



Proposal to Expand.
Independent Citizen Police Review Board
Commencing 2022

Adopted by the Board
August 10, 2021

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Background

- The Independent Citizen Police Review Board (CPRB) was created through a referendum amendment to the Home Rule Charter on May 20, 1997. The enabling ordinance was adopted in August 1997, the inaugural Board was appointed and convened its first meeting on December 2, 1997. In the Spring of 1998 staff were hired and the first complaint was recorded on July 15, 1998.
- In November 2020, the CPRB's mandate was extended by referendum to include directives to the CPRB, the Human Relations Commission, the City Controller, city administrators and police officers.
- On May 12, 2021, the City Controller released the findings and recommendations of a performance audit of the CPRB. The report opined that the CPRB was under-resourced and as a result, without the capacity to fulfill community demands and establish a staff complement dedicated to community engagement. The Controller recommended that City Council's allocation to the CPRB be set at a percentage of the police budget but not part of the police budget.
- The previously mentioned Controller's report provides a comprehensive, objective review on the performance, accomplishments, deficiencies, and gaps in service offered by the CPRB. It should be considered as a reference when assessing the credibility and efficacy of the following proposal.

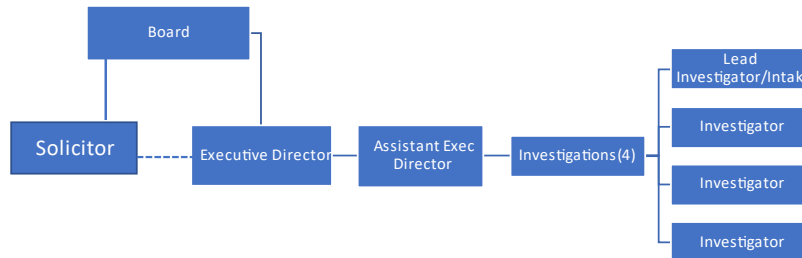
Proposal

The CPRB recognizes that the overwhelming majority of Pittsburgh voters (78%) approved the referendum offered on November 8, 2020. The CPRB is committed to fulfilling the will of the people expressed in that Charter amendment but cannot do so successfully without significantly expanding its capacity and staff expertise. Accordingly, the following describes a massive re-organization of the Independent CPRB believed to be responsive to community expectations and best practices in police oversight.

The CPRB seeks to create an independent multi-dimensional advocacy entity designed to fulfill the Charter mandates and promote accountability, integrity, efficiency and effectiveness of law enforcement practices, policies, and procedures.

Currently the operations of the CPRB are governed by the seven Member volunteer citizen Board. The daily operations are supervised by an Executive Director and Assistant Executive Director. There are six full-time staff, all performing skilled professional investigative work and managing community engagement. All investigative staff are commissioned Notaries Public. The office has no dedicated administrative or clerical assistance. The CPRB maintains an office at 816 Fifth Avenue in a non-City owned building near City and Court offices and is easily accessible by public transportation.

Current functional organization:



2021 CPRB Organizational Design

The illustration aptly reflects the CPRB's dominant activity: receiving, investigating, and resolving individual complaints of police conduct. There are many aspects to accountability and the CPRB's ability to develop and offer appropriate support to the community, youth, police officers, policy makers and everyone else is limited by staff capacity.

As observed in the previous chart, the CPRB has one division of service: Investigations. Policy reviews, community outreach & collaboration, research and other activities are performed by the Executive Director. Administrative support is provided by the Assistant Executive Director.

The CPRB proposes to establish a responsive independent office capable of monitoring law enforcement and ancillary support services provided by the City to assure community needs are adequately met. The model devised by the CPRB and for which an enabling allocation is sought, expands the operational capability into four units (task examples included):

Proposed Community Advocacy (5 staff)

- A lead community advocate will facilitate community outreach by three community advocates to include active participation & attendance in community events, delivery of presentations to community groups, public safety councils, schools, churches, etc. A Community Wellness Advocate will monitor human service delivery as diversion, including identification of training needs for police & others routinely engaging with police.

Proposed Legal Advocacy (3 staff)

- A full-time staff attorney to prosecute complaints, supervise law school internships, conduct legal research related to law enforcement/community

relations, assess, and refer potential corruption cases, assist civilian complainants file private criminal complaints when appropriate, assist with police policy reviews, enforce subpoenas and compliance to Charter & Ordinance provisions. The position will not provide legal advice on personal matters.

- Paralegals to support staff attorney, record statements, assist with case preparation for public hearings, support investigators, conduct legal research, when necessary, assist with case referrals to the Human Relations Commission.

Proposed Expanded Investigation Unit (6 staff)

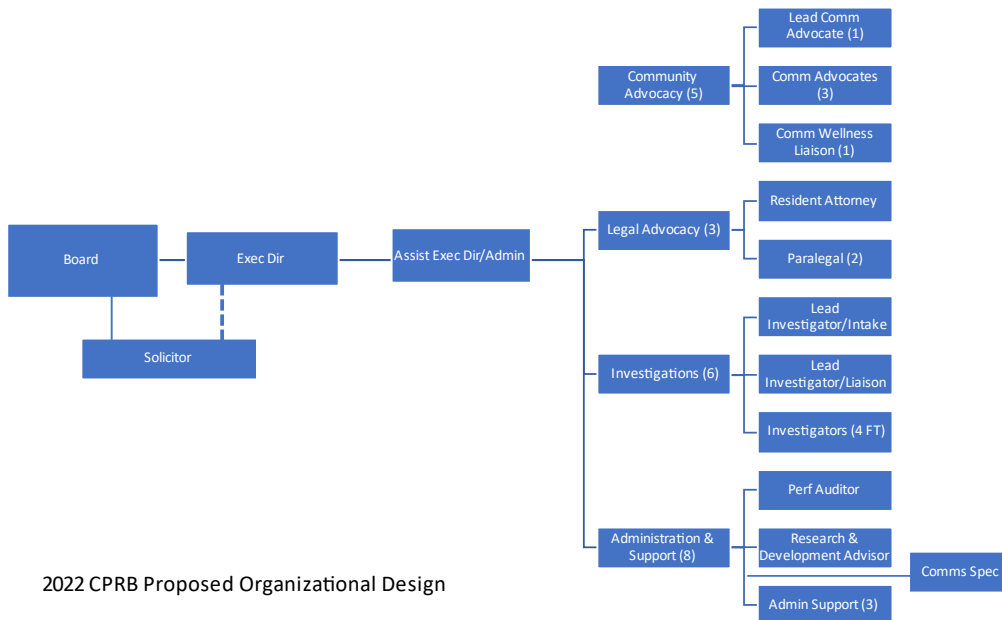
- Lead Investigator/Intake receives, documents open cases, notifies accused officers, processes all initial complaint correspondence, assigns case to investigator, maintains case management database.
- Lead Investigator/Liaison assists investigators with referrals to Legal Advocacy and/or Community Advocacy, monitor & follow-up with referrals to assure appropriate services are rendered promptly, assess effectiveness of diversionary options. Refer complainants to Community Advocacy Unit if human service needs are apparent or requested.
- Investigators receive an assigned case, conduct a preliminary review to determine cause to proceed, investigate, prepare & present case summary to Board for review and disposition. Includes gathering of relevant documents & evidence, find & interview witnesses, interview/obtain police officer statements. Prepare cases for public hearings in consultation with Lead Investigator/Liaison. All Investigators are Certified Practitioners of Oversight, a credential issued by the National Association for Civilian Oversight of Law Enforcement (NACOLE) and requiring annual training requirements to maintain.

Proposed Administration & Support (8 staff)

- Executive Director & Assistant Executive Director: responsible for overall operation.
- A staff performance auditor to assist with assessing efficiency of police acquisitions, resource utilization, data analysis, participate in joint performance audits of the Bureau of Police with the city Controller. Assist with quality control of the Board's operation.
- Research & Development Advisor will be dedicated to policy research to assure police policies & procedures comport to best practices, create staff development sessions to assure staff are aware of contemporary standards applicable to service area. Assist external researchers (a frequent demand) with data collection and survey information.
- Administrative support staff (3) to assist with document preparation, equipment, scheduling, employee support, etc. Each unit will receive an assigned administrative support person to facilitate efficient communication.

- Communications Specialist: A designated social media coordinator responsible for maintaining website, social media & public notices & releases. Scheduler and coordinator for community events/participation.

Proposed Organizational model envisioned by the CPRB:



The proposed model creates a check & balance system similar to that of an inspector general. The CPRB is not, nor does it seek to become a service provider; it intends to fulfill the mandate to monitor police related service provision. Offering guidance, re-direction, correction, and evaluation of police services to the Chief of the Bureau of Police and the Mayor. The mission of the CPRB is to promote and measure accountability, integrity and verify the presence of the systemic competence necessary to achieve public policy goals and community expectations. Verified accountability, integrity and credibility lead to a safer community and police force. Restoration and retention of trust rely on such verification.

In addition to increased staff, the CPRB anticipates establishment of satellite offices to enhance public accessibility. Locations will be small and serve as a base for the Community Advocates while enabling a local ability to file complaints and register local concerns related to police service.

The proposed budget follows.

1Proposed Personnel Budget

2022 Proposal - Personnel				2022	2023	2024
Legal Advocacy						
	Lawyer					\$ 70,000.00
	Paralegal					\$ 52,119.00
	Paralegal/Research					\$ 52,119.00
Community Advocacy						
	Lead Community Advocate		24E	\$ 63,887.00	\$ 66,464.00	\$ 69,285.00
	Comm Advocate		U08-H	\$ 57,015.00	\$ 58,094.00	\$ 59,193.00
	Comm Advocate		U08-H	\$ 57,015.00	\$ 58,094.00	\$ 59,193.00
	Comm Advocate		U08-H		\$ 58,094.00	\$ 59,193.00
	Comm Wellness Advocate		U08-H			
Investigations						
*	Lead Investigator/Intake		24E	\$ 63,887.00	\$ 66,464.00	\$ 69,285.00
	Lead Investigator/Liason		U08-H			\$ 69,285.00
*	Investigator		U08-H	\$ 57,015.00	\$ 58,094.00	\$ 59,193.00
*	Investigator		U08-H	\$ 57,015.00	\$ 58,094.00	\$ 59,193.00
*	Investigator		U08-H	\$ 57,015.00	\$ 58,094.00	\$ 59,193.00
	Investigator		U08-H	\$ 57,015.00	\$ 58,094.00	\$ 59,193.00
Admin & Support						
	Performance Auditor		U08-H			\$ 59,193.00
	Research & Development Advisor		U08-H		\$ 58,094.00	\$ 59,193.00
	Communications Specialist		U08-H	\$ 57,015.00	\$ 58,094.00	\$ 59,193.00
	Admin Assistant/Clerk 2 (Admin)		18D	\$ 48,769.00	\$ 49,656.00	\$ 51,845.00
	Admin Assistant/Clerk 2 (Comm Advocacy)		18D		\$ 49,656.00	\$ 51,845.00
	Admin Assistant/Clerk 2 (Investigations)		18D			\$ 51,845.00
*	Assistant Exec Dir		+ 2 steps	\$ 81,780.00	\$ 85,026.00	\$ 88,351.00
*	Executive Director		+ 2 steps	\$ 106,434.00	\$ 111,379.00	\$ 113,205.00
	Personnel Sub Total			\$ 763,862.00	\$ 951,491.00	\$ 1,331,114.00
	Add Fringe 35%			\$ 267,351.70	\$ 333,021.85	\$ 465,889.90
	Personnel TOTAL			\$ 1,031,213.70	\$ 1,284,512.85	\$ 1,797,003.90
* Original staff						
		Personnel additions:		1 Lead Comm Adv	1 Comm Advocate	1 Resident Lawyer
				2 Comm Advocates	1 Res & Dev Advisor	2 Paralegals
				1 Investigator	1 CommAdm Assist	1 Comm Wellness/
				1 Comm Spec		1 Lead Inv Liaison
				1 Admin Assistant		1 Perf Auditor
						1 Inv Ad Assistant
				6	3	7
		Staff Complement/year:		12	15	22

2Proposed Operational Budget & Total

2022 Proposal		Original Proposal	2022	2023	2024
Personnel					
Wages & Salaries		\$ 1,327,585.00	\$ 763,862.00	\$ 951,491.00	\$ 1,331,114.00
Benefits (+35%)		\$ 464,654.75	\$ 267,351.70	\$ 333,021.85	\$ 465,889.90
Personnel Total	\$ 1,792,239.75		\$ 1,031,213.70	\$ 1,284,512.85	\$ 1,797,003.90
Operational					
Rent-Main		\$ 68,580.00	\$ 68,580.00	\$ 68,580.00	\$ 68,580.00
Satellite Office(s)		\$ 24,000.00	\$ 6,000.00	\$ 12,000.00	\$ 24,000.00
Equipment		\$ 30,000.00	\$ 10,000.00	\$ 10,000.00	\$ 15,000.00
Cleaning/Maint		\$ 5,000.00	\$ 1,500.00	\$ 1,500.00	\$ 2,000.00
Training/Travel		\$ 46,000.00	\$ 16,000.00	\$ 20,000.00	\$ 25,000.00
Office supplies		\$ 5,000.00	\$ 2,000.00	\$ 1,500.00	\$ 2,000.00
Board Solicitor		\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
Investigative Expenses		\$ 20,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
Legal expenses/Research Material/Membership/S subscriptions/Software licenses etc.		\$ 15,000.00	\$ 5,000.00	\$ 5,000.00	\$ 10,000.00
Operational Total	\$ 263,580.00		\$ 169,080.00	\$ 178,580.00	\$ 206,580.00
	Grand TOTAL	\$ 2,055,819.75	\$ 1,200,293.70	\$ 1,463,092.85	\$ 2,003,583.90
2021 Police	\$ 106,130,127.00	2021 CPRB	\$ 645,222.00	0.61%	Equivalency
2022 Projected PBP	\$ 111,072,112.00	2022 CPRB Prop	\$ 1,200,293.70	1.08%	Equivalency
2023 Projected PBP	\$ 115,514,996.48	2023 CPRB Prop	\$ 1,463,092.85	1.27%	Equivalency
2024 Projected PBP	\$ 120,135,596.34	2024 CPRB Prop	\$ 2,003,583.90	1.67%	Equivalency
	Personnel additions by year:		1 Lead Comm Adv	1 Comm Advocate	1 Resident Lawyer
			2 Comm Advocates	1 Res & Dev Advisor	2 Paralegals
			1 Investigator	1 CommAdm Assistant	1 Comm Wellness/?
			1 Comm Spec		1 Lead Inv Liaison
			1 Admin Assistant		1 Perf Auditor
					1 Inv Ad Assistant
			6	3	7
	Staff Complement/year:		12	15	22

Appendix

CPRB Performance Audit Report

Hon. Michael Lamb

City Controller

May 2021



Performance Audit

Citizen Police Review Board

Report by the
Office of City Controller

MICHAEL E. LAMB
CITY CONTROLLER

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May 2021

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AUDITEE RESPONSE



CITY OF PITTSBURGH
OFFICE OF THE CITY CONTROLLER
Controller Michael E. Lamb

May 10, 2021

The Honorable William Peduto, Mayor of Pittsburgh
and Members of Pittsburgh City Council

Dear Mayor Peduto and Members of City Council:

The Office of the City Controller is pleased to present this performance audit of **Pittsburgh's Citizen Police Review Board (CPRB)** conducted pursuant to the Controller's powers under Section 404(b) of the Pittsburgh Home Rule Charter. This audit addresses the daily operations of the CPRB; data analysis of complaints, allegations, and Board actions; limitations on the CPRB's effectiveness; and the CPRB's community engagement. Our procedures were conducted in accordance with applicable government auditing standards and are limited to our objectives noted in the scope and methodology sections of this report.

EXECUTIVE SUMMARY

The Citizen Police Review Board (CPRB) is an independent agency tasked with receiving and investigating complaints alleging misconduct by employees of the Pittsburgh Bureau of Police (PBP). The CPRB was established as a result of a citizen referendum in 1997 and has been periodically strengthened by the courts, by City Council, and by city residents.

Between 2018 and 2019, 427 complaints were made to the CPRB. Of the cases acted upon by the Board, 58.3% were found to be unsustainable or unfounded, 9.6% were resolved through mediation or other forums, and 2.6% (3 cases) resulted in a public hearing. The remaining cases were dismissed due to lack of cooperation or out of jurisdiction, withdrawn by the complainant, or remained suspended as of the end of 2019.

From the CPRB's creation in 1999 through 2019, it reviewed approximately 3,176 cases. Of those, 1.8% have proceeded to a public hearing and 1.3% have been sustained. Use of force

violations represented 3.4% and 4.9% of allegations in 2018 and 2019, respectively, lower than the 20-year historical average of 10.71%. It should be noted that this data only represents complaints filed with the CPRB. Other cases alleging use of force violations may go to litigation, and these numbers alone do not imply that actual violations have risen or fallen. Use of force allegations not filed with the CPRB were outside of the scope of this audit.

The CPRB faces a number of barriers that limit its goal of improving relations between the community and the police. At the forefront is the Police and Firemen Collective Bargaining Act of 1968, also known as Act 111. The act limits the ability of the City and the CPRB to terminate officers who may pose a threat to public safety. For the CPRB's disciplinary determinations to become binding on the Police Bureau, action by the state legislature to amend Act 111 is needed.

However, City Council does have the authority to take a number of other crucial steps that would improve police oversight and accountability. First, Council should alter the appointment process for Board members in favor of community representation outside of the political appointment process. One proposal used by other cities is to grant nominating authority to civic organizations that have a history of community engagement and legal expertise. For example, other cities, including Newark and Atlanta, have granted this authority to organizations including their local League of Women Voters or NAACP chapters. In this model, an organization would have the ability to nominate board members in place of those currently nominated by the mayor and/or Council, while Council would still vote to approve nominees.

Second, while the CPRB's funding has been adequate to manage its current caseload, its budget has not left room for the agency to establish a staff dedicated solely to community outreach or in-depth data analysis. Setting the CPRB's funding to a fixed percentage of the Police Bureau's operating budget, 2% or more, would allow the agency to grow with need and to invest in sustained community outreach.

Additionally, City Council and the city administration should commit to a more transparent process in police union contract negotiations. With negotiations for the next contract currently underway, these are actions that can be taken immediately:

- 1) Outdated and unenforceable language concerning the CPRB should be removed from the contract in favor of language asserting the CPRB's subpoena rights.
- 2) The CPRB executive director and solicitor should be permitted to review proposed police union contracts and object to any language that may undermine the authority of the CPRB or public safety.
- 3) Finalized contracts are not exempt from the state's Right to Know Law. Final police union contracts should be submitted to the Controller's Office to be published on OpenBook Pittsburgh for public viewing.

Next, while the Police Bureau has been generally cooperative in allowing CPRB investigators to view body-worn and dashboard camera footage, Council should codify the process to ensure this will always be the case. Council should require the Police Bureau to grant

CPRB investigators access to unredacted footage within a set time period, such as one week, or even less time after critical incidents.

Finally, the CPRB executive director should notify City Council when the police chief and/or mayor do not respond to recommendations within the required 30-day timeframe, and the CPRB should consider issuing a writ of mandamus to produce timely responses.

Our findings and recommendations are discussed in detail beginning on page 5. We believe our recommendations will provide more accountability and improve operation efficiency.

We would like to thank the CPRB staff for their cooperation and assistance during this audit.

Sincerely,

A handwritten signature in black ink that reads "Michael Lamb". The signature is written in a cursive, flowing style.

Michael E. Lamb
City Controller

INTRODUCTION

This performance audit of the City of Pittsburgh’s Citizen Police Review Board (CPRB) was conducted pursuant to Section 404(c) of the city’s Home Rule Charter. This audit examines the Board’s origins and compliance with its legislative directives. Also examined are: the Board’s daily operations, effectiveness and limitations of the Board’s oversight powers, patterns and geographical distributions of police complaints and the Board’s ability to foster better relationships between the community and the Pittsburgh Bureau of Police (commonly known as the Police Bureau).

This is the City Controller’s first performance audit of Pittsburgh’s Citizen Police Review Board. In 2020 legislation was passed that requires the City Controller’s office to conduct fiscal audits of the board. Requirements for these audits are vague in the legislation, so future frequency has yet to be determined.

In 2020, protests broke out nationwide, including in Pittsburgh, following the deaths of several Black civilians at the hands of police officers. As a result, issues of police reform and oversight have been the subject of ongoing debate among local community groups and City Council. Included in that debate is the ability of Pittsburgh’s Citizen Police Review Board to effectively investigate allegations of misconduct. More than two decades after reform efforts first began, it reflects that community trust, particularly among Black residents, has yet to be achieved and that further reforms are needed. This audit will focus on changes that can be made to strengthen and improve the CPRB as a means of building that trust.

OVERVIEW

History and Review of Independent Police Oversight in the U.S.

The first police review boards in the United States emerged mid-century in response to concerns over police corruption, police brutality, and racial discrimination. In cities like New York City and Philadelphia, these early incarnations were weak, with volunteer members and low budgets, ultimately failing to achieve legitimacy among the public. After being met with immediate opposition from police unions, ongoing litigation, and changing political currents, they eventually went inactive.¹

More cities began to adopt review boards in the 1970s and 1980s, but the review board model took significant prominence in the 1990s following a backlash to aggressive policing practices and high-profile incidents of police brutality. Discussions of reform turned to the idea of “community policing,” transparency, and stronger civilian oversight of police departments. One important characteristic of these newer boards was that they were equipped with an investigation staff that had the authority to look into complaints. The idea was that when executed well, review boards would be proactive as opposed to reactive, able to identify and

¹ Ofer, Udi. “Getting It Right: Building Effective Civilian Review Boards to Oversee Police.” *Seton Hall Law Review*, vol. 46, no. 4, 2016.

remediate high-risk officers and policies before further incidents could occur. In theory, all parties would benefit: communities gained an avenue for accountability and challenging dangerous practices, police departments would have the opportunity to rebuild public trust, and municipalities would reduce costly expenses associated with police misconduct litigation and payouts to victims.

Establishment of Pittsburgh's Citizen Police Review Board

Pittsburgh's own Citizen Police Review Board (CPRB) was established because of a public referendum passed by city residents in 1997 after a prior attempt to create a review board through City Council failed. It was prompted by strained community relations with the Police Bureau and alleged patterns of civil rights violations and civilian deaths, including the killing of Black businessman Jonny Gammage in October of 1995.

The referendum was passed on May 20, 1997 with 57.3% of voters in support. On August 8th of that year, City Council approved legislation enabling the newly established police review board with powers, procedures, and a board member appointment process. The Board's first staff members were hired in the spring of 1998.

By then, the Pittsburgh Bureau of Police had come under investigation by the U.S. Department of Justice (DOJ), resulting in a joint suit with the ACLU and NAACP alleging a pattern of civil rights abuses. In April of 1997, Pittsburgh became the first city in the U.S. to enter into a federal consent decree to avoid litigation by agreeing to address officer misconduct. Under this oversight, the DOJ's Civil Rights Division commissioned a study released in 2001 that found 70% of Pittsburgh's Black residents believed it was "very common" or "somewhat common" for officers to use excessive force. While unrelated to the consent decree, the campaign to create the CPRB highlights the dissatisfaction residents felt with the state of policing at that time.

Under its establishing legislation, the CPRB is an independent agency created by the City of Pittsburgh. As stated by §661.03 of the City Code, the board "shall strive to prevent future incidents of police misconduct and abuses of civil rights and strive to promote public confidence in law enforcement through its capacity to investigate, hold public hearings regarding and evaluate allegations of police misconduct and make recommendations concerning patterns of police misconduct if such are found."

Subpoena Power

In the following years, the Pittsburgh Police Bureau and the Office of Municipal Investigations (OMI) challenged the investigatory powers of the review board, resulting in a series of lawsuits. In *Carpenter v. Synkowski*, the Fraternal Order of Police (FOP) and the City of Pittsburgh filed a motion to reject a CPRB subpoena for witness statements in the possession of OMI related to a case under investigation. The trial court upheld the review board's subpoena power, and the case was appealed to the Commonwealth Court. On August 20, 2004, the parties agreed to a formal procedure in which OMI would provide officer and witness statements in its

possession, and that the CPRB would maintain confidentiality of those statements. The CPRB has since maintained and utilized that subpoena power on a regular basis.

OBJECTIVES

1. Examine the daily operations of the Citizen Police Review Board.
2. Assess the effectiveness and limitations of the Board's oversight powers.
3. Assess patterns and geographical distributions of complaints.
4. Assess the Board's community presence and ability to foster better relationships between the community and Pittsburgh Police Bureau.
5. Make recommendations to strengthen the CPRB and improve community trust in police oversight.

SCOPE

The scope of this performance audit for data analysis are the years 2018 and 2019. For allegation totals and complaints against individual officers, a ten-year analysis for the years 2010 through 2019 was conducted. Materials on public hearing dispositions were received and reported on from the Board's establishment in 1999 through 2019. Use of force allegations were examined for the years 1998 through 2017.

METHODOLOGY

Due to the ongoing COVID-19 crisis, the auditors conducted remote interviews with the executive director and assistant director of the CPRB. The executive director also provided information related to structure and procedures to the auditors throughout the audit process.

The auditors watched recordings of the Board's past public hearings.

The auditors also watched hearings conducted by City Council related to the 2020 proposed referendum to strengthen the CPRB.

The auditors received complaint data from the executive director for the years 2018-2019. Data received was compiled into an Excel spreadsheet and analyzed.

The auditors received data on allegations compiled by the CPRB and complaints against individual officers for the years 2010 through 2019.

The auditors reviewed Board minutes and votes and watched public hearings for the years 2018-2019.

The auditors researched the history of the CPRB, reviewed the City Code, and studies of police review board practices nationwide.²

The auditors reviewed quarterly and annual reports from police review boards in various cities to compare available data.

The auditors reviewed several web pages and documents related to the CPRB, including the CPRB website, the 2017 annual report, CPRB social media pages, and communications with the public.

² Ofer, Udi. "Getting It Right: Building Effective Civilian Review Boards to Oversee Police." *Seton Hall Law Review*, vol. 46, no. 4, 2016.

De Angelis, Joseph, et al. "Civilian Oversight of Law Enforcement: A Review of the Strengths and Weaknesses of Various Models." *OJP Diagnostic Center*, Sept. 2016.

Terrill, William, and Jason R. Ingram. "Citizen Complaints Against the Police: An Eight City Examination." *Police Quarterly*, 26 Oct. 2015.

FINDINGS AND RECOMMENDATIONS

The CPRB is comprised of both Board members and its staff. In this audit, the “Board” may refer to either Board members solely or the CPRB in its entirety. That distinction is made clear when necessary, but its general use should be understood as the entire CPRB as an agency.

Police Review Boards in the U.S.

The National Association for Civilian Oversight of Law Enforcement (NACOLE) is the leading nonprofit organization that advocates to establish and improve police review boards. They identify well over 100 review boards at the municipal or county level, though the scope of their authority and functions can vary significantly. NACOLE identifies the following as features of an effective police oversight body:

1. Independence from the police department the board oversees, as well as mayoral administrations.
2. Adequate funding that allows for effective investigations and complaint intake.
3. Access to critical information and decision-makers.
4. Good rapport with government leaders and community stakeholders.
5. Ample authority, such as subpoena power.
6. Ability to review police policies, training, and other systematic issues.
7. Community/stakeholder support and outreach.
8. Transparency in operations, procedures, and findings.

NACOLE and other scholars have described three (3) general models used by municipalities: monitoring/auditing authorities, review systems, and investigative authorities. They also name a relatively new model used exclusively by New York City, characterized by its use of prosecutorial units, in which cases of misconduct can be directly litigated by their board. Of the three (3) traditional models, Pittsburgh’s CPRB falls closest to the strongest model, the investigation-focused model, a notable achievement given that it is also used by much larger cities including Washington D.C. and San Francisco.

The characteristics, benefits, and drawbacks of the investigative authority model are described by NACOLE on their website as follows:

Key Characteristics

1. Routinely conducts independent investigations of complaints against police officers.
2. May replace or duplicate the police internal affairs process.
3. Staffed by non-police, “civilian” investigators.

Potential Key Strengths

1. May reduce bias in investigations into citizen complaints.
2. Full-time civilian investigators may have highly specialized training.
3. Civilian-led investigations may increase community trust in the investigation process.

Potential Key Weaknesses

1. Most expensive and organizationally complex form of civilian oversight.
2. Civilian investigators may face strong resistance from police personnel.
3. Disillusionment among the public may develop overtime when community expectations for change are not met.

A 2016 study by Udi Ofer for Seton Hall Law Review examined the 50 largest police departments in the U.S. The study found that 24 (48%) had a police review board. Of those:

- 15 (62.5%) had boards majority nominated and appointed by the mayor, limiting their independence.
- 19 (79.2%) had subpoena power.
- 19 (79.2%) were authorized to review and make recommendations on police department policies and practices.
- Only six (25%) boards had binding recommendations for discipline or policy changes. This remains the biggest frustration with current oversight models, as disciplinary authority for substantiated claims of misconduct usually remains within police departments.
- Only two (8.3%), Detroit and Newark, at the time of his review, had all of the features Ofer describes as composing an effective police review board. However, at the end of 2020, the New Jersey state supreme court rolled back many powers of Newark's review board.

Based on a review of three studies of other cities' police review boards, the following table assesses the strength of Pittsburgh's CPRB and where improvements can be made. Table 1 shows these results. Areas where improvements can be made will be described in further detail throughout this audit.

TABLE 1

Features of Pittsburgh's CPRB	
Feature	Does CPRB Meet Standard?
Operates independently from police department	Yes
Receives community complaints	Yes
Office and complaint process are accessible to public	Yes
Holds public meetings and hearings	Yes
Decides how a complaint will be handled	Yes
Has a paid investigatory staff	Yes
Can subpoena witnesses and records	Yes
Routinely receives access to critical materials from police department, including body-worn camera footage	Yes
Conducts independent, fact-finding investigations	Yes
Board is representative of community	Improvements Possible
Majority of board does not have law enforcement background/experience	Yes – only two members are permitted to have law enforcement experience
Majority of board not nominated or appointed by mayor	Yes – three of seven members are nominated by the mayor, four are nominated by City Council
Authority to recommend discipline to police chief and/or mayor	Yes
Recommendations are binding	No - requires state action
Performs data-driven policy evaluations and/or audits	No - requires increase in funding
Adequate and secure funding	Improvements Possible
Publishes quarterly and annual reports of activities	Improvements Needed

CPRB Overview

Pittsburgh's City Code § 662.04 states:

The Mayor shall make appointments for the inaugural board in the following manner: Four (4) appointments, of which two (2) shall be for initial four (4) year terms and two (2) for initial two (2) year terms, shall be made from a list of nine (9) nominations submitted to the Mayor by the City Council. Council will forward such nominations to the Mayor by resolution and shall do so no later than thirty (30) days prior to the effective date of this Chapter.

City Council shall submit a list of up to nine (9) nominations to the Mayor for consideration via resolution. Each member may submit one (1) nomination for consideration. Four (4) appointments shall be made from the list of up to nine (9)

nominations submitted to the Mayor by the City Council, and the Mayor shall add three (3) names to form a properly constituted board.

City Code also states that Council must vote to approve all members. Two (2) members, and no more than two, must be previously employed law enforcement professionals from any kind of law enforcement. Board members serve without compensation but may be reimbursed for expenses incurred in the implementation of the member's direct responsibilities. Members cannot have been convicted of a felony or misdemeanor, excluding summary offenses.

Organization Chart

The following organization chart represents the CPRB structure as of the end of 2019. The unpaid, seven-member board oversees a staff of six.

**FIGURE 1
CPRB Organization Chart, 2018 and 2019**



In 2018, the operating budget for the CPRB was \$641,129 and \$642,458 in 2019. There are six (6) paid staff positions: executive director, assistant executive director, three (3) investigators and one (1) intake coordinator.

In addition to these positions, a solicitor serves as legal counsel for the Board as authorized by the City Code §662.03. The solicitor advises the executive director and the Board, serves as hearing officer for public hearings, and represents the Board in litigation or other legal issues. Per annum, the authorized professional services agreement is \$40,000 per year with up to \$5,000 expenses if needed. The Board paid \$80,761.82 in a contract to Rothman Gordon, P.C. for these services beginning in October 2017 and ending in December 2019.

Investigator Qualifications

The Board is an organizational member of NACOLE, and investigators are required to achieve and maintain credentials as Certified Practitioners of Oversight. They attend the annual NACOLE conference to keep those credentials current. Additionally, all staff members must attend the Citizen Police Academy to gain exposure to police methods and practices.

Minimum requirements for investigators include:

- Attainment of a bachelor's level college degree from an appropriately accredited institution in Law Enforcement Administration, Law, Public Administration, Criminal Justice, Human Relations, or other related discipline as determined appropriate by the CPRB.
- Must provide proof and verification of at least two years of successful experience in direct investigations, legal research, law enforcement or related activity as determined appropriate by the CPRB.
- Must be eligible to be commissioned as a Notary Public and possess a valid motor vehicle operator's license.
- Subject to drug screening, demonstrate no criminal conviction (excluding summary motor vehicle offenses) and subject to a background check.

According to its website, NACOLE certification requires participants to receive 45 credit hours of certified training and attend two annual NACOLE conferences within three consecutive years. Credit hours cover six core competencies: civilian oversight of law enforcement, investigations, the public and transparency, law, policing/law enforcement policies and procedures, and remediation and discipline. Participants must also read two items from the approved reading list. After initial certification, participants maintain credentials by receiving at least 30 credit hours of certified training, reading two additional items on the approved reading list, and attending at least one annual NACOLE conference within the following three years.

Finding: In 2018, one CPRB investigator was a former law enforcement officer. A second investigator hired in 2019 also previously served in the United States Marine Corps Military Police prior to a career in education.

Board members who have served in the two (2) law enforcement professional seats have come from a wide array of backgrounds, including a former assistant U.S. attorney, former director of Public Safety, former superintendent of County Police, and a retired university police officer. While no member may be a sworn active-duty officer while serving on the Board, they are permitted to have been a former Pittsburgh Bureau of Police (PBP) officer.

The auditors were concerned that the ability of former Pittsburgh Police Bureau officers to serve as Board members and/or CPRB investigators presented a conflict of interest, given that they would be tasked with overseeing or investigating a former employer. The executive director and board members responded that the expertise and insight of former PBP officers has been essential and beneficial to understanding the inner workings of the Police Bureau's chain of command and investigations. The executive director also noted that 662.02 "Unbiased Review Board Members" in the Board's Rules and Operating Procedures outlines recusal requirements members, which has been used as needed.

Finding: The CPRB rules and operating procedures require board members to recuse themselves if there is a conflict of interest.

Changes to Appointment Process

Following the 2009 Pittsburgh G20 Summit in which a number of protesters were injured by police, the CPRB opened up an inquiry that was opposed by the mayor at the time. In response, the mayor removed five (5) of the seven (7) members of the Board. City Council then rewrote the statute governing the Board to clearly delineate the difference between terminations and vacancies and to protect members' tenure from unwarranted removal.

Beginning in 2010, both the mayor and Council were given requirements for filling their respective vacancies on the Board. If the mayor fails to appoint a member to his or her vacant mayoral seat, the task is delegated to Council. In addition, exactly one (1) Council seat and one (1) mayoral seat must be served by an individual who has law enforcement experience. Other members are private city residents who are nominated at the mayor and Council's behest. Finally, all board members must receive training to become familiar with police policies, procedures, and training, including citizens' rights and the history and operation of other citizen police review boards.

Community Representation

Some cities have taken a stronger approach to community representation on their boards. In Newark, seven (7) of the 11 members on its police review board are nominated by civic and community-based organizations with nominating authority. Nominees are presented to the mayor, who appoints them subject to the advice and consent of City Council. One (1) seat is reserved for the city's inspector general, and the remaining three (3) are nominated by the city Council. Similarly, Atlanta reserves four (4) of its 11 members for nominations from civic organizations. Detroit is a unique example that takes this idea even further, reserving seven (7) of its 11 members to be directly elected by city residents.

These models ensure that community stakeholders and residents have a guaranteed voice on the board's proceedings and operations, strengthening community trust in civilian-led oversight.

Udi Ofer writing for Seton Law Review, states:

The makeup of the leadership of the review board sets the tone of the entire operation of the board. While professional staff trained in investigative and fact-finding techniques will conduct most of the work of the board, board members are the one who will make the decisions to move forward with investigations and discipline.

The article goes on to propose “a board composition model where the majority of the board is nominated by civic organizations that have an interest in the safety of the city and in the civil rights of community members with the rest nominated by the mayor and lawmakers. This will ensure the independence of the board and its legitimacy in the eyes of city residents.” Furthermore, “The nominees should be selected based on experience and expertise in legal, civil rights, and civil liberties in policing”, and “believe in a police department that operates in a transparent and accountable manner.”

The author cites the Newark, New Jersey Civilian Review Board as an example. Here the following organizations have nominating authority: “American Civil Liberties Union of New Jersey; National Association for the Advancement of Colored People (NAACP) of New Jersey; People’s Organization for Progress; La Casa de Don Pedro; and a representative of the clergy community.”

Atlanta, Georgia is another city that has civilian review board members nominated by civic organizations. This city’s civic organizations are: “Gate City Bar Association, Atlanta Bar Association, League of Women Voters and the Atlanta Business League”.

The City of Pittsburgh has many of the same civic organizations that are present in the example cities.

Finding: Pittsburgh’s Citizen Police Review Board has no board members directly nominated or elected by city residents or civic organizations.

The CPRB’s founding principle is that communities should have a voice in how they are policed, and its legitimacy rests on residents’ trust that Board members represent them. Reserving seats for local civic organizations that interact with Pittsburgh’s communities on a regular basis and/or have expertise in the issues the Board considers may be preferable to the current system of political appointments.

RECOMMENDATION 1:

City Council should consider the need for direct civic representation on the Board, which would require amending the Home Rule Charter. Council could grant nominating authority to local and visible civic organizations which would fill a set number of seats on the CPRB in place of those currently nominated by the mayor and/or Council.

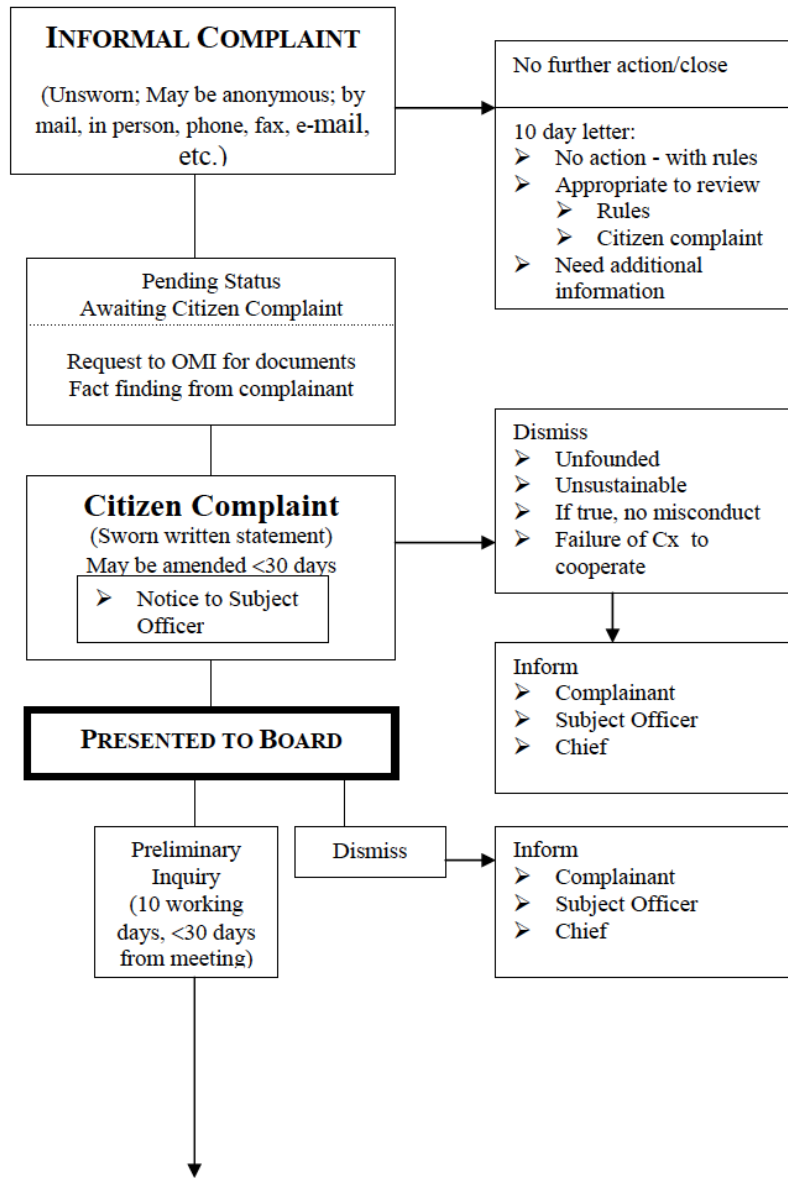
CPRB Complaint Process

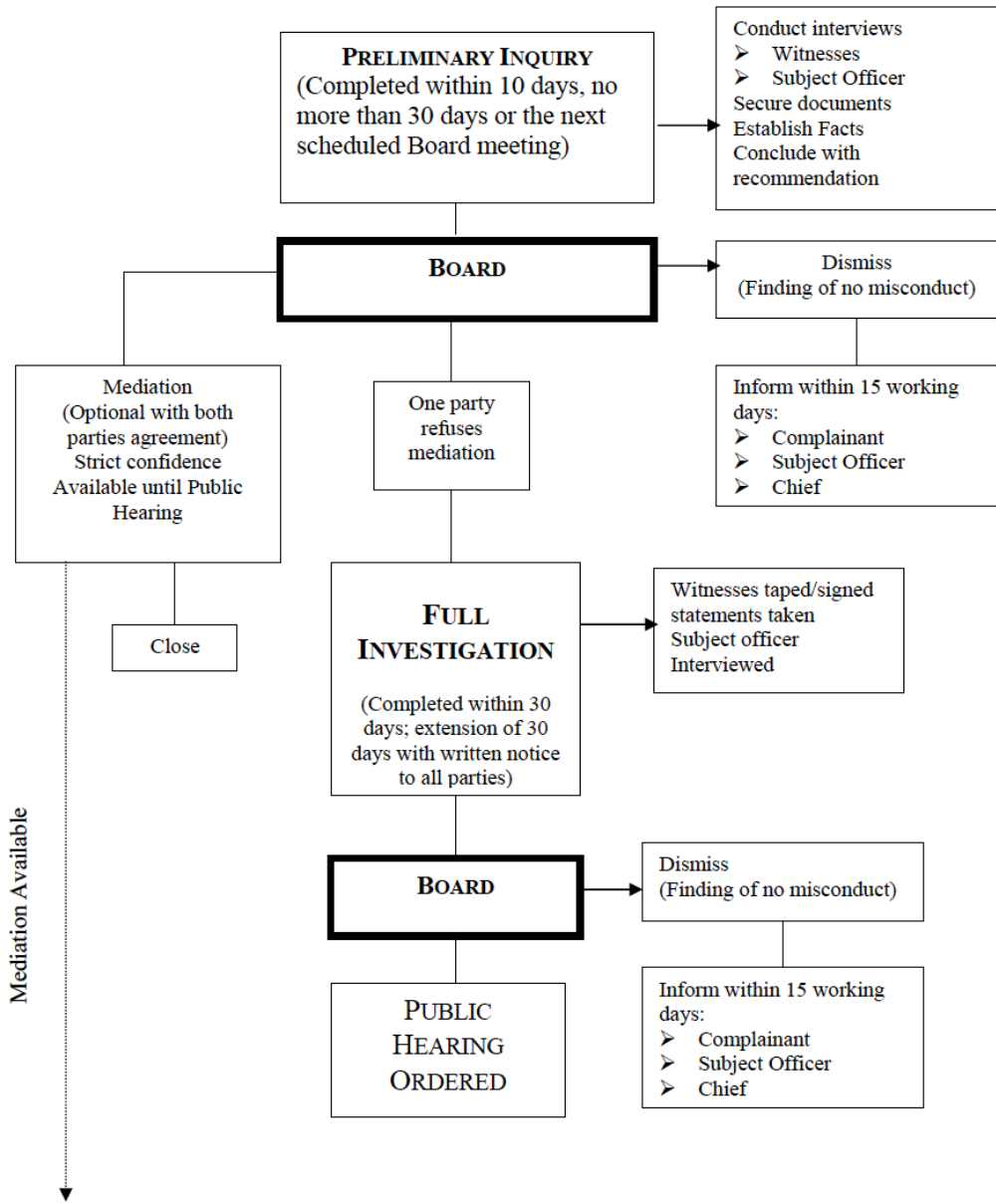
Anyone can file a complaint against a police officer with the CPRB. The complaint process can take time but is aided by the cooperation of the person making the complaint. The more cooperative a complainant is the better it is for the investigation.

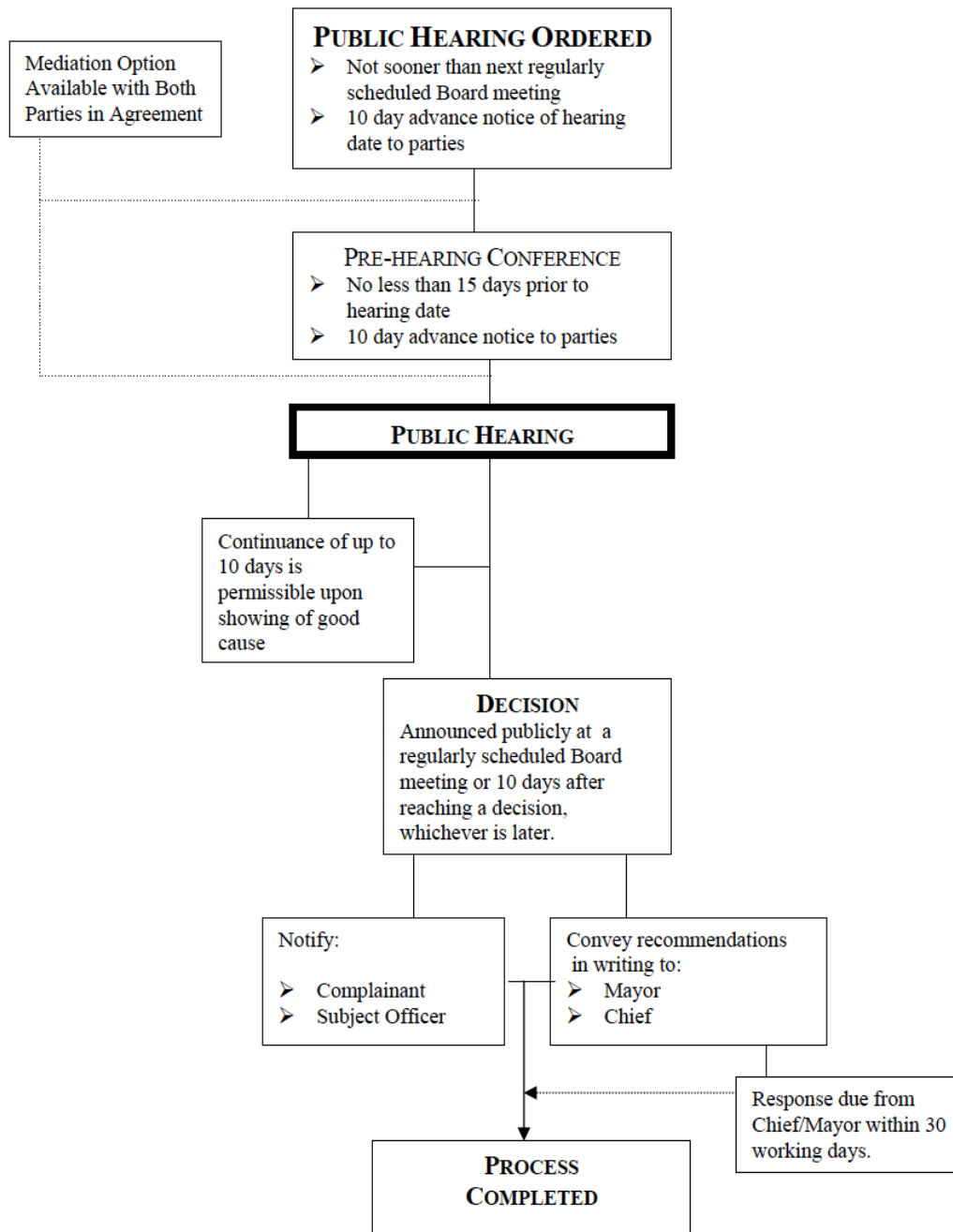
Shown in Figure 2 is the flowchart illustrating how a complaint proceeds through the CPRB. The flowchart was given to the auditors by the executive director of the board. Note that “cx” is shorthand for “complainant”.

FIGURE 2

CPRB Complaint Flowchart







The following is a summary of Pittsburgh’s CPRB’s complaint process, which is governed by its Rules and Operating Procedures under the City Code.

As described on the CPRB website, an individual may file a complaint involving any Pittsburgh officer “that hurts the relationship between citizens and the police.” Complaints can be made via phone, letter, fax, or in-person at the CPRB office. It remains a pending complaint until the individual describes the situation under oath to a CPRB staff member and has it

notarized, at which point it becomes a sworn citizen complaint. The assistant executive director, lead investigator, and investigators are all notary publics to ensure the service is available to all complainants throughout the course of an investigation. No fees are charged. Written statements describing the incident that contain the name, address, and secondary means of contact of the complainant using outside notaries are also accepted. Both the pending complaint and citizen complaint must be filed within six months of the alleged incident in order to be investigated or reviewed by the Board. While the Board has the ability to choose the complaints it wishes to consider, the Board has historically considered every properly filed complaint. During the audit scope, all properly filed complaints as described above were considered.

Finding: The Board investigates all properly filed complaints, which follow the requirements described above.

Every complaint is logged, evaluated, and given a case number. As such, a “complaint” is considered interchangeable with a “case.” Each complaint is reviewed to determine if it meets the criteria needed to be considered by the Board, including whether it has been filed within the statute of limitations and if the incident is within the Board’s jurisdiction.

Extracting Allegations from Complaints

If the complaint meets the criteria to be considered by the Board, CPRB staff is assigned to the case and tasked with determining which Police Bureau policies are alleged to have been violated. Allegations can then be extracted from complaints. One complaint may have multiple allegations (for example, “conduct unbecoming” as well as “neglect of duty”). Once completed, a case summary is presented to the executive director including the allegations, alleged facts, police reports, and other related documents. If the information appears to support the allegations or be a matter of exceptional concern, a preliminary inquiry (an equivalent of finding probable cause) is conducted within ten (10) days of the complaint’s filing. While the Board has statutory authority to order preliminary inquiries for sworn complaints, in 2003 it delegated this task to the executive director to ensure they are completed in a timely manner and prepared for presentation at the next Board meeting.

Finding: In 2003, the Board delegated its authority to order preliminary inquiries to the executive director.

The purpose of a preliminary inquiry is to determine whether an allegation has cause to proceed. If no cause is found, the case is dismissed as unfounded or unsustainable. According to the Board’s Rules and Operating Procedures, an unfounded complaint is defined as “even if all the complainant’s alleged statements were true, no act of misconduct exists” and an unsustainable complaint is defined as “no dispute as to material facts exist” or “the alleged facts lack credibility.”

At this stage, the investigator offers to mediate the situation between the complainant and subject officer, interview witnesses, and gather evidence to determine if the evidence supports the allegation of misconduct. A list of common misconduct allegations can be found in Table 4. Upon completion of the preliminary inquiry, a summary of facts and findings are presented to the Board. If the evidence does not support the allegation, a summary with a recommendation to dismiss is presented to the Board.

In the exceptional circumstance that a complaint appears critical or egregious, the executive director may also file a sworn statement to initiate an immediate investigation. If the executive director or a citizen does not swear to the complaint, it remains pending.

Board Action Process

The following represents all major actions the Board may take on a case:

Full Investigation: The Board accepts investigators' evidence that cause has been established from a preliminary inquiry and authorizes a full investigation into the complaint.

30-Day Extension: The Board grants investigators an additional 30 days to complete their investigation. Extensions may be granted as often as needed.

Unfounded: No act of misconduct is found, even if all facts in the complaint are true.

Unsustainable: The alleged facts of the complaint lack credibility and cannot be sustained.

Resolved: The issue has been resolved to the complainant's satisfaction by some other means (e.g., mediation, etc.).

Accept Recommendation: The Board accepts resolution of the complaint through some other means, such as referral to a court of law or a rude and discourteous hearing held by the CPRB.

Suspended: A development in the case impedes further investigation and requires its suspension until the matter is resolved.

Withdrawal: The complainant chooses to withdraw their complaint.

Dismissed Due to Lack of Cooperation: The complainant has not cooperated or maintained communication with investigators.

Out of Jurisdiction: The complaint does not or no longer falls under the CPRB's jurisdiction. If the subject officer is terminated, retires, or leaves the Police Bureau, the Board can no longer proceed with the case and must dismiss it as out of jurisdiction.

Public Hearing: The investigation has produced a preponderance of evidence to support the allegations and warrants a public hearing to conclude whether misconduct has occurred.

Sustained: The evidence presented at a public hearing supports the complainant's allegations.

The CPRB generally meets monthly at various locations throughout the city to promote its accessibility to all residents. The Board determines by majority vote if a case should be dismissed or if a full investigation should occur. If cause has been established, it means that the evidence found is worthy of further investigation, which must then be ordered by the Board. In the case of a full investigation, the Board has the authority to subpoena witnesses and police officers to give statements. Once completed, a comprehensive summary is presented to Board members, who then determine whether the case has been resolved, should be dismissed, or ordered to a public hearing. The Board may also authorize 30-day extensions of investigations as needed.

Once an investigation is complete, the Board can choose to dismiss an allegation as unfounded or unsustainable, or it can order a public hearing to conclusively determine whether misconduct occurred. At that point, the Board members who presided over the public hearing determine whether each allegation is unfounded, not sustained, or sustained. The overall complaint is finally summarized as unfounded, not sustained, sustained in entirety, or sustained in part in the official record.

Each allegation is independently reviewed and evaluated by the Board. The Board may dismiss one allegation within a complaint without affecting any other allegations made. Pursuant to the Board's Rules and Operating Procedures and the City Code, no finding of misconduct (i.e., "sustaining" an allegation) may be found without a public hearing. However, the Board offers mediation between parties from the time a complaint is filed, and that option remains available throughout an investigation. Oftentimes cases are settled to the complainant's satisfaction through dialogue, in which case the Board is advised that the case was settled.

The other major decision the Board can take is suspending a case. Reasonings for suspensions are included in monthly case review agendas. This may be done for a variety of reasons, including but not limited to:

- Pending criminal trial against officer or complainant. If against an officer, the City Code requires the CPRB to suspend until the case is resolved. If against or related to a complainant, the Board may need sworn testimony as evidence or a complainant may request a stay until the matter is resolved.
- Ongoing litigation involving subpoena enforcement or testimony needed from a civil trial.
- Locating a complainant or witness.
- Awaiting records from another source.
- New information becomes known and requires inquiry.

- Remote incarceration of the complainant rendering them unavailable to cooperate with investigation or appear at a hearing.
- Illness or temporary incapacity of complainant or witness or subject officer.
- Pending outcome of an arbitration related to a termination.

When receiving the monthly case agenda, the Board is shown cases by number and investigator name, allegations, a short description, disposition recommendation from investigators and their rationale. To control for bias and potential conflicts, Board members receive a confidential case summary stripped of any personally identifying information, except badge numbers, which are unknown to members.

The case management software used by the Board is X-Fire by Agnovi, a relational data tool that assists with documenting, managing, and archiving cases. The executive director reported complete satisfaction with the software, and Board staff was able to sufficiently provide comprehensive data and reports regardless of the auditors' requests. The three-year contract for this service ran from 2018-2021 at a cost of \$1,799 for six users, totaling \$5,396.40. This reflected a discounted rate offered by the vendor for multi-year contracts. In 2021, city policy prohibited the Board from again accepting a multi-year renewal after the contract with Agnovi expired, resulting in a single year renewal of \$3,237.84. Over three years, this represents \$2,697 in additional costs to the Board and the city, a 50% increase.

RECOMMENDATION 2:

City Council should allow the CPRB to renew a multi-year contract for its case management system software at a competitive rate as long as it fulfills their needs.

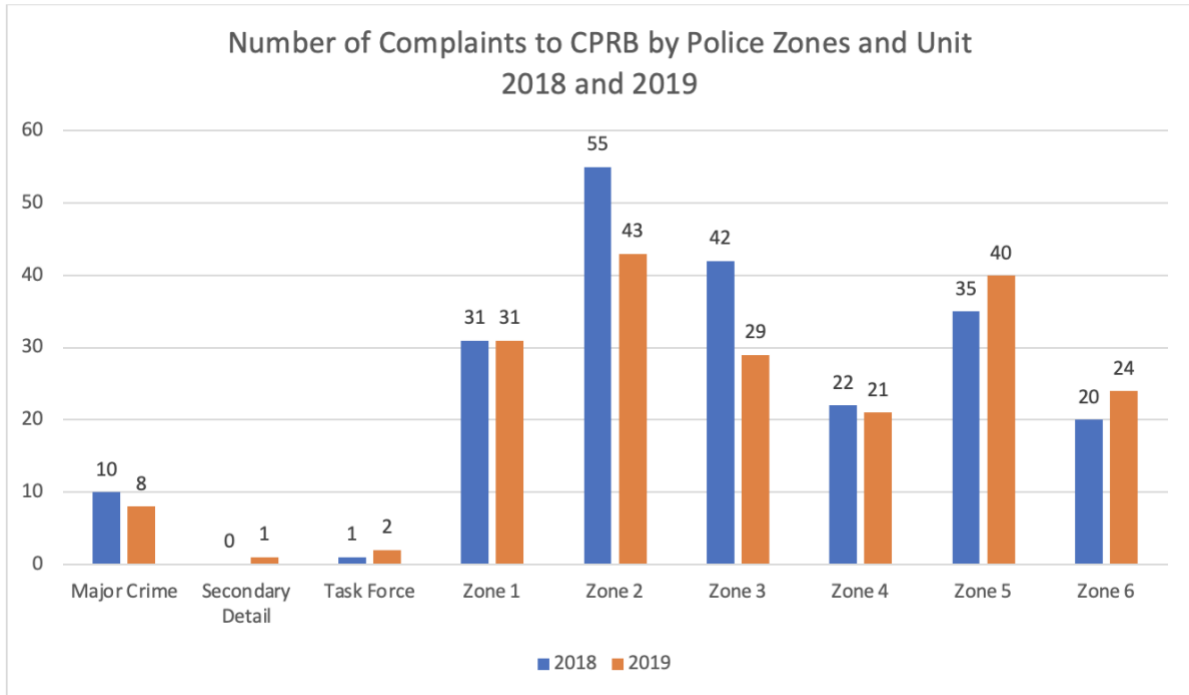
Complaint, Allegation, and Board Action Data

Case Volume

The auditors received the total number of complaints for the years 2018 and 2019, which were broken down by police zones and units. In 2018, there were a total of 223 complaints filed and in 2019, 204 complaints filed. Complaints are generally indicative of a single incident but may include multiple allegations or involve more than one police officer.

Chart 1 shows the number of complaints submitted to the CPRB by police zones and units in 2018 and 2019.

CHART 1

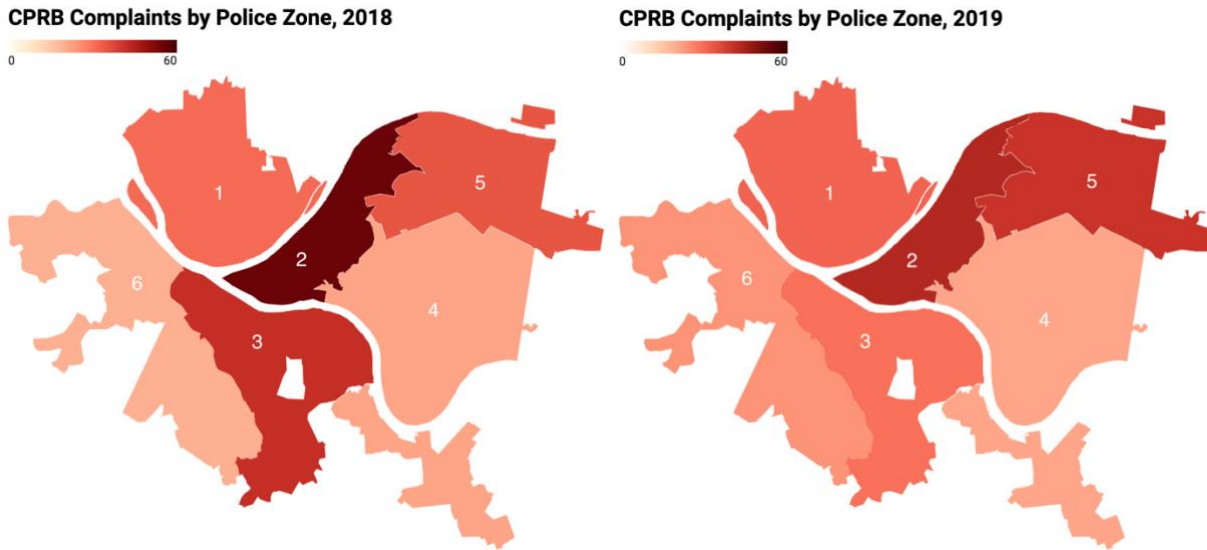


Source: CPRB database

Finding: There were 223 complaints made to the CPRB in 2018 and 204 complaints in 2019.

The heat maps in Figure 3 show the number of police complaints in each police zone throughout the city in 2018 and 2019. Darker shades represent a higher number of complaints.

FIGURE 3



Finding: Zone 2 had the highest number of complaints during both years of the audit.

Number of Complaints by Police Officer

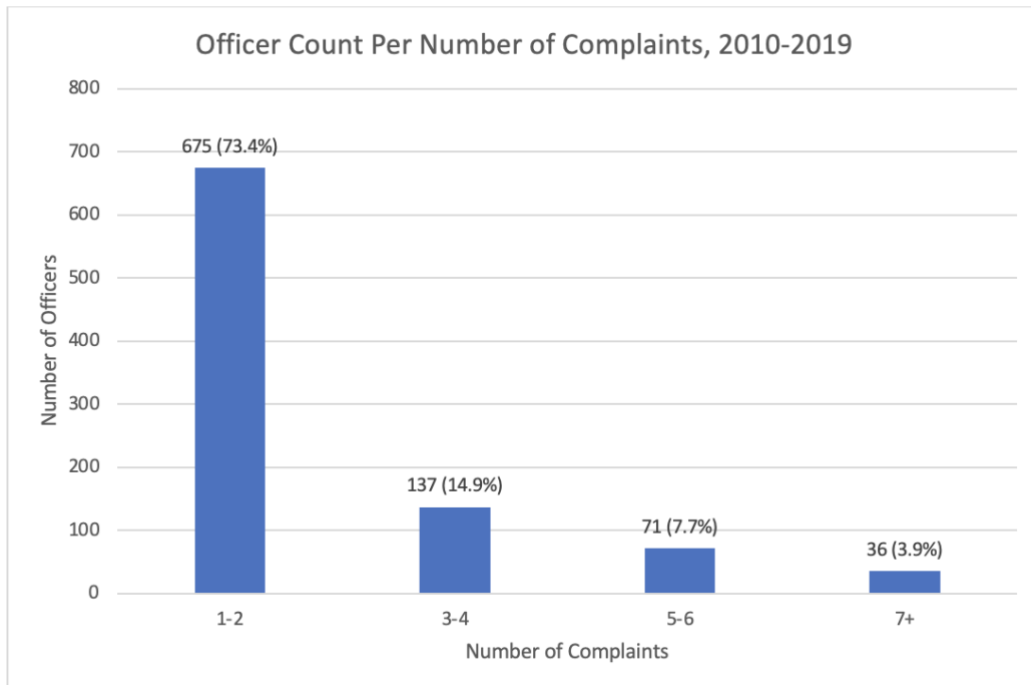
The auditors requested and received data showing the number of complaints filed with the CPRB against individual officers between 2010 and 2019. Personally identifiable information was removed in the spreadsheet provided. Table 2 lists the number of officers per complaints filed against them.

TABLE 2

Officer Count Per Number of Complaints 2010-2019	
Number of Complaints	Number of Officers
1	460
2	215
3	86
4	51
5	45
6	26
7	13
8	9
9	1
10	1
11	1
12	0
13	6
14	2
15	2
57	1
Total	919

Source: CPRB database

CHART 2



Source: CPRB database

Finding: Over a ten-year period between 2010 and 2019, 919 officers had at least one (1) CPRB complaint filed against them. The number of officers with the Police Bureau changes frequently, so the percentage of total officers during this period cannot be calculated.

During this period, one officer represented an extreme outlier with 57 complaints filed against him or her. The CPRB director reported to the auditors that this officer is no longer employed by the Police Bureau.

Allegation Volume

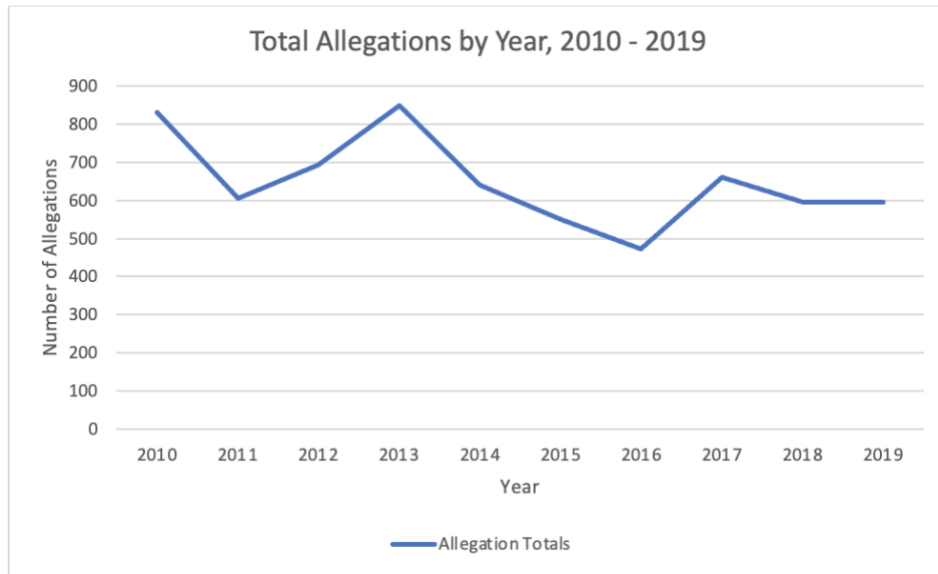
As stated, a complaint often has multiple allegations contained within it. The auditors received the total number of allegations received by the CPRB for the years 2010-2019. Over the course of that period, the number of allegations has generally declined but often vary from year to year. Table 3 shows the number of allegations by year during this 10-year period.

TABLE 3
CPRB Complaint Allegations
2010-2019

Year	Total Number of Allegations
2010	833
2011	605
2012	693
2013	849
2014	641
2015	550
2016	472
2017	662
2018	595
2019	596
Total	6,496

Source: CPRB database

CHART 3



Source: CPRB database

Finding: 2013 had the highest number of allegations (849), and 2016 had the lowest (472). Over the 2010-2019 period, an average of 650 allegations were made each year.

Breakdown of Allegation Category

When a resident files a complaint, their testimony is a general description of the events that occurred. Using the details provided and evidence collected, CPRB staff are responsible for identifying which Police Bureau policies may have been violated by a subject officer and classifying the allegation(s). Those policies can be found in the Bureau’s Manual of Procedural Orders.

Some of the most common allegations of Bureau procedure violations include the following:

TABLE 4

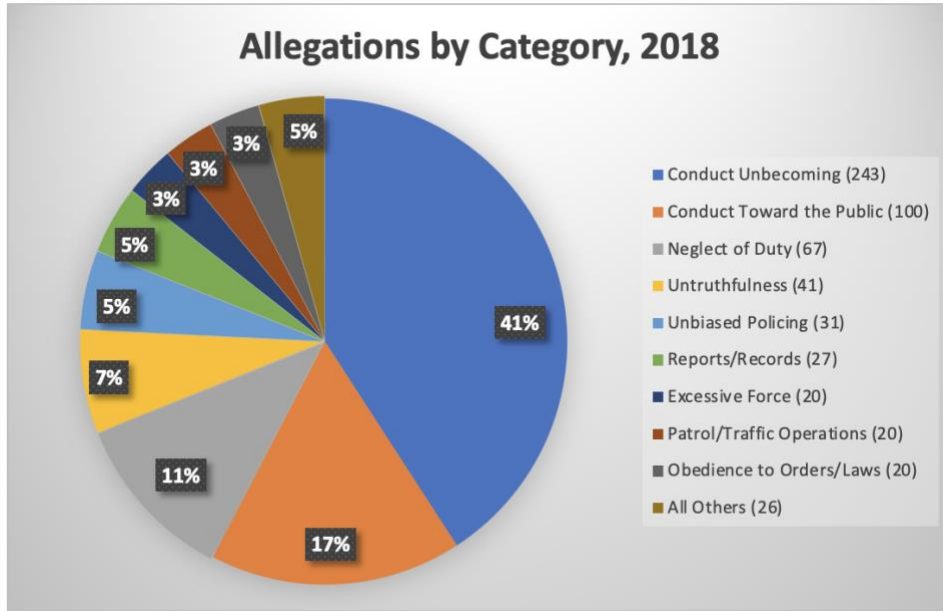
Common Allegations of Police Bureau Misconduct		
Allegation	Manual Order Number	Brief Description
Conduct Unbecoming	16-1, 3.6, “Standards of Conduct”	Any conduct which adversely affects the morale, effectiveness or efficiency of the Bureau, or which has a tendency to destroy public respect for its members and employees and to diminish confidence in the operations of the Bureau of Police.
Conduct Toward the Public	16-1, 3.7, “Standards of Conduct”	Use of harsh, coarse, profane or uncivil language; use negative ethnic designations, insults or other derogatory terms.
Neglect of Duty	16-1, 3.13, “Standards of Conduct”	When an officer creates a situation that is detrimental to the safe and/or efficient operation of the PBP through their failure to give suitable attention to the performance of duty.
Truthfulness	16-1, 3.19, “Standards of Conduct”	Members and employees are expected to be honest and truthful at all time, whether under oath or otherwise, except in rare cases where investigative purposes would be jeopardized by complete honesty.
Unbiased Policing	11-3, “Unbiased Policing”	Discrimination in the performance of law enforcement duties or delivery of police services, based on personal prejudices or partiality of officers that interferes with their professional judgment, or training, departmental policy, or adherence to law. Officers may not use race, ethnic background, gender, gender identity, sexual orientation, religion, economic status, age, cultural group, or an individual’s ability/inability to speak English, as the criteria for determining when or how to take enforcement action or provide police services.
Use of Force (or Excessive Force)	12-06, 5.0, “Use of Force”	Excessive force is the use of force which exceeds the level that a reasonable officer might believe, at a time of the incident, is necessary under the circumstances of a particular incident.
Obedience to Orders/Laws	16-1, 3.1, “Standards of Conduct”	All members and employees of the Bureau of Police must obey and enforce all Federal, State and Local laws and ordinances; rules and regulations and orders of the Bureau of Police; and all lawful written or verbal orders of a superior officer

Source: PBP Manual of Procedural Orders

Finding: PBP Order 68.03 “Use of Social Networks” establishes guidelines for officers’ social media use, both on duty and off duty, with violations subject to discipline. One inquiry opened by the CPRB executive director resulted in a public hearing during the scope concerning a subject officer who posted controversial comments on social media.

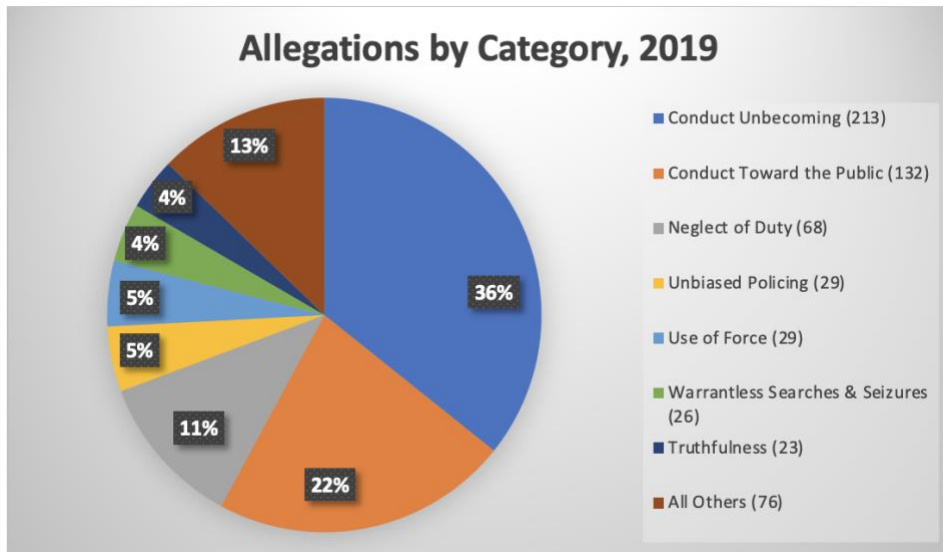
The auditors received a spreadsheet from the CPRB database showing total allegations for each year broken down by category.

CHART 4



Source: CPRB data

CHART 5



Source: CPRB data

Use of Force Allegations

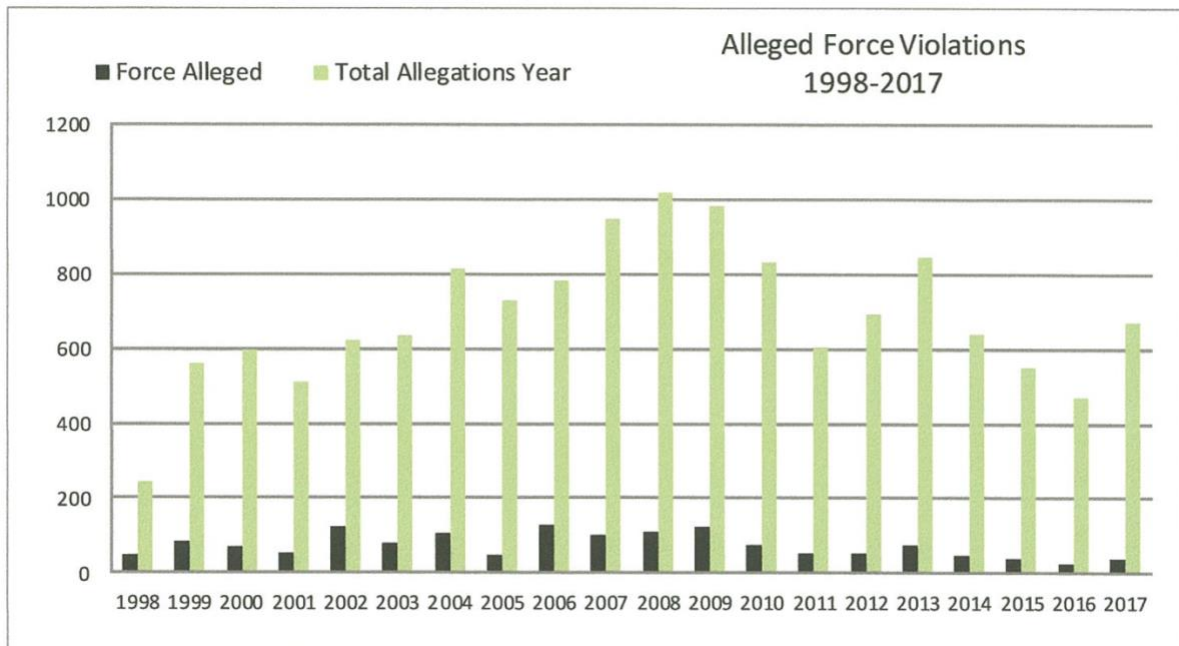
While allegations of excessive use of force represent a small percentage of all allegations, they often have the greatest impact between the harm inflicted on the individual and the subsequent litigation against the city. For example, PublicSource found that between 2009 and 2020, the City of Pittsburgh made payouts totaling \$7,060,006 on resolved cases, which often involved excessive force. Because the city is self-insured, that cost was directly borne by the taxpayers. Not all allegations of use of force violations are filed with the CPRB. In the case of serious injury, a victim may choose to pursue litigation instead.

Finding: In 2018 and 2019, use of force represented 3.4% and 4.9% of all allegations, respectively.

Finding: Use of force allegations received by the Board in 2018 and 2019 were lower than the 20-year historical average of 10.71%.

The CPRB tracks alleged force violations for every year since its creation and reports these numbers as compared to all allegations in its annual reports. Chart 6 shows use of force allegations filed with the Board between 1998 and 2017, as found in CPRB’s 2017 annual report. During that time period, the Board received a total of 13,765 use of force allegations, representing 10.71% of all allegations.

CHART 6
Alleged Force Violations, 1998-2017

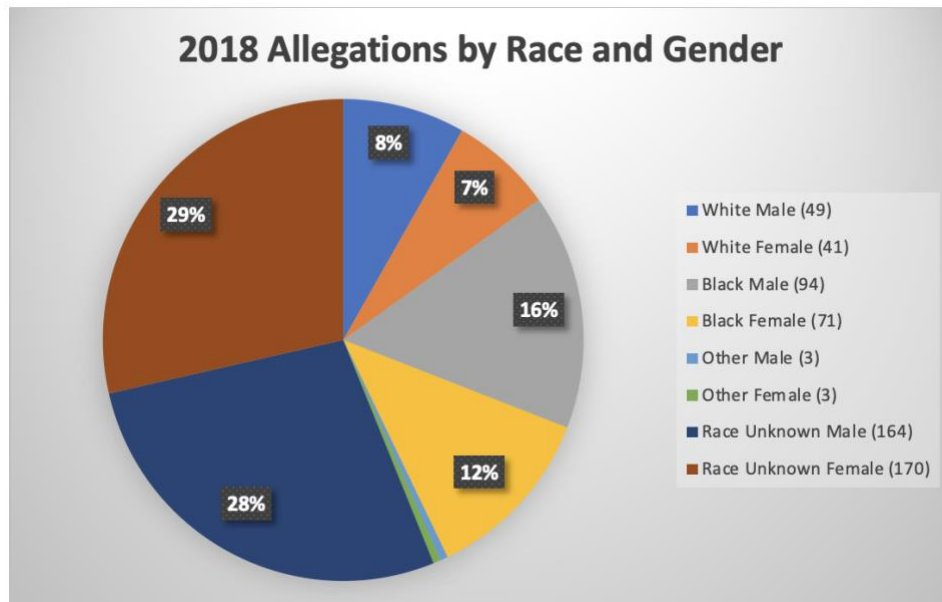


Source: CPRB 2017 Annual Report

Demographics of Complainants

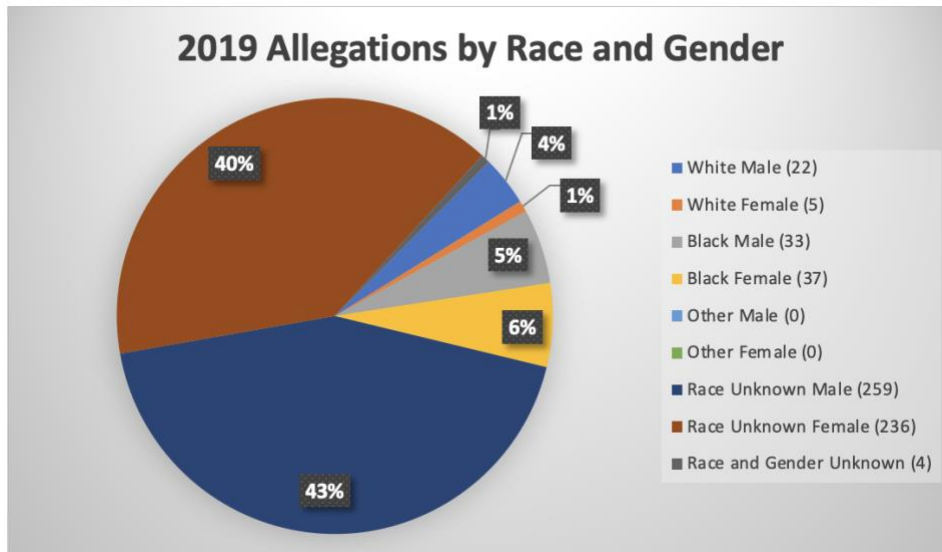
The auditors also received allegations by demographics of the complainant. Race and gender are self-declared and optional. Only when membership of a protected class is material to a case (such as an allegation of biased policing) is declaration of that demographic required by the CPRB. Shown in charts 7 and 8 are allegations broken down by category and by complainant's declared race and gender.

CHART 7



Source: CPRB data

CHART 8



Source: CPRB data

Finding: The vast majority of complainants do not declare their race or gender.

Summary of Board Actions

Following a preliminary inquiry, the Board must take action to determine how a case should proceed, if at all. The auditors received data from the CPRB database showing Board Actions by month during the scope years. The following tables show totals for 2018 and 2019. Note that totals are not congruent with complaint totals for those years because many of these actions were taken on cases filed prior to the scope years, and one case may have multiple actions taken on it.

TABLE 5

Board Actions in 2018		
Board Actions	Total	% of Total
Suspended	63	29.2%
Full Investigation	56	25.9%
Full 30-Day Ext.	40	18.5%
Unsustainable	24	11.1%
Unfounded	17	7.9%
Lack of Cooperation	5	2.3%
Out of Jurisdiction	3	1.4%
Resolved	3	1.4%
Withdrawal	3	1.4%
Accept Recommendation	1	0.5%
Public Hearing	1	0.5%
Total	216	100%

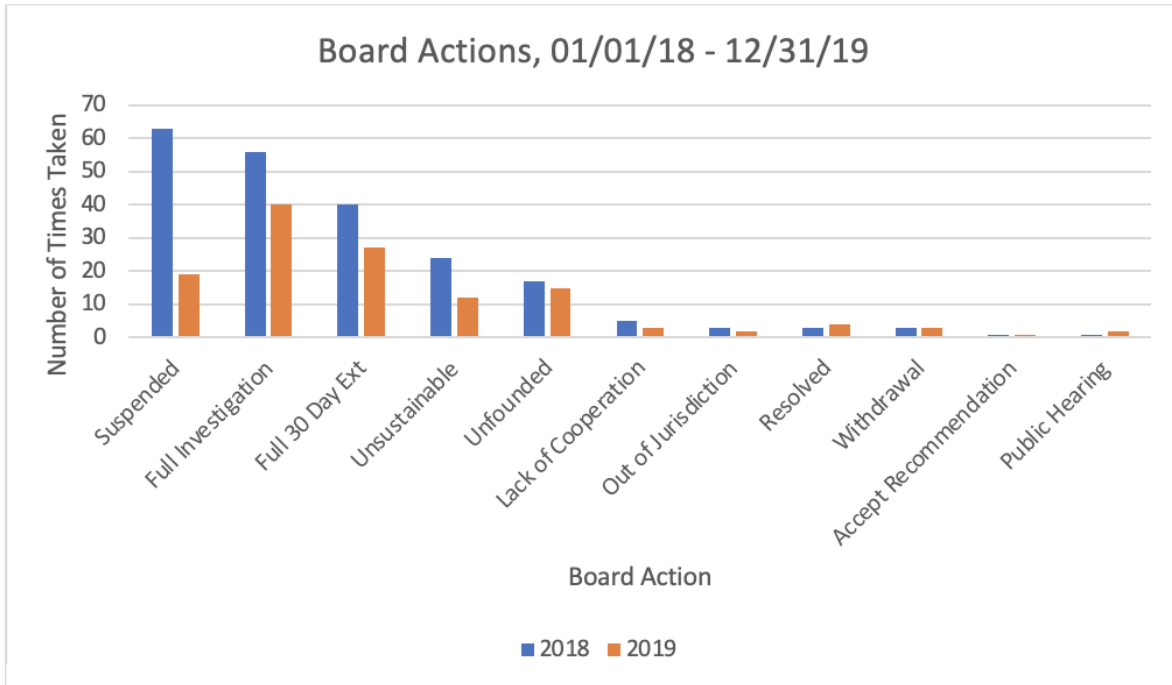
Source: CPRB database

TABLE 6

Board Actions in 2019		
Board Actions	Total	% of Total
Full Investigation	40	31.3%
Full 30-Day Ext.	27	21.1%
Suspended	19	14.8%
Unfounded	15	11.7%
Unsustainable	12	9.4%
Resolved	4	3.1%
Lack of Cooperation	3	2.3%
Withdrawal	3	2.3%
Out of Jurisdiction	2	1.6%
Public Hearing	2	1.6%
Accept Recommendation	1	0.8%
Total	128	100%

Source: CPRB database

CHART 9



Source: CPRB

Finding: In 2018 and 2019, the Board approved public hearings for a two-year total of three (3) cases.

Of the 12 Board meetings in 2018 and 2019 for which Board minutes and members’ votes were available, every vote taken on a case was unanimous among Board members. This could be interpreted as a positive (e.g., investigators have presented thorough evidence) or a negative (e.g., a lack of willingness to debate), but a conclusive answer is beyond the scope of this audit.

Finding: The Board minutes for three meetings during the scope period did not list members’ vote totals.

RECOMMENDATION 3:

The CPRB should require the minutes of their meetings to reflect the vote of each individual member, even when unanimous. This should also include the vote totals on Board actions and list the names of any dissenting members.

Cases by Board's Final Disposition

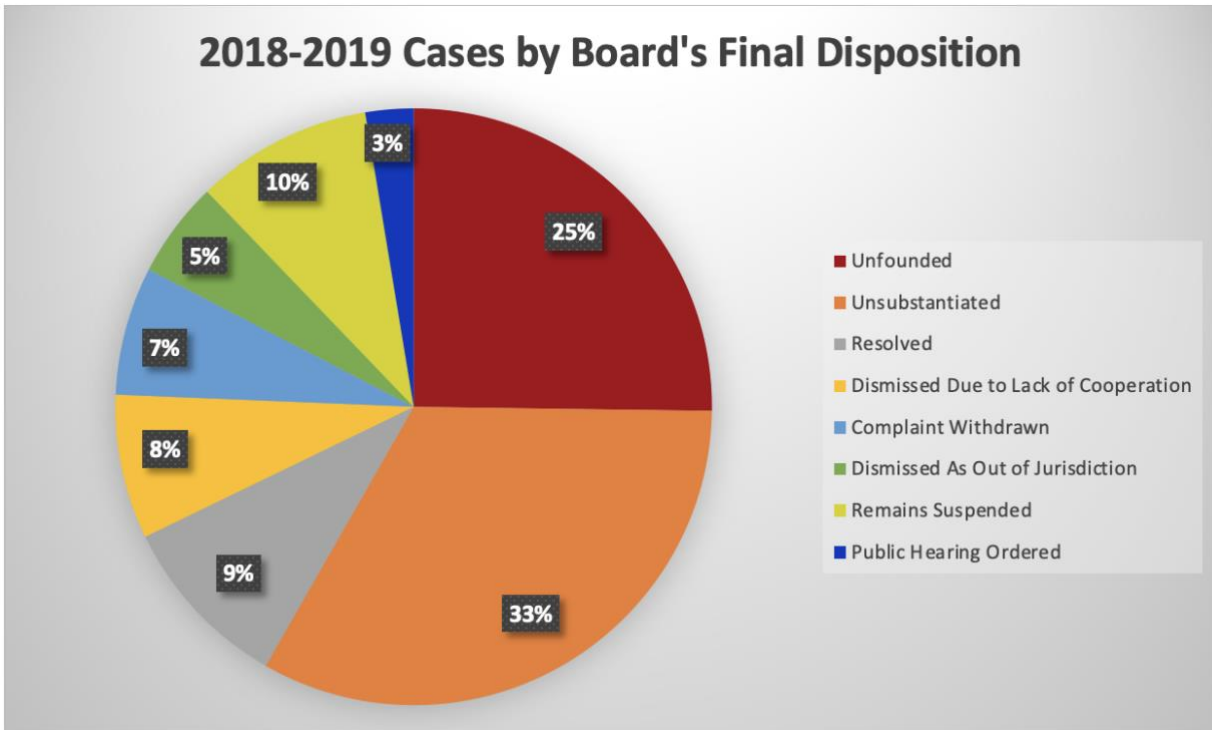
The Board acted on 115 individual cases in 2018 and 2019. The following table shows the Board's final disposition on those cases as of the December 1, 2020 Board meeting.

TABLE 7

Board's Final Disposition on Cases in 2018 and 2019		
Final Disposition	Number of Cases	Percentage of Total Cases
Remained suspended as of 12/01/20 Board meeting	11	9.6%
Withdrawn	8	7.0%
Closed with a letter to the police chief	1	0.9%
Dismissed as out of jurisdiction	6	5.2%
Dismissed as resolved	10	8.7%
Dismissed as unfounded	29	25.2%
Dismissed as unsustainable	38	33.0%
Dismissed due to lack of cooperation	9	7.8%
Public hearing ordered	3	2.6%
TOTAL	115	100%

Source: CPRB database

CHART 10



Note: One case “Closed with letter to the police chief” was included under “Dismissed as Resolved”.

Source: CPRB database

Finding: 58.3% of cases acted upon by the Board in 2018 and 2019 were dismissed as unsustainable or unfounded, and 12.2% were resolved or resulted in a public hearing.

Finding: Of the three public hearings ordered, two were inquiries opened by the executive director.

Public Hearings and Recommendations

According to the executive director, it is rare for cases to proceed to public hearings; since 1999, only 3% of complaints have escalated to that level. More often, complaints are resolved by mediation with the complainant.

Occasionally the Board will accept resolution through other means, as reflected by “Accept Recommendation.” Examples include: a letter to the police chief, a suggestion to the complainant to pursue some external resolution, inclusion in a future rude & discourteous hearing, referral to the Human Relations Commission, or referral to a district magistrate, district attorney, or the Law Department. Public hearings can also be ordered to examine a policy that appears controversial or inadequate.

If a case is ordered to a public hearing, a pre-hearing conference is first scheduled, and public notice is published. Both the pre-hearing conference and public hearing are scheduled at an advertised time and open to members of the general public. The hearing is typically held in the City Council chambers. The hearing is transcribed by a court reporter and filmed by an independent videographer, which are both posted on the CPRB's website. Unless sealed by the panel for a lawful reason, all evidence and testimony are public records upon conclusion of the hearing.

The hearing is facilitated by the solicitor as the presiding hearing officer. The Board chair selects three members who will preside over the hearing to call witnesses to give testimony and have evidence presented. A special prosecutor presents evidence on behalf of the executive director, who brings the complaint on behalf of the public interest, and the subject officer is usually represented by the police union attorney. Occasionally that officer will be represented by private counsel.

At the conclusion of the hearing, the three presiding Board members deliberate and issue findings and recommendations that are sent to the mayor and police chief. The CPRB uses the lowest level of proof under the Code of Federal Regulations, defined as "degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue."

It should be stressed that the Board only has jurisdiction to make recommendations on discipline, training, practices, policies, procedures, or anything that would potentially improve relations between the community and the Bureau of Police. The Board does *not* have jurisdiction to determine whether an act is a criminal act or a civil injury.

The CPRB's Rules and Operating Procedures 662.05(4) limit recommendations on complaints of misconduct that require a response from the Police Chief as follows:

"No finding with respect to a Citizen Complaint shall be sustained unless it is proven by a preponderance of the evidence in accord with the procedure set forth in these Rules. 'Preponderance of the evidence' means evidence that has more convincing force than the evidence which is offered in opposition to it.

No Review Board finding or recommendation shall be based solely upon an Informal Complaint nor shall prior unsubstantiated, unfounded or withdrawn Citizen Complaints be the sole basis for any Review Board finding or recommendation."

If an allegation is determined to have likely occurred, the police chief and mayor are notified. The Board will also make recommendations on discipline, training, systemic changes, policy or procedural changes, or any other recommendation to prevent similar instances of misconduct and/or to improve relations between the police and the community. The City Code requires the police chief and/or mayor to respond to the CPRB's recommendations within 30 working days and to inform the Board whether they will be accepted, rejected, or implemented with modifications.

Public Hearing Dispositions, 1999-2019

Combining a report provided by the CPRB on public hearing dispositions dating back to 1999 and Board minutes for recent years, the auditors found that at least 56 hearings were held. Only twice were there sustained allegations, both for egregious misconduct, that led the Board to recommend an officer's termination from the Bureau. In both cases, the Bureau rejected the recommendation. Examples of more common recommendations included unpaid suspension of the subject officer (ranging from one day to 30 days), remedial training, anger management counseling, limiting contact with the public, a letter of apology, and/or a written warning. During this 20-year period, the CPRB sustained allegations partially or completely in at least 41 cases and made different recommendations. Police Bureau responses varied.

The following shows actions taken by the Police Bureau in response to those recommendations. Note that in some cases, more than one disciplinary actions were taken by the Police Bureau, meaning that the number of actions will not match the number of cases.

- Rejected/declined recommendation: 22 cases
- Supervisory counseling for the subject officer: 5 cases
- Unspecified disciplinary action: 4 cases
- Review or change of Police Bureau policy: 3 cases
- Modified recommendation of officer's termination to oral reprimand and anger management counseling: 1 case (note: after the Board appealed the Bureau's decision to the mayor, the subject officer eventually retired on disability)
- Unclear response; "ongoing internal investigation": 1 case
- Remedial training of subject officer: 2 cases
- No action; matter settled as federal lawsuit: 1 case
- No record of response: 2 cases
- Pending response from police chief (as of January 2021): 1 case

Finding: The CPRB has held at least 56 public hearings to completion and has sustained at least 41 cases. The Police Bureau has rejected the recommendations of at least 22 sustained cases or 53.7%.

Historical Review of CPRB Public Hearings

According to the CPRB's most recently posted annual report, for year 2017, the Board had reviewed 3,061 cases through the end of 2017. An additional 115 cases were considered in 2018 and 2019 (see Table 7), for a total of 3,176 cases or complaints made between 1999 and 2019. Given that the Board has held 56 public hearings to completion during that time frame, approximately 1.8% of all complaints considered by the Board have proceeded to a public hearing. The CPRB Board has sustained 41 of those cases, meaning approximately 1.3% of all complaints considered by the Board have been sustained.

Finding: Between 1999 and 2019, approximately 1.8% of all cases considered by the Board have proceeded to public hearing and 1.3% of all cases have been sustained.

Two public hearings were held, sustained or received responses within the audit scope: Case #70-15 was held on August 24, 2017, sustained in part on December 5, 2017, and received a response on March 1, 2018. Case #173-17 was held on May 30, 2019, sustained on July 11, 2020, and still has not received a response as of January 2021.

Pittsburgh’s City Code § 662.09 states: “Within thirty (30) working days of submission of a recommendation for action by the Board to the mayor and the police chief, they shall respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications.” Neither of the two cases received a response within that time frame, with the latter still awaiting a response nearly seven months after the letter was sent by the Board.

Finding: The police chief and/or mayor have not complied with the 30-day response requirement established by the City Code.

RECOMMENDATION 4:

After a public hearing, when CPRB does not receive a response from the police chief and/or mayor within 30 days, the executive director should notify City Council. Once notified, City Council should bring scrutiny to the matter by discussing it at a council meeting. If producing timely responses continues to be an issue, the executive director and solicitor should consider filing a ‘writ of mandamus’, which compels public officials to administer a legally required, ministerial function.

Impact of Local Marijuana Decriminalization and State Medicinal Marijuana Legalization

The auditors inquired about the Board’s assessment of the city’s decriminalization of marijuana possession and the state’s legalization of medicinal marijuana, including if there has been any perceived racially disparate impact on enforcement. The executive director reported that while they have not assessed the impact, there have been no complaints filed alleging violations by police. In October 2019, the Board was briefed by CPRB staff on the impact of medical marijuana on areas of public safety. In one case, a Police Bureau officer obtained a medicinal marijuana license and used marijuana. Given its federal classification as a controlled substance and an officer’s inability to possess and control a firearm under its use, the officer was placed on extended leave.

Finding: No complaints have been filed with the CPRB alleging violations of the city’s marijuana decriminalization ordinance.

Limitations of the CPRB

Policemen and Firemen Collective Bargaining Act of 1968 (Act 111)

The CPRB's recommendations are non-binding, and it does not have the authority to directly discipline or terminate individual police officers due to the Policemen and Firemen Collective Bargaining Act of 1968, also known as Act 111. Act 111, a state law, established a process for arbitration between police unions and their public employers. Under the law, any disputes between the parties may be resolved by a three-person board of arbitration, whose determination is binding and not eligible for appeal in the court system. There is at least one case during the scope years where an officer terminated by the Police Bureau was reinstated by an arbitration board.

Unsuccessful past attempts at police reform demonstrate the limits of municipal regulation under Act 111. In 2013, a referendum passed by city residents required Pittsburgh police officers to live within city limits. The law was challenged by the police union and overturned by the Pennsylvania Supreme Court, which stated that residency requirements would have to be determined through the established labor arbitration process.

Recently there have been calls for the state legislature to reform Act 111 to allow the city and the CPRB to discipline or terminate officers found guilty of misconduct. In June 2020, the mayor proposed changes that would limit arbitration boards' authority to modify or overturn disciplinary penalties and to adopt the "public policy exemption," which would allow municipalities to challenge arbiters' decisions if their continued employment is averse to the public interest. Additionally, the mayor proposed expanding the scope of offenses under the Confidence in Law Enforcement Act of 2004 that would allow public employers to terminate officers. Under that law, only two offenses allow the employer to do so:

- (1) An offense graded a felony or a serious misdemeanor.
- (2) An offense in another jurisdiction, state, territory or country in accordance with the laws of that jurisdiction, state, territory or country, and the offense is equivalent to an offense specified in paragraph (1) regardless of its grading in that jurisdiction, state, territory or country.

As shown under the dispositions of public hearings, it is extremely rare for the CPRB to call for an officer's termination even after an allegation is sustained. Even more lenient recommendations are often rejected by the Police Bureau. Presumably, the proposed changes would allow the city to amend the CPRB's governing statute to have its recommendations become binding and enforceable. Given the level of caution the Board has shown when making case verdicts and disciplinary recommendations in the past, the Board should have the authority of binding recommendations. This could be an essential tool for rebuilding public trust.

Finding: Act 111 prevents the CPRB from issuing binding recommendations regarding the discipline of an officer.

RECOMMENDATION 5:

If Act 111 is amended, City Council should amend the CPRB's governing statute to grant it the authority to make binding disciplinary determinations. Discipline could be negotiated with the police chief on a pre-determined matrix that ensures predictability and transparency to the public.

Funding Limitations

In 2018, the operating budget for the CPRB was \$641,129 and in 2019 was \$642,458. In both years, this came to 0.6% of the total budget for the Police Bureau. According to the executive director, this has been sufficient funding to handle the current caseload but not enough to perform the full spectrum of work given to the Board. For example, matters of community relations or research and development of best practices fall onto all current staff members rather than belonging to an individual employee. Devoting a higher, set level of funding would allow the Board to conduct in-depth data analysis as is done in larger cities, including systemic review of complaints, demographic analysis connected to certain policing practices, as well as hiring auditors who can review high-risk police policies or programs.

According to NACOLE, audits can be a key component of proactive models if conducted using Generally Accepted Government Accountability Standards, potentially uncovering "unconstitutional policing, problems with supervision, and weaknesses in police training and existing policies." For example, if the Board were to begin receiving a high number of similar complaints, it could use its auditors to investigate whether a certain policy is responsible and issue recommendations in response. Higher funding would also expand the Board's scope of community outreach and external initiatives.

Finding: The CPRB does not currently have staffing capacity to undertake in-depth data analysis, auditing of police practices, or community outreach delegated to staff as a full-time responsibility.

Finding: During the audit scope, the CPRB budget represented 0.6% of the Police Bureau's operating budget for both years.

The work of the CPRB is independent from the Police Bureau, but its caseload is proportional to the Bureau's size. As the Bureau's budget grows and more officers are hired, the CPRB's budget should grow proportionally to keep up with the department it oversees. According to the Police Bureau's website, there are approximately 900 sworn police officers, compared to three (3) CPRB investigators, meaning there is just one (1) investigator for every 300 officers. Cutting this disparity in half would require the hiring of at least three (3) additional investigators.

CPRB's current level of funding requires the current staff to spread work and time to certain responsibilities, most notably in the areas of community outreach and the online

disclosure of public information. Examples are described later in sections of this audit (see: Recommendation 15 and “Community Engagement”). It is the auditors’ assessment that the CPRB’s current level of funding is inadequate to carry out its mandates in the most effective manner possible.

RECOMMENDATION 6:

City Council should establish legislation that ties CPRB funding to a set percentage of the Police Bureau’s operating budget (e.g., 2%), and set a minimum number of investigators based on the total number of sworn officers. This would offer some balance to the CPRB’s resources in comparison to the Police Bureau, reduce each investigator’s caseload and encourage thorough investigations, and allow the CPRB to invest in other priorities, including community outreach.

Relationship to OMI Investigations

Like the CPRB, the Office of Municipal Investigations (OMI) also conducts investigations into complaints of misconduct that involve police, though its jurisdiction extends to all city employees and its investigations are only fact-finding in nature; it does not provide recommendations. A complaint against an officer may be filed with either entity. While the CPRB’s enabling legislation sets forth potential mutual evidence-sharing with OMI pertaining to their cases, it also requires a confidentiality agreement signed by both parties. The executive director reports that a confidentiality agreement was signed by the Board many years ago, but a reciprocal commitment from OMI has not been achievable, though the executive director is prepared to try again. As a result, there has not been a formal evidence-sharing procedure between the two agencies.

Finding: A confidentiality agreement to establish evidence-sharing between the CPRB and OMI has not been achieved.

Finding: A dispute between OMI and CPRB developed in 2019 in which OMI declined to provide documents pertaining to CPRB investigations. The matter was not resolved until mid-2020, resulting in the delay of some investigations.

This is required under ordinance.

RECOMMENDATION 7:

The city administration should instruct OMI to commit to renewing negotiations for a formal evidence-sharing agreement with CPRB. This would improve the quality and efficiency of investigations for both parties.

Unlike OMI, the CPRB is not an office under direction of the mayor. As an independent agency, it also is not subject to terms and conditions of the FOP contract. Therefore, CPRB is not obligated to share any information regarding its investigations if the complainant does not want it to. This framework ensures that CPRB can preserve public trust, individual safety, and Board integrity. Only when a case goes to a public hearing are all parties made known, at which point OMI can choose to open an investigation.

This relationship maintains the independence of the CPRB and addresses complainants' concerns that OMI investigations present a conflict of interest because both OMI and the Police Bureau report to the mayor. Having an agency without any connections to the city administration was an important factor in the Board's initial creation.

Because both entities have jurisdiction over police-related complaints, there may be an overlap in their work, but investigations are conducted independently even while simultaneous. As a result of a court ordered settlement in 2004, the CPRB has authority to subpoena officer statements from OMI upon completion of their investigation. Other evidence does not apply to the court order, but the CPRB has regularly received it from OMI upon request.

Under its enabling ordinance, the CPRB also has access to information held by OMI as it relates to the Police Bureau, with certain limitations.

Notably, an amendment to the Home Rule Charter passed by city residents in 2020 altered the ability of the police chief, director of Public Safety, and the mayor to rely solely on OMI investigations to make disciplinary determinations as it relates to police officers. The amendment now requires them to wait until an ongoing CPRB investigation is complete and its findings are reported before making those decisions. The language of the amendment states:

“§ 230. – RESPONSE TO RECOMMENDATIONS OF INDEPENDENT CITIZEN REVIEW BOARD.

(a) All officers and employees of the Bureau of Police, the Department of Public Safety, and the Office of Municipal Investigation, adjuncts or successors, shall participate in all investigations conducted by the Independent Citizen Review Board as required by the Board.

(1) This participation includes production of all officer statements and witness statements.

(2) The failure of any police officer to do so shall constitute just cause for discharge.

(b) Neither the Chief, director of Public Safety, their successors nor the Mayor shall render a final disciplinary decision regarding an act of police misconduct subject to an active investigation by the Board until the Board submits its findings and

recommendations to them. The foregoing shall not apply where the Board is unable to comply with the timing requirements applicable to the City by law or to ensure the public safety. Within thirty (30) days of submission of a recommendation by the Board to the Mayor and the chief of Police, they shall respond in writing as to whether such recommendations are accepted, rejected or will be implemented with modifications.”

Relationship to Police Bureau

As reported by the CPRB executive director, the general relationship between the Police Bureau and CPRB has varied over time. The Board was initially met with hostility and opposition upon its initial creation, but in recent years, the relationship has evolved to be positive and productive. The executive director stated that the current police chief shares a community-oriented philosophy that has reduced tension and has fostered a respectful working relationship with the CPRB. The CPRB prioritizes recommendations focused on remediating conditions that may contribute to acts of misconduct, such as deficient training or policies. Only when misconduct is not attributable to those deficiencies does the Board recommend discipline or remedial training.

Board staff has occasionally participated in training sessions with specialized police units to better understand police methods, and the executive director has participated in instructional sessions at the police academy. Overall, training and interaction with police is limited to avoid biases and conflicts during investigations.

Board staff has legal access to officers’ personnel files, including disciplinary records. It is general practice to evaluate each case in isolation of others, but if a case proceeds to public hearing and past actions are relevant to the case, the relevant information may be entered into the record through testimony or documentary evidence. The same practice applies to the criminal history of complainants.

Access to Body-Worn Camera Footage

In the past decade, the use of body-worn cameras on officers has grown substantially and plays a key role in the investigations of police review boards. Boards’ access to that footage varies drastically between localities. In cities like Washington, D.C. and New Orleans, investigators have unfettered access to footage. In D.C., for example, footage is stored on evidence.com so that authorized users and the police department can conduct audits to test if officers are turning on body cameras at the right time and for the amount of time they are supposed to remain active. The police department also provides footage without any redactions.

On the other hand, the experience of New York City’s Civilian Complaint Review Board (CCRB) has been much more tumultuous. Board investigators have been met with opposition

from the NYPD in allowing them access to footage. According to a ProPublica report in 2017, the police department has either refused to turn over footage, heavily redacts the footage they do turn over, or tells the CCRB that certain footage does not exist, only for investigators to later find out that it does. Lacking reliable and trustworthy access has a telling impact on the results of investigations. A February 2020 report from the CCRB showed that when the agency did not receive footage only 14% of allegations were substantiated, compared to 40% when it did.

Public access to police body camera footage is regulated by Pennsylvania Act 22 of 2017. Departments receiving a request for audio or video recordings have 30 days to respond and may request an extension. The CPRB executive director reported that in general, the Police Bureau has been cooperative in providing footage to investigators without using that process, and footage has not been redacted. The CPRB and Police Bureau are currently working on a protocol to ensure timely access to body-worn camera footage.

Finding: The Pittsburgh Police Bureau is generally cooperative providing the Board staff with access to unredacted body-worn camera footage during investigations, but a formal protocol does not yet exist.

RECOMMENDATION 8:

City Council should pass an ordinance requiring the Police Bureau to give CPRB investigators access to unredacted body-worn and dashboard camera footage pertaining to cases they are investigating within a set time period (e.g., one week), especially after critical incidents.

Fraternal Order of Police (FOP) Contract Language

The Board is not involved in the city's contract negotiations with the FOP, the labor union representing police officers, and CPRB's executive director noted difficulty obtaining copies of finalized contracts in the past, including being charged a fee.

Despite the Board's lack of involvement with contract negotiations, these contracts do address the Bureau's relationship with the CPRB. The auditors examined the most recent working contract agreement obtained from the Law Department, effective January 1, 2019 through December 22, 2022. Under Section 21, subsection C, the agreement states: "No police officer shall be compelled by the City to be interviewed by and/or to testify before the Citizen Police Review Board."

This language is contrary to the CPRB's authority to subpoena officers as established by the courts, yet it has not been removed from subsequent contract negotiations. In 2020, City Council passed, then city residents approved an amendment to the Home Rule Charter that further asserts this authority. The language of the amendment states:

§ 229. - POWERS OF INDEPENDENT CITIZEN REVIEW BOARD.

The Board shall:

d. Hold public hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith require the production of evidence relating to any other matter under investigation or any questions before the board and do all other things necessary to fulfill its purpose.

§ 230. - RESPONSE TO RECOMMENDATIONS OF INDEPENDENT CITIZEN REVIEW BOARD.

a. All officers and employees of the Bureau of Police, the Department of Public Safety, and the Office of Municipal Investigation, adjuncts or successors, shall participate in all investigations conducted by the Independent Citizen Review Board as required by the Board.

1. This participation includes production of all officer statements and witness statements.
2. The failure of any police officer to do so shall constitute just cause for discharge.

Finding: The current working agreement between the city and the police union contains outdated language concerning officers' legal responsibility to cooperate with CPRB investigations. The CPRB has had subpoena authority since 2004 when it was upheld by the courts.

RECOMMENDATION 9:

As the Law Department negotiates a new working agreement with the FOP, it should ensure that the obsolete language concerning officer cooperation with CPRB investigations be replaced with language affirming the Board's authority to subpoena officers for substantive testimony.

RECOMMENDATION 10:

City Council and the administration should require the city solicitor to provide the CPRB solicitor and/or executive director the opportunity to review proposed police union contracts as a safeguard against the insertion of provisions that undermine the authority of the Board or public safety. (this has persisted for years)

According to the city's Law Department, contracts that are still being negotiated are not available to the public under the state Right-to-Know Law. However, the law states that the

exemption “shall not apply to a final or executed contract or agreement between the parties in a collective bargaining procedure.”

Finding: The state’s Right-to-Know Law does not exempt finalized working agreements from public disclosure, meaning the city has the authority to disclose them to the public.

RECOMMENDATION 11:

The mayor’s administration, City Council, or the Law Department should require police union contracts to be submitted to the Controller’s Office to be published on the OpenBook Pittsburgh website.

Subpoena Powers

When needed, the CPRB obtains witness and officer statements from OMI by subpoena. Occasionally the FOP challenges subpoenas in court. The director reports that in every prior case, the courts have upheld those subpoenas, requiring the officers to appear and answer questions unless the officer has a legal reason not to answer. Those statements are protected under the Garrity Rule and officers may assert their Fifth Amendment right when appropriate, but it may not be used to evade substantive testimony. Refusing to testify may subject the officer to a contempt of court charge. The auditors received a list of subpoenas issued by the CPRB during this audit’s scope years 2018 and 2019, as shown below.

Finding: In 2018 and 2019, the CPRB delivered 45 subpoenas, illustrating that it has regularly exercised use of this power.

FIGURE 4
Subpoenas Delivered by CPRB
in 2018 and 2019

Case Number	Date Ordered to Full Investigation	Subpoena Delivery Date	Case Number	Date Ordered to Full Investigation	Subpoena Delivery Date
99-17	1/23/18	2/8/18	266-18-ED	1/22/19	2/5/19
173-17	9/26/17	2/8/18	226-18	1/22/19	2/5/19
193-17	1/23/18	2/8/18	262-18	1/22/19	2/5/19
235-17	10/24/17	2/8/18	221-18	1/22/19	2/5/19
292-17	1/23/18	2/8/18	194-18	12/4/18	2/5/19
300-17	1/23/18	2/8/18	145-18	12/4/18	2/5/19
002-18	1/23/18	2/22/18	217-18	12/4/18	2/5/19
025-18	3/27/18	3/28/18	173-17	9/26/17	4/29/19
034-18	3/27/18	3/28/18	04-19	2/26/19	3/8/19
003-18	3/27/18	3/28/18	14-19	2/26/19	3/8/19
004-18	3/27/18	3/28/18	16-19	2/26/19	3/8/19
026-18	3/27/18	3/28/18	20-19	2/26/19	3/8/19
057-17	4/25/18	5/12/18	29-19	2/26/19	3/8/19
053-17	4/25/18	5/12/18	010-19	3/26/19	4/3/19
062-17	4/25/18	5/12/18	015-19	3/26/19	4/3/19
037-18	6/26/18	7/11/18	053-19	4/23/19	4/29/19
066-18	6/26/18	7/11/18	054-19	4/23/19	6/11/19
052-18	6/26/18	7/11/18	102-19	6/25/19	7/2/19
028-18	6/26/18	7/11/18	095-19	7/23/19	9/16/19
067-18	6/26/18	7/11/18	222-18	12/04/19	11/7/19
031-18	6/26/18	7/11/18	143-19	12/3/19	12/27/19
009-18	6/26/18	7/11/18	148-19	12/3/19	12/27/19
077-18	6/26/18	7/11/18			

Source: CPRB

Transparency and Public Information

CPRB Website

The Board balances public transparency with the need to maintain legal and individual confidentiality. Case files are confidential under the City Code and not available under the Pennsylvania Right-to-Know Law. The case summaries board members receive are stripped of any personally identifiable information except for badge numbers, which are not known to board members. Racial demographics are not included unless relevant to the complainant, such as cases alleging racial profiling.

The CPRB website (cprbpg.org) contains a plethora of information for public knowledge related to public records, how to file a complaint, Board meetings and minutes, case review agendas, videos of past meetings, individual rights when interacting with the police, and other reference documents. However, certain sections of the site have outdated or incomplete information. Most notably, as of January 2021, the annual reports for 2018 and 2019 have still not yet been published. Similarly, the public hearings page is missing a number of hearings held,

Board minutes for two meetings held during the scope are missing, and the most recent posting on the budget and expenditures section is for the 2012 operating budget.

The website is hosted by Bluehost and managed on WordPress. The executive director reported that the site was hacked several years ago and has been undergoing a tedious rebuild. They are in the process of moving to a new host with the goal of building a more secure, user-friendly, and mobile-friendly site. When updating the site, materials are currently sent to the webmaster, but the assistant executive director is currently in the process of learning to manage and post content so it can be handled in-house.

RECOMMENDATION 12:

The CPRB should proceed with its plans to overhaul the current website, replacing the blog-based format with an open data portal that allows users to easily navigate and search for information, including case progression. In the meantime, sections and information should be streamlined to prioritize documents most important for public disclosure.

Staff should undertake a review of the website to ensure that missing information is posted and to determine whether sections can be streamlined. For example, the “Public Records” section should focus on five (5) topics most pertinent to public transparency: Board meeting minutes and votes, case statuses, annual and quarterly reports, Board meeting recordings, and public hearing recordings. All other information can be moved into a “Reference Documents” section. In addition, the responsibility of updating the website with all Board activities, reports, and other public information should be designated to a single employee and completed in a timely manner.

Annual Reports

The annual report for the most recent year, 2017, contains an overview detailing the Board’s mission, investigation and complaint disposition, community education efforts, board and staff development, public meeting calendar, as well as a breakdown of allegations, self-declared race and gender of complainants, distribution of complaints by police zone, board actions, and a compilation of findings, recommendations, and responses from public hearings held.

Finding: As of January 2021, the annual reports for 2018 and 2019 have not yet been released.

RECOMMENDATION 13:

Without routine and predictable disclosure of CPRB data and activities, public trust is undermined. The CPRB executive director should ensure that annual reports are completed and published online by a pre-determined date each year to maintain transparency to the public. Once this is established, the CPRB should work towards a timeline to begin publishing quarterly reports.

Social Media

In addition to the website, the CPRB also maintains an active social media presence, including a Facebook page, YouTube account, and Twitter. Around March 16, 2020 the Board's Twitter was suspended. According to the director, no reason was given, and multiple appeals were made since April to restore the account. During the course of this audit in September of 2020, the Board's Twitter was successfully reinstated without explanation for the suspension.

RECOMMENDATION 14:

The CPRB should continue to engage with the public using social media and regularly post information regarding Board proceedings and findings. Board staff should also seek official verification of its Twitter account to reduce the likelihood of future suspensions and to increase its online reach.

Community Engagement

Community Meetings

In addition to its oversight role, the CPRB invests in community engagement to maintain a visible presence and to educate the public. The following tables list community meetings that CPRB staff participated in, in collaboration with its community partners. In Table 8 and 9. community appearances are shaded in **blue**, conferences and meetings with other organizations/legislative bodies/agencies are shaded in **green**, and media events are shaded in **yellow**.

TABLE 8

CPRB Community Meetings 2018			
Date	Meetings	Location	Topic(s)
January			
1/11/2018	University of Pittsburgh & Black Political Empowerment Project (B-PEP)	Cathedral of Learning (Oakland)	Police incidents, jurisdiction, discussion of proposed reforms
1/25/2018	Diversity & Civil Rights Panel	PCTV-21 R. Watson (North Side)	Diversity and civil rights
1/27/2018	Black & White Reunion / Summit on Racism	Pittsburgh Theological Seminary (East Liberty)	Race relations
February			
2/15/2018	Zone 5 community meeting	Kingsley Center (East Liberty)	Daniels's shooting
2/21/2018	Winchester-Thurston 8 th grade	Gaskin-Winchester-Thurston (Shadyside)	Class project on police brutality
March			
3/6/2018	Citizen Police Academy (CPA)	Jewish Community Center (Squirrel Hill)	Police Accountability Night and CPRB presentation
3/8/2018	Community Empowerment Association	unknown	

TABLE 8 (continued)

CPRB Community Meetings 2018			
Date	Meetings	Location	Topic(s)
April			
4/4/2018	Center for Media Innovation, Office of Equality & Inclusion	CPRB Office (Downtown)	Assessing opportunities for mutual support
4/18/2018	King County Office of Law Enforcement Oversight	Phone conference	Planning NACOLE Annual Conference in Florida
4/19/2018	Point Park University PhD students	Point Park University Center for Media Innovation (Downtown)	Engaged Scholarship and Community Engagement
(Date uncertain)	Austin, Texas Independent Police Monitor	Phone conference	Discussion of police collective bargaining agreements and oversight
May (no meetings held)			
June			
6/6/2018	OPS/OMI/HRC complaint referral protocol meeting	OMI Office (City-County Building, Downtown)	Coordination of complaints among various offices
6/21/2018	Seattle, Washington Police Chief Search Committee	William Penn Hotel (Downtown)	Review of local candidate under consideration for appointment as Chief of Police for Seattle
6/25/2018	Pittsburgh Now - the Chris Moore Show/PCNC	WPXI Station Evergreen Road (Summer Hill)	CPRB duties, police hiring, Antwon Rose
6/27/2018	Classic Events – Ralph Watson/PCTV	PCTV 1300 Western Ave (North Side)	Panelist discussing the homicide of Antwon Rose and current political environment

TABLE 8 (continued)

CPRB Community Meetings 2018			
Date	Meetings	Location	Topic(s)
July			
7/18/2018	PA Democratic Joint Policy Committee Hearing	Hosanna House (Wilkinsburg)	Testified and submitted recommendations on law enforcement reform
7/25/2018	Allegheny County Executive	County Courthouse (Downtown)	Briefed County Executive on proposed countywide police oversight legislation
7/26/2018	US Attorney Community Police Relations Groups	USAO-WDPO US Courthouse (Downtown)	Meeting of the police/community relations group established in 2010 to improve community/police relationships
7/31/2018	Pittsburgh Interfaith Impact Network	Bakery Square (East Liberty)	Meeting with group to review CPRB role
August			
8/28/2018	Sheraden Senior Center	Sherwood Avenue (Sheraden)	Community Oriented Policing presentation with Zone 6
8/29/2018	Allegheny County Council	Hill House Kaufmann Auditorium (Hill District)	Presentation on police oversight
September (no meetings held)			
October			
10/31/2018	Night Talk (PCNC)	WPXI Station Evergreen Road (Summer Hill)	Police conduct/bar brawl with PBP and Pagans
(Date uncertain)	Citizen Police Academy	(Uncertain)	“Police Accountability Night” fall session

TABLE 8 (continued)

CPRB Community Meetings 2018			
Date	Meetings	Location	Topic(s)
November			
11/04/2018	Allegheny County Chiefs of Police Association & B-PEP	Baldwin Borough Building (Baldwin)	Review of “You & the Police” as a training tool; discussion of implicit bias and available resources
11/14/2018	Public Safety and Pittsburgh Police Bureau	Police Bureau HQ Western Ave (North Side)	Comprehensive review of implicit bias training resources; review of YTP; potential insurance incentives; related topics
11/30/2018	National Association for Civilian Oversight of Law Enforcement (NACOLE)	Cleveland State University (Cleveland, OH)	Presentation on “Life After a Consent Decree”
December (no meetings held)			

Source: CPRB

TABLE 9

CPRB Community Meetings 2019			
Date	Meetings	Location	Topic(s)
January			
1/26/2019	Black & White Reunion/Summit on Racial Justice	Pittsburgh Theological Seminary (East Liberty)	Racial justice
February			
2/28/2019	Citizen Police Academy	Police Bureau Training Academy	“Police Accountability Night” presentation

TABLE 9 (continued)

CPRB Community Meetings 2019			
Date	Meetings	Location	Topic(s)
March			
3/11/2019	University of Pittsburgh Social Work	University of Pittsburgh (Oakland)	Police social work
3/18/2019	Zone 3 Public Safety Council	Knoxville Library Brownsville Road (Knoxville)	CPRB/OMI presentation to Zone 3 Public Safety Council
April			
04/01/2019	Allegheny Bar Association (ACBA)	Koppers Building (Downtown)	SCOTUS/Courts Police misconduct update
04/17/2019	Citywide Public Safety Meeting	Teamster Temple Butler Street (Lawrenceville)	Discussion on hate and extremism
04/09/2019	B-PEP, Police Bureau, Pittsburgh Federation of Teachers, Allegheny County Sheriff, Allegheny County Police Department, Pittsburgh Schools Police Department, Port Authority Police Department, NAACP	Freedom Unlimited (Hill District)	Joint press conference with community and local police departments committing to using “You & the Police” in each department
04/15/2019	B-PEP, CAV, JFGP, NAACP	Freedom Unlimited (Hill District)	Due process project press conference
May			
05/02/2019	Allegheny County Bar Association	Koppers Building (Downtown)	Public Corruption Symposium
05/03/2019	Pittsburgh Diocesan School Principals	St. Paul’s Seminary (East Carnegie)	Promoting the use of “You & the Police” as part of Diocesan curriculum
05/06/2019	Commission on Human Relations	City-County Building (Downtown)	Presentation on CPRB and inter-relationship of missions

TABLE 9 (continued)

CPRB Community Meetings 2019			
Date	Meetings	Location	Topic(s)
June			
06/13/2019	Race & Justice – Pittsburgh The Atlantic	The Independent Brewery (Squirrel Hill)	Dinner discussion with editors of The Atlantic, leaders of the MacArthur Foundation, community leaders, and the media
06/14/2019	Race & Justice – Pittsburgh The Atlantic	Ace Hotel (East Liberty)	Public forum on race and justice in Pittsburgh and Allegheny County
July			
07/17/2019	B-PEP	Freedom Unlimited (Hill District)	Joint press conference to release statement on death of officer
(date uncertain)	Group Violence Initiative (GVI)	East Liberty	Clergy meeting with Group Violence Initiative/Police Bureau to develop outreach plan with GVI
August			
08/01/2019	University of Pittsburgh Social Work	University of Pittsburgh (Oakland)	Law enforcement and police panel discussion
September			
09/10/2019	Zone 5 Public Safety Council	UPMC Community Center (Homewood)	Presentation and Q&A on CPRB
09/19/2019	City of Duquesne	Duquesne City Hall (Duquesne)	Assist newly formed oversight board and Duquesne City Council

TABLE 9 (continued)

CPRB Community Meetings 2019			
Date	Meetings	Location	Topic(s)
October			
10/14/2019	Pittsburgh Human Relations Commission and Human Rights group	United Way Building (Downtown)	Assisting with development of the local Universal Periodic Review Report for the United Nations (“Human Rights and the Criminal Punishment System”)
10/30/2019	Pittsburgh Federal Executive Board	CMU (Oakland)	Hate Vs. Understanding, Start the Conversation
November			
11/15/2019	NACOLE	George Washington University School of Law (Washington, D.C.)	Panel discussion of the Review Board Model of Oversight
December (no meetings held)			

Source: CPRB

Finding: The CPRB held 11 community-focused meetings in 2018 and ten (10) in 2019.

Finding: The responsibility of organizing and attending community outreach events currently falls on staff who have other important duties within the Board. While the Board has maintained a consistent public presence, this should ideally be managed by a position or team as a full-time endeavor.

In 2020, Board administration proposed converting a vacant investigator position into a Community Liaison. The proposed position’s duties would include:

- Coordinating and collaborating with traditional and non-traditional community affinity groups.
- Establishing working relationship with professional community groups: health & human service providers, behavioral health providers, education advocates, disability rights advocates, and religious communities.

- Establishing continuing relationship with Human Relations staff and various city commissions/committees.
- Developing and delivering informational presentations to community groups, schools, etc.
- Assisting with development and distribution of publications.
- Assisting with development and deployment of on-line presentations and informational posts.
- Developing intel from community and assist investigators when appropriate.
- Responding to neighborhoods reporting patterns of problems with police.
- Preparing status reports reflecting observations related to current issues, emerging patterns and any matter affecting the community/police relationship.
- Attending all Board meetings and community meetings.
- Developing and nurturing a strong, visible, community presence for the CPRB.

RECOMMENDATION 15:

The CPRB should prioritize the hiring of a full-time community liaison as part of a long-term goal of building a full community outreach team that can hold regular community meetings in each region of the city. Funding to accomplish this could be provided by the prior recommendation of tying the CPRB budget to a set percentage of the Police Bureau’s budget (see Recommendation 6).

“You and the Police” Brochure

In the 1990s, the ACLU and NAACP created a brochure called “You and the Police” for use in the Pittsburgh Public Schools. The document covers best practices for interactions with law enforcement, citizens’ rights, and resources for legal assistance. The brochure is still used and was revised with the assistance of the CPRB in 2014 and 2019. Roughly 15,000 copies are ordered each year and has become an important resource for educating members of the community and law enforcement officials.

After the most recent revision, officials from local police departments required their officers to read and sign off on the document. These include The Pittsburgh Police Bureau, Allegheny County Police Department, Port Authority of Allegheny County Police Department, and Wilkinsburg Police Department and each entity agreed to have all officers tested on the brochure’s contents.

A copy of the “You and the Police” Brochure can be found in Figure 5.

FIGURE 5 “You and the Police” Brochure

BUT...WHY ME???

- Maybe a crime has been reported and YOU are seen running away from that area.
- Maybe YOU have something that does not belong to you. The officer may think that you do.
- Maybe YOU are in an unusual place at an unusual time. Maybe YOU are in an alley behind a closed business at 4:00 am.
- Maybe YOU were misidentified as a suspect in a crime by witnesses or officers.
- Maybe YOU were acting disorderly, or appeared to be drunk and/or high in a public place.

IF YOU ARE STOPPED WHILE WALKING

RIGHTS & RESPONSIBILITIES

1. Police can approach you and initiate a conversation. Police may ask for ID, or ask to search you or your belongings. Ask if you are free to leave.
2. In such a stop, police can “pat-down” your clothing to check for a concealed weapon if they suspect you have one. **DO NOT** physically resist, but make it clear that you do not consent to any further search.
3. You are not legally required to answer a police officer’s questions. You cannot **legally** be arrested just for refusing to answer questions or not identifying yourself to a police officer. But if you are detained, failure to identify yourself can lead to additional charges, when you might otherwise get only a citation.
4. What you say to the police is always important. What you say *can* be used against you, and it can cause the police to arrest you.
5. You do not have to consent to any search of yourself or your possessions. If you do not consent to a search, be sure to tell the police that you do not consent to a search.
6. If the police say they have a search or arrest war-

rant for you, **immediately comply** with all directions.

7. You have a right to record audio and video of police activity so long as you can do so safely, and **DO NOT** physically interfere with their work.

REALITY

1. Be polite and respectful. Although “bad mouthing” or criticizing a police officer may be legally protected speech, it is not recommended and may escalate a tense encounter.
2. **STAY CALM!** Consider the message your body language and tone send to the officer.
3. You may ask if you are free to leave but **DO NOT** argue with the officer. Cooperate now, complain and report later if you choose to do so.
4. Keep your hands where the police can see them. **DO NOT** make any sudden movements.
5. **DO NOT** ever touch a police officer.
6. **DO NOT** run. You might get hurt.
7. **DO NOT** resist even if you believe you have done nothing wrong. You may be injured and/or arrested.
8. **DO NOT** physically interfere when an officer is doing his or her job. You may be arrested.
9. Even though you have a Constitutional right not to speak, refusing to do so may prolong the interaction. If you do decide to talk, remember, any statement you make may be used against you. However, if you’re detained (not free to leave), your phone and other belongings may be taken from you.
10. If you believe that you have been the victim of police misconduct, **DO NOT** argue with the officer and **DO NOT** threaten to file a complaint.

11. If you choose to file a complaint at a later time, document the incident as follows:

- a. Write down the date, time, and location of the occurrence.
- b. Write down the names of the officer(s), badge number(s) and/or patrol vehicle number(s).
- c. Prepare a written statement of everything you can remember as soon as possible. Memories fade quickly!
- d. Try to find witnesses. Write down their **legal names**, email addresses, phone numbers, and mailing addresses.
- e. If you are injured, take photographs of the injuries as soon as possible, get medical attention, and tell the doctor what happened. Obtain/request copies of your medical records.

IF YOU ARE STOPPED IN A VEHICLE OR ON A BIKE

RIGHTS & RESPONSIBILITIES

1. The police can ask you to pull over when they observe you committing any traffic offense; this includes moving violations (failure to signal) and equipment violations (tail light out).
2. Activate flashers, stop the vehicle safely out of traffic, immediately place it in park, apply the parking brake, keep your hands visible and follow the officer’s commands. You can ask the officer if it is okay to shut off the vehicle.
3. Tell the officer where in the vehicle your driver’s license, vehicle registration and insurance card are located. Then request permission to retrieve them.
4. During a traffic stop, the police can search the passenger compartment of your car if they believe you are committing, have committed, or are about to commit a criminal act.
5. If you are given a ticket, you should sign it if asked. It **IS NOT** an admission of guilt.

6. If you are suspected of drunken driving and refuse to take a Field Sobriety Test, prepare to be arrested. If arrested, and you refuse to take a blood, urine or a breath test, your driver’s license **will be** suspended at a later date.

REALITY

1. If the police are trying to stop you, slow down, turn on flashers and try to pull over right away. While driving *slowly*, try to pull over in a well-lit area or where there are people.
2. Stay in the car until an officer tells you what to do. Keep your hands **visible**.
3. If it is dark outside, turn on the vehicle’s inside light.
4. Keep your hands on the steering wheel where the officer can see them until you are told what to do. You may not have a **legal** duty to disclose the presence of a firearm in your vehicle or on your person, however **in the interest of safety** it may be **best** that you do so.
5. Be sure to have all your paperwork readily available. This includes: valid driver’s license; valid vehicle registration; current insurance card; current & valid auto safety and emissions inspection stickers; and if applicable, a valid concealed carry license. Having this information can save you in fines and costs, and may prevent the towing of your car or the use of other official action.
6. If the officer searches your car, even if you object, **DO NOT** interfere.
7. If you are given a ticket, don’t argue about it. You can always fight the case in traffic court, if you choose to do so at a later date

IF THE POLICE COME TO YOUR HOME

RIGHTS & RESPONSIBILITIES

1. If the police knock and ask to enter your home, *except for the situations in the next paragraph,*

you do not have to admit them unless they have a warrant signed by a judge. If they insist on coming in anyway say clearly that you do not consent to a search, but **DO NOT** physically interfere.

- Some emergency situations (like when a person is screaming for help inside or when the police are chasing someone) permit officers to enter and provide aid to the person in trouble, or to pursue the fleeing suspect.
- If you are arrested, the police can search you and the area close by; if you are in a building, police can search any nearby area where a person may be hiding.

REALITY

- If the police say that they have a search warrant, immediately comply with orders and ask to see the warrant **later**. **DO NOT** attempt to interfere, physically block, or argue with officers as they are trying to enter, you may be injured and/or arrested.
- When you see the warrant, verify that it lists your address, and note the specific areas of your home listed in the warrant that are subject to search.
- If the police insist on coming in with or without a warrant, at the conclusion of the encounter, try to get their names and badge numbers, and why they entered your home.
- If the police have an arrest warrant, make sure the name, alias, or "nickname" on the paper is someone in the household, either you, a listed occupant, family member or tenant.

IF YOU ARE ARRESTED OR TAKEN TO A POLICE STATION

RIGHTS & RESPONSIBILITIES

- If you are arrested, you have the right to remain silent and to talk to a lawyer before you answer questions from the police.
- Tell the police nothing except your name, birth

date, legal address, height, weight, parent/guardian if applicable. Your ID may be disclosed without fear of self-incrimination and doing so may reduce the time you are held.

- DO NOT** talk without a lawyer; immediately ask to see one.

REALITY

- DO NOT** give false identification, explanations, excuses or stories. Such information may be used against you and result in additional charges against you.
- DO NOT** make any decisions in your case until you have talked to a lawyer.
- You can expect to be taken before a Judge within 12 - 24 hours after your arrest.

THIS IS NOT COMPLETE ADVICE BE SURE TO CONSULT A LAWYER!

IMPORTANT TELEPHONE NUMBERS

- Allegheny Co Public Defender Office: 412-350-2401
- Allegheny Co Bar Association, Lawyer Referral Service (private defense lawyers): 412-261-0518

COMMUNICATION ASSISTANCE

- Sign & Non-English Interpreters (24-hr.) Pgh Hearing & Deaf Services: 412-281-1375

POLICE, PROSECUTORS, AND JAIL

- Pittsburgh Bureau of Police, Chief's Office: 412-323-7800
- Allegheny Co Police, Superintendent's Office: 412-473-1200
- Allegheny Co. Port Authority Police: 412-255-1385
- Allegheny Co Sheriffs' Office: 412-350-4700
- Allegheny Co District Attorney's Office: 412-350-4400
- Allegheny Co Jail: 412-350-2000

COMPLAINTS ABOUT PITTSBURGH POLICE

- Independent Citizen Police Review Board: 412-765-8023 (www.cprbpg.org)
- Office of Municipal Investigations: 412-255-2804 Fax: 412-255-2952

FURTHER ASSISTANCE CAN BE OBTAINED BY CONTACTING A PRIVATE ATTORNEY AND/OR:

- ACLU—Greater Pittsburgh: 412-681-7736
- NAACP—Pittsburgh Unit: 412-471-1024
- Alliance For Police Accountability (APA): 412-256-8449

CURRENT & HISTORICAL CONTRIBUTORS PITTSBURGH PA:

- ACLU-PA
- Alliance For Police Accountability (APA)
- Black Political Empowerment Project (B-PEP)
- Greater Pgh Coalition Against Violence (CAV)
- Guardians of Greater Pittsburgh
- Homer S. Brown Law Association
- Independent Citizen Police Review Board (CPRB)
- NAACP, Pittsburgh Unit
- Parents Against Violence
- Pittsburgh Bureau of Police
- Univ. of Pittsburgh School of Law

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Revised March 2015 * June 2018 * March 2019
 Printing courtesy of the Pittsburgh Independent Citizen Police Review Board

YOU & THE POLICE
RIGHTS, RESPONSIBILITIES & REALITIES

This brochure is being made available free of charge to all members of the community. It has three purposes:

- To outline** for people their rights when interacting and communicating with the police;
- To inform** people of their responsibilities and obligations any time they (or a family member or friend) have contact or involvement with police officers; and
- To promote** improved relations and understanding between members of the community and the police.

Be Safe!

The term "Police", "Officer", or "Police Officer" within this pamphlet includes **all** Law Enforcement Officers, local, county, state, or federal.

Source: CPRB

RECOMMENDATION 16:

The City Administration and the CPRB should continue its current practice and uses of the "You and the Police" brochure. However, a version of the brochure targeted to younger students should be made and distributed to the elementary and middle school grades.

Youth Outreach

Concern of police actions have been at the center of civil unrest during 2020, with some tragic incidents involving school-age children. Whether through lack of funding or otherwise, the CPRB only had one community meeting geared to youth.

Finding: Only one community meeting by the CPRB during 2018 and 2019 targeted school age children and that involved 8th graders in February of 2018.

RECOMMENDATION 17:

CPRB should work with school and city administrators to plan student outreach programs focused on citizens' rights and interactions with the police.



Independent CITIZEN POLICE REVIEW BOARD

City of Pittsburgh
816 Fifth Avenue, Suite 400
Pittsburgh PA 15219
USA

May 3, 2021

The Honorable Michael E. Lamb, Esq.
Controller, City of Pittsburgh
1 City County Building
414 Grant Street
Pittsburgh PA 15219

Dear Mr. Lamb,

Accompanying this letter is our response to the findings and recommendations of the performance audit conducted by your office in 2020.

On behalf of the Board and staff, I commend the audit team, Manager Gloria Novak, Assistant Manager Bette Anne Puharic, and Research Assistant Mark Ptak, for their professionalism, thoroughness, and ability to adapt to the unique challenges created by Covid-19.

We extend best wishes to Deputy Controller Rachel Heisler, whom we met during our exit interview, for much success in her position.

Please advise if you require additional information or clarification of our responses.

Thank you.

Sincerely,

Elizabeth C. Pittinger
Executive Director

cc: Dr. Emma Lucas-Darby, CPRB Chair
Atty. William F. Ward, CPRB Solicitor

Members of the Board:

Dr. Emma Lucas-Darby
Chair

Mr. Thomas C. Waters
Vice Chair

Mr. Elwin Green

Dr. Mary Jo Guercio

Sr. Patrice Hughes, SCSH

*Ms. Karen McLellan, LEP**

*Mr. Sheldon Williams, LEP**

(*Law Enforcement Professional)

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Finding: Pittsburgh's Citizen Police Review Board has no board members directly nominated or elected by city residents or civic organizations.

The CPRB's founding principle is that communities should have a voice in how they are policed, and its legitimacy rests on residents' trust that Board members represent them. Reserving seats for local civic organizations that interact with Pittsburgh's communities on a regular basis and/or have expertise in the issues the Board considers may be preferable to the current system of political appointments.

RECOMMENDATION 1:

City Council should consider the need for direct civic representation on the Board, which would require amending the Home Rule Charter. Council could grant nominating authority to local and visible civic organizations which would fill a set number of seats on the CPRB in place of those currently nominated by the mayor and/or Council.

Response:

The appointment process was established, and amended, within the existing structure of representative government. Recommendations to the Mayor and City Council may be offered by any citizen or civic group, at their pleasure. The nomination process is presumed to be legitimate and determined by the representatives of the people. The Board's work must be independent, impartial, and objective. It has been this Board's experience that regardless of appointing authority, each member has transcended populism and politics to perform their work without fear or favor.

Finding: The Board minutes for three meetings during the scope period did not list members' vote totals.

RECOMMENDATION 3:

The CPRB should require the minutes of their meetings to reflect the vote of each individual member, even when unanimous. This should also include the vote totals on Board actions and list the names of any dissenting members.

Response:

Agreed. This documentation has been inconsistent; the recommendation will be our standard going forward.

Finding: The police chief and/or mayor have not complied with the 30-day response requirement established by the City Code.

RECOMMENDATION 4:

After a public hearing, when CPRB does not receive a response from the police chief and/or mayor within 30 days, the executive director should notify City Council. Once notified, City Council should bring scrutiny to the matter by discussing it at a council meeting. If producing timely responses continues to be an issue, the executive director and solicitor should consider filing a ‘writ of mandamus’, which compels public officials to administer a legally required, ministerial function.

Response:

Agreed. We anticipate recent amendments to the Home Rule Charter will resolve delayed responses to Board recommendations and other matters.

Finding: Act 111 prevents the CPRB from issuing binding recommendations regarding the discipline of an officer.

RECOMMENDATION 5:

If Act 111 is amended, City Council should amend the CPRB’s governing statute to grant it the authority to make binding disciplinary determinations. Discipline could be negotiated with the police chief on a pre-determined matrix that ensures predictability and transparency to the public.

Response:

Agreed.

Finding: During the audit scope, the CPRB budget represented 0.6% of the Police Bureau’s operating budget for both years.

The work of the CPRB is independent from the Police Bureau, but its caseload is proportional to the Bureau’s size. As the Bureau’s budget grows and more officers are hired, the CPRB’s budget should grow proportionally to keep up with the department it oversees. According to the Police Bureau’s website, there are approximately 900 sworn police officers, compared to three (3) CPRB investigators, meaning there is just one (1) investigator for every 300 officers. Cutting this disparity in half would require the hiring of at least three (3) additional investigators.

CPRB’s current level of funding requires the current staff to spread work and time to certain responsibilities, most notably in the areas of community outreach and the online disclosure of public information. Examples are described later in sections of this audit (see: Recommendation 15 and “Community Engagement”). It is the auditors’ assessment that the

CPRB's current level of funding is inadequate to carry out its mandates in the most effective manner possible.

RECOMMENDATION 6:

City Council should establish legislation that ties CPRB funding to a set percentage of the Police Bureau's operating budget (e.g., 2%), and set a minimum number of investigators based on the total number of sworn officers. This would offer some balance to the CPRB's resources in comparison to the Police Bureau, reduce each investigator's caseload and encourage thorough investigations, and allow the CPRB to invest in other priorities, including community outreach.

Response:

Agreed.

Finding: A confidentiality agreement to establish evidence-sharing between the CPRB and OMI has not been achieved.

Finding: A dispute between OMI and CPRB developed in 2019 in which OMI declined to provide documents pertaining to CPRB investigations. The matter was not resolved until mid-2020, resulting in the delay of some investigations.

This is required under ordinance.

RECOMMENDATION 7:

The city administration should instruct OMI to commit to renewing negotiations for a formal evidence-sharing agreement with CPRB. This would improve the quality and efficiency of investigations for both parties.

Response:

Agreed. The Board will renew negotiation with OMI/City to finalize a memorandum of understanding in which OMI/City agree to maintain the confidentiality and privilege associated with CPRB material and evidence. The ordinance requires a mutual agreement. In 1999 the CPRB agreed to protecting any and all material received from OMI but the commitment was not reciprocated.

Finding: The Pittsburgh Police Bureau is generally cooperative providing the Board staff with access to unredacted body-worn camera footage during investigations, but a formal protocol does not yet exist.

RECOMMENDATION 8:

City Council should pass an ordinance requiring the Police Bureau to give CPRB investigators access to unredacted body-worn and dashboard camera footage pertaining to cases they are investigating within a set time period (e.g., one week), especially after critical incidents.

Response:

Agreed. The CPRB's executive director and solicitor will evaluate feasibility of establishing such a protocol under Act 22 of 2017 (Ch. 67A) and advise City Council accordingly.

Finding: The current working agreement between the city and the police union contains outdated language concerning officers' legal responsibility to cooperate with CPRB investigations. The CPRB has had subpoena authority since 2004 when it was upheld by the courts.

RECOMMENDATION 9:

As the Law Department negotiates a new working agreement with the FOP, it should ensure that the obsolete language concerning officer cooperation with CPRB investigations be replaced with language affirming the Board's authority to subpoena officers for substantive testimony.

Response:

Agreed. On October 17, 2001, the Allegheny County Court of Common Pleas enforced the first CPRB subpoena issued in CPRB No. 353-00-ED. (GD-01-019518) In another matter, GD-00-018823, the Commonwealth Court declared the independence of the CPRB and reinforced the validity of the CPRB subpoena in its opinion dated March, 25, 2003 (1848 C.D. 2002).

RECOMMENDATION 10:

City Council and the administration should require the city solicitor to provide the CPRB solicitor and/or executive director the opportunity to review proposed police union contracts as a safeguard against the insertion of provisions that undermine the authority of the Board or public safety. (this has persisted for years)

According to the city's Law Department, contracts that are still being negotiated are not available to the public under the state Right-to-Know Law. However, the law states that the exemption "shall not apply to a final or executed contract or agreement between the parties in a collective bargaining procedure."

Response:

Agreed.

Finding: The state's Right-to-Know Law does not exempt finalized working agreements from public disclosure, meaning the city has the authority to disclose them to the public.

RECOMMENDATION 11:

The mayor's administration, City Council, or the Law Department should require police union contracts to be submitted to the Controller's Office to be published on the OpenBook Pittsburgh website.

Response:

Agreed.

Re: website cprbpg.org

RECOMMENDATION 12:

The CPRB should proceed with its plans to overhaul the current website, replacing the blog-based format with an open data portal that allows users to easily navigate and search for information, including case progression. In the meantime, sections and information should be streamlined to prioritize documents most important for public disclosure.

Staff should undertake a review of the website to ensure that missing information is posted and to determine whether sections can be streamlined. For example, the "Public Records" section should focus on five (5) topics most pertinent to public transparency: Board meeting minutes and votes, case statuses, annual and quarterly reports, Board meeting recordings, and public hearing recordings. All other information can be moved into a "Reference Documents" section. In addition, the responsibility of updating the website with all Board activities, reports, and other public information should be designated to a single employee and completed in a timely manner.

Response:

Agreed. The website has been under reconstruction since being hacked. The suggestions are welcomed. The refreshed website, cprbpg.org, is scheduled to launch by mid-May.

Finding: As of January 2021, the annual reports for 2018 and 2019 have not yet been released.

RECOMMENDATION 13:

Without routine and predictable disclosure of CPRB data and activities, public trust is undermined. The CPRB executive director should ensure that annual reports are completed and published online by a pre-determined date each year to maintain transparency to the public. Once this is established, the CPRB should work towards a timeline to begin publishing quarterly reports.

Response:

Agreed. Staff capacity has affected our ability fulfill our publication of annual reports. Tentative release of a compiled report containing 2018, 2019 and 2020, is June 15, 2021.

Re: Social Media

In addition to the website, the CPRB also maintains an active social media presence, including a Facebook page, YouTube account, and Twitter. Around March 16, 2020 the Board's Twitter was suspended. According to the director, no reason was given, and multiple appeals were made since April to restore the account. During the course of this audit in September of 2020, the Board's Twitter was successfully reinstated without explanation for the suspension.

RECOMMENDATION 14:

The CPRB should continue to engage with the public using social media and regularly post information regarding Board proceedings and findings. Board staff should also seek official verification of its Twitter account to reduce the likelihood of future suspensions and to increase its online reach.

Response:

Agreed. The Twitter interruption remains unexplained. Staff capacity limits our engagement on social media. If we are able to hire a Community Liaison, our social media activity will be expanded.

Finding: The CPRB held 11 community-focused meetings in 2018 and ten (10) in 2019.

Finding: The responsibility of organizing and attending community outreach events currently falls on staff who have other important duties within the Board. While the Board has maintained a consistent public presence, this should ideally be managed by a position or team as a full-time endeavor.

Finding: In 2020, Board administration proposed converting a vacant investigator position into a Community Liaison. The proposed position's duties would include:

- Coordinating and collaborating with traditional and non-traditional community affinity groups.
- Establishing working relationship with professional community groups: health & human service providers, behavioral health providers, education advocates, disability rights advocates, and religious communities.
- Establishing continuing relationship with Human Relations staff and various city commissions/committees.
- Developing and delivering informational presentations to community groups, schools, etc.
- Assisting with development and distribution of publications.
- Assisting with development and deployment of on-line presentations and informational posts.
- Developing intel from community and assist investigators when appropriate.
- Responding to neighborhoods reporting patterns of problems with police.
- Preparing status reports reflecting observations related to current issues, emerging patterns and any matter affecting the community/police relationship.
- Attending all Board meetings and community meetings.
- Developing and nurturing a strong, visible, community presence for the CPRB.

RECOMMENDATION 15:

The CPRB should prioritize the hiring of a full-time community liaison as part of a long-term goal of building a full community outreach team that can hold regular community meetings in each region of the city. Funding to accomplish this could be provided by the prior recommendation of tying the CPRB budget to a set percentage of the Police Bureau's budget (see Recommendation 6).

Response:

Agreed. Community engagement is a high priority of the Board. Our staff capacity severely inhibits our ability to organize and execute a community engagement plan worthy of the Board's mandate.

Re: Youth Outreach

RECOMMENDATION 16:

The City Administration and the CPRB should continue its current practice and uses of the “You and the Police” brochure. However, a version of the brochure targeted to younger students should be made and distributed to the elementary and middle school grades.

Response:

Agreed. Again, staff capacity limits our ability to initiate and accomplish many projects that the Board and community desire.

Finding: Only one community meeting by the CPRB during 2018 and 2019 targeted school age children and that involved 8th graders in February of 2018.

RECOMMENDATION 17:

CPRB should work with school and city administrators to plan student outreach programs focused on citizens’ rights and interactions with the police.

Response:

Agreed. In the past, staff adopted a kindergarten class every year. Activities included group activities about safety, picnics, field trips, etc. That project faded due to staff capacity. We established a strong relationship with the Pittsburgh Federation of Teachers which enabled communication to classrooms via educators. That relationship has resulted in our being invited to assemblies and school department meetings. Through a Board member we established a limited relationship with the Pittsburgh Catholic Schools. If we can bring a Community Liaison onto the team, these activities will resume, be normalized and enhanced.

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