

**PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION**

**Regular Meeting Minutes**

**Monday, February 28, 2022 at 12:00 p.m.**

(In person and Virtual Meeting *via* Microsoft Teams Platform)

**At 12:12 p.m. Executive Session**

Sha S. Brown, Chairperson, began the Executive Session of the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) by welcoming and confirming attendance of Commissioner members. Chairperson Brown walked members through the Commission's proposed Regular Meeting Agenda along with second quarter objectives [i.e., the Commission's proposed Regular Meeting to be held in Philadelphia County on May 13, 2022 featuring a panel discussion on alternative 911 response initiatives] and proposed meeting schedules of Review Committees for completion of identified matters currently under review [**Internal Case Nos. 21-0008-P** and **21-0005-P**].

The Executive Session ended at 12:24 p.m.

**At 12:30 p.m. Regular Public Meeting Started and Recording Began**

**At 12:31 p.m. Call to Order and Opening Remarks by Commission Chairperson**

Chairperson Brown called the Regular Meeting of the Commission to order, announced that the meeting was being recorded and participation in the meeting conferred consent to being recorded, and thanked Commission members in attendance, including Ex-officio members and/or their designees - from the Pennsylvania State Police (Superintendent Robert Evanchick, Captain Christopher King, Chief Counsel Daniel C. Beck); from the Pennsylvania Department of Conservation and Natural Resources on behalf of Secretary Cynthia Dunn, Deputy Secretary John Norbeck and Chief Counsel Audrey Miner; from the Pennsylvania State Capitol Police, Superintendent Joseph Jacob; from the Office of General Counsel on behalf of General Counsel Gregory Schwab, Deputy General Counsel Anne Cornick; from the Pennsylvania Commission on Crime and Delinquency, Executive Director Michael Pennington; from the Office of State Inspector General, State Inspector General Lucas Miller; and from the Office of the Governor, Deputy Chief of Staff, Jalila Parker.

**At 12:31 p.m. Roll Call by Commission Secretary Jaimie L. Hicks**

Chairperson Brown recognized the Commission's Secretary, Jaimie L. Hicks, who read the names of all Commission Voting members aloud and those in attendance responded by announcing their presence. 13 Voting members of the Commission were either in attendance in person or virtually and a quorum of the Commission's Voting members was present. A copy of the Roll Call and Attendance Form is attached hereto and made a part hereof [**see ATTACHMENT 1**].

**At 12:33 p.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.

**At 12:34 p.m. Recognition of Guest Speaker**

Because of other commitments, Chairperson Brown accommodated the schedule of, and recognized, the Hon. Francis T. Chardo, Dauphin County District Attorney (DA), speaking on behalf of the Pennsylvania District Attorneys Association, who wished to offer public comment concerning the practical aspects of use of force post-incident procedures regarding police-involved shootings. First, DA Chardo thanked Chairperson Brown for the opportunity to speak and recognized the important work of the Commission.

Concerning use of force post-incident procedures related to police-involved shootings, DA Chardo explained that law enforcement officers should ideally not be allowed to speak with one another or share information amongst themselves nor view video evidence before providing witness statements and sitting for interviews (just like citizen witnesses). However, DA Chardo stated that there are practical aspects to such mandates. For example, DA Chardo stated that law enforcement officers are typically represented by legal counsel (who will have contact with other involved officers and/or witnesses and relay that information to his or her client) which cannot be monitored or impeded. Although a County District Attorney should be cognizant of these relationships, DA Chardo stated further that even a prohibition will not eliminate such a dynamic. While a bar to prohibit the viewing of video evidence is ideal, DA Chardo surmised that County District Attorneys will generally be required to share video evidence before securing an interview of an involved law enforcement officer. For instance, most attorneys representing an involved law enforcement officer will demand to see video evidence before his or her client is interviewed. A prosecutor would then have to decide between losing the ability to secure a witness statement versus producing video evidence at the insistence of opposing counsel and will likely opt for the latter. If a County District Attorney compels an interview or witness statement without producing video evidence as requested by legal counsel, then any subsequent witness statement can be deemed to be involuntary under case law. Regarding other use of force post-incident procedures related to police-involved shootings, i.e., that an interview of an involved member should be done as soon as practicable following conclusion of a 72-hour waiting or recovery period, DA Chardo stated that he personally would like to forgo the waiting period but wholeheartedly agreed that interviews should be done expeditiously.

Chairperson Brown appreciated DA Chardo's comments and input regarding proposed recommendations [offered by the Critical Incident Review Committee concerning their review of **Internal Case No. 21-0012-P** currently under consideration by the full Commission]. Specifically, Chairperson Brown offered that proposed Recommendation No. 2 can be amended to include language that viewing video evidence [before securing a witness statement and interview] should be prohibited unless and until a prosecuting attorney [from County District Attorney's Office or the Pennsylvania Attorney General's Office] approves such viewing and that appropriate factors are considered when exercising such discretion. DA Chardo agreed that a determination of necessity is appropriate and would address the practical impediments he spoke of.

**At 12:39 p.m. Motion to Approve Commission's Meeting Agenda by Unanimous Consent**

Chairperson Brown asked for a motion to approve the Commission's Meeting Agenda by unanimous consent. The motion was offered and seconded by Commission members in attendance. Chairperson Brown asked if any Commissioner had any objection(s) to the Commission's Meeting

Agenda. After hearing no objections, Chairperson Brown recognized the approval of the Commission's Meeting Agenda by unanimous consent. A copy of the Commission's Regular Meeting Agenda for February 28, 2022, as adopted, is attached hereto, and made a part hereof [*see ATTACHMENT 2*].

**At 12:40 p.m. Motion to Approve Adoption of the Draft of the Commission's December 10, 2021 Meeting Minutes by Unanimous Consent**

Chairperson Brown confirmed that all Commission members received and had an opportunity to review the draft of the Commission's meeting minutes from the Commission's Regular Meeting held on December 10, 2021, publicly posted on the Commission's webpage, and forwarded to Commission members. Chairman Brown asked for a motion to approve the draft of the Commission's December 10, 2021, Meeting Minutes by unanimous consent. The motion was offered and seconded by Commission members. Unanimous consent to approve adoption of the draft of the Commission's December 10, 2021, 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](http://www.osig.pa.gov/PSLECAC)].

**At 12:40 p.m. Announcements and Other Administrative Matters**

Chairperson Brown announced the appointment of Commissioner [Rev.] Shawn M. Walker to the Use of Force Review Committee and thanked Commissioner Walker for his willingness to serve in this capacity. Commissioner Walker acknowledged his appointment and looked forward to the opportunity to work with his fellow Commissioners.

Pursuant to [Section 13] of Executive Order 2020-04, as amended, Chairperson Brown also announced that the Commission submitted a draft of its Annual Report for calendar year 2021 to the Governor and is awaiting review. Once reviewed, Chairperson Brown stated that the Annual Report will be distributed to all Commissioners and posted to the Commission's webpage as required.

Chairperson Brown reminded members that the Commission's next Regular Meeting will be held in-person in Philadelphia on May 13, 2022, at 10:00 a.m. Though further details will be forthcoming, Chairperson Brown stated that the Commission was organizing a presentation and panel discussion on Alternative 911 Emergency Response for jurisdictions seeking to improve outcomes for residents by diverting 911 calls to unarmed trained professionals equipped to offer service connections such as mental health and substance abuse crisis support.

**At 12:41 p.m. Report by the Commission's Chairperson [State of the Commission; Work of the Commission's Review Committees]**

During the Commission's December 10, 2021 Regular Meeting, Chairperson Brown reported that the Commission adopted 18 recommendations and/or sub-recommendations for criminal justice reforms designed to promote core principals of transparency, fairness, and accountability within state law enforcement agencies. In issuing these recommendations, the Commission focused on providing Covered Agencies with an evidence-based and best practice informed blueprint to address perceived deficiencies that may prove to diminish those very core principals. Based on a root cause analysis of each incident reviewed, the Commission was also able to provide recommendations to improve policy language and/or training practices that serve to reduce the initial use of force deployment or to minimize a citizen's

perception of bias during an encounter with law enforcement. Chairperson Brown added that the goal of these recommendations was to prevent similar incidents from occurring in the future and provide Covered Agencies with a path for advancing policing reforms.

However, Chairperson Brown noted that reform cannot occur without the participation and cooperation of the Commission's Covered Agencies. To that end, Chairperson Brown stated that the Commission received the Pennsylvania State Police's (PSP) responses to recommendations adopted and ratified by the Commission on December 10<sup>th</sup>. Chairperson Brown remarked that it was his pleasure to report that PSP already implemented 10 of the 18 recommendations ratified by the Commission, including consideration of language modifications to their use of force policy regarding de-escalation, continuing their efforts to implement a body worn camera program and purchasing necessary equipment, an agreement to modify procedures concerning the receipt and investigation of bias-based policing complaints, and updating PSP's Bias-Based Policing Policy to include an emphasis on a duty for members to report bias-based policing incidents.

Additionally, Chairperson Brown reported that PSP also agreed to review, evaluate, or improve policies based on five other recommendations offered by the Commission. Furthermore, Chairperson Brown remarked that the Commission recognized two others of these recommendations may require legislative action to further support implementation, including: (1) amending Title 18, Section 508 regarding use of force; and (2) requiring independent criminal investigation and prosecution of police use of force incidents. While the Commission recognized that law enforcement cannot implement these latter reforms independently, Chairperson Brown noted that the Commission encouraged its Covered Agencies and legislative partners to support these recommendations and assist law enforcement to correct the deficiencies identified through appropriate legislative action.

In total, Chairperson Brown stated that PSP agreed to take corrective action and or sufficiently explained why the Covered Agency could not act immediately or required further evaluation on all 18 of the Commission's recommendations as required [by Executive Order 2020-04, as amended]. Chairperson Brown added that the corrective measures PSP agreed to take in its responses to the Commission were a testament to PSP's leadership and demonstrated the agency's level of commitment to not only this process but also how thoughtfully PSP considered the recommendations of Commission members. On behalf of the Commission and its citizen members, Chairperson Brown thanked PSP.

Chairperson Brown closed his remarks by stating the Commission established that: (1) law enforcement reforms can support both Pennsylvania's law enforcement officers and the citizens they serve simultaneously; (2) its work can be a tool to identify systemic deficiencies, and provide a path for corrective actions that reduces the risk of harm to citizens during encounters with law enforcement; (3) citizens can be active participants in shaping how they are policed; and (4) there is value in the work of the Pennsylvania State Law Enforcement Citizen Advisory Commission.

Chairperson Brown thanked all volunteer citizen members of the Commission, the Commission's support and [Office of State Inspector General] staff, and citizens who have supported the Commission, for their work now and into the future.

**At 12:45 p.m. Report by the Commission’s Vice Chairperson (Elizabeth Pittinger) [State of the Commission and work of the Commission’s Rules Sub-committee]**

Chairperson Brown introduced and relinquished the floor to Vice-Chairperson Pittinger. Vice-Chairperson Pittinger wished to take a moment to reflect on the role of the Commission, especially considering recent reports concerning Commission meetings, reports, and controversial actions by Covered Agencies’ personnel.

Vice-Chairperson Pittinger remarked that the Commission was established to improve policing practices within law enforcement agencies under the Governor’s jurisdiction and is focused on promoting transparency, fairness, and accountability within the Commonwealth’s state law enforcement agencies. The Commission’s Review Committees randomly select incidents to examine, interview personnel of Covered Agencies, and review policies, practices, and procedures to determine if (after a citizen police encounter), an internal investigation by the Covered Agency was completed in a fair, prompt, and impartial manner and to evaluate whether the outcome was reasonable and consistent with best practices. Where there are deficiencies in policy, training, or accountability, Vice-Chairperson Pittinger stated that the Commission then identifies and submits recommendations to remedy those deficiencies. Vice-Chairperson Pittinger noted that the Commission was not established to identify unknown facts of any certain incident or to investigate facts that may be disputed or of a controversial nature.

Vice-Chairperson Pittinger also remarked that traditions, practices, and accommodations often substitute for consistent protocols and diminish public trust leading to systemic instability and failings, resulting in inequity. The Commission endeavors to confirm, restore or develop confidence and trust in law enforcement upon which public order and the safety of civilians and officers rest. Vice-Chairperson Pittinger stated citizen members understood criticism related to the public disclosure of [non-confidential] information contained in final reports adopted by the Commission. However, Vice-Chairperson Pittinger added that this context was important for understanding this one aspect of the Commission’s work, but which is a secondary one at that. The substance of the Commission’s work was reflected in the findings and recommendations offered to Covered Agencies following an examination of the agencies’ internal management of an incident. Vice-Chairperson Pittinger noted that, to distract from the nature of the Commission’s work and generate or renew controversy over a specific incident, only served to undermine, not promote, the purpose of the Commission. Conversely, Vice-Chairperson Pittinger stated that scant incident descriptions risk further community alienation and skepticism of the Commission’s credibility, the antithesis of its purpose. Again, Vice-Chairperson Pittinger stressed that the Commission recognized the public’s interest in the facts underlying the Commission’s findings and recommendations and appreciated the diligence of reporters seeking to illuminate the frustration of the public’s expectation of the Commission. Vice-Chairperson Pittinger concluded her general remarks by noting it was a dilemma that the Commission will undoubtedly discuss over the coming months.

**At 12:49 p.m. Presentation, Consideration, Discussion, Deliberation, Action(s) and Public Comment Concerning Proposed Amendments to Various Sections of the Commission’s Bylaws and Such Other Proposed Administrative Practices and Procedures Recommended by the Commission’s Rules Sub-committee**

Vice-Chairperson Pittinger began by noting that the Commission’s Rules Sub-committee was duly organized by this Commission at its December 10, 2021, Regular (Quarterly) Meeting. Vice-Chairperson Pittinger reported that the Commission’s Rules Sub-committee convened a Special Meeting on February 1, 2022 to consider further amendments to the Commission’s Bylaws to facilitate various administrative procedures and strengthen the guidance provided therein. Specifically, Vice-Chairperson Pittinger reported that the Commission’s Rules Sub-committee discussed, deliberated, and approved (by recorded vote) the following proposed amendments to the Commission’s Bylaws for further consideration by the Commission, including:

1. **Article 6, Section 6.4 (Meeting Recordings)** to read “All Commission, Sub-Committee, and Review Committee (as duly authorized and prescribed by Article 8, Section 2) meetings will be recorded and links to these recordings will be posted on the Commission’s public webpage;”
2. **Article 8, Section 8.2 (Commission Sub-committees and Review Committees)** adding language prescribing that Review Committees select at least one but no more than two new completed internal investigative findings for review by the applicable committee per quarterly review cycle;
3. **Article 8, Section 8.2 (Commission Sub-committees and Review Committees)** adding a sentence “Prior to the date of a scheduled oral presentation meeting, the Covered Agency shall provide at least three (3) days in advance, all presentation materials to the Commission Chairperson for distribution to applicable Review Committee members;” and
4. Administrative clarifications including (a) designation of the Commission’s Chairperson as the official representative of the Commission in external matters involving Commission business; and (b) establish protocols for community and media engagements related to official Commission business.

Vice-Chairperson Pittinger stated further that the Commission’s Rules Sub-committee will convene to consider other matters for consideration by the Commission at its next Regular (Quarterly) Meeting scheduled for May 13, 2022. Vice-Chairperson Pittinger invited Commissioners to submit any matters of interest for consideration by the Commission’s Rules Sub-committee. Vice-Chairperson Pittinger thanked Commissioners Coolidge, Lappas and Ashe for their time, interest, and participation in the Commission’s Rules Sub-committee, extended their collective gratitude to the Commission’s supporting professionals, and relinquished the floor back to Chairperson Brown.

Chairperson Brown summarized the three proposed amendments to the Commission’s Bylaws and other proposed administrative protocols for the Commission’s further consideration to include the following:

- i. Under **Section 4.2 (Duties of Commission Officers)** amending the responsibilities and duties of the Commission’s Chairperson to include representing, and acting on behalf of, the Commission in external matters involving Commission business.
- ii. Under **Section 6.4 (Meeting Recordings)** amending language requiring all Commission, Sub-Committee, and Review Committee meetings to be recorded and links to these recordings to be posted on the Commission’s public webpage.
- iii. Under **Section 8.2 (Commission Sub-committees and Review Committees)**, adding and

or amending language to:

1. Require that no voting member shall offer or submit any public statement or comment to members of the media concerning any Commission matter under consideration including but not limited to proposed actions, preliminary findings and conclusions, and related recommendation(s) not yet voted on, adopted, and ratified by the full Commission without the express written consent of the Commission's Chairperson.
2. Require that all voting members shall submit for pre-approval to the Commission's Chairperson all requests for participation (in their official capacity as Commission members) in any event.
3. Require, with the approval of the Commission's Chairperson, the Commission's Review Committees will select at least one, but no more than two, new completed internal investigative findings for review by the applicable Review Committee per quarterly review cycle.
4. Require, prior to the date of the scheduled oral presentation meeting, the Covered Agency shall provide, at least three (3) days in advance, all presentation materials to the Commission's Chairperson for distribution to applicable Review Committee members.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown opened the floor to discussion and deliberation by all Commissioners, and recognized Commissioner Sonenshein. Commissioner Sonenshein supported all proposed amendments and additional protocols, recognized the thankless work of the Commission's Rules Sub-committee, and appreciated the efforts of its members.

Chairperson Brown offered a proposed modification to [numbered (iii)(4) listed above] to require action by the Commission's Chairperson instead of the Covered Agency to instead read "[p]rior to the date of the scheduled oral presentation meeting, the Commission's Chairperson shall request from the Covered Agency, at least three (3) days in advance, copies of all presentation materials for distribution to applicable Review Committee members." Chairperson Brown requested that the Rules Sub-committee Chairperson make a motion to request this change so that the onus was placed on the Commission's Chairperson and relinquished the floor to and recognized Vice-Chairperson Pittinger (Rules Sub-committee Chairperson).

Vice-Chairperson Pittinger asked for a motion to modify the proposed language as stated above and the motion was seconded with no noted objections.

With no other comments offered, Chairperson Brown requested a motion to adopt and ratify Resolution No. 1 concerning proposed amendments to various sections of the Commission's Bylaws and such other proposed administrative practices and procedures recommended by the Commission's Rules Sub-committee as modified. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance. Chairperson Brown then read a copy of **Resolution No. 1** into the record [*see ATTACHMENT 3*].

**At 12:56 p.m. Brief Remarks by Chairpersons of the Commission's Three Review Committees (Critical Incident, Use of Force and Bias-Based Policing)**

Chairperson Brown introduced Chairpersons of the Commission's three Review Committees including: (1) *Kelley B. Hodge, Esquire, Chairperson, Critical Incident Review Committee (and on behalf of members Dr. Spero Lappas, Charima Young, Bishop Curtis Jones, Sr., and Andrea Lawful Sanders)*; (2) *David A. Sonenshein, Esquire, Chairperson, Use of Force Review Committee (and on behalf of members Joshua Maines, Esq., Rev. Shawn M. Walker, and Vice-Chairperson Elizabeth Pittinger)*; and (3) *Marvin Boyer, Chairperson, Bias-Based Policing Review Committee (and on behalf of members Denise Ashe, Marisa Williams, Brenda Tate, Keir Bradford-Grey, Esq., and Dr. A. Suresh Canagarajah)*, and relinquished the floor to Critical Incident Review Committee Chairperson Hodge.

[Because of a prior commitment at 2:00 p.m., Chairperson Hodge instead proceeded to offer remarks concerning the committee's review of **Internal Case No. 21-0012-P**].

Chairperson Hodge wished to offer context concerning the committee's review of the incident involving, and related internal investigation completed by, the Pennsylvania State Police (PSP). First, Chairperson Hodge stated that the incident involved a non-fatal police-involved shooting on February 19, 2019 while PSP members were executing an arrest warrant at 2:00 a.m. for a suspect charged with theft. After multiple PSP members arrived on scene and located the suspect's vehicle, a Trooper breached the window of the suspect's vehicle to apprehend the suspect. However, the suspect accelerated his vehicle to escape, and a different Trooper fell to the ground. Troopers on scene then began to discharge their weapons in the direction of the suspect's vehicle and the suspect was shot, which caused the suspect's vehicle to crash shortly thereafter. Unknown to Troopers on scene, Chairperson Hodge added that a female passenger was located hiding in the back seat but was not injured.

Chairperson Hodge remarked that the committee took a great deal of time to complete its review of this matter [which began last review cycle] and determined that the completed internal investigation by PSP was considered prompt, fair, impartial, and complete and that the reasonableness of disciplinary action was not applicable because no discipline was issued. However, Chairperson Hodge stated that the lack of sufficient documentation led the committee to determine that PSP's adjudicatory findings were unreasonable, and that the committee identified deficiencies within PSP's policies regarding the discharge of weapons at or from a moving vehicle and post-incident interview procedures.

When researching and discussing general best practice guidance, Chairperson Hodge stated that the committee questioned PSP's policies concerning appropriate safeguards for bystanders and innocent civilians. With respect to guidance offered by the United States Department of Justice and others regarding post-incident interview procedures, Chairperson Hodge reported that 48-72 hours was considered an appropriate waiting period to allow for decompression before an interview. Here, Chairperson Hodge remarked that the interview of one involved Trooper was delayed for six days, and the committee was generally concerned about undue influence, viewing of video evidence and the possible tainting of witness statements. Concerning arrest warrant procedures, Chairperson Hodge remarked that the suspect was accused of a non-felonious offense (i.e., not armed nor presented a danger to public safety) and the committee believed it was important that certain pre-planning and operational steps be required



when executing nighttime arrest warrants including an assessment of the threat posed by an individual, urgent need of apprehension and elevated risks of potential injury.

Chairperson Hodge thanked members of her committee for their work and recognized the cooperation and efforts of PSP during the committee's review and relinquished the floor back to Chairperson Brown.

**At 1:09 p.m. Presentation, Consideration, Discussion, Deliberation, Action(s) and Public Comment Concerning Preliminary Investigative Review Report for Internal Case No. 21-0012-P (a non-fatal use of deadly force incident involving the Pennsylvania State Police (PSP) occurring on February 19, 2019)**

Chairperson Brown read portions of the Critical Incident Review Committee's Preliminary Investigative Report for **Internal Case No. 21-0012-P** into the record as follows:

Pursuant to Executive Order 2020-04, as amended, the Review Committee completed a comprehensive review of PSP's completed internal investigation of **Internal Case No. 21-0012-P** in accordance with Article 8 (Review Process) of the Commission's Bylaws and determined the following:

The Review Committee found that PSP's completed internal investigation was prompt, fair, impartial, and complete, which was corroborated by examining PSP's investigative and adjudication reports, relevant interviews, and information provided by PSP during its Oral Presentation. Regarding promptness, fairness, impartiality, and completeness, the Review Committee also found that PSP's completed internal investigation was consistent with guidelines established by the US DOJ's published standards and guidelines concerning internal affairs investigations, departmental policy, and the relevant collective bargaining agreement. Additionally, the Review Committee confirmed PSP's completed internal investigation and subsequent adjudication did not result in documented disciplinary action, so this determination was not applicable to this review.

Regarding its determination of whether the adjudicator's findings were reasonable under standard law enforcement protocols, the Review Committee determined that the findings were not reasonable based on the following:

During its review, the Review Committee sought to determine if the adjudicator's decision was reasonably based on the totality of the circumstances. The Review Committee requested and reviewed PSP's Policy No. FR 9-1 (Use of Force), Section 1.06 (Deadly Force-Special Considerations, Restrictions and Warnings), Subsection (D) (Shooting at or From Moving Motor Vehicles or Machinery). Upon review, the Review Committee notes that this policy generally prohibits Troopers from discharging firearms at, or from, a moving vehicle except under specific circumstances, and after certain factors are considered. Specifically, Section 1.06(D)(1)(a) of PSP's Use of Force policy states, in part, that Troopers may discharge a firearm at a moving vehicle "as a last resort measure when the actor, by using the vehicle, machinery, or other means, poses an **imminent** danger of death or serious bodily injury to the member or enforcement officer, another law enforcement officer, or another person." [emphasis added]

In this incident, three Troopers discharged their firearms at a vehicle and its occupants when the subject attempted to flee from Troopers as they attempted to serve an arrest warrant. Summarily, PSP's adjudicator determined that the Troopers were justified in their actions because: (1) Troopers were in uniform and marked patrol units which should have compelled the subject to exit the vehicle and submit to arrest; (2) the subject chose to start the vehicle and drive in the direction of a Trooper on foot; (3) the

Trooper on foot was objectively in danger of being struck by the vehicle; and (4) Troopers who opened fire clearly perceived the threat to the Trooper on foot.

When applying the limited exceptions contained in PSP's policy, the Review Committee found that the adjudicator's determination is generally consistent with one of the circumstances under which Troopers are permitted to discharge a firearm at a moving vehicle (i.e., moving vehicle posed "threat" to Trooper on foot who fell to ground). PSP's records indicate that the involved Troopers (when interviewed) stated they fired to "stop the threat" posed by the vehicle being driven in the direction of the Trooper on foot. However, the Review Committee notes that (when reviewing the Mobile Video Recording of the incident) it is not clear that the Trooper on foot was still on the ground, and therefore was in "imminent" danger of being struck by the vehicle when Troopers began to discharge their firearms. Additionally, while the incident unfolded in mere seconds, the Review Committee also notes that if the Trooper was still on the ground and in "imminent" danger of being struck as required, the Trooper was also possibly in the line of gunfire. The Review Committee notes further that the adjudicator's report did not include an analysis of the reasonableness of continuing to fire at the subject's vehicle after it already passed the Trooper who fell and therefore no longer presented an "imminent" threat to his or her safety.

The Review Committee observes that even when a limited exception to PSP's general prohibition exists, PSP's policy also requires that such an exception must be considered in conjunction with certain factors to determine whether the discharge of a firearm at a moving vehicle is permissible. These factors include: (a) the difficulty of hitting a moving target and/or of hitting a target while shooting from a moving vehicle; (b) ricocheting bullets striking unintended targets; (c) population density; and (d) the inability to stop a vehicle's momentum even after the driver is hit, and the damage or injury which might result from causing a vehicle or machinery to lose control. Although required by PSP's policy that these factors be considered, the Review Committee found that PSP's adjudicator did not include written documentation that these factors were properly considered by all Troopers who discharged their firearms.

Considering the above, and based on the information provided, the Review Committee found that PSP's adjudicator did not document consideration of all relevant factors as discussed above (e.g., ricocheting bullets striking unintended targets) as required by PSP policy, and thus, considered the adjudicator's findings were not reasonable.

Regarding its determination of whether any policy or training deficiency exists, PSP provided the Review Committee with documentation to form a sufficient understanding of the underlying facts concerning the incident currently under review and to identify any potential policy or training deficiencies, as required. Based its review of all relevant PSP policies and best practice guidelines, the Review Committee found the following:

**Finding No. 1 – Use of Force Policy Enhancement (Discharge of Firearm at or from Moving Vehicle)**

During its review, the Review Committee found that PSP's adjudicatory findings were not reasonable, in part, because the adjudicator did not seek to document that Troopers properly considered the possibility of ricocheting bullets striking unintended targets (including, innocent bystanders), and their inability to stop a vehicle's momentum, which may result from striking its driver causing a vehicle to lose control when each Trooper discharged their firearm.

The Review Committee notes that PSP's records show the driver was hit with gunfire, and the vehicle lost control striking a tree. Additionally, the Review Committee also notes that, after Troopers discharged their weapons striking both the vehicle and its driver, Troopers found the vehicle also contained a female occupant (an innocent bystander). As previously noted above, PSP's policy requires that Troopers are "cognizant" of innocent bystanders that may be present in or near the line of fire before discharging their firearm at a moving vehicle. Although Troopers were not initially aware of the female occupant's presence

inside the vehicle, the Review Committee also notes that it is also not clear how an adjudicator can *quantify* and *confirm* steps Troopers take to be “cognizant” of a bystander’s presence. Furthermore, when discharging their weapons, the Trooper (who was in the path of the vehicle) was also in the path of gunfire, and any possible ricocheting bullets exposed him or her to possible unintended injury or death.

Upon review of law enforcement industry best practices, the Review Committee found that PSP’s policy is generally consistent with guidance concerning recommendations to prohibit the practice of discharging a firearm at, or from, a moving vehicle. However, the Review Committee notes that PSP’s policy does not, in fact, explicitly prohibit this type of force because it includes qualifiers (like requirements for Troopers to consider and be cognizant of certain factors), which are generally not quantifiable or enforceable (particularly when the policy also lacks guidance on how an adjudicator can properly document and/or determine that a Trooper actually considered and was cognizant of such factors before discharging his or her weapon at, or from, a moving vehicle).

Contrary to PSP’s current policy, for example, the Police Executive Research Forum (PERF)<sup>1</sup> recommends among its guiding principles (Principle 8) for use of force that, “[s]hooting at vehicles must be prohibited.” Furthermore, PERF recommends, “agencies should adopt a prohibition against shooting at or from a moving vehicle unless someone in the vehicle is using or threatening deadly force by means other than the vehicle itself.” In support of its guidance, PERF identified numerous law enforcement agencies that adopted this recommended prohibition including, the New York City Police Department (enacted in 1972), Boston Police Department, Chicago Police Department, Cincinnati Police Department, Denver Police Department, Philadelphia Police Department, and Washington, D.C. Metropolitan Police Department.

Similarly, the International Association of Chiefs of Police<sup>2</sup> published its recommendation in the “*National Consensus Policy Discussion Paper on Use of Force*” (Revised July 2020)), which provides that a firearm shall not be discharged at a moving vehicle unless:

- 1) a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
- 2) the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical) which includes moving out of the path of the vehicle.

In this case, the Review Committee notes that the Troopers’ discharge of their firearms did not stop the vehicle’s momentum, even after the driver was struck by gunfire, but did contribute to the vehicle losing control (i.e., crashing into a tree) and causing additional injury to the driver. Likewise, although the Troopers were unaware of his or her presence, the rapid gunfire did expose an innocent bystander (i.e., unknown female occupant) and a Trooper (who fell to ground) to unintentional risk of injury or death. Furthermore, PSP records indicate that it was the vehicle itself that posed a threat and there is no other mention of the subject’s actual or threatened use of deadly or any other force when attempting to flee. Combined with an inability to quantify or qualify PSP’s factors, the Review Committee found these facts further strengthen support for PSP to unequivocally prohibit the discharge of a firearm at, or from, moving vehicles as recommend by nationally recognized best practices.

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<sup>1</sup> According to its website, PERF (founded in 1976 as a nonprofit organization) “is a police research and policy organization and a provider of management services, technical assistance, and executive-level education to support law enforcement agencies. PERF helps to improve the delivery of police services through the exercise of strong national leadership; public debate of police and criminal justice issues; and research and policy development.” For more information, please use the following link: <https://www.policeforum.org>.

<sup>2</sup> The International Association of Chiefs of Police is considered among “the world’s largest and most influential professional association for police leaders” with more than 31,000 members in over 165 countries and a recognized leader in global policing and advancing safer communities through thoughtful, progressive police leadership. For more information about this organization, kindly use the following link: <https://theiacp.org>.

Chairperson Brown then proceeded to read **Recommendation No. 1** of the Critical Incident Review Committee concerning **Internal Case No. 21-0012-P** into the record as follows:

**Recommendation No. 1 – Use of Force Policy Enhancement (Discharge of Firearm at or from Moving Vehicle)**

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Critical Incident Review Committee recommends that the Pennsylvania State Police adopt best practices policy language offered by the International Association of Chiefs of Police which mandates firearms shall not be discharged at, or from, a moving vehicle unless:

- a) a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle itself; or
- b) the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle; **and**

[also adopt supplemental policy language regarding innocent bystanders inserted herein to read:]

- c) take all reasonable steps to avoid inadvertent injury to innocent bystanders.

At this time, Chairperson Brown welcomed Guest Speaker – David Harris, Sally Ann Semenko Endowed Chair and Law Professor at the University of Pittsburgh School of Law, who studies, and authors published works on topics including search and seizure, police conduct, and police accountability. Chairperson Brown recognized and relinquished the floor to Professor Harris.

Professor Harris first congratulated members of the Critical Incident Review Committee and Commission for their excellent work. Professor Harris noted that the recommendation offered by the committee represented the very least Pennsylvania can do and that it was well past due. Professor Harris also stated that allowing officers to shoot at a moving vehicle was simply the wrong thing to do [from a policy perspective] unless circumstances make it absolutely necessary because of the many known and elevated risks, i.e., innocent bystanders, police officers and vehicle occupants can be killed or seriously injured. Professor Harris recognized that the recommendation also represented best practice guidance offered by both PERF and the International Association of Chiefs of Police and hoped that PSP will take action to implement.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown opened the floor to discussion and deliberation by all Commissioners, and no Commissioner wished to offer comment.

With no other comments offered, Chairperson Brown requested a motion to adopt and ratify Recommendation No. 1 concerning the use of force policy enhancement regarding the discharge of a firearm at or from a moving vehicle and relinquished the floor to Chairperson Hodge. Chairperson Hodge offered a motion to adopt and ratify Recommendation No. 1 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

Chairperson Brown then proceeded to read **Finding No. 2 and Recommendation No. 2** of the Critical Incident Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0012-P** into the record as follows:

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

During its review, the Review Committee expressed general concerns regarding PSP's various internal policies designed to ensure proper recovery from, and accurate Trooper recall of, use of force incidents along with the importance of maintaining the integrity of post-incident interviews, i.e., ensuring they are free from collusion, influence, or corruption from internal or external sources. To address these concerns, the Review Committee researched best practices promulgated by the Force Science Institute, the US DOJ, and the Pennsylvania District Attorneys Association (PDAA) regarding the necessity of post-incident psychological services for officers, optimizing post-incident memory recall, and post-incident interview protocols.

For example, the Review Committee identified a report by the Force Science Institute<sup>3</sup> titled, "*Reasons for Delaying Interviews with Officer Involved Shooting (OIS) Survivors*" (published May 3, 2014). The report's authors focused on key factors that affect memory difference and/or recall including adrenaline, sleep, and emotional decompression. Regarding the delay of post-incident interviews of law enforcement personnel involved in OIS incidents, the report states, "the overall benefit of waiting while he or she rests and emotionally decompresses far outweighs any potential loss of memory. A day or two between the event and the interview will have no significant effect on reducing recall. In fact, the opposite is true. Delay enhances an officer's ability to more accurately and completely respond to questions."

Similarly, the US DOJ report titled, "*Officer Involved Shootings Guide for Law Enforcement*" published in collaboration with the International Association of Chiefs of Police (2016) recommends, "delaying personnel interviews from **48 to 72** hours to provide the officer with sufficient recovery time to help enhance recall. This interval is particularly recommended for officers who were directly involved in the shooting, but it may also be necessary for officers who witnessed the incident but did not discharge their firearms." Likewise, a report published by the PDAA<sup>4</sup> titled, "*Officer Involved Shooting Investigations – Best Practices*" (2016) states, in part, "the initial interview of any officer who discharged his or her weapon during the officer-involved shooting and any officer who witnessed the shooting shall take place as soon as reasonably possible, taking into consideration potential issues of shock and trauma to the officer, as well as any applicable procedures established in a governing collective bargaining agreement." Concerning further post-incident interview protocols, the Review Committee also notes that PDAA's best practices document states, in part, that "[u]nder normal circumstances, there will be an initial general interview for purposes of public safety and orientation of the scene. There will [also] be a later, more detailed interview after the officers have had an opportunity to decompress and the evidence at the scene has been reviewed. The timing of the interviews will depend on the circumstances of the shooting."

Applying these best practices to this review, the Review Committee found that PSP maintains a Member Assistance Program (MAP) which provides confidential assistance to law enforcement personnel and their immediate family members who experience personal, emotional, psychological, and/or related medical or health problems (including treatment for warning signs and the effects of critical incident stress and post-traumatic stress disorder). The Review Committee notes that PSP incorporated MAP into its policy regarding

<sup>3</sup> The stated mission of the Force Science Institute is "dedicated to promoting the value of knowledge through empirical research in behavioral science and human dynamics. We develop and disseminate high-quality scientifically grounded education, training, and consultation to support fact-based investigations, inform decision processes, enhance public safety, and improve peace officer performance in critical situations." (see <https://forcescience.com>).

<sup>4</sup> See <https://www.pdaa.org> ("the mission of the [PDAA] is to: [(1)] assist the membership in the pursuit of justice and in all matters relating to the execution of their duties[;] [(2)] advocate the position of the Association to the government and citizens of Pennsylvania; [(3)] coordinate with other agencies on matters of mutual concern[;] and [(4)] communicate the Association's position to its membership and the public on criminal justice matters.").

officer-involved shootings (i.e., PSP Policy No. FR 1-5 (Officer Involved Shootings and Serious Police Incidents)) ensuring Troopers have access to appropriate critical incident stress management and post-traumatic support and treatment, as needed. Additionally, PSP policy prohibits criminal and administrative post-incident interviews of an involved member during the first 72 hours following a critical incident unless circumstances warrant and as authorized by the Deputy Commissioner of Administration and Professional Responsibility; or at the discretion of the involved member. Consistent with PSP's Officer Involved Shootings and Serious Police Incidents policy, this waiting period allows time for a Trooper to: (1) meet with MAP representatives and participate in procedures as outlined in PSP's Policy No. AR 4-28 (Critical Incident Stress Management); (2) meet with counsel, as applicable; and (3) perform other required administrative tasks related to the incident. Accordingly, the Review Committee found that PSP's MAP and related post-incident waiting period prior to criminal and administrative interviews aligns, and is consistent, with national and state best practices.

However, PSP's records also indicate that some initial interviews were conducted on the day of the incident (at a Trooper's discretion) while others were conducted six days later (two times the waiting period required by PSP's policy and applicable collective bargaining agreement). After the Review Committee presented its preliminary findings and conclusions to PSP in accordance with Section 8.3. of the Commission's Bylaws, PSP indicated that the timeliness of post-incident criminal and administrative investigative interviews is dependent on several factors including, for example: (1) an involved Trooper's Fifth Amendment (constitutional right against self-incrimination) and Garrity rights (statements made during administrative interviews cannot be used in criminal proceedings) and is made in collaboration with a County District Attorney (when applicable); (2) availability of legal counsel and/or union representative; and (3) other scheduling, i.e., 72-hour period ends on a weekend and interview conducted following week. While it recognizes the importance of involved members' legal rights, and the availability of parties and scheduling, the Review Committee found that PSP's relevant policies do not require that all use of force post-incident interviews be conducted as soon as practical following the conclusion of the 72-hour waiting period, unless exigent circumstances exist, and that PSP should require some time limit similar to constraints placed on completion of administrative investigations, i.e., 120 days, unless exigent circumstances are documented and waived to guard against unnecessary delays or potential abuse.

Regarding efforts to protect and maintain the integrity of post-incident interviews, the Review Committee notes that the US DOJ's publication states, "[i]t is important to obtain individual statements as opposed to group interviews." Furthermore, the Review Committee also notes that PDAA's best practices document further states, in part, "[i]f multiple officers were involved in the shooting, those officers shall avoid discussing the details of the shooting together both before and after the officers are interviewed" and "to the extent practicable, after the scene has been secured, the involved officers should be kept separate at the scene, on the ride back to the station, and at the station prior to their respective interviews." The Review Committee found that, contrary to best practices, PSP's relevant policies do not specifically bar Troopers from discussing (with each other or with other witnesses) details of use of force incidents generally, or police-involved shootings specifically, before or after post-incident interviews. This lack of a specific prohibition can potentially negatively impact the integrity of such interviews and their related investigations.

Additionally, the Review Committee engaged in significant deliberations regarding whether involved law enforcement personnel should be generally permitted to view Mobile Video Recordings (MVRs), Body Worn Camera (BWC), or other external video footage prior to his or her post-incident interview. On this issue, the Review Committee found that the US DOJ's publication (as mentioned above) is not clear or committal on this issue. However, the Review Committee found that the US DOJ's publication does include considerations both in support of, and against, permitting involved law enforcement personnel to view videotape of police-involved shooting incidents in relation to post-incident interviews as follows:

- a) viewing process enhances an officer's memory and allows the officer to better recall actions or events that took place; however, allowing an officer to view a video recording **before** making a witness statement may allow him or her to also adjust the statement to conform to the video;
- b) allowing video recordings to be available **following** a witness statement or incident report, avoids to some degree, the perception that the officer adjusted his or her statement to fit the video; and
- c) an officer who has already given a witness statement or filed an incident report can use video recordings to clarify discrepancies and to elaborate on actions taken and recorded, where necessary.

The US DOJ's publication states further that, "[t]he department should apply any legal analysis or assessment of an officer's actions under this "reasonableness" standard enunciated by the U.S. Supreme Court in *Graham v. Connor*, in which the court made it clear that judgment of the reasonableness of a particular use of force must rely on the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight."

Here, PSP's records indicate that Troopers involved in the incident were permitted to view video evidence prior to their post-incident interviews. However, the Review Committee notes that that such a practice is not required by either PSP's related policies or the relevant collective bargaining agreement. After the Review Committee presented its preliminary findings and conclusions to PSP in accordance with Section 8.3. of the Commission's Bylaws, PSP stated that the decision to allow an involved Trooper the ability to view video footage of a use of force incident before post-incident interviews is generally made on a case by case basis. For example, the ability to view video before a post-incident criminal investigative interview is generally left to the discretion of the Major Case Team Commander (made in collaboration with the County District Attorney (when applicable), or at the request of an involved member's legal counsel) while such discretion is similarly exercised by an Internal Affairs Division (IAD) supervisor with respect to post-incident administrative interviews. When asked if PSP possessed any regulation or guidance which requires consideration of any factors when exercising such discretion, PSP indicated that additional research was required. Although it recognizes the benefits of video footage in capturing law enforcement activity generally, and its value as recognized by national best practices, the Review Committee cautions that such evidence of use of force incidents should not be used as a tool that can possibly taint or influence recollection and/or recall. The Review Committee also notes that the ability to view video footage of a use of force incident is generally not afforded to other citizen witnesses or victims of a crime before a post-incident interview. Accordingly, and pending the receipt of any additional information offered by PSP for consideration by the Commission, the Review Committee found that PSP's relevant policies fail to prohibit, or at least limit, the viewing of MVRs, BWCs, or other video evidence which can improperly influence a Trooper's memory recall with information gained from perspectives other than his or her own independent recollection prior to post-incident interviews.

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

The Pennsylvania State Law Enforcement Citizen Advisory Commission's Critical Incident Review Committee 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; and

- c) ensure post-incident interviews are conducted as soon as practical following the conclusion of the 72-hour waiting period unless exigent circumstances exist.

At this time, Chairperson Brown welcomed Guest Speaker – John Hollway, Law Professor at the University of Pennsylvania School of Law, and Executive Director of the Quattrone Center for the Fair Administration of Justice, who has attended both committee and Commission meetings and supported the Commission since its inception. Chairperson Brown recognized and relinquished the floor to Professor Hollway for comment.

Concerning use of force post-incident interviews, Professor Hollway reminded attendees of the possibility of wrongful confessions and recognized that memories were far from perfect. Professor Hollway stated that there were also many things that can affect and change a person's recollection of an event. As a possible safeguard, Professor Hollway opined those best practices (which strive to achieve truthfulness) include obtaining witness statements or event narratives both before and after watching video evidence of a use of force incident. While he noted that video evidence should not be used to change the narrative of a use of force incident, Professor Hollway also recognized the value and importance of video evidence in policing, i.e., the more video the better because such evidence is informative. Concerning the timing of such post-incident interviews, Professor Hollway understood the traumatic and stressful nature of such incidents and believed it was important to balance that and be flexible on the front end.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown opened the floor to discussion and deliberation by all Commissioners and recognized Commissioner Bradford-Grey who asked a point of clarification.

Commissioner Bradford-Grey agreed with Professor Hollway concerning the importance of relying on one's own recollection without influence and asked whether the Commission will consider adding language offered earlier by the Pennsylvania District Attorneys Association (PA DAA) regarding Recommendation No. 2. Chairperson Brown replied that PA DAA asked the Commission to consider a revision to the language, i.e., viewing of video evidence prior to post-incident interview prohibited unless and until a prosecuting attorney [from the County District Attorney's Office or the Pennsylvania Attorney General's Office] approves such viewing and appropriate factors are considered [and documented] when exercising such discretion. Commissioner Bradford-Grey thanked Chairperson Brown for the clarification and believed there were practical reasons for the modification since prosecutors should be afforded an opportunity to exercise discretion when deemed necessary.

Chairperson Brown then recognized Commissioner Lappas who wished to offer comments. Commissioner Lappas remarked that these types of cases often do not necessarily begin as criminal investigations, but officers are still likely represented by legal counsel who refuse to allow their clients to make witness statements unless afforded the opportunity to view video evidence. However, Commissioner Lappas added that the primary goal of any investigation is to secure witness statements which should outweigh officer protections. Commissioner Lappas believed that the Commission should recommend a mandate against or otherwise prohibit the viewing of video evidence before securing witness statements but recognized that compromises were necessary in a practical world. Commissioner Lappas



stated further that he also could envision a scenario where a witness statement of a police officer was not critical to a criminal investigation, but that decision should be left to the County District Attorney. Commissioner Lappas added that no matter where you land on this spectrum it was important that such discretion is properly managed, cases must be individualized, guidelines were necessary to ensure the practice is not abused, i.e., viewing video evidence together and then making witness statements, and processes cannot be corrupted by mutuality of purpose. Commissioner Lappas stated that his understanding of PA DAA's modification were still aligned with those sentiments.

Chairperson Brown thanked Commissioner Lappas and asked if any other Commission wished to offer comments. With no other comments offered, Chairperson Brown requested a motion to modify the language of Recommendation No. 2(b) to read as follows:

- (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.

Chairperson Hodge offered a motion to adopt and ratify Recommendation No. 2 as modified. The motion was approved and seconded. When asked if there were any objections, Commissioner Lappas objected to the modification, requested that language regarding the determination of the completeness of an investigation be removed, and questioned whether it was the Commission's intent to involve the prosecuting attorney in this arena. Chairperson Hodge offered that there was a distinction here between, for example, a previous review where the County District Attorney was involved in the decision to deploy force and then determined whether such force was appropriate, i.e., participating in advance and then rendering a legal analysis. Here, Chairperson Hodge stated that the Commission's recommendation presupposed impartiality when conducting such an investigation and the reasonableness of the prosecuting attorney. Accordingly, Chairperson Hodge did not believe the modified recommendation contained a contradiction and properly reflected the committee's sentiments. Commissioner Lappas stated he was convinced and withdrew his objection. With no further objections noted, the motion to adopt Recommendation No. 2 (as modified) passed by unanimous consent of all Voting Members in attendance.

Chairperson Brown then proceeded to read **Finding No. 3 and Recommendation No. 3** of the Critical Incident Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0012-P** into the record as follows:

**Finding No. 3 – Arrest Warrant Service Procedures**

During its review, the Review Committee requested information concerning PSP's specific policies and procedures which address the service of arrest warrants (including, the operational planning, execution, and approval of such warrants). In response to its request, the Review Committee identified PSP Policy No. AR 7-1 (Warrant Service), Section 1.03 (Due Diligence Warrant Service Report), which requires the completion of certain documentation for all warrants received by PSP. The form requires, for example,

specific information regarding execution of an arrest warrant including: (1) relevant information about the defendant or service of the warrant; (2) remarks concerning each attempt to locate the defendant or serve the warrant; (3) any additional information pertinent to service of the warrant; and (4) a space for confirmation of supervisory approval *following* (or after-the-fact) service of the warrant.

Following its review, the Review Committee found that PSP's policy does not contain specific requirements for operational or other pre-planning for warrant execution or pre-supervisory approval prior to any attempt to serve an arrest warrant. For example, the Review Committee notes that PSP's records do not indicate that Troopers (involved with service of the arrest warrant) conducted a pre-planning meeting, under their own initiative, to serve the arrest warrant at a private residence. The Review Committee also notes that the time (at or about 2:00 a.m.) chosen by Troopers to serve the arrest warrant (for non-violent felonies, thereby negating the presence of an urgency or an imminent threat to public safety despite the subject's previous flight from apprehension) was a time of day that inherently involves potential reduced visibility conditions.

Further, the Review Committee opines that attempting service of an arrest warrant at a private residence at night increases the risk of violence and potential injury to both citizens and law enforcement personnel given the prevalence of legal and illegal gun ownership and the rights of citizens regarding the "Castle Doctrine" and "Stand Your Ground" laws. These risks are generally mitigated when law enforcement personnel arrive at a private residence in marked patrol vehicles, in uniform, during daylight hours for all to see. However, during reduced visibility conditions (i.e., at night), law enforcement personnel become subject to the perceptions of not only the individual pursued for arrest, but also individual homeowners. By way of example, a homeowner could reasonably believe a criminal threat is present on their property, thereby escalating the risk of injury or death to both citizens and law enforcement personnel based on this mistaken identity or belief. A citizen's ability to identify and/or distinguish between law enforcement personnel and potential criminal threats may be significantly influenced by the time of day and/or insufficient lighting. Under these conditions, Troopers may also have considerable difficulty being "cognizant" (as required by PSP's policy) of any innocent third parties or bystanders that may be present in, or near, the line of fire. Here, the Review Committee notes that the time of day and insufficient lighting may have contributed to the Troopers' failure and inability to properly identify the female occupant hiding in the subject's vehicle or possible presence of other innocent bystanders in a private residence (where all occupants may be generally unknown) thereby unnecessarily risking injury to such innocent third parties. After the Review Committee presented its preliminary findings and conclusions to PSP in accordance with Section 8.3. of the Commission's Bylaws, PSP indicated that: (1) it has a duty to act; (2) the subject previously evaded capture; (3) execution of nighttime arrest warrants presents an element of surprise; and (4) a subject's underlying charge(s) does not generally dictate whether service of an arrest warrant is executed during the day, or at night. However, the Review Committee notes that PSP's duty to act, previous failed attempts to apprehend a subject, and the element of surprise should not generally outweigh potential risks to public or officer safety. In addition, the Review Committee also notes that a subject's underlying criminal charge(s) should be considered and weighed when determining whether exigent circumstances exist which necessitate a need to act immediately.

Regarding the execution of *search* warrants at private residences, the Review Committee found that Pennsylvania law<sup>5</sup> prohibits a nighttime search warrant unless the accompanying affidavits show reasonable cause for such a search and "highlights the traditional doctrine that nighttime intrusion into a citizen's privacy requires greater justification than an intrusion during normal business hours." Although the law does not provide similar guidance for the service and execution of arrest warrants at private residences, the Review Committee notes that many of the same identified risk factors are present. Here,

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<sup>5</sup> See 234 Pa. Code § 203.

the Review Committee found that the time of day and poor lighting may have contributed to the rapid escalation of events resulting in the use of force. Accordingly, the Review Committee recommends that PSP (as a matter of policy) should prohibit Troopers from serving nighttime arrest warrants at private residences without (at a minimum) the documented presence of reasonable cause and pre-supervisory approval.

**Recommendation No. 3 – Arrest Warrant Service Procedures**

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Critical Incident Review Committee recommends that the Pennsylvania State Police enhance its policy to:

- a) prohibit the service of nighttime arrest warrants at private residences without reasonable cause and supervisory approval while also considering a totality of the circumstances, the nature of the crime, and the immediate need to apprehend the suspect; and
- b) require independent and documented operational, recognizance, and other pre-planning and supervisory approval **prior** to any attempt to serve a nighttime warrant at a private residence.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown opened the floor to discussion and deliberation by all Commissioners and no Commissioner offered comment.

With no further comments offered, Chairperson Brown requested a motion to adopt and ratify Recommendation No. 3 concerning arrest warrant service procedures and relinquished the floor to Chairperson Hodge. Chairperson Hodge offered a motion to adopt and ratify Recommendation No. 3 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

Chairperson Brown then proceeded to read **Finding No. 4 and Recommendation No. 4** of the Critical Incident Review Committee’s Preliminary Investigative Review Report for **Internal Case No. 21-0012-P** into the record as follows:

**Finding No. 4 – Duty to Render Aid (Tactical Medical and First Aid Kits)**

During this incident, PSP’s records show that Troopers immediately rendered medical aid by treating the subject for a gunshot wound resulting from the use of force incident. However, PSP records also indicate that Troopers’ first aid kits did not include sufficient quantities of supplies (i.e., gauze and compress dressings) to treat the wound. Notwithstanding the limited supplies, a Trooper successfully treated the citizen with supplies from a personal first aid kit. Consequently, the Review Committee sought information concerning whether or how PSP ensures medical kits contain sufficient supplies to render basic first aid (including the treatment of gunshot wounds), PSP’s specific policies regarding the inspection and maintenance of supplies maintained within such medical kits, and corresponding training of Troopers to render aid following a police-involved shooting or other uses of force. Among other records, PSP provided the Review Committee with a copy of PSP Policy No. AR 5-7 (First Aid, Emergency Medical Response, CPR, and AED Programs) which summarily guides members concerning required certifications and corresponding training. However, the Review Committee found that this policy does not include or direct what type of supplies should be in medical kits or procedures for inspection of such supplies.

The Review Committee also conducted research regarding the use of Tactical First Aid Kits or Trauma Kits. Based on this research, the Review Committee found that increasing numbers of jurisdictions outfit law enforcement personnel with these types of first aid kits. Benefits of these types of kits include:

- a) small and portable design;
- b) can be used in a “hot zone” to treat wounded officers and citizens alike until assistance arrives; and
- c) contents contain a tourniquet, Celox Rapid (a quick blood clotting agent), gauze, bandages, scissors, a nasopharyngeal tube (used to treat an obstructed airway), a chest seal (used for any kind of gunshot wound or wound to the torso), and other lifesaving supplies.

**Recommendation No. 4 – Duty to Render Aid (Tactical Medical and First Aid Kits)**

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Critical Incident Review Committee recommends that the Pennsylvania State Police consider the purchase and deployment of full tactical medical kits (along with corresponding training) to its members and/or ensure, by frequent supervisory inspection, that each member has a basic first aid kit that includes, at a minimum: personal protective equipment (i.e., gloves, mask, and eye protection); a small pocket mask; trauma scissors; tourniquets; chest decompression kit; trauma dressings; hemostatic dressings; open chest seal; roller gauze; compression bandages; and heavy duty tape.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown then opened the floor to discussion and deliberation by all Commissioners and no Commissioner offered comment.

With no further comments offered, Chairperson Brown requested a motion to adopt and ratify Recommendation No. 4 concerning a duty to render aid and relinquished the floor to Chairperson Hodge. Chairperson Hodge offered a motion to adopt and ratify Recommendation No. 4 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

Chairperson Brown then proceeded to read **Finding No. 5 and Recommendation No. 5** of the Critical Incident Review Committee’s Preliminary Investigative Review Report for **Internal Case No. 21-0012-P** into the record as follows:

**Finding No. 5 – Vehicle Extraction Tools**

During this incident, PSP’s records indicate that after visually identifying the driver as the subject of the arrest warrant, Troopers attempted to execute the warrant and take custody of the subject. As they attempted their initial apprehension, Troopers could not access the vehicle and a Trooper intentionally broke the vehicle’s window by using his or her PSP-issued firearm as a blunt instrument. After the Review Committee presented its preliminary findings and conclusions to PSP pursuant to Section 8.3 of the Commission’s Bylaws, PSP confirmed its Troopers are not trained to use their weapons (agency-issued firearm as blunt instrument) to breach a window. Instead, Troopers are trained to use their agency-issued ASP Baton (extendable metal baton which is an item on their duty belt) for this purpose. The Review Committee found that the delay in accessing the vehicle occupant allowed the subject to start the vehicle and attempt to flee the scene, which was a contributing factor in the resulting use of force. A vehicle extraction tool could have prevented this delay and reduced the inherent danger associated with using other objects (i.e., unintentional discharge of firearm) not intended for vehicle extraction.

**Recommendation No. 5 – Vehicle Extraction Tools**

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Critical Incident Review Committee recommends that the Pennsylvania State Police consider the purchase and deployment of vehicle extraction tools for members that include a window punch and seatbelt cutting options.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown then opened the floor to discussion and deliberation by all Commissioners and no Commissioner offered comment.

With no further comments offered, Chairperson Brown requested a motion to adopt and ratify Recommendation No. 5 concerning the proper use and procurement of vehicle extraction tools and relinquished the floor to Chairperson Hodge. Chairperson Hodge offered a motion to adopt and ratify Recommendation No. 5 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

At this time, Chairperson Brown asked if any Ex-Officio member wished to offer comment, and none were offered.

With no other comment, discussion, or deliberation, Chairperson Brown requested that Chairperson Hodge offer a motion to adopt and ratify **Resolution No. 2 concerning the adoption and ratification of Findings, Conclusions and Recommendations contained in Preliminary Investigative Review Report for Internal Case No. 21-0012-P presented by the Critical Incident Review Committee and further authorize the issuance of a Final Report by the Pennsylvania State Law Enforcement Citizen Advisory Commission.** The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance. Chairperson Brown then read a copy of **Resolution No. 2** into the record [*see ATTACHMENT 4*].

**At 1:55 p.m. Brief Recess**

[Chairperson Hodge left the meeting for a prior engagement. Commissioner Lawful-Sanders also left the meeting.]

**At 2:05 p.m. Public Session Resumed**

**At 2:05 p.m. Presentation, Consideration, Discussion, Deliberation, Action(s) and Public Comment Concerning Preliminary Investigative Review Report for Internal Case No. 21-0002-P (Lower-Level Use of Force (Compliance Strikes/Physical Restraints) involving the Pennsylvania State Police related to an incident that occurred on January 16, 2019)**

Chairperson Brown proceeded to the next item for business which involved presentation of the Preliminary Investigative Review Report for **Internal Case No. 21-0002-P** by the Use of Force Review Committee concerning its review of a low-level use of force incident that occurred by January 16, 2019 involving PSP. The Use of Force Review Committee is chaired by Professor David Sonenshein and includes Commissioner Joshua Maines and Vice-Chairperson Pittinger.

Chairperson Brown read portions of the Use of Force Review Committee's Preliminary Investigative Report for **Internal Case No. 21-0002-P** into the record as follows:

Pursuant to Executive Order 2020-04, as amended, the Review Committee completed a comprehensive review of **Internal Case No. 21-0002-P** in accordance with Article 8 (Review Process) of the Commission's

Bylaws, and determined the following:

The Review Committee found that PSP's completed internal investigation was prompt, fair, impartial, and complete which was corroborated by examining PSP's investigative and adjudication reports, relevant interviews, and information provided by PSP during its Oral Presentation. Regarding promptness, fairness, impartiality, and completeness, the Review Committee also found that PSP's completed internal investigation was consistent with departmental policy, the relevant collective bargaining agreement, and guidelines established by the United States Department of Justice's (US DOJ) published standards and principles concerning internal affairs investigations. Additionally, the Review Committee confirmed the internal investigation and subsequent adjudication did not result in documented disciplinary action which rendered this determination inapplicable to this review.

However, regarding its determination of whether PSP's internal adjudicatory findings were reasonable under standard law enforcement protocol, the Review Committee found that the adjudicator's findings were lacking by failing to address the conduct of all Troopers given the totality of circumstances and thus not reasonable based on the following:

First, the Review Committee confirmed that two Troopers involved in this incident (specifically the Troopers who restrained the citizen in the rear of the patrol vehicle) were required to attend remedial training in "Arrest and Control Techniques." The Review Committee notes that remedial training is a valid option when addressing apparent policy violations in lieu of progressive discipline.

During its assessment of the potential root cause(s) of this use of force incident, however, the Review Committee identified other apparent violations of PSP policy (including, PSP Policy No. AR 4-6 (Rules of Conduct for Employees) and PSP Policy No. FR 1-1 (General Requirements) which require Troopers to:

1. Always conduct themselves to reflect most favorably on both PSP and the Commonwealth (*see e.g.*, Section 603.A (Department));
2. Refrain from using indecent or profane language or gestures (*see e.g.*, Section 604.B.1.1. (Conduct));
3. Exercise the utmost patience and discretion and not engage in argumentative discussions, even in the face of extreme provocation (*see e.g.*, Section 605.G.1.1. (Conduct and Demeanor)); and
4. Not conduct themselves in a manner which is unbecoming to a police officer which is defined as conduct that could reasonably be expected to destroy public respect for PSP (*see e.g.*, Section 1.02 (Unbecoming Conduct)).

Immediately preceding the use of force incident between the citizen and the first Trooper, the Review Committee specifically notes a verbal exchange that possibly escalated the encounter. As noted in the adjudicator's report, a Trooper raised his voice slightly and stated, "[a]right just shut your fucking mouth," in response to the citizen's racial slurs and foul language toward Troopers. Following the Trooper's verbal escalation, the citizen replied ("fuck you,") and rose from the bench in an aggressive stance. The Trooper further escalated the encounter by continuing to engage the citizen in an argumentative fashion and stating, "[s]hut your fucking mouth, I will put you through a wall." After the verbal escalation, and although the citizen's movements were restricted (handcuffs and legs were secured to the floor with leg irons), the Trooper physically grabbed the citizen by both shoulders and forced him back down to the bench and backwards into the wall.

The Review Committee also notes that PSP Policy No. AR 4-25 (Internal Affairs) requires adjudicators to address any apparent policy violations while reviewing a use of force incident. Specifically, the policy (i.e., Adjudication of Internal Affairs Investigations Adjudicating Officer's Responsibilities) states, the adjudicator will: (1) "[a]ddress other performance issues uncovered through [an] investigation, in separate Department Correspondence by counseling and/or training which should be made part of the supervisory file;" and (2)

“[i]nstitute a Blue Team entry when a separate and distinct allegation of misconduct is discovered during the adjudication review.” The Review Committee requested additional information and confirmed with PSP that the adjudicator did not address any other performance issues (including the apparent violation of PSP’s rules pertaining to employee conduct). While the Review Committee found the citizen’s conduct was abhorrent (i.e., use of racial slurs, inflammatory language, spitting on floor, kicking, biting, etc.), such conduct should not excuse or dismiss any potential collateral misconduct by members. Accordingly, the Review Committee determined, in part, that the verbal confrontation (inclusive of the apparent policy violation that immediately preceded the citizen’s conduct) was a potential root cause(s) for the use of force which followed. Based on that assessment, the Review Committee determined that by failing to consider and/or address the apparent policy violation as required, the adjudicator’s findings were not reasonable.

Chairperson Brown then proceeded to read **Finding No. 1 and Recommendation No. 1** of the Use of Force Review Committee’s Preliminary Investigative Review Report for **Internal Case No. 21-0002-P** into the record as follows:

**Finding No. 1 – Mental Health and Substance Abuse Crisis Response by Law Enforcement**

After responding to the service call and encountering the citizen, Troopers described the citizen’s condition as “manifestly under the influence of alcohol.” Throughout the encounter, the Review Committee notes that the citizen continued to exhibit possible characteristics of a substance related addictive disorder, or other mental health concern. Though Troopers rightfully determined the citizen had an active arrest warrant and took custody of the citizen in preparation for extradition, PSP records do not indicate whether Troopers considered the citizen’s potential substance abuse or mental health crisis as the possible cause of the citizen’s behavior.

For example, the Review Committee notes that while in custody, the citizen continuously exhibited signs of possible crisis that remained unmanaged. As the citizen’s conduct became more erratic, PSP records do not indicate that Troopers considered or recognized whether the citizen’s behavior may have been influenced by his intoxicated condition or utilized appropriate tactics to de-escalate. Instead, as previously noted, the Review Committee found that Troopers potentially escalated the situation by engaging in an argumentative discussion with the citizen in possible violation of PSP policy. This verbal altercation led to a further escalation when the Trooper physically grabbed the citizen and initiated the use of force incident that followed which included compliance strikes.

PSP Policy No. AR 7-3 (Incidents Involving Persons with Mental Illness/Mental Health Emergencies) requires Troopers to continually evaluate individuals they encounter to assess whether characteristics of mental illness are present and may be contributing to an individual’s presenting behavior (including that of substance related addictive disorder under Section 3.05A). Under Section 3.06 – Guidelines/Procedures for Incidents Involving Persons with Mental/ Illness Health Emergencies of the policy, Troopers “shall endeavor” to take steps to calm the situation when feasible.

In recent years, PSP enhanced its Use of Force policy (PSP Policy No. FR 9-1) and significantly upgraded its training regarding de-escalation including: (1) a requirement for Troopers to attempt to de-escalate when they reasonably believe it is safe or practical to do so; and (2) a duty to intervene when Troopers reasonably believe it’s necessary to prevent or stop the apparent use of unreasonable force. However, the Review Committee found that PSP’s Incidents Involving Persons with Mental Illness/Mental Health Emergencies policy does not specifically require the use of de-escalation tactics when handling a person in a recognized mental health or substance abuse crisis and should be updated to mirror the requirements of PSP’s current Use of Force policy.

In addition, the Review Committee notes that PSP's Incidents Involving Persons with Mental Illness/Mental Health Emergencies policy does not suggest or require its members to seek the assistance of a mental health or substance abuse crisis specialist when encountering, transporting, or detaining a citizen in mental health or substance abuse crisis. When researching best practices guidance, the Review Committee found that *"The President's Commission on Law Enforcement and the Fair Administration of Justice"* (published by the US DOJ (2020)), recommends that, "[l]aw [e]nforcement should have processes and procedures specifying officer response protocols for calls for service that involve individuals with a mental health disorder or substance abuse disorder or those who are homeless **including the integration of behavioral health professionals and other community service providers**" [emphasis added].

Similarly, the US DOJ's Office of Justice Programs' publication titled *"Police Discretion and Mentally Ill Persons"* provides three options when encountering individuals in crisis: (1) hospitalization; (2) arrest; or (3) handle informally. The authors of the publication describe the benefits and risks of each approach, and their recommendations include, among others that:

1. The public mental health system and the **criminal justice system must collaborate so that police officers have several alternatives**, not just arrest or hospitalization, when handling mentally ill persons in the community; and
2. **Police officers must receive adequate training in recognizing and handling mentally ill citizens** so that individuals who are more disordered (rather than disorderly) are referred to the appropriate system. The police also must have a clear set of procedures to handle such persons, including negotiated "no-decline" agreements with hospitals. Such agreements would give police a designated place to take apparently mentally ill citizens. These agreements also are vital for establishing a successful liaison between the police department and the mental health system and ending the refusal of hospitals to treat certain individuals.

Lastly, the Final Report of the *"President's Task Force on 21<sup>st</sup> Century Policing"* (published by the US DOJ (2015)) states, "[p]eace officers standards and training should make crisis intervention training (CIT) a part of both basic recruit and in-service training."

During its Oral Presentation, and when offering comments following presentation of the Review Committee's preliminary findings, conclusions, and recommendations in accordance with Section 8.3 of the Commission's Bylaws, PSP indicated that crisis intervention specialists are not always readily available to assist (particularly in Pennsylvania's more rural and/or less populated counties) which may hinder PSP's ability to issue a statewide policy. However, the Review Committee notes that while some areas may lack resources, other areas where mental and behavioral health and substance abuse providers are more readily available should be engaged whenever feasible. In response, PSP noted that (where available) it has taken concrete steps to forge these relationships and partnerships in recent years throughout Pennsylvania and will continue to do so. In addition, the Review Committee notes that PSP is neither the cause or sole solution to this deficiency and appropriate state agencies should take more systemic steps to ensure that Pennsylvania counties are adequately funding and complying with state law mandates (i.e., Community Mental Health/Intellectual Disabilities Act and Mental Health Procedures Act) which require the availability of such county services.

During the Review Committee's deliberations, special guests from Blueprints for Addiction Recovery (Blueprints) offered their expertise regarding how law enforcement can engage and collaborate with behavioral health, substance abuse, and other service providers when encountering a person suffering from a mental health or substance abuse crisis. For example, Blueprints piloted and operates an addiction crisis intervention co-responder program in Lancaster County which works with the county's municipal law enforcement agencies (including its Office of District Attorney) and is expanding into other counties. Blueprint's Chief Executive Officer (Christopher Dreisbach) and Executive Vice-President (Benjamin McCoy)



discussed how a substance abuse co-responder program works and offered recommendations concerning how such a program can aid law enforcement's response that benefits citizens while also supporting enforcement activity when engaging persons in a substance abuse crisis. Additionally, Edward M. Cunningham, Chief of the Elizabethtown Borough Police Department, offered the law enforcement perspective about the benefits of substance abuse co-responder programs and best practices. Accordingly, the Review Committee notes that mental health and substance abuse crisis co-responder programs require sustained efforts and involvement by both county and law enforcement agencies and dedicated funding along with finessed law enforcement training so that (when encountering citizens suffering from a mental health or substance abuse crisis) such citizens are first seen as human beings in need and accompanying conduct is not perceived as defiance, but rather symptoms of the condition itself.

**Recommendation No. 1 – Mental Health and Substance Abuse Crisis Response by Law Enforcement**

In accordance with best practices, the Pennsylvania State Law Enforcement Citizen Advisory Commission's Use of Force Review Committee recommends that the Pennsylvania State Police enhance certain policies and training regarding encounters with citizens in Mental Health and/or Substance Abuse Crisis, including:

- a) Requiring its members to utilize de-escalation tactics and tools (whenever feasible) when encountering a citizen who may be suffering from, or presents a potential mental or behavioral health or substance abuse crisis;
- b) Implementing a policy to require (whenever feasible) that its members seek the assistance of a mental or behavioral health or substance abuse crisis specialist or equivalent health professional when encountering, transporting, or detaining a citizen exhibiting potential signs of suffering from a mental or behavioral health or substance abuse crisis;
- c) Pursuing service agreements with hospitals, behavioral health professionals, community mental health and substance abuse treatment providers, and crisis intervention program specialists to collaboratively respond (whenever feasible) when a member encounters citizens who may be experiencing a mental or behavioral health or substance abuse crisis; and
- d) Continuing to ensure that all members receive basic recruit and/or annual in-service training in crisis intervention, including training in recognizing and handling citizens experiencing mental health and substance abuse crisis.

At this time, Chairperson Brown welcomed Guest Speakers – from Lancaster County's Blueprints for Addiction Recovery (Blueprints) Christopher Dreisbach, Chief Executive Officer (CEO), and Benjamin McCoy, Executive Vice President (EVP), along with Edward Cunningham, Elizabethtown Borough Police Chief, to provide public comment regarding the importance of crisis intervention and co-responder initiatives and programs. Chairperson Brown recognized and relinquished the floor CEO Dreisbach, EVP McCoy and Chief Cunningham for comment.

CEO Dreisbach thanked Chairperson Brown and the Commission for the opportunity to speak. Since educating Use of Force Review Committee and Ex-officio members about the success and work involved in crisis intervention and emergency co-responder programs, CEO Dreisbach reported that his organization convened a couple of meetings with PSP representatives of Troop J (covering Lancaster County). Through this collaboration, CEO Dreisbach hoped that stakeholders will overcome PSP's initial resistance to and ultimately garner PSP's support and participation in the county's initiatives and welcomed the opportunity to support PSP's policing efforts in the area. EVP McCoy also thanked the Commission for the opportunity to speak and expressed his continued excitement to offer input. EVP McCoy stated that Blueprints fully supports the recommendation before the Commission, particularly those involving

crisis response given their effectiveness and success. By working with county mental and behavioral health along with substance abuse county agencies and providers, EVP McCoy added that the focus and function is taken off law enforcement and placed in the hands of subject matter experts, i.e., screen for needs, navigate the continuum of care along with public and private insurance systems, and identify appropriate placements. Blueprints, for example, through its “Second Chance” initiative, is on scene and works in the field alongside law enforcement so that law enforcement can better focus on their part while subject matter experts focus on the citizen’s needs and long-term wellbeing.

Chief Cunningham remarked that these types of programs can be tailored to the specific needs of the community and various law enforcement agencies and represent important work in fostering public and community safety. For example, Chief Cunningham recounted that Maryland’s co-responder program includes having crisis experts ride alongside and with officers in patrol vehicles while in Lancaster County (a more rural county) crisis experts are called when needed, i.e., response-based model. Though different in their approaches and models, Chief Cunningham stated that an officer is not just left with a random telephone number.

Chief Cunningham also described the officer training component of these programs and how vital it was for officers to properly understand what is happening when a citizen is in a state of crisis, i.e., brain science of addiction which reduces capacity to make rational decisions and removes stigma associated with this population. When participating in this type of program, Chief Cunningham stressed that officers transition to a “helper” mentality versus strictly an enforcement officer and together this can greatly enhance the response of law enforcement.

At this time, Chairperson Brown welcomed back Guest Speaker – John Hollway, Law Professor at the University of Pennsylvania School of Law, and Executive Director of the Quattrone Center for the Fair Administration of Justice. Chairperson Brown recognized and relinquished the floor to Professor Hollway for comment.

Professor Hollway stated he recalled Blueprints presentation during the Use of Force Review Committee’s Special Meeting and that he supported this important work, i.e., goal of any criminal justice system and policing is to reduce crime and not incarcerate and punish citizens who are suffering. However, Professor Hollway asked how we can better equip and help officers when responding to these types of situations. For example, Professor Hollway encouraged this group to pay attention to the role of 911 emergency response call takers and dispatchers to ensure that vital information is properly transferred to officers arriving on the scene, i.e., situational awareness – must ensure officers are as informed as possible to reduce any perceived dangers or risks versus knowing up front the officer is responding to a clinical care situation which is approached and handled differently.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown opened the floor to discussion and deliberation by all Commissioners and recognized the Chairperson of the Bias-Based Policing Review Committee, Marvin Boyer.

Chairperson Boyer appreciated the information provided by, and work of the speakers, and posed a question to Chief Cunningham, i.e., how many co-responders are utilized in the ["Second Chance"] and what was the percentage of calls that resulted in referrals and or placements, given the increase in these types of law enforcement encounters. While he could not speak on the professional staffing side, Chief Cunningham replied that staffing was sufficient, i.e., when an officer makes a call to the hotline, a professional is available and responds. Concerning placements, Chief Cunningham stated that about 75%-80% of all cases result in a citizen entering treatment and that 75% of those (who entered treatment) are still in treatment at the 90-day mark.

CEO Dreisbach explained that the program ensures that anywhere from four to eight co-responders are available at any given time 24-hours a day/365 days a year. Initially, CEO Dreisbach stated that he and EVP McCoy self-funded the program because of their commitment to the program model (both are in recovery themselves) and added that he was also incarcerated. The program was then funded by a federal grant through the Department of Drug and Alcohol Programs and now is funded directly by the county and part of the services it offers.

Commissioner Bradford-Grey thanked the group for their presentation and asked how program information and availability of the program was disseminated to the public, i.e., citizen is in crisis, wants help and avoid incarceration but does not know how to articulate that properly. Because the ["Second Chance"] program is going into its third year, CEO Dreisbach stated that they have benefited from media coverage by all four media outlets in Lancaster County with frequent features explaining how the program works. EVP McCoy added that because the initiative functions as a diversionary program (i.e., not wholly community facing), they have also benefitted from messaging to officers who identify candidates themselves, i.e., features and benefits of program are presented to police departments which execute agreements to participate, and calls to co-responders come directly from and are based on officer discretion. EVP McCoy stated that while they hope to be a gateway into the mental health and substance abuse system, most cases unfortunately start within the criminal justice system. Chief Cunningham added that the program is often featured in newspaper articles and by media outlets, police chiefs promote program to township and borough supervisors and while the group intentionally focuses on training and constant messaging inward to law enforcement agencies, they do not shy away from publicity, i.e., person walks into police station and asks for help.

Commissioner Tate wished to commend the group's work and noted that leadership in law enforcement was very important. Commissioner Tate asked how the question of liability is addressed since that is the first thing offered by those opposing this kind of work. Chief Cunningham replied that there is no additional liability added to police departments, i.e., call paramedic from broken leg and here you contact a certified recovery (co-responder) specialist for a citizen in crisis. The certified recovery specialist will either arrive on scene (scene is declared safe before arrival) or 95% of the time will meet the officer at the police station. Contacting a certified recovery specialist was akin to contacting emergency medical services.

Commissioner Lappas also commended the wonderful work of the group but wished to discuss a different angle and hoped both committee members and Chief Cunningham could shed some insight. After reviewing the preliminary report, Commissioner Lappas remarked that [in the incident currently under review] the citizen was stumbling and manifestly under the influence of alcohol, and while in the process of executing an arrest, Troopers used profanity, raised voice, and threatened the citizen while the citizen was shackled instead of de-escalating the situation. Despite the Troopers unbecoming behavior, no discipline was issued. Commissioner Lappas then asked what role does discipline play in addressing behavior that is considered substandard and intolerable. Commissioner Lappas reiterated his request for data concerning how many use of force incidents result in a finding of violation of policy and or procedure and discipline by PSP since that speaks directly to whether PSP acts impartially when investigating and disciplining its members. Commissioner Lappas also continued to question the appropriateness of PSP's investigations of incidents involving its own members and stressed that discipline plays a vital role in improving policing practices. Commissioner Lappas asked whether the committee considered (during its deliberations) recommending any modification to PSP's disciplinary procedures.

Chairperson Sonenshein noted that the committee found the adjudicatory findings to be deficient since the adjudicator failed to even address Trooper conduct in his or her report. While he acknowledged that historical disciplinary data showing favor to officers was something the Commission can examine, Chairperson Sonenshein stated that the Commission's determination of impartiality related to conflicts of interest within an investigation and PSP's investigations of employee conduct was not out of the ordinary, i.e., officers review conduct of fellow officers, doctors review conduct of fellow doctors, and attorneys review conduct of fellow attorneys. Here, Chairperson Sonenshein stated that the Third Circuit Court of Appeals [and PSP policy] requires adjudicators to examine conduct before use of force is deployed and that did not happen since there was no mention, remark or observation of other possible misconduct or policy violations. Though PSP's internal affairs personnel investigate incidents, adjudicators are required to review the totality of all involved member conduct before and during a use of force incident. While the citizen's provocation was extraordinary, Chairperson Sonenshein noted that the subsequent conduct of involved members was equaling extraordinary since agency rules prohibit such conduct and thus the committee determined PSP's adjudicatory findings were not reasonable.

Without being privy to the facts of the incident under review, Chief Cunningham offered that a combination of both training and discipline serve as deterrents to bad behavior and improve overall policing practices. Chief Cunningham also stated that police officers are human beings who are required to accept more than the average citizen, but all human beings can only be pushed so far. When police officers step outside of certain boundaries, Chief Cunningham cautioned that you do not necessarily want to respond with a hammer. For example, Chief Cunningham noted that a healthier response to a situation may be counseling and additional training to correct unbecoming behavior.

Chairperson Sonenshein noted that both PSP's de-escalation policy and related training did not exist at the time of the incident currently under review. Chairperson Sonenshein also remarked that stakeholders cannot expect police to be mental health experts (had 12 years of graduate school to be properly trained in this area) because it was an entirely different profession. Chairperson Sonenshein questioned whose responsibility and job this was, i.e., PSP, the Commonwealth, or counties and

municipalities, and that it presented a great challenge. Although he found PSP Troop J's response to Blueprints' outreach disappointing, Chairperson Sonenshein stated further that the availability of mental health and substance abuse service providers in rural counties (unlike urban centers) present obstacles to implementing this type of program across Pennsylvania. Similarly, jails became a replacement following the closure of state mental health hospitals, i.e., 90% of inmates in Cook County Illinois detention facilities suffer from drug addiction or mental health problems. In this regard, Chairperson Sonenshein looked forward to the Commission's panel discussion in May regarding 911 diversion programs (based on study by Harvard's Kennedy School, police calls reduced by 90% in some communities following implementation). Nonetheless, Chairperson Sonenshein closed by stating that the Commission's role was to review the discipline (if any) imposed (which was not applicable here since no discipline was issued) and not recommend that discipline be issued.

Chairperson Brown stated that the Commission's charge was to determine whether the adjudicatory findings and discipline imposed (if any) were reasonable and that the Commission was not here to re-adjudicate an incident. Here, Chairperson Brown reiterated that [the Use of Force Review Committee] determined PSP's adjudicatory findings were not reasonable because other policy violations were not addressed during the adjudicator's review and the determination of whether discipline was reasonable was not applicable. Chairperson Sonenshein also relayed that two other involved members were ordered to participate in two full days of additional training regarding use of restraints.

Vice-Chairperson Pittinger agreed that the Commission's charge did not include disputing or reinvestigating a matter under review, i.e., facts not in evidence or part of record. However, Vice-Chairperson Pittinger stated that the Commission does have the ability to comment about and take notice of obvious omissions or other conduct that is ignored, i.e., cannot ignore when a Covered Agency ignores certain impermissible conduct, and that such observations did not equate to Commissioners acting as investigators. However, Commissioner Lappas disagreed and stated the Commission's purpose (according to Executive Order 2020-04, as amended) was to improve policing practices and the reasonableness of discipline should therefore not be limited to only matters where discipline was imposed. Even without a de-escalation policy and related training at the time, Commissioner Lappas opined that it was not acceptable police practice to threaten to "put someone through a wall" because the citizen disobeyed commands. Commissioner Lappas added that a Trooper used force because a juvenile called him or her a "pussy" during a review of an incident last cycle and today a matter under review involved a citizen being shot in the back while attempting to evade arrest for a minor theft and flee in a vehicle. Chairperson Sonenshein remarked that the committee did address the issue by finding adjudicatory findings to be unreasonable but that the Commission cannot go beyond that.

Commissioner Bradford-Grey agreed with Vice-Chairperson Pittinger that the Commission was responsible for bringing awareness to issues or problems identified during a review but wished to bring the discussion back to mental health and substance abuse co-responder programs. Commissioner Bradford-Grey questioned which citizens were afforded opportunities and options to participate in this type of diversionary program. Commissioner Bradford-Grey remarked that similar behaviors by citizens of different communities can be treated differently by the criminal justice system, i.e., heroin addiction receives therapeutic treatment while crack addiction receives imprisonment.

Commissioner Wilson posed a question to the three guest speakers and asked how police officers felt about this program and whether this program was accepted by PSP. Chief Cunningham replied that he found officers overwhelmingly accepted and supported the program. Chief Cunningham reiterated that the program directed two points of view, i.e., officer's desire to be a "helper" and once treated, citizen would no longer pose danger or cause trouble in community. Concerning the imposition of discipline, Commissioner Wilson asked if discipline was viewed as adversarial by the Fraternal Order of Police (FOP). Chief Cunningham replied that there is always some level of an adversary relationship between management and a union, but that the more tools a law enforcement agency has, i.e., training, conflict resolution, de-escalation policy, etc., it lessens discussion and imposition of discipline. EVP McCoy also added that program logistics and models are tailored to the dynamics and needs of the community and law enforcement agency, i.e., in Lancaster County – have three shifts of staff, and that success rests upon competency of training and skills of certified recovery specialists.

Commissioner Tate wished to address a brief point concerning the discussion between Vice-Chairperson Pittinger and Commission Lappas. Commissioner Tate stated that the Commission was unable to "flag" an officer, i.e., participated in unbecoming behavior before, because the Commission is not afforded that type of information during its review. Chairperson Brown replied that the Commission's authority does not include or encompass a monitoring component.

With no further comments offered, Chairperson Brown requested a motion to adopt and ratify Recommendation No. 1 concerning mental health and substance abuse crisis response by law enforcement and relinquished the floor to Chairperson Sonenshein. Chairperson Sonenshein offered a motion to adopt and ratify Recommendation No.1 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

Chairperson Brown then proceeded to read **Finding No. 2 and Recommendation No.2** of the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0002-P** into the record as follows:

**Finding No. 2 – Reasonable Force Determinations During Use of Force Incidents**

With respect to the matter currently under consideration, the Review Committee sought to determine if PSP has any policy or training regarding instances when compliance strikes may or may not be appropriate (i.e., when the citizen is handcuffed or otherwise restrained), and areas on the body where compliance strikes may or may not be appropriate based on the elevated risk of potential injury (i.e., strikes to the head, neck, groin, or joint area) compared with the reasonableness of the use of force based on the totality of the circumstance. The Review Committee could not identify any specific restriction or prohibition preventing Troopers from striking citizens while handcuffed or otherwise restrained and/or striking citizens in the head, neck, groin, joint, or other area with an elevated risk for serious injury. Ultimately, the justification of "compliance strikes" delivered to a citizen is determined by whether the strikes were deemed reasonable by the adjudicator.

As noted in the Commission's Final Report for **Internal Case No. 21-0001-P**, PSP's Use of Force policy defines reasonable force, in part, as "[t]he amount of force reasonably believed by the member or enforcement officer to be necessary under the totality of the circumstances to effect an arrest; defend oneself or another from bodily harm; or to prevent escape, suicide or the commission of a crime."

In this instance, the adjudicator’s decision of reasonableness was made using an objective belief based on a totality of the circumstances as required by United States Supreme Court precedent in Graham v. Connor, 490 U.S. 386, 394 (1989)(i.e., an officer’s application of force must be objectively reasonable given the totality of circumstances the officer faces at the time). Here, the adjudicator objectively decided that the Troopers’ use of force was justified since Troopers were permitted under policy to “defend oneself or another from bodily harm” by noting the citizen’s actions during the struggle that included attempts to spit on, bite, grab, and kick Troopers.

However, the Review Committee notes that the United States Court of Appeals for the Third Circuit in Abraham v. Raso, 183 F.3d 279 (1999) has further interpreted Graham to require that the totality of the circumstances review must include scrutiny of the officer’s actions prior to the application of force. Here, the involved Trooper engaged in an argumentative exchange with the citizen, approached the bench where the citizen was secured by handcuffs and to the floor by leg irons, and initiated the use of force by grabbing the citizen forcing him down to the bench and backwards into the wall.

It was this apparent escalation that preceded the struggle that included attempts by the citizen to spit on, bite, grab, and kick Troopers. The Review Committee found the involved Trooper’s actions (argumentative exchange with, and approaching, grabbing, and forcing the citizen down to the bench and backward into the wall) in response to the citizen’s use of racial slurs and profanity may have escalated an otherwise controlled situation, and could be viewed as a potential root cause(s) of the use of force incident that followed. Thus, the Trooper’s actions leading up to the use of force incident should have been directly scrutinized and documented by the adjudicator in his or her assessment.

#### **Recommendation No. 2 – Reasonable Force Determinations During Use of Force Incidents**

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Use of Force Review Committee recommends that the Pennsylvania State Police require (by appropriate guidance) that disciplinary adjudicators document scrutiny of a member’s actions prior to the application of force to ensure compliance with legal precedent and confirm all conduct is considered during reasonable force adjudicatory decisions.

At this time, Chairperson Brown opened the floor to public comment and welcomed back Guest Speaker – David Harris, Sally Ann Semenko Endowed Chair and Law Professor at the University of Pittsburgh School of Law. Professor Harris opined that the recommendation was completely appropriate, surprised that PSP did not do this already and believed that the recommended language should be part of a law enforcement agency’s working policy and protocols. Professor Harris thanked the Commission for the opportunity to participate.

Following public comment, Chairperson Brown opened the floor to discussion and deliberation by all Commissioners and no Commissioner offered comment. With no further comments offered, Chairperson Brown requested a motion to adopt and ratify Recommendation No. 2 concerning reasonable force determinations during use of force incidents and relinquished the floor to Chairperson Sonenshein. Chairperson Sonenshein offered a motion to adopt and ratify Recommendation No.2 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

Chairperson Brown then proceeded to read **Finding No. 3 and Recommendation No.3** of the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0002-P** into the record as follows:

**Finding No. 3 – Duty to Render Medical Assistance**

During its review of PSP's completed internal investigation of the use of force incident currently under consideration, the Review Committee preliminarily finds that the citizen sustained apparent injury. For example, video footage of the incident clearly shows potential signs of injury (including visible blood). Consequently, the Review Committee requested and received information regarding PSP's policies concerning any duty to render medical assistance.

Under PSP's Use of Force policy, the Review Committee notes that there is a requirement for Troopers to transport a sick or injured prisoner to a medical facility for treatment by ambulance "if deemed appropriate" regardless of when the sickness or injury occurred. However, the Review Committee found that PSP's policy does not explicitly require a duty to render medical assistance because of its use of an undefined qualifier, i.e., "if deemed appropriate," which can be subjective. PSP's webpage also provides FAQ's regarding use of force that reads, "[y]es, Troopers are trained to render aid and call for assistance after a use of force," when asked, "[a]re troopers trained to perform and seek necessary medical attention after using force?". Like PSP's policy, the Review Committee found that the question and answer provided on PSP's webpage does not provide clarity on the urgency of providing or seeking medical attention (i.e., immediately or promptly). Here, PSP records indicate that the injured citizen was not immediately provided medical assistance after the use of force (which included "compliance strikes to the head, face, and torso" from several different Troopers). Instead of being immediately transported for medical attention given the visible blood, PSP records indicate that the citizen was first taken to the County Booking Center for arraignment and only after arraignment, was the citizen treated for facial contusions received during the use of force incident.

To aid its review, the Review Committee conducted research on best practices from other jurisdictions and found that the State of New Jersey, for example, established a *duty* to render medical assistance as a core principal within their policy providing, "[a]fter any use of force, and when the environment is safe, officers shall promptly render medical assistance to any injured person consistent with the officer's training and shall promptly request emergency medical assistance for that person, if needed or requested. Officers [also] have a duty to monitor individuals for potential medical intervention after any officer uses force."

The Review Committee also found that an average citizen has a responsibility and duty to render aid under Pennsylvania's Vehicle Code (*see e.g.*, 75 Pa.C.S § 3744) when a driver of any vehicle is involved in an accident resulting in injury or death. For example, Pennsylvania law requires that a driver "render to any person injured in the accident reasonable assistance, including the making of arrangements for the carrying of the injured person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if requested by the injured person."

However, the Review Committee could not identify similar legal or other policy requiring law enforcement to render medical assistance after a use of force incident when needed or specifically requested by the injured person. Here, the Review Committee found that PSP's policy only requires the assistance to be rendered if being transported, and if only "deemed appropriate" by an involved member.

**Recommendation No. 3 – Duty to Render Medical Assistance**

The Pennsylvania State Law Enforcement Citizen Advisory Commission's Use of Force Review Committee recommends that the Pennsylvania State Police update its Use of Force policy to **require** members to **promptly** render medical assistance following a use of force incident, when the environment is safe,



including:

- a) When injuries are apparent to, or at the request of, the citizen after a use of force incident;
- b) Securing transportation by ambulance when feasible or practical;
- c) Providing medical attention consistent with the member's training until emergency medical treatment can be provided by a licensed medical professional;
- d) Requiring a duty to continually monitor the citizen while in custody for potential medical interventions after the use of force; and
- e) If a citizen refuses treatment, obtain a signed refusal form from the medical facility or licensed service provider.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Chairperson Brown then opened the floor to discussion and deliberation by all Commissioners and no Commissioner offered comment. With no further comments offered, Chairperson Brown requested a motion to adopt and ratify Recommendation No. 3 concerning a duty to render medical assistance and relinquished the floor to Chairperson Sonenshein..

Chairperson Sonenshein explained that a duty to render medical attention was the rule but that the committee tried to offer a little more guidance instead of leaving it to the direction of an officer. Here, Chairperson Sonenshein remarked that involved members took the citizen to his arraignment before seeking medical attention for injuries. Chairperson Sonenshein then offered a motion to adopt and ratify Recommendation No.3 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

At this time, Chairperson Brown asked if any Ex-Officio member wished to offer comment, and none were offered.

With no other comment, discussion, or deliberation, Chairperson Brown asked for a motion to adopt and ratify **Resolution No. 3 concerning the Findings, Conclusions, and related Recommendation(s) contained in the Preliminary Investigative Review Report for Internal Case No. 21-0002-P presented by the Use of Force Review Committee and further authorize the issuance of a Final Report by the Pennsylvania State Law Enforcement Citizen Advisory Commission.** The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance. Chairperson Brown then read a copy of **Resolution No. 3** into the record [*see ATTACHMENT 5*].

**At 3:31 p.m. Presentation, Consideration, Discussion, Deliberation, Action(s) and Public Comment Concerning Preliminary Investigative Review Report for Internal Case No. 21-0004-P (Lower-Level Use of Force (OC Spray) involving the Department of Conservation and Natural Resources (DCNR) related to an incident that occurred on June 16, 2018)**

Chairperson Brown read a summary of the Use of Force Review Committee's Preliminary Investigative Report for **Internal Case No. 21-0004-P** into the record as follows:

Pursuant to Executive Order 2020-04, as amended, the Review Committee completed a comprehensive review of the Department of Conservation and Natural Resources' (DCNR) completed internal investigation concerning **Internal Case No. 21-0004-P** in accordance with Article 8 (Review Process) of the Commission's Bylaws and determined the following:

The Review Committee found that DCNR's completed internal investigation was prompt, fair, impartial, and complete which is corroborated by examining DCNR's investigative and adjudication reports, relevant interviews, and information provided by DCNR during its Oral Presentation. Regarding promptness, fairness, impartiality, and completeness, the Review Committee also found that DCNR's completed internal investigation was consistent with guidelines established by the US DOJ's published standards and guidelines concerning internal affairs investigations, departmental policy, and the relevant collective bargaining agreement. Additionally, the Review Committee found that the Covered Agency's adjudicatory findings were reasonable, all relevant facts were considered, and the conclusions were consistent with standard law enforcement protocols. Lastly, the Review Committee confirmed that DCNR's completed internal investigation and subsequent adjudication did not result in documented disciplinary action thus rendering this determination inapplicable for this review.

Chairperson Brown then proceeded to read **Finding No. 1 and Recommendation No. 1** of the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0004-P** into the record as follows:

Regarding its determination concerning whether any policy or training deficiency exists, DCNR provided the Review Committee with sufficient documentation to form an understanding of the underlying facts concerning the incident under review and to identify any potential policy or training deficiencies as required. Based on that review, the Review Committee determined the following:

**Finding No. 1 – Use of Force Policy Enhancements**

During its review, the Review Committee conducted a thorough examination of DCNR's Use of Force policy along with its policy authorizing Park Rangers to carry and deploy Oleoresin Capsicum (OC) Aerosol spray. Specifically, the Review Committee focused on evaluating internal controls and guidance provided by these policies to ensure that reasonable force determinations can be made by DCNR adjudicators consistent with both United States Supreme Court precedent (*see* *Graham v. Connor*, 490 U.S. 386, 394 (1989)(an officer's application of force must be objectively reasonable given the totality of circumstances the officer faces at the time)) and Pennsylvania Law (*see* 18 Pa.C.S. § 508 (Use of Force in Law Enforcement)). Concerning the matter currently under consideration, the use of force involved the deployment of OC Spray that successfully overcame the citizen's resistance without the risk of serious injury to either the citizen or Park Ranger.

The authority for use of force is provided by Section 508 of Pennsylvania's Crimes Code which states, in pertinent part, that a Park Ranger is "justified in the use of any force which he believes to be necessary to defend himself or another from bodily while making an arrest." Further, the Review Committee found that DCNR's Use of Force policy expands upon this notion by providing additional prohibitions regarding the use of unnecessary force and requires the minimum amount of force to be used during citizen encounters. Specifically, DCNR's policy defines the "minimum amount of force" as "the least amount of force that will permit state park officers to subdue or arrest an individual, while still maintaining a high level of safety for themselves and the public" and specifically prohibits Park Rangers from using unnecessary or excessive force. Here, the Review Committee found that DCNR's completed internal investigation regarding the Park Ranger's actions (i.e., repeatedly asking for identification, informing the citizen of what action(s) would follow for failing to comply, calling for county police assistance, issuing several warnings before deployment

of OC spray, and calling for immediate medical assistance following use of force) complies with both legal and DCNR policies, and that DCNR's administrative review panel confirmed the Park Ranger's use of force was appropriate under the totality of circumstances.

However, the Review Committee also found that DCNR's Use of Force policy could be strengthened by including specific definitions for "reasonable force" consistent with Graham (i.e., the use of force incident must be "judged from the perspective of a reasonable officer on the scene" versus a subjective assessment based on "any force *he* believes to be necessary") and guidance for administrators responsible for making judgements on the reasonableness of such force. Additionally, the Review Committee found that DCNR should include (within their Use of Force policy) a requirement for its Park Rangers to use de-escalation tactics and tools consistent with DCNR's training (which DCNR currently provides in collaboration with the Pennsylvania State Police).

Of note, and after receiving comments from DCNR following presentation of its preliminary findings, conclusions, and related recommendations in accordance with Section 8.3 of the Commission's Bylaws, the Review Committee recognizes that DCNR independently formed a Ranger Task Force (whose members include both management staff and Park and/or Forestry Rangers) charged with regularly reviewing internal policies, policy formulation and law enforcement best practices to ensure continuous improvement of departmental policies and practices that best serve both citizens and law enforcement personnel. The Review Committee also notes that participatory management within a law enforcement agency is beneficial and should be replicated across all state law enforcement entities under the Governor's jurisdiction, where feasible.

#### **Recommendation No. 1 – Use of Force Policy Enhancements**

The Pennsylvania State Law Enforcement Citizen Advisory Commission's Use of Force Review Committee recommends that the Department of Conservation and Natural Resources enhance its Use of Force policy to include:

- a) a definition of "reasonable force" consistent with United States Supreme Court precedent (Graham v Connor); and
- b) de-escalation protocols, when feasible (i.e., use of verbal and non-verbal communications to reduce, stabilize, eliminate, or defuse threats and gain voluntary compliance with the minimum amount of force necessary) consistent with its training.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Chairperson Brown then opened the floor to discussion and deliberation by all Commissioners and no Commissioner offered comment. With no further comments offered, Chairperson Brown requested a motion to adopt and ratify Recommendation No. 1 concerning use of force policy enhancements and relinquished the floor to Chairperson Sonenshein.

Chairperson Sonenshein reported that the Ranger used OC spray but only after several repeated warnings. Chairperson Sonenshein stated further that the Commission offered a similar recommendation to PSP regarding enhancements to policy language involving use of force to ensure compliance with United States Supreme Court precedent. Chairperson Sonenshein also noted that there was no question PSP's training reflected appropriate constitutional standards and PSP responded that the agency would evaluate their policy for possible modification. DNCR Rangers receive training from PSP, but Chairperson stated that the standard must also be reflected in their policy.

Chairperson Sonenshein then offered a motion to adopt and ratify Recommendation No.1 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

Chairperson Brown then proceeded to read **Finding No. 2 and Recommendation No. 2** of the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0004-P** into the record as follows:

**Finding No. 2 – Body Worn Cameras**

During its review, the Review Committee researched best practices and identified that the United States Department of Justice's Office of Justice Programs provides both guidance and funding for law enforcement agencies interested in planning and implementing a body worn camera program. The Office of Justice Programs' webpage states, in part, "[l]aw enforcement agencies across the United States and throughout the world are using body-worn cameras (BWCs) as a promising tool to improve evidentiary outcomes, and enhance the safety of, and improve interactions between, officers and the public. BWCs also are proving to be an important tool to assist broader law enforcement, problem-solving, and community engagement strategies within jurisdictions. BWCs can be highly effective resources, providing an unalterable audio and visual record of interactions that capture empirical evidence in the event of a crime, police-citizen interaction, or use-of-force incident."

The Review Committee found that audio and/or video footage of this use of force incident was not available to either DCNR adjudicators or this Commission because DCNR does not have a body worn camera program. The Review Committee notes that audio and/or video footage of this use of force incident could have provided a visual record of the encounter between the Park Ranger and the citizen to further assist DCNR's adjudicatory assessment of the Park Ranger's conduct under a totality of the circumstance's standard. Here, the Park Ranger was also on patrol alone and audio and/or footage of the incident could have produced vital evidence in support of the Park Ranger's actions and DCNR's adjudication of the incident.

After receiving comments from DCNR following presentation of its preliminary findings, conclusions and related recommendations, the Review Committee notes that DCNR recognized the benefits of BWCs, and their recent prevalence as standard law enforcement issued equipment. DCNR indicated that it began discussions to initiate and begin to advocate for funding to implement a body worn camera program and the Review Committee supports these efforts.

**Recommendation No. 2 - Body Worn Cameras**

The Pennsylvania State Law Enforcement Citizen Advisory Commission's Use of Force Review Committee recommends that the Department of Conservation and Natural Resources implement a body worn camera program as recommended by best practices offered by the United States Department of Justice and supports DCNR's efforts.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown welcomed back Guest Speaker – John Hollway, Law Professor at the University of Pennsylvania School of Law, and Executive Director of the Quattrone Center for the Fair Administration of Justice. Chairperson Brown recognized and relinquished the floor to Professor Hollway for comment.

Professor Hollway remarked that body worn cameras were generally welcomed by officers. For example, Professor Hollway relayed officers stated that they wished they had body worn cameras so the public could see professionalism exhibited by officers during situations. In addition, police departments often implement a body worn camera program but do not utilize closed circuit television. Professor Hollway noted that the lack of transparency also feeds into public cynicism and that he was surprised more law enforcement agencies were not doing this already.

With no further comments offered, Chairperson Brown requested a motion to adopt and ratify Recommendation No. 2 concerning implementation of a body worn camera program and relinquished the floor to Chairperson Sonenshein. Chairperson Sonenshein reported that the Commission offered a similar recommendation to PSP in December and that DCNR also reported its agency was similarly evaluating implementation of a body worn camera program. Chairperson Sonenshein then offered a motion to adopt and ratify Recommendation No.2 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

Following comment, discussion, and deliberation, Chairperson Brown asked for a motion to adopt and ratify **Resolution No. 4 concerning the Findings, Conclusions, and related Recommendation(s) contained in the Preliminary Investigative Review Report for Internal Case No. 21-0004-P presented by the Use of Force Review Committee and further authorize the issuance of a Final Report by the Pennsylvania State Law Enforcement Citizen Advisory Commission.** The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance. Chairperson Brown then read a copy of **Resolution No. 4** into the record [**see ATTACHMENT 6**].

**At 3:44 p.m. Presentation, Consideration, Discussion, Deliberation, Action(s) and Public Comment Concerning Preliminary Investigative Review Report for Internal Case No. 21-0007-P (bias-based policing complaint involving the Pennsylvania State Police related to an incident that occurred on November 26, 2016)**

Chairperson Brown proceeded to the next item for business which involved presentation of the Preliminary Investigative Review Report for **Internal Case No. 21-0007-P** by the Bias-Based Policing Review Committee concerning its review of a complaint alleging bias-based policing that occurred on November 26, 2016 involving PSP. The Bias-Based Review Committee is chaired by Marvin Boyer and includes Commissioners Dr. Suresh Canagarajah, Denise Ashe, Keir Bradford-Grey, Esq., Brenda Tate and Dr. Marilyn Brown.

Chairperson Brown read a summary of the Bias-Based Policing Review Committee's Preliminary Investigative Report for **Internal Case No. 21-0007-P** into the record as follows:

Pursuant to Executive Order 2020-04, as amended, the Review Committee completed a comprehensive review of **Internal Case No. 21-0007-P** in accordance with Article 8 (Review Process) of the Commission's Bylaws and determined the following:

Like its Findings and Conclusions for **Internal Case No. 21-0006-P [issued on November 16, 2021 and ratified by the Commission on December 10, 2021]** which are incorporated by reference herein, the Review

Committee was unable to reach determinations of whether PSP's completed internal investigation was prompt, fair, impartial, complete, performed in a manner consistent with applicable policies, and/or whether the adjudicatory findings and discipline, if any, were reasonable under standard law enforcement protocol, as required, because of the previously identified deficiencies.

Chairperson Brown then proceeded to read **Finding No. 1 and Recommendation Nos. 1(a) and (b)** of the Bias-Based Policing Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0007-P** into the record as follows:

However, PSP provided the Review Committee with documentation to form a sufficient understanding of the underlying facts concerning the incident under review and to identify potential policy or training deficiencies as required. Based on that review, the Review Committee found the following:

**Finding No. 1 –**

**Mobile Video Recording Retention Storage Capacity, Accessibility, and Retention**

During its review, the Review Committee requested copies of the Mobile Video Recordings (MVR) or other videos or audio recordings of the incidents involving the citizen. However, PSP reported that the MVRs, of the initial encounter with the citizen in late Fall of 2015 and the November 26, 2016 traffic stop, were both unavailable.

PSP's Policy No. FR 6-12 Mobile Video/Audio Recording Equipment, Section 12.06 (D) establishes that all recordings uploaded to MVR servers will be automatically deleted 60 days after the date the recording is uploaded. Recordings required to be duplicated or retained in accordance with this regulation must be duplicated within 60 days of the incident/recording.

The Review Committee notes that PSP's policy follows Pennsylvania Consolidated Statutes, Title 42 (Judiciary and Judicial Procedure), Chapter 67A03 (Request for Law Enforcement Audio Recordings or Video Recordings), which states:

"An individual who requests an audio recording or video recording made by a law enforcement agency shall, within 60 days of the date when the audio recording was made, serve a written request to the individual who is designated as the open records officer for the law enforcement agency."

The Review Committee found that the statutory 60-day retention period explains the unavailability of the video evidence of the late Fall 2015 traffic stop of the citizen. However, video evidence of the November 26, 2016 traffic stop should be available since the complainant filed his complaint three days later (November 29, 2016). PSP's Policy No. FR 6-12, Section 12.06 (A) states, in part, "[r]ecordings made from MVR equipment of incidents.... involving verbal or written complaints against the Department shall be duplicated, retained, and processed as evidence." Initial complaints filed with PSP are recorded in a report known as a "Blue Team" Incident Report. Here, the Review Committee notes that (as required by PSP policy) the Blue Team Incident Report does not include any documentation or notation confirming a request for duplication or retention of the MVR for the November 26, 2016 traffic stop following receipt of the citizen's complaint in possible violation of PSP's policy.

After the Review Committee presented its findings and conclusions to PSP in accordance with Section 8.3 of the Commission's Bylaws, PSP indicated that it does not currently list or otherwise advertise the limited availability and retention of MVRs on its website or through any other publicly accessible medium. While there is no time limit to file bias-based policing complaints with PSP, the Review Committee found that proper advertisement and publication is vital to informing citizens of the limited availability and retention of MVR evidence that may support allegations of bias-based policing.

During its December 10, 2021 Regular Meeting, the Commission ratified a recommendation of the Commission's Use of Force Review Committee that PSP continue efforts to procure a fully integrated patrol vehicle MVR system that includes cloud storage and options for Interview Room Recorder (IRR) and Body Worn Camera (BWC) systems. This Review Committee reaffirms the Use of Force Review Committee's recommendation since it will increase PSP's capacity to allow MVRs and other data to be retained for longer periods of time and allow for video and audio recordings to be more accessible to both members of the public and this Commission.

In further support of this recommendation, Executive Order 2020-04 (as amended) also states, in part, "[n]otwithstanding any document retention periods, all [C]overed [A]gencies must take affirmative steps to preserve any and all records and information relating to [C]overed [A]gency's completed internal investigations that fall within the Commission's purview for the time period necessary for the Commission to complete its review." The Review Committee found that PSP's policy (as written) does not specifically mandate that MVR or Alternate MVR Custodial Officers retain all MVRs (involving complaints of racial or ethnic discrimination and other bias-based policing or uses of force resulting in injury or death of a civilian) which allows the Commission to complete its reviews as required since April 30, 2021 (effective date of Executive Order 2020-04 (as amended)).

**Recommendation No. 1(a) – Mobile Video Recording Storage Capacity and Accessibility**

The Pennsylvania State Law Enforcement Citizen Advisory Commission's Bias-Based Policing Review Committee reaffirms the Use of Force Review Committee's previous recommendation that the Pennsylvania State Police continue efforts to procure a fully integrated audio/video monitoring systems that includes cloud storage and increased storage capacity and retention capabilities.

**Recommendation No. 1(b) – Mobile Video Recording Retention**

The Pennsylvania State Law Enforcement Citizen Advisory Commission's Bias-Based Policing Review Committee recommends that the Pennsylvania State Police amend its Mobile Video/Audio Recording Equipment policy to specifically mandate the retention of MVRs (involving complaints of racial or ethnic discrimination and other bias-based policing or uses of force involving injury or the death of a citizen following generation of Blue Team Incident Reports) necessary for this body to complete its reviews, as required by Executive Order 2020-04 (as amended).

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Chairperson Brown then opened the floor to discussion and deliberation by all Commissioners and relinquished the floor to Chairperson Boyer of the Bias-Based Policing Review Committee for further remarks.

Before making a motion for adoption of Recommendation Nos. 1(a) and (b), Chairperson Boyer asked if any other Commissioner wished to offer comment. Chairperson Sonenshein stated that the recommendation made perfect sense and questioned whether it was wise to have mobile video recording capabilities if agencies were not retaining the video evidence. Chairperson Boyer remarked that he supported Chairperson Sonenshein's previous positions and then offered a motion to adopt and ratify Recommendation Nos. 1(a) and (b) as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

[Chairperson Hodge rejoined the Commission's meeting at 3:47 p.m.]

Chairperson Brown then proceeded to read **Finding No. 2 and Recommendation No. 2** of the Bias-Based Policing Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0007-P** into the record as follows:

**Finding No. 2 –**

**Citizen Engagement and Communication**

During its review, the Review Committee sought to identify the root cause of the complaint, what factors led to the complainant's perception of bias during the enforcement activity, and what process(es) will increase communication and minimize misunderstandings that make it difficult for a Covered Agency to identify officers who intentionally engage in explicit or implicit bias versus officers who are inappropriately accused of bias during legitimate enforcement activity.

The Review Committee found, in part, that a likely misunderstanding regarding aggressive traffic enforcement in a specific area and mistrust regarding the legitimacy of the Troopers' observations were potential root cause(s) of this complaint. Also, PSP's response to the complainant (through its notification letter which lacks details about the limitations of conducting a thorough investigation of the citizen's allegations during the pendency of his underlying court case and inappropriately directing the citizen to the judiciary as found in **Internal Case No. 21-0006-P**) may have also contributed to misunderstandings and mistrust of PSP's investigative process. These potential misunderstandings (i.e., publicly unknown targeted traffic enforcement in specific areas and PSP's practice of closing internal investigations of bias-based policing complaints with pending criminal or traffic charges without notifying citizens of his or her ability to refile following their disposition) combined with the limited MVR retention period, make it difficult for citizens to both pursue and possibly corroborate their complaints.

The Review Committee researched other jurisdictions and best practices regarding how Covered Agencies can better communicate information concerning what to expect during an encounter with their officers and other basic information such as expected conduct of both officers and citizens, a citizen's legal rights, and summaries of departmental policies frequently applicable during common enforcement activities. For example, Pittsburgh's Independent Citizen Police Review Board (CPRB) in collaboration with its Bureau of Police along with multiple civic and community organizations created and produced a brochure entitled "You and the Police." The brochure's purpose was threefold: (1) to outline certain legal rights when interacting and communicating with police; (2) to inform citizens of their responsibilities and obligations when they (or a family member or friend) have contact or involvement with police officers; and (3) to promote improved relations and understanding between members of the community and the police.

Additionally, the Final Report of the "*President's Task Force on 21<sup>st</sup> Century Policing*" [May 2015, United States Department of Justice (US DOJ)] states, in part, "[l]aw [e]nforcement agencies should adopt model policies and best practices for technology-based community engagement [i.e., agency webpage, Facebook, Twitter, and Instagram accounts] that increases community trust and access." Combined, the Review Committee found that these best practices provide a means for law enforcement to better communicate with citizens and reduce misunderstandings regarding a Covered Agency's internal practices and policies, including those of PSP.

After the Review Committee presented its preliminary findings and conclusions to PSP in accordance with Section 8.3 of the Commission's Bylaws, PSP indicated that it has several initiatives in place designed to increase community trust and access including a partnership with Commonwealth Media Services to produce a video regarding traffic stops (awaiting final approval), designing a similar video covering common police encounters, exploring a partnership with Alliance for Virtual Traffic Stops and planning a partnership with Allegheny County to produce a brochure similar to the one published by the CPRB. The Review Committee applauds these efforts and supports PSP in these endeavors but adds that such information



should be made publicly available for little to no cost, i.e., at Pennsylvania public schools, highway and public rest stops and areas, bus, and train terminals, etc.

**Recommendation No. 2 – Citizen Engagement and Communication**

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Bias-Based Policing Review Committee recommends that the Pennsylvania State Police develop a citizen engagement brochure and adopt a policy to distribute information *via* the Covered Agency’s webpage, Facebook, Twitter, and Instagram accounts concerning the following topics:

- a. What to expect during an encounter with a Trooper;
- b. A citizen’s rights when interacting or communicating with a Trooper;
- c. Responsibilities and obligations of both Troopers and citizens during law enforcement activities;
- d. How to file a complaint;
- e. A citizen’s right to re-file a bias-based policing complaint after disposition of court cases;
- f. Notice of the 60-day retention period for MVR evidence that may support a citizen’s complaint regarding Trooper conduct;
- g. A citizen’s legal rights concerning body and vehicle search and seizure;
- h. A citizen’s legal rights regarding asset forfeiture and information on how a citizen can reclaim their property; and
- i. What a citizen should expect if arrested or taken into custody.

At this time, Chairperson Brown opened the floor to public comment and reported that one written comment was submitted through the Commission’s webpage by Dr. Paul McCauley, Professor of Criminology at the Indiana University of Pennsylvania. Dr. McCauley suggested that information included in a brochure should be available in both English and Spanish. Consequently, Chairperson Brown proposed an amendment to the recommendation to read: “The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Bias-Based Policing Review Committee recommends that the Pennsylvania State Police develop a citizen engagement brochure and adopt a policy to distribute information [in English and Spanish] via the Cover Agency’s webpage, Facebook, Twitter and Instagram accounts concerning the following topics....”.

Chairperson Brown then opened the floor to discussion and deliberation by all Commissioners, requested a motion to adopt and ratify Recommendation No. 2 (as amended) concerning citizen engagement and communication, and relinquished the floor to Chairperson Boyer. Chairperson Boyer offered a motion to adopt and ratify Recommendation No. 2 (as amended) as stated above. The motion was approved and seconded with no noted objections.

Commissioner Canagarajah offered a point of clarification and asked why the Commission was only amending its recommendation to include Spanish. For example, Commissioner Canagarajah questioned if the information was to also be provided on PSP’s website then why not recommend translation of the information in several languages along with translation of written information depending on a community’s need.

Chairperson Brown then proposed that the motion can be recrafted to reflect “and in other languages (where feasible)”. Vice-Chairperson Pittinger remarked that when the information is made available, online translation can be widespread and made available through “Google translate” especially

for immigrant communities. Chairperson Brown then further revised the proposed modification to read “in other languages, including online translation where feasible”. Chairperson Boyer remarked further that he was very proud of the recommendation to publish citizen user guides because he believed that such guides were inclusive and critical to reducing misunderstandings and building relationships between police and communities. Chairperson Boyer then offered a motion to adopt and ratify Recommendation No. 2 as further modified and revised as stated above. The revised motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

Chairperson Brown then proceeded to read **Finding No. 3 and Recommendation No. 3** of the Bias-Based Policing Review Committee’s Preliminary Investigative Review Report for **Internal Case No. 21-0007-P** into the record as follows:

**Finding No. 3 –**

**Enhancements to PSP’s Early Intervention Program**

During its review, the Review Committee attempted to determine if PSP can monitor its members who exhibit a pattern of racial or ethnic discrimination and other bias-based policing. Through its Oral Presentation, PSP informed the Review Committee that PSP established an Early Intervention Program (Program) to identify members who exhibit a pattern of behavior that may present a concern. After reviewing PSP’s Policy No. AR 4-36 (which outlines the duties and responsibilities of PSP personnel and aspects of the Program), the Review Committee found that the policy contained elements that are effective in identifying patterns of bias-based policing and mitigating related behavior. These elements include, for example, maintaining an internal affairs case management database, making bi-monthly database queries, monitoring complaints and related investigations, and supervising corrective action plans designed to address identified problematic behavior.

However, the Review Committee also found that PSP’s policy does not specifically mandate bi-monthly queries and/or monitoring complaints and related investigations specifically concerning racial or ethnic discrimination, bias-based policing, or racial insensitivity. Additionally, the Review Committee found that PSP’s corrective action plans generally do not specifically incorporate training in the areas of bias-based policing, racial insensitivity, or implicit bias.

After the Review Committee presented its preliminary findings and conclusions to PSP in accordance with Section 8.3 of the Commission’s Bylaws, PSP indicated that bias-based policing and other similar complaints are captured under a “catch all” category of “harassment.” However, the Review Committee notes that “harassment” and discrimination against protective classes are very different and have different connotations. In addition, while it appreciates that this data may be captured and possibly monitored, the Review Committee remains concerned that the language of PSP’s policy (as written) and related Program is passive and more reactive rather than affirmative and more precautionary.

**Recommendation No. 3 – Enhancements PSP’s Early Intervention Program**

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Bias-Based Policing Review Committee recommends that the Pennsylvania State Police update their Early Intervention Program (EIP) policy to include:

- a. Requirements to conduct bi-monthly queries to identify EIP candidates engaging in racial or ethnic discrimination, bias-based policing, and/or racial insensitivity; and
- b. Mandate remedial corrective actions that include bias-based policing, racial insensitivity, or implicit bias training following administrative investigations and adjudicatory findings of bias-based policing.

At this time, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown opened the floor to discussion and deliberation by all Commissioners and relinquished the floor to Chairperson Sonenshein. Chairperson Sonenshein opined that it was very important to track this type of data, i.e., who is being hired, who is not being hired, data regarding complaints against members.

Concerning Recommendation No. 2 as further modified, Chairperson Sonenshein remarked that he wished every Pennsylvania high school would incorporate the information and make it part of a civics curriculum. Chairperson Boyer added that constant and timely review of complaints was critical to monitoring and correcting behavior. With no further comment, Chairperson Boyer then offered a motion to adopt and ratify Recommendation No. 3 as stated above. The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance.

Following comment, discussion, and deliberation, Chairperson Brown asked for a motion to adopt and ratify **Resolution No. 5 concerning the Findings, Conclusions, and related Recommendation(s) contained in the Preliminary Investigative Review Report for Internal Case No. 21-0007-P presented by the Bias-Based Policing Review Committee and further authorize the issuance of a Final Report by the Pennsylvania State Law Enforcement Citizen Advisory Commission.** The motion was approved and seconded with no noted objections and passed by unanimous consent of all Voting Members in attendance. Chairperson Brown then read a copy of **Resolution No. 5** into the record **[see ATTACHMENT 7]**.

**At 4:07 p.m. Final Public Comments**

Chairperson Brown opened the floor to final public comments by both citizens in attendance along with all Commissioners along with Ex-officio members and none were offered.

**At 4:08 p.m. Announcements by Commission Chairperson**

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 the Office of State Inspector General's Bureau of Law Enforcement Oversight for assistance.

**At 4:08 p.m. Regular Public Meeting Adjourned**

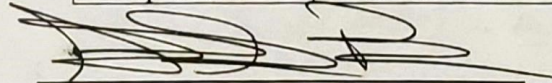


## Roll Call and Attendance Form

Type of Commission Meeting:  Quarterly  Special  Rescheduled  
 Date and Time of Commission Meeting: February 29, 2022 12:00pm  
Request Quarterly Commission 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	<b>VACANT</b>			
Troop K Seat	Andrea A. Lawful-Sanders	✓		
Troop L Seat	<b>VACANT</b>			
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**



## **COMMISSION 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 Regular (Quarterly) Meeting of the Commission to be held in person at the headquarters of the **Pennsylvania Commission on Crime and Delinquency** located at **3101 North Front Street, Harrisburg, Pennsylvania 17110** and virtually *via* information technology platform (Microsoft Teams) on **Monday, February 28, 2022, at 12:00 p.m. (Executive Session) and at 12:30 p.m. [Public Session]**.

There will be Microsoft Teams capability to attend the meeting remotely. To register for this Commission meeting, please use the registration link available on the Office of State Inspector General's (OSIG) webpage at [www.osig.pa.gov/PSLECAC](http://www.osig.pa.gov/PSLECAC). If you are unable to sign in via the registration link above, you may dial-in using the information listed below:

Audio Dial-In Information: 267-332-8737 – United States Toll  
Access Code/Event Number: 177309055#

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

- (1) Executive Session (*closed to the public from 12:00 p.m. to 12:30 p.m.*) [purpose of Executive Session is to review the Meeting Agenda, discuss proposed schedule of future Regular and Special Meetings of both the Commission and of the Commission's Review Committees established pursuant to its Bylaws, and address other administrative matters];
- (2) Call to Order and Roll Call [*expected to begin at approximately 12:30 p.m.*];
- (3) Acceptance of Meeting Agenda;
- (4) Approval and adoption of the Commission's previous Regular (Quarterly) Meeting Minutes from December 10, 2021;
- (5) Report of the Commission's Chairperson [State of the Commission to include accomplishments to date, posting and Responses to the Commission's Final Reports ratified on December 10, 2021, finalization of the Commission's Annual Report for 2021 pursuant to Section 13 of Executive Order 2020-04 (as amended); Committee memberships, and resignations, vacancies, and external training of Commission members; and proposed schedule of future meetings for calendar year 2022];
- (6) Report of the Commission's Vice Chairperson [State of the Commission and work of the Commission's Sub-committee on Rules and Procedures];
- (7) Presentation of proposed amendments to the Commission's Bylaws concerning public posting of video recordings of the Commission's Review Committee meetings, limiting the number of cases selected for review per review cycle for each Review Committee, and requiring submission of all presentation materials prior to Review Committee meetings before a Covered Agency's Oral Presentation along with such other proposed administrative practices and procedures for Voting Members regarding community engagement and media inquiries;

- (8) Opportunity for public comment;
- (9) Consideration, discussion, deliberation, and official action(s) concerning **Resolution No. 1 [Adoption and Ratification of Proposed Amendments to Various Sections of the Commission's Bylaws and Other Proposed Administrative Practices and Procedures by the Rules Sub-committee]**;
- (10) Opportunity for public comment;
- (11) Individual Brief Remarks by Chairpersons of the Commission's Review Committees (Critical Incident, Use of Force, and Bias-Based Policing);
- (12) Presentation of Preliminary Investigative Review Report for **Internal Case No. 21-0012-P** (Police-Involved Shooting/Use of Force (Non-Fatal) involving the Pennsylvania State Police (PSP) that occurred on February 19, 2019) by the Chairperson of the Critical Incident Review Committee;
- (13) Opportunity for public comment;
- (14) Consideration, deliberation, and official action(s) concerning the Critical Incident Review Committee's Preliminary Investigative Report for **Internal Case No. 21-0012-P via Resolution No. 2 [Adoption and Ratification of Findings, Conclusions, and Recommendations Contained in Preliminary Investigative Review Report for Internal Case No. 21-0012-P Presented by the Critical Incident Review Committee in Anticipation of the Issuance of a Final Report for Internal Case No. 21-0012-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission]**;
- (15) Opportunity for public comment;
- (16) Presentation of Preliminary Investigative Review Report for **Internal Case No. 21-0002-P** (Lower-Level Use of Force (Compliance Strikes/Physical Restraints) involving PSP related to an incident that occurred on January 16, 2019) by the Chairperson of the Use of Force Review Committee;
- (17) Opportunity for public comment;
- (18) Consideration, discussion, deliberation, and official action(s) concerning the Use of Force Review Committee's Preliminary Investigative Report for **Internal Case No. 21-0002-P via Resolution No. 3 [Adoption and Ratification of Findings, Conclusions and Recommendations Contained in Preliminary Investigative Review Report for Internal Case No. 21-0002-P Presented by the Use of Force Review Committee in Anticipation of the Issuance of a Final Report for Internal Case No. 21-0002-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission]**;
- (19) Opportunity for public comment;
- (20) Presentation of Preliminary Investigative Review Report for **Internal Case No. 21-0004-P** (Lower-Level Use of Force (OC Spray) involving the Department of Conservation and Natural Resources (DCNR) related to an incident that occurred on June 16, 2018) by the Chairperson of the Use of Force Review Committee;
- (21) Opportunity for public comment;
- (22) Consideration, discussion, deliberation, and official action(s) concerning the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0004-P via Resolution No. 4 [Adoption and Ratification of Findings, Conclusions and Recommendations Contained in Preliminary Investigative Review Report for Internal Case No. 21-0004-P Presented by the Use of Force Review Committee in Anticipation of the Issuance of a Final Report for Internal Case No. 21-0004-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission]**;
- (23) Presentation of Preliminary Investigative Review Report for **Internal Case No. 21-0007-P** (Bias-

Based Policing complaint involving PSP related to an incident that occurred on November 26, 2016) by the Chairperson of Bias-Based Policing Review Committee;

- (24) Opportunity for public comment;
- (25) Consideration, discussion, deliberation, and official action(s) concerning the Bias-Based Policing Review Committee's Preliminary Investigation Review Report for **Internal Case No. 21-0007-P via Resolution No. 5 [Adoption and Ratification of Findings, Conclusions and Recommendations Contained in Preliminary Investigative Review Report for Internal Case No. 21-0007-P Presented by the Bias-Based Policing Review Committee in Anticipation of the Issuance of a Final Report for Internal Case No. 21-0007-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission]**;
- (26) Opportunity for public comment; and
- (27) Final Remarks by Voting and Non-Voting Commission members and Commission's Chairperson.

Individuals having questions regarding Commission meeting, should contact the OSIG's Bureau of Law Enforcement Oversight 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*



**RESOLUTION NO. 1**

**RULES SUB-COMMITTEE**

**Title:** Adoption and Ratification of Proposed Amendments to Various Sections of the Bylaws and Other Proposed Administrative Practices and Procedures Presented by the Rules Sub-committee of the Pennsylvania State Law Enforcement Citizen Advisory Commission

**Meeting Date:** Regular (Quarterly) Meeting, February 28, 2022, at 12:00 p.m.

**Description of Action Under Consideration:** In accordance with Executive Order 2020-04, as amended, the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) will consider, deliberate, and take action(s) following a presentation by the Commission's Rules Sub-committee<sup>1</sup> concerning proposed amendments to the Commission's Bylaws.<sup>2</sup>

**Originating Request Submitted By:** **Elizabeth C. Pittinger,**  
**Chairperson of the Rules Sub-committee**

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<sup>1</sup> The Commission's Rules Sub-committee was duly formed during the Commission's Regular Meeting held on December 10, 2021 and made pursuant to Article 8 (Review Process), Section 8.2 (Sub-committees and Review Committees).

<sup>2</sup> These Bylaws were duly adopted by the Commission *via* Resolution No. 1 (dated May 20, 2021).



**RESOLUTION NO. 1**

**Title:** Adoption and Ratification of Proposed Amendments to Various Sections of the Bylaws and Other Proposed Administrative Practices and Procedures Offered by the Rules Subcommittee of the Pennsylvania State Law Enforcement Citizen Advisory Commission

**AND NOW, on this 28<sup>th</sup> day of FEBRUARY, 2022, it is hereby certified that:**

**WHEREAS**, in accordance with Section 10 (Procedures), Subsection (a) of Executive Order 2020-04, as amended, the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) may establish subcommittees, rules, and procedures necessary to effectively implement its authority and responsibilities included in this Executive Order; and

**WHEREAS**, the Rules Sub-committee was duly formed and established by the Commission at its Regular Quarterly Meeting held on December 10, 2021 in accordance with Article 8 (Review Process), Section 8.2 (Commission Sub-Committees and Review Committees) of the Commission's Bylaws;<sup>1</sup> and

**WHEREAS**, the Rules Sub-committee considered, discussed, deliberated, and took official action(s) concerning proposed amendments to the Commission's Bylaws to include: (1) public posting of video recordings of the Commission's Review Committee meetings; (2) limiting the number of cases selected for review per review cycle for each Review Committee; and (3) requiring submission of all presentation materials prior to Review Committee meetings before a Covered Agency's Oral Presentation along with such other proposed administrative practices and procedures for Voting Members regarding community engagement and media inquiries at its Special Meeting held on February 1, 2022; and

**WHEREAS**, such proposed amendments to the Commission's Bylaws effect **Articles Nos. 6** Commission Meetings, Purpose and Rules of Commission Meetings, Quorum and Voting Meeting Recording and Meeting Minutes, **Section 6.4** (Meeting Recording); and **8** (Review Process), **Sections 8.2** (Commission Sub-committee and Review Committees), [upon motion **8.3** (Covered Agency's Opportunity to Respond to Preliminary Report)]; and

**WHEREAS**, following the Robert's Rules of Order, the Commission's Chairperson having attested to recognizing motions from the Commission membership, said motions having been seconded and recording the votes of Commission membership as indicated in the Vote Tabulation Form, the Commission hereby adopts and ratifies proposed amendments to various sections of the Commission's Bylaws and other proposed administrative practices and procedures offered by the Commission's Rules Sub-committee; and

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<sup>1</sup> These Bylaws were duly adopted by the Commission *via* Resolution No. 1 (dated May 20, 2021).

**NOW THEREFORE,**

**BE IT RESOLVED**, that the undersigned hereby certify that the foregoing to be a true and correct excerpt of the Minutes of the Regular (Quarterly) Meeting of the Commission held on this date, at which a quorum was present, and that said Resolution was duly passed by a majority vote of the Voting Members of the Commission present; and

**BE IT FURTHER RESOLVED**, that the Commission hereby authorizes the drafting, presentation, adoption, and release and posting of such amendments to the Commission's Bylaws along with such other proposed administrative practices and procedures for Voting Members regarding community engagement and media as required.

**AS DULY ADOPTED AND RATIFIED BY THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION (DATED FEBRUARY 28, 2022)**

**SIGNATURE OF THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION'S CHAIRPERSON:**



(Electronic Signature Authorized)

**PRINT: Sha S. Brown**

**SIGNATURE OF THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION'S SECRETARY:**



(Electronic Signature Authorized)

**PRINT: Jaimie L. Hicks**

**BYLAWS OF THE  
PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION**

**ARTICLE 1: NAME**

**1.1** Pursuant to Executive Order 2020-04, as amended April 30, 2021, this body shall be known as the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission).

**ARTICLE 2: PURPOSE**

**2.1** Pursuant to Executive Order 2020-04, as amended, the purpose of the Commission is to improve policing practices within state law enforcement agencies under the Governor's jurisdiction. To achieve its purpose, the Commission will focus on promoting transparency, fairness, and accountability among the Commonwealth's state law enforcement agencies by examining events and conducting reviews of policies, practices and procedures relating to use of force and biased-based policing and make recommendations for implementation of corrective measures, where applicable.

**2.2 Deputy State Inspector General for Law Enforcement Oversight**

Executive Order 2020-04 (as amended) established the Commission within the Pennsylvania Office of State Inspector General (OSIG) and provided that a Deputy Inspector General (or designee appointed by the State Inspector General) serve as the Commission's Chairperson. To support the intent of Executive Order 2020-04 (as amended), the Bureau of Law Enforcement Oversight (BLEO) and the position of Deputy State Inspector General for Law Enforcement Oversight (who directs the activities of the BLEO), were created within the OSIG.

**ARTICLE 3: AUTHORITY**

**3.1 Entities Under the Commission's Jurisdiction**

The Commission shall have jurisdiction over all Commonwealth state law enforcement agencies (Covered Agencies) under the Governor's jurisdiction including, but not limited to, the following:

- (a) Pennsylvania State Police;
- (b) Pennsylvania State Police, Bureau of Liquor Control Enforcement;
- (c) Department of General Services, Capital Police;
- (d) Department of Conservation and Natural Resources, Bureau of State Parks and Bureau of Forestry;
- (e) Department of Corrections;
- (f) Parole Board;
- (g) Department of Agriculture, Bureau of Dog Law Enforcement; and
- (h) OSIG, Bureau of Fraud Prevention and Prosecution.

All Covered Agencies shall expeditiously cooperate and assist the Commission as necessary to perform its functions. All Commonwealth agencies under the Governor's jurisdiction are also directed to take all steps necessary to implement Executive Order 2020-04, as amended.

### **3.2 Duties of the Commission**

The Commission is authorized to:

- (a) Perform reviews of completed internal investigative findings by Covered Agencies (as defined by Section 3(d) of Executive Order 2020-04, as amended) related to allegations and incidents concerning use of force and bias-based policing in the following categories:
  - (i) All internal investigations of police-involved shootings resulting in injury or death of civilians (as defined by Section 3(c) of Executive Order 2020-04, as amended) involving Covered Agencies' law enforcement personnel;
  - (ii) A representative, random sampling (as defined by Section 3(f) of Executive Order 2020-04, as amended) of internal investigations of lower level uses of force resulting in injury or death, including arrest and control techniques, baton strikes, and Conducted Energy Weapon deployments by Covered Agencies; and
  - (iii) All internal investigations related to allegations of racial or ethnic discrimination and other bias-based policing or external complaints of bias-based policing during interactions with Covered Agencies' law enforcement personnel.
- (b) Review the completed internal investigative findings of Covered Agencies as set forth above to:
  - (i) Determine if Covered Agencies internal investigations were prompt, fair, impartial, complete, and performed in a manner consistent with applicable policies;
  - (ii) Determine whether the completed internal investigative findings and any subsequent disciplinary action(s) taken by Covered Agencies were reasonable and/or appropriate under applicable law enforcement protocol, including, but not limited to the Covered Agency's just cause standard, rules and regulations, collective bargaining agreements, past disciplinary precedent and/or grievance and arbitration decisions; and
  - (iii) When appropriate, shall provide recommendations for corrective actions concerning any perceived policy or training deficiency for consideration by a Covered Agency.

## **ARTICLE 4: APPOINTMENT OF COMMISSION MEMBERS, DUTIES OF COMMISSION OFFICERS, TERMS OF SERVICE, COMPENSATION, ATTENDANCE, VACANCIES, REMOVAL AND RECUSAL**

### **4.1 Appointment of Commission Members**

The Commission shall be composed of voting and non-voting members.

#### **(a) Voting Members**

The Governor shall appoint twenty-one (21) voting members of the Commission which shall be comprised of:

- (i) Fifteen (15) members representing each of the Pennsylvania State Police current Troop geographical areas, and specifically from areas of the Pennsylvania State Police's primary jurisdiction; and
- (ii) Six (6) members chosen at-large.

No voting member of the Commission may be a party to, or represent any party in, litigation involving any of the Covered Agencies.

**(b) Non-Voting Members**

There shall be six (6) ex-officio or non-voting members of the Commission which shall be comprised of the:

- (i) General Counsel of the Commonwealth of Pennsylvania, or designee;
- (ii) Commissioner of the Pennsylvania State Police, or designee;
- (iii) Chief of Capitol Police, or designee;
- (iv) Secretary of the Department of Conservation and Natural Resources, or designee;
- (v) Chair of the Pennsylvania Commission on Crime and Delinquency, or designee; and
- (vi) Appointee from the Office of the Governor.

**(c) Chairperson**

The Deputy Inspector General of BLEO or designee appointed by the State Inspector General will chair the Commission.

**4.2 Duties of Commission Officers**

**(a) Commission's Chairperson**

Responsibilities and duties of the Commission's Chairperson shall include:

- (1) Scheduling, attending, convening, and presiding over all Commission meetings;
- (2) Creating, distributing, and publicly posting meeting agendas for all Commission meetings;
- (3) Calling all Commission meetings to order, recording attendance of Commission members at each Commission meeting, and maintaining all Commission meeting attendance records;
- (4) Preparing, distributing, and publicly posting final drafts of meeting minutes for formal adoption and any other materials under consideration for review by the Commission at the next scheduled Commission meeting;
- (5) Establishing Commission Review Committees (as described by Article 8, Section 2) to conduct the completed internal investigative findings review functions of the Commission authorized by Executive Order 2020-04, as amended;

- (6) Presenting matters for consideration and vote by the Commission and maintaining records of all votes of the Commission;
- (7) Preparing and submitting annual reports of the Commission's work to the Governor's Office;
- (8) Effectuating all other administrative tasks to support the purpose and mission of the Commission; and
- (9) Representing, and acting on behalf of, the Commission in external matters involving Commission business.

The Commission's Chairperson shall also name a Vice-Chair from among other Commission members to act in the Chairperson's stead in cases of the Chairperson's emergency, incapacity, or unavailability (for parliamentary purposes only) in calling and/or presiding over Commission regular, special, or rescheduled meetings.

(c) **[Reserved for Secretary (or similar position)]**

(d) **[Reserved for Duties of Other Officers]**

#### **4.3 Terms of Service**

Voting members shall serve the terms of their appointment and until a successor is appointed. Members may serve no more than two (2) terms. Initially, eleven (11) inaugural voting members shall be appointed for an initial term of two (2) years, and ten (10) inaugural voting members shall be appointed for an initial term of three (3) years, the initial terms to be served beginning from the effective date of Executive Order 2020-04, as amended. Thereafter, all terms shall be four (4) years.

#### **4.4 Compensation**

No Commission member shall receive compensation for their services, except those members may be reimbursed for travel and related expenses in accordance with Commonwealth policy.

#### **4.5 Attendance**

All Commission members are expected to attend (either in person or remotely by electronic or telephonic means) all Commission meetings and meetings of Commission Subcommittees and Review Committees (as described in Article 8, Section 2) to which the member is assigned. Members shall coordinate with the Commission's Chairperson prior to an absence to obtain excusal. Excessive or unexcused absences will be reported to the Governor.

#### **4.6 Vacancies**

Should a vacancy occur among the Governor's appointees on the Commission, the Governor will appoint a successor to complete the term of the vacancy.

#### **4.7 Removal**

A Commission member may be removed by the Governor, including for cause.

#### **4.8 Recusal**

All voting and non-voting members of the Commission shall immediately (and without hesitation) notify and report any actual or potential conflicts of interest to the Commission's Chairperson, request a conflict review, and disclose all material facts within the member's knowledge that bear on the circumstances at hand. To meet this notification and reporting requirement, the Commission's Chairperson shall develop and make readily available a Conflict of Interest Disclosure Form that shall be completed and submitted by Commission members for all matters reviewed by the Commission.

With the advice of, and after consultation with, the OSIG's Legal Office, all voting and non-voting members must recuse themselves and abstain from any matter or review (and may not vote or otherwise participate in any Commission review or action) when: (1) an actual conflict of interest exists as determined by the OSIG's Legal Office; (2) there may be an appearance of impropriety or perceived conflict or other bias if the voting or non-voting member's participation continues; or (3) a voting or non-voting member is concerned with whether he or she can participate objectively and in an unbiased manner.

### **ARTICLE 5: CONFIDENTIALITY**

**5.1** Commission members shall maintain the strict confidentiality of all information and materials he or she receives and shall not disseminate (whether orally or in writing) any such information to any person or group outside of the Commission, a Commission Sub-committee, or Review Committee (as described in Article 8, Section 2 herein) or BLEO unless specifically authorized to do so by the Commission's Chairperson. Outside of statements required by Pennsylvania's Sunshine Act, the Commission meetings, and required reports, no member of the Commission shall make any individual public statements regarding any deliberations, discussions, debate, or review of any of the completed internal investigative findings or recommendations of the Commission, at no time shall any Commission member discuss, release, disclose or disseminate (whether orally or in writing) any confidential information obtained as a result of their Commission service and must protect the security of all information along with other Commission, Commission Sub-committee, or Commission Review Committee (as described in Article 8, Section 2 herein) and BLEO communications, records, reviews, and reports at all times. Any unauthorized release of information or other Commission, Commission Sub-committee, or Commission Review Committee (as described in Article 8, Section 2 herein) and BLEO communications, records, reviews, and reports shall constitute a violation of this article and may form the basis for removal or termination.

Executive session proceedings (which are closed to the public) and predecisional deliberations of the Commission and of its Sub-committees, or Review Committees (as described in Article 8, Section 2 herein) are also strictly confidential, and each member of the Commission shall maintain the strict confidentiality of any information he or she receives in connection with his or her service including, but not limited to, the commencement, status or details of any Commission review or the names of person(s), employee(s) or law enforcement personnel learned, during the exercise of their duties.

Commission voting members will complete and submit (with the assistance of the OSIG) all necessary documents and forms to be fingerprinted and undergo a criminal background check by the Pennsylvania State Police and limited background investigation by the OSIG for purposes

of having access to Commonwealth systems and completed internal investigative findings documents being reviewed.

All members of the Commission shall execute an appropriate Confidentiality and Non-Disclosure Agreement which shall be kept on file with the Commission's Chairperson.

## **ARTICLE 6: COMMISSION MEETINGS, PURPOSE AND RULES OF COMMISSION MEETINGS, QUORUM AND VOTING, MEETING RECORDING AND MEETING MINUTES**

### **6.1 Meetings of the Commission**

The Commission shall meet four times each year, unless otherwise determined by the Chairperson and fix a date, time, and place (if applicable) of all such meetings. A schedule of all regular meetings shall be determined in advance each year and made publicly available as soon as practicable. All such times, dates, and locations (if applicable) for all such regular meetings shall be posted on the Commission's public website. At least three (3) days or seventy-two (72) hours in advance of any such date, the Commission shall also advertise the details of such meetings, and post notice of such regular meetings outside of the meeting location (if applicable), both in accordance with 65 Pa.C.S. §§ 703 and 709(a).

The Commission's Chairperson, or a quorum of the voting members of the Commission (as defined in Article 6, Section 3 herein), may call special meetings of the Commission on an as-needed basis, and may adjourn or cancel regular or special meetings for cause. For all special or rescheduled regular meetings, the Commission shall provide at least twenty-four (24) hours advance notice. All dates, times, and locations (if applicable) of all special or rescheduled meetings shall also be advertised and posted on the Commission's public website and outside of the meeting location (if applicable), both in accordance with 65 Pa.C.S. §§ 703 and 709(a).

All regular, special, and rescheduled meetings shall be open to public participation and include a time for public comment in accordance with 65 Pa.C.S. §§ 704 and 710.1. The Commission shall provide the general citizenry with the ability to register to attend and participate and/or speak at all regular, special, and rescheduled meetings, provide adequate public accommodations in accordance with the law for physical meeting locations, and allow for remote or other virtual participation in all such meetings as much as practicable.

All advertisements of, and participation in, all such regular, special, and rescheduled meetings of the Commission shall be had in accordance with Pennsylvania's Sunshine Act [65 Pa.C.S. §§ 701, *et seq.*].

At least forty-eight (48) hours' notice of any special or rescheduled meeting or twenty-four (24) hours' notice of any cancellation of any regular, special, or rescheduled meeting shall be given by electronic means to all members of the Commission in accordance with 65 Pa.C.S. § 709.

Commission members shall make every effort to attend and participate in all Commission meetings and meetings of all Commission Sub-committees and Review Committees (as described in Article 8, Section 2 herein) to which he or she is assigned and may attend all regular, special, and rescheduled Commission meetings or Commission Sub-committee or Review Committee meetings (as described in Article 8, Section 2 herein) in person or remotely by



electronic or telephonic means (provided that the member is able to hear, comment, and vote, if applicable). In-person and remote participation shall be considered attendance for purposes of constituting a quorum (as defined in Article 6, Section 3 herein) of the Commission.

Members shall review all materials provided at or in advance of all meetings of the Commission and Commission Sub-committees or Review Committees (as described in Article 8, Section 2). Each member shall familiarize themselves with the business of the Commission to facilitate active and effective participation in all Commission meetings and the predecisional deliberations of the Commission and of each Commission Sub-committee or Review Committee (as described in Article 8, Section 2 herein) on which he or she may serve. Materials shall be provided to all Commission members to allow for a reasonable period to review such materials in advance of any such meetings.

## **6.2 Purpose and Rules of Commission Meetings**

As much as practicable, the Commission shall provide advance notice of the purpose of all regular, special, and rescheduled meetings in accordance with 65 Pa.C.S. § 709(b). At a minimum, the agenda of all regular, special, and rescheduled meetings shall include the following:

- (a) Executive Session (closed to the public);
- (b) Call to Order and Roll Call;
- (c) Acceptance of Meeting Agenda;
- (d) Approval and adoption of previous meeting's minutes;
- (e) Approval of administrative and procedural matters;
- (f) Report of the Commission's Chairperson and/or reports of Commission Sub-committees or Review Committees (as described in Article 8, Section 2 herein);
- (g) Opportunity for public comment; and
- (h) Discussion and vote of recommendations for corrective action(s) (if applicable) stemming from a Commission review under consideration.

The rules of procedure for all regular, special, and rescheduled meetings shall be established by the Commission, or in the absence of specific Bylaws or Rules of Policy and Procedure as may be adopted from time to time by the Commission, the Commission shall follow the Robert's Rules of Order, and 65 Pa.C.S. § 710, when conducting all Commission meetings.

## **6.3 Quorum and Voting**

A quorum of the voting members of the Commission shall be present to conduct the business of the Commission. A quorum of the voting members of the Commission shall consist of a simple majority, or of eleven (11) voting members being in attendance. A Vote by Absentee Ballot (as described below) shall not be counted for purposes of determining whether a quorum exists.

Decisions of the Commission shall be made by a majority vote of voting members. Any recommendations ratified by a majority vote of the voting members of the Commission membership will be included in all Final Reports (as described in Article 8, Section 6).

Any procedural or administrative matters of the Commission may be decided by a majority vote of those voting members in attendance.

In cases of absence, voting members of the Commission may Vote by Absentee Ballot (on a form developed and approved by the Commission's Chairperson and as may be amended from time to time) that must be signed by the Commission member, and submitted to the Commission's Chairperson in advance of any such regular, special, or rescheduled Commission meeting for which the voting member is excused. The Vote by Absentee Ballot Form shall provide that a voting member attests to reading and understanding all materials and subjects under consideration, lists the resolutions and/or action items for vote, and includes a space to record the member's vote on any such items; however, the voting member's ability to Vote by Absentee Ballot shall not exceed two (2) times in any calendar year. When applicable, the Vote by Absentee Ballot Form will be read aloud by the Commission's Chairperson during the Vote Call at the applicable regular, special, or rescheduled Commission meeting, and the original signed Vote by Absentee Ballot Form shall be attached to meeting minutes, made a part thereof, and kept on file by the Commission. A Vote by Absentee Ballot Form shall not be counted for purposes of determining whether a quorum exists.

#### **6.4 Meeting Recordings**

All Commission, Sub-committee, and Review Committee (as duly authorized and prescribed by Article 8, Section 2 herein) meetings will be recorded and links to these recordings will be posted on the Commission's public webpage.

#### **6.5 Meeting Minutes**

Minutes of the Commission shall include, at least:

- (a) The date, time, and location (or other technology platform used) of each Commission meeting;
- (b) The meeting agenda;
- (c) The Commission members in attendance;
- (d) Identification of each Covered Agencies' completed internal investigative findings reviewed or discussed at a particular Commission meeting;
- (e) The recommendations (if any) of each Commission Review Committee (as described in Article 8, Section 2 herein) related to each of the reviews of the Covered Agency's completed internal investigative findings presented for Commission review;
- (f) The vote of each voting member of the Commission for each recommendation (if any); and
- (g) Tabulation and summary of all votes for each recommendation (if any) indicating whether the recommendation was approved or adopted.

The Commission will publicly post meeting minutes as they are approved by the Commission.

### **ARTICLE 7: TRAINING OF COMMISSION MEMBERS**

#### **7.1 Voting Members**

Prior to performing any functions relating to their authority and responsibilities, voting members of the Commission must complete required training on certain topics including the following:

- (a) Use of Force;
- (b) Stop, Search, and Arrest;
- (c) Traffic Enforcement;
- (d) Bias-based Policing;
- (e) Internal Affairs Processes;
- (f) Constitutional Law;
- (g) Disciplinary Procedures and Grievance and Administrative Processes of each of the Covered Agencies;
- (h) Covered Agencies' Rules and Regulations for law enforcement officers;
- (i) Administrative Law (including Pennsylvania's Right-to-Know Law and Sunshine Act), the Governor's Code of Conduct, Executive Order 2015-01, and confidentiality; and
- (j) Any other topic that the Commission's Chairperson may deem appropriate from time to time.

## **7.2 Non-Voting or Ex-Officio Members**

Non-voting or ex-officio Commission members are not required to attend pre-requisite training but may elect to participate in any training offered to voting members under Section 7.1 above.

## **ARTICLE 8: REVIEW PROCESS**

The Commission's Chairperson shall develop and make available to the public such policy and procedural rules as the Commission may adopt, and by which the Commission shall operate. The review procedures of the Commission will contain (at a minimum) the following:

### **8.1 Role of BLEO**

BLEO will create and monitor a hotline to receive complaints alleging any misconduct by a law enforcement employee of a Covered Agency and refer all complaints received to the appropriate Covered Agency for proper handling under their respective internal investigative affairs processes.

The Deputy State Inspector General of BLEO will also submit a request to each Covered Agency every quarter which seeks a detailed listing of all completed internal investigations under the jurisdiction of the Commission. BLEO will maintain this information securely in Commonwealth systems and provide access to Commission members assigned to each of the applicable Commission Review Committees (as described in Article 8, Section 2).

### **8.2 Commission Sub-committees and Review Committees**

Pursuant to Section 10(a) of Executive Order 2020-04, as amended, and upon a majority vote of voting members, the Commission may, from time to time, establish Sub-committees to research and propose for adoption such rules, procedures and guidelines deemed necessary to

effectively implement the Commission's authority and responsibilities thereunder, including those matters related to parliamentary procedures, public engagement and presence, and official participation of Commission members in community and other events. Sub-committees shall be chaired by a voting member and may only consist of voting and non-voting members of the Commission.

As duly adopted by the Commission's Rules Sub-committee, and ratified by the Commission, no voting member shall offer or submit any public statement or comment (either on- or off-the-record) to members of the media concerning any Commission matters under consideration including, but not limited to, proposed action(s), preliminary findings or conclusions and related recommendation(s) not yet voted on, adopted, and ratified by the full Commission without the express written consent of the Commission's Chairperson.

As duly adopted by the Commission's Rules Sub-committee, and ratified by the Commission, all voting members shall submit, for preapproval to the Commission's Chairperson, all requests for participation (in their official capacity as Commission members) in any event.

Pursuant to Section 9(b) of Executive Order 2020-04, as amended, the Commission's Chairperson will establish Commission Review Committees (which shall include a minimum of one (1) voting member and one (1) non-voting member (not associated with the subject matter or Covered Agency)) to oversee all completed internal investigative findings reviews and name Chairs and Vice-Chairs (from among voting members) to oversee each such Review Committee. With the approval of the Commission's Chairperson, Commission Review Committees will select (upon a majority vote of voting members assigned thereto) at least one, but no more than two new completed internal investigative findings for review by the applicable Review Committee per quarterly review cycle.

Once a review is initiated by a Review Committee of the Commission, the Commission's Chairperson shall, within three (3) business days, advise (whether in person or by written or oral communication) designees of the applicable Covered Agency that the Commission has selected a completed internal investigative findings matter for review. Following this notification and as within 30 business days of the notification, unless extended for good cause, the Covered Agency shall provide the Commission's Review Committee with a comprehensive written summary and schedule an oral presentation of its completed internal investigative findings. The summary shall include a detailed description of all investigative activities, facts as determined by investigators and relevant dates of all actions, including all criminal and/or administrative adjudications (excluding, and as those terms are defined in Executive Order 2020-04, as amended, all Personal Identifiable Information (PII), information protected by the Criminal History Record Information Act (CHRIA) or information obtained or derived from a Criminal Justice Information Services (CJIS) system or other information restricted by State or Federal law). Prior to the date of the scheduled oral presentation meeting, the Commission's Chairperson shall request from the Covered Agency, at least three (3) days in advance, copies of all presentation materials for distribution to applicable Review Committee members.

A Commission's Review Committee may request additional information and supporting documents when necessary, to complete its review and any request for additional information and supporting documents shall be limited to such information directly related to the completed internal investigative findings under review (excluding all PII, CHRIA, and CJIS information or other information restricted by State or Federal law).

At the conclusion of a Commission's Review Committee findings review, the Review Committee will prepare a Preliminary Investigative Review Report (Preliminary Report) that will include Findings and Conclusions of the Review, any Additional Factors for Consideration and Recommendations for Corrective Actions, if applicable.

The Preliminary Report will be distributed to all members of the Commission and the Agency Head and Chief Counsel of the Covered Agency under review.

### **8.3 Covered Agency's Opportunity to Respond to Preliminary Report**

A Covered Agency may request a meeting with a Review Committee of the Commission to discuss the preliminary findings and recommendations contained in the Preliminary Report within five (5) business days upon its issuance. Additionally, within five (5) business days upon issuance of the Preliminary Report, other voting and ex-officio Commission members may provide additional recommendations for consideration by the Review Committee and, upon approval of the Commission's Chairperson and a majority vote of voting members assigned thereto, for inclusion in the Preliminary Report.

### **8.4 Presentation of Preliminary Report to Commission**

The Commission's Chairperson and/or the Review Committee's Chairperson will present the Preliminary Report including, recommendations for corrective actions, if any, to the Commission for a vote during the next regular, special, or rescheduled Commission meeting. Any recommendations ratified by a majority vote of the voting members of the Commission membership in attendance (provided a quorum exists) will be included in a Final Report.

### **8.5 Implementation of Recommendations**

Covered Agencies will review recommendations, if applicable, contained in Final Reports and provide the Commission with a written response including what, if any, recommendations it may implement. If a recommendation cannot or will not be implemented, the Covered Agency shall provide an explanation as required by Section 3(b)(4) of Executive Order 2020-04, as amended.

### **8.6 Issuance and Publication of Final Reports**

Once adopted and ratified by the Commission, copies of all Final Reports (including written responses of Covered Agencies) will be posted publicly on the Commission's webpage.

## **ARTICLE 9: ANNUAL REPORT**

**9.1** In the interests of transparency and accountability, and in conformity with Executive Order 2020-04, as amended, the Commission shall issue an annual, public report that includes, but is not limited to, summary information and statistical data regarding the number of completed internal investigative findings reported and it reviewed, descriptions of recommendations for corrective actions ratified by the Commission (if applicable), and/or policy changes made, or other actions taken by, Covered Agencies.

**ARTICLE 10: AMENDMENT OF BYLAWS**

**10.1** These Bylaws shall be duly adopted by the Commission and may be amended at any regular, special, or rescheduled meeting of the Commission by majority vote of voting members of the Commission as set forth in Article 6 herein; provided that written notice of such amendments shall be given to all Commission members at least five (5) days prior to such meeting and the amendment(s) are not inconsistent with Executive Order 2020-04, as amended, any statute of the Commonwealth, or the Pennsylvania and United States Constitutions.

**ORIGINALLY ADOPTED BY RESOLUTION NO. 1 OF THE COMMISSION (dated May 20, 2021)**

**AS HEREIN REVISED AND ADOPTED BY RESOLUTION NO. 1 OF THE COMMISSION (dated February 28, 2022)**

**SIGNATURE OF CHAIRPERSON:**



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**Sha S. Brown**



# pennsylvania

OFFICE OF STATE  
INSPECTOR GENERAL

## Vote Tabulation Form

Type of Commission Meeting:  Quarterly  Special  Rescheduled

Date and Time of Commission Meeting: February 28, 2022 12:00pm

Pursuant to Article 6, Sections 2, 3 and 5 of the Pennsylvania State Law Enforcement Citizen Advisory Commission's (Commission) Bylaws, and following the Robert's Rules of Order, I hereby attest to recognizing motions from Commission membership, said motions having been seconded, and recording the votes of Commission membership for matters under the Commission's review as indicated below:

**ACTION ITEM:**

ADOPTION AND RATIFICATION OF PROPOSED AMENDMENTS TO VARIOUS SECTIONS OF THE BYLAW

Summary Tabulation of All Votes:      YAY      NAY      PRESENT      ABSTAIN

Seat Name	Name of Commission Member	Individual Votes			
		YAY	NAY	PRESENT	ABSTAIN
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



**RESOLUTION NO. 2**

**CRITICAL INCIDENT REVIEW COMMITTEE**

**Title:** Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0012-P presented by the Critical Incident Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0012-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

**Meeting Date:** Regular (Quarterly) Meeting, February 28, 2022, at 12:00 p.m.

**Description of Action Under Consideration:** In accordance with Executive Order 2020-04, as amended, the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) will consider, deliberate and take action(s) following presentation of the Commission's Critical Incident Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0012-P** (an internal investigation by the Pennsylvania State Police (PSP) involving a non-fatal police-involved shooting that occurred on February 19, 2019) in anticipation of the issuance and ratification of a Final Report for **Internal Case No. 21-0012-P**.<sup>1</sup>

**Originating Request Submitted By:** **Kelley B. Hodge, Esq.,  
Chairperson of the Critical Incident Review  
Committee**

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<sup>1</sup> These actions are authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.



## **RESOLUTION NO. 2**

**Title:** Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0012-P presented by the Critical Incident Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0012-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

**AND NOW, on this 28<sup>TH</sup> day of FEBRUARY, 2022, it is hereby certified that:**

**WHEREAS,** the Critical Incident Review Committee was duly formed and established by the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) at its Regular (Quarterly) Meeting held on August 6, 2021;<sup>1</sup> and

**WHEREAS,** in accordance with Executive Order 2020-04, as amended, the Critical Incident Review Committee completed its review of **Internal Case No. 21-0012-P**; and

**WHEREAS,** the Critical Incident Review Committee authorized the preliminary drafting and internal production of a Preliminary Investigative Review Report for **Internal Case No. 21-0012-P** at its Special Meeting held on February 2, 2022; and

**WHEREAS,** a draft of the Critical Incident Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0012-P** was completed and distributed to the Agency Head, Agency's Chief Counsel, and all Commission members for review on February 8, 2022;<sup>2</sup> and

**WHEREAS,** the Critical Incident Review Committee considered, discussed, deliberated, and took official action(s) concerning comments offered by the Covered Agency and/or other Commission members, if any, during its Special Meeting held on February 16, 2022 regarding the Critical Incident Review Committee's preliminary Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) contained in the draft of the Preliminary Investigative Review Report for **Internal Case No. 21-0012-P**;<sup>3</sup> and

**WHEREAS,** following consideration and deliberation of the Covered Agency's comments contained in, and amendment of its draft report, the Critical Incident Review Committee adopted and ratified its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) during its Special Meeting held on February 16, 2022 for presentation to, and further consideration by, the Commission; and

**WHEREAS,** the Critical Incident Review Committee presented its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective

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<sup>1</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.2 (Commission Sub-Committees and Review Committees) of the Commission's Bylaws.

<sup>2</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.2 (Commission Sub-committees and Review Committees) of the Commission's Bylaws.

<sup>3</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.3 (Covered Agency's Opportunity to Respond to Preliminary Report) of the Commission's Bylaws.

Action(s) contained in its Preliminary Investigative Review Report for **Internal Case No. 21-0012-P** to the Commission at its Regular (Quarterly) Meeting held on February 28, 2022;<sup>4</sup> and

**WHEREAS**, following the Robert's Rules of Order, the Commission's Chairperson having attested to recognizing motions from the Commission's voting membership, said motions having been seconded and recording the votes of the Commission's voting membership as indicated in the Vote Tabulation Form, the Commission hereby adopts and ratifies the contents of the Critical Incident Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0012-P**.<sup>5</sup>

**NOW THEREFORE,**

**BE IT RESOLVED**, that the undersigned hereby certify that the foregoing to be a true and correct excerpt of the Minutes of the Regular (Quarterly) Meeting of the Commission held on this date, at which a quorum was present, and that said Resolution was duly passed by a majority vote of the Voting Members of the Commission present.

**BE IT FURTHER RESOLVED**, that the Commission authorizes the release of, and presents its Final Report for **Internal Case No. 21-0012-P** and any accompanying addenda to the Covered Agency for further action.<sup>6</sup>

**BE IT FURTHER RESOLVED**, that the Commission directs its Chairperson to publicly post a copy of the Final Report for **Internal Case No. 21-0012-P** and any accompanying addenda on the Commission's webpage.<sup>7</sup>

**AS DULY ADOPTED BY THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION (DATED FEBRUARY 28, 2022)**

**SIGNATURE OF THE PENNSYLVANIA STATE LAW ENFORCEMENT ADVISORY COMMISSION'S CHAIRPERSON:**



(Electronic Signature Authorized)

**PRINT: Sha S. Brown**

**SIGNATURE OF SECRETARY OF THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION:**



(Electronic Signature Authorized)

**PRINT: Jaimie L. Hicks**

<sup>4</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

<sup>5</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

<sup>6</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.5 (Implementation of Recommendations) of the Commission's Bylaws.

<sup>7</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.6 (Issuance and Publication of Final Reports) of the Commission's Bylaws.

## Vote Tabulation Form

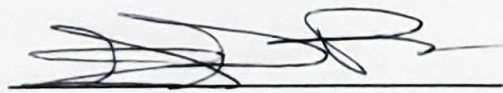
Type of Commission Meeting:  Quarterly  Special  Rescheduled  
 Date and Time of Commission Meeting: February 28, 2022 12:00pm

Pursuant to Article 6, Sections 2, 3 and 5 of the Pennsylvania State Law Enforcement Citizen Advisory Commission's (Commission) Bylaws, and following the Robert's Rules of Order, I hereby attest to recognizing motions from Commission membership, said motions having been seconded, and recording the votes of Commission membership for matters under the Commission's review as indicated below:

**ACTION ITEM:**

*CONSIDERATION, DEBATE AND ACTION CONCERNING PRELIMINARY INVESTIGATIVE REVIEW REPORT*  
 Summary Tabulation of All Votes:      YAY      NAY      PRESENT      ABSTAIN *(21-0012-P)*

Seat Name	Name of Commission Member	Individual Votes			
		YAY	NAY	PRESENT	ABSTAIN
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**



**RESOLUTION NO. 3**

**USE OF FORCE REVIEW COMMITTEE**

**Title:** Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0002-P presented by the Use of Force Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0002-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

**Meeting Date:** Regular (Quarterly) Meeting, February 28, 2022, at 12:00 p.m.

**Description of Action Under Consideration:** In accordance with Executive Order 2020-04, as amended, the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) will consider, deliberate and take action(s) following presentation of the Commission's Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0002-P** (an internal investigation by the Pennsylvania State Police (PSP) involving a lower level use of force incident that occurred on January 16, 2019) in anticipation of the issuance and ratification of a Final Report for **Internal Case No. 21-0002-P**.<sup>1</sup>

**Originating Request Submitted By:** **David A. Sonenshein, Esq.,  
Chairperson of the Use of Force Review  
Committee**

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<sup>1</sup> These actions are authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

### **RESOLUTION NO. 3**

**Title:** Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0002-P presented by the Use of Force Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0002-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

**AND NOW, on this 28<sup>TH</sup> day of FEBRUARY, 2022, it is hereby certified that:**

**WHEREAS,** the Use of Force Review Committee was duly formed and established by the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) at its Regular (Quarterly) Meeting held on August 6, 2021;<sup>1</sup> and

**WHEREAS,** in accordance with Executive Order 2020-04, as amended, the Use of Force Review Committee completed its review of **Internal Case No. 21-0002-P**; and

**WHEREAS,** the Use of Force Review Committee authorized the preliminary drafting and internal production of a Preliminary Investigative Review Report for **Internal Case No. 21-0002-P** at its Special Meeting held on February 3, 2022; and

**WHEREAS,** a draft of the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0002-P** was completed and distributed to the Agency Head, Agency's Chief Counsel, and all Commission members for review on February 6, 2022;<sup>2</sup> and

**WHEREAS,** the Use of Force Review Committee considered, discussed, deliberated, and took action(s) concerning comments offered by the Covered Agency and/or other Commission members, if any, during its Special Meeting held on February 14, 2022 regarding the Use of Force Review Committee's preliminary Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) contained in the draft of the Preliminary Investigative Review Report for **Internal Case No. 21-0002-P**;<sup>3</sup> and

**WHEREAS,** following consideration and deliberation of the Covered Agency's comments contained in, and amendment of its draft report, the Use of Force Review Committee adopted and ratified its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) during its Special Meeting held on February 14, 2022 for presentation to, and further consideration by, the Commission; and

**WHEREAS,** the Use of Force Review Committee presented its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) contained

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<sup>1</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.2 (Commission Sub-Committees and Review Committees) of the Commission's Bylaws.

<sup>2</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.2 (Commission Sub-committees and Review Committees) of the Commission's Bylaws.

<sup>3</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.3 (Covered Agency's Opportunity to Respond to Preliminary Report) of the Commission's Bylaws.

in its Preliminary Investigative Review Report for **Internal Case No. 21-0002-P** to the Commission at its Regular (Quarterly) Meeting held on February 28, 2022;<sup>4</sup> and

**WHEREAS**, following the Robert's Rules of Order, the Commission's Chairperson having attested to recognizing motions from the Commission's voting membership, said motions having been seconded and recording the votes of the Commission's voting membership as indicated in the Vote Tabulation Form, the Commission hereby adopts and ratifies the contents of the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0002-P**.<sup>5</sup>

**NOW THEREFORE,**

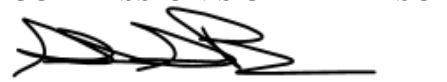
**BE IT RESOLVED**, that the undersigned hereby certify that the foregoing to be a true and correct excerpt of the Minutes of the Regular (Quarterly) Meeting of the Commission held on this date, at which a quorum was present, and that said Resolution was duly passed by a majority vote of the Voting Members of the Commission present.

**BE IT FURTHER RESOLVED**, that the Commission authorizes the release of, and presents its Final Report for **Internal Case No. 21-0002-P** and any accompanying addenda to the Covered Agency for further action.<sup>6</sup>

**BE IT FURTHER RESOLVED**, that the Commission directs its Chairperson to publicly post a copy of the Final Report for **Internal Case No. 21-0002-P** and any accompanying addenda on the Commission's webpage.<sup>7</sup>

**AS DULY ADOPTED BY THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION (DATED FEBRUARY 28, 2022)**

**SIGNATURE OF THE PENNSYLVANIA STATE LAW ENFORCEMENT ADVISORY COMMISSION'S CHAIRPERSON:**



(Electronic Signature Authorized)

**PRINT: Sha S. Brown**

**SIGNATURE OF SECRETARY OF THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION:**



(Electronic Signature Authorized)

**PRINT: Jaimie L. Hicks**

<sup>4</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

<sup>5</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

<sup>6</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.5 (Implementation of Recommendations) of the Commission's Bylaws.

<sup>7</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.6 (Issuance and Publication of Final Reports) of the Commission's Bylaws.



# pennsylvania

OFFICE OF STATE  
INSPECTOR GENERAL

## Vote Tabulation Form

Type of Commission Meeting:  Quarterly  Special  Rescheduled  
Date and Time of Commission Meeting: February 28, 2022 12:00pm

Pursuant to Article 6, Sections 2, 3 and 5 of the Pennsylvania State Law Enforcement Citizen Advisory Commission's (Commission) Bylaws, and following the Robert's Rules of Order, I hereby attest to recognizing motions from Commission membership, said motions having been seconded, and recording the votes of Commission membership for matters under the Commission's review as indicated below:

**ACTION ITEM:**

Action Concerning Preliminary Investigative Review Report 21-0002-P

Summary Tabulation of All Votes:      YAY      NAY      PRESENT      ABSTAIN

Seat Name	Name of Commission Member	Individual Votes			
		YAY	NAY	PRESENT	ABSTAIN
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

**RESOLUTION NO. 4****USE OF FORCE REVIEW COMMITTEE**

**Title:** Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0004-P presented by the Use of Force Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0004-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

**Meeting Date:** Regular (Quarterly) Meeting, February 28, 2022, at 12:00 p.m.

**Description of Action Under Consideration:** In accordance with Executive Order 2020-04, as amended, the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) will consider, deliberate and take action(s) following presentation of the Commission's Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0004-P** (an internal investigation by the Department of Conservation and Natural Resources (DCNR) involving a lower level use of force incident that occurred on June 16, 2018) in anticipation of the issuance and ratification of a Final Report for **Internal Case No. 21-0004-P**.<sup>1</sup>

**Originating Request Submitted By:** **David A. Sonenshein, Esq.,**  
**Chairperson of the Use of Force Review**  
**Committee**

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<sup>1</sup> These actions are authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.



## **RESOLUTION NO. 4**

**Title:** Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0004-P presented by the Use of Force Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0004-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

**AND NOW, on this 28<sup>TH</sup> day of FEBRUARY, 2022, it is hereby certified that:**

**WHEREAS,** the Use of Force Review Committee was duly formed and established by the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) at its Regular (Quarterly) Meeting held on August 6, 2021;<sup>1</sup> and

**WHEREAS,** in accordance with Executive Order 2020-04, as amended, the Use of Force Review Committee completed its review of **Internal Case No. 21-0004-P**; and

**WHEREAS,** the Use of Force Review Committee authorized the preliminary drafting and internal production of a Preliminary Investigative Review Report for **Internal Case No. 21-0004-P** at its Special Meeting held on February 3, 2022; and

**WHEREAS,** a draft of the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0004-P** was completed and distributed to the Agency Head, Agency's Chief Counsel, and all Commission members for review on February 6, 2022;<sup>2</sup> and

**WHEREAS,** the Use of Force Review Committee considered, discussed, deliberated, and took action(s) concerning comments offered by the Covered Agency and/or other Commission members, if any, during its Special Meeting held on February 14, 2022 regarding the Use of Force Review Committee's preliminary Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) contained in the draft of the Preliminary Investigative Review Report for **Internal Case No. 21-0004-P**;<sup>3</sup> and

**WHEREAS,** following consideration and deliberation of the Covered Agency's comments contained in, and amendment of its draft report, the Use of Force Review Committee adopted and ratified its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) during its Special Meeting held on February 14, 2022 for presentation to, and further consideration by, the Commission; and

**WHEREAS,** the Use of Force Review Committee presented its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) contained

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<sup>1</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.2 (Commission Sub-Committees and Review Committees) of the Commission's Bylaws.

<sup>2</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.2 (Commission Sub-committees and Review Committees) of the Commission's Bylaws.

<sup>3</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.3 (Covered Agency's Opportunity to Respond to Preliminary Report) of the Commission's Bylaws.

in its Preliminary Investigative Review Report for **Internal Case No. 21-0004-P** to the Commission at its Regular (Quarterly) Meeting held on February 28, 2022;<sup>4</sup> and

**WHEREAS**, following the Robert's Rules of Order, the Commission's Chairperson having attested to recognizing motions from the Commission's voting membership, said motions having been seconded and recording the votes of the Commission's voting membership as indicated in the Vote Tabulation Form, the Commission hereby adopts and ratifies the contents of the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0004-P**.<sup>5</sup>

**NOW THEREFORE,**

**BE IT RESOLVED**, that the undersigned hereby certify that the foregoing to be a true and correct excerpt of the Minutes of the Regular (Quarterly) Meeting of the Commission held on this date, at which a quorum was present, and that said Resolution was duly passed by a majority vote of the Voting Members of the Commission present.

**BE IT FURTHER RESOLVED**, that the Commission authorizes the release of, and presents its Final Report for **Internal Case No. 21-0004-P** and any accompanying addenda to the Covered Agency for further action.<sup>6</sup>

**BE IT FURTHER RESOLVED**, that the Commission directs its Chairperson to publicly post a copy of the Final Report for **Internal Case No. 21-0004-P** and any accompanying addenda on the Commission's webpage.<sup>7</sup>

**AS DULY ADOPTED BY THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION (DATED FEBRUARY 28, 2022)**

**SIGNATURE OF THE PENNSYLVANIA STATE LAW ENFORCEMENT ADVISORY COMMISSION'S CHAIRPERSON:**



(Electronic Signature Authorized)

**PRINT: Sha S. Brown**

**SIGNATURE OF SECRETARY OF THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION:**



(Electronic Signature Authorized)

**PRINT: Jaimie L. Hicks**

<sup>4</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

<sup>5</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

<sup>6</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.5 (Implementation of Recommendations) of the Commission's Bylaws.

<sup>7</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.6 (Issuance and Publication of Final Reports) of the Commission's Bylaws.



# pennsylvania

OFFICE OF STATE  
INSPECTOR GENERAL

## Vote Tabulation Form

Type of Commission Meeting:  Quarterly  Special  Rescheduled

Date and Time of Commission Meeting: February 28, 2022 12:00pm


Pursuant to Article 6, Sections 2, 3 and 5 of the Pennsylvania State Law Enforcement Citizen Advisory Commission's (Commission) Bylaws, and following the Robert's Rules of Order, I hereby attest to recognizing motions from Commission membership, said motions having been seconded, and recording the votes of Commission membership for matters under the Commission's review as indicated below:

**ACTION ITEM:**

Action Concerning Preliminary Investigative Review Report 21-0084-P

Summary Tabulation of All Votes: YAY NAY PRESENT ABSTAIN

Seat Name	Name of Commission Member	Individual Votes			
		YAY	NAY	PRESENT	ABSTAIN
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**

**RESOLUTION NO. 5****BIAS-BASED POLICING REVIEW COMMITTEE**

**Title:** Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0007-P presented by the Bias-Based Policing Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0007-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

**Meeting Date:** Regular (Quarterly) Meeting, February 28, 2022, at 12:00 p.m.

**Description of Action Under Consideration:** In accordance with Executive Order 2020-04, as amended, the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) will consider, deliberate and take action(s) following presentation of the Commission's Bias-Based Policing Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0007-P** (an internal investigation by the Pennsylvania State Police (PSP) involving a bias-based policing complaint related to an incident that occurred on November 26, 2016) in anticipation of the issuance and ratification of a Final Report for **Internal Case No. 21-0007-P**.<sup>1</sup>

**Originating Request Submitted By:** **Marvin Boyer,**  
**Chairperson of the Bias-Based Policing Review**  
**Committee**

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<sup>1</sup> These actions are authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

## **RESOLUTION NO. 5**

**Title:** Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0007-P presented by the Bias-Based Policing Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0007-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

**AND NOW, on this 28<sup>TH</sup> day of FEBRUARY, 2022, it is hereby certified that:**

**WHEREAS**, the Bias-Based Policing Review Committee was duly formed and established by the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) at its Regular (Quarterly) Meeting held on August 6, 2021;<sup>1</sup> and

**WHEREAS**, in accordance with Executive Order 2020-04, as amended, the Bias-Based Policing Review Committee completed its review of **Internal Case No. 21-0007-P**; and

**WHEREAS**, the Bias-Based Policing Review Committee authorized the preliminary drafting and internal production of a Preliminary Investigative Review Report for **Internal Case No. 21-0007-P** at its Special Meeting held on February 4, 2022; and

**WHEREAS**, a draft of the Bias-Based Policing Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0007-P** was completed and distributed to the Agency Head, Agency's Chief Counsel, and all Commission members for review on February 4, 2022;<sup>2</sup> and

**WHEREAS**, the Bias-Based Policing Review Committee considered, discussed, deliberated, and took action(s) concerning comments offered by the Covered Agency and/or other Commission members, if any, during its Special Meeting held on February 14, 2022 regarding the Bias-Based Policing Review Committee's preliminary Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) contained in the draft of the Preliminary Investigative Review Report for **Internal Case No. 21-0007-P**;<sup>3</sup> and

**WHEREAS**, following consideration and deliberation of the Covered Agency's comments contained in, and amendment of its draft report, the Bias-Based Policing Review Committee adopted and ratified its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) during its Special Meeting held on February 14, 2022 for presentation to, and further consideration by, the Commission; and

**WHEREAS**, the Bias-Based Policing Review Committee presented its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective

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<sup>1</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.2 (Commission Sub-Committees and Review Committees) of the Commission's Bylaws.

<sup>2</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.2 (Commission Sub-committees and Review Committees) of the Commission's Bylaws.

<sup>3</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.3 (Covered Agency's Opportunity to Respond to Preliminary Report) of the Commission's Bylaws.

Action(s) contained in its Preliminary Investigative Review Report for **Internal Case No. 21-0007-P** to the Commission at its Regular (Quarterly) Meeting held on February 28, 2022;<sup>4</sup> and

**WHEREAS**, following the Robert's Rules of Order, the Commission's Chairperson having attested to recognizing motions from the Commission's voting membership, said motions having been seconded and recording the votes of the Commission's voting membership as indicated in the Vote Tabulation Form, the Commission hereby adopts and ratifies the contents of the Bias-Based Policing Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0007-P**.<sup>5</sup>

**NOW THEREFORE,**

**BE IT RESOLVED**, that the undersigned hereby certify that the foregoing to be a true and correct excerpt of the Minutes of the Regular (Quarterly) Meeting of the Commission held on this date, at which a quorum was present, and that said Resolution was duly passed by a majority vote of the Voting Members of the Commission present.

**BE IT FURTHER RESOLVED**, that the Commission authorizes the release of, and presents its Final Report for **Internal Case No. 21-0007-P** and any accompanying addenda to the Covered Agency for further action.<sup>6</sup>

**BE IT FURTHER RESOLVED**, that the Commission directs its Chairperson to publicly post a copy of the Final Report for **Internal Case No. 21-0007-P** and any accompanying addenda on the Commission's webpage.<sup>7</sup>

**AS DULY ADOPTED BY THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION (DATED FEBRUARY 28, 2022)**

**SIGNATURE OF THE PENNSYLVANIA STATE LAW ENFORCEMENT ADVISORY COMMISSION'S CHAIRPERSON:**



(Electronic Signature Authorized)

**PRINT: Sha S. Brown**

**SIGNATURE OF SECRETARY OF THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION:**



(Electronic Signature Authorized)

**PRINT: Jaimie L. Hicks**

<sup>4</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

<sup>5</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.4 (Presentation of Preliminary Report to Commission) of the Commission's Bylaws.

<sup>6</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.5 (Implementation of Recommendations) of the Commission's Bylaws.

<sup>7</sup> This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.6 (Issuance and Publication of Final Reports) of the Commission's Bylaws.

## Vote Tabulation Form

Type of Commission Meeting:  Quarterly  Special  Rescheduled  
 Date and Time of Commission Meeting: February 28, 2022 12:00pm

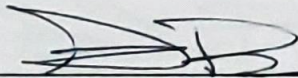
Pursuant to Article 6, Sections 2, 3 and 5 of the Pennsylvania State Law Enforcement Citizen Advisory Commission's (Commission) Bylaws, and following the Robert's Rules of Order, I hereby attest to recognizing motions from Commission membership, said motions having been seconded, and recording the votes of Commission membership for matters under the Commission's review as indicated below:

**ACTION ITEM:**

Action Concerning Preliminary Investigative Review Report 21-0007-P

Summary Tabulation of All Votes: YAY NAY PRESENT ABSTAIN

Seat Name	Name of Commission Member	Individual Votes			
		YAY	NAY	PRESENT	ABSTAIN
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**