

## CIVILIAN POLICE REVIEW BOARD

MEETING MINUTES:

Meeting #21

Tuesday, April 4, 2023



# CIVILIAN POLICE REVIEW BOARD

## Board

Present Janet E. Jackson, Chair  
Present Brooke Burns, Vice Chair  
Present Mark Fluharty  
Present Dr. Chenelle Jones  
Present Willard McIntosh, Jr.  
Present Pastor Richard Nathan  
Present Kyle Strickland  
Present Rev. Charles Tatum  
Present Mary Younger

## Guests

Present Jacqueline Hendricks  
Present Richard Blunt II  
Present Robert Tobias  
Absent Tiara Ross  
Present Nate Ryan  
Absent Scott Hurler

## WELCOME

Chair Jackson called the meeting to order at 2:09PM. Chair Jackson made note of health issue that prevented her attendance at the March meeting and urged the public to heed warnings regarding concerning symptoms and their health.

## APPROVAL OF MINUTES FROM PREVIOUS MEETING

Mark Fluharty made the motion, Chenelle Jones seconded to approve the March 7, 2023 meeting minutes. Minutes approved unanimously.

## ELECTION OF BOARD CHAIR

Chair Jackson asked board members with expiring terms if they have been contacted by the mayor's office - none of the members have.

Chair Jackson quoted statute, "Members shall hold their seat on the Board until their successors are chosen, qualified and installed." Chair Jackson noted that members are expected to attend the May meeting if they have not heard anything by the meeting, which includes herself.

Kyle Strickland - Are there steps the Board can take to move this along?

Chair Jackson - I am meeting with the mayor and should get more information then.

Kyle Strickland - Where does City Council fall within this?

Chair Jackson - City Council has no role in this. The mayor will select the individuals and send those names to City Council for approval.

Strickland - When the Mayor made the appointment in 2021, the initial nine appointees, council made an additional two appointments.

Chair Jackson - The President of Council shared with me that it was not an appropriate thing to do - their pushing for two. Nowhere was it provided for in the charter. The number will stay at eleven and the mayor will appoint them.

Chair Jackson stated her term ends April 30th and it would be appropriate to elect a Chair at this meeting whose term would start May 1, 2023. Chair Jackson suggested the Board to consider Vice Chair Burns for Board Chair starting May 1st.

Rich Nathan moved to elect Brooke Burns as board chair as of May 1, 2023. Chenelle Jones seconded the motion.



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Kyle would like to establish a process for electing a board chair or vice chair or other appointments. Strickland noted his support for Vice Chair Burns as the new Chair. He also expressed that incoming board members should have a say in the election of the new board chair.

Chair Jackson noted that the three individuals selected by the mayor and approved by council cannot undertake any work of the board until they are completely trained. They will be named and they will be able to attend, though they will not be able to participate in the work of the board.

Charles Tatum: There is a motion on the floor.

All members vote in favor of the motion with Vice Chair Burns abstaining. The motion passes.

Chair Jackson intentionally did not seek a Vice Chair as it is up to Ms. Burns with the intention that she may bring a candidate for Vice Chair at the next meeting.

## CHANGE IN COMMITTEE ASSIGNMENT

Mary Younger will serve under the review committee chaired by Board Member Macintosh.

## REVIEW OF REMAINING CASES FROM MARCH 7TH MEETING

\*TEAM 3 – CHAIR WILLARD MCINTOSH

CASES: 2022-0440, 2022-0444, 2022-0447

#2022-0440- Misconduct: Officer violated her freedom of speech, “invaded her personal space,” failed to provide badge number

Motion: Willard McIntosh

Seconded: Mark Fluharty

Motion carried: Yes, unanimous

Kyle Strickland: Was there any recommendation from the IG’s office regarding training?

Willard McIntosh noted that training was mentioned in the IG’s recommendations.

Rich Nathan: We had a case involving a constitutional violation. His committee made a recommendation to the IG to not have a conclusion on law as part of the findings for constitutional violations.

Vice Chair Burns: Correct, the allegation involved a complaint from a citizen that stated he was not read his Miranda rights. The board suggested the investigative report stop short of a legal determination and instead recommend, “The officer’s actions did not violate CPD policy as it relates to Miranda rights.”

Rich Nathan: I am wondering if we are making this recommendation to the IG regarding constitutional claims.

Robert Tobias: Agrees with what has been said and states that the IG’s office should not be making determinations as it relates to constitutional issues, just whether there has been a violation of policy.

Kyle Strickland: Sometimes some of the phrases that are used are the officer’s actions was determined to be in violation of policy and/or law or not determined to be in violation of policy and/or law. I think that sometimes that law piece is utilized. In those circumstances are constitutional issues... I’m just trying to get a sense.



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Tiara Ross: I think I understand what you are saying and it is the responsibility of the IG to make determinations about whether or not an officer's actions violated either law or policy. Typically, there is always a policy that goes along with a law that an officer must abide by. And maybe that is the compromise we make that if we are suggesting that a policy was broken and that it is likely also going to be a law or just a policy and not law and not an instance where they are breaking a law and not a policy. In those instances, Vice Chair Burns, the IG can strictly identify the policy that was violated and then the folks who are issuing discipline can make the determination about other ins and outs of that.

Robert Tobias: In this particular scenario, the IG should not state that the person's first amendment rights were violated and instead state that policy was violated.

Nathan: Would this require a change in the initial motion? Was the exoneration on constitutional or policy grounds?

IG Hendricks: We did not make any recommendations regarding the citizen's first amendment rights.

Chair Jackson: The motion was appropriate based on discussion.

#2022-0444- Misconduct: Unbecoming/ Inappropriate Social Media Posts

Motion: Willard McIntosh

Seconded: Mark Fluharty

Motion carried: YES, unanimous

Willard McIntosh: Certainly, you can get frustrated doing the job and you can think some of these things in your mind, but when you start posting those types of things, you not only offend some of the public but you are also offending some of the people you work with.

Mark Fluharty: I was part of the committee that reviewed this case and I found this highly disturbing. It seems like the officer has his own agenda and opinion, which he is most certainly entitled to. But putting this out on social media, I found very offensive, and his comments were very offensive.

Willard McIntosh: The officer did not share his intent in the caption until being questioned, and he oftentimes contradicted what he captioned and what he said when he was questioned.

Mark Fluharty: It was very evident that he put his personal thoughts out, got caught, and didn't want to take ownership of it.

Kyle: What was the recommendation?

Willard McIntosh: Sustained. The person who sent the email for the complaint stated that the officer's (social media account) was racist. The allegation of the page which consisted of 26 posts was sustained.

Kyle: In terms of how things are categorized in the system, is this one allegation?

IG: The allegation is regarding the officer's (social media) page. Some posts on the page are not violations, but there were many posts that were very racist, sexist, and conduct unbecoming. Some of the violations are city violations as well as CPD violations. All of this was sustained under the one allegation.

Tiara Ross noted that allegations will be split in future reports based on policy violations. Chain of Command may split up the violations.

Charles Tatum: The Chief noted that fixing these things do not happen overnight. It will be an accumulative effect of weeding out these officers.



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Mark Fluharty: The police are covered under the Collective Bargaining Agreement, which entitles the officer to be disciplined for “just cause.” The agreement covers what the Chief can do. Rev. Tatum, you are right – sometimes it takes a paper trail.

Kyle Strickland: It would be useful to know what the disciplinary matrix looks like.

Mark Fluharty: An understanding of “just cause” under the agreement and discipline would be helpful.

Chair Jackson: Considering new members, we might pull out topics to train members, and this might be included for them as this topic has come up a few times.

Mark Fluharty: We must remember that the IG can only make a recommendation. It is up to the Division of Police to make the discipline. We can only make the recommendation that discipline be imposed, not what the discipline is.

Kyle Strickland: It would be helpful to know if the police impose discipline, or not.

Chair Jackson: It is worth noting that no decisions have been made on the first set of cases that have made their way to the Chief. Just a reminder that it will take some time for that information to come back to us.

Nathan Rich: It is deeply troubling hearing that the process of discipline could take a long period of time. The officer lacks any sense of judgement on how his statements could affect the citizens he is serving and the relationship with the police. Do we have the ability to recommend prioritization of certain cases? You have a person who is making racist and sexist posts. Noted its effects on the police department.

Chair Jackson: The reports go to Deputy Chief (DC) Konves and then they go through the chain of command based on his recommendation.

Kyle Strickland: Agrees with prioritization comments made by Rich Nathan. Asked about possibility of noting priority in memo that goes to the Chief.

Robert Tobias: There is no legal prohibition stating the board cannot make a motion on priority. Made note of the importance of consistency and application when making these considerations as all complaints are important.

Mark Fluharty: Agrees with Mr. Tobias.

Kyle Strickland: Noted the possibility of a threshold for prioritization.

Tiara Ross: IG has timelines that she must follow. She does not have the flexibility to prioritize.

Mark Fluharty: It is our responsibility to get this to the Chief timely. It is the Chief of Police’s job to prioritize it and apply the appropriate discipline. In “just cause,” you are innocent until proven guilty.

Mary Younger: Do we know what chain of command means and do we have a timetable?

Tiara Ross: DC Konves will initially get the report and review them. Other people will likely view them as well. They make a decision about discipline and there has to be another hearing under the collective bargaining agreement. The officer has a right to a hearing before discipline is issued. Once that is done, there is a grievance process as well. There could be arbitration over that disciplinary decision and it depends on what type of case it is and what appeals are made after the disciplinary decision has been made. I don’t think a determination can be made on time that can be consistent across all cases.

Kyle Strickland: Is anyone communicating with the complainant throughout this process?

Tiara Ross: I can only speak to the communication as it comes from the Inspector General’s office to the complainant. As far as CPD, we would have to ask the Chief of Police.

Mary Younger: Is there a time limit for a specific case, specific individual for final disposition?



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Tiara Ross: There are no timelines after the timelines for investigation as described by the CBA.

There is no timeline for chain of command review.

Mark Fluharty: The process is slow. It can take up to a year to get to arbitration.

Mary Younger: Is the notification from the IG the end for the citizen?

Tiara Ross: That is a question we would have to ask the Chief of Police.

Kyle Strickland: The board should have a role in helping citizens know where their complaint is in the process. Noted possibility of looking at other civilian review boards.

#2022-0447- Misconduct: Rude and Discourteous Behavior, Abuse of Power/ Unlawful Search

Motion: Willard McIntosh

Seconded: Mark Fluharty

Motion carried: Yes, unanimous

## REVIEW OF CASE 2023-0111

# 2023-0111 - Allegation: Misconduct – Rude and Discourteous Behavior

Motion: Charles Tatum

Second: Mark Fluharty

Motion carried: Yes, unanimous

Kyle Strickland: Question regarding leaving the force and timelines. What happens in these types of situations?

Mark Fluharty: We can only review and recommend. That is up to the Chief of Police.

Kyle Strickland: I would like to know what happens in these scenarios. Agrees with the findings.

Charles Tatum: Noted the importance of making these recommendations.

Chenelle Jones: It is important to include this in the personnel file as it will likely be reviewed by future employers.

Tiara Ross: Any active investigations are noted in the process for leaving, retirement and promotions.

Chair Jackson: After the break we will discuss two topics. The first is training for new board members. I suggest the first meeting of the training and review committee be in May. Asked board members to reflect on their training for adding new trainings or how information will be presented to new members. (The second topic) will be to have a discussion around the topic of reviewing cases. Unfortunately, this month, whether it was around not having enough notice to the public or potentially someone being ill, cases could not come before the board. Chair Jackson suggested to the review committees to discuss and establish regular days/ times to meet to avoid potential issues. Noted Board Member McIntosh establishing a regular place to meet. Chair Jackson noted that members are volunteers and busy, but that a regular meeting date/time helps.

Chair Jackson: IG Hendricks, did you want the opportunity to speak today? I think you submitted a written report to us today.

IG Hendricks: I was not going to speak on the report. I just wanted to note the report for the board to look at and we can talk at the May meeting if anyone has any questions.





Break at 3:23PM

Adjourn at 3:42PM

## TRAINING OF NEW BOARD MEMBERS

Chair Jackson: Asked Dr. Jones to convene her committee this month. Cited city code stating that new members will need an instruction in police tactics and ride along. Chair Jackson noted to existing board members may do another ride along in light of the fact that they have been doing this for two-years.

Rich Nathan: Noted that they were promised a helicopter (ride-along).

Chair Jackson: Do we still have helicopters?

Board Members: Yes

Chair Jackson: At some point there were members of council that wanted to do away with the helicopters. Did the presentation on de-escalation satisfy your needs on the topic or should we take another look at this?

Mark Fluharty: It didn't work when I needed to deescalate myself.

Chair Jackson: Of course there was training on diversity and inclusion, cultural competency, and implicit-bias. I think that presentation was presented by the law firm that negotiates for the city but that there has been a suggestion that the board should have someone from two departments. Noted that the board's secretary will be relied upon to coordinate much of the training. Noted that it would be valuable to have the three incoming board members be in the same place rather than training be self-directed. Noted that new board members need to be approved and trained before they may sever in a regular capacity on the board. Consideration re NACOLE membership and attending their annual conference. Asks board members for feedback regarding training and effectiveness as well as other topics not discussed. Asked board members for initial thoughts on training.

Mark Fluharty: Took a long time for members of the board to learn what their roles and responsibility are and what they can and cannot do. Noted the importance of this.

Kyle Strickland: Recalled a training on how the board may operate as compared to other boards.

Robert Tobias: Works with newly appointed boards and members, including onboarding. Has a presentation prepared to discuss, rules and regs, by-laws, public meetings, public records, etc.

Kyle Strickland: Noted importance of fast-tracking some of these processes for the initial onboarding and other trainings as it relates to what Mr. Tobias said. What are the things we can do right away to quickly train new members? Stated he would like to establish that (onboarding/training) as a process.

Chair Jackson: Mr. Tobias gave me a bold estimate (for training new members).

Robert Tobias: Six weeks from approval for training and to serve on the board. Noted importance for an accelerated training schedule.

Chair Jackson: Candidates should be made aware of that before they go through the process.

Commend board members on tackling the challenge of serving and establishing a new board as a volunteer. Please send comments regarding trainings to Dr. Jones.

Charles Tatum: Will you, Dr. Jones, work with Mr. Tobias on trainings?

Chair Jackson: Actually, the responsibility is here with the committee.

Chanelle: The committee is going to meet and we are going to identify the trainings the new board members should have. We will probably also identify any refresher courses that the board as whole should have and that would include Mr. Tobias' training.

Robert Tobias: The training that I have is not required by statute, but you can certainly incorporate it.





## DISCUSSION ON INSPECTOR GENERAL CASE REVIEW

Chair Jackson: Spoke to a member of the public regarding the review committee meeting at libraries. Asked members to please confirm with library staff meeting date, place, room number. All of this needs to be shared with the public.

Rich Nathan: Is there a formal policy regarding not sharing notes unless it is in a public meeting?

Robert Tobias: Open Meetings Act requires that all deliberation and discussions take place in a public meeting. Exchanging notes, information, fact-gathering is fine. Delegating one member of the committee to be the sole fact-finder – no. If it is a committee of three, two are needed for a quorum, majority for a vote. You have to vote as a committee to decide on what course of action to take on a complaint.

Kyle Strickland: “One of the questions in terms of the ways we structure the process is that we have committees of three and then those committees meet individually. They would, ahead of the time, fill out their investigative review sheets and we would ultimately bring that, there might be discussion that happens, and then we would ultimately bring that to the board. That in particular, that process, that we set up, is not a requirement, right? Could you, in theory, not that we would do this, but could you basically do this type of situation but instead of voting, a full vote, you would present your one review sheet reflective of the notes for deliberations at a board meeting.”

Tobias: The formation of the committee was to make the work more manageable -you were not required to do that. The board as a whole would need to decide to amend a process, if desired.

Kyle Strickland: Noted desire for possibility of two larger committees to review cases, with rotating memberships.

Chair Jackson: Noted that discussion is fine and should be decided by the board, but shared that the board should wait till they familiarize with the current process and after new members get on board before changing the process. Also noted limit of five members on a committee and difficulty of coordinating schedules with more members to meet to discuss cases.

Vice Chair Burns: Do we have an update on our request to City Council for virtual meetings?

Robert Tobias: It would be best for the chair to reach out to council directly regarding the request. According to Laura, the legislation was on pause as council was considering a citywide ordinance. Recommend someone on the board to reach out to council to follow up on the motion.

Mark Fluharty: I would love to do that.

Charles Tatum: Noted the need to set a time to meet and not waiver on when the meeting is set.

Kyle Strickland: I agree with a consistent day to meet.

Charles Tatum: We need to have a set day because that works better with me.

Robert Tobias: It is helpful to lock in a regular time for notice requirements.

Kyle Strickland: Noted that his committee is not voting and due to vacancies and having only two members on the committee.

## Case assignments:

Team #1: Nathan: 22-0564, 22-0566, 22-0571, 22-0582, 22-0586, 22-0588

Team #2: Strickland: 23-0043, 23-0054, 23-0060, 23-0065, 23-0102

Team #3: Mac 22-0604, 22-0612, 23-0018, 23-0032, 23-0039

Kyle Strickland: How are cases are assigned?

Chair Jackson: The cases are presented to me and that is how I assign them.



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Kyle: Noted possibility of priority of certain cases.

Chair Jackson: Noted that cases are sent to the Chief a few days after the meeting and coming to the IG's office for signing them.

Kyle Strickland: Noted that cases are chronologically assigned to review committees as they are completed by the IG's office. Asked about pending cases at the Department of the Inspector General and with the Chief.

Chair Jackson: IG, how many cases do you have pending?

IG Hendricks: We have 62 active investigations as of March 31, 2023. After investigations are closed, we give them directly to the board.

Kyle: the reason I was asking is where there may be a bottleneck in terms on our end and what that would like because there may be meetings where the board does not get through all the cases.

Chair Jackson: Should that occur, we can schedule another meeting, as was the case in February. The Chair can gauge the need because she will be in communication with the IG's office. Noted that she cannot recall if she has assigned a committee more than 10-15 cases. Stated that it doesn't appear that the IG's office is being flooded with complaints and that the number of cases transmitted to the board are generally consistent.

Vice Chair Burns: Commended the IG's office for processing 606 complaints in six months in 2022, regardless of outcome. Noted that over 1,000 in a calendar year is impressive.

Kyle Strickland: Commended the IG's office for processing large number of complaints thoroughly and in a tough timeframe.

Tatum: Stated appreciation for the IG's office and the work and effort put in by staff for the citizens of Columbus and for the board.

Mark: Highlighted that this is Chair Jackson's last meeting. Thanked Chair Jackson for her leadership and wished her well.

## MAY MEETING

May 2, 2023 at 2:00 pm in the 111 N Front Street Hearing Room.

## ADJOURNMENT

Motion to adjourn. Mark Fluharty moved and Chenelle Jones seconded motion. All in favor, passes unanimously and meeting adjourned at 4:16PM

