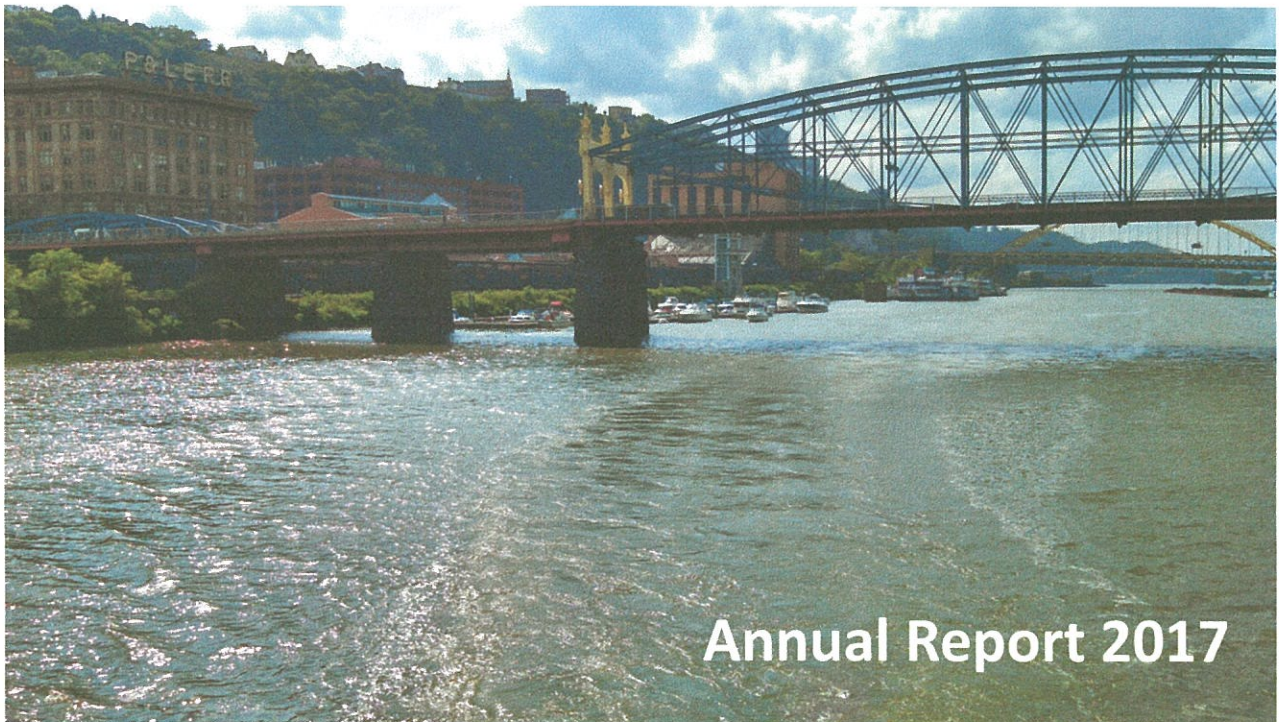


Independent Citizen Police Review Board  
City of Pittsburgh  
Pennsylvania



Dr. Emma Lucas-Darby, Chair \* Mr. Thomas C. Waters, Vice Chair

Mr. Elwin Green      Dr. Mary Jo Guercio

Sr. Patrice Hughes      Ms. Karen McLellan

Mr. Sheldon Williams

Mr. William F. Ward, Solicitor

Ms. Elizabeth C. Pittinger, Executive Director

Ms. Carolyn L. Gaskin, Assistant Executive Director

816 Fifth Avenue, Pittsburgh PA 15219



## Independent CITIZEN POLICE REVIEW BOARD

City of Pittsburgh  
816 Fifth Avenue, Suite 400  
Pittsburgh PA 15219  
USA

August 21, 2018

The Pittsburgh Community

The Honorable Bill Peduto  
Mayor, City of Pittsburgh  
5<sup>th</sup> Floor, City County Building  
414 Grant Street  
Pittsburgh PA 15219

The Honorable Bruce Kraus, President  
Honorable Members, Pittsburgh City  
Council  
5th Floor, City County Building  
414 Grant Street  
Pittsburgh PA 15219

Greetings,

This report is a summation of significant activities of the Independent Citizen Police Review Board for the year 2017.

Allegations of police misconduct are distinguished by the self-declared race and gender of the complainants and by characterization of the alleged violations. The Board Action tables report the official actions on individual complaints at specified meetings. Board Actions since 1998 are summarized categorically. An overview of allegations related to police use of force for the period 1998-2017 is also presented.

The Board is highly impressed with the vigorous activity demonstrated by the Pittsburgh Bureau of Police in building trust with the community and in its implementation of training related to procedural justice and implicit bias.

The Board continues to participate as an organizational member in the National Association for Civilian Oversight of law Enforcement (NACOLE). All CPRB Investigators have received NACOLE credentials as Certified Practitioners of Oversight.

Additional information about the Board and their activity is available by calling the CPRB Office at 412-765-8023 or submitting an inquiry through the website or email.

Thank you.

Sincerely,

  
Elizabeth C. Pittinger  
Executive Director

**Members of the Board:**

Dr. Emma Lucas-Darby  
Chair

Mr. Thomas C. Waters  
Vice Chair

Mr. Elwin Green

Dr. Mary Jo Guercio

Ms. Karen McLellan, LEP\*

Sr. Patrice Hughes, SCSH

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## **Mission**

The Independent Citizen Police Review Board promotes responsible citizenship and respectable law enforcement through mutual accountability. The broad mandate of the Citizen Police Review Board is to provide independent review of the conduct of the Pittsburgh Bureau of Police. To accomplish this assignment, the Board will thoroughly investigate specific allegations of misconduct, hold public hearings to examine such allegations; evaluate current police procedures and promote safe, professional and effective law enforcement practices through public education on rights, responsibilities and police authority; and make recommendations to the Mayor and Chief of Police regarding police policies and procedures.

A Board, comprised of seven members appointed by the Mayor and City Council, presides over the work of the staff and determines all final dispositions of cases. The Board conducts public hearings and renders Findings & Recommendations to the Chief of Police and Mayor as related to the matter or complaint under review.

**Investigation and Complaint Disposition** - Citizens must file a notice of intent to file a citizen complaint with the CPRB within six months of the incident from which the complaint arises. Upon contact from a citizen, the Intake Coordinator evaluates the complaint for administrative compliance and initiates the internal case management of the complaint. The Intake Coordinator informs the complainant of his/her rights and responsibilities related to the complaint. The Executive Director or the Assistant Executive Director reviews each citizen complaint, develops a preliminary investigative plan and assigns the case to an Investigator. The Assistant Executive Director provides daily supervision and oversight of case investigations. Investigators conduct preliminary inquiries into cases and the results are presented to the Board. The Board considers the evidence and determines whether to further an investigation into the allegations of misconduct or to dismiss the complaint. Complaints may proceed through investigation to a public hearing at the Board's discretion. Findings and recommendations resulting from public hearings are forwarded to the Mayor and Chief of Police who must respond to the Board. Patterns emerging from complaints and allegations of misconduct may be presented to the Board for consideration of policy recommendations to the Chief of Police and Mayor.

**Community Education** - The goal of community education and outreach is to improve relations between citizens and police by developing or enhancing common knowledge of police authority, practices and procedures, and civilian expectations of police conduct. Outreach utilizes printed material, traditional and social media, and personal appearances of members and staff to ensure the public has an opportunity to be informed of the CPRB's role and common rights and responsibilities of citizenship. The effort directed to citizens (1) ensures that the public is adequately prepared to respond to police encounters in a manner conducive to the safety of the citizen and the officer, and (2) conveys information on filing complaints when such encounters are perceived as offensive. The outreach to police officers is designed to encourage participation in investigations, explain the process, and integrate their concerns into the community education effort.

**Board and Staff Development** - Training for Members encompasses topics mandated by City Ordinance, including police training, police policies and procedures, criminal, civil and constitutional law as well as human rights and contemporary practices of civilian review of law enforcement policies and police behavior. Staff training is designed to enhance investigative skills, utilize technology for research and case management, and

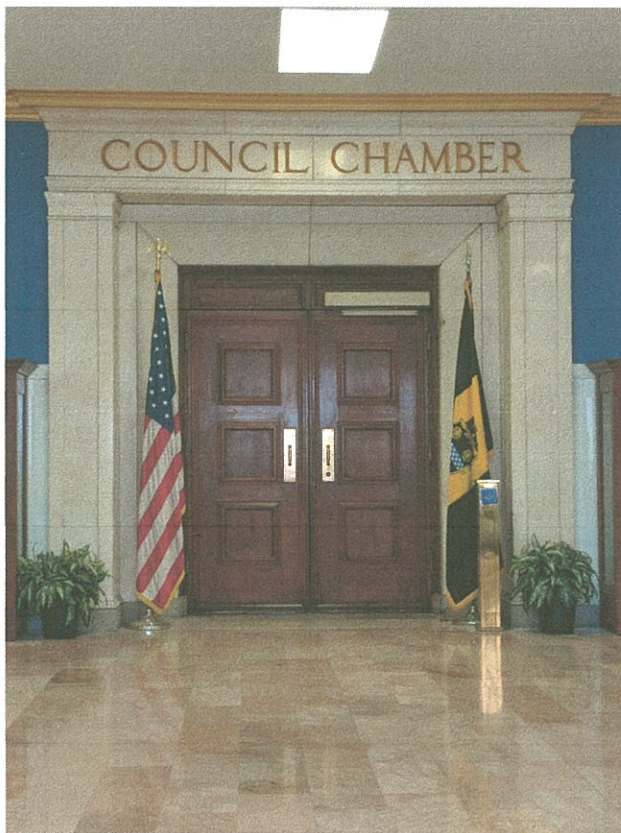


develops mediation and conciliation skills as well as crisis management and safety skills. Staff adheres to the standards and performance objectives expected of Certified Police Oversight Professionals.

**Administrative** - The Executive Director is responsible for administering the policies and procedures of the Board and those of the City which affect the daily operation of the Citizen Police Review Board. Activities of this core service include the planning, organization, development, evaluation, and implementation of efficient and effective management strategies of fiscal, personnel, information systems, and related support to maximize the utility of the resources available. The Assistant Executive Director facilitates daily administrative communication and serves as liaison to the administrative departments of the City.

### **Public Meeting Calendar**

The Board conducts public meetings at 6:00 p.m. on the fourth Tuesday of the month except in August which is combined with September and November which is combined with December and held on the first Tuesday of December. In 2017 the Board meeting locations and calendar were:



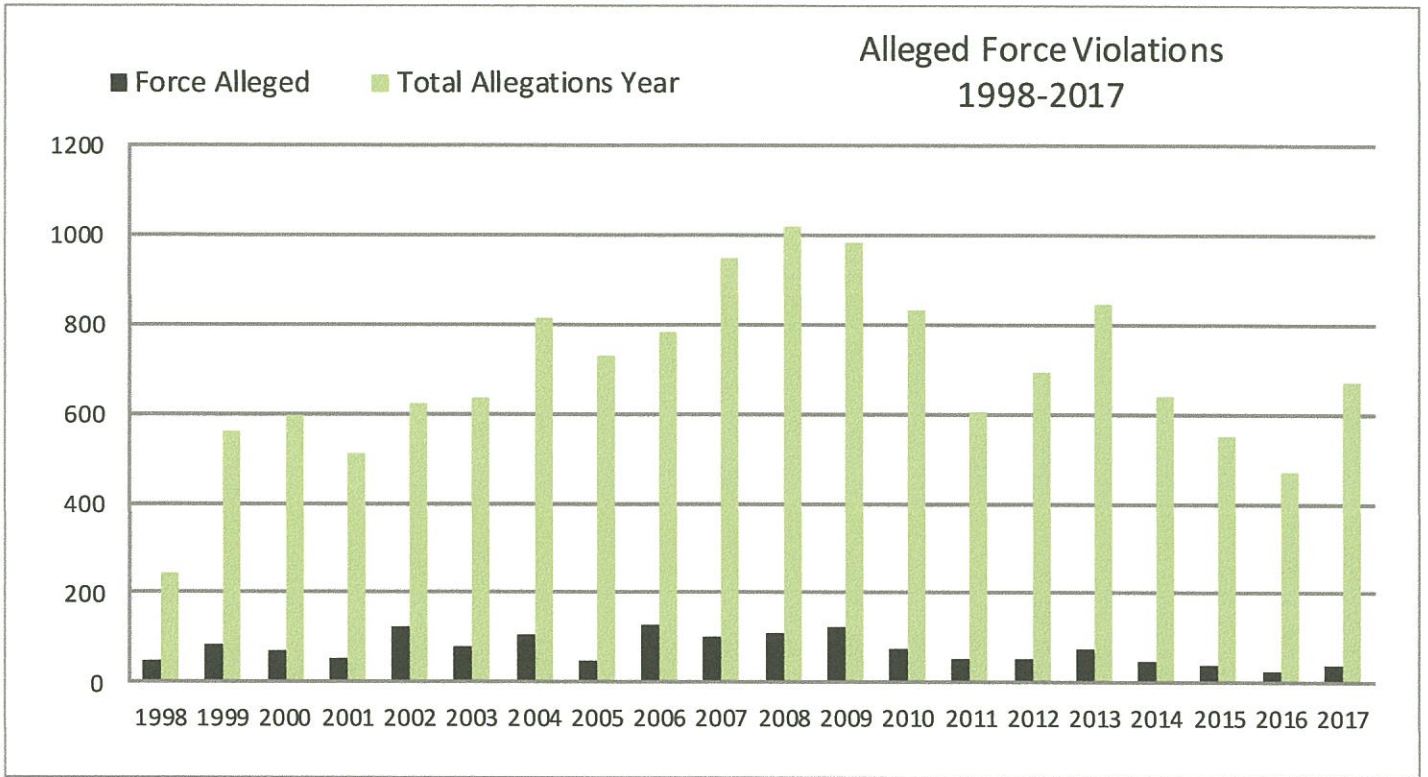
- 1/24/2017: City Council Chambers
- 2/28/2017: City Council Chambers
- 3/28/2017: South Side Market House (Police Zone 3)
- 4/25/2017: City Council Chambers
- 5/23/2017: First United Presbyterian Church,  
Crafton heights (Police Zone 6)
- 6/27/2017: North Side Senior Center (Police Zone 1)
- 7/25/2017: City Council Chambers
- 9/26/2017: City Council Chambers
- 10/24/2017: Union Project, Highland Park (Police Zone 5)
- 12/5/2017: City Council Chambers

Public Hearings are convened upon order of the Board. If a case is ordered to a public hearing, a pre-hearing conference is held with the parties and a Hearing date is determined. In 2017, one Public Hearing was conducted by the Board and the Findings & Recommendations with the Response by the Chief of Police is included in this report.

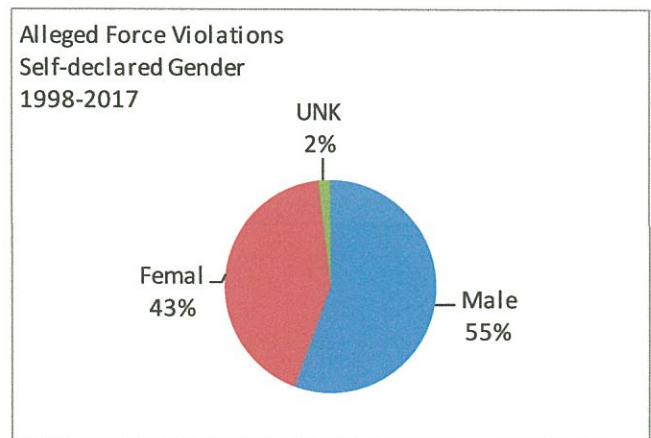
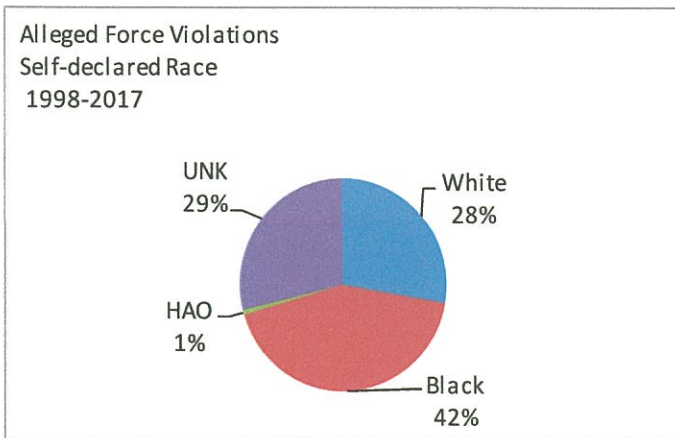
Several regular Board meetings and Public Hearings are conducted in Pittsburgh City Council Chamber, 5th Fl., City County Building, 414 Grant St., Pittsburgh PA 15219.

The Board offers the following data on allegations related to the use of force by Pittsburgh Police . The information is intended to assist readers in forming a perspective on the incidence of alleged violations in the use of force as a component of all complaints received by the Board.

For the period 1998—2017, the Board received 13,765 allegations of police misconduct. Of those allegations, 1474 alleged that excessive force was used by a police officer, representing 10.71% of all allegations received.



Race/gender identification is self-declared by the complainant.

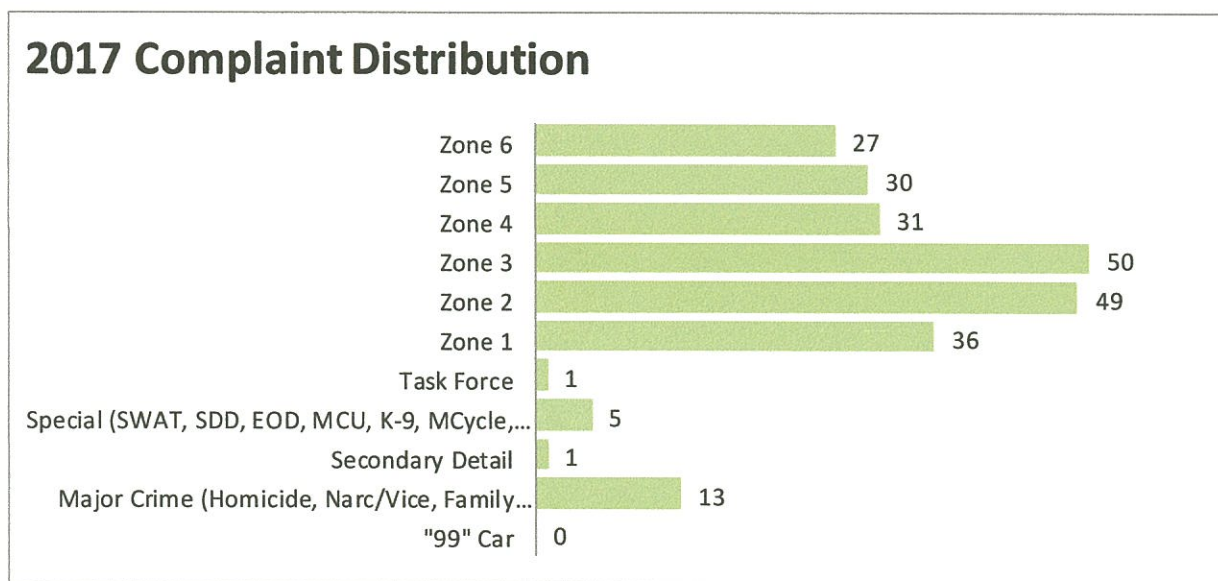




The following table isolates alleged police conduct violations received in 290 complaints filed in 2017:

Policy Standard	Alleged Violations
Unbiased Policing	41
TASER	5
Use of Force	41
Discharge of Firearms	2
Obedience to Orders and/or Laws	11
Conduct Unbecoming	270
Conduct Toward the Public	132
Conduct Toward Sup & Others	1
Incompetency	2
Neglect of Duty	58
Truthfulness	29
MV Operation Equip/Property/Firearms/ Evidence/	6
Patrol Operations	6
Traffic Operations	10
Investigative Operations	0
Warrantless Searches & Seizures	21
Records/Reports/Files	24
– other –	12
<b>2017 Allegations</b>	<b>671</b>

The distribution of complaints by Pittsburgh Police Zone or specialized unit are presented here:



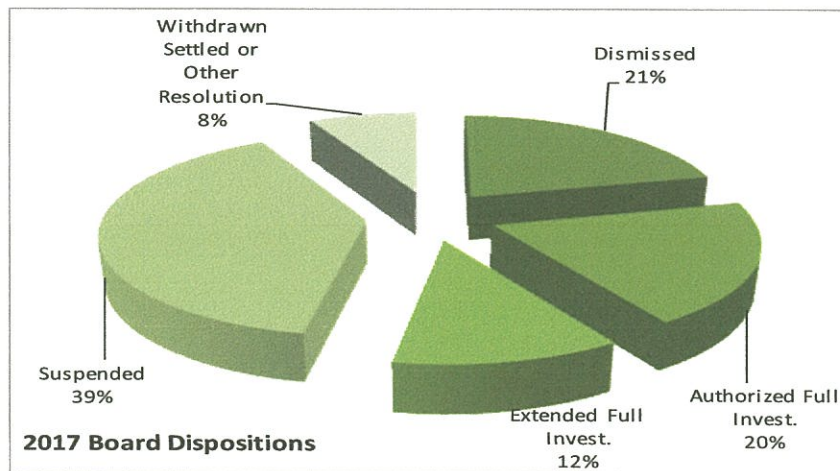
In 2017, 5 complaints exceeded the time permitted to file and 41 were out of jurisdiction. The Executive Director opened 7 inquiries during 2017.



The following table reports the dates of regular Board meetings, the number of cases reviewed at the meeting and the dispositions rendered at the meeting. The cumulative number represents all such categorical dispositions since 1998.

Independent Citizen Police Review Board Actions through 12/5/2017										
Meeting Date	Cases Reviewed At Meeting	Dismissed	Authorized Preliminary Inquiry**	Authorized Full Invest.	Extended Full Invest.	Suspended	Authorized Public Hearing	Resolution Settled or Other	Withdrawn	Cumulative Actions (Since 7/98)
1/24/2017	17	3		4	0	9	0	1	17	2951
2/28/2017	14	2		2	2	8	0	0	14	2965
3/28/2017	13	3		1	1	6	0	2	13	2978
6/27/2017	18	6		2	4	4	0	2	18	2996
7/25/2017	13	3		2	2	6	0	0	13	3009
9/26/2017	17	4		5	1	5	0	2	17	3026
10/24/2017	17	3		3	3	6	0	2	17	3043
12/5/2017	18	3		6	2	6	0	1	18	3061
<b>TOTAL</b>	<b>3061</b>	<b>993</b>	<b>117</b>	<b>722</b>	<b>351</b>	<b>424</b>	<b>99</b>	<b>355</b>	<b>3061</b>	
% of all Dispositions (1998-2017)		32%		24%	11%	13%	3%	12%	100%	
2017 Dispositions		27	0	25	15	50	0	10	127	
% of Cumulative Dispositions in 2017:		3%	0%	3%	4%	12%	0%	3%	4%	

\*\* = 3/25/2003: PI delegated to Exec. Dir. All final Disposition remain with the Board.



### Public Hearings

The Board did not order any public hearings in 2017. However, In 2017 two public hearings were pending: #70-15 and #72-16. Those hearings were delayed due to litigation related to challenges of CPRB Subpoenas brought by the Officers named in both cases. On August 24, 2017 the public hearing convened in the matter of #70-15, Sorock v. Gardener. The Findings & Recommendations issued by the Board pursuant to the public hearing and the Response from the Chief of Police are included in this report. Case # 72-16 was closed by the Board as satisfactorily settled prior to the convening of the public hearing.



## #70-15 Findings & Recommendations & Response

# INDEPENDENT CITIZEN POLICE REVIEW BOARD

City of Pittsburgh

## CITIZEN COMPLAINT OF MISCONDUCT Findings & Recommendations

Executive Director, Independent Citizen Police  
Review Board, on behalf of:

Mr. Rayden Sorock

Complainant

vs.

P.O. Matthew Gardner, #4285

Subject Officer

Case No.: CPRB # 70-15

3 Counts: PBP General Rules and Regulations 16-1  
(3.6.3) Conduct Unbecoming a Member or  
Employee

1 Count: PBP General Rules and Regulations 40-  
15(8.2) Responding to People with Mental  
Illness

*Having conducted a public hearing pursuant to Article 2, §228 - 230 of the Home Rule Charter and Article VI of the Pittsburgh City Code and the Rules and Operating Procedures of the INDEPENDENT CITIZEN POLICE REVIEW BOARD, as amended, the INDEPENDENT CITIZEN POLICE REVIEW BOARD issues the following findings and recommendations related to the conduct alleged in the captioned Citizen Complaint:*

### Background

*Mr. Sorock called 911, upon the advice of re:Solve Crisis Network, for assistance with a friend, BV, who was in distress and threatening suicide. Mr. Sorock exited his residence to await police. Subject Officer Gardner, #4285, arrived on-scene at 9:45 pm and encountered Mr. Sorock on the sidewalk. Due to ground elevation, an agitated BV could be seen at a second floor window holding a surgical scalpel, banging her head against the window and yelling. Mr. Sorock confirmed to SO Gardner that he made the call to 911. The two had a conversation of which the details are in dispute and underlie the complaint. Backup officers Papa and Rosato arrived on-scene at 9:48 pm and a plan to remove BV from the bedroom was devised & executed by the officers. TASER deployment and forcible handcuffing were used to take BV into custody. Police transported BV to Mercy Hospital for post-TASER clearance prior to her 11:23 pm arrival at the Allegheny Co. Jail.*

*Mr. Sorock filed a complaint alleging that SO Gardner did not adhere to the PBP policy related to responding to People with Mental Illness (PBP GO #40-15) and the response demonstrated by PO Gardner was Unbecoming a Member (PBP GO #16-1).*

### Findings

*Violation of PBP #40-15: Responding to Incidents Involving People with Mental Illness:*

*On 3/30/15 the Crisis Intervention trained Subject Officer disregarded the nature of the call initiated by the Complainant seeking help for an agitated and distraught friend, and dispatched*



by 911 as a “psych/threatening suicide”, disregarded the history of mental illness provided by the Complainant and disregarded the presence of criteria at #40-15.8.2 guiding the determination of “clear and present danger” thereby denying the distraught individual access to the appropriate intervention of an involuntary emergency examination and instead opting to incarcerate the distraught individual on charges related to verbalizations and threats of harm that were likely manifestations of the individual’s mental health crisis than acts with criminal intent to harm herself or the officers.

The Panel received testimony and evidence supporting the distressed emotional state of BV and the Complainant’s compassionate and sensible engagement of 911 for help. Mr. Sorock conveyed in testimony that his intention was to get BV safely to a location for psychiatric help, in particular WPIC. The 911 Computer Aided Dispatch report (CAD) confirms that at around 9:31 pm police were sent to the Complainant’s address in response to a person described as:

*“psychiatric/abnormal behavior/suicide attempt/threatening suicide (violent). Caller statement: female threatening suicide. 1. It’s not known but possible that she is violent. 2. It’s not known if she has a weapon. 3. The patient is inside the same structure. 4. This is not a suicide.”*

SO Gardner arrived on scene at 9:45 pm and met Mr. Sorock outside of the residence. Mr. Sorock confirmed that he called 911 and that BV was his friend. Mr. Sorock testified that he told Officer Gardner that BV had a history of trauma<sup>1</sup>. Both parties testified that BV could be seen banging her head against the window and screaming obscenities<sup>2</sup>. SO Gardner acknowledged that Mr. Sorock confirmed that the call was for a woman threatening suicide and she was violent in possession of a scalpel or sharp object<sup>3</sup>. CAD documented additional information:

*“Caller reporting PT has a surgical scalpel in hand” and “female is going to be threatening towards the police.”*

Shortly after arriving at the scene, a Witness officer notified 911 dispatcher/CAD:

*“Fem has access to a sharp weapon and is very aggressive.”*

SO Gardner confirmed that he received Crisis Intervention Training as a recruit in the Police Academy. His testimony revealed limited recall of the policy (PBP GO #40-15) and its provisions related to determining if a call involves a person who is “severely mentally disabled” and/or presenting a “clear and present danger”, both circumstances under which an involuntary

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<sup>1</sup> (PH Tr 22-23)

<sup>2</sup> (PH Tr Sorock 20, Gardner 55, 70)

<sup>3</sup> (PH Tr 52)

commitment is the preferred resolution. It was clear to the Panel that Mr. Sorock expected BV to be taken to a mental health facility and he appeared baffled that the threat of suicide did not automatically require such a disposition.

SO Gardner testified that he tried to distract BV and reassure her that "...no one wants to hurt you. Drop the weapon." And "Hey, drop it. No one wants to hurt you. Let's take you to the hospital."<sup>4</sup>

The panel recognized the progression of BV's behavior and possession of an edged weapon to be critical factors considered by the responding officers as they devised an approach to take custody of BV.

The characterizations of the exchange between the Complainant and the Subject Officer were undoubtedly influenced by the parties' unique interests. Mr. Sorock related the incident as a concerned friend trying to get a distressed friend safely to a treatment facility and SO Gardner related the circumstances as involving a distressed individual armed with a weapon needing to be secured and removed to an appropriate facility. Their interests diverged when BV verbally threatened to harm the officers, posed with the scalpel raised in an aggressive stance and refused to cooperate with the officers.<sup>5</sup>

When BV threatened to kill the officers and displayed the intent and means to fulfill that threat she committed a violent felony of Aggravated Assault. BV's behavior transitioned from that of a disturbed person qualified for an involuntary commitment for a mental health evaluation into violent criminal behavior requiring arrest.

Submitted into evidence was the Allegheny County Bureau of Corrections Policy on Suicide Prevention and Intervention, Rev. 10/15/15 (Exh. # 2). This exhibit established the capacity of the Allegheny County Jail to provide appropriate support to BV while facing the criminal charges stemming from the incident.

**Finding:** The panel found that Subject Officer Gardner did not violate PBP #40-15 as accused and is exonerated of the charge.

***PBP #16-1, 3.6.3: Standards of Conduct: Unbecoming a Member or employee of the Bureau of Police***

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<sup>4</sup> (PH Tr Gardner, 64, 66, 75)

<sup>5</sup> (Gardner, 78)



*Subject Officer Gardner is accused of violating PBP #16-1.3.6.3: Conduct Unbecoming a Member on 3/30/15 because his actions undermined the Complainant's confidence in the operation of the Pittsburgh Bureau of Police and diminished his trust in the Subject Officer when:*

**Count 1 Unbecoming Conduct:** *On 3/30/15 the Subject Officer responded to a call for a woman in possession of a surgical scalpel threatening suicide and verbalizing threats to the responding officers and declaring that she wanted the officers to shoot her, the SO deviated from his Crisis Intervention training and did not subject the individual to an involuntary emergency examination and treatment at an approved psychiatric facility.*

The Panel recognized that the Complainant believed that if he called 911 as advised by re:Solve Crisis Network, his friend, BV, would receive appropriate assistance and be transferred to a mental health facility.<sup>6</sup> Mr. Sorock testified that upon learning that his friend was in the Allegheny County Jail and not a hospital, he felt shocked and guilty as being responsible for placing his friend in a dangerous situation.<sup>7</sup> Mr. Sorock testified that as a result of this experience he would not call 911 for assistance in a crisis situation if there was a chance the person could end up in jail rather than a hospital.<sup>8</sup> The Panel noted that once the situation was under control and BV was in custody the officers assisted her to get dressed and collect her property.

The Panel considered the dynamics of the incident, the Complainant's expectation and the SO's assessment of when BV's behavior converted from that requiring hospitalization to that requiring arrest. Additionally, there was present throughout the testimony a trend of misunderstanding and miscommunication. Viewing the incident from the principals' perspectives, it was evident that Mr. Sorock believed BV was going to Mercy for treatment when Subject Officer Gardner said they were going to Mercy. However, SO Gardner's purpose for going to Mercy was to obtain post-TASER medical clearance for BV to be admitted to the jail and not for an involuntary mental health examination.

The Panel determined this to be a significant though reasonable misunderstanding. There is no question that in the context of responding to persons with mental illness Mr. Sorock has lost confidence and trust in the operations of the Bureau of Police. This lack of confidence and trust appears to be circumstantial and not because the Subject Officer acted outside of policy in this incident. This count is unsustainable.

Nonetheless, after establishing that Mr. Sorock contacted 911 and that he was not threatened by BV at any time, SO Gardner discounted Mr. Sorock as a source of further information about BV. In testimony SO Gardner described Mr. Sorock as agitated and visibly upset after SO

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<sup>6</sup> (Sorock, 32, 33)

<sup>7</sup> (Sorock, 33, 34)

<sup>8</sup> (Sorock, 35)

Gardner mentioned the potential use of lethal force (discussed at Count 2)<sup>9</sup>. As a result, Mr. Sorock was excluded and unable to contribute any further information about BV to the officers.

**Count 2 Unbecoming Conduct:** *On 3/30/15, after the Complainant informed the Subject Officer of his distraught friend's history of mental illness and current possession of a surgical scalpel with which his friend threatened to harm herself, the Complainant asked what would happen if his friend came outside with the scalpel and the Subject Officer told the Complainant he would have to shoot her.*

While awaiting backup officers to arrive and observing BV in the window, Mr. Sorock and SO Gardner engaged in conversation. Mr. Sorock testified that he recalled SO Gardner informed him that he "could shoot her" with no further explanation<sup>10</sup>. SO Gardner testified that Mr. Sorock posed the question, "What would happen if she came out here with a knife?" to which SO Gardner recalls responding: "I mean, if she comes at us with a knife? He said, "Yeah." "I don't know, I'd probably have to shoot her then."<sup>11</sup>

**Finding:** The Panel found that Mr. Sorock's testimony was consistent with his prior statements describing this aspect of the encounter with SO Gardner. Regardless of the details of this conversation, it was clear that the possibility of shooting BV was very troubling to Mr. Sorock. In contrast, SO Gardner's casual but honest reference to the possibility of using lethal force was reckless under the circumstances and served to escalate Mr. Sorock's apprehension with the unfolding crisis but did not rise to misconduct. SO Gardner is exonerated and the charge is unsustainable.

**Count 3 Unbecoming Conduct:** *On 3/30/15, after informing the Subject Officer of his distraught friend's history of mental illness the Complainant heard the Subject Officer state "No way am I dealing with Western Psych, let's take her to Mercy." On 3/31/15 the Complainant realized he was misled by the Subject Officer when the Complainant discovered his friend was not taken for mental health assistance but taken to the ACJ and held on \$50,000 bail on criminal charges related to verbal threats made against the responding officers.*

Mr. Sorock testified that while he was assisting the officers and BV prepare for transport, he (Mr. Sorock) asked if they would be taking BV to Western Psychiatric inpatient unit. Mr. Sorock

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<sup>9</sup> (Gardner, 71)

<sup>10</sup> (Sorock, 22)

<sup>11</sup> (Gardner, 70, 74)



stated that SO Gardner replied “No fucking way I’m dealing with WPIC. Let’s take her to Mercy instead.”<sup>12</sup>

SO Gardner described preparing BV for transport and being focused on clearing the scene for medics and informing another officer that they would be taking BV to Mercy and denied swearing and conversing with or hearing Mr. Sorock say anything about WPIC.<sup>13</sup>

The Panel found that this charge evolved from the recurring miscommunication and misunderstanding between Mr. Sorock and SO Gardner. SO Gardner was the responding officer and management of the incident rested with him. After the early conversation about the hypothetical scenario of BV exiting the residence as a threat potentially requiring the use of lethal force, SO Gardner disregarded Mr. Sorock as a participant in the resolution of the incident. Consequently, after BV was in custody and prepared to be transported, SO Gardner did not inform Mr. Sorock of BV’s destination. Mr. Sorock overheard the mention of Mercy and assumed BV would be going to Mercy Behavioral for a mental health evaluation. In fact, BV was taken to Mercy Hospital for medical clearance prior to admission to the Allegheny County Jail due to her TASER exposure during the police encounter.

The following day Mr. Sorock contacted Mercy Behavioral and discovered BV had not been admitted to their service. Ultimately Mr. Sorock found that BV was being held at the Allegheny County Jail. This discovery destroyed Mr. Sorock’s trust and diminished his confidence and in the operations of the Bureau of Police.

**Finding:** As the Panel found at Count 2, the dynamics of miscommunication and misunderstanding produced this unfortunate and distressing conclusion for Mr. Sorock. The dynamics could have been altered favorably had SO Gardner regarded Mr. Sorock as an ally. Whether that outcome is reasonable or not is subjective to the eyes of Mr. Sorock. Accordingly, the Panel finds that the charge is sustained.

There was discussion among the Panel members regarding the value and quality of information exchanged between Mr. Sorock and SO Gardner. Until the officers were attempting to gain control of BV and encountered unexpected resistance from her they were unaware of BV’s status as that of a biological male. Whether BV’s status as transgendered affected the ultimate disposition of the incident that night was not examined by the Panel as it was not an element of any charge brought against SO Gardner. The Panel notes however that SO Gardner expressed frustration that Mr. Sorock failed to disclose this information prior to the police engaging BV.

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<sup>12</sup> {Sorock, 29, 30}

<sup>13</sup> {Gardner, 79-83}

## Recommendations

SO Gardner and responding backup Officers Rosato and Papa testified that they received Bureau commendations for their handling of this case. The Panel recognizes that for BV, the officers facilitated a safe conclusion to a high risk incident. Unfortunately, Mr. Sorock's perception of Pittsburgh Police operations related to interaction with people in crisis was adversely influenced and his loss of trust and confidence is understandable. Mr. Sorock's status in the incident was diminished by SO Gardner's dismissal of him thereby degrading Mr. Sorock's earnest and well-intended efforts to help his friend BV.

1. The Panel recommends that a remedial Crisis Intervention Training reference incorporating the elements of PBP General Order #40-15, Responding to Incidents Involving People with Mental Illness, be developed and available for supervisors to review with officers as needed.
2. In addition to a remedial policy review approach, we recommend development of an advanced crisis intervention training that includes gender-neutral safety mechanics for apprehension and facilitation of communication with situational informants.
3. The Panel recommends that the Bureau emphasize the value of cultivating conversation with informants involved with a person experiencing a mental health crisis. Such practice would enhance officer safety and validate an informant's role as an integral participant in resolving a crisis situation and extend assurance of officer competence to the community.

The Panel was interested in the behavioral distinctions made by the officers which led to arrest rather than to an involuntary commitment. Evidence was received in this hearing that declared the Allegheny County Jail has the capacity to support individuals exhibiting suicidal risk. That protocol provides a resource to police and assurance that a distressed individual will be evaluated and appropriately managed when incarcerated. That brings a degree of concern that jail may be a preferred disposition if community mental health/behavioral health facility admissions are cumbersome or time consuming. It would not be a surprise to learn that a mentally ill individual went to jail because a compassionate officer knew the person would be cared for and protected for a longer period of time than the standard 72 hour involuntary diagnostic commitment to a mental health facility. The Panel invites the Bureau to inform the Citizen Police Review Board of systemic deficiencies or obstacles faced by Pittsburgh Police officers when responding to people with mental illness or emotional crises.



## COLLATERAL MATTER

On February 23, 2016 the Board issued an Order to conduct a Public Hearing into this matter. For a variety of scheduling reasons, the Public Hearing was not scheduled to convene until January 26, 2017. A Pre-Hearing Conference was conducted on January 16, 2017.

The Board issued, and properly served, subpoenas to Subject Officer Gardner and witness Officers Papa and Rosato summoning them to appear for the purpose of providing sworn testimony at the Public Hearing scheduled to open on January 26, 2017.

Upon convening the Public Hearing before the presiding Hearing Panel, Counsel for the Officers informed the Panel that the Officers refused to testify based upon the terms and conditions expressed in the Working Agreement between the City and the Fraternal Order of Police, Ft. Pitt Lodge No. 1. The Officers cited Section 21 of that agreement as their basis for not testifying. Section 21 states "No police officer shall be compelled by the City to be interviewed by and/or to testify before the Citizen Police Review Board."

Previous litigation, as early as 2001, established that the terms of the working agreement did not apply to the CPRB and CPRB subpoenas were routinely enforced by the Court of Common Pleas. In 2003 the Commonwealth Court reinforced the validity of the Board's subpoena power as stated by President Judge Colins: "*As the Trial Court properly noted, the amendment to Section 21 of the Agreement in no way undermines the CPRB's present authority to obtain OMI files and other documentary material pertaining to police misconduct allegations, as well as to subpoena officers to testify at public hearings.*" (1848 CD 2002)

Since the Commonwealth Court ruling in 2003, local Courts have applied the finding to several Motions to Enforce the CPRB Subpoena which have been necessitated due to Officers' resistance to testify at a Public Hearing. This case, #70-15, presented yet another challenge by the Officers refusing to testify and their effort to construe the CPRB as "the City" alleging that the CPRB is part of the City thereby subject to Section 21 and has no power but through the delegation of City power.

On April 24, 2017 the CPRB filed a motion to enforce the subpoenas issued in this case. A hearing before the Honorable John T. McVay, Jr. was scheduled for May 15, 2017. On June 8, 2017 Judge McVay issued an Order Enforcing the CPRB subpoenas. The Officers appealed the Enforcement Order to Commonwealth Court. The FOP added itself as a party though they were not a party of any motion filed by the CPRB.

Coinciding with the litigation on the enforcement of subpoenas in this case, a Subject Officer in another case filed an Appeal of a similar order. Ultimately, the Commonwealth Court declined jurisdiction in that case noting that the Order to Enforce was not a final order reviewable by the

Appeal Court. That finding influenced the course of the litigation in this case and the Public Hearing was convened on August 24, 2017.

Presented with the Court Order enforcing the subpoena, or face contempt of Court charges, Subject Officer Gardner and witness Officers Papa and Rosato did testify before the Hearing Panel.

The Panel includes this collateral matter for the purpose of memorializing the effect of officer resistance on the Board's process of scrutinizing Citizen Complaints in an impartial manner. The Public Hearing process affords due process to the parties and enables the Hearing Panel to receive and objectively weigh testimony and evidence in its deliberations.

The CPRB takes very seriously its duty to evaluate Citizen Complaints of police conduct and render findings and recommendations related to those complaints in which misconduct is found or training needs are identified and where no misconduct is found, that the accused officer is exonerated. Delays in arriving at these conclusions are a disservice to the public and an affront to the process established by the people of the City.

While the Officers' original refusal to testify in this matter led to extended delay for litigation and is a direct violation of City ordinance, the Panel refrains from recommending any administrative intervention (§662.07(a)(1)).

The Panel recognized that the Officers and the Fraternal Order of Police were represented by a new Attorney and invigorated FOP opposition to the CPRB process. The Court challenge played out and ultimately the Public Hearing convened properly and the Citizen Complaint was reviewed yielding the Findings & Recommendations contained within this document.



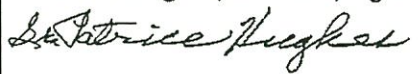
This Complaint is sustained in part (Count 3 – Conduct Unbecoming). Counts 1 and 2 of alleged Conduct Unbecoming and a violation of Responding to People with Mental Illness are unsustainable and the Subject Officer is exonerated of those charges.



**Notice to the Chief of Police and the Mayor**

The Pittsburgh City Code, Title Six, Article VI, § 662.09 Response To Board Recommendations, requires that within thirty (30) working days of the Board's submission of recommendations to you, you must respond in writing to the Board regarding which recommendations are accepted, rejected, or will be implemented with modifications. If the Board's recommendations are rejected or modified, the Mayor and/or Chief of Police shall include a written explanation for their decision.

*By the Presiding Hearing Panel:*

Concur	Dissent	Ms. McLellan, LEP, Panel Chair, Signature	Date
			12-5-17
Concur	Dissent	Dr. Mary Jo Guercio, Member, Signature	Date
✓			12-5-17
Concur	Dissent	Sr. Patrice Hughes, Member, Signature	Date
✓			12-5-17

Submitted to the Mayor and Chief of Police:

Response due:

Public Hearing Conducted by the Board: 08/24/17

Presiding CPRB Hearing Panel:

Ms. Karen McLellan, LEP, Panel Chair

Dr. Mary Jo Guercio, Member

Sr. Patrice Hughes, Member

Hearing Officer: Mr. William F. Ward Esq.

Special Prosecutor: Mr. Jeffrey J. Ruder, Esq.

Counsel for Subject Officer: Mr. Christopher J. Cimballa, Esq.



**CITY OF PITTSBURGH  
BUREAU OF POLICE  
Office of the Chief**

*"...honor, integrity, courage, respect, compassion."*

March 1, 2018

Elizabeth Pittinger, Executive Director  
Citizen Police Review Board  
816 Fifth Avenue, Suite 400  
Pittsburgh, PA 15219

Re: Findings and Recommendations, CPRB Case# 70-15 Sorock v. Gardner

Dear Ms. Pittinger,

I appreciate your independent investigation and recommendations regarding the above case. I provided a copy of the report to the Office of Professional Standards and we will incorporate your recommendations into our existing training.

During this revision process, we will have our supervisors review Procedural Order #40-15, "Responding to Incidents Involving People with Mental Illness" and 16-1 "Standards of Conduct" with all personnel. All members will also view the department of Justice video on Transgender Encounters. As you know, the Pittsburgh Bureau of Police has mandated that all members must attend CIT training and we will continue sending officers to each class until our goal is achieved.

In addition, I will work with our CIT Coordinator to incorporate these recommendations into our current curriculum and review the possibility of refresher training for CIT and Advanced training.

Please do not hesitate to contact me if you have questions or concerns.

Respectfully,

Scott E. Schubert  
Chief of Police

Cc: Deputy Chief Thomas Stangrecki  
Assistant Chief Linda Barone, Administration  
Commander Shirley Epperson, Administration

Rec'd  
3/15/18  
scp.





## Independent CITIZEN POLICE REVIEW BOARD

City of Pittsburgh  
816 Fifth Avenue, Suite 400  
Pittsburgh PA 15219  
USA

December 8, 2017

The Honorable Bill Peduto  
Mayor, City of Pittsburgh  
5<sup>th</sup> Fl. City County Building  
414 Grant Street  
Pittsburgh PA 15219

**Members of the Board:**

Dr. Emma Lucas-Darby  
Chair

Mr. Thomas C. Waters  
Vice Chair

Mr. Elwin Green

Dr. Mary Jo Guercio

Ms. Karen McLellan, LEP\*

Sr. Patrice Hughes, SCSH

Mr. Sheldon William, LEP\*

(\*Law Enforcement Professional)

**Solicitor:**

Mr. William F. Ward, Esq.

**Executive Director:**

Ms. Elizabeth C. Pittinger, MPM

**Assistant Executive Director:**

Ms. Carolyn L. Gaskin, MS

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cprb@pittsburghpa.gov

cprbpgh.org

FB: cprbpgh

T: cprbpgh

Re: *Findings & Recommendations, CPRB Case # 70-15 Sorock v. Gardner*

Dear Mr. Mayor:

Pursuant to § 662.06 of the City Code and in accordance with its Rules and Operating Procedures, the Citizen Police Review Board conducted a public hearing on August 24, 2017 to receive testimony and evidence in the captioned Citizen Complaint. The Hearing Panel issued Findings & Recommendations at the Board's regular public meeting on December 5, 2017.

The public hearing was memorialized by video (PH #70-15) and official transcript available here: #70-15 PH Transcript.

The Findings and Recommendations (F&R) accompany this letter. You will note that the Citizen Complaint was sustained in part and a collateral matter was found and is explained in the F&R document. I am available to support any action initiated by you that is consistent with the recommendations of the Board.

The City Code, § 662.09 Response to Board Recommendations, states:

*"Within thirty (30) working days of submission of a recommendation for action by the Board to the Mayor and the Chief of Police, they shall respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications. If the Board's recommendations are rejected or modified, the Mayor and/or Chief of Police shall include a written explanation for their decision."*

Accordingly, the Board anticipates a response from you and/or the Chief of Police by **January 26, 2018** indicating whether the recommendations are accepted, rejected, or will be implemented with modification.

Thank you for your attention to this matter.

Sincerely yours,

Elizabeth C. Pittinger  
Executive Director



## Independent CITIZEN POLICE REVIEW BOARD

City of Pittsburgh  
816 Fifth Avenue, Suite 400  
Pittsburgh PA 15219  
USA

December 8, 2017

Scott Schubert  
Chief, Bureau of Police, City of Pittsburgh  
1203 Western Avenue  
Pittsburgh PA 15233

Re: *Findings & Recommendations, CPRB Case # 70-15 Sorock v. Gardner*

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Sincerely yours,

Elizabeth C. Pittinger  
Executive Director

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