

# Cleveland Community Police Commission

Wednesday, June 14, 2023

3631 Perkins Ave. Cleveland OH 44114

6:00 p.m. - 8:30 p.m.

Public Livestream [www.youtube.com/@ClevelandCPC](https://www.youtube.com/@ClevelandCPC)

	<b>Agenda</b>
6:00 - 6:10 PM	<b>Co-Chairs, A. Rodriguez, J. Ridgeway</b> <ul style="list-style-type: none"><li>• Call to Order</li><li>• Welcome &amp; Roll Call Known Excused Absences: C. Kennedy</li><li>• Adoption of Agenda</li><li>• Meeting Decorum</li><li>• Approval of Minutes</li></ul>
6:10 - 7:10 PM	<b>Guest Presentations</b> Christopher Viland, Superintendent of Internal Affairs, Cleveland Division of Police
7:10 – 7:45 PM	<b>Public Comment Period (See Guidelines Below)</b>
7:45 – 8:00 PM	<b>Co-Chair Report</b> <b>Executive Director Report (J. Goodrick, Interim Executive Director)</b> <b>Committee Status Reports</b> <ul style="list-style-type: none"><li>• <b>Internal Training Committee (Temporary)</b> Alana Garret-Ferguson, Kyle Earley: Co-Chairs</li><li>• <b>Budget and Grants Committee (Standing)</b> Dr. John Adams, Chair</li><li>• <b>Rules Committee (Standing)</b> Teri Wang, Chair Introduction of Rules for Consideration:<ul style="list-style-type: none"><li>2.x Subpoenas</li><li>2.x Receipt of Citizen or Officer Incident- Based Complaints</li><li>2.x Other Independent Investigations</li></ul></li><li>• <b>Hiring Committee (Temporary)</b> Charles Donaldson, Chair</li></ul>

8:00 - 8:30 PM	<p><b>Old Business</b></p> <p><b>New Business</b></p>
8:30 PM	<b>Formal Adjournment</b>

**Agenda subject to change**

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

**Next CPC Meeting: Wednesday, July 26<sup>th</sup>, 2023  
Special Guest, Mayor Justin Bibb**

**From Charter Section § 115-5 Community Police Commission**

Voter findings. The voters of the City of Cleveland find, based on continuing, serial instances of police misconduct, that there is a need to significantly strengthen civilian oversight of the police force, and to hold the police force more accountable; strengthen the police reform initiated by, but grossly insufficient in, the Consent Decree in *United States of America v. City of Cleveland*, U.S. District Court for the Northern District of Ohio Case No. 1:15-cv-2046; institutionalize cultural change within the Division of Police; and reform the arbitration process by which unelected arbitrators who do not reflect the values, concerns, or diversity of the community - and who themselves often do not live in the community and therefore do not personally bear the burden of any problematic police practices - routinely undermine police accountability by reducing or reversing disciplinary decisions.

**GUIDELINES FOR PUBLIC COMMENT**

The purpose of public comment is to hear as many community voices and points of view as possible. In order to achieve this, please follow the community guidelines:

- Everyone is encouraged to participate.
- Please step to the mic, state your name and where you live.
- If you have already voiced your ideas, let others have an opportunity to speak. Be brief and to the point.
- One person speaks at a time. Please refrain from side conversations.
- Try your best to understand the pros and cons of every perspective, not just those you prefer. Be as objective and fair-minded as you can be.
- Public comment will occur for approximately 30 minutes during the CPC meeting. After the allotted timeframe, if a pressing issue arises any additional comments can be directed to Ms. Williams, CPC community engagement specialist.
- If time permits, the co-chairs may reopen the public comment portion if all CPC business items are addressed.
- Commissioners will generally not respond to comments or questions but will consider all comments and questions. Community members are encouraged to follow up with questions and concerns via email at [clecpc@clevelandohio.gov](mailto:clecpc@clevelandohio.gov).

RULES PASSED BY COMMITTEE ON MAY 31<sup>ST</sup>  
FOR CONSIDERATION ON 6/14/23 FULL COMMISSION MEETING

## **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, that the commission deems necessary for the performance of its mission. This subpoena power includes, but is not limited to, the power to compel entities throughout and within the City. If a subpoena is warranted, it likely implies a breakdown of communication and cooperation between the Commission and another City Department. It is therefore 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 said 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 the previous section 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 (14) calendar days in advance of an appearance. If subpoenas cannot be mailed more than fourteen (14) 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 (10) calendar days prior to the appearance.

To be enforceable, witnesses shall receive their subpoenas at least seven (7) calendar days prior to an

appearance. Absent proof that a witness has received a subpoena in a timely manner, the Commission shall not enforce the subpoena nor hold the record open for the testimony of a non-appearing witness without proof or receipt of a subpoena.

Charter § 115-5 mandates that City Council legislates punishments for non-compliance with the Commission's subpoenas. The Commission shall work with City 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**

Citizens bringing new complaints against any member of the Cleveland Division of Police to the Commission shall be referred to the Office of Professional Standards.

Officers bringing new complaints against any member of the Cleveland Division of Police to the Commission 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**

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 City 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 will be done by staff and legal counsel. Legal counsel shall be a CPC staff attorney or counsel retained by the Law Department when requested by the Commission due to a conflict of interest. The petition analysis will include:

The offense and summary of the facts of the case as used to determine the discipline

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

- A brief summary of the incident and known facts supporting the discipline decision;
- The time and date of the administered discipline and how the complaint's 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;
- A 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 fifteen (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 approve the petition and proceed with 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. Officers may not automatically appeal to the Commission; however, they are encouraged to petition the Commission to review discipline when they believe actions taken against them are related to protected activity or whistleblowing. An officer may use an association, a union, or their legal counsel as a proxy if there are concerns about maintaining anonymity. 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 existence of a civil legal action by the officer against the City or the Division of Police mandates a referral to OPS for investigation. In these instances, 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 this capacity, investigations are typically broad and evaluate overall quality or impact of a process or policy.

Investigations may in some instances include 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 follow an adherence to the policy in existence at the time of incident.

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 during an audit that were

overlooked, mandating 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, the Commission will base its decisions on the information received within the response time allowed. Generally, the Commission's staff will produce reports detailing the facts of an investigation and recommendations, which the Commission will thereby approve 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 fulfill its primary mission without redundant efforts or interference by others.