

## **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 or his/her designee, will request the case file for the matter from the previous administrative authority within two (2) working days. The remaining procedures will follow what is outlined in Rule 2.6 of this Manual.

## **2.6 CPC Discipline Review Procedures**

At § 115-5, the City of Cleveland's Charter gives the Community Police Commission ("CPC", "Commission") the following duty and authority:

[The Commission serves] as the final City authority on whether the discipline of police officers imposed or not imposed by the Chief of Police, executive head of the police force, or Civilian Police Review Board is sufficient, with the discretionary authority, with due process afforded to a subject officer, to order that the Chief and executive head of the police force increase discipline; and to order that they impose discipline where none was imposed. The Commission may, at its discretion, and upon notice, hold evidentiary hearings to review individual officer discipline following any proceedings and decisions by the Chief of Police, executive head of the police force, and, as applicable, the Civilian Police Review Board. Any order by the Commission to increase or impose discipline will be final and the chief and executive head of the police force must follow it.

Ordering the Chief of Police to decrease discipline of police officers only in circumstances in which the Commission determines that the officer is facing retaliation for protected activity or for whistleblowing about misconduct within the Division of Police. With this exception, nothing in this Section will be construed as conferring a right by any officer to appeal that officer's discipline to the Commission.

### **2.6.1 CPC's Final Authority and Jurisdictional Requirements**

The Commission is the final authority for disciplining police officers in the city. The Commission can review cases with or without a complaint from a citizen, but only after the administrative authority before it has made a final decision.

### **2.6.1.1 Internally Discovered Misconduct**

The CPC can hear cases stemming from an internal Department of Public Safety (“DPS”) investigation. These cases are called *internally discovered misconduct cases* because they do not have a citizen complaint about an officer’s actions accompanying them. Generally, the CPC can hear internally discovered misconduct cases once the DPS has made a final decision on discipline for the matter. A full description of the internally discovered misconduct process is detailed in the Internally Discovered Cases chart on the CPC’s website.

The Chair of the Accountability Committee, the Executive Director and other Accountability Commission members can add internally discovered misconduct cases to the Accountability Committee’s agendas for eligibility review, if they believe a case is or will imminently become ripe for the Commission to hear. The Accountability Committee can discuss possible cases and may unilaterally remove a case from consideration, without requiring a vote by the full Commission, up until it requests case files and a package through the Executive Director. After requesting a case file and package through the Executive Director, all recommendations to dismiss or for full hearings must be approved by the full Commission.

During the committee meeting, if the Accountability Committee concludes with a majority vote that sufficient facts exist in a case that may warrant the full Commission modifying a discipline decision, or if the committee needs the full case file before making that decision, the Accountability Committee Chair, through the Executive Director, will send a memorandum or subpoena (if necessary) to the Cleveland Division of Police (“CDP”) requesting the complete investigation and discipline file. The request may also include other relevant items to the matter such as hearing transcripts. The Executive Director must send the records request within two (2) working days from the Accountability Committee’s vote and CC: the Accountability Committee Chair on the communication. The Accountability Committee Chair may request a modification of the requested items through the Executive Director. The Executive Director must also simultaneously send a memorandum to the officer and the unions alerting them to the possible future CPC review. The message should substantially read the template in Appendix A to this Manual.

There may also be situations where the CPC would like to review a decision by the Cleveland Division of Police to *not* impose discipline. In this instance, the Chair of the Accountability Committee would add the case to the Accountability Committee agenda and follow a similar process described in this Section 2.6.1.

### **2.6.1.2 Externally Discovered Misconduct**

Cleveland City Charter § 115-5 gives the CPC the ability to serve as the final authority on whether the discipline of police officers imposed by the Civilian Police Review Board (“CPRB”) was sufficient (or excessive in limited cases). These cases are called *externally discovered misconduct*

*cases* because they have a citizen complaint about an officer's actions accompanying them. Generally, the CPC can hear externally discovered misconduct cases once the Department of Public Safety or the CPRB has made a final decision on discipline for the matter. A full description of the externally discovered misconduct process is detailed in the Externally Discovered Cases chart on the CPC's website.

The Chair of the Accountability Committee and the Executive Director should review the minutes of each CPRB meeting to identify any cases of interest to the CPC. The Chair of the Accountability Committee, the Executive Director and other Accountability Commission Members can add cases to Accountability Committee's agendas for eligibility review. The Accountability Committee can discuss possible cases and may unilaterally remove a case from consideration, without requiring a vote by the full Commission, up until it requests case files and a package through the Executive Director. After requesting a case file and package through the Executive Director, all recommendations to dismiss or for hearings must be approved by the full Commission.

If the Accountability Committee decides by majority vote that sufficient facts exist in a case that may warrant the full Commission modifying a discipline decision, or if the Committee decides it needs the full case file before it makes that decision, the Committee Chair, through the Executive Director, would then send a memorandum or subpoena (if necessary) to the CPRB Chair or the Office of Professional Standard's ("OPS") Administrator requesting the complete investigation and discipline file on the matter. The Executive Director must send the records request within two (2) working days from the Accountability Committee's direction and CC: the Accountability Committee Chair on the communication. The Accountability Committee Chair may request a modification of the requested items through the Executive Director. The request may also include other relevant items to the matter such as hearing transcripts. The Executive Director must also simultaneously send a memorandum to the officer, the unions, and the person who filed the complaint ("Complainant") alerting them to possible CPC review (if the complainant provided their contact information to OPS.) The message should substantially read the templates in Appendix B and C of this Manual.

Additionally, the Executive Director and the Chair of the Accountability Committee must intake complaints that have been submitted directly to the CPC. These direct appeals to the CPC must follow CPC Manual Rule 2.4 Receipt of Citizen or Officer Incident-Based Complaints.

### **2.6.2 The Scope of the CPC's Review**

§ 115-5 gives the CPC the ability to serve as the final City authority on whether the discipline of police officers imposed or not imposed by the Chief of Police ("Chief"), executive head of the police force, i.e. the Director of Public Safety ("Director"), or CPRB is sufficient. As such, the CPC may review any material relevant to increase or (in some cases) decrease of discipline imposed on a Cleveland police officer. However, facts beyond the degrees of or the application of discipline must remain outside the purview of the Commission.

Additionally, the CPC's scope of review is limited to non-criminal issues. Criminal issues should be referred to the City of Cleveland's Internal Affairs Division ("IA"). However, the CPC may refer cases directly to the City Prosecutor for further investigation if IA has declined to review a matter for criminal violations and the Commission believes that criminal violations may exist. The Accountability Committee or the full CPC commission can make a majority motion to recommend referring the criminal portion of the case to the City's Prosecutor if there are potential misdemeanor charges that were not investigated by IA. The full Commission must vote on this recommendation at a subsequent full Commission meeting. If passed, the Executive Director would meet with the City's Prosecutor, outline the Commission's perspective on the matter, and report the Prosecutor's findings back to the Commission.

Finally, the CPC is limited in what it can hear in relation to any potential decrease in the level of discipline imposed by the Cleveland Division of Police or the CPRB. Specifically, § 115-5 states,

Ordering the Chief of Police to decrease discipline of police officers only in circumstances in which the Commission determines that the officer is facing retaliation for protected activity or for whistleblowing about misconduct within the Division of Police. With this exception, nothing in this Section will be construed as conferring a right by any officer to appeal that officer's discipline to the Commission.

The Chair of the Accountability Committee must ensure cases for the reduction of discipline meet this requirement before the committee recommends a matter for a hearing by the full Commission.

### **2.6.3 Appeal Pursuant to ORC § 2506**

According to ORC § 2506.01, every final order, adjudication, or decision of any officer, tribunal, authority, board, bureau, *commission*, department, or other division of any political subdivision of the state may be reviewed by the court of Common Pleas of the county in which the principal office of the political subdivision is located. This appeal process would include all final hearing decisions of the Community Police Commission.

To preserve the best record for appeal, additional due process procedures may be added to the Commission's hearings if they have been requested by the officer before or during the hearing. Specifically, the Officer may request:

- (1) The transcript to contain a report of all evidence proffered by the officer.
- (2) Offer and examine witnesses and present evidence in support;
- (3) Cross-examine witnesses purporting to refute the officer's position, arguments, and contentions;
- (4) Offer evidence to refute evidence and testimony offered in opposition to the officer's position, arguments, and contentions;
- (5) All testimony to be given under oath.

- (6) The Commission's subpoena power to acquire and present evidence.

These procedures are not in a standard Commission hearing, but if requested by the officer, the Co-Chairs of the Commission must make every effort to accommodate the requests made by the officer before or during the hearing. A failure to request these additional procedures shall be deemed a waiver by the officer. A description of the right to demand these procedures and their possible waiver must be included in the hearing notice sent to the officer.

#### **2.6.4 Preparing the Case File for the Accountability Committee**

The CPC's Executive Director, or his/her designee, shall prepare a case file for review before the Accountability Committee. Once the Executive Director receives the requested records relevant to the matter, the Executive Director's team shall review the file for completeness and begin to create a case package for the Accountability Committee. The Executive Director must send the case package to the Accountability Committee within fifteen (15) working days after receiving the complete case file. Commissioners shall not participate in the Executive Director's case package preparation process. This includes influencing the Executive Director's brief and prematurely viewing the case's records. The case package should include:

- (1) Case Summary — including case Id., Officer(s) Name(s) and Badge Number(s), Allegations Summary, Referenced Policies, Factual Summary, Evidence Collection Breakdown, Current Discipline, etc.;
- (2) Case Comparisons — A summary of comparable City of Cleveland discipline case comparisons with the relevant discipline matrix;
- (3) Full Case File — The complete case file, as transmitted by the previous agency;
- (4) Recommendations — A brief preliminary recommendation (which will be replaced by the Accountability Committee's recommendations before the full Commission hearing);
- (5) Jurisdiction — A statement on why the CPC can hear the case, its procedural status, and the procedural history leading up to the CPC hearing (including any CBA concerns); and
- (6) Any additional special circumstances or concerns that may be relevant to the decision to hear the case.

Once prepared, the Executive Director shall communicate the case package via e-mail to the Accountability Committee.

#### **2.6.5 File Review by the Accountability Committee**

The Accountability Committee must prepare a case package for the full Commission to review during an evidentiary hearing. §115-5 explicitly gives the CPC the right to request investigation and discipline files from other City departments under the following:

[The CPC can regulate the City's police force through] [r]equesting and timely receiving, without the need for making a formal public-records request, from other City departments and offices including the Division of Police and Director of Public Safety, information relevant to the Commission's duties that must be disclosed if requested under the Ohio Public Records Act;

...Accessing un-redacted complaints against officers and unredacted files of all closed investigations, except for information required to be withheld from persons who are not members of criminal-justice agencies under the Ohio Public Records Act or the Ohio Personal Information Systems Act, as they may be amended.

The committee shall call a special committee meeting or add it to the agenda of a committee meeting within fourteen (14) calendar days of receiving the case package from the Executive Director. At the committee meeting, the committee members shall review the case package and decide on whether to recommend hearing the case before the full Commission or dismiss it without a full Commission hearing. The decision must be a majority vote of the committee meeting's quorum.

The decision to hear or dismiss a case, once a case file has been transmitted by the Executive Director, must be made by the full Commission. All full Commission hearings to hear discipline cases must occur within thirty (30) calendar days of the full Commission's decision to have the hearing. The Accountability Committee Chair must coordinate the calendars of the full Commission to pick a desirable date. Once chosen, the Accountability Chair must communicate the date to the Executive Director within forty-eight (48) hours. The Executive Director must then send notice of the hearing to the officer, the complainant (if applicable) the relevant police unions and post the notice on the CPC's website within forty-eight (48) hours of setting the date of the hearing. The notice must contain the date of the hearing, the procedures set forth in Section 2.6.5 below, deadlines for brief submission (for the officer), and offer the officer (with counsel) the ability to attend the hearing to answer questions by the Commission. The Complainant should be invited to speak during the Public Comment portion of the hearing, if there is a Complainant. The notices should approximately read the templates attached as Appendix D, E, and F to this Manual.

Either the officer or the Executive Director may request one continuance of the hearing, for just cause, by sending the request to the Chair of the Accountability Committee a request at least twenty-four (24) hours in advance of the hearing. Rescheduling the hearing is at the discretion of the Chair of the Accountability Committee and, if granted, he or she must reschedule the hearing within seven (7) calendar days of the previously scheduled hearing date and communicate subsequent notices through the Executive Director.

If the full Commission has decided to hear a case, the Accountability Committee should also state other relevant evidence the Commission should have before it while hearing the case. If the Committee would like for the Executive Director to subpoena evidence or persons (see Section 2.3 of this Manual) for the hearing, it should include such items in the Committee's minutes so that the Executive Director may work on obtaining the additional items before the full Commission hearing.

If deciding not to recommend hearing a case, the Accountability Committee should state its reason for making the decision in the Committee's minutes. The decision to dismiss a case must undergo a vote by the full Commission if the Accountability Committee has received a case package from the Executive Director. If the recommendation to dismiss the case is approved by the full Commission, the CPC's Executive Director would then send notice to the officer and complainant (if applicable) advising them that the CPC has decided to not hear the case and refer them to the minutes of the full Commission meeting when the Commission discussed the case.

### **2.6.6 Pre-Hearing Procedures**

The police officer (including counsel) may submit a brief to the full Commission in advance of the Evidentiary Hearing. The brief shall be limited to matters related to the potential increase, decrease of implementation of discipline. Briefs must only argue the party's stance on increasing (or decreasing in some cases) or implementing discipline on the matter. Additional rules for briefs include:

- Briefs are due to Commission Co-Chairs via e-mail at least five (5) calendar days in advance of the hearing;
- 7,000 character limit or two pages (not including exhibits), whichever is first. Requests for additional brief length must be made to and decided by the Chair of the Accountability Committee;
- Response briefs are not permitted;
- Amendments to the brief are not allowed, unless new evidence relative to the level or implementation of discipline has been discovered (as decided by the Chair of the Accountability Committee);
- All briefs (and evidence therein) must be completely redacted pursuant to the Ohio Public Records Act, other state laws and federal laws before submission;

Briefs should be in in the following format:

- (1) Case Summary — including case Id., Officer(s) Name(s) and Badge Number(s), Allegations Summary, Referenced Policies, Factual Summary, Evidence Collection Breakdown, Procedural History, Current Discipline, etc.;
- (2) Case Comparisons (optional) — A summary of comparable City of Cleveland discipline case comparisons within the relevant discipline matrix;
- (3) Argument – the application of facts to case comparisons, existing discipline and counterarguments;
- (4) Recommendation — A final recommendation with a conclusion.

In addition to the officer, the CPC's Executive Director should also prepare a brief for the full Commission that incorporates the recommendations of the Accountability Committee. The contents of the Executive Director's brief can only be modified by an Accountability Committee vote. The brief should follow the same rules as the officer's brief and a copy of the brief should be sent to the officer after submission to the full Commission.

Once the Co-Chairs receive a brief from either the officer or the Executive Director they must provide the briefs to the rest of the Commissioners within twenty-four (24) hours of receipt. The Co-Chairs must ensure a copy of each brief to the Commission (compliant with the Ohio Public Records laws) is made available to the public at least twenty-four (24) hours in advance of the hearing by posting them on the CPC's website under the notice for the hearing. If the Co-Chairs are not available to complete these task, the Executive Director shall complete them. Briefs are optional for the officer, and Commissioners should not permit the non-submission of a brief to bias their judgment on the merits of the case.

The Chair of the Accountability Committee also has the duty to ensure the complete Case File has been shared with all Commissioners at least five (5) calendar days in advance of the hearing.

### **2.6.7 Evidentiary Hearings**

To begin the hearing, the Co-Chairs of the full Commission shall call the hearing to order, determine if there is a quorum of the full Commission, and then state the identifying information of the case and summarize the agenda for the hearing. An agenda may not be amended to include additional items beyond the purpose of the Evidentiary Hearing and should mirror the following sample agenda:

1. Call to Order;
2. Roll Call for Quorum;
3. Call of the Case (Case Identifying Information);
4. Public Comment;
5. Questions for CPC Executive Director (or his/her designee);

6. Questions for Officer (including counsel) if present;
7. Questions for additional witnesses (if summoned);
8. Public Comment;
9. Closing Comments by CPC Executive Director;
10. Closing Comments by Officer (including counsel);
11. Commission Discussion;
12. Commission Decision;
13. Adjourn

The deliberation and review of evidence should be limited to issues on the increase, decrease or implementation of discipline. Deliberation on issues of fact irrelevant to discipline is outside the scope of the Commission's jurisdiction. Irrelevant questioning or evidence should be excluded by the Commission's Co-Chairs, with the right to appeal by a motion passed by the majority of the Commission's present members.

Additional requirements for evidentiary hearings include:

- The officer (including counsel) and the CPC's Executive Director may not present or review evidence they did not include in their briefs;
- The officer can elect to have one representative (including legal counsel) represent his/her interest at the hearing. Any time an officer would be expected to speak at the hearing, this representative can speak on their behalf. All other representatives for the officer are welcome to speak during the public comment portion of the hearing.
- Every Commissioner may ask the Executive Director and the officer (including counsel), if present, two (2) questions each.
- Every Commissioner can ask additional witnesses (if any) two (2) questions.
- Each Commissioner is limited to speaking twice (2) during the discussion portion of the hearing, for up to ten(10) minutes in length in each instance.
- Questions and time are not transferrable among Commissioners;
- Any requests for additional time or questions must be made in a motion and confirmed by a majority of Commissioners.

The Commission can only modify and impose final disciplinary action if a preponderance of the evidence in the matter shows that the original discipline, or the lack thereof, the CPRB or the DPS applied was inconsistent with similar cases subject to the same discipline matrix or contrary to the needs and concerns of the community. Commissioners should evaluate if a discipline decision is "Contrary to the needs and concerns of the community" by finding the officer's actions violate any of the following factors:

- **Lack of Cultural Competence:** The officer's actions demonstrated a grave misunderstanding or appreciation for the cultural nuances of the community where the

action occurred and that this ignorance, if not corrected, will lead to severe mistrust and discord within the community.

- **Racial Bias and Profiling:** The officer's actions demonstrated implicit or explicit racial biases, via racial profiling, selective enforcement, or targeting certain groups disproportionately and this bias, if not corrected, will lead to severe mistrust and discord within the community.
- **Excessive Use of Force:** The officer's actions demonstrated excessive force, including police brutality or unjustified use of firearms, which if not corrected, will lead to escalating tensions and perpetuating fear and anger within the community.
- **Lack of Accountability and Transparency:** The previous discipline decision is an example of the CDP or the CPRB failing to hold officers accountable for misconduct or abuse of power, and if not corrected, it would reinforce a sense of impunity and erode public trust.

Each Commissioner must Complete a Hearing Findings Worksheet to make findings and provide reasoning on the following questions. The Hearing Findings Worksheet is attached as Appendix G to this Manual.

The best interest of the citizens of Cleveland should always be a consideration of this commission. However, the mere fact that members of the public, organizations, or special interests in masse do not agree with the discipline outcomes imposed by the DPS or CPRB should not be unto itself a reason to modify or impose discipline.

The Co-Chairs shall call for the question of whether to increase, decrease, or maintain the level of discipline in the case before the Commission once the discussion has ended. Any Commissioner may call for the question before the discussion has ended, with a second and two-thirds approval of the Commissioners present.

Each Commissioner present must answer the Evidentiary Hearing questions once the discussion has been completed. By majority vote of the quorum, there are only three valid findings the Commission may make:

- (1) To increase (or decrease in limited circumstances) the previous discipline decision, or to impose discipline where previously there was none;
- (2) To affirm the previous discipline decision or lack thereof; or
- (3) To stay the matter for further investigation.

If the Commission makes the first finding it must include the exact discipline it deems appropriate and the reasoning behind the decision. If the Commission makes the second finding it must state the reasoning why. If the Commission makes the third finding it must state what information is necessary for a final conclusion on the matter and refer the matter back to the Accountability Committee so that it may update the case file with the missing evidence for another hearing. The Co-Chairs of the Commission must transcribe the decision, plus these requirements, onto a Hearing Decision Form and have the form approved by a majority of Commissioners present.

If the Commission cannot come to a final decision on the matter after the end of the hearing, any Commissioner can make a motion to postpone the decision for another day. At least a majority of Commissioners present must approve the decision.

### **2.6.8 Post Decision by Commission**

The Executive Director must forward all comments the Commissioners made to Question 9 on the Hearing Findings Worksheets (Appendix H) to the Chair of the CPC's Policy Committee.

The Executive Director must communicate all final CPC decisions to the CDP and DPS by forwarding the completed Hearing Decision Form. An additional copy of the completed Hearing Transmission Form must also be sent to the preceding administrative agency that heard the case before the Commission and any Complainants if they have provided their contact information to the Commission or CPRB. The Director of Public Safety or Chief of Police is responsible for enforcing the discipline decided by the Commission.

### **2.6.9 Commissioner Conduct Restrictions for Discipline Review**

CPC Commissioners have an obligation to those who come before the Commission for discipline review, and the general public, to render final decisions in an unbiased, equitable, and ethical manner. To do this, Commissioners must be cognizant of their obligations under Ohio ethics laws, State and Federal constitutional requirements, and the rules agreed to by this Commission under this Manual. Simultaneously, in some situations, it is up to each Commissioner to self-determine whether some potential conflicts render him or her unable to issue an unbiased decision.

A CPC Commissioner must recuse him or herself if any of the following occur:

- (1) If the officer subject to the discipline or a complainant in a matter is a spouse, child, parent, sibling, grandparent, or grandchild of the Commissioner, or if the officer or complainant in a matter is a person living in the Commissioner's home and he or she is related to the Commissioner by blood or marriage;
- (2) If the officer subject to the discipline or a complainant in a matter has a financial relationship with the Commissioner (employee, employer, business partner, etc.); or

- (3) If he or she self-identifies a personal bias that would render him or her unable to provide a fair and just opinion on the matter. (These matters are unique per Commissioner and should be handled personally by each Commissioner on a case-by-case basis).

If a Commissioner self-identifies a conflict of interest, he or she must state they have a conflict for the record, leave the room, and specifically refrain from taking part in the following activities on the conflicted matter:

- (1) Voting;
- (2) Participating in discussions;
- (3) Participating in deliberations;
- (4) Making recommendations;
- (5) Providing advice;
- (6) Formally or informally lobbying; or
- (7) Taking any other action on the matter.

Further, Commissioners must refrain from discussing the case, including:

- (1) Discussing the merits of a case's subject matter with the case's complainant, the public, the media, officer(s) at issue, fellow Commissioners and administrative Commission staff, or CPRB/OPS and DPS board members and administrative staff;
  - a. A Commissioner's response on the matter, if prompted, must be limited to explaining this policy to that individual.
- (2) Discussing the merits of a case's subject matter in a Committee report to the full Commission;
- (3) Making any motions to increase, decrease, or implement discipline.


Any person can bring an alleged violation of these rules to the Co-Chairs of the Commission. The Co-Chairs shall conduct an investigation, to their satisfaction, of the circumstances and determine if the allegations are well founded. The Co-Chairs will discuss their findings with the City Law Department to determine if additional actions outside of the Commission should occur.

The Co-Chairs' decision may be appealed by the Commissioner to the remaining Commission members (less the accused and Co-Chairs). If appealed, the remaining Commissioners may conduct their investigation to their satisfaction, and their decision to overrule the Co-Chairs may only be completed via a two-thirds vote of the remaining Commissioners.

If the Co-Chairs determine that the alleged violations are well founded, the Commissioner at issue shall be recused from making a final decision on the discipline, effective immediately, and he/she must not continue to communicate in a way that violates this policy. Repeated violations in the

same case shall subject the Commissioner to any discipline policy of the Commission. If not, the Commissioner shall be permitted to continue participating in the matter.

Note that the restrictions on discussing the merits of a case's subject matter should not be construed to limit conversations during an Accountability Committee meeting. These rules and penalties do not supersede the City of Cleveland Charter, state or federal law, and all decisions by the Commission must be consistent and equitable when compared to previously decided cases for those that are similarly situated. Violations of this policy may be enforced by the Ohio Ethics Commission or other oversight agencies, as appropriate, and should not be construed to negate validly made motions by the CPC.



APPENDIX A  
NOTIFICATION LETTER — INTERNALLY DISCOVERED  
OFFICER TEMPLATE

Dear (Officer Name),

The Cleveland Community Police Commission, in accordance with its authority under Charter 115-5, is writing to inform you that we have opened a review of CDP Case CPD20XX-XXXX. You were named as an officer involved in the associated incident and DPS investigation.

The CPC's Commission's Police Investigations, Discipline, & Accountability Committee will first publicly assess the need for a full Commission Evidentiary Hearing on CDP Case CPD 20XX-XXXX. The Committee's assessment will end with a recommendation to the full Commission on whether to open an evidentiary hearing on the matter. We will update you once the full Commission has decided on whether to have a full hearing on your matter.

Thank you for your service and cooperation in this matter.

Sincerely Yours,  
(Name)  
Executive Director  
Cleveland Community Police Commission

APPENDIX B  
NOTIFICATION LETTER — EXTERNALLY DISCOVERED  
OFFICER TEMPLATE

**(For the Officer and the Unions)**

Dear (Officer Name),

The Cleveland Community Police Commission, in accordance with its authority under Charter 115-5, is writing to inform you that we have opened a review of CPRB Case 20XX-XXXX. You were named as an officer involved in the associated incident and OPS Investigation.

The CPC's Commission's Police Investigations, Discipline, & Accountability Committee will first publicly assess the need for a full Commission Evidentiary Hearing on CPRB Case 20XX-XXXX. The Committee's assessment will end with a recommendation to the full Commission on whether to open an evidentiary hearing on the matter. We will update you once the full Commission has decided on whether to have a full hearing on your matter.

Thank you for your service and cooperation in this matter.

Sincerely Yours,

(Name)

Executive Director

Cleveland Community Police Commission

APPENDIX C  
NOTIFICATION LETTER — EXTERNALLY DISCOVERED  
COMPLAINANT TEMPLATE

**(For the Complainant)**

Dear (Complainant Name),

The Cleveland Community Police Commission, in accordance with its authority under Charter 115-5, is writing to inform you that we have opened a review of CPRB Case 20XX-XXXX. You were named as the Complainant involved in the associated complaint and OPS Investigation.

The CPC's Commission's Police Investigations, Discipline, & Accountability Committee will first publicly assess the need for a full Commission Evidentiary Hearing on CPRB Case 20XX-XXXX. The Committee's assessment will end with a recommendation to the full Commission on whether to open an evidentiary hearing on the matter. We will update you once the full Commission has decided on whether to have a full hearing on your matter.

Thank you for your cooperation in this matter.

Sincerely Yours,

(Name)

Executive Director

Cleveland Community Police Commission

APPENDIX D  
NOTIFICATION LETTER — HEARING NOTIFICATION  
OFFICER TEMPLATE

**(For the Officer and the Unions)**

Dear (Officer Name),

The Cleveland Community Police Commission, in accordance with its authority under Charter 115-5, is writing to inform you that the CPC will host a public evidentiary hearing to review (CPRB or CDP) Case 20XX-XXXX on (Month Day, Year) at (TIME) at (ADDRESS). You were named as an officer involved in the associated incident and (OPS or CDP) Investigation.

At the hearing, the CPC will only review the level of discipline that the City applied to your matter. You and your counsel are welcome to attend the hearing to testify before the Commission and to submit a written brief articulating your position on the matter at least five (5) days in advance of the hearing. Briefs must only argue your position on the level of discipline that the Commission should apply to your matter. Additional rules for briefs include:

- Briefs are due to Commission Co-Chairs via e-mail (SAMPLE@CPCEXAMPLE.COM) at least five (5) calendar days in advance of the hearing;
- 7,000 character limit or two pages (not including exhibits), whichever is first. Requests for additional brief length must be made to and decided by the Chair of the Accountability Committee;
- Response briefs are not permitted;
- Amendments to the brief are not allowed unless new evidence relative to the level or implementation of discipline has been discovered (as decided by the Chair of the Accountability Committee);
- All briefs (and evidence therein) must be completely redacted pursuant to the Ohio Public Records Act, other state laws, and federal laws before submission;

Briefs should be in the following format:

- (1) Case Summary — including case Id., Officer(s) Name(s) and Badge Number(s), Allegations Summary, Referenced Policies, Factual Summary, Evidence Collection Breakdown, Procedural History, Current Discipline, etc.;
- (2) Case Comparisons (optional) — A summary of comparable City of Cleveland discipline case comparisons within the relevant discipline matrix;

(3) Argument – the application of facts to case comparisons, existing discipline, and counterarguments;

(4) Recommendation — A final recommendation with a conclusion.

Briefs and attending the hearing are optional for the officer, and Commissioners should not permit their omission to bias their judgment on the merits of the case. Additional rules for the hearing include:

- The officer (including counsel) and the CPC's Executive Director may not present or review evidence they did not include in their briefs;
- The officer can elect to have one representative (including legal counsel) represent his/her interest at the hearing. Any time an officer would be expected to speak at the hearing, the representative can speak on his/her behalf. All other representatives for the officer are welcome to speak during the public comment portion of the hearing.
- Every Commissioner may ask the Executive Director and the officer (including counsel), if present, two (2) questions each.
- Every Commissioner can ask additional witnesses (if any) two (2) questions.
- Each Commissioner is limited to speaking twice (2) during the discussion portion of the hearing, for up to ten (10) minutes in length in each instance.
- Questions and time are not transferrable among Commissioners;
- Any requests for additional time or questions must be made in a motion and confirmed by a majority of Commissioners.
- One continuance if submitted within twenty-four (24) hours in advance of the Hearing to the CPC's Accountability Chair via e-mail at (SAMPLE@CPCSAMPLE.COM).

The Commission may only modify and impose final disciplinary action if a preponderance of the evidence in the matter shows that the original discipline, or the lack thereof, the CPRB or the DPS applied was inconsistent with similar cases subject to the same discipline matrix or contrary to the needs and concerns of the community.

The CPC's decision on the matter is final and is only appealable pursuant to ORC § 2506.01. Officers may request the additional hearing procedures described in ORC § 2506.03 by submitting the request to the CPC Co-Chairs via e-mail within five (5) days before the hearing. Not timely requesting the procedures described in § 2506.03 shall be considered a waiver.

Thank you for your service and cooperation in this matter.

Sincerely Yours,

(Name)

Executive Director

Cleveland Community Police Commission

APPENDIX E  
NOTIFICATION LETTER — HEARING NOTIFICATION  
COMPLAINANT (IF THERE IS ONE) TEMPLATE

**(For the Complainant)**

Dear (Complainant Name),

The Cleveland Community Police Commission, in accordance with its authority under Charter 115-5, is writing to inform you that the CPC will host a public evidentiary hearing to review CPRB Case 20XX-XXXX on (Month Day, Year) at (TIME) at (ADDRESS). You were named as the Complainant involved in the associated case and are invited to speak during the public comment portion of the CPC hearing.

The Commission can only modify and impose final disciplinary action if a preponderance of the evidence in the matter shows that the original discipline, or the lack thereof, the CPRB or the DPS applied was inconsistent with similar cases subject to the same discipline matrix or contrary to the needs and concerns of the community. The CPC's decision on the matter is final and is only appealable pursuant to ORC § 2506.01.

We will update you once the full Commission has made its decision on the matter and thank you for your cooperation.

Sincerely Yours,  
(Name)  
Executive Director  
Cleveland Community Police Commission

APPENDIX F  
CPC WEBSITE NOTIFICATION — HEARING NOTIFICATION

**(For the website)**

The Cleveland Community Police Commission, in accordance with its authority under Charter 115-5, will host a public evidentiary hearing to review the level of or implementation of police officer discipline in (CPRB or CDP) Case 20XX-XXXX on (Month Day, Year) at (TIME) at (ADDRESS). You are welcome to attend the public hearing and to review the briefs submitted by the CPC's Executive Director and the officer (optional) in advance of the hearing. Please note anything outside of the level of discipline that should be applied to the matter is outside the scope of the CPC's review.

The Commission can only overturn and impose final disciplinary action if a preponderance of the evidence in the matter shows that the original discipline, or the lack thereof, the CPRB or the DPS applied was inconsistent with similar cases subject to the same discipline matrix or contrary to the needs and concerns of the community. The CPC's decision on the matter is final and is only appealable pursuant to ORC § 2506.01.

APPENDIX G  
CITY OF CLEVELAND  
COMMUNITY POLICE COMMISSION  
HEARING FINDINGS WORKSHEET

Case Name: \_\_\_\_\_

Hearing Date(s) : \_\_\_\_\_

Commissioner Name: \_\_\_\_\_

**Please circle either (Yes / No) and provide a statement for each finding.**

1. Did the CPRB or DPS appropriately apply the discipline within the disciplinary matrix in place at the time of administration? (Including mitigating/aggravating factors) (Yes / No)
  
2. Was the disciplinary action equal and consistent based on comparisons to the same charge(s) in other circumstances? (Yes / No)
  
3. Was there a need for additional discipline (or decreased discipline), but the CPRB or CPS did not apply it? (Yes / No)
  
4. Did the CPRB or CDP follow due process procedures when they heard the case, in a way that is consistent with rules, laws, and contractual obligations? (Yes / No)
  
5. Does the CPRB's or CDP's discipline align with the Cleveland community's values and standards? (Yes / No)
  
6. Were there apparent criminal behaviors or ethical violations that warrant additional consideration by the City? (Yes / No)

7. Is there a gap in the investigation that does not allow you to render a fair decision today? (Yes / No)
8. Should the CPC's Policy Committee review any CDP policies as a result of this matter? If so, which policies and why? (Yes / No)
9. Does a preponderance of the evidence show that the original disciplinary action, taken by the CPRB or the CDP, was inconsistent with similar cases that were subject to the same discipline matrix? Or was it contrary to the needs and concerns of the community? If either is true, what level of discipline should the City apply to the matter? (Yes / No)
10. If contrary to the needs and concerns of the community, does the previous level of discipline violate the following? (Must be at least one)
- **Lack of Cultural Competence:** The officer's actions demonstrated a grave misunderstanding or appreciation for the cultural nuances of the community where the action occurred and that this ignorance, if not corrected, will lead to severe mistrust and discord within the community. (Yes / No)
  - **Racial Bias and Profiling:** The officer's actions demonstrated implicit or explicit racial biases, via racial profiling, selective enforcement, or targeting certain groups disproportionately and this bias, if not corrected, will lead to severe mistrust and discord within the community. (Yes / No)
  - **Excessive Use of Force:** The officer's actions demonstrated excessive force, including police brutality or unjustified use of firearms, which if not corrected, will lead to escalating tensions and perpetuating fear and anger within the community. (Yes / No)
  - **Lack of Accountability and Transparency:** The previous discipline decision is an example the CDP or the CPRB failing to hold officer accountable for misconduct or abuse of power, and if not corrected, it would reinforce a sense of impunity and erode public trust. (Yes / No)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPENDIX H  
CITY OF CLEVELAND  
COMMUNITY POLICE COMMISSION  
HEARING DECISION FORM

**Case Name:** \_\_\_\_\_  
**Hearing Date(s) :** \_\_\_\_\_

IN THE ABOVE CAPTIONED MATTER, the City of Cleveland's Community Police Commission has found:

\_\_\_\_\_ (1) To increase (or decrease in limited circumstances) the previous discipline decision, or to impose discipline where previously there was none;  
New Amount of Discipline:

Reasoning:

\_\_\_\_\_ (2) To affirm the previous discipline decision, or lack thereof;  
Reasoning:

\_\_\_\_\_ (3) To stay the matter for further investigation.  
Accountability Committee, please procure the following evidence and set the matter for a subsequent hearing:

**Case Name:** \_\_\_\_\_

**Hearing Date(s) :** \_\_\_\_\_

	Aye	Nay	Abstain	Not Present
Adams				
Benito				
Chura				
Donaldson				
Earley				
Garrett-Ferguson				
Kennedy				
Reaves				
Ridgeway				
Rodriguez				
Van Lier				
Wang				
Zayed				

Co-Chair Signature: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_  
DATE: \_\_\_\_\_