minutes passed.

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

Dave Lima, SURJ –

I was disappointed to read in Friday's Plain Dealer that Chief Williams had dismissed the complaint filed against Sgt. Rutherford, a complaint that had been sustained by this Board as a Group II violation. I agree with the NAACP's president's comment, and I quote, "What message does it send to the community when future complainants seek accountability for law enforcement [misconduct] if complaints are filed, and a recommendation for discipline is made by the CPRB, but is overturned by law enforcement leadership?" close quote. Certainly pressures within the department, the City administration and the union weigh heavily on the Chief when issuing a dismissal of a finding of this Board. Dismissals should be a rare exception and not be influenced by the pressure of politics of the moment. Such pressure is clearly suspect when such dismissals are based on "technical" grounds. All dismissals, whether technical or substantive, should be fully explained, not only to this Board but to the public as well.

Such a situation would not have occurred if the suggestion made in my July 9, 2019 public comments had been in place. I said then and believe now that the Chief must be bound by the Board's findings and adjudicative decisions, including the Board's disciplinary matrix group level designations. However, the Chief should have discretion to apply disciplinary action within the group level designated by the Board. There could be a "right to appeal" the decision of the Board if the Chief believes and can show that a clear error was made during the OPS investigation.

Having this as an integral part of the complaint procedure would provide the community with the sense that police officers are held accountable for wrongdoing. Failure to do so would only add to the already existing community doubt and mistrust of an oversight system supposedly designed to protect them from the abuses of a government sanctioned agency, the police department. Our leaders at the state and local levels need to make whatever changes are necessary to ensure that the system is fair and equitable, and that the oversight system is not compromised by unwarranted and ill-advised discretion. Otherwise, we the people will be forced to act.

Police officers have been given special powers and waivers by government not available to the ordinary citizen. Police officers can arrest you and not be charged with kidnapping. Police officers can use physical force and not be charged with assault. Police officers can use lethal force and not be charged with murder. However, when a police officer's behavior falls outside of policy, they need to be held to account. Such abuses must not be allowed to exist within this community, endangering its residents. A civilian oversight system replete with independence and authority is called for ensure safety, security, and the re-balancing of power.

V. PRESENTATION OF INVESTIGATIONS

- a. **18-133: Harris.** Complainant is present. Complainant stated that he feels that the officers should be held accountable for what they did that day, as the officers caused a lot of emotional problems for him and his son. The Complainant stated that he was almost arrested for trying to help his son. As a captain with the fire department, the Complainant stated that he tries to respond to every scene to help the citizens – no officer should be able to call on his personal phone and escalate a situation where emergency personnel are needed. Complainant stated that police officers should not be granting favors to other officers.

P.O. Russo #231

Allegation: Lack of Service

Recommendation: ****Tabled for next meeting****

P.O. Halkiadakis #2583

Allegation: Lack of Service

Recommendation: ****Tabled for next meeting****

Sgt. Ross #9024

Allegation: Lack of Service

Recommendation: ****Tabled for next meeting****

Det. Habeeb #381

Allegation: Retaliation

Recommendation: ****Tabled for next meeting****

Lt. Cutlip #8476

Allegation: Retaliation

Recommendation: ****Tabled for next meeting****

- b. **18-200: Leak**

P.O. Roddy #1753

Allegation: Lack of Service

Recommendation: Sustained

Motion: Sullivan

Second: Mostella

Motion passes

P.O. Cunningham #1218

Allegation: Lack of Service
Recommendation: Insufficient Evidence
Motion: Graham
Second: Mostella
Motion passes

c. 18-205: Beal

Sgt. Allen #9167

Allegation: Improper Arrest
Recommendation: Exonerated
Motion: Gatian
Second: Graham
Motion passes

Allegation: Improper Procedure
Recommendation: Sustained
Motion: Graham
Second: Mountcastle
Motion passes

Allegation: Unprofessional Conduct
Recommendation: Sustained
Motion: Graham
Second: Turner
Motion passes

P.O. Rivera #1704

Allegation: Improper Arrest
Recommendation: Exonerated
Motion: Gatian
Second: Graham
Motion passes

P.O. Johnson #1373

Allegation: Improper Arrest
Recommendation: Exonerated
Motion: Gatian
Second: Graham
Motion passes

d. 18-221: Genova

Traffic Controller Shaw #7060

Allegation: Lack of Service
Recommendation: Exonerated
Motion: Mostella
Second: Clark
Motion passes

Allegation: Improper Citation
Recommendation: Exonerated
Motion: Mostella
Second: Sullivan
Motion passes

e. 19-002: Smith

P.O. Evans #1672

Allegation: Improper Stop
Recommendation: Exonerated
Motion: Graham
Second: Mountcastle
Motion passes

Allegation: Improper Search
Recommendation: Exonerated
Motion: Graham
Second: Clark
Motion passes

P.O. Mitchell #724

Allegation: Improper Stop
Recommendation: Exonerated
Motion: Graham
Second: Mostella
Motion passes

Allegation: Improper Search
Recommendation: Exonerated
Motion: Graham
Second: Mountcastle
Motion passes

Allegation: WCS Violation
Recommendation: Sustained
Motion: Graham
Second: Mountcastle
Motion passes

- f. **19-047: Jones-Green. Complainant is present. Complainant stated that there is a lack of training and a lack of moral fiber with the officers on the force now. Complainant stated while she is a retired officer, something needs to be done to bring the integrity back to law enforcement. Complainant stated when integrity leaves a city, there is a problem.**

Sgt. Durichko #9193

Allegation: Improper Stop
Recommendation: Insufficient Evidence
Motion: Graham
Second: Gatian
Motion passes

Det. Hourihan #250

Allegation: Improper Citation
Recommendation: Sustained
Motion: Sullivan
Second: Mostella
Motion passes with two opposed and one abstention

Allegation: Unprofessional Conduct
Recommendation: Unfounded
Motion: Graham
Second: Clark
Motion passes

Det. Pollack #769

Allegation: Improper Search
Recommendation: Sustained
Motion: Graham
Second: Turner
Motion passes

g. 19-056: Brown

Sgt. Lockwood #9119

Allegation: Lack of Service
Recommendation: Insufficient Evidence
Motion: Graham
Second: Mostella
Motion passes

h. 19-070: Sanders. Complainant is present. Complainant stated that he is a retired police officer. Complainant stated that he believed that Sgt. Allen attempted to undermine his authority on his property in front of his patrons. Complainant stated that Sgt. Allen spoke to him in a nasty, condescending attitude.

Sgt. Allen #9167

Allegation: Unprofessional Conduct
Recommendation: Sustained
Motion: Graham
Second: Gatian
Motion passes with one abstention

Allegation: Failure to De-Escalate
Recommendation: Sustained
Motion: Graham
Second: Mostella
Motion passes with one abstention

i. 19: 143: Iwais

P.O. Tracy #1895

Allegation: Missing Property
Recommendation: Exonerated
Motion: Graham
Second: Turner
Motion passes

Allegation: Improper Search
Recommendation: Exonerated
Motion: Graham
Second: Clark
Motion passes

P.O. Januszewski #807

Allegation: Missing Property
Recommendation: Exonerated
Motion: Graham
Second: Gatian
Motion passes

Allegation: Improper Search
Recommendation: Exonerated
Motion: Graham
Second: Mostella
Motion passes

j. 19-158: Parker

Sgt. Tews #9185

Allegation: Unprofessional Conduct
Recommendation: Insufficient Evidence
Motion: Graham
Second: Clark
Motion passes

k. 19-167: Parish

P.O. White #437

Allegation: Lack of Service
Recommendation: *****Tabled for next meeting*****

P.O. Villafuerte #1608

Allegation: Lack of Service
Recommendation: *****Tabled for next meeting*****

l. 19-171: Schoch

P.O. Beckwith #1047

Allegation: Improper Citation
Recommendation: *****Tabled for next meeting*****

Allegation: Unprofessional Conduct
Recommendation: *****Tabled for next meeting*****

m. 19-180: Velasquez

Traffic Controller Shaw #7060

Allegation: Unprofessional Conduct
Recommendation: Insufficient Evidence
Motion: Graham
Second: Mountcastle
Motion passes

n. 19-184: Neides/Santiago

P.O. Madej #2078

Allegation: Improper Stop
Recommendation: *****Tabled for next meeting*****

P.O. Wagner #1802

Allegation: Improper Stop
Recommendation: *****Tabled for next meeting*****

Allegation: Unprofessional Conduct
Recommendation: *****Tabled for next meeting*****

o. 19-187: Wilson

P.O. Yasenchack #2362

Allegation: Improper Search
Recommendation: *****Tabled for next meeting*****

p. 19-202: Gray

P.O. Beach #1948

Allegation: Improper Arrest
Recommendation: *****Tabled for next meeting*****

P.O. Paridon #938

Allegation: Improper Arrest
Recommendation: *****Tabled for next meeting*****

q. 19-211: Ulrich

P.O. Corrigan #2572

Allegation: Lack of Service

Recommendation: *****Tabled for next meeting*****

P.O. Robles #2283

Allegation: Lack of Service

Recommendation: *****Tabled for next meeting*****

Allegation: Unprofessional Conduct

Recommendation: *****Tabled for next meeting*****

r. 19-214: Anderson

P.O. Wells #1330

Allegation: Lack of Service

Recommendation: *****Tabled for next meeting*****

Allegation: Biased Policing

Recommendation: *****Tabled for next meeting*****

s. 20-017: Moss

P.O. Kirchner #473

Allegation: Unprofessional Conduct

Recommendation: Sustained

Motion: Graham

Second: Mostella

Motion passes

VII (A). REVIEW OF CHIEF DECISIONS

15-029: CPRB disagreed with the Chief's decision and moved to appeal this case to the Safety Director.

15-036: CPRB accepted the Chief's decision.

15-140: CPRB disagreed with the Chief's decision and moved to appeal this case to the Safety Director.

16-129: CPRB disagreed with the Chief's decision and moved to appeal this case to the Safety Director.

16-204: CPRB accepted the Chief's decision.

18-108: CPRB disagreed with the Chief's decision and moved to appeal this case to the Safety Director.

19-036: CPRB disagreed with the Chief's decision and moved to appeal this case to the Safety Director.

19-094: CPRB accepted the Chief's decision.

19-106: CPRB accepted the Chief's decision.

19-107: CPRB disagreed with the Chief's decision and moved to appeal this case with the Safety Director.

XII. ADJOURNMENT

Meeting adjourned at 15:30 hours.