



## CITIZEN POLICE REVIEW BOARD

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Pittsburgh PA 15219  
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cprb@pittsburghpa.gov

Approved  
6/27/17

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**Minutes of CPRB Meeting Held on May 23, 2017 (Mtg. No. 196)**  
**First United Presbyterian Church of Crafton Heights**  
**50 Stratmore Street**  
**Pittsburgh, PA 15205**  
**Neighborhood: Crafton Heights/West End**

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**Members Present:** Mr. Thomas C. Waters, Vice Chair  
Dr. Mary Jo Guercio  
Sr. Patrice Hughes, SC  
Ms. Karen McLellan  
Mr. Sheldon Williams

**Excused:** Dr. Emma Lucas-Darby, Chair

**Absent:** Mr. Elwin Green

**Vacancies:** None

**Staff Present:** Ms. Elizabeth C. Pittinger, Executive Director  
Ms. Carolyn L. Gaskin, Assistant Executive Director  
Ms. Sherri Bridgett, Investigator  
Ms. Michelle Gamble, Investigator

**Excused:** Mr. Michael Ayoob, Intake Coordinator

### **Administrative Matters:**

Mr. Waters, Vice Chair called the meeting to order at 6:15 PM.

*A motion to approve the April 25, 2017 Board Meeting Minutes was offered by Ms. McLellan seconded by Mr. Williams, and approved unanimously.*

### **Executive Director's Report**

- Ms. Pittinger reminded the Board that the following CPRB Member terms are set to expire on 10/31/17: Ms. Karen McLellan (Seat #2 – City Council; Law Enforcement Professional), Dr. Mary Jo Guercio (Seat #4 – City Council), and Sr. Patrice Hughes, (Seat #5 - Mayoral). Ms. Pittinger also noted that pursuant to the Pittsburgh City Code, the Board Chair is required to provide notice to the public 180 days in advance of expirations; public notices were published on 5/3/17. In addition, the Board Chair is required to provide notice to the Mayor, City Council, City Solicitor, City Clerk, and CPRB Members, which is by 6/3/17.
- Ms. Pittinger updated the Board on the status of CPRB Case #70-15. The public hearing convened on 1/26/17, the Subject Officer did not appear as directed by subpoena; however, two witness Officers appeared but through Attorney Bryan Campbell informed the hearing panel that they would not testify. Attorney Campbell contested CPRB's ability to compel testimony, referencing a clause in the collective bargaining agreement between the FOP and City of Pittsburgh. On 4/27/17, Solicitor Ward filed a petition to enforce compliance of the subpoenas. Judge McVay heard arguments in Motion's Court on 5/15/17. Judge McVay ruled that the

officers are required to appear and testify and failure to comply with the order shall be punishable as a Contempt of Court. Judge McVay also referenced the 2003 Commonwealth Court decision; wherein CPRB was distinguished as an independent board and not an agent of the City, which rejects the FOP's argument that the CPRB is subjected to Section 21-C of the Working Agreement between the City and the FOP. (*Please see attached*).

- Ms. Pittinger updated the Board on the status of CPRB Case #72-16; the public hearing convened as scheduled on 3/27/17. The Subject Officer appeared but through Attorney Chris Cimballa, declined to testify. A motion to enforce the subpoena is pending.
- Ms. Pittinger stated that Ms. Gaskin has prepared for City Council's approval, legislation seeking a warrant for final payment to Clark Hill for professional legal services rendered by former CPRB Solicitor, Elizabeth Collura. Ms. Collura's 3/31/17 departure from Clark Hill simultaneously terminated the CPRB contract. Pursuant to the Board's directive in April, City Council's authorization is being sought to enter into a professional service agreement with Judge William F. Ward to serve as CPRB Solicitor.
- Ms. Pittinger announced that on 4/27/17, Mr. Thomas Waters, CPRB Vice Chair, Ms. Carolyn Gaskin, CPRB Assistant Executive Director, and CPRB Investigators' Michelle Gamble and Sherri Bridgett attended the first session of a Federal Mediation and Conciliation Service training. The session offered instructional information and role-play activities for managing personnel and organizational problem solving and conflict resolution. A second training session has been scheduled for 5/31/17. Upon completion, participants will obtain certification.
- Ms. Pittinger reported on the status of the National Institute for Building Trust and Justice research project; which was established in 2014 and is designed to improve relationships and increase trust between communities and the criminal justice system ([trustandjustice.org](http://trustandjustice.org)), wherein the city of Pittsburgh was chosen as one of six pilot cities. Ms. Pittinger stated that the researchers are reviewing information from several organizations to determine the efficacy of civilian police oversight. CPRB was recently contacted and has provided by request the demographical, and allegation information for each complaint received from the year 2000 to present. Ms. Pittinger expressed gratitude to the CPRB staff for their assistance with inventorying the complaints/allegations.
- Ms. Pittinger mentioned the following editorials that appeared in the Pittsburgh Post-Gazette on 5/2/17 and 5/4/17 respectively: "Let Police-Review Work; the City and Officers Cannot Stonewall the CPRB" & "Publish the Policies: City Police Should Share Standards with the Public." (*Please see attached*).
- Ms. Pittinger announced that 5/20/17 marked the 20th anniversary of the referendum to the Home Rule Charter that created the Citizen Police Review Board. Ms. Pittinger congratulated and thanked the Board and their predecessors and anticipates celebrating the occasion with the community in the Fall. Ms. Pittinger also acknowledged and commended the CPRB Staff for

their work and years of service: Intake Coordinator Michael Ayoob, 11 years; Investigator Sherri Bridgett, 9 years; Investigator Michelle Gamble, 15 years; and Assistant Executive Director Carolyn Gaskin, 15 years.

- Ms. Pittinger reported that the Federal Criminal trial commenced on 5/22/17 for former PBP Sergeant Stephen Matakovich, of which Investigator Michelle Gamble is attending. Ms. Pittinger noted that Mr. Matakovich was terminated from employment as a Pittsburgh police officer in February 2016 and that the results of this trial and an impending state trial could affect his eligibility to be reinstated.
- Ms. Pittinger announced that a secure CPRB member/staff portal is in the process of being purchased. The portal will be an effective tool that will simplify management of Board processes, including member sign-ins and document sharing. Nigel Parry, who currently manages the CPRB website, will be constructing the portal and members will be notified upon completion.
- Ms. Pittinger announced that an Executive Director's inquiry was opened into an incident regarding PBP Officer Raymond Toomey's use of force against Mr. Nathan Stanley III. The incident was captured on video and shows Mr. Stanley lying prone on the sidewalk with hands visible and Officer Toomey is seen kicking Mr. Stanley in the head and face area. Since the initial video was released additional photos/videos have emerged; one such photo shows Mr. Stanley against a pole with his knee appearing to be in the groin area of an officer and his left hand appearing to be grasping the officer's neck. Ms. Pittinger stated because the District Attorney's office has announced the probability of investigating the incident, CPRB must defer, pending the conclusion/outcome of the investigation.

### **Case Review**

Mr. Waters moved to the case review agenda (copy attached), each case was voted upon as recorded and copies of the agenda were made available to the public.

### **Public Comment**

Mr. Waters invited public comment. Mr. Charles McHenry and Mr. Mark Ozark offered comment.

### **Next Meeting**

Mr. Waters announced that the next monthly board meeting is scheduled for 6:00 p.m., Tuesday, June 27, 2017, located at the North Side Senior Center, Allegheny Center, Pittsburgh, PA 15212.

*A motion to adjourn the meeting was offered by Mr. Williams seconded by Dr. Guercio, and approved unanimously.*

The meeting adjourned at 7:10 PM.

Respectfully submitted,

Carolyn L. Gaskin  
Assistant Executive Director

Attachments (2):

1. 5/23/17 Case Review/Board Actions
2. 5/23/17 Executive Director's Report
3. Judge McVay's decision re: Subpoena Enforcement (CPRB Case #70-15)
4. 2 Post-Gazette Editorials

*A video recording of this meeting will be available at [www.CPRBpgh.org](http://www.CPRBpgh.org)*

*Minutes/Notes of the Independent CPRB meetings and public documents are available at the website cited above.*

### CPRB CASE REVIEW AGENDA

CPRB CASE NO. INVESTIGATOR	ALLEGATION(S)	SUMMARY	RECOMMENDATION	RATIONALE
<b>PUBLIC HEARING (0)</b>				
<b>FULL INVESTIGATION (6)</b>				
28-17/GAMBLE	Unbiased Policing (PBP 11-3, 4.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Truthfulness (PBP 16-1, 3.19) False Report (PBP 62-10)	Cx. alleges the S.O. racially profiled her during the encounter.	AUTHORIZED FULL INVESTIGATION  HUGHES/MCLELLAN 5-0	Preliminary evidence suggests more investigation time is needed.
78-17/GAMBLE	Unbiased Policing (PBP 11-3, 4.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges the S.O. racially discriminated against her during the encounter.	AUTHORIZED FULL INVESTIGATION  HUGHES/MCLELLAN 5-0	Preliminary evidence suggests more investigation time is needed.
82-17/BRIDGETT	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Neglect of Duty (PBP 16-1, 3.13) Reports (PBP 40-19, 5.1)	Cx. alleges that the S.O.s refused to file police reports.	AUTHORIZED FULL INVESTIGATION  HUGHES/MCLELLAN 5-0	Preliminary evidence suggests more investigation time is needed.
86-17/GAMBLE	Obedience to Orders &/or Laws (PBP 16-1, 3.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Truthfulness (PBP 16-1, 3.19) Warrantless Search & Seizure (PBP 45-2, 6.3) False Report (PBP 62-10, 2.10)	Cx. alleges that the S.O.s searched her vehicle without cause.	AUTHORIZED FULL INVESTIGATION  HUGHES/MCLELLAN 5-0	Preliminary evidence suggests more investigation time is needed.

<b>CPRB CASE NO. INVESTIGATOR</b>	<b>ALLEGATION(S)</b>	<b>SUMMARY</b>	<b>RECOMMENDATION</b>	<b>RATIONALE</b>
105-17/BRIDGETT	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges the S.O. was unfair and acted inappropriately during the encounter.	AUTHORIZED FULL INVESTIGATION  HUGHES/MCLELLAN 5-0	Preliminary evidence suggests more investigation time is needed.
120-17-ED/GAMBLE	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Use of Force (PBP 16-1, 3.1)	Executive Director opened an inquiry into the alleged incident that occurred on 5/7/17 on the South Side.	AUTHORIZED FULL INVESTIGATION  HUGHES/MCLELLAN 5-0	Preliminary evidence suggests more investigation time is needed.
<b>30 DAY EXTENSION OF FULL INVESTIGATION (3)</b>				
53-17-P/GAMBLE	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O.s acted inappropriately during the encounter.	AUTHORIZED 30 DAY EXTENSION  MCLELLAN/GUERCIO 5-0	S.O. needs to be interviewed.
57-17-P/BRIDGETT	Use of Force (PBP 12-16, 3.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O.s used excessive force during his arrest.	AUTHORIZED 30 DAY EXTENSION  MCLELLAN/GUERCIO 5-0	S.O. needs to be interviewed.
62-17-ED/GAMBLE	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Executive Director opened an inquiry into an alleged incident that occurred on 3/20/17 at Westwood Elementary School.	AUTHORIZED 30 DAY EXTENSION  MCLELLAN/GUERCIO 5-0	Witnesses and S.O. need to be interviewed.
<b>UNSUSTAINABLE (0)</b>				
<b>UNFOUNDED (2)</b>				
51-17/BRIDGETT	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O.s were rude during the encounter.	DISMISSED AS UNFOUNDED  WILLIAMS/MCLELLAN 5-0	The available evidence does not support the Cx.'s allegations

CPRB CASE NO. INVESTIGATOR	ALLEGATION(S)	SUMMARY	RECOMMENDATION	RATIONALE
92-17/BRIDGETT	Unbiased policing (PBP 11-3, 4.1) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Neglect of Duty (PBP 16-1, 3.13)	Cx. alleges that the S.O. did not file a report because of his racial ethnicity.	DISMISSED AS UNFOUNDED  WILLIAMS/MCLELLAN 5-0	The available evidence does not support the Cx.'s allegations.
<b>SUSPENSIONS (5)</b>				
16-16-ED/GAMBLE	Conduct Unbecoming a Member (PBP 16-1, 3.6) Use of Force (PBP 12-6, 3.0)	Executive Director opened an inquiry into an alleged incident that occurred on 11/25/15 at Heinz Field.	AUTHORIZED SUSPENSION  UNTIL THE JUNE MEETING  GUERCIO/HUGHES 5-0	Pending the outcome of the S.O.'s criminal and arbitration proceedings.
17-16-P/BRIDGETT	Unbiased Policing (PBP 11-3, 4.1;2) Obedience to Orders &/or Laws (PBP 16-1, 3.1) Conduct Unbecoming a Member (PBP 16-1, 3.6)	Cx. alleges that the S.O. has a personal vendetta against him.	AUTHORIZED SUSPENSION  UNTIL THE JUNE MEETING  GUERCIO/HUGHES 5-0	Investigator will attempt to attend the Cx.'s impending court proceeding.
38-17/GAMBLE	Use of Force (PBP 12-6, 3.1) TASER (PBP 12-13, 5.3) Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7)	Cx. alleges that the S.O.s used excessive force on the Victim during the arrest.	AUTHORIZED SUSPENSION  UNTIL THE JUNE MEETING  GUERCIO/HUGHES 5-0	Witness #1 needs to be interviewed.
47-16/BRIDGETT	Unbiased Policing (PBP 11-3, 4.1;2) Use of Force (PBP 12-6, 3.1;3) TASER (PBP 12-13, 11.1;4) Conduct Unbecoming a Member (PBP 16-1, 3.6;5) Conduct Toward the Public (PBP 16-1, 3.7;6) Property of Prisoners (PBP 50-2, 7.2)	Cx. alleges that the S.O.s used unnecessary force against the Victim.	AUTHORIZED SUSPENSION  UNTIL THE JUNE MEETING  GUERCIO/HUGHES 5-0	Investigator will attempt to attend the Cx.'s forthcoming court hearing.

<b>CPRB CASE NO. INVESTIGATOR</b>	<b>ALLEGATION(S)</b>	<b>SUMMARY</b>	<b>RECOMMENDATION</b>	<b>RATIONALE</b>
266-12-ED/ GAMBLE/CARSON/BRIDGETT	Use of Force (PBP 12-6, 3.1) Discharge of Firearms (PBP 12-7, 4.3) Incompetency (PBP 16-1, 3.12) Neglect of Duty (PBP 16-1, 3.13)	On 11/12/12, the Executive Director ordered an inquiry about an incident that occurred on 11/11/12.	AUTHORIZED SUSPENSION  UNTIL THE JUNE MEETING  GUERCIO/HUGHES 5-0	Pending the Victim's lawyer's release to communicate with the Investigator.
<b>OTHER (0)</b>				



MEMORANDUM

**To:** Dr. Emma Lucas-Darby, Chair  
Honorable Members of the Board

**From:** Elizabeth C. Pittinger  
Executive Director

**Date:** May 23, 2017

**Re:** Executive Director's Report: 05/23/17

Suite 400  
816 Fifth Avenue  
Pittsburgh PA 15219

412-765-8023 (Voice)  
412-765-8059 (Fax)  
cprb@pittsburghpa.gov



Intake Summary through 05/23/17

Citizen Complaints:	14	Pending Citizen Action	85	EDI:	04	Total Intake:	129
Out of Jurisdiction:	16	Statute of Limitation:	04	General Service:	06		
(Actual Totals for 2016:	CC: 34;	PCA: 150;	OJ: 23;	SL: 04	EDI: 08	Total:	219)
(Actual Totals for 2015:	CC: 41;	PCA: 179;	OJ: 23;	SL: 03	EDI: 07	Total:	253)
(Actual Totals for 2014:	CC: 61;	PCA: 219;	OJ: 12;	SL: 02	EDI: 05	Total:	299)
(Actual Totals for 2013:	CC: 73;	PCA: 224;	OJ: 32;	SL: 07	EDI: 05	Total:	341)
(Actual Totals for 2012:	CC: 49;	PCA: 194;	OJ: 23;	SL: 06	EDI: 01	Total:	273)
(Actual Totals for 2011:	CC: 38;	PCA: 215;	OJ: 18;	SL: 09	EDI: 02	Total:	282)
(Actual Totals for 2010:	CC: 79;	PCA: 221;	OJ: 30;	SL: 05	EDI: 01	Total:	336)
(Actual Totals for 2009:	CC: 80;	PCA: 380;	OJ: 18;	SL: 09	EDI: 05	Total:	490)
(Actual Totals for 2008:	CC: 66;	PCA: 288;	OJ: 45;	SL: 05	EDI: 03	Total:	412)
(Actual Totals for 2007:	CC: 71;	PCA: 227;	OJ: 65;	SL: 08	EDI: 10	Total:	425)
(Actual Totals for 2006:	CC: 76;	PCA: 280;	OJ: 85;	SL: 09	Total:	450)	
(Actual Totals for 2005:	CC: 59;	PCA: 284;	OJ: 70;	SL: 18	Total:	431)	
(Actual Totals for 2004:	CC: 61;	PCA: 352;	OJ: 62;	SL: 14	Total:	489)	
(Actual Totals for 2003:	CC: 61;	PCA: 380;	OJ: 66;	SL: 20	Total:	527)	
(Actual Totals for 2002:	CC: 75;	PCA: 330;	OJ: 83;	SL: 26	Total:	514)	
(Actual Totals for 2001:	CC: 77;	PCA: 362;	OJ: 87;	SL: 11	Total:	537)	
(Actual Totals for 2000:	CC: 75;	PCA: 394;	OJ: 92;	SL: 30	Total:	590)	
(Actual Totals for 1999:	CC: 80;	PCA: 383;	OJ: 27;	SL: 11	Total:	501)	

1) Pending matters:

- a) #70-15 Sorock v. Gardner and #72-16 Crawley v. Lippert: Both public hearings are continued pending resolution of disputes related to the subpoenaed appearance & testimony of involved police officers.
  - i) A motion to enforce the subpoena in #70-15 was heard by Judge McVay on 5/15/17 at 1:30 in Rm. 703 CCB.
  - ii) The Court granted the motion to enforce the CPRB subpoena and ordered the officers to appear & testify and went further by declaring agreement with prior Court decisions that Section 21-C of the Working Agreement between the FOP and the City of Pittsburgh did not apply to the CPRB as the CPRB is not an agent of the City.
  - iii) A motion to enforce the subpoena issued in #72-16 is pending.

2) Board Terms

- a) The following Board terms will expire on 10/31/2017:
  - i) Seat #2 (CC): Ms. Karen McLellan was appointed to complete the term vacated by Ms. Deborah L. Walker, LEP. Ms. McLellan was retained by ordinance provision to serve the term expiring 10/31/17.
  - ii) Seat #4 (CC): Dr. Mary Jo Guercio was appointed on 1/26/16 to complete the term vacated by Mr. Paul Homick.
  - iii) Seat #5 (M): Sr. Patrice Hughes was appointed on 7/26/16 to complete the term vacated by Ms. Leshonda Roberts.
- b) The Chair is required to provide notice to the public 180 days in advance of the expirations. Accordingly, public notices were published on 5/3/2017.
- c) The Chair is required to provide notice to the Mayor, City Council, City Solicitor, City Clerk and CPRB Members 150 days in advance of the expirations, which is by 6/3/17.

3) Solicitor

- a) We are seeking a warrant to make final payment to ClarkHill for the services rendered by Atty. Elizabeth Collura as our Solicitor through 3/31/2017, ending our contract with ClarkHill.
- b) Judge William F. Ward appeared as substitute counsel on behalf of the Board in Court proceedings that were underway at the time of Atty. Collura's departure. Pursuant to the Board's directive in April, we will proceed to seek City Council's authorization to enter into a professional service agreement with Judge Ward to serve as CPRB Solicitor.

4) Federal Mediation Training

- a) The first session of mediation training provided by Commissioners of the Federal Mediation & Conciliation Service was conducted on 4/27/17. Mr. Waters and our staff participated. Session two is scheduled on 5/31/17, 12-4 pm.

5) Southside Incident 5/7/17 around 2:00 am

- a) An incident involving PO Raymond Toomey's use of force against Mr. Nathan Stanley III on Carson Street created controversy after a passerby posted video of the encounter. In the video Mr. Stanley is shown prone on the sidewalk overhanging the curb with hands visible, an officer with hands on Stanley's back and an officer identified as Toomey is seen coming around Stanley's head proceeding to kick Stanley's head/face. Since this initial video was released,

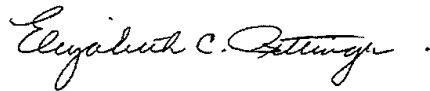
additional photos & video have emerged. One such photo shows Mr. Stanley against a pole with his knee appearing to be in the groin area of an officer and his left hand appearing to be grasping the officer's neck.

- b) An Executive Director's inquiry was opened however the District Attorney's office announced that they were investigating whether PO Stanley's kicking of Mr. Stanley's head was a reasonable use of force. Accordingly we will step back until the DA's investigation is completed and if charges are filed against PO Toomey until the disposition of those charges is final. (As required by the City Code)

6) Miscellaneous

- a) NIJ Research Project: we have inventoried every complaint & allegation filed with the Board since 1998. Verifying dispositions of allegations is underway. Upon completion, a summary report will be produced for the Board and public.
- b) Post-Gazette Editorials:
  - i) 5/2/17: Let Police-Review Work. The City & officers cannot stonewall the CPRB
  - ii) 5/4/17: Publish the policies: City police should share standards with the public.
- c) 5/9/17: Pittinger appeared as a guest with Chris Moore, PCNC.
- d) 5/20/17: Marks the 20<sup>th</sup> anniversary of the referendum amendment to the Home Rule Charter that created the CPRB.
- e) 5/22/17: Federal criminal trial opened for former PBP Sgt., Steve Matakovich. Mr. Matakovich was terminated from employment as a Pittsburgh police officer in February 2016. However, the results of this trial and a potential state trial could affect his eligibility to be reinstated. Investigator Gamble is attending.

Respectfully submitted,



05/23/17

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: PITTSBURGH CITIZEN POLICE  
REVIEW BOARD

No. GD-17-005935

FILED  
COURT OF COMMON PLEAS  
ALLEGHENY COUNTY  
PITTSBURGH, PA  
MAY 23 2017  
J.P.H.

ORDER OF COURT

AND NOW, to wit, this 23<sup>rd</sup> day of May, 2017, upon consideration of this foregoing Motion to Enforce Compliance with subpoena filed by the Citizen Review Board,

IT IS HEREBY ORDERED AND DECREED that said Motion is GRANTED.

IT IS HEREBY FURTHER ORDERED AND DECREED that the subject, Pittsburgh City Police Officer, Matthew Gardner No. 4258, Pittsburgh City Police Officer Nicholas Papa No. 4190 and Pittsburgh City Police Officer Christopher Rosato No. 4178 shall appear at the public hearing in CPRB case No. 70-15 of the Citizen Police Review Board on the date of its resumption, be sworn to tell the truth under oath, assume the witness stand and respond to questions on a question by question basis. All Officers shall answer each question or, if he refuses to answer any question, assert a valid legal basis for such refusal to answer the question.

This court rejects the respondent police officers' argument that the City of Pittsburgh Review Board is an agent of the City of Pittsburgh and is subject to Section 21-C of the working agreement between the City of Pittsburgh and the F.O.P Fraternity Pittsburgh Lodge No.1 which

states in relevant part "No police officer shall be compelled by the city to be interviewed by and/or testify before the CPRB".

The issue was disposed of by the Commonwealth Court in Citizen Police Review Board of the City of Pittsburgh v. Thomas Murphy et al 819 A2d 1216 (Pa. Commonwealth 2003). The court held "Additionally, we concur with the Trial Court's dismissal of the CPRB's argument that it should be considered a "lawfully authorized agent of official city business" and as such, be a party to negotiations with the FOP. As the Trial Court correctly observed, the **CPRB proffers no authority that would warrant considering it to be an agent of the city**, nor an employer within the meaning of the act III'. Additionally, the intent of the ordinance creating the CPRB was to establish an independent, credible investigative board which provides equitable procedures for both citizens and police personnel for investigating citizen's complaints of police misconduct. See City Ordinances §661.02, 661.03 (Ord. 29-1997 8-15-97).

The Order of Court dated May 18, 2017, is hereby vacated.

Failure to comply with this Order shall be punishable as a Contempt of Court

BY THE COURT,

A handwritten signature in black ink, appearing to read "John M. ...", written over a horizontal line. The signature is stylized and cursive.

## Let police review work: The city and officers cannot stonewall the CPRB

May 2, 2017 12:00 AM

By the Editorial Board

Their job is to protect and serve, not stonewall. So it is disconcerting that three Pittsburgh police officers have refused to testify before the Citizen Police Review Board, which is investigating why a suicidal woman was taken to the Allegheny County Jail instead of to mental health treatment in March 2015.

Rayden Sorock of Lawrenceville called 911 to report that the woman, who had a history of mental health issues, was threatening to harm herself with a scalpel. Mr. Sorock said Officer Matthew Gardner, one of the three officers who responded to the call, told him the woman would be taken for psychiatric help. Instead, she ended up at the Allegheny County Jail, charged with threatening the officers.

Rightly upset with that outcome, Mr. Sorock filed a complaint with the CPRB. To find out what happened, the CPRB subpoenaed Officer Gardner and the two other officers, Nicholas Papa and Christopher Rosato, involved in the call. The CPRB identified Officer Gardner as the subject of the complaint and the other two as witnesses.

Officer Gardner did not show up at the CPRB's Jan. 26 hearing, while Officers Papa and Rosato appeared but declined to testify. Citing a provision in its contract, the police union claims the officers have no obligation to answer the CPRB's questions. However, the CPRB is going to court May 15 to try to force the their testimony, claiming previous rulings require the officers' cooperation.

This is one of two cases in which officers now are refusing to face the CPRB's questions. Elizabeth Pittinger, CPRB executive director, said the second case involves a complaint about police making an inaccurate report about a traffic accident.

It is disheartening that police officers, who rely on the public's cooperation to solve crimes, would shirk an opportunity to help another investigative agency resolve a complaint. As witnesses, Officers Papa and Rosato should have no qualms about testifying.

As the subject of the complaint, Officer Gardner's reluctance is more understandable. But this is no excuse for his failing to appear at the hearing. If questioned, he would have had a right to avoid self-incrimination.

The officers' handling of the call bears scrutiny. Officer Gardner had special training for responding to calls involving mental illness; he should have known that treatment, not jail, is the preferred course of action in these cases. The officers' refusal to cooperate undercuts Mayor Bill Peduto's efforts to improve police-community relations, including the recent launch of a pilot program dedicating a beat officer to each of 18 communities.

City officials last week refused to immediately give the Post-Gazette copies of police bureau policies that could have shed more light on how officers should have handled the call. The law department wants to review police policies before releasing them to make sure strategies and tactics aren't publicized. But the bureau already should have a publicly available version of its policy manual. It's ridiculous to have to have to wait for something as simple as a policy statement.

Officer Robert Swartzwelder, the police union president, noted that allegations of police conduct also are reviewed by the city Office of Municipal Investigations and the police bureau's Office of Professional Standards. That, he said, means people unhappy with the police can "shop and get the result that they're seeking."

Not really. The CPRB, nearly 20 years old, is an independent agency established to investigate police misconduct. It does not have the authority to discipline officers, only make recommendations regarding personnel and policy. It serves a critical role — one that may be more respected if the CPRB gets a new order next month enforcing its subpoenas.

## Publish the policies: City police should share standards with the public

May 4, 2017 12:00 AM

THE EDITORIAL BOARD / Pittsburgh Post-Gazette

Mayor Bill Peduto and the police brass should have been embarrassed last year when a national report listed Pittsburgh as one of three cities in the study that hadn't put their policies on officer body cameras in the public domain. But they weren't chastened. Asked by the media to release the policy, the bureau declined.

"Right now, we're under a policy where we don't do that with our policies," Cmdr. Ed Trapp said at the time.

How progressive. The bureau's illogical recalcitrance came to the fore again last week when city officials declined to release two policies that could shed light on how an officer at the center of a misconduct complaint might have better handled a call about a suicidal woman.

The policies concerned standards of conduct and the handling of calls involving mental illness. Instead of immediately turning over the information, as it should have done, the bureau told the Post-Gazette to file a right-to-know request so the law department could vet the policies to make sure providing them wouldn't divulge police strategies and tactics, giving criminals an edge.

It's difficult to see how releasing information about the police bureau's standards of conduct would aid and abet the criminal element. It's highly unlikely that most policies contain anything that would compromise police work.

Here's what Elizabeth Pittinger, executive director of the independent Citizen Police Review Board, said last year about the city's refusal to provide the body camera policy: "It's ridiculous. Those policies and procedures provide administrative guidance. There's no strategic advantage to knowing what's in those orders. It's not going to defeat a law enforcement action. It's basic guidance for police officers in Pittsburgh."

Even so, the city was supposed to be putting together a public version of its police manual. "Currently, the police bureau's policy manual is intermingled with its procedural manual — police protocol has long been



not to release the manuals due to fears that releasing police procedures would jeopardize officer safety,” mayoral spokesman Tim McNulty said in an email last year. “That is going to change,” he added, noting then-Chief Cameron McLay and his staff “are currently working on separating the language so that policies can be made public, while procedures are kept private.”

Chief McLay left the city last fall. But the manual has not been completed.

Secrecy is not the way to improve police-community relations or build confidence in the police bureau, and the low priority assigned to developing a public version of the manual speaks volumes.

Mr. Peduto should direct his law department and the police bureau to develop a process for putting police policies online.

The public has a right to know how the police bureau operates. Acknowledgment of that ought to be included in the manual.