



## CITIZEN POLICE REVIEW BOARD

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FINAL  
4/23/19

### Minutes of the Regular CPRB Meeting Held on March 26, 2019 (Mtg. No. 214) Allegheny Center Alliance Church

250 E. Ohio Street  
Pittsburgh, PA 15212  
Neighborhood: North Side

Video of the meeting: <https://cprbpggh.org/2455>

<p>Members Present:</p> <p>Mr. Thomas C. Waters Assistant Chair Dr. Mary Jo Guercio Ms. Karen McLellan Mr. Elwin Green</p> <p>Solicitor William F. Ward</p> <p>Staff Present:</p> <p>Ms. Elizabeth C. Pittinger, Exec. Director Ms. Sherri Bridgett, Investigator Ms. Michelle Gamble, Investigator</p>	<p>Excused:</p> <p>Dr. Emma Lucas-Darby Chair Sr. Patrice Hughes, SCSH Mr. Sheldon Williams</p> <p>Vacancy: None</p> <p>Excused staff:</p> <p>Ms. Stephanie Dorman, Asst. Exec. Director Mr. Michael Ayoob, Intake Coordinator</p>
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Mr. Waters, Vice Chair, called the meeting to order at approximately 6:15 p.m.

Mr. Waters recognized the excused absent members, Dr. Lucas-Darby, Sr. Patrice Hughes and Mr. Williams.

Mr. Waters called for a motion to approve the minutes of the regular Board meeting conducted on February 26, 2019. A motion to approve the 2/26/19 board meeting minutes was offered by Ms. McLellan, seconded by Dr. Guercio and approved unanimously.

The entire meeting may be viewed here: [Independent CPRB Meeting 3/26/19](#)

#### Opening remarks by Chair

Mr. Waters announced that in the absence of Dr. Lucas-Darby, Chair, he was chairing the meeting but would present a personal statement expressing his perspective on the current climate in the City of Pittsburgh. Mr. Waters' statement is attached in its entirety.

Mr. Waters announced that there was no report from the Chair and public comment would be received after the Case Review was completed. Mr. Waters recognized the Executive Director to deliver her report.

## Executive Director's Report

### Current affairs

On June 19, 2018, Antwon Rose was shot fatally by East Pittsburgh Police Officer Michael Rosfeld. Rosfeld was charged with murder and found not guilty by a Jury on March 22, 2019. The incident in June fueled much discussion, demonstrations and public policy meetings. The trial was conducted March 19 through March 22, 2019. Following the verdict, public discussion resumed and focused on three areas:

1. Police officers' use of force
2. Police officer training
3. Police officer conduct

Regarding police officers' use of force, Pittinger provided an excerpt from the PA Code (Title 18, Crimes & Offenses, §508 (a) Elements of Justification):

**§ 508. Use of force in law enforcement.**

**(a) Peace officer's use of force in making arrest.--**

(1) A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he believes to be necessary to effect the arrest and of any force which he believes to be necessary to defend himself or another from bodily harm while making the arrest. *However, he is justified in using deadly force only when he believes that such force is necessary to prevent death or serious bodily injury to himself or such other person, or when he believes both that:*

*(i) such force is necessary to prevent the arrest from being defeated by resistance or escape; and*

*(ii) the person to be arrested has committed or attempted a forcible felony or is attempting to escape and possesses a deadly weapon, or otherwise indicates that he will endanger human life or inflict serious bodily injury unless arrested without delay.*

It is the italicized provision that is controversial and is the object of legislative discussions seeking to amend the provision authorizing deadly force. Note that 508(a)(1)(i) & (ii) are conjunctive, not disjunctive. Current discussion suggests that the provision should authorize deadly force only as a last resort after demonstrable efforts to gain control with less lethal tactics have failed.

The US Supreme Court established constitutional rules for the use of deadly force in [Graham v. O'Connor](#) and [Tennessee v. Garner](#). The Court applied the "objective reasonableness" test which requires analysis of a force incident from the perspective of a "reasonable officer" standard, not a "reasonable person" standard. Tennessee v. Garner decided that it was not always permissible to use deadly force to stop a fleeing felon but must be "necessary" to protect life.

Regarding police officer training, Pittinger redistributed recommendations offered in July 2018 at the Public Hearing on Law Enforcement Training & Diversity Education convened by the Joint Senate and House Democratic Policy committees. Among legislative initiatives being considered

are directing the MPOETC to develop new use of force policy and require all municipal police departments to develop a local policy or adopt the MPOETC policy.

Regarding police conduct, legislative initiatives include development of a database designed to capture benchmarks in a police officer's career including police employment history, disciplinary events, criminal charges & disposition, civil liabilities incurred, and other information that would be valuable to a prospective police employer. Pittinger opined that the issue of improving employment compensation and eliminating employment of police officers on a part-time basis should be considered as related stress on underpaid and/overworked police officers can be significant and exert potentially dangerous influences on police conduct.

Additionally, Pittinger noted that police officers are not trained to the competence necessary to manage the multi-dimensional problems they confront. Much the same as teachers, we expect police to solve problems beyond their expertise. Accordingly, communities should scaffold the occupation and assure police have the tools necessary to do their job safely & effectively.

Under Dr. Lucas-Darby's guidance at the School of Social Work, Univ. of Pittsburgh, there is under consideration the development of a training path focusing on a partnership between police & professional social workers. Some models include embedding social workers with patrol officers; other models centralize social services within the police department & intervene on referral. The PBP is exploring models and currently has a MSW working with their planning.

Another popular idea is the creation of a "Special Prosecutor" to be appointed by the Attorney General of Pennsylvania or the local District Attorney. The CPRB collaborated with a coalition of community representatives to develop a proposal, "Due Process Act", which calls for an amendment to the Commonwealth Attorney Act to be invoked upon the death of an individual caused by the use of force by a police officer or correctional officer. The goal of this and similar proposals offered by Legislators is to remove an actual or perceived conflict of interest between the District Attorney and local officers. DA Zappala issued a letter supporting the Due Process Act proposal provided that both investigation & prosecution would be conducted by the Special Prosecutor.

### **Public Safety Councils**

The Department of Public Safety sponsors a Public Safety Council in each of the Police Zones. Mr. Waters has suggested that we offer a presentation of the role & function of the Independent CPRB. We have reached out & offered to provide an informational presentation. On 3/18/19, the Zone 3 Public Safety Council hosted us and OMI for presentations. The Citywide Public Safety Councils Meeting is scheduled on 4/17/19 at Teamster Temple. Pittinger will attend. Additional Zone Council meetings are scheduled through the summer.

### **Human Relations Commission/Informational Presentation**

The HRC is considering the sponsorship of a public information session related to policing and discriminatory practices. It might be enhanced if the Independent CPRB participates as a co-sponsor.

Similarly, a retired police officer expressed to Pittinger an interest in convening a session on the technical legal aspects of policing. Pittinger will advise the Board as these ideas progress.

### **Intake Update**

56 complaints have been filed in 2019 as of March 25, 2019.

Mr. Michael G. Ayoob, our Intake Coordinator for the last 12 years, has accepted a position with the Federal Courts as a Case Administrator. With extraordinary competence and fortitude, in addition to being the CPRB gatekeeper, Mr. Ayoob developed and administered our database, case management and retention system. He will be missed terribly but this is a tremendous opportunity for him and we are certain he will become an invaluable asset to the Court system. His service concludes on Friday, April 5, 2019. Good luck Mike!

Pittinger concluded her report.

Mr. Waters announced there was no unfinished business.

Mr. Waters called for new business and seeing none moved to the Case Review segment of the meeting. Each group of recommendations was voted upon as recorded on the attached Case Review Actions. Copies of the agenda were available to the public.

Following the conclusion of the Case Review, Mr. Waters announced:

1. Prior to the meeting a Pre-hearing Conference was conducted in case #173-17, Reutzel v. Schweitzer. The Public Hearing in that case is set for Thursday, May 30, 2019 at 5:30 p.m. in City Council Chambers.
2. The next regular CPRB public meeting is scheduled at 6:00 p.m., Tuesday, April 23, 2019 in City Council Chambers, City County Building, 414 Grant Street., Pittsburgh PA 15219.

Mr. Waters invited public comment and asked commenters to limit remarks to 3-minutes.

Mr. Harry Liller offered comment and presented a written document to the Board (copy attached).

Mr. Ozark commented and inquired as to the well-being of an absent Board Member.

Mr. Richard Stewart commented in appreciation of the Board's work.

(Full comments are available in the meeting video: [Independent CPRB Meeting 3/26/19](#))

Mr. Waters called for a motion to adjourn. Dr. Guercio moved, Ms. McLellan seconded, the motion to adjourn.

Respectfully submitted,

Elizabeth C. Pittinger  
Executive Director

Action Date:  
3/26/2019

(15 Cases)

## CPRB Case Review Agenda: FINAL

CPRB Case No. Investigator	Allegation(s)	Summary	Recommendation	Rationale
<b>Public hearing (0)</b>				
<b>Full investigation (4)</b>				
<b>Moved to Full Investigation: Dr. Guercio Seconded: Ms. McLellan Carried 4-0</b>				
10-19/Bridgett	Conduct Unbecoming a Member or Employee, (16-1(3.6))	The Cx States The SO Came to the West Mifflin Magistrate's Office in Full PBP Uniform In An Attempt to "Curry Favor In the Eyes of The Court" For a Complaint the SO Had Filed Against the Cx's Husband.	AUTHORIZED FULL INVESTIGATION 4-0	Preliminary Evidence Suggests More Investigation Time is Needed.
15-19/Bridgett	Conduct Unbecoming a Member or Employee, (16-1, (3.6; 2)) Neglect Of Duty, (16-1, (3.13))	The Cx Alleges that a Zone 2 Officer Failed to File a Police Report for her.	AUTHORIZED FULL INVESTIGATION 4-0	Preliminary Evidence Suggests More Investigation Time is Needed.
33-19/Gamble	Unbiased Policing (11-3,(4.1)) Conduct Unbecoming A Member (16-1 (3.6)) Neglect Of Duty (16-1 (3.13))	Cx alleges the PBP SO's falsely arrested him for a hate-crime homicide on 8/19/18 on the North Shore.	AUTHORIZED FULL INVESTIGATION 4-0	Preliminary Evidence Suggests More Investigation Time is Needed.

CPRB Case No. Investigator	Allegation(s)	Summary	Recommendation	Rationale
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 because he yelled at her to get off of the phone and would not give his name and badge number after she was cited.	AUTHORIZED FULL INVESTIGATION 4-0	Preliminary Evidence Suggests More Investigation Time is Needed.
<b>30 day extension of full investigation (5) Moved to authorize a 30-day extension: Ms. McLellan Seconded: Mr. Green Carried 4-0</b>				
04-19/Gamble	Conduct Unbecoming a Member (16-1 (3.6)) Truthfulness (16-1, (3.9)) Warrantless Searches & Seizures (45-2 (5.1)) Motor Vehicle Stops (40-4 (3.2))	Cx's Alleged the SO's Acted Inappropriately During a Traffic Stop.	AUTHORIZED 30 DAY EXTENSION 4-0	More Time is Needed for the Investigation.
14-19/Gamble	Unbiased Policing (11-3 (4.1)) Conduct Unbecoming a Member (16-1 (3.6)) Conduct Towards the Public (16-1 (3.7)) Neglect Of Duty (16-1 (3.13)) Warrantless Searches & Seizures (45-2 (5.1))	Cx Alleges that She Called 911 for Assistance and once SO's Arrived they Detained and Handcuffed her.	AUTHORIZED 30 DAY EXTENSION 4-0	More Time is Needed for the Investigation.
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 Because he Yelled at her to get off of the Phone and Would not give his Name and Badge Number after she was cited.	AUTHORIZED 30 DAY EXTENSION 4-0	More Time is Needed for the Investigation.

CPRB Case No. Investigator	Allegation(s)	Summary	Recommendation	Rationale
20-19 P/Gamble	Conduct Unbecoming a Member 16-1 (3.6) Conduct Towards The Public 16-1 (3.7) Truthfulness 16-1, (3.9) False Report 62-1 (2.10)	Cx Alleges the SO Threatened him after the Cx Tried Correcting the SOs Son for his Behavior at a Cub Scout Activity	AUTHORIZED 30 DAY EXTENSION 4-0	More Time is Needed for the Investigation.
29-19/Bridgett	Obedience To Orders and/or Laws (16-(3.1)) Conduct Unbecoming a Member or Employee (16-1 (3.6)) Insubordination (16-1 (3.9)) Truthfulness (16-1 (3.19)) False Report (62-1 (2.10))	The Cx Alleges the SO Perjured himself during the Cx's Trial on 9/12/18.	AUTHORIZED 30 DAY EXTENSION 4-0	More Time is Needed for the Investigation.

**Unsustainable (1)**

**Moved to Dismiss as Unsustainable Dr. Guercio Seconded: Ms. McLellan Carried 4-0**

31-18/Bridgett	Conduct Unbecoming a Member (PBP 16-1, 3.6) Conduct Toward the Public (PBP 16-1, 3.7) Use of Force (PBP 12-6, 3.1) Warrantless Search & Seizures (PBP 45-2, 5.2)	Cx. Alleges the SO's Acted Inappropriately during the Encounter	DISMISSED AS UNSUSTAINABLE 4-0	Investigator is Unable to Sustain the Cx's Allegations
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**Unfounded (2)**

**Moved to Dismiss as Unfounded: Mr. Green Seconded: Ms. McLellan 4-0**

194-18/Bridgett	Use of Force, 12-6, 3.1 Taser, 12-13, 5.3 Conduct Unbecoming a Member or Employee, 16-1, 3.6 Truthfulness, 16-1, 3.19	Cx. Alleges she was Forcibly Arrested for a Misunderstanding.	DISMISSED AS UNFOUNDED 4-0	The Available Evidence Does Not Support The Allegations.
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CPRB Case No. Investigator	Allegation(s)	Summary	Recommendation	Rationale
262-18/Bridgett	Conduct Unbecoming a Member or Employee (PBP 16-1 (3.6)) Conduct Toward the Public (PBP 16-1 (3.7))	The Complainant alleges the S.O. recorded him and Told him to Keep his Hands out of his Pockets after he called 911.	DISMISSED AS UNFOUNDED 4-0	The Available Evidence Does Not Support The Allegations.
<b>New Suspensions (2)</b> <b>Moved to Suspend: Dr. Guercio Seconded: Ms. McLellan 4-0</b>				
221-18/Bridgett	Use of Force (PBP (12-6 (3.1)) Taser (PBP 12-13 (5.3)) Conduct Unbecoming a Member or Employee (PBP 16-1 (3.6)) Truthfulness, (PBP 16-1 (3.19)) False Report (PBP 62-1 (2.10))	The Cx. Alleges he was Attacked by Bouncers at the Cheerleaders Strip Club and was Tased By S.O. for no Reason.	AUTHORIZED SUSPENSION UNTIL APRIL 2019 MEETING SION 4-0	More Time is Needed for the Investigation.
266-18-ed/gamble	Conduct Unbecoming a Member (PBP 16-1 )3.6)) Evidence Procedures (PBP 36-1(3.0,5.0, 6.0))	Cx. Alleges Evidence Was Mishandled by Detectives.	AUTHORIZED SUSPENSION UNTIL APRIL 2019 MEETING 4-0	More Time is Needed for the Investigation.
<b>Other (1)</b> <b>Moved to Dismiss; Ms. McLellan Seconded: Mr. Green 4-0</b>				
139-18/gamble	Obedience to orders/laws (16-1(3.1)) Conduct Unbecoming a member (16-1 (3.6)) Conduct towards the public (16-1 (3.7))	Cx. Alleges her Daughter, the Victim, became Upset when the SO Detained her for Trying to Take her Service Dog into a Store.	DISMISSED AS RESOLVED 4-0	Cx is satisfied with ADA Training provided to PBP by HRC

Suspensions follow.



3/26/2019

The following cases remain in suspension with no updates (no summaries provided):

87-18-ED/Gamble: Attorney has yet to provide witness info

109-18/Bridgett: Awaiting update from OMI

142-18/Bridgett: Complainant's trial scheduled on 3/21/19.

145-18/Bridgett: Remain in Suspension until we hear from Chris Cimballa

181-18/Gamble: SO is scheduled to retire in next few weeks

193-17/Gamble: Criminal Court Scheduled for 6/18/19

202-18/Bridgett: Awaiting to talk with complainant and his Atty.

208-18/Gamble: Waiting for SO statements & Criminal Court 4/26/19

222-18-ED/Gamble: Investigation to resume-waiting on SO statements

248-17-ED/Gamble: Awaiting civil trial to obtain testimony.

288-17/Gamble: Criminal Court scheduled 5/9/19

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