

MEETING OF THE CIVILIAN POLICE REVIEW BOARD THE OFFICE OF PROFESSIONAL STANDARDS



December 12, 2023



CLEVELAND, OHIO

Tuesday, December 12, 2023



CITY OF CLEVELAND

Mayor Justin M. Bibb

Marcus A. Perez, Administrator
Office of Professional Standards

Billy Sharp, Chair
Civilian Police Review Board

**Office of Professional Standards &
Civilian Police Review Board**

205 West St. Clair, 3rd Floor
Cleveland, Ohio 44113

www.clevelandohio.gov/ops

Tuesday, December 12, 2023

**CIVILIAN POLICE REVIEW BOARD
MEMBERS OF THE BOARD**

Billy Sharp, Chair
Michael Hess, Vice Chair
Dave Gatian, Board Member
Sherall E. Hardy, Board Member
Kenneth Mountcastle, Board Member
Chenoa C. Miller, Board Member
Michael Graham, Board Member
Brandon Brown, Board Member
Diana Cyganovich, Board Member

MEETING NOTICE & AGENDA

The Civilian Police Review Board will hold a public meeting at the following date and time at the location identified below and via WebEx & YouTube:

Tuesday, December 12, 2023, at 0900 am

To join this meeting via WebEx:

<https://cityclevelandoh.webex.com/cityclevelandoh/j.php?MTID=m1d33399dc7219eb4e936d8c4d2e952c5>

Join the meeting number

Meeting number (access code): 2307 804 6387

Meeting password: 1234

Join from a mobile device (attendees only)

+1-415-655-0003, 23078046387# US Toll

You can view the meeting via YouTube:

<https://www.youtube.com/channel/UCjvji5gYnraY74Emrj6N5wg>

Tuesday, December 12, 2023**MEETING AGENDA**

- I. CALL TO ORDER** Billy Sharp, Chair
- II. APPROVAL OF MINUTES** CPRB
- III. PUBLIC COMMENT** Billy Sharp, Chair
- IV. PRESENTATION OF INVESTIGATIONS** Vince Funari, Sr. Investigator
OPS Investigative Staff
- V. OPS STATUS REPORT** Vince Funari, Sr. Investigator
 - A. REVIEW OF CHIEF DISCIPLINARY DECISIONS**
 - B. REVIEW OF DIRECTOR DISCIPLINARY DECISIONS**
 - C. UPDATES ON POLICY RECOMMENDATIONS**
- VI. COMMITTEE REPORTS**
- VII. NEW BUSINESS**
- VIII. ADJOURNMENT**

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COUNT	OPS#	COMPLAINANT	INVESTIGATOR	ALLEGATION	CPRB DISPOSITION
1	20-195	Barnes	Bowker	Excessive Force Improper Procedure/Avoid Impropriety Violation Excessive Force	<p>Lt. Edward Lentz #8519 Allegation: Excessive Force Recommendation: Motion: Second:</p> <p>Allegation: Improper Procedure/Avoid Impropriety Violation Recommendation: Motion: Second:</p> <p>Det. Thomas Barnes #38 Allegation: Excessive Force Recommendation: Motion: Second:</p>
2	23-163	Slayton	Bowker	Improper Procedure Improper Procedure Improper Procedure	<p>P.O. Timothy Hannon #2065 Allegation: Improper Procedure Recommendation: Motion: Second:</p> <p>P.O. Mason Sefcik #539 Allegation: Improper Procedure Recommendation: Motion: Second:</p> <p>P.O. Victoria Przybylski #66 Allegation: Improper Procedure Recommendation: Motion: Second:</p>

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3	23-244	Bradley	Bowker	Harassment	P.O. Rodney Davis #298 Allegation: Harassment Recommendation: Motion: Second:
4	22-197	Cox	Harris	Unprofessional Behavior/Conduct	P.O. Joshua Howe #1190 Allegation: Unprofessional Behavior Recommendation: Motion: Second:
				Unprofessional Behavior/Conduct	P.O. Brandon Betley #1790 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:
				Unprofessional Behavior/Conduct	Sgt. David Harris #9146 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:
				Unprofessional Behavior/Conduct	P.O. Gregory Barnett #2119 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:
				Unprofessional Behavior/Conduct	P.O. Kyle Bachman #1996 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:
				Unprofessional Behavior/Conduct	P.O. Dylan Coda #1927 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:
5	22-316	Taylor	Harris	Excessive Force	P.O. Katie Medwid #1184 Allegation: Excessive Force Recommendation: Motion: Second:

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				Excessive Force	P.O. Lawrence McGervey #2352 Allegation: Excessive Force Recommendation: Motion: Second:
6	23-055	Conomy	Harris	Unprofessional Behavior/Conduct	P.O. Zachary Banks #645 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:
				Unprofessional Behavior/Conduct	P.O. Anthony Estremera #799 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:
7	23-154	Cipoletti	Harris	Excessive Force	P.O. Jordan Tooley #954 Allegation: Excessive Force Recommendation: Motion: Second:
				Bias Free Policing	Allegation: Bias Free Policing Recommendation: Motion: Second:
				Excessive Force	P.O. Claire Fredriks #562 Allegation: Excessive Force Recommendation: Motion: Second:
				Bias Free Policing	Allegation: Bias Free Policing Recommendation: Motion: Second:
				Excessive Force	Sgt. Carma Crosby #9316 Allegation: Excessive Force Recommendation: Motion: Second:
				Bias Free Policing	Allegation: Bias Free Policing Recommendation: Motion: Second:

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COUNT	OPS#	COMPLAINANT	INVESTIGATOR	ALLEGATION	CPRB DISPOSITION
8	22-271	Rutinel	Traxler	Unprofessional Behavior/Conduct	P.O. Maria Rodriguez #1537 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second: P.O. Melissa Marquard #1760 (resigned May 4, 2023)
9	23-214	Butler	Traxler	Unprofessional Behavior/Conduct Improper Procedure/Entry Improper Warrant Service Unprofessional Behavior/Conduct Improper Procedure Improper Warrant Service	P.O. Bailey Gannon #1579 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second: Allegation: Improper Procedure/Entry Recommendation: Motion: Second: Allegation: Improper Warrant Service Recommendation: Motion: Second: P.O. Adam Hayes #2163 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second: Allegation: Improper Procedure Recommendation: Motion: Second: Allegation: Improper Warrant Service Recommendation: Motion: Second:
10	23-004	Sweeney and Smith	Smith	Lack of service/No Service	STO Avery Edge #38 Allegation: Lack of Service/No Service Recommendation: Motion:

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				Lack of Service/No Service	Second: P.O. Bryan Peters #1300 Lack of Service/No Service Recommendation: Motion: Second:
11	22-293	Wilson	Lanman	Lack of Service/No Service Unprofessional Behavior/Conduct	P.O. Gregory Barnett #2119 Lack of Service/No Service Recommendation: Motion: Second: Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:
12	22-300	Billups	Lanman	Lack of Service/No Service Lack of Service/No Service WCS Violation	P.O. Cody Ratliff #375 Allegation: Lack of Service/No Service Recommendation: Motion: Second: P.O. Sean Donovan #1084 Allegation: Lack of Service/No Service Recommendation: Motion: Second: Sgt. Cody Sheets #9322 Allegation: WCS Violation Recommendation: Motion: Second:
13	21-272	Slobodian	Szymanski	Unprofessional Behavior/Conduct Biased Policing Improper Procedures/ Enforcement of GPO 3.04.08	P.O. Thomas Bowser #262 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second: Allegation: Biased Policing Recommendation: Motion: Second: Allegation: Improper Procedures/Enforcement of GPO 3.04.08 Recommendation: Motion:

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				<p>Improper Procedures/ Enforcement of GPO 3.04.08</p> <p>Improper Procedures/ Improper Report</p> <p>Lack of Service/Failure to Provide Citizen Complaint</p>	<p>Second:</p> <p>P.O. Denzel Jones #990 Allegation: Improper Procedures/Enforcement of GPO 3.04.08 Recommendation: Motion: Second:</p> <p>Allegation: Improper Procedures/Improper Report Motion: Second:</p> <p>Sgt. Michael Keane #9198 Allegation: Lack of Service/Failure to Provide Citizen Complaint Recommendation: Motion: Second:</p> <p>P.O. Jessica Roubic #2221 (Resigned June 16, 2022)</p>
14	23-093	Young	Szymanski	<p>Unprofessional Behavior/Conduct</p> <p>Biased Policing</p> <p>Unprofessional Behavior/Conduct</p>	<p>P.O. John Marincek #1775 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:</p> <p>Allegation: Biased Policing Recommendation: Motion: Second:</p> <p>P.O. Rashaun Searles-Fowler #2157 Allegation: Unprofessional Behavior/Conduct Recommendation: Motion: Second:</p>
15	23-191	Malave	Szymanski	Improper Procedures	<p>P.O. Joseph Wright #2445 Allegation: Improper Procedures Recommendation: Motion: Second:</p>

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INVESTIGATION STATUS:	11/14
Abridged:	4
Standard:	11
Complex:	0
Harassment:	1
Excessive Force:	7
Lack of Service:	8
Unprofessional Behavior/Conduct	14
Bias Policing	5
WCS Violation	1
IMPROPER PROCEDURE:	11
Improper Citations	0
Improper Search	0
Improper Stop	0
Improper Tow	0
Improper Arrest	0
Improper Tow	0
Improper Warrant	1
Improper Collection of Evidence	0
PROPERTY:	0
Missing Property	0
Damage to Property	0

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CITIZENS OVERVIEW HIGHLIGHTS

Introduction

1. **Purpose.** OPS will implement immediate and enduring solutions necessary to ensure improvements in Community understanding and knowledge in policing oversight and investigative policies, programs, and processes to strengthen the trust, confidence and legitimacy of The Office of Professional Standards (OPS), and The Civilian Police Review (CPRB). OPS will take a proactive and effective approach to citizens' complaints, and those agency charged with policing, and policing oversight to convey a shared understanding and appreciation of true transparency.
2. **This Documents Serves as a Guide.** This guide is designed to serve as a ready reference that will allow a citizen to understand our terminology, provide feedback for common language, and follow step by step of how our investigators conducted their Fact Finding Investigation for the CPRB meeting. Part one of the guide provides key definitions, addresses the complaint function and the resolution of **complaints outside OPS authorities and jurisdiction**. Part Two provides a fact finding summary of each case that may be heard by the CPRB. The formats offered herein provide all individuals a common frame of reference when attending our live streaming or monthly and sometime bi-weekly CPRB meetings. NOTE: OPS Investigators only provide the facts from their investigations to the CPRB members in attendance. At the conclusion of its investigation, OPS will explain its findings using one of the following categories: Sustained, Exonerated, Unfounded or Not Sustained , and Administrative Dismissal (refer to key definitions OPS Findings)
3. **Questions and Comments:** For questions or comments concerning this agenda, please get in touch with the OPS Administrator Marcus A. Perez, headquartered at 205th W. St. Clair Avenue, Suite #301, Cleveland, Ohio 44113, or call (216) 664-4618. Your feedback in needed and wanted.

PART I

Key Definitions: This guide uses numerous OPS-specific terms that require precise definitions. This paragraph addresses those key terms common necessary to ensure the proper understanding of the OPS procedures contained herein.

- a. **Allegation:** The term "allegation" has two specific meanings given the context within which it is used.
 - 1) An allegation is generally a statement or assertion of a violation of a rule, regulation, policy, directive, order, requirement, or law (or similar standard) normally submitted by a third party against an individual. In this general context, an allegation has the same definition as a complaint.
 - 2) The term allegation can be used in an OPS-specific context as one of the two possible parts of a complaint (the other being an issue). When used in an OPS-specific context, the allegation may refer to how an Investigator formulates or drafts a violation (specification) of a rule, regulation, policy, directive, order, requirement, or law (or similar standard). No matter how or in what form someone might submit an allegation as part of a complaint,

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the OPS investigator has complete discretion over how the allegation is ultimately formulated or drafted in the investigative case. An allegation in the Investigator-specific context normally contains four essential elements: (1) who, (2) improperly, (3) did or failed to do what, (4) in violation of an established standard. The Investigator refines the allegations/specification based on evidence gathered during an Investigation Inquiry.

- b. **Assistance:** Assistance is receiving, inquiring into, recording, and responding to complaints or requests for information either brought directly to the OPS or referred to the OPS for action concerning matters of community interest.
- c. **Assistance Inquiry:** An informal fact-finding process used to address or respond to a complaint involving a request for help, information, or other issues outside of OPS authorities or other issues, but not complaints with allegations of a violation of a rule, regulation, policy, directive, order, requirement, or law (or similar standard). (See Part One of this guide)
- d. **Civilian Police Review Board (CPRB):** The CPRB reviews misconduct complaints investigated by OPS and recommends them to the Chief of Police. Before recommending discipline or determining that a complaint warrants no action, the CPRB may hold a public hearing. Upon making its decision, the CPRB submits its findings and recommendations to the Chief of Police and notifies the complainant of the disposition.
- e. **Cleveland Department of Police (CDP):** Cleveland Division of Police officers and employees are subject to OPS investigations to increase accountability and improve public confidence in the police by receiving and fairly, thoroughly, objectively, and timely investigating and resolving misconduct complaints
- f. **Complainant:** A person who submits a complaint, allegation, or other request for assistance to the OPS.
- g. **Complaint:** A complaint is generally a notice of -- or an expression of -- dissatisfaction or discontent with a process or system or the specific behavior or actions of an individual submitted by a third party. Complaints contain one or more issues or allegations or both.
- h. **Independent Investigative Agency (IIA):** An organization, designated by the citizens of Cleveland, normally to provide policing oversight and broad general support to the City of Cleveland in a single, unique discipline not otherwise available elsewhere in the City.
- i. **First Party:** A first party, as used in this guide, is someone whom a second party has aggrieved in the context of violating a rule, regulation, policy, directive, order, requirement, or law (or similar standard) and who reports it, or brings it to the attention of, an appropriate authority that can take action to resolve the matter. In most cases, the first party is often the complainant (see the definition of the complainant).
- j. **IA PRO System (AI PRO):** The Investigator database that documents all evidence within the Agency. Only trained and qualified employees and investigators have access to this database.
- k. **Information OPSAR:** Information OPSARs are a shorthand method to document certain types of OPSARs for information requests only. The two general types are 1A (Routine Request for Information) and 1B (Request for Support OPS Staff to OPS Investigator). The staff or investigator may also use the Information OPSAR to document workload expended outside Assistance and Investigations utilizing the '18E' series codes. For example, the Investigator may use 18E5 to document time spent conducting community engagement. This approach is useful when conducting personnel power studies.

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- l. **Issue:** An issue is a complaint or request for information made to the OPS that does not list a "who" as a standard or policy violator. An issue is resolved by (1) conducting an Assistance Inquiry, in which case it is either "Founded" if it has merit and requires resolution, or "Unfounded" if it does not have merit and requires no additional action, or (2) providing the requested information or referring the complainant to the agency or organization best suited to resolve the problem
- m. **Office of Professional Standards (OPS):** Via Charter Amendment, Sections 115-1 through 115-4, effective August 8, 2008. OPS is an independent agency within the City of Cleveland. It is responsible for receiving and investigating non-criminal complaints filed by members of the public against sworn and non-sworn Cleveland Division of Police employees. OPS is also empowered to make findings and recommend action to the Civilian Police Review Board ("CPRB") regarding those complaints.
- n. **Office of Professional Standards Action Request (OPSAR):** is the term used to refer to receiving, inquiring into, recording, and responding to complaints or requests for information either brought directly to the OPS or referred to them.
- o. **OPS Findings: OPS only provides facts, the CPRB will determine**
 - a. **Sustained:** the preponderance of the evidence establishes that the violation of policy occurred. A complaint may be "sustained in part" if the investigation revealed sufficient evidence to support a finding of a policy violation on one or more, but not all of the complainant's allegations. A complaint may also be "sustained for a violation not based on original complaint" if the investigation reveals evidence of misconduct that was not included in the complainant's original allegation.
 - b. **Exonerated:** If the preponderance of the evidence gathered throughout the investigations supports a finding that the allegation occurred, but the officers' actions were consistent with law, Cleveland Division of Police General Police Orders, training or procedures.
 - c. **Unfounded:** If the preponderance of the evidence supports a finding that the alleged conduct did not occur.
 - d. **Insufficient Evidence:** If the preponderance of the evidence fails to establish whether the alleged conduct did or did not occur, the Investigator will make a recommended finding.

OPS Investigation: A formal fact-finding examination by an Investigator into allegations, issues, or adverse conditions that provides the CPRB a sound basis for making decisions and taking action. At the conclusion of its investigation, OPS will explain its findings using one of the following categories: Sustained, Exonerated, Unfounded or Not Sustained, and Administrative Dismissal
- p. **Second Party:** A second party, as used in this guide, is someone alleged to have affected a first party when violating a rule, regulation, policy, directive, order, requirement, or law (or similar standard). Second parties are normally the subjects and suspects in an Investigations (see the definition of subject/suspect).
- q. **Conflict of Interest (COI):** Includes an investigator's relationship with a current or former CDP officer, employees of the CDP, or complainant to include comparable civil/community appointees.
- r. **Standard Investigation:** Completed in 45 days.
- s. **Subject:** A person against whom non-criminal allegations have been made such as violating a local policy or regulation that is not punitive.

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- t. **Suspect:** A person against whom criminal allegations were made. The allegations include violations of CDP punitive articles, punitive regulations, or violations of other criminal laws. A person may also become a suspect due to incriminating information during an investigation or interview or whenever the questioner believes, or reasonably should believe, that the person committed a criminal offense. **All Criminal allegations are referred to CDP Internal Affairs (IA) upon discovery.**
- u. **Third Party:** A third party, as used in this guide, is one who discovers, observes, or otherwise becomes aware of what he or she believes is a violation of a rule, regulation, policy, directive, order, requirement, or law (or similar standard) and who reports it or brings it to the attention of someone other than the person believed to have committed the violation. Furthermore, this third party has not been personally aggrieved by the actions of the person believed to have committed the violation (usually known as the second party).
- v. **Unfavorable Information:** Unfavorable Information is any credible, derogatory information that may reflect on a complainant or CDP's officer or employee's character, integrity, trustworthiness, or reliability.

PART II

Step II is a pilot test.

We want your feedback on this. Should we keep the investigative summary cards, make changes, etc.?

NOTICE TO THE PUBLIC

All times indicated are approximate and subject to change. The meeting may be canceled without notice. Agenda items may be discussed, and action taken out of order at the discretion of the Chairperson for convenience, to accommodate speakers, and to maintain a quorum. Identified presenters are subject to change. Action may be taken on any item on the Agenda. In the event a quorum of the Board is unable to attend the meeting or the Board is unable to maintain a quorum once the meeting is called to order, the members present may, at the Chairperson's discretion, continue to discuss items from the agenda and make recommendations to the full Board at a future meeting.

Accessibility: The Board complies with the Americans with Disabilities Act by ensuring that the meeting facilities are accessible to persons with disabilities and providing that this notice and information given to the members of the Boards are available to the public in appropriate alternative formats when requested. If you need assistance, including disability-related modifications or accommodations, to participate in this meeting, please make your request by contacting Mrs. Pierson-Shanks at 216-644-4618. Providing your request at least five business days before the meeting will help ensure the requested accommodation's availability.

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Public Comment: Members of the public attending will be allowed to comment during the public comment period. The total time allocated for public comments will be limited to three (3) minutes per person; however, the Chairperson may decide to shorten or lengthen the public comment period at his discretion. Public members will not be permitted to “yield” their allotted time to other public members to comment.

Rules for public comment

I. General

- A. Public members shall be afforded time to comment on agenda items and other matters germane to the business of the CPRB by these Rules.
- B. The OPS shall manage the public comment section of CPRB Meetings, including enforcing rules governing public comment. OPS Administration shall support Committee Chairs on public comment management during committees.
- C. The agenda of every CPRB meeting shall include a reservation of time near the beginning of the meeting for public comment.
- D. The Chair shall recognize and allow to speak any person desiring to speak during Public Comment.
- E. The total cumulative time of all public comments shall be limited to 30 minutes unless determined otherwise by the Chair. Suppose all persons desiring to speak during the Public Comment cannot do so within the time limit allowed. In that case, the Chair shall have the option (but not the obligation) of extending the time allocated for Public Comment, either at the point designated on the agenda, at such later point on the agenda or as the Board or Committee may otherwise determine.
- F. Public comment is limited to three minutes per individual unless the Chair designates a longer or shorter period. (Generally, the longer or shorter period will apply to all persons participating in the Public Comment at the same meeting).
- G. The Chair shall enforce speaker time limits.
- H. The Chair can interrupt a speaker to enforce these or other applicable rules.
- I. No Board Member should interrupt a speaker during public comment.
- J. In general, Public Comments will proceed in the following order: (1) Public Comments by individuals in attendance and then (2) Comments by individuals when their OPS case is being heard.

II. Participation

- A. Individuals wanting to speak must indicate before the start of the CPRB meeting.
- B. Speakers shall be entitled to address the Board or committee on a first-recognized, first-served basis.
- C. It is not the intent of the Board to restrict an individual’s right to provide public comment; however, speakers desiring to give their comments in a language other than English, including sign language, are asked to provide OPS with notice identifying the

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language to be used at least 24 hours before the CPRB meeting at which comment will be made. Upon receipt of such notice, OPS staff will endeavor to engage a professional translator to attend the meeting and provide translation services. It is not the intent of the CPRB to restrict an individual's right to provide public comment.

- D. All questions or statements by a speaker should be directed to the Chair and Members.
 - 1. CBRP has no obligation to answer questions during public comment and may refer to staff to follow up with the speaker after the meeting.
 - 2. When appropriate, matters raised by public comment shall be referred to the appropriate standing committee.
- E. political Comments or those that promote or support a candidate are not permitted.

III. Instructions

- A. Each speaker must state their name (first and last) clearly so that it can be recorded in the meeting minutes.
- B. If a speaker is representing or speaking on behalf of an individual, group, or association, the speaker must state the nature of that representation.
- C. When a physical location has been designated in the meeting room for speakers attending in person to address the Public Body, the speaker must address the Public Body from that location unless the Chair otherwise allows.
- D. Individual comments will be limited to one opportunity per person.
- E. In the interest of promoting the efficient conduct of public business, speakers should refrain from repeating their testimony and comments. They should refrain from repeating testimony and comments previously provided to the Board or committee by other individuals.
- F. No person should interrupt the proceedings of a Board or public meeting or cause any other form of disturbance or disruption. The Chair reserves the right to close public comment if, after issuing a warning, audience members persist in cheering, booing, or otherwise being disruptive.
- G. Persons addressing the public body shall not be permitted to:
 - 1. Make statements or remarks that concern the private activities, lifestyles, or beliefs of individual employees of the City or its appointed and elected officials.
 - 2. Make statements or remarks unrelated to the business of the CPRB.
 - 3. Make statements or remarks unrelated to the professional duties and performance of its employees or the employees of its elected officials.
- H. Persons addressing the Board or committee shall refrain from statements, remarks, or conduct that is considered belligerent, threatening, disparaging, rude, vulgar, profane, or otherwise uncivil and disruptive to conducting the Board's business. The Chair may limit the comments of any person who engages in such conduct.
- I. No person may continue to speak after the Chair has taken the floor from that person.

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J. Any person violating the standards of process and decorum outlined in these rules may be evicted from the meeting premises at the order of the Chair or a majority of the Members or be subject to other action as deemed necessary by the Chair and Members.

K. Although the Public Comment may be used to address questions to the Public Body, a speaker is not entitled to respond to any such question during the Public Comment time.

For the meeting agenda and more information, please access the Board's website at

www.clevelandohio.gov/ops or

<https://www.clevelandohio.gov/CityofCleveland/Home/Government/CityAgencies/OPS/Hearings>

Please direct requests for further information to Administrator Marcus A. Perez at (216) 664-4618 or by email at Mperez2@clevelandohio.gov.