



City of Cleveland
Justin M. Bibb, Mayor

Department of Law
Mark Griffin, Director
Chief Legal Counsel
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114-1077
216/664-2800 • Fax: 216/664-2663
www.cleveland-oh.gov

November 2, 2022

The Honorable Judge Solomon Oliver, Jr.
Carl B. Stokes United States Court House
801 West Superior Avenue, Courtroom 17A
Cleveland, Ohio 44113-1838

Subject: United States of America vs. City of Cleveland
Case No. 1:15-cv-01046-SO

Dear Judge Oliver:

I am writing regarding recent correspondence relating to the nominations to the Cleveland Community Police Commission (“CPC”) to clarify any ambiguity and set the record straight. Mayor Justin M. Bibb was the only candidate to advance to the general election who supported Issue 24, now codified as Charter §115. Since taking office, Mayor Bibb assembled a team to perform our own independent legal analysis of Section 115 and we worked quickly to resolve any conflicts with the Consent Decree in your courtroom.

Last week, Mayor Bibb nominated 13 exceptional and diverse Clevelanders to represent them on the new CPC. The CPC nominees proposed by Mayor Bibb represent a knowledgeable and balanced group. They include an expert on bail reform, several grassroots community activists, persons who have suffered violence personally or through their families, a veteran, a teacher, a faith leader, a social worker, a police association representative, a formerly incarcerated person, and many other intersectionalities. The nominees represent and/or are knowledgeable of the categories listed in Section 115.

The City maintains that Section 115 requires that there must be at least one member who is knowledgeable about issues relating to under-represented communities, civil rights, and gun or police violence. Section 115 does not require that there be a separate member represented on the new CPC for each category listed. This is the same interpretation submitted almost one year ago and reached independently by the Bibb administration.

In December 2021, the previous administration submitted the City of Cleveland’s interpretation of Section 115. That interpretation has not changed. It has remained the same for nearly a year and it is the interpretation that amendments to the Consent Decree approved by this court on March 18, 2022, are founded on.

Over the past year, the Bibb administration has worked diligently to implement Section 115 starting with a community-led selection process to pick the nominees. The administration was intentional in inviting the community leaders and activists who fought hard to get Issue 24 on the ballot and passed to be part of the selection process because of their knowledge and as a demonstration of good faith and continued partnership. However, some of the individuals who protest the City's consistent interpretation of Section 115 now stand in the way of its progress.

As part of the selection process, the City's Resident Review Committee met for the first time on May 12 and received the same briefing on the City's interpretation of Section 115 as outlined here – to no dispute. It was clearly explained, understood and uncontested – until this protest.

Every reviewer certified upon submission that their recommendations complied with Section 115. Yet some who dispute the interpretation today did not themselves nominate an attorney, nor an eligible representative who has been wrongfully incarcerated and exonerated where police were involved – the very conduct that they now claim 'violates Section 115'.

If we accepted this new interpretation, it would likely cause the CPC to purportedly violate the charter – and be subject to challenge - whenever a vacancy in one of the categories exists. Opponents of Section 115 would claim – incorrectly – that the CPC was no longer properly constituted whenever a "required" position becomes vacant. This is wrong. This flawed interpretation would stop the CPC dead in its tracks. Mayor Bibb is committed to launching an effective CPC that will continue its important work even when there are periodic vacancies.

We knew this process would not be fast or easy – real, structural change never is – but the people of Cleveland can rest assured that delays and detractions will not deter us from our goal to live up to the intent of Section 115 – to hold the police accountable.

As explained in our legal analysis below, Mayor Bibb and the CPC nominees will continue to honor the will of the voters and make Cleveland the leader in community police reform. We are proud of the people selected and confident in the process and await approval from Cleveland City Council to continue our progress.

The CPC Nominees Reflect The Best of Cleveland

These 13 nominees were carefully selected by Mayor Bibb and Cleveland City Council as the result of an extensive public engagement process, unprecedented for appointments to any Cleveland boards or commissions. The initial candidate screening process included more than 20 individual community reviewers who vetted the candidates and – after certifying that their recommendations satisfied Section 115 -- each recommended 15 individuals.

The selection team was comprised of some of the most experienced legal minds including attorneys who have worked for the city on police issues for over 20 years, the City's first Chief Ethics Officer and President of the Norman S. Minor Association Delanté Spencer Thomas, and subsequently past leaders of the Law Department who have affirmed the City's interpretation.

The nominees are impressive:

James M. Chura represents that Fraternal Order of Police Association, is a retired Captain of the Second District, and continues to work in private security.

Charles Donaldson Jr. is a veteran of the United States Coast Guard, leader in human resources for Sherwin-Williams and a proud member of the LGBTQ+ community.

Pastor Kyle Earley is the Senior Pastor of the City of God church, in Cleveland, active community organizer and bridge builder on the East Side.

Alana Garrett-Ferguson is a proud member of NAACP Cleveland, New Voices for Reproductive Justice, and policy associate for the Center for Community Solutions.

Cait Kennedy is the Executive Director & Co-Founder of unBail, a mobile app that provides legal information to defendants to help them navigate the system. Cait also serves as an Assistant Professor of Baldwin Wallace University and brings deep knowledge of the criminal justice system.

Gregory Reaves is a career coach for Towards Employment. Greg brings a unique experience as someone who has experienced homelessness, worked in corrections and been incarcerated.

Jan Ridgeway is the Volunteer Director and President of the Garden Valley Neighborhood House on Kinsman, a respected elder of our community, and a grassroots organizer who knows too many families impacted by gun violence.

Piet van Lier is a Senior Researcher at Policy Matters Ohio and a well-studied advocate who focuses on the details of justice and the reform of the criminal legal system.

Teri Wang is a proud Harvard graduate, academic consultant and advocate for immigrants, the unhoused and those affected by mental health struggles.

Sharena Zayed is a mother, community organizer and advocate for victims' families after tragically lost her 15-year-old son to gun violence in March 2020.

Dr. John Adams is a CMSD teacher with a Ph.D. in African American history specializing in Civil Rights and gender. His research gives him a deep knowledge of the history of law enforcement and the Black community.

Shandra Benito is a licensed social worker working with clients who have experienced mental illness, homelessness, domestic violence and sexual assault, as well as people with disabilities and justice-involved youth.

Audrianna Rodriguez is a family advocate at The Centers for Children and Families for three Cleveland Metropolitan Schools and a proud member of the Cleveland Branch of the NAACP, Cleveland Chapter of the National Congress of Black Women, and Zeta Phi Beta Sorority, Inc.

These nominees reflect the racial, social and cultural diversity of our city. They come with all the qualifications, knowledge and life experience needed to make thoughtful, balanced decisions about the future of policing in Cleveland. They reflect the diversity, talents and strengths of our city. They are proud residents of this city. They are committed to doing what's right.

The Nominees Fulfill Charter Section 115

The CPC's nominees conform to a plain-text reading of the Charter requirements. At issue in this legal argument over statutory interpretation is one run-on sentence. "At least one Commission member must be, represent, or be knowledgeable of, as applicable, the issues of" five enumerated categories:

- "those who are limited-English speakers, homeless, or who have mental-illness and substance-abuse disorders;
- "those who have been directly impacted by police violence, or be a family member of a person who has been killed by police;
- "those who have been incarcerated and exonerated where police were involved in the wrongful conviction or incarceration;
- "gun-violence survivors or be a family member of a person killed by gun violence;
- "an attorney with experience representing victims of police misconduct or criminally prosecuting police misconduct."

First: explicitly, in the plain text there is no requirement that a given member of the commission must "be" a member of any of the above categories. There is a requirement that "at least one Commission member must . . . be knowledge of . . . the issues of" the above groups. Without question, knowledge of the issues of each category is reflected among the nominees.

Second: the Charter has language that mandates specific representation—and that language is not used for those five categories. For example, the Charter requires that "[a]t least two Commission members must represent community organizations focused on civil-rights issues." The drafters understood how to mandate the inclusion of individuals with certain qualifications—and they chose not to use that same language for the five enumerated categories.

Third: the City is obligated to give effect to the Charter language. It must put the language into action, and it cannot indulge interpretations that would prevent the CPC from performing its essential work. For example: if a future CPC had a member who was a qualified attorney, but that member resigned—would the CPC still be able to meet? Would its decisions have authority? The opponents argue incorrectly that the CPC would no longer be legally constituted. And the language does not distinguish between ongoing process and initial appointments: the charter text only states that "[a]t least one" commission member have

knowledge of five enumerated issue categories. If no appointees for a specific subcategory could be immediately ascertained/selected/appointed to the Commission, the Commission itself could not operate, and Section 115 would – under this incorrect interpretation -- have no force and effect; thereby defeating the legislative and the citizenry’s intent for its formation.

This cannot be a position being reasonably advocated by the City. Fundamentally, the City cannot commit itself to so narrow a reading that would undermine the ability of the full section to operate. The City will stand by an interpretation that allows the CPC to perform its essential work in the community—not linger in stasis without structural perfection.

Fourth: this interpretation is consistent with the views both of the former administration’s law department and of members of Citizens for a Safer Cleveland. In the former administration’s summation of Issue 24 in a December 2, 2021 filing with this court, it clarified that "at least one member must be, represented, or be knowledgeable of at least one of the following five categories." United States of America v. City of Cleveland, Case no.: 1:15-cv-01046, Doc no.: 389 (Motion Regarding Charter Amendment, filed December 2, 2021, at pp. 16-17) (emphasis added).

Moreover, it is of no small import that the December 2, 2021 Motion filed by the City was required to comply with the mandates of Federal Rule of Civil Procedure (“FRCP”) 11. Simply put, the City’s interpretation was submitted under possible sanctions as being both “warranted by existing law” and well-supported by the plain language of Section 115. Fed. R. Civ. P. 11(b)(2), (3). Mayor Bibb’s appointments to the Commission are in compliance with Section 115 and should not be disturbed.

The Application and Nomination Process Was Open and Fair

Section 115 requires that the Mayor “appoint 13 members, with the approval of Council by majority vote, for four-year terms, following an open and fair process.” The City initiated a rigorous selection process to review and evaluate nearly 300 applications, the highest number of applications the City has received to join the CPC since its original inception.

The Office of the Mayor received 281 applications and applications were submitted to a Resident Review Committee for the first phase of screening and evaluation in the selection process.

The Resident Review Committee consisted of a broad and diverse cross-section of leaders from community and civil rights organizations, as well as faith leaders, attorneys, medical professionals, police association representatives, and advocates for victims’ families, mental health and people experiencing homelessness. The review committee honored the diversity prescribed by Section 115.

After reviewing the applications, the Resident Review Committee members each submitted a shortlist of 15 names for further consideration in the second phase of review by a Selection Advisory Panel. The City’s new Chief Ethics Officer, Delanté Spencer Thomas Esq., Chaired the Resident Review Committee and the Selection Advisory Panel to maintain consistency

and integrity of the evaluation process. The Selection Advisory Panel interviewed more than 30 recommended applicants before submitting ten nominees for consideration by Mayor Bibb.

Every Reviewer, Including Some of Those Currently Protesting, Certified That Their Nominations Satisfied Section 115

Multiple members certified that their own recommendations without an attorney satisfied Section 115. They had joined the City to evaluate the applications it received for CPC nominations, and they had proposed slates of nominees that did not have one person from each of the enumerated categories—lacking a lawyer, for example. But each submitting member certified that they believed their proposal would satisfy this same section of Section 115 now in contention:

I confirm that the list of applicants I am recommending meet the requirements outlined in City of Cleveland Charter Section 115-5, 'Commission membership, eligibility, and appointment categories.'

See Section 115-5 here: https://codeiibrary.amlegal.com/codes/cleveland/latest/cleveland_oh/0-0-0-49835

Yes

No

Some of the reviewers who today allege that the City must nominate an attorney, did not in fact recommend an attorney in their own submissions – even though they each specifically certified that their slate satisfied the appointment categories.

The confirmation speaks for itself. Despite this certification, despite being active reviewers and participants in the process themselves, today some are claiming that their view has now changed and that apparently their slates would not satisfy their own previous certifications.

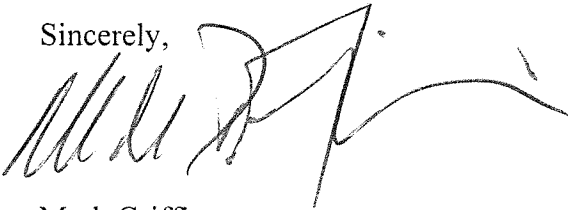
In short: they participated as reviewers; certified slates without attorneys as satisfying Section 115; but now allege that such slates do not satisfy Section 115. In fact, Section 115 does not require this. The City's position – then and now – past and current administrations – is that Section 115 only requires "at least one" member who is "knowledgeable" about the categories in question. The City nominees satisfy and exceed the requirements of Section 115.

The City's interpretation is correct and has been consistent across two administrations for nearly a full year. In short: the City's CPC nominees are excellent. They are talented and thoughtful. They bring a wealth of knowledge and experience, and the City is confident they have the capability to boldly lead police reform, oversight, and policy here in Cleveland. But without question, they also satisfy the legal criteria contested here.

The New CPC Is An Outstanding Team of Clevelanders Who Will Honor the Voters' Intent and Will Implement Real, Effective Reform.

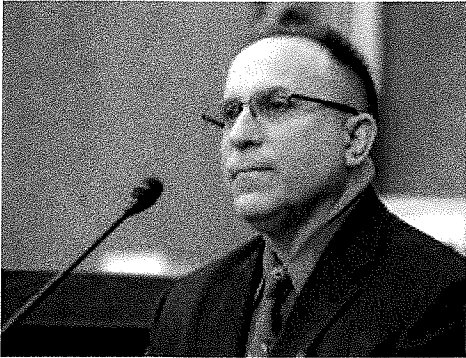
Mayor Bibb and City Council have nominated an impressive group of leaders, activists and concerned citizens. These nominations satisfy the City Charter. They will move forward with police reform and make Cleveland a national leader in constitutional policing. We know that change is not easy. It never is. These nominations are an important step forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Griffin', with a large, sweeping flourish extending to the right.

Mark Griffin
Law Director and Chief Legal Counsel
City of Cleveland

Exhibit A: About the Nominees



James M. Chura

"I want to develop a disciplinary framework that ensures the completion of fair and impartial investigations in allegations of police misconduct." – James

James Chura has 33 years of experience in police patrol and investigative operations. He served as the officer in charge of the Integrity Control Section which included the Internal Affairs Unit, the Inspection Unit, and the Overtime Review Unit. He rose through the ranks of the Cleveland Police Department starting out as a patrolman and rising to commander.

James also served in the United States Marine Corps Reserve and has a bachelor's degree in criminal justice from Kent University. He is a lifetime Cleveland resident and lives in West Park with his wife and son. James represents the Fraternal Order of Police, Lodge 8.



Charles Donaldson Jr.

"It is imperative that the Commission upholds the expectations of Cleveland residents and ensures that the path to police reform is both collaborative and impartial." – Charles

Charles Donaldson Jr. is a talent acquisition specialist for Sherwin-Williams Company. He has extensive experience in human resources and management as well as being a Member of the Society for Human Resource Management.

Charles was an active-duty officer of the U.S. Coast Guard for five years and rose to the rank of Lieutenant. For the past 10 years, he has been a proud Cleveland resident.



Pastor Kyle Earley

"I desire to serve on the commission because of my experience in being a convener, community organizer and bridge builder. The opportunity to serve on this commission gives us all the opportunity to bring accountability to our police department and community." – Pastor Earley

Kyle Earley serves as senior pastor at the City of God Church on the East Side of Cleveland. He has over 15 years of activism, organizing and community building experience in the Cleveland area and serves as President of the Faith Movement.

Kyle is also a board member at the Hunger Network of Greater Cleveland and a member of the NAACP.



Alana Garrett-Ferguson

"Not only am I a concerned citizen that is directly impacted by the effectiveness of our police force, but I also was and continue to be a strong supporter of the legislative changes that resulted in this commission" – Alana

Alana Garrett-Ferguson is a policy associate at the Center for Community Solutions. She brings a wealth of experience in community organizing, program management, and policy and advocacy work.

She has worked for several community-based organizations, including Ohio Women's Alliance, New Voices for Reproductive Justice, Youth Opportunities Unlimited, Open Doors Academy, and Rainey Institute. She is a part of the greater faith community and a member of the Cleveland NAACP and Board of the Abortion Fund of Ohio. Alana previously served on the Community & Problem-Oriented Policing Committee.



Cait Kennedy

"I envision a more just, sustainable, and equitable policing system that serves all people, created using the voices and experiences of those who are most impacted" – Cait

Cait Kennedy is the Executive Director and co-founder of unBail, a free app that democratizes information about the criminal legal system. unBail delivers valuable and relevant legal information to defendants and their families in plain language, empowering them to advocate for themselves and proactively plan for the future.

Cait Kennedy is a Visiting Assistant Professor of Sociology & Politics and Global Citizenship at Baldwin Wallace University and Assistant Director of the Community Research Institute. She is a Ph.D. candidate at the Levin College of Urban Affairs at Cleveland State University and a 2019 graduate of the College's Master of Science in Urban Studies program.

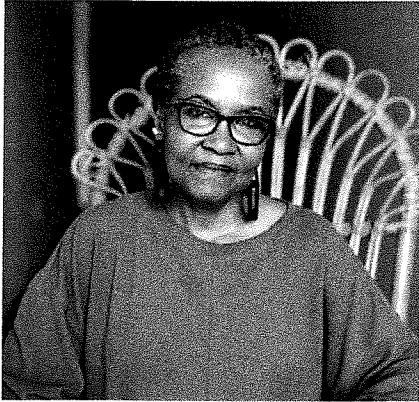


Gregory Reaves

"I think the new Community Police Commission would have a huge impact on the public trust in the police department. People in neighborhoods like mine are very skeptical of the police department and have never trusted them to police themselves. People would have more confidence in the Commission and feel they are being represented" – Gregory

Gregory Reaves works as a career coach for Towards Employment. He has extensive knowledge of the criminal justice system as a previously incarcerated individual and advocate for those with criminal backgrounds.

Gregory is a born and raised Clevelander and attended John F. Kennedy Senior High School in the Lee-Miles neighborhood, where he previously spoke to at-risk youth.

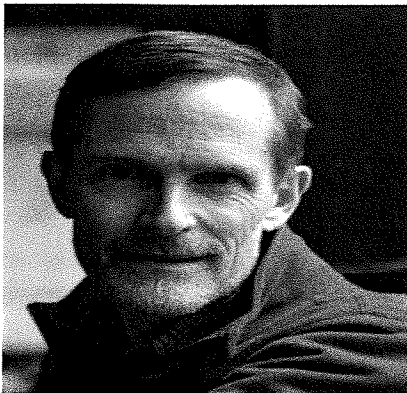


Jan Ridgeway

"The greatest role of the new Community Police Commission is to create trust and credibility in the oversight process – on both sides, residents and police" – Jan

Jan Ridgeway is the Board President & Volunteer Director of Garden Valley Neighborhood House. She is a retired Cleveland Public Librarian where she served as a Community Outreach & Public Affairs administrator. Before that, she worked in the library system in Cleveland, Cuyahoga County and Anchorage for more than thirty years.

Jan is a community activist and organizer and has worked directly with nearly every demographic in the city. She grew up on a farm in Georgia and has lived in Cleveland for more than twenty years.



Piet van Lier

"As a resident of Cleveland, I believe that everyone, no matter what they look like or where they live, has the right to be safe and treated with respect." – Piet

Piet van Lier is a senior researcher at Policy Matters Ohio. His current research and analysis focuses on civil rights and criminal justice reform to re-imagine public safety in Cleveland and Cuyahoga County.

Previously, Piet was the executive director of the Cleveland Transformation Alliance. He began his career as a journalist and worked as peace and human rights activist with an organization called Peace Brigades International in Central America and Mexico. Piet grew up in the Old Brooklyn neighborhood and now lives on the near West side with his wife and two children.



Teri Wang

"I believe that Cleveland has the potential to be exceptional. However, for Cleveland to reach its potential, we must address ongoing tensions between the police and the community." – Teri

Teri Wang is a writer and academic consultant living in Cleveland's Tremont neighborhood. She is experienced in scientific and data analysis, as well as implicit bias research.

Teri was born in Shanghai, China and moved to the United States when she was six years old. She attended Harvard University for Biochemistry and Art History and now is the Chair of Community Partnerships for the Asian American Coalition of Ohio.



Sharena Zayed

"This is the city I love, my city of choice. I've been hurt by her, but I refuse to give up on her. As Cleveland residents it is up to us to create the positive change we want seen in policing, violence and community policy/engagement." – Sharena

Sharena Zayed is the North Broadway Network Weaver for University Settlement. She has an abundance of experience in community outreach and engagement.

Sharena has lived in Cleveland all her life and works for multiple community organizations, including serving as a board chair of Stop the Pain, Inc., board member of Chagrin Arts, and member of Citizens to Bring Back North Broadway. Sharena tragically lost her 15-year-old son to gun violence in March 2020 and is an advocate for families.

City Council Selections



Dr. John Adams

"My goal is to foster better relations between the police and different communities because there is a disconnect, and a divide in dire need of repair." - John

John Adams is the former chair of the social studies department and current 9th grade leader for the Cleveland School of Science and Medicine. He received his Ph.D. in African American history with a specialty in Civil Rights and gender from Rutgers University, where he researched the life and activism of Daisy and L.C. Bates. His research includes the history of law enforcement and the Black community.

John is active in several community organizations, including the Cleveland Association of Black School Educators, the Ohio Council of Social Studies, the Thurgood Marshall Oratorical Debate and Education Project, and has been a panelist for the City Club of Cleveland as well as spoke to the State Board of Education about education reform and Critical Race Theory.



Shandra Benito

"We will all be safer when we can reimagine what the relationship and response can be between careers, law enforcement, and the community, and I want that for our city." - Shandra

Shandra Benito is a licensed social worker who works as the Director of Diversity and Inclusion for the Nord Center. She has a background in working in mental health, survivors of domestic violence and sexual assault, people with disabilities, justice-involved youth, and people experiencing homelessness.

Shandra has previously served as a commissioner in Seattle for the Commission on People with Disabilities and their Public Safety Committee and has a wealth of knowledge regarding public policy and community outreach.



Audrianna Rodriguez

“It is my hope that serving on the board would help to improve public safety, build trusting relationships between communities & police, and create a national safety model.” - Audrianna

Audrianna Rodriguez works as a family advocate at The Centers for Children and Families for three Cleveland Metropolitan Schools. She received a master's degree in community psychology with a concentration in clinical services from University of New Haven.

Audrianna is a member of the Cleveland Branch of the NAACP, Cleveland Chapter of the National Congress of Black Women, Zeta Phi Beta Sorority, Inc. and member of the 4th District Community Relations Community. She has a breadth of experience in community organization, engagement, and outreach.