

CLEVELAND COMMUNITY POLICE COMMISSION (CPC)
TRINITY CATHEDRAL
2230 EUCLID AVE. CLEVELAND, OHIO 44115

MEETING MINUTES
DECEMBER 3, 2015

ATTENDEES: Anthony Body, Craig M. Boise, Kathy Clegg, Mario Clopton, Yvonne Conner, Lee Fisher, Lynn Hampton, Tim Higgins, Amanda King, Stephen S. Loomis, Dylan L. Sellers, Rhonda Y. Williams

EXCUSED ABSENCES: Max Rodas

STAFFERS: Sylvia Pérez, Cleveland Foundation

The meeting was called to order at 5:40 p.m.

CO-CHAIR REPORT

Mr. Boise, Co-Chair, reported the following:

- Dr. Williams and Mr. Fisher held a meeting between the City Law Department, Department of Justice, and PARC to establish a regular communications schedule (i.e. standing meetings) with all parties of the consent decree.
- The Co-chairs, on behalf of the CPC, submitted a letter of request to the Department of Justice and the City of Cleveland for a three-month extension to the Consent Decree's deadline for its bias-free policy recommendations. This will give the commission more time to engage the community in the policy development process.
- The co-chairs attended a briefing by the City's Finance department about the City's budgeting, hiring, and purchasing processes, and how they applied to the CPC.
- The CPC's budget request will be preliminarily approved by Jan. 1, 2016. Between January 1 and April 1, 2015, the City's temporary approval will authorize the CPC use of about 40% of its requested amount.

The meeting minutes were unanimously approved as submitted.

CPC BY LAWS

Mr. Clopton, Co-Chair, reviewed draft of Articles I, IV, VIII, IX, X in the CPC bylaws.

Article VIII – Media

There was no discussion. Article VIII was unanimously approved as presented.

RESOLVED, that Article II (Media) of the CPC bylaws is approved as presented.

Article IX – Staff

Article IX was revised to read, "The Commission shall select and hire its own staff." Article IX was unanimously approved as revised.

RESOLVED, that the entirety of Article IX (Staff) of the CPC bylaws shall read, ""The Commission shall select and hire its own staff."

Article X - Endorsements

The Commissioners agreed that the spirit of article X is to avoid the CPC from being co-opted by political interests that are not driven by the community. Article X was unanimously approved as presented.

RESOLVED, that Article X (Endorsements) of the CPC bylaws is approved as presented.

Article IV - Attendance

The CPC discussed whether or not Article IV should be included without an established set of standards (e.g. maximum number of permissible absences) or a means to track excused vs. unexcused absences. Some commissioners inquired whether there was a practical way to implement the proposed attendance policy. Some commissioners also questioned if, without a practical way to implement the proposed attendance policy, Article IV was necessary. Other commissioners were interested in establishing a tracking system to monitor the engagement levels of commissioners, because commissioners' attendance directly affects the CPC's ability to meet the deadlines in the Consent Decree.

If Article IV is approved, the commissioners agreed to revise the presented Article to include "work" as a permissible reason to miss a CPC meeting.

The CPC agreed to table Article IV to the Dec. 17th meeting. Comments should be submitted and discussed online via google documents. While there is no formal process for approving suggested comments, the co-chairs have been active in engaging those who have commented on the shared documents to reach a resolution that is then incorporated into the draft. Those who need help using the technology systems that have been put in place to facilitate e-collaboration by the CPC should ask Mr. Clopton or Ms. Pérez for coaching and/or technical support.

RESOLVED, that the CPC's review and approval of Article IV (Attendance) will be tabled until the December 17, 2015 meeting of the full commission. (Yay-11; Nay-1; Abstentions-0)

Article I – Commissioners

The commissioners debated whether or not to include the subsection titled, "Removal" in the bylaws, because it was unclear if anyone other than the Mayor has the authority to remove a commissioner from the CPC. Discussion was had that the commissioners, who are responsible for recommending transparency and accountability processes, should establish its own process of accountability that allows for commissioners to address situations. This process would include a mechanism for handling concerns internally and then proposing the need for such an action, such as removal, to those who have the power of appointment and removal.

In reference to vacancies on the CPC, Paragraph 16 of the Consent Decree states that "Vacancies within the original four year term will be filled in the same fashion as the original appointments." The commissioners debated whether not, based on their understanding of Paragraph 16, the CPC should have a role in filling vacancies on the commission. Commissioners raised the following array of points:

- The consent decree implies that the Commission will have no role in the filling of vacancies.
- The proposed language does not challenge the Selection Panel's responsibility. Instead, it provides a process for commissioners to provide their thoughts and input so that the CPC can request to be involved in the process.

- The CPC should allow itself the discretion to communicate its view to the selection panel, in the case of a vacancy on the commission.
- In order to maintain the original impartiality of the selection process, current commissioners should not be involved in the selection process of a future commissioner.
- Removal of commissioners from the CPC and involvement in filling vacancies on the CPC are out of the scope of responsibility of the CPC. Commissioners serve at the pleasure of the Mayor and he is the only one who can affect the appointment and removal of individuals to and from the Commission.

The CPC agreed to table further discussion of Article I of the CPC bylaws. The Co-chairs will solicit further input from commissioners and will present another draft of the article to for consideration. The co-chairs will also contact the City Law department for clarification on how/if a commissioner can be removed from the CPC.

RESOLVED, that the CPC's review and approval of Article I (Commissioners) will be tabled until a further date. (Yay-9; Nay-2; Abstentions -1)

Dr. Williams asked that the record reflect that she had a comment regarding Article 1, but that she was not recognized to speak prior to the motion to table the section was passed.

MENTAL HEALTH ADVISORY COMMITTEE

Dr. Clegg updated the CPC on the activities of the Mental Health Advisory Committee (the "Advisory Committee"). The Advisory Committee was formed in response to paragraph 132 of the Consent Decree. Its core responsibility is to "provide guidance to assist CDP in improving, expanding, and sustaining its Crisis Intervention Program" (paragraph 134).

The Advisory Committee started its monthly meetings in September. Dr. Clegg, as the CPC liaison to the Advisory Committee, started attending their meetings in October. She reported that the Advisory Committee had established the five subcommittees. The subcommittees are:

1. Community Involvement and Engagement. This committee will focus on identifying: general support resources to facilitate police/community engagement; alignment opportunities for the providers who support the police and the community when facing a mental health crisis; and identifying the 24 hour resources that should be available in the community to respond to a mental health crisis.
2. Data. This committee will identify data sources that can drive interventions related to mental health crisis interventions (e.g. profiles of mental health interventions, training manuals, etc.)
3. Diversion. This committee will explore diversion strategies that will reduce the number of people who are sent to the hospital when police officers respond to noncriminal interventions.
4. Policy Review. This committee will research best practices for crisis intervention training and issues involving addiction.
5. Training. This committee will assess the current mental health crisis intervention training and the teams of officers who are required to pass the training. The committee will also explore a potential NAMI alliance. The committee is also organizing a pilot ride along program in the 2nd District.

Following Dr. Clegg's update, the CPC discussed CDP's current mental health Crisis Intervention Training (CIT). Mr. Loomis and Mr. Hampton provided background information about the current program. They commented that Cleveland's CIT training is well regarded. The CIT training has been implemented for

almost 10 years. One issue that could be improved is the process by which medical information regarding individuals with mental health issues is shared with officers. HIPPA laws restrict what type of medical information can be shared about individuals. The cost of the program, and the need to pull officers off the street for a full week (40 hours) for them to participate in the program, is a management challenge affecting officer participation in the training program.

Dr. Clegg will explore options for CPC members to participate in the CIT training.

COMMITTEE REPORTS

Budget, IT and Infrastructure

No report was provided. An update pertaining to the work of the committee was mentioned in the Co-Chairs update.

Communications Committee

Mr. Clopton provided the Communications Committee report. He reviewed the media request received through the info@clecpc.org email address and highlighted public speaking engagements accepted and completed by other members of the CPC. The Communications Committee would like to engage the CPC in more community events, presentations and town halls. If commissioners are asked to accept an interview or invitation in their capacity as a CPC member, they should inform Ms. Pérez, the loan executive providing interim support to the CPC, and the CPC Co-chairs.

Community Engagement and Outreach

Rev. Conner provided the Community Engagement and Outreach Committee report. She distributed a copy of the recommendations for actions and/or programs resulting from the Community Engagement and Outreach Committee's last committee meeting. Since the last full commission meeting, the Community Engagement and Outreach Committee participated in a neighborhood policing summit, a town hall, committee meetings, and District Police meetings. These opportunities provided different ways for the CPC to engage the community, both by sharing information and listening to ideas and feedback. Within the context of these experiences, the committee offered the following recommendations for the full commission's consideration:

- The CPC should designate more time to listen to community members outside of committee meetings
- The CPC should develop a standard five point presentation, and "leave-behind" card that outlines the work of the CPC, the background of its members, and important contact information.
- The CPC should add a community questionnaire about community engagement to its website. A draft questionnaire was distributed at the meeting.

The committee also recommended restructuring the December 16th Community Engagement and Outreach Committee meeting as an executive session to check-in with all commissioners about how the CPC is operating, discuss pending committee recommendations that need further clarification, and address other matters with the potential of impeding the work of the full commission. As an executive session, the meeting would be private. It would also exclude any official business matters so that the CPC could concentrate on fostering a culture of collaboration.

Policy and Procedure Assessment Committee

Mr. Fisher provided the Policy and Procedure Assessment Committee updates regarding the Bias-free Policing Work Group. He commented that the committee was hosting a Bias-free policing work group

meeting on Monday, December 7, 2015 at the Centers for Families and Children. The committee requested that Chief Williams or a representative of the CDP attend the meeting, and is currently awaiting a response from Chief William's office.

POLICE REVIEW BOARD WORK GROUP

Mr. Boise and Dr. Williams presented on latest draft of the Police Review Board Work Group's (PRB WG) recommendations for changes to the City Charter, Chapter 25. The PRB WG met three times since the last full commission meeting.

The Consent Decree requires that the PRB provision in the City charter (i.e. Chapter 25, Section 115) be amended. The deadline to submit the CPC's recommendations are 42 days away, during which time the work group anticipates working with the City to explain and advocate for its recommended approach. Proposed amendments must be approved by Cleveland residents via a special ballot to be held in March. City Council must approve the proposed recommendations for them to be presented to the public as a ballot issue in March. If the CPC does not submit its recommendations to the City, in time for them to be considered for approval by City Council, the city of Cleveland will have to wait until the November election to vote on proposed amendments to Chapter 25, Section 115 of the City Charter.

The City's law department provided its draft of the Charter to the CPC on November 20, 2015 at 9pm, on the evening before the scheduled PRB wG meeting. The CPC had already started a working draft (previously discussed at the October commission meetings) by that date. After reviewing the City's draft, the PRB WG decided to continue to develop its policy proposals, which reflect a broader and more comprehensive revision of Chapter 25, Section 115 than what was suggested by the City. The City and DOJ is aware of the scope of the work group's revisions to the City Charter. The City proposed changes to one of the four sections in Chapter 25 of the City Charter, section 115-2, which is the only section to which revisions are required to meet the minimum intent of the Consent Decree. The work group will advocate to City Council that its proposed revisions to all four sections of Chapter 25, Section 115 of the City Charter should be put on the March ballot. The CPC needs the community to express its support of the CPC holistic approach its PRB policy revisions.

The discussed draft distributed to the commissioners in their meetings materials was the work group's most recent draft of revisions to the City Charter. The draft reflects information gleaned from interviews with members of OPS and the current PRB, community feedback (through the feedback survey, public comments, the ACLU, the Collaborative for a Safe, Fair and Just Cleveland, and off-line conversations with commissioners), research of other civilian review boards in other cities, and the required criteria and language provided in the consent decree.

Review¹

The edits to Section 115-1 provide clarification of PRB roles and responsibilities, and officially changed the title of the PRB to the CPRB (Community Police Review Board). It also increases the minimum number of investigators to double what there is now (four to eight). Some of the work group's proposed revisions to this section may be addressed by OPS at an operational level; however, the work group recommends including specific language from the consent decree in the revised City Charter so they will be institutionalized.

¹ A copy of the Dec. 3, 2015 discussion draft is attached as an addendum to the meeting summary

Revision to section 115-2 pertain to the appointment process to and composition of the CPRB. It also introduces a newly created process for promoting transparency in the selection and appointment process and filling of vacancies on the CPRB. Highlights of the revisions included:

- The nine member CPRB will be comprised of five Mayoral appointees and four City Council appointees. City Council appointments will be more accountable to the community, because community members will be able to address concerns and recommendations about and for the CRPB directly to their council representative. Additionally, establishing two appointing authorities within City Hall will increase the likelihood that the CPRB's performance will be a priority issue for stakeholders within the City's administration.
- At least one member of the CPRB should be between the ages of 18 and 35. Under consideration is whether or not this age range is too broad to ensure that younger community members' perspectives are represented on the CPRB. An age requirement criteria could be 18-27 and 28-35.
- The CPC would be established as the entity responsible for developing membership criteria for the CPRB.
- The work group agrees with the City's revisions regarding the creation of term limits. The work group recommends shortening the term limit from four years to three years, with the opportunity to serve two terms. The term limits are intended to ensure the incorporation of new leadership ideas onto the CPRB and to maintain the institutional memory on the CPRB.

When discussing the work group's proposed revisions to Section 115-2, commissioners suggested that diversity, as a requirement of the CPRB's composition, should be defined to include social identities (e.g. LGBT) as well as experience and perspective (i.e. the "5th generation Clevelander"). A transparent application process, like the one proposed, will enable the "non-affiliated" Clevelander to apply for membership on the CPRB. Commissioners also expressed concern that a 15-day deadline to fill vacancies on the CRPB might be hard for the City to meet.

Section 115-3 proposes an iterative process between OPS, CRPB, and the Public Safety Committee to develop operating procedures for CPRB. It also recommends that training for CRPB members parallel the training received by investigators. The commissioners discussed whether "off-duty members of the Cleveland police force" in the draft should refer to off-duty/secondary employment engagements through which a member of CDP could be acting in an official police capacity. Mr. Loomis commented that the CDP has a GPO currently in place to address the behavior of officers engaged in secondary employment work. He will forward the GPO to the work group. It was also suggested that the list of possible offensive language include gender identity and gender expression.

Section 115-4 outlines possible ways that a complaint could be addressed. The recommended revision includes creates a process for addressing a complaint that is technically in compliance with an existing GPO, but which would flag that GPO to be reevaluated and revised.

Discussion

The PRB WG responded to questions by the CPC about the recommended revisions.

- There are eight criteria and nine positions. Similarly to the CPC's selection criteria, any one member could represent multiple required groups. There is no limit to the number of people who can represent one group, as long as the total board composition meets the diversity criteria.
- OPS will investigate all instances involving use of deadly force or resulting in injury and death. The work group didn't use the consent decree's language of "alleged criminal conduct," because that language allows OPS case to be sent it to internal affairs and delayed until the internal affairs investigation is completed. The presented language also reflects counsel from civil rights advocates

who expresses the need to carry out due diligence on civil issues, while questions of criminal activity are investigated.

- Some commissioners expressed reservation about empowering OPS advance its civil proceedings/investigations before criminal proceedings/investigations are completed.
- One commissioner expressed concern regarding the extent to which the PRB WG considered the perspective of police officers when developing their recommendations. It was commented that all members of the CPC, including those representing police perspectives and experiences, had the opportunity to engage in the policy development process through PRB work group meetings and e-collaboration tools.

The next PRB WG meeting is Wednesday, December 9, 2015 from 5pm to 7pm. It will include presentations by OPS investigators.

PUBLIC COMMENT

The CPC invited public comment on the police review board city charter policy recommendations and presented draft. Comments received included:

- An announcement by the Co-founder of the New Black Democratic Party of Cuyahoga County who expressed extreme discomfort, and was angered by, the presence of fire arms in the meeting location.
- The CPC was asked how law enforcement could be compelled to give detailed and accurate statements when reporting an incident. The CPC responded that the Fifth Amendment to the U.S. Constitution gives everyone the right to refuse to provide a sworn statement to avoid incriminating themselves. A subpoena could apply to people other than the officer that might be incriminated.
- Support was expressed for the CPC recommendation to allow OPS to investigate cases involving use of force that result in injury and deadly force. The opinion was shared that OPS should get its cases before or at the same time as Internal Affairs, so that Internal Affairs doesn't have undue influence over the investigation and review process. The feeling was also expressed that Internal Affairs was ineffective.
- Hope was expressed that unanswered complaints to the OPS would soon be addressed, as new parameters for OPS operating procedures are implemented.
- It was expressed that this commission was brought in because of the issues between the police and community. It was not brought in to make police officers comfortable. But to talk about accountability. The same speaker also stated that in mental health crisis situations, officers should never be able to control how a hospital responds to a patient brought to the hospital by the officer.
- There should be a process in place to evaluate an officer's competency when arresting individuals, and to verify statements reported in an officer's incident report.
- Support was expressed for requiring age diversity on the CPRB. It was suggested that at least one member should be between the ages of 18-27, and 55 – 65, respectively. The CRPB should include the perspectives of older seniors as well.
- Two members of the audience read aloud an article published in the *Real Deal* that addressed the CPC and the need to represent underrepresented groups in the forefront of its mission.
- Disappointment in the CPC's debate if to include "the aggrieved and most vulnerable" language in its mission statement was expressed.
- A participant talked about how frustrating it is to hear people have not prepared or read the work before coming to the CPC meetings.
- An opinion was expressed that off-duty conduct should include behaviors that reflect negatively on the CDP, even if it is personal in nature (e.g. social media posting).

- An opinion was expressed that the CPC should post the PRB WG draft for a period of public comment, like the federal government does.
- Two weeks ago, the meeting participant was attacked by two armed men. The University Circle, Inc. (UCI) police officers referred him to the Third District, where he was informed that his zone was irregularly patrolled due to capacity challenges with the CDP. The zone is outside the jurisdiction of the UCI police, who have the capacity to expand their patrol. The respondent investigated his own case and started a letter writing campaign. He advocated for the City to approve the expansion of the UCI police department to expand its jurisdiction to cover irregularly patrolled zones in the Third District. The stated that the CDP was not leveraging its resources to expand coverage of its zones through partnerships with private policing companies
 - A commissioner responded that one issue of concern that has been raised by community members is the ability for residents to file complaints about, and OPS to investigate, members of private policing agencies that have MOUs with the City.
- A participant expressed her support of making off-duty members of the Cleveland Police Force subject to an OPS investigation, as proposed in the presented draft revisions to the City Charter. She mentioned the Kenny Smith case in particular, and suggested revising the language to read “acting under the cover of law,” and stated that any time that they could be protected by the City should be subject to investigation.
- A participant stated that more than a year ago, the city said that all uses of deadly force would be investigated by an independent third party. This has not happened, but should be happening.
- A participant expressed discomfort with the CPC’s approval of the PRB WG’s recommendations as a discussion draft that will be changed, because certain members of the CPC could engage in back-door lobbying with the City against specific points recommended in the document.

FURTHER DISCUSSION BY COMMISSIONERS

The PRB WG is continuing to work on its revisions to Chapter 25, Section 115 of the City Charter. However, it would like to share this early draft with the City to engage the City in the next phase of revisions and needs the CPC’s approval to do so. The work group requested the CPC’s approval of the revisions presented during the meeting, with the understanding that the commissioners will still be able to make changes as they explore issues that are raised by the community and commissioners. Each commissioner was asked to send a list of issues and or comments that they find problematic to the work group. The work group will then communicate this list of “issues we are still working on,” when they share the presented draft with the City. The CPC unanimously approved the work group to share the presented draft of the PRB policy recommendations with the City to be used as a discussion tool.

RESOLVED, that the PRB WG can share the presented draft of revisions to Chapter 25 of the City Charter to the City as a discussion tool, with the understanding that additional issues and comments need to, and will be, explored by the WG group as they are raised by the CPC members.

The CPC set Sunday, December 6, 2015 at 5pm as the deadline to receive commissioners’ comments regarding the presented revisions. The CPC will conduct an online vote on Monday for approval of changes made to the draft in response to comments received by the deadline.

CPC SPECIAL MEETING AND OTHER ISSUES

Commission discussed the status of its draft mission statement. The mission statement has not been approved, even though it has been publicized on the CPC website. Feedback on the draft mission statement and the bylaws has been requested over the course of the last two months.

The commissioners then discussed whether or not to convert the December 17th full commission meeting to an executive session. A motion was made to hold an executive session on December 17, 2015 to address the crisis situation of unprofessional conduct in front of the public. This motion did not meet the two-thirds majority vote requirement to pass. (Yay-7; Nay-5) The motion did not carry.

The commissioners continued to express concern about the conflicts and unprofessional conduct within the group.

- Commissioners expressed the need for additional meeting time to resolve the pending agendas items (i.e. the mission statement). A closed session will allow voices and opinions of those who are uncomfortable debating in public.
- A closed session will allow the CPC to complete the work it has been unable to advance in the public meeting format.
- Other commissioners expressed tolerance of the current level of conflict on the CPC, noting that nothing in the CPC selection and appointment process suggested the need embrace a team spirit in order to fulfill the role and responsibility of the CPC. Conflict is part of negotiating between different perspectives and managing diversity and does not automatically equal unprofessional behavior.
- One commissioner also expressed frustration with the use of e-collaboration tools, because the opinions shared on the CPC network were not public like those expressed at the full commission meetings.
- One commissioner expressed that the CPC has a diverse composition and that diversity is represented equally whether the meeting is held in public or as a closed session.

The commissioners agreed to hold a Special Meeting on Dec. 16, 2015 that would not replace the December 17th full commission meeting. Special Meetings, per the CPC bylaws, are public meetings.

RESOLVED, that the CPC will hold a Special Meeting on December 16, 2015 that will not replace the regular full commission meeting on December 17, 2015. The Special Meeting agenda will address: bylaws and amendments, mission statement, and general housekeeping. (Yay – 6; Nay – 4; Abstentions – 2).

Dr. Williams requested that the record reflect that she abstained from the Special Meeting vote because the Special meeting was not requested by the CPC Co-chairs, which is how process is established in the CPC bylaws.

A call for future meeting agenda items will be conducted via email.

The meeting adjourned at 9:10pm.