

**Cleveland Community Police Commission:  
Outreach Committee  
Tuesday, June 6, 2023  
6:00 – 8:00 PM  
3631 Perkins Ave. 4th Fl  
Public Livestream: [www.youtube.com/@ClevelandCPC](https://www.youtube.com/@ClevelandCPC)**

	<b>Agenda</b>
6:00–6:05 PM	<b>Welcome &amp; Call to Order</b> <b>Roll Call</b>
6:05- 6:15	<b>Selection of a Chair</b>
6:15–8:00 PM	<b>New Business:</b>  CPC Annual Survey on Community Police Interactions (Ryan Walker)  CPC Staff Community Engagement Strategy (Shalenah Williams)  Call for Additional Items Introduced by Commissioners
8:00 PM	<b>Formal Adjournment</b>

**Agenda may be subject to change.**

**Thank you all for your investment of time, intellect, and heart  
towards building community collaboration in police reform.  
You are appreciated!**

**Committee Members:**

**Teri Wang, Chair  
Shandra Benito  
Charles Donaldson  
Piet van Lier  
Sharena Zayed**

## **DRAFT RULES FOR CONSIDERATION**

### **2.3 - Subpoenas**

The Commission has the power to compel, through administrative subpoenas signed by the Commission's Co-Chairs or Executive Director, the attendance of witnesses and the production of evidence, including, but not limited to, from within the City, that the commission deems necessary for the performance of its mission. If a subpoena is warranted, it likely implies a breakdown of communication and cooperation between the Commission and another City Department. It is strongly recommended that the Commission seek independent counsel, if counsel does not exist on staff, in circumstances when an intra-city subpoena is necessary.

Prior to issuing a subpoena to any city official or representative of an office a notification shall be sent to the Appointing Authority of the person or persons receiving that subpoena

Subpoenas shall be issued in either of two ways:

1. The CPC shall supply subpoenas to the city's Law Department for assistance with serving subpoenas.

A subpoena is deemed served when:

- a. It is personally served upon the person; or
  - b. It is received by the person at the person's last known address by certified mail, return receipt requested; or
  - c. It is left at the usual place of residence, or last known address of the person, with an adult residing therein, or is left with the subpoenaed witness's government employer who has agreed to timely provide the subpoena to the witness.
2. The Commission shall mail subpoenas by ordinary United States mail to the last known address of the person as directed by the party requesting the subpoena. If the service by certified mail under par of this rule is returned with an endorsement showing the service was refused or unclaimed, then the subpoena may be sent by ordinary mail, evidenced by a certificate of mailing;

The CPC shall not mail subpoenas fewer than fourteen calendar days in advance of an appearance. If subpoenas cannot be mailed more than fourteen calendar days in advance of an appearance, the CPC shall, on request, hold the subpoenas so they can be served on the

witness at the time of appearance. Subpoenas to appear and produce documents (duces tecum) shall be received at least ten calendar days prior to the appearance.

To be enforceable, witnesses shall receive their subpoenas at least seven calendar days prior to an appearance. Absent proof a witness has received a subpoena in a timely manner, the board shall not enforce the subpoena nor hold the record open for the testimony of non appearing witness without proof or receipt of a subpoena.

Charter § 115-5 mandates that council legislates punishments for non-compliance with the Commission's subpoenas. The Commission shall work with the council to establish punishments for non-compliance and update this manual as appropriate.

## **2.4 - Receipt of Citizen or Officer Incident Based Complaints**

### **2.4.1 - Referrals of New Complaints**

Citizen Complaints brought directly to the Commission containing new allegations against a member of the Cleveland Division of Police shall be referred to the Office of Professional Standards.

Complaints from any officer brought directly to the commission regarding new allegations against any member of the Cleveland Division of police shall be referred to the Office of Internal Affairs, Office of Professional Standards or both. The Chief's office shall also be notified of the complaint when appropriate.

Contact information for the persons shall be taken by staff and staff will ensure timely referrals to OPS/CDP.

### **2.4.2 - Follow Up**

When applicable the commission's staff shall assist complainants with the process and follow up on complaint referrals to ensure receipt and continuity of the complaint. In addition all complaints will be monitored by the commission for timely resolution and reviewed for integrity at its discretion.

### **2.4.3 - Complaints Related to Lawsuits**

Charter § 115-5 states the CPC shall do the following:

“Directing the Civilian Police Review Board to independently investigate the conduct of every police officer against whom a lawsuit has been threatened or filed, or for whom the City has paid a settlement to obtain a liability release, or against whom there has been a court judgment for alleged misconduct.”

A vote is not required on this matter as Charter § 115-5 mandates a referral to CPRB when litigation is known to the commission as a whole. The staff of the CPC shall request monthly updates/ reports from the law department on litigation against members of the Cleveland Division of Police.

### **2.4.4 - Complaints Related to Past Disciplinary Actions**

Per Charter § 115-5 the Commission is authorized to conduct independent investigations and or evidentiary hearings into any previously adjudicated discipline decision for the purposes of increasing discipline or initiating discipline where none was imposed. This is a discretionary power and can be initiated by the commission or requested by a member of the public. The appeal process is not automatic and must be via petition. Petitions shall be received in one of the following ways:

- By a member of the public at an open public meeting
- By a member of the public via a written request
- By a commissioner on behalf of a member of the public

After receipt of a petition the Executive Director will have a legal analysis conducted of the feasibility of the request. The initial analysis should be done by staff and legal counsel. Legal counsel shall be in-house or counsel that is contracted as independent by the law department due to the inherent conflict of interest. The analysis will include:

Is the disciplinary process completed at the time of petition, has due process been followed, and has it reached the stage where it is eligible for review of the CPC according to the law, contracts and policy in place at the time of the discipline in the City of Cleveland;

The time and date of when the discipline was administered and how its age may affect the ability of the case to be heard by the Commission;

An impact analysis on any pending criminal or civil cases related to the discipline;

An general opinion on the feasibility of the case based on past and prior discipline decisions utilizing the same disciplinary matrix;

any special notations, novelties or concerns about the case.

And a recommendation for either pursuing or not pursuing the petition.

This analysis shall be completed within 15 days of receiving a petition. Once completed the analysis shall be discussed and voted upon in a **Police Investigations, Discipline & Accountability Committee meeting**. If no committee meeting is scheduled one will be scheduled for the specific purpose of publicly discussing the petition and analysis without delay. Witnesses related to the discipline case shall not be called at this point. The committee will then vote to continue the process via an evidentiary hearing before the entire commission or to deny the petition. A majority vote of the committee will carry a motion related to a petition.

The Commission may also accept a matter to decrease disciplinary action against an officer when there is a preponderance of evidence that an officer is facing retaliation for protected activity or whistleblowing about misconduct within the division. An officer may not automatically appeal to the Commission, however they should be encouraged to petition the commission to review discipline when they believe action taken against them is related to protected activity or whistleblowing. An officer may use an association or a union as a proxy if there are concerns about identity. This shall be done via a confidential conference with the Executive Director and the Chair of the Police Investigations, Discipline & Accountability Committee. The matter of protecting a whistleblower to the extent the law provides and guidelines for how to do so shall be addressed in the initial legal analysis of the petition.

The presence of a civil legal action by the officer against the city or the Division mandates a referral to OPS for investigation. In these instances, the due process via OPS should be followed prior to the Commission taking action.

## 2.5 - Other Independent Investigations

Generally this Commission is considered an “oversight” organization. In that capacity, investigations are typically broad and evaluate overall quality or impact of a process or policy.

Investigations may in some instances be an audit of a particular incident and how it was handled by the primary agency such as a use of force investigation or vehicle pursuit. The standard for the audit shall be adherence to the policy in existence at the time of occurrence.

The scope shall not be to re-investigate the facts but to improve the investigative process or subject policy in the future. However, the Commission may uncover new evidence or witnesses that were overlooked which mandates the original investigation to be re-opened or amended. In these instances, an order to do so shall be warranted.

Investigations other than specific disciplinary reviews via evidentiary hearing shall be conducted by an exchange of correspondence between the Commission and the parties. Unless a party can show good cause for its failure to respond, decisions will be based on the information received within the response time allowed. Generally reports detailing facts of an investigation and recommendations will be produced by staff and approved by the Commission via a vote at a regular meeting. At the Commission’s discretion, investigations may be set for a special meeting, open to the public, to review evidence, deliberate and consider recommendations prior to issuing a written report.

As described above complaints about new incidents from citizens or officers should be referred to the appropriate entity for the initial investigation. This is to ensure that each organization is given the opportunity to conduct its primary mission without redundant efforts or interference by others.