



**Special Meeting of the Use of Force Review Committee
Meeting Minutes for
Friday, June 17, 2022, at 10:00 a.m.
(Virtual Meeting *via* Microsoft Teams Platform)**

At 10:02 a.m. Executive Session

Sha S. Brown, Chairperson, called the Executive Session of the Pennsylvania State Law Enforcement Citizen Advisory Commission's (Commission) Use of Force Review Committee's (Review Committee) Special Meeting to order and provided an overview of the Review Committee's proposed Special Meeting Agenda.

With respect to their review of **Internal Case No. 21-0003-P**, Chairperson Brown recapped confidential details of the underlying February 23, 2019 incident involving a taser deployment related to the completed internal investigation by the Pennsylvania State Police (PSP) and the status of their review (including plan to render determinations on six Review Objectives, identify findings, conclusions and recommendations, if any, and authorize the issuance of a draft Preliminary Investigative Review Report). As an administrative matter, Chairperson Brown and Review Committee members also generally discussed how to address possible repeat findings, conclusions and recommendations involving taser deployments related to their review of **Internal Case Nos. 21-0014-P, 21-0015-P, and 21-0016-P** concerning completed internal investigations by the Pennsylvania Department of Corrections' (DOC) Probation and Parole services division. Further, Vice-Chairperson Pittinger asked if data (both public and confidential) provided by PSP in response to the Critical Incident Review Committee's request concerning uses of force could be made available to this Review Committee and Chairperson Brown responded in the affirmative.

With no further confidential or administrative matters or other questions, the Executive Session of the Review Committee ended at 10:23 a.m.

At 10:31 a.m. Public Session of Special Meeting Started and Recording Began

At 10:31 a.m. Call to Order, Roll Call, and Opening Announcements/Reminders by Commission Chairperson

Chairperson Brown called the Special Meeting of the Commission's Use of Force Review Committee to order, announced that the meeting was being recorded and participation in the meeting conferred consent to being recorded.

Chairperson Brown asked the Commission's Secretary to conduct a Roll Call and Commissioners David Sonenshein [Review Committee Chairperson], Joshua Maines and Vice-Chairperson Beth Pittinger were present remotely and a quorum of the Review Committee was present. Jalila Parker (the Commission's Ex-Officio Member representing the Office of the

Governor) was also present remotely. A copy of the Roll Call and Attendance Form is attached hereto and made a part hereof [see Attachment 1].

At 10:32 a.m. Public Comment Reminder

Chairperson Brown reminded members of the public of the various ways citizens may participate and offer public comment before and during all meetings of the Commission and the Commission's Review Committees to ensure public participation and transparency. For purposes of this Special Meeting, public comment was limited to three minutes per speaker.

At 10:32 a.m. Motion to Approve Use of Force Review Committee's Meeting Agenda by Unanimous Consent

Chairperson Brown asked for a motion to approve the Use of Force Review Committee's Meeting Agenda by unanimous consent. The Motion was offered and seconded by Review Committee members in attendance. Chairperson Brown asked if there were any objection(s) to the Meeting Agenda and after hearing no objections, Chairperson Brown recognized the approval of the Use of Force Review Committee's Meeting Agenda by unanimous consent. A copy of the Use of Force Review Committee's June 17, 2022, Meeting Agenda, as adopted, is attached hereto, and made a part hereof [see Attachment 2].

At 10:33 a.m. Motion to Approve Adoption of the Draft of the Use of Force Review Committee's April 1, 2022, Meeting Minutes by Unanimous Consent

Chairman Brown asked for a Motion to approve the draft of the Use of Force Review Committee's April 1, 2022, Meeting Minutes by unanimous consent. The Motion was offered and seconded by Review Committee members. Unanimous consent to approve adoption of the draft of the Use of Force Review Committee's April 1, 2022, Meeting Minutes passed with no noted objections [a copy of the Meeting Minutes as adopted is available on the Review Committee's webpage found at www.osig.pa.gov/PSLECAC].

At 10:33 a.m. Other Review Committee Administrative Matters

Review Committee Chairperson Sonenshein did not have any administrative matters to report or any remarks to make and relinquished the floor back to Chairperson Brown.

At 10:35 a.m. Discussion, Deliberation and Official Action(s) for the Purpose of Reaching Preliminary Findings and Conclusions in Anticipation of the Issuance of a Preliminary Investigative Review Report for Internal Case No. 21-0003-P

[Internal Case Number #21-0003-P (case concerning lower-level use of force causing injury to a citizen on February 23, 2019 involving agents assigned to PSP Troop B (covering Allegheny, Washington, Greene, and Fayette Counties)); Not referred to County District Attorney; and Ruled Justified by Commanding Officer Troop B]

The IAD investigation revealed that on February 23, 2019, Trooper 1 responded to a report of an unauthorized use of a motor vehicle. The victim reported his vehicle was taken by a female friend without his permission. While enroute to the incident, Trooper 1 received information that there were existing arrest warrants for the female friend identified by the victim. Trooper 1 arrived at the location and observed a female leaving the front porch of the residence. The female pulled up her hood and tried to avoid looking at the Trooper. Trooper 1 briefly spoke with the female and advised her she had to be interviewed because

she was leaving a residence where a vehicle was reported stolen. The female initially provided Trooper 1 a false name, but as soon as she provided correct identifying information, the female fled from Trooper 1 on foot. Trooper 1 chased the female through several yards while issuing multiple verbal commands for the female to stop. Trooper 1 caught the female, wrapped his arms around her, and they both fell to the ground (grass). While on the ground, the female continued to resist arrest by attempting to release Trooper 1's handhold on her as Trooper 1 advised her to "stop resisting." Trooper 1 handcuffed the female, effected the arrest, and escorted the female to the curb of the roadway. The arrestee complained of shoulder pain and EMS was called to respond to the scene. The female was transported via ambulance to the hospital, and it was determined she had a broken clavicle. Trooper 1 notified his supervisor of the incident and the use of force.

Chairperson Brown stated that the Review Committee will discuss, deliberate and take official action(s) for the purpose of reaching preliminary Findings and Conclusions in anticipation of issuing a Preliminary Investigative Review Report for **Internal Case No. 21-0003-P** including: (i) determining whether the Pennsylvania State Police's (PSP) completed internal investigation was prompt, fair, impartial, complete, and reasonable; (ii) whether the substance of all related use of force and any other relevant internal policies, procedures, controls, regulations, guidance, practices and/or training of PSP was adequate and effective; and (iii) if not considered adequate and/or effective, identifying best practices and recommendation(s), if any, that may be necessary to minimize and/or reduce the likelihood of future incidents.

Chairperson Brown then summarized that the Review Committee initially identified a total of 25 questions related to their review of **Internal Case No. 21-0003-P**. Chairperson Brown proceeded to open discussion and deliberation of whether PSP's completed internal investigation was prompt and fair [Review Objective No. 1]. To make this determination, the Review Committee reviewed how the internal investigation was conducted as compared to department policy and requirements of relevant collective bargaining agreement(s) to confirm that the investigation was conducted in a prompt and fair manner. To this end, Chairperson Brown confirmed that the February 23, 2019 incident was reported by a mandatory Blue Team entry concerning use of force involving injury to a citizen and that the involved member recorded all known facts in a subsequent written report. Chairperson Brown also confirmed that the involved member was provided reasonable notice of a request for interview, afforded union representation and apprised of his Garrity/Miranda Rights. While there were no substantiated findings leading to disciplinary action, Chairperson Brown also confirmed that PSP rendered adjudicatory findings on June 17, 2021 [within the time prescribed] and that the adjudicator noted a regulation review with the involved member to ensure compliance with PSP Policy No. FR 6-12 since the member failed to wear his microphone which would have captured audio of the incident.

Chairperson Brown then moved the Review Committee's discussion and deliberation to reaching a determination of whether PSP's completed internal investigation was impartial [Review Objective No. 2]. To make this determination, Commissioners reviewed agency policy designed to ensure fairness and impartiality to ensure that the internal investigation was conducted in compliance with that policy; and determine whether any conflict of interest exists based on all known information. Based on its review, Chairperson Brown responded that there was no information in the investigative file to indicate that a conflict existed.

Chairperson Brown then moved the Review Committee’s discussion and deliberation to reaching a determination of whether PSP’s internal investigation was complete [Review Objective No. 3]. To make this determination, Commissioners reviewed records contained in the completed internal investigative file to ensure all relevant facts that were reasonably obtainable were collected and all relevant interviews were conducted. Chairperson Brown summarized that PSP’s completed investigative file indicated that the involved member’s written report and PSP’s adjudication report included the collection of all key statements that were reasonably obtainable. Chairperson Brown recapped that the involved member responded to the scene to investigate the complaint of a criminal offense. With biographical data and a description of the suspect [who had several warrants], the involved member saw a female exiting the residence of the victim fitting the suspect’s description, the female attempted to conceal her identity with a hooded sweatshirt, the female provided false identification when questioned, and the female then fled the scene on foot resulting in a foot pursuit.

Chairperson Brown stated that the above was representative of the information in PSP’s investigative file and that the Review Committee was in possession and engaged in extensive discussions of PSP’s policies related to de-escalation and use of force. For example, Chairperson Brown stated that the Commission ratified a previous recommendation [Recommendation No. 1] on December 10, 2021 regarding the appropriate legal standard to apply when determining whether force was justified [i.e., that of a “reasonable officer”] and related policy enhancements including PSP’s definitions of “reasonable belief” and “reasonable force.” While PSP agreed to refine its definition of “reasonable belief” in its response to the Commission, Chairperson Brown stated that PSP did not address the Commission’s recommendation to enhance its definition of “reasonable force.” Chairperson Brown also restated the Commission’s recommendation regarding implementation of, and funding for, body worn camera programs across all Covered Agencies, that all Covered Agencies were supportive of and actively pursuing such implementation and that the Governor’s new budget proposal included funding for this best practice. Chairperson Brown then relinquished the floor to Review Committee Chairperson Sonenshein for questions and/or further comment.

Review Committee Chairperson Sonenshein recalled extensive discussions regarding applicable PSP policies, PSP’s cooperation during this review, and his ability to attend PSP use of force cadet training to validate that PSP training instructors used the correct legal standard [i.e., objective reasonableness required by *Graham v. Connor* mentioned at least six times during training session]. Review Committee Chairperson Sonenshein also remarked that the Review Committee made the same or similar policy enhancement recommendation to all Covered Agencies including the Department of Correction’s Probation and Parole services division and the Department of Conservation and Natural Resources. While determining what the officer believed at the time of an incident was part of the equation, Review Committee Chairperson Sonenshein stated that the law requires such belief be judged against what a reasonable officer under similar circumstances would believe.

Commissioner Maines wished to provide comment regarding the Review Committee’s discussion and determination of completeness [Review Objective No. 3]. Commissioner Maines remarked that the law required an officer to articulate reasonable suspicion of a crime to detain a citizen. Here, Commissioner Maines stated the moment the involved member stopped and

questioned the female (who matched the description of the suspect and exited the residence) equaled detention and questioned whether the involved member had adequate evidence to meet this constitutional standard of reasonable suspicion. As a defense attorney, for example, Commissioner Maines stated that it was 10:00 p.m. in the evening and questioned what the lighting in the area was like and how it impacted visibility. Further, the female had a hoodie pulled over face to conceal identity thereby making it difficult for officers to definitively determine whether this individual was the suspect while only considering that the female exited victim's residence. Commissioner Maines questioned whether those three factors alone were enough to justify an investigative detention. Though a judge may agree that the involved member had reasonable suspicion under the circumstances, Commissioner Maines stated that he would challenge whether detention was appropriate as a defense attorney. Commissioner Maines added that officers have every right to engage in "mere encounters" (i.e., ask female who she is, and female gave false name) then an officer has every right to initiate an investigative detention. While acknowledging that it was not the Review Committee's job to relitigate this issue, Commissioner Maines believed it was important that PSP members are clear of the need for reasonable suspicion at time of detention.

In response to Commissioner Maines, Chairperson Brown stated that the Review Committee could address this concern in several ways, including: (1) determination of completeness [however, this Review Objective is tailored more to determining whether PSP's internal investigation was complete (inclusive of all known investigative avenues and information)]; (2) determination of whether the adjudicatory findings were reasonable under a totality of circumstances (i.e., did adjudicator fail to identify and/or did not address this type of concern); or (3) in conjunction with identification of policy and/or training deficiencies regarding reinforcement of legal standards related to "mere encounters" versus "investigative detentions" and request ability to attend applicable training to validate whether training was adequate. Chairperson Brown stated that option 3 may be the best way to capture this concern.

Commissioner Maines believed that Chairperson Brown's suggestion represented a reasonable way to address his concern. Again, Commissioner Maines restated once the female suspect was not free to leave and subject to questioning that such amounted to an "investigative detention." Chairperson Brown asked Commissioner Maines to submit any relevant caselaw that he wished to include or cite in the committee's draft of its Preliminary Investigative Review Report.

Vice-Chairperson Pittinger remarked that attorneys will split hairs and was comfortable with how the Review Committee proposed to address this concern but asked if the training recommendation related to PSP members, investigators and/or adjudicators. Chairperson Brown responded that the recommendation would relate to members when engaged in such activities. Vice-Chairperson Pittinger agreed.

Vice-Chairperson Pittinger also commented that it was unclear when the involved member knew who the female suspect was, what information was known when and whether the suspect was wanted for other offenses, i.e., did involved member have this information while in enroute to the scene or was this discovered after-the-fact. Chairperson Brown stated that the Review

Committee can relay the sequence of events in its draft report to support its training recommendation.

With no other comments or questions by Commissioners, Chairperson Brown then asked Review Committee Chairperson Sonenshein for a motion rendering PSP’s internal investigation prompt, fair, and impartial concerning its review of Internal Case No. 21-0003-P. Review Committee Chairperson Sonenshein offered the motion, the motion was seconded by Commissioner Maines and Vice-Chairperson Pittinger had no objection.

Chairperson Brown then asked Review Committee Chairperson Sonenshein for a motion rendering PSP’s internal investigation complete concerning its review of Internal Case No. 21-0003-P. Review Committee Chairperson Sonenshein offered the motion, the motion was seconded by Commissioner Maines and Vice-Chairperson Pittinger had no objection.

Chairperson Brown then asked Review Committee Chairperson Sonenshein for a motion rendering PSP’s adjudicatory finding reasonable concerning its review of Internal Case No. 21-0003-P. Review Committee Chairperson Sonenshein asked for clarification about whether this determination included the inapplicability of the reasonableness of disciplinary action. Chairperson Brown clarified that the Review Committee’s determination of whether disciplinary action (if any) was reasonable and in accordance with just cause standards [Review Objective No. 5] was not applicable to this review of Internal Case No. 21-0003-P which would be noted in the draft report. Review Committee Chairperson Sonenshein then offered the motion, the motion was seconded by Commissioner Maines and Vice-Chairperson Pittinger had no objection.

Chairperson Brown then asked Review Committee Chairperson Sonenshein for a motion to include the first of two potential recommendations concerning its review of Internal Case No. 21-0003-P [failure to address and/or respond to the Commission’s recommendation to enhance PSP’s definition of “reasonable force”]. Review Committee Chairperson Sonenshein offered the motion, the motion was seconded by Commissioner Maines and Vice-Chairperson Pittinger had no objection. Chairperson Brown then asked Review Committee Chairperson Sonenshein for a motion to include the second of two potential recommendations concerning its review of Internal Case No. 21-0003-P to include clear and enhanced training regarding the nuances and differences between “mere encounters” and “investigative detentions.” Chairperson Sonenshein offered the motion, the motion was seconded by Commissioner Maines and Vice-Chairperson Pittinger had no objection.

At this time, Chairperson Brown opened the floor to public comment and no public comment was offered.

Chairperson Brown then asked Review Committee Chairperson Sonenshein for a motion to produce a draft of the Review Committee’s Preliminary Investigative Review Report for Internal Case No. 21-0003-P capturing the above referenced Findings, Conclusions and Recommendations. Review Committee Chairperson Sonenshein offered

the motion, Commissioner Maines seconded the motion, and Vice-Chairperson Pittinger did not voice any objection. Chairperson Brown stated that a draft of the report will be prepared and distributed to Commissioners in preparation for further discussions during their Special Meeting scheduled for June 24, 2022.

At 11:21 a.m. Discussion, Deliberation and Adoption of Review Objectives for Internal Case Nos. 21-00014-P, 21-00015-P, and 21-00016-P and Identification of Additional Information (if any) Requested of the Covered Agency

Chairperson Brown then proceeded to the Review Committee's next order of business which included discussions, deliberations, and adoption of Review Objectives (based on information contained in comprehensive written summaries and agency records) for **Internal Case Nos. 21-00014-P, 21-00015-P, and 21-00016-P** and the identification of additional information (if any) needed from DOC to complete each review. During this phase of the review process, Chairperson Brown stated that Commissioners will discuss initial questions (objectives) they have regarding each incident with a focus on how DOC handled the internal investigations and the policies and training protocols applicable to each. Chairperson Brown stressed the importance of Commissioners providing all questions each may have to ensure these questions were answered through the course of the Review Committee's investigative support research, agency oral presentation, and subsequent deliberations.

Chairperson Brown opened the discussion by reading a summary of the facts **for Internal Case No. 21-0014-P** as follows:

[Internal Case Number #21-0014-P (case involving taser deployment on September 5, 2017 by agents of the Department of Corrections Parole Field Services); and Ruled Justified by the Deputy Secretary]

On 9/5/2017, Agents A, B, and C sighted a parole absconder in Harrisburg City and the absconder fled. Agents continued pursuit until absconder was found in the back yard of a residence. Agents announced themselves and instructed absconder to show his hands. Absconder pulled knife from pocket, held it to his throat, and stated "[y]ou are not taking me anywhere. I'm not going back." Several verbal commands were given to drop the knife, but absconder failed to comply. Absconder took a deep breath and moved the blade from his neck in what appeared to be an attempt to gain momentum to cut himself. Agent A utilized his TASER while the knife was away from the absconder's throat to thwart the absconder's suicide. From approximately eight to ten feet away, the absconder was hit with a probe on his left upper chest. Absconder removed the probe from his chest and once again placed the blade against his throat. When reloading the TASER, Agent A accidentally deployed the second cartridge into a nearby tree forcing him to draw his firearm. Agent B then discharged his TASER causing absconder to fall unsupported to the ground. Agent A converged on absconder while he was under the influence of neuromuscular incapacitation. Agent A gained control of absconder's left arm and rolled him into a prone position to apply handcuffs. Absconder continued to resist and stated he was not going back to prison. Agent C assisted Agent A with restraints, and once the absconder was handcuffed, Agent C secured the knife. Agents assessed the absconder's injuries and conducted a pat search recovering drug paraphernalia and cigarettes. Emergency Medical Services was dispatched, arrived on scene,

and transported absconder to the hospital. An abrasion was noticed on the left side of the absconder's head and the TASER probes were removed, still fully intact. Absconder stated that he wished it would all end when asked how he was feeling. Absconder was medically cleared for incarceration by the hospital doctor with clear CAT scans and a superficial abrasion on his head. Suicidal ideations were reported to hospital staff. Absconder was transported to SCI where they were also informed of his suicidal ideations.

Chairperson Brown relinquished the floor to Review Committee Chairperson Sonenshein for comment and discussion.

Review Committee Chairperson Sonenshein began by stating he believed that agents acted appropriately, saved the parolee's life, and provided verbal warnings before deploying taser probes. Review Committee Chairperson Sonenshein recalled participating in PSP's taser training and though quite painful stated it was better than discharging a firearm, which represented what the taser was designed for, i.e., less than lethal force to gain compliance. Review Committee Chairperson Sonenshein restated the Commission's previous recommendation concerning clarification of TASER use within DOC's use of force continuum since it was unclear whether TASERs constituted a "contact item." Beside that deficiency, Review Committee Chairperson Sonenshein remarked that DOC possessed clear guidance on TASER storage, use, data downloads following deployment and agent certification.

Chairperson Brown commented that this recommendation was ratified and adopted by the Commission during its most recent Regular Meeting held on May 13, 2022 and read the applicable portion of recommendation into the record as follows: "The Pennsylvania State Law Enforcement Citizen Advisory Commission recommends that the Pennsylvania Board of Probation and Parole [within the Pennsylvania Department of Corrections] enhance its Arrest Procedures Resistance and Control Policy (a/k/a use of force policy) by.... (2) specifically listing TASER deployments in its accompanying Resistance and Control Continuum...". Chairperson Brown stated that the recommendation was currently under DOC's consideration and that the Commission awaited DOC's response.

Commissioner Maines agreed with Review Committee Chairperson Sonenshein believing that agents did a great job during their interaction with the parolee. According to witness statements, Commissioner Maines added that agents engaged in good communication skills to talk the parolee down before resorting to any use of force. Commissioner Maines also remarked that such communication skills evidenced utilization of proper de-escalation techniques and adequate training, which also reduced the need for mental health specialists with compliance achieved through a taser deployment (which caused less injury than parolee's knife). Commissioner Maines was also pleased with DOC's internal investigation (aside from the repeat recommendation) but asked how DOC trained agents for crisis situations and thought it was important to review such policies and related training to ensure adequacy despite not seeing any deficiencies in the matter currently under consideration. Like requests of other committees during case reviews, Chairperson Brown replied that this Review Committee can request copies of relevant policies and the ability to observe such training.

Vice-Chairperson Pittinger agreed with Commissioner Maines regarding the need to request and review policies related to crisis intervention. Vice-Chairperson Pittinger also agreed with Review Committee Chairperson Sonenshein's observation concerning the lack of TASER deployment integrated within DOC's use of force continuum contrary to the specific mention of OC Spray within DOC's use of force policy and accompanying continuum. Vice-Chairperson Pittinger noted that the one exception was a qualification that a TASER is not deployed following use of OC Spray.

Despite the agents' ability to utilize various techniques and properly gain compliance, Vice-Chairperson Pittinger had technical questions regarding data contained within DOC's relevant TASER Download Information Report (TASER Report). For example, Vice-Chairperson Pittinger opined that the incident occurred in September (before adjustment to Daylight Savings Time) and wondered how this was handled. Vice-Chairperson Pittinger also questioned the need for a one second deployment (other than a firing mishap) and asked for an explanation of the difference between one second and five second deployments. Chairperson Brown replied that his Senior Investigator [Tiffany Welcome] made a similar observation and noted that extensive correspondence and explanation concerning data within the TASER Report was required during the committee's previous review of a DOC taser deployment. Like the previous review, Chairperson Brown stated that the Review Committee can request direction of which data entry was relevant and corresponded to the incident currently under consideration so that such questions can be addressed during DOC's Oral Presentation.

Like a review by the Critical Incident Review Committee involving a different Covered Agency, Chairperson Brown noted questions regarding the timing of witness statements and DOC's post-incident interview procedures. Specifically, Chairperson Brown read Recommendation No. 2 [related to the Commission's Final Report concerning Internal Case No. 21-0012-P] into the record as follows:

Recommendation No. 2 – Use of Force Post-Incident Interview Procedures

The Pennsylvania State Law Enforcement Citizen Advisory Commission recommends that the Pennsylvania State Police enhance its related policies to:

- a) prohibit members in officer-involved shootings or other use of force incidents from discussing any details of the incident both before and after the officers are interviewed in accordance with best practices offered by the Pennsylvania District Attorneys Association;
- b) prohibit members from viewing Mobile Video Recordings, Body Worn Cameras, or other video evidence prior to any criminal or administrative post-incident interview regarding an officer-involved shooting or other use of force incident until a comprehensive record is obtained and the lead investigator(s) determines his or her investigation is complete; unless:
 - (i) the County District Attorney or prosecuting attorney from the Office of Attorney General approves the viewing; and
 - (ii) when viewing is permitted, require that appropriate factors be considered when exercising discretion to view video evidence and that such consideration is documented.
- c) ensure post-incident interviews are conducted as soon as practical following the conclusion of the 72-hour waiting period unless exigent circumstances exist.

Here, Chairperson Brown stated that DOC conducted a series of interviews on September 7th [two days or within the 72-hours recommended by best practices] while other interviews were delayed until March [six months after the incident]. Chairperson Brown stated that the Review Committee

should seek clarification and request policies and protocols related to securing witness and other statements.

While the Review Committee sought and received comprehensive information regarding PSP's policies and practices related to mental and substance abuse crisis response, Chairperson Brown remarked that the Review Committee lacked similar information for DOC. Review Committee Chairperson Sonenshein agreed.

Vice-Chairperson Pittinger questioned when DOC began to utilize "IA Pro" [internal database containing Blue Team Incident Report entry] and observed that the system was not used for several incidents, the agency corrected information contained within the database on other occasions and/or dates seemed odd, i.e., Completion Date of December 10, 2020. Vice-Chairperson Pittinger asked if this was system related and, if not, why are such dates reflected in these reports. Chairperson Brown replied that the Review Committee will ask that DOC address this during their Oral Presentation.

At this time, Chairperson Brown opened the floor to public comment and no public comment was offered. With no other comments or questions concerning **Internal Case No 21-0014-P**, Chairperson Brown stated he will collect and add all questions to the committee's Review Objectives along with requests for additional information and forward them to the Covered Agency in preparation of their Oral Presentation scheduled for June 24, 2022.

Chairperson Brown then opened discussion of **Internal Case No. 21-0015-P** by reading a summary of the facts as follows:

[Internal Case Number #21-0015-P (case involving taser deployment on April 9, 2018 by agents of the Department of Corrections Parole Field Services); and Ruled Justified by the Deputy Secretary]

On April 9, 2018 at 2130 hours, supervisor advised agent that expedited removal of reentrant from community corrections center was required because the reentrant was intoxicated and threatening staff. While enroute to the center, the agent was notified that the Philadelphia Police Department was transporting the reentrant to Nazareth Hospital. Agent re-routed and at approximately 2225 hours, agents arrived at the hospital. Reentrant was in the lobby and Philadelphia Police Officers left. The reentrant was handcuffed by agents and agents were familiar with reentrant. Reentrant was visibly intoxicated and reported he was at the hospital [for medical care]. At approximately 2240 hours, the reentrant was called by the triage nurse to be seen by medical staff. At this time, the reentrant became disruptive in the lobby, refused to lift his feet so he could be wheeled to the treatment area and began screaming "police brutality." At this time, agents gave verbal commands for reentrant to lift his feet and placed hands on reentrant's shoulder to pull him back to prevent him from falling forward out of the chair. Agents began wheeling reentrant towards the treatment area, the reentrant tried to wrap his foot around a chair, an agent moved the chair, and reentrant was wheeled to the treatment area. Agents contacted the supervisor at this time to notify him of the reentrant's noncompliance. The supervisor stated he would meet agents at the hospital to assist with the transport. The reentrant was noncompliant with medical staff yet continued to scream that he required medical attention. Agents explained to

medical staff that reentrant needed medical clearance before they could transport him because the reentrant requested care and stated he was dying. When transferring reentrant from the wheelchair to the bed, the reentrant again became noncompliant. Reentrant held onto the wheelchair and refused to transfer to the bed while screaming expletives. Agent unholstered his TASER, removed the active cartridge, placed the TASER on the reentrant's left arm and advised reentrant that if he did not comply he would be tased. Reentrant screamed "tase me bitch." The reentrant was warned a third time that if he did not comply with the bed transfer he would be tased. Reentrant refused and the agent drive stunned the reentrant's the left arm. This caused the reentrant to lose his grasp of the chair and he was then successfully transferred to the bed. The reentrant continued to be noncompliant. Medical staff restrained reentrant and the Philadelphia Fire Department and Agent assisted handcuffing reentrant to the hospital bed. Reentrant continued to be loud, disruptive, and noncompliant with medical staff. Following discharge from hospital, reentrant was transported to SCI. Throughout transport process, reentrant continued to be noncompliant kicking at vehicle windows and doors, screaming obscenities at staff, and refusing to follow orders. Supervisor arrived at hospital prior to transport and assisted with the transport.

Chairperson Brown relinquished the floor to Review Committee Chairperson Sonenshein for comment and discussion.

Review Committee Chairperson Sonenshein restated that the use of force included a drive stun with a TASER and that he found no issues related to the use of physical restraints. Chairperson Brown agreed but believed that the Review Committee should request information related to DOC's training related to physical restraints to ensure adequacy.

Review Committee Chairperson Sonenshein remarked about the situation faced by agents and the agents repeated attempts to gain compliance (reentrant's conduct necessarily placed both hospital staff and patients in danger) after several verbal warnings. Review Committee Chairperson Sonenshein found it hard to find fault with the agents' actions since nothing worked and that the agents' use of force appeared limited on its face.

Commissioner Maines found it hard to disagree and did not know what the agents could have done differently under the circumstances, i.e., subject screaming medical treatment required but refusing such treatment at the same time. Commissioner Maines was unsure what, if any, alternative control techniques were available or could have been utilized by agents. Commissioner Maines added that agents tried several times to gain compliance before resorting to deployment of the drive stun and agreed that nothing stood out on its face other than the repeat recommendation regarding TASER deployments integration on DOC's use of force continuum. Review Committee Chairperson Sonenshein agreed.

Vice-Chairperson Pittinger agreed with her colleagues and noted that the use, necessity, and reasonableness of physical restraints was left to agents. Vice-Chairperson Pittinger again raised concerns about the data contained in the applicable TASER Report. For example, Vice-Chairperson Pittinger stated that it appeared the TASER was discharged twice one hour and seven minutes apart which seemed to contradict the discharge of only one cartridge. Consequently, Vice-Chairperson Pittinger sought clarification of whether the incident involved one or two TASER

deployments. Vice-Chairperson also remarked that the investigation took seven months to complete which was not long but seemed lengthy and commended agents for their handling of the subject.

Chairperson Brown stated that there were some questions regarding the number and substance of witness statements, i.e., Philadelphia Fire Department staff compared with others, concerning the subject's transportation and who was onsite. Chairperson Brown restated the Review Committee's four questions and or need for additional information or clarification, including: (1) what is/are policy[ies] regarding use of physical restraints and transportation; (2) enhancement of use of force continuum; (3) data contained within TASER Report; and (4) promptness of investigation.

At this time, Chairperson Brown opened the floor to public comment and no public comment was offered. With no other comments or questions, Chairperson Brown ended discussion of **Internal Case No 21-0015-P**.

Chairperson Brown then opened discussion of **Internal Case No. 21-0016-P** by reading a summary of the facts as follows:

[Internal Case Number #21-0016-P (case involving taser deployment on June 8, 2017 by agents of the Department of Corrections Parole Field Services); and Ruled Justified by the Deputy Secretary]

On June 8, 2017, Agents attempted to locate a parole absconder based on a tip. The tip led agents to a residence where the homeowner agreed to assist getting the absconder to the residence. Agents contacted local police for assistance in apprehending the absconder. The homeowner contacted the absconder, asked the absconder to come to the residence, and Agent A hid on one side of the residence while Agent B hid on the other side. Local police stationed themselves down the road from the residence. When the absconder arrived at the residence, Agent A presented himself and announced, "State Parole your under arrest," and Agent B presented himself as the absconder began to flee the residence. Absconder was ordered to halt but continued to run. Agent B deployed his TASER, but the absconder continued to flee after rolling on the ground. Local police found the absconder minutes later hiding by a stream. The absconder was sent to the hospital for treatment of abrasions sustained from running in the woods and falling. Probe marks were found behind the absconder's left ear and the left side of torso. The absconder stated that the TASER had "gotten" her and that the probes must have fallen out after she rolled on the ground. The absconder was medically cleared and taken to the County Jail without further incident.

Chairperson Brown relinquished the floor to Review Committee Chairperson Sonenshein for comment and discussion.

Review Committee Chairperson Sonenshein opined that deadly force would not have been allowed here per United States Supreme Court precedent and believed use of the TASER was appropriate under the circumstances. Here, Review Committee Chairperson Sonenshein stated that agents properly scoped out situation and area and, like the last matter under review, was unsure what else agents could have done other than tackle the subject since there was no indication that

the subject was armed. Review Committee Chairperson Sonenshein added that agents did not engage in aggressive tasing and again, on its face, agents' conduct appeared to be appropriate.

Commissioner Maines' only questions centered around the chain of events along with the positioning of agents, i.e., subject on porch knocking on door asking to be let in. Commissioner Maines asked how close were the agents to the subject especially since agents knew the subject was a "runner." Commissioner Maines asked how far away were agents when the TASER was deployed, wondered if agents could have positioned themselves closer to eliminate the option to flee and questioned whether there were any other efforts to warn the subject (other than announcing themselves) before deploying the TASER.

Vice-Chairperson Pittinger asked for additional information about DOC's policies, regulations or other guidance concerning its planning process prior to apprehending a parolee, i.e., is there a detailed process to determine how many agents would be needed, timing of apprehensions, etc. Vice-Chairperson Pittinger also reiterated the Commission's recommendation regarding integration of TASER use on DOC's use of force continuum. Vice-Chairperson Pittinger also again questioned the data contained in the TASER Report for this incident (including adjustments for Daylight Savings Time and the number of actual cartridges or cycles were used since it appeared there was one hour and 20 minutes while another entry denoted five minutes between deployments, but other records indicated only one cycle was deployed).

Review Committee Chairperson Sonenshein stated that concerns expressed by both Commissioners further supported the need for body cameras. Chairperson Brown provided an update regarding DOC's implementation of the Commission's recommendation related to a body worn camera program. To this end, Chairperson Brown relayed that a statutory exception was required to authorize body camera usage by agents. Recent proposed legislation (HB 2344) (introduced on February 11, 2022, amended on May 24, 2022, is sponsored by Representative Todd Stephens) would essentially clear the statutory path for implementation of a body worn camera program and usage by DOC.

Chairperson Brown then summarized questions posed by Commissioners and/or additional requests for information related to **Internal Case No. 21-0016-P** to include: (1) policies related to operational planning, sequence of events, positioning of agents and adequacy of resources; (2) response from agency regarding previous recommendation concerning integration of TASERs on use of force continuum; (3) questions and explanations surrounding data contained in TASER Reports for all matter under consideration.

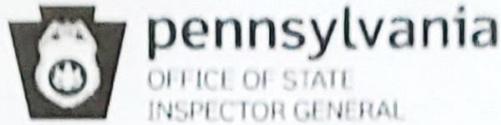
At this time, Chairperson Brown opened the floor to public comment and no public comment was offered. Chairperson Brown reported that he would prepare Review Objectives lists for all three matters currently under consideration [**Internal Case Nos. 21-0014-P, 21-0015-P, and 21-0016-P**] and forward to DOC in preparation for the Special Meeting scheduled for June 24, 2022.

At this time, Chairperson Brown opened the floor to final public comment and no public comment was offered. With no further deliberations or other business, Chairperson Brown thanked Commissioners for their time and efforts.

At 11:47 a.m. Announcements

Chairperson Brown provided closing remarks and informed the public about how to file complaints using the Commission’s hotline, access the Commission’s webpage, and contact information for the Office of Inspector General (OSIG) and the OSIG’s Bureau of Law Enforcement Oversight for assistance.

At 11:47 a.m. Public Session of the Special Meeting of Use of Force Review Committee Adjourned



Roll Call and Attendance Form

Type of Commission Meeting: Quarterly Special Rescheduled
 Date and Time of Commission Meeting: June 17, 2022 10:00AM
USE OF FORCE REVIEW COMMITTEE Meeting

Pursuant to Article 6, Sections 2 and 5 of the Pennsylvania State Law Enforcement Citizen Advisory Commission's (Commission) Bylaws, I hereby attest to having a Roll Call of Commission Membership performed at the above listed Commission meeting and recording attendance of Commission members as indicated below:

Seat Name	Name of Commission Member	Attendance		
		Present	Excused Absence	Absent
At-Large Seat 1	David A. Sonenshein	✓		
At-Large Seat 2	Dr. A. Suresh Canagarajah, Ph.D.			
At-Large Seat 3	Kelley B. Hodge, Esquire			
At-Large Seat 4	Denise Ashe			
At-Large Seat 5	Elizabeth C. Pittinger	✓		
At-Large Seat 6	Keir Bradford-Grey			
Troop A Seat	Jeffrey Wilson			
Troop B Seat	Brenda Tate			
Troop C Seat	Joshua S. Maines, Esquire	✓		
Troop D Seat	Marisa C. Williams			
Troop E Seat	Bishop Curtis L. Jones, Sr.			
Troop F Seat	Honorable Erick J. Coolidge			
Troop G Seat	Charima C. Young			
Troop H Seat	Spero T. Lappas, J.D., Ph.D			
Troop J Seat	VACANT			
Troop K Seat	Andrea A. Lawful-Sanders			
Troop L Seat	VACANT			
Troop M Seat	Marvin Boyer			
Troop N Seat	Marilyn M. Brown, Ed.D.			
Troop P Seat	Rev. Shawn M. Walker			
Troop R Seat	Krista Somers			

**Signature of Sha S. Brown,
Commission Chairperson**



USE OF FORCE REVIEW COMMITTEE SPECIAL MEETING AGENDA

The Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission), established by Executive Order 2020-04 (as amended by Governor Tom Wolf on April 30, 2021) announces a Special Meeting of the Commission's Use of Force Review Committee (Review Committee) to be held in person at the **Office of State Inspector General located at 555 Walnut Street, 7th Floor, Forum Place, Harrisburg, PA 17101** and virtually *via* the Commission's information technology platform (Microsoft Teams) on **Friday, June 17, 2022, at 10:00am (Executive Session) and at 10:30am (Public Session)**.

In accordance with 65 Pa.C.S. § 709(b) and Article 6, Section 2 of the Commission's Bylaws, the Review Committee's Meeting Agenda consists of the following items:

- (1) Executive Session [*closed to the public* – Review of Meeting Agenda; Recap of previous confidential and deliberative discussions related to, and proposed schedule for completion of, **Internal Case No. 21-0003** for purposes of issuing a Preliminary Investigative Review Report; Recap of confidential investigative files and records and proposed schedule for completion of **Internal Case Nos. 21-00014-P, 21-00015-P, and 21-00016-P** for purposes of issuing Preliminary Investigative Review Reports; and other administrative matters];
- (2) Call to Order and Roll Call [*expected to begin at approximately 10:30am*];
- (3) Acceptance of Meeting Agenda;
- (4) Approval and adoption of previous Special Meeting Minutes from April 1, 2022;
- (5) Approval of administrative and/or other procedural matters;
- (6) Report by the Use of Force Review Committee's Chairperson;
- (7) Opportunity for public comment; and
- (8) Discussion, deliberation and official action(s) for purposes of reaching preliminary Findings and Conclusions in anticipation of issuing a **Preliminary Investigative Review Report for Internal Case No. 21-0003-P** which will include: (i) whether the completed internal investigation of the Covered Agency was prompt, fair, impartial, complete, and reasonable; (ii) whether the substance of all related use of force and any other relevant internal policies, procedures, controls, regulations, guidance, practices and/or training of the Covered Agency are adequate and effective; and (iii) if not considered adequate and/or effective, identification of best practices and what recommendation(s), if any, may be necessary to minimize and/or reduce likelihood of future incidents;
- (9) Discussion, deliberation, and adoption of Review Objectives (based on information contained in the comprehensive written summaries and agency records) for **Internal Case Nos. 21-00014-P, 21-00015-P, and 21-00016-P** and identification of additional information (if any) needed from applicable Covered Agencies to complete each review; and
- (10) Opportunity for public comment.

Pennsylvania State Law Enforcement Citizen Advisory Commission

Commission's Webpage:
www.osig.pa.gov/pslecac

Tel: 717-772-4935
555 Walnut Street, 8th Floor, Forum Place | Harrisburg, PA 17101



Individuals having questions regarding this Special Meeting of the Commission's Use of Force Review Committee, which is open to the public, should contact the Bureau of Law Enforcement Oversight within the Pennsylvania Office State Inspector General (OSIG) at (717) 787-6835. Media inquiries may be directed to the OSIG's Deputy State Inspector General for External Affairs Jonathan Hendrickson at (717) 265-8396.

Sha S. Brown, Chairperson
*Pennsylvania State Law Enforcement Citizen Advisory
Commission*

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