

CPRB CASE REVIEW AGENDA 10/22/19 FINAL

CPRB CASE No. INVESTIGATOR	ALLEGATION(S)	SUMMARY	RECOMMENDATION	RATIONALE
FULL INVESTIGATION (9)				
192-19 Ellwood	Conduct toward the public (16-1. 3.7) Conduct unbecoming a member (16-1. 3.6) Incompetency (16-1 3.12) Truthfulness (16-1 3.19) Investigative operations: eyewitness identification procedures (43-17, 2.1.8, 3.12, 3.13, 4.2, 4.5, 9.11, 9.14	Cx states that SO failed to conduct a proper investigation	Authorized full investigation	Preliminary evidence suggests to continue investigation
159-19 Ellwood	Conduct toward the public 16-1 (3.7)	Cx alleges that SO was rude and unprofessional with him in the conduct of his duties	Authorized full investigation	Preliminary evidence suggests to continue investigation
156-19 Ellwood	Law enforcement code of ethics 10-01 (2.2, 2.3) Conduct unbecoming a member 16-1 (3.6) Conduct toward the public 16-1 (3.7) Truthfulness 16-1, (3.19) Withholding information 16-1 (3.44) Neglect of duty 16-1- (3.13) Crash response and investigation reports 41-3 (3.3)	Cx alleges that SO#1 ran a stop sign, ignored direction from her as the safety flagger for the site, and hit her with their vehicle causing serious bodily injury.	Authorized full investigation	Preliminary evidence suggests to continue investigation
147-19 Gamble/ Ellwood	Unbiased policing 11-3 (4.1) Conduct unbecoming a member 16-1 (3.6) Conduct toward the public 16-1 (3.7) Truthfulness 16-1, (3.9) Towing & tow pound procedures 41-4.01 (2.2) & 41-01.4 (2.0)	Cx alleges the SO illegally towed his vehicle and has harassed him with numerous citations.	Authorized full investigation	Preliminary evidence suggests to continue investigation

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146-19 Bridgett	Conduct unbecoming a member 11-3 (4.1) conduct towards the public 16-1 (3.7) Neglect of duty 16-1 (3.9)	The Cx alleges the SO failed to properly investigate an incident and acted inappropriately towards him.	Authorized full investigation	Preliminary evidence suggests to continue investigation
128-19 BRIDGETT	Conduct unbecoming a member/employee 11-3 (4.1) Neglect of duty 16-1 (3.9) reports	The Cx alleges that the SO would not take a report after she called 911.	Authorized full investigation	Preliminary evidence suggests to continue investigation
58-19 Bridgett	Conduct unbecoming a member 16-1 (3.6) Conduct towards the public 16-1 (3.7) truthfulness 16-1 (3.19) Motor vehicle stops 40-4 (3.2) Warrantless searches & seizures 45-2 (5.1)	The Cx states the SO pulled him over on 4/1/19 for driving erratically which he denies	Authorized Full Investigation	Preliminary evidence suggests to continue investigation
38-19 Bridgett	Conduct unbecoming a member 16-1 (3.6) Conduct towards the public 16-1 (3.7) Truthfulness 16-1 (3.9) Motor vehicle stops 40-4 (3.2) 5) Use of force 12-6 (3.1)	The Cx alleged that he was pulled over by four plainclothes narcotics detectives who accused him of running through two stop signs.	Authorized full investigation	Preliminary evidence suggests to continue investigation
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30 DAY EXTENSION OF FULL INVESTIGATION (3)				
095-19 Bridgett	Conduct unbecoming a member 16-1 (3.6) Incompetency 16-1 (3.12) Neglect of duty 16-1 (3.9)	Cx alleges that the SO wrongfully arrested him for an incident at a bar.	Authorized 30 day extension	More information is needed for investigation
094-19 Bridgett	Motor vehicle stops 40-04 Unbiased policing 11-3(4.1)	Witness #1 alleges that multiple Zone 1 officers are constantly stopping the Victim without probable cause to stop him.	Authorized 30 day extension	More information is needed for investigation

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263-18 Ellwood/ Gamble	Unbiased policing 11-3,(4.1) conduct unbecoming a member 16-1 (3.6) Neglect of duty 16-1 (3.13) Police response to domestic violence 40- 12	Cx alleges the Subject Officer failed to respond properly to her domestic violence call.	Authorized 30 day extension	More information is needed for investigation
UNSUSTAINABLE (3)				
193-17 Gamble	Use of force 12-6 (3.1) Conduct unbecoming a member 16-1 (3.6) Conduct towards the public 16-1 (3.7) Neglect of duty 16-1 (3.13) Reports 40-19 (5.1) Warrantless search & seizures 45-2 (5.1)	Complainant alleges 3 incidents have taken place at her residence where the PBP officers have acted inappropriately.	Dismissed as unsustainable	Investigator is unable to sustain the cx's allegations
053-19 Bridgett	Use of force 12-6 (3.1) Conduct unbecoming a member 16-1 (3.6) Conduct toward the public 16-1 (3.7)	Cx alleges the so was aggressive during a traffic stop.	Dismissed as unsustainable	Investigator is unable to sustain the cx's allegations
36-19 Gamble	Conduct unbecoming a member 16-1 (3.6) Conduct towards the public 16-1 (3.7) Truthfulness 16-1 (3.9) Motor vehicle stops 40-4 (3.2)	Cx alleges the so was inappropriate during a traffic stop and would not give his name and badge number.	Dismissed as unsustainable	Investigator is unable to sustain the cx's allegations
UNFOUNDED (2)				
137-19 Gamble	Conduct unbecoming a member 16-1 (3.6) neglect of duty 16-1 (3.13)	Cx alleges the SO neglected his duty by failing to file harassment charges against Witness #1.	Dismissed as unfounded	The available evidence does not support the allegations.
131-19 Gamble	Unbiased policing 11-3 (4.1) conduct unbecoming a member 16-1 (3.6)	Cx. alleges the SO has been harassing her by following her for the past several years for unknown reasons	Dismissed as unfounded	The available evidence does not support the allegations.

CPRB CASE NO. INVESTIGATOR	ALLEGATION(S)	SUMMARY	RECOMMENDATION	RATIONALE
New Suspensions (1)				
102-19 Ellwood/ Gamble	Conduct Unbecoming A Member 16-1 (3.6) Conduct Towards The Public 16-1 (3.7) Neglect Of Duty 16-1 (3.13)	Cx alleges the SO neglected His duties when responding to a 911 call for harassment at a park.	Authorized suspension until December 2019 meeting	More time is needed for the investigation.
OTHER (2)				
069-19 Bridgett	Conduct unbecoming a member or employee, 16-1, 3.6; 3 Conduct toward the public 16-1, 3.07	The Cx states that the SO harassed him while he was walking on Carson Street on the South Side.	Authorized to withdraw	Cx stated that he spoke with the SO at length and felt good about the conversation. He no longer wants to pursue the complaint.
065-19 Bridgett	16-1(3.06) CONDUCT UNBECOMING, 16-1(3.07) CONDUCT TOWARD THE PUBLIC 41-04.01 TOWING PROCEDURES	The Cx alleges that the Victim's vehicle was parked across the street from their house and was towed by the SO without warning	Authorized to withdraw	Cx stated that he had a meeting with the SO and a representative from the Law Department and he is satisfied with the outcome. Cx no longer wants to pursue the complaint

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MEMORANDUM

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

From: Elizabeth C. Pittinger
Executive Director

Date: October 22, 2019

Re: Executive Director's Report: 10/22/19

Suite 400
816 Fifth Avenue
Pittsburgh PA 15219

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



Citizen Complaints: 33	Pending Citizen Action 146	EDI: 04	Total Intake: 209
Out of Jurisdiction: 15	Statute of Limitation: 00	General Service: 09	

(Actual Totals for 2018:	CC: 53; PCA: 179; OJ: 19; SL: 04	EDI: 09	GS: 09	Total: 273)
(Actual Totals for 2017:	CC: 39; PCA: 198; OJ: 41; SL: 05	EDI: 07		Total: 290)
(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)

1. CPRB Investigator: David J. Ellwood

Investigator Ellwood joined the team on September 16, 2019. Mr. Ellwood was awarded his Bachelor of Philosophy from the University of Pittsburgh and a Master of Education from the University of Maryland. He served in the US Marine Corps, Military Police, Okinawa, which included service as Officer in Charge, Special Projects Officer, Force Protection/Anti H Terrorism Officer and Camp Damage Control Office. Among his duties was that of investigating questionable conduct of Marines, which he analyzed and made recommendations to the chain of command. His service with the USMC and Reserve is documented with numerous service awards. He is an accomplished teacher whose career has included being a classroom teacher, Instructional Lead Teacher and progressive administrative duties in Prince George's County MD. Mr. Ellwood is a tremendous asset to our investigative unit and has already demonstrated his exceptional skills related to performing comprehensive investigations.

2. Allegheny Countywide Police Review Board

- a. 8/27/19: County Council voted against the creation of a countywide review board, 9-6.
- b. Proponents have expressed confidence that new members supportive of the proposal will be elected in November and seated in January.

3. PA medical marijuana

- a. Act 16 of 2016 legalized the use of marijuana for medicinal purposes.
- b. Questions continue to emerge as to the use of medical marijuana and potential employment consequences, public safety exposures, driving/DUI, firearm possession & control and conflicts with federal law.
- c. Marijuana is classified as a controlled substance under federal law and Pennsylvania law. In 2018, AG Sessions directed US Attorneys to return to prosecution of marijuana related crimes.
- d. In Pennsylvania the MV Code has not changed. If a medical card holder is driving a vehicle and demonstrates impairment, they can be charged with a DUI.
- e. In Pennsylvania, holders of medical marijuana cards are permitted to ingest marijuana in edible form or through vaporization, nebulization, pill, liquid, gels, lotions, wax, tinctures, oils, but it is not permissible to smoke it. A medical card holder who smokes marijuana loses the protection of the card for possession & smoking marijuana.
- f. Excerpts of information illustrating restrictions & conflicts are attached.
- g. Recently it was disclosed that a PBP Officer had been on extended leave because he used marijuana and obtained a medical marijuana card. It would seem that a police officer is precluded from using marijuana in any form due to its federal classification as a controlled substance and subsequent disability to possess & control a firearm. Additionally, if an individual requires medical marijuana to relieve symptoms of a condition, the issue of fitness for duty arises as do the prohibitions under Sec. 510 of the Act.

4. Solicitor's Contract

- a. Our contract with Mr. Ward will expire on 12/31/19.
- b. Does the Board wish to retain Mr. Ward or solicit bids for a new solicitor?

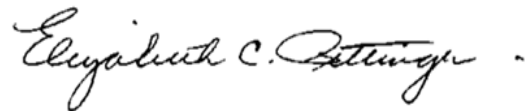
5. Authorization to travel

- a. NACOLE is holding its final 2019 Regional Training & Networking session on 11/15/19. Pittinger was invited to participate on a panel discussing the Review Board Model of oversight. The event will convene at the George Washington Law School, 716 20th St NW, Rooms 401 & 402, Washington, DC 20052
- b. Does the Board authorize Pittinger to travel?

6. Miscellaneous

- a. 9/10/19: attended the Public Safety Committee of Zone 5
- b. 9/19/19: met with the Duquesne City Review Board & assisted with their organizational efforts.
- c. 10/14/19: participated in a panel at an event hosted by the Human Relations Commission and Human Rights Group: Human Rights & the Criminal Punishment System. This event was part of the local coalition's Universal Periodic Review (UPR) Report to be sent to the United Nation.

Respectfully submitted,

A handwritten signature in cursive script, reading "Elizabeth C. Settegrano".

10/22/19

Attachments (4)

Section 510. Prohibitions.

The following prohibitions shall apply:

(1) A patient may not operate or be in physical control of any of the following while under the influence with a blood content of more than 10 nanograms of active tetrahydrocannabinis per milliliter of blood in serum:

(i) Chemicals which require a permit issued by the Federal Government or a state government or an agency of the Federal Government or a state government.

(ii) High-voltage electricity or any other public utility.

(2) A patient may not perform any employment duties at heights or in confined spaces, including, but not limited to, mining while under the influence of medical marijuana.

(3) A patient may be prohibited by an employer from performing any task which the employer deems life-threatening, to either the employee or any of the employees of the employer, while under the influence of medical marijuana. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

(4) A patient may be prohibited by an employer from performing any duty which could result in a public health or safety risk while under the influence of medical marijuana. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

Firearms Information

The Pennsylvania State Police Firearms Division is part of the Bureau of Records and Identification and is charged with maintaining records related to firearms licensing and transfers.

The Firearms Division also operates the [Pennsylvania Instant Check System \(PICS\)](#), which is used by firearms dealers to verify an applicant's eligibility to legally purchase a firearm in just a few minute's time.

Information for Medical Marijuana Cardholders:

It is legal under Pennsylvania law for the holder of a validly issued patient Medical Marijuana Card to possess approved forms of medical marijuana. However, as per the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE), the possession of medical marijuana remains a violation of federal law, and possession of a valid Medical Marijuana Card and/or the use of medical marijuana makes you an "unlawful user of or addicted to any controlled substance" who is prohibited by federal law from the purchase or acquisition, possession, or control of a firearm pursuant to 18 U.S.C. § 922(g)(3), and 27 C.F.R. § 478.32(a)(3).

The BATFE's position is set forth in its September 21, 2011, Open Letter to all Federal Firearms Licensees, which states in part that "[t]herefore, any person who uses or is addicted to marijuana, regardless of whether his or her State has passed legislation authorizing marijuana use for medicinal purposes, is an unlawful user of or addicted to a controlled substance, and is prohibited by Federal law from possessing firearms or ammunition." [Click here for a copy of the Open Letter.](#)[Opens In A New Window](#) Likewise, the mere possession of a Medical Marijuana Card will give rise to an inference that you are an "unlawful user of or addicted to" a controlled substance, pursuant to 27 C.F.R. § 478.11.

Therefore, it is also unlawful for you to apply for, possess or renew a Pennsylvania License to Carry Firearm (LTC), because you are "[a]n individual who is prohibited from possessing or acquiring a firearm under the statutes of the United States." (Pennsylvania Consolidated Statutes Chapter 18, Section 6109(e)(1)(xiv).

JUSTICE NEWS

Department of Justice
Office of Public Affairs

FOR IMMEDIATE RELEASE

Thursday, January 4, 2018

Justice Department Issues Memo on Marijuana Enforcement

The Department of Justice today issued a memo on federal marijuana enforcement policy announcing a return to the rule of law and the rescission of previous guidance documents. Since the passage of the Controlled Substances Act (CSA) in 1970, Congress has generally prohibited the cultivation, distribution, and possession of marijuana.

In the memorandum, Attorney General Jeff Sessions directs all U.S. Attorneys to enforce the laws enacted by Congress and to follow well-established principles when pursuing prosecutions related to marijuana activities. This return to the rule of law is also a return of trust and local control to federal prosecutors who know where and how to deploy Justice Department resources most effectively to reduce violent crime, stem the tide of the drug crisis, and dismantle criminal gangs.

"It is the mission of the Department of Justice to enforce the laws of the United States, and the previous issuance of guidance undermines the rule of law and the ability of our local, state, tribal, and federal law enforcement partners to carry out this mission," said Attorney General Jeff Sessions. "Therefore, today's memo on federal marijuana enforcement simply directs all U.S. Attorneys to use previously established prosecutorial principles that provide them all the necessary tools to disrupt criminal organizations, tackle the growing drug crisis, and thwart violent crime across our country."

Attachment(s):

[Download Marijuana Enforcement 1.4.18](#)

Component(s):

[Office of the Attorney General](#)

Press Release Number:

18-8

Updated January 4, 2018

§ 3802. Driving under influence of alcohol or controlled substance.

(a) General impairment.--

(1) An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the individual is rendered incapable of safely driving, operating or being in actual physical control of the movement of the vehicle.

(2) An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is at least 0.08% but less than 0.10% within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(b) High rate of alcohol.--An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is at least 0.10% but less than 0.16% within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(c) Highest rate of alcohol.--An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is 0.16% or higher within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(d) Controlled substances.--An individual may not drive, operate or be in actual physical control of the movement of a vehicle under any of the following circumstances:

(1) There is in the individual's blood any amount of a:

(i) Schedule I controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act;

(ii) Schedule II or Schedule III controlled substance, as defined in The Controlled Substance, Drug, Device and Cosmetic Act, which has not been medically prescribed for the individual; or

(iii) metabolite of a substance under subparagraph (i) or (ii).

(2) The individual is under the influence of a drug or combination of drugs to a degree which impairs the individual's ability to safely drive, operate or be in actual physical control of the movement of the vehicle.

(3) The individual is under the combined influence of alcohol and a drug or combination of drugs to a degree which impairs the individual's ability to safely drive, operate or be in actual physical control of the movement of the vehicle.

(4) The individual is under the influence of a solvent or noxious substance in violation of 18 Pa.C.S. § 7303 (relating to sale or illegal use of certain solvents and noxious substances).