

PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION

DRAFT of Regular Meeting Minutes

Friday, December 10, 2021 at 10:00 a.m.

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

At 10:05 a.m. Executive Session

Sha S. Brown, Chairperson, began the Executive Session of the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission). The Executive Session began with Chairperson Brown's welcome of Commissioner members and announcement of the appointment of Jaimie L. Hicks as the Commission's Secretary. Chairperson Brown also announced the resignation of Commissioner William Colon and thanked Commissioner Colon for his service while also welcoming the appointment of Commissioner Keir Bradford-Grey, at-large member. Chairperson Brown walked members through the Commission's proposed Regular Meeting Agenda. The Executive Session ended at 10:17 a.m.

At 10:32 a.m. Regular Public Meeting Started and Recording Began

At 10:32 a.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 recognized all Commission members in attendance, including Ex-officio members and/or designees - from the Pennsylvania State Police (Superintendent Robert Evanchick and Captain Christopher King); from the Pennsylvania Department of Conservation and Natural Resources on behalf of Secretary Cynthia Dunn, Deputy Secretary John Norbeck; 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 Andrew Hanna; 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.

Chairperson Brown announced the resignation of Commissioner William Colon and thanked Commissioner Colon for his service while also welcoming the appointment of Commissioner Keir Bradford-Grey, at-large member, who offered brief remarks. Chairperson Brown also recognized that all current Commissioners completed all the required training elements and that newly appointed Commissioner Bradford-Gray would begin onboarding and training.

Chairperson Brown also announced the proposed schedule for the Commission's 2022 Regular (Quarterly) Meetings with a plan for an in-person meeting in the spring (Philadelphia Area) and in the summer (Pittsburgh Area) with Special Meetings of Review Committees to resume after the first of the year to accommodate holiday schedules.

At 10:34 a.m. Appointment and Introduction of, and Roll Call by, Commission Secretary Jaimie L. Hicks

Chairperson Brown announced the appointment of Jaimie L. Hicks as the Commission's Secretary

who read the names of all Commission Voting members aloud and those in attendance responded by announcing their presence. 14 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 10:37 a.m. Public Comment Reminder

Chairperson Brown reminded members of the public of the various ways citizens may participate and offer public comment before and during all meetings of the Commission and the Commission's Review Committees to ensure public participation and transparency.

At 10:38 a.m. Motion to Approve Commission's Meeting Agenda by Unanimous Consent

Chairperson Brown read the Commission's Meeting Agenda aloud into the record and asked for a motion to approve the 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 December 10, 2022 Regular Meeting Agenda, as adopted, is attached hereto, and made a part hereof **[see ATTACHMENT 2]**.

At 10:39 a.m. Motion to Approve Adoption of the Draft of the Commission's August 6, 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 August 6, 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 August 6, 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 August 6, 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].

At 10:40 a.m. Report by the Commission's Chairperson [State of the Commission; Work of the Commission's Review Committees]

Chairperson Brown summarized that the creation and purpose of the Commission following the death of George Floyd and the need to create a forum for citizen engagement with law enforcement and a method for systemic reforms that promote transparency, fairness, and accountability within state law enforcement agencies. In creating this Commission, Chairperson Brown remarked that Governor Wolf recognized the need to address systematic failings that have created inequities and public mistrust of law enforcement and provided a blue-print to bring about criminal justice reforms that are fair, inclusive, and support public safety along with reforms that improve law enforcement relations with the community and strengthen accountability of law enforcement personnel.

To implement this blue-print, Chairperson Brown stated that Governor Wolf selected a "dream team" of citizens to serve as Commissioners from across the state including community leaders, scholars,

educators, legal professionals, and other citizens entrusted with carrying out the work of the Commission and who bring their collective expertise, knowledge, and experience to offer recommendations for systematic reforms needed to promote fairness and accountability in the Commonwealth. In addition, Governor Wolf brought together Secretaries of the Commonwealth's statewide law enforcement agencies and executives of the Pennsylvania Commission on Crime and Delinquency to serve alongside the citizen Commissioners to ensure a collaborative effort to achieve the Commission's goals. This collaboration provided the Commissioners and the citizen's they represent with direct access to the dedicated men and women that serve their community and the support and resources needed to develop the Commission to ensure its success. To lead development of this new Commission, Governor Wolf created a sub-unit within the Office of State Inspector General (OSIG) and tasked OSIG leadership with implementing Executive Order 2020-04, as amended. One year ago, the OSIG team began building this Commission by developing and executing a strategic development plan that included:

- Engaging with industry experts in law enforcement reform including the Board of Police Commissioners and the Inspector General's Office for the LAPD, collaborating with national leaders in law enforcement oversight and reform, and becoming an organizational member of the National Association for the Civilian Oversight of Law Enforcement (NACOLE);
- Engaging with community organizations and advocates including the Pennsylvania Community Safety Alliance, the Lehigh Valley Justice Institute, the NAACP, the East Pocono Alumnae Chapter of Delta Sigma Theta Sorority, the State College Community Campus and Unity Organization, the Asian Pacific Islander and Desi American Circle Group, and others to listen, and consider citizen concerns in the development of the Commission;
- Researching best practice recommendations and guidelines regarding data-driven interventions to mitigate the risk of bias-based policing and excessive use of force from recognized and accredited sources;
- Training Commissioners in collaboration with the Pennsylvania State Police, the Pennsylvania Office of Administration, and the Governor's Office of General Counsel on topics of Use of Force, Law Enforcement Policies and Procedures, Disciplinary Procedures, Bias-Based Policing, and other relevant topics; and
- Developing a unique review process using criteria from state-wide law enforcement agency policy, relevant collective bargaining agreements, and best practices from the United States Department of Justice.

Earlier this year, Chairperson Brown stated that this Commission established three Review Committees (Critical Incident, Use of Force, and Bias-Based Policing) and appointed members to serve on these committees to conduct preliminary reviews of underlying internal completed investigations by Covered Agencies. These three Review Committees began their work immediately and met regularly (approximately every two weeks totaling 20 meetings since August). First, these three Review Committees reviewed preliminary information provided by all Covered Agencies to make case selections. After 12 case selections, the Review Committees made requests for, and received and reviewed, copies of records (totaling hundreds of pages) which were provided by Covered Agencies to aid in their reviews. Review Committee members methodically prepared questions related to the cases selected and, in

accordance with the Commission's Bylaws, Covered Agencies made Oral Presentations (summarizing investigative records) where Review Committee members engaged in honest and earnest discussions with Covered Agencies, deliberated among themselves to help identify root cause(s) of incidents, and arrived at preliminary findings, conclusions, and recommendations. These findings, conclusions, and recommendations were shared with the Covered Agency for comment and feedback which was then considered by Review Committee members. These discussions are all captured in Meeting Minutes that are available on each of the Review Committee's public webpages and documents the thoughtful and thorough analysis resulting in today's recommendations for reforms.

Under its authority and responsibility, Chairperson Brown remarked further that this Commission is mandated to conduct systematic reviews, using these completed internal investigations, and form findings and recommendations by examining how these incidents are investigated and adjudicated within the system of laws, regulations, policies, best practices, and training protocols that determine the outcomes of these types of incidents. Chairperson Brown reminded the public that within this unique role the Commission's reviews are not for the purpose of determining if an officers' actions were justified or not. Rather, that determination was already made by county District Attorneys or the State Attorney General, when appropriate. Further, Chairperson Brown observed that the purpose of the Commission's reviews is not to hold an officer accountable for individual actions, or re-litigate criminal, civil, or administrative proceedings against the involved officers, since those processes are complete and were handled through the courts in the form of criminal or civil litigation that has now been adjudicated and closed.

To the contrary, Chairperson Brown stated that the purpose of the Commission's review is to determine how a Covered Agency handled the investigation and adjudication of the incident, and independently confirm if the investigation was prompt, fair, impartial, complete, and whether the findings and discipline imposed on adjudication were reasonable under standard law enforcement protocol. Finally, to the extent a Commission's review identifies potential policy or training deficiencies, this Commission will make recommendations for systematic reforms that serve to reduce and prevent similar incidents from happening in the future. Ultimately, the purpose of this Commission is to provide transparency to the public, through independent review of how these incidents were investigated and adjudicated with the goal of reducing and preventing these types of incidents in the future.

At 10:49 a.m. Report by the Commission's Vice Chairperson (Elizabeth Pittinger) [State of the Commission and Formation of Rules Sub-committee]

Chairperson Brown introduced and relinquished the floor to Vice-Chairperson Pittinger. Vice-Chairperson Pittinger welcomed Commissioners and members of the public and stated that recommendations offered by this Commission today are the culmination of a year of hard work and serious deliberations by the Biased Based Policing, Critical Incident, and Use of Force Review Committees and congratulated the Commission's Review Committees, Covered Agencies, and all support teams which enabled the coordination necessary to facilitate all case reviews. Vice Chairperson recognized the Chairpersons of the Commission's Review Committees, in concert with the Commission's Chair, who demonstrated exemplary leadership and communication savvy as the Committees and Covered Agencies set out to fulfill the mission prescribed by the Governor's Executive Order 2020-04, as amended.

In May, Vice-Chairperson stated that the Commission adopted Bylaws which establish the Commission's organizational foundation and parliamentary authority and that both Executive Order 2020-04, as amended, and its Bylaws delegate to the Commission the authority to establish various committees. To this end, Vice-Chairperson Pittinger observed as the Commission concluded its first year that it may be appropriate to consider the creation of a Rules Sub-committee for the purpose of memorializing the procedural practices that evolved to ensure such practices are consistent with the Commission's Bylaws and assess what, if any, special rules of order, standing rules or customs should be considered for adoption by the Commission. Standardizing the Commission's operating policies and procedures will ensure the continuity and consistency of the Commission's future work.

Vice-Chairperson Pittinger remarked that Section 10(a) Procedures of Executive Order 2020-04, as amended, states: "[t]he Commission may establish subcommittees, rules, and procedures necessary to effectively implement its authority and responsibilities included in this Executive Order. Subcommittees may only include voting and ex officio members of the Commission. All committees shall be chaired by a voting member of the Commission." Vice-Chairperson Pittinger added that Section 6.2 (Purpose and Rules of Commission) of the Commission's Bylaws provides delegation of authority to establish committees to the Commission and states: "[t]he 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 Title 65 Pa.C.S. § 710 (requiring public notice and allowing public comment/Sunshine Act) , when conducting all Commission meetings."

Vice-Chairperson Pittinger concluded her remarks and offered two recommendations for consideration by the Commission, including:

- (1) That the Commission consider establishing a special Rules Sub-committee charged with:
 - (a) compiling administrative practices, policies, and procedures;
 - (b) to propose rules of order and special rules;
 - (c) validating the conformity of proposed standing rules to the Bylaws; and
 - (d) to determine if any amendments to the Bylaws would be appropriate and necessary to facilitate the continuity and consistency of the Commission's work.
- (2) That the Commission authorize the Commission's Chairperson to appoint members to the Rules Sub-committee.

Vice Chairperson thanked members for their time and relinquished the floor back to Chairperson Brown.

At that time, Chairperson Brown requested a motion to form a Rules Sub-committee and authority to appoint members to serve on the Rules Sub-committee which was offered and seconded. After hearing no objections, Chairperson Brown announced the creation of a Rules Sub-committee and future recruitment and appointment of members to serve on the Rules Sub-committee [**see ATTACHMENT 3**].

At 10:55 a.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 who

each provided brief remarks which are summarized as follows:

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) – Chairperson Hodge stated that committee members invested a great deal of time and effort to fulfill the Commission’s charge and purpose over the last couple of months and was presenting one matter for consideration by the Commission today. Chairperson Hodge added that the committee’s review process included earnest and honest discussions with representatives of Covered Agencies while keeping the best interests of both the public and law enforcement in mind;

David A. Sonenshein, Esquire, Chairperson, Use of Force Review Committee (and on behalf of members Joshua Maines, Esq., William Colon, Krista Somers, and Vice-Chairperson Elizabeth Pittinger) – Chairperson Sonenshein echoed Chairperson Hodge’s sentiments and added that his committee members also worked hard and appreciated the assistance and cooperation of all Covered Agencies in moving this work forward. Chairperson Sonenshein reiterated that the focus of the committee’s review was policy, procedure, and training improvements and enhancements; and

Marvin Boyer, Chairperson, Bias-based Policing Review Committee (and on behalf of members Denise Ashe, Marisa Williams, and Dr. A. Suresh Canagarajah) – Chairperson Boyer wished to recognize the leadership and work of Chairperson Brown and OSIG staff for the tremendous planning, coordination, and execution of the Commission’s initial Strategic Plan along with the professionalism and work of the PSP personnel. Chairperson Brown also looked forward to meeting both Commissioners and representatives of Covered Agencies in person.

At 11:00 a.m. Presentation of Preliminary Investigative Review Report for Internal Case No. 21-0011-P (a use of deadly force incident involving the Pennsylvania State Police (PSP) occurring on March 17, 2016 in Troop D)

Chairperson Brown read a summary of the Critical Incident Review Committee’s Preliminary Investigative Report for Internal Case No. 21-0011-P into the record as follows:

Pursuant to Executive Order 2020-04, as amended, the Critical Incident Review Committee (Review Committee) completed a comprehensive review of PSP’s completed internal investigation and determined the following:

The Review Committee found that PSP’s completed internal investigation was prompt, fair, and complete, all of which was corroborated by its examination of PSP’s investigative and adjudication reports, relevant interviews, and information provided by PSP during its Oral Presentation. Regarding promptness, fairness, and completeness, the Review Committee also found that the investigation was consistent with guidelines established by the United States Department of Justice’s (US DOJ) published standards and guidelines concerning internal affairs investigations, with PSP’s departmental policies, and with the relevant collective bargaining agreement. Additionally, the Review Committee found that PSP’s adjudicatory findings were reasonable, all relevant facts were considered, and the conclusions were consistent with standard law enforcement protocols.

Regarding impartiality, the Review Committee found that PSP’s completed internal investigation was conducted in compliance with department policy designed to ensure fairness and impartiality and the

Review Committee did not identify any actual conflict of interest based on all known facts. However, the Review Committee found that it would have been preferable if the criminal investigation of this incident (completed by PSP) was conducted by an external criminal investigative agency (i.e., the Pennsylvania Office of Attorney General) based on national best practices. Criminal investigations by an external agency ensure that any use of force incident (particularly those of police-involved shootings resulting in injury or death) are independent and devoid of any appearance of impropriety and free from any potential or inherent conflict of interests consistent with published reports of the US DOJ (*“Standards and Guidelines for Internal Affairs: Recommendations for a Community of Practice”* (2005) and the Final Report of the *“President’s Task Force on 21st Century Policing”* (Action Item 2.2.2 2015) (2015)).

Regarding the involvement of the County District Attorney, the Review Committee found a potential conflict of interest concerning the prosecutorial review of this incident based on the County District Attorney’s: (1) participation in the development of the decision to authorize use of deadly force; and (2) conducting the subsequent review of this incident to determine if the use of deadly force was ultimately justified under the law.

Support of the Review Committee’s findings is found in the US DOJ’s Final Report, entitled *“President’s Commission on Law Enforcement and the Administration of Justice”* (Part 1, The Rule of Law), which provides, in part, “[s]tates should enact legislation that requires law enforcement to have an independent, external agency that has met minimum training and accreditation standards conduct the criminal investigation of use of force incidents that result in death or serious bodily injury,” (i.e., Pennsylvania Office of Attorney General). Likewise, similar support of independent prosecutorial reviews can be found in the US DOJ’s Final Report, entitled *“President’s Task Force on 21st Century Policing,”* which states, in part, “[t]he Task Force encourages policies that mandate the use of external and independent prosecutors in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death and in-custody deaths.”

By way of further example, the US DOJ’s Final Report, entitled [“Standards and Guidelines for Internal Affairs”](#) (Section 3.3 – Special Needs of Criminal Investigations) (when discussing the importance of conducting internal criminal investigations), noted that “a criminal investigation of an agency employee, ...is so serious that an agency should consider extraordinary measures to ensure that the investigation is as thorough and independent of conflicts of interest as possible” and “the degree to which the public and the agency respect the conclusion of the case depends greatly on the agency’s choice of investigative process and personnel.” The Review Committee found that following these and other best practices not only ensures the integrity of such criminal investigations and builds trust within communities, but also protects PSP (and its members) from any unwarranted criticism and any appearance of impropriety or favoritism towards members.

During its Oral Presentation, PSP confirmed the criminal investigation of the use of deadly force incident currently under review was handled by Troopers outside the involved member’s troop jurisdiction. The Review Committee noted, however, that the apparent conflict lies in the fact that all investigatory decision-making was handled within (verses external to) PSP’s chain of command. When asked about the inherent conflicts and appearance of impropriety concerning its handling of criminal investigations of its own members, PSP advised the Review Committee that the agency has several layers of internal review within its investigative processes to ensure independent criminal investigations. In addition, PSP noted that it only conducts parallel criminal investigations of members’ use of force incidents and works collaboratively with county District Attorney Offices (but, acknowledged it acts as the lead criminal investigatory agency, if asked). PSP explained further that, as Pennsylvania’s largest law enforcement agency, it has resources and expertise for conducting these types of sensitive law enforcement investigations that are not readily available to other law enforcement agencies. PSP acknowledged that criminal investigations of use of force incidents involving its members by the Pennsylvania Office of the Attorney General is a viable option; but

this option is rarely used. Lastly, PSP did not address the perceived bias or conflict of interest concerning the involvement of the County District Attorney's Office [in the matter currently under review], noting that PSP could not speak for that office.

After the Review Committee presented its preliminary findings and conclusions to PSP pursuant to Section 8.3 of the Commission's Bylaws, PSP explained further that (in addition to requiring criminal investigators are from a different troop jurisdiction from the involved member) it generally tries to involve county District Attorney investigators in PSP criminal investigations. In addition, PSP also made note of resource and timeliness issues concerning criminal investigations by another entity (other than PSP) given the size of the Commonwealth. However, the Review Committee recognized the natural co-dependent nature of the working relationship between county District Attorneys and PSP. To this end, independent investigations, and prosecutorial reviews of use of deadly force incidents resulting in serious injury or death and police-involved shootings would (at a minimum) ensure distance and removal from these day-to-day relationships. The Review Committee also noted that while it appreciated independent criminal investigations and prosecutorial reviews of police-involved shootings resulting in serious injury and/or death would require committed resources to be successful, it was equally important to ensure that such investigations and reviews were shielded from inherent conflicts of interests.

In support of recommendations for independent criminal investigations and prosecutorial reviews of use of force incidents resulting in death or serious bodily injury, member-involved shootings resulting in death or serious bodily injury, and in-custody deaths, the Review Committee conducted research to determine best practices and/or recent statutory amendments of laws on this subject. As of January 2021, the [National Conference of State Legislators](#) reported that 21 states and the District of Columbia passed laws relating to the investigation or prosecution of use of force by law enforcement and the following surrounding states enacted legislation mandating independent investigations of use of force incidents by law enforcement:

Delaware – Delaware law now requires the Division of Civil Rights and Public Trust to investigate all use of deadly force incidents by law enforcement under [Delaware Code Title 29 Chapter 25 Subchapter 5 Civil Rights and Public Trust](#).

Maryland – The state legislature, under [House Bill 670](#) (known as the Maryland Police Accountability Act of 2021 - Police Discipline and Law Enforcement Programs and Procedures) established an independent criminal investigation unit within the Maryland Attorney General's Office to investigate all use of force by law enforcement involving death or life threatening injury.

New York – [New York Exec Law § 70-b](#) established within the New York Office of the Attorney General, an Office of Special Investigation to investigate and, if warranted, prosecute any alleged criminal offense (including use of force) committed by a police officer.

New Jersey – The Attorney General established mandates requiring independent investigation of all criminal cases involving police use of force or in custody deaths pursuant to [Directive 2019-4](#).

Chairperson Brown then proceeded to read **Recommendation No. 1** of the Critical Incident Review Committee into the record as follows:

Recommendation No. 1 (Independent Criminal Investigations and Prosecutorial Reviews)

The Pennsylvania State Law Enforcement Citizen Advisory Commission's Critical Incident Review Committee recommends that the Pennsylvania State Police require all criminal investigations of use of force incidents involving its members resulting in death or serious bodily injury, member-involved shootings resulting in death or serious bodily injury, and in-custody deaths be referred for investigation to an external agency that meets minimum accreditation standards for handling such investigations as recognized and

recommended by the United States Department of Justice as best practices and similarly mandated in other jurisdictions.

Other Notes:

1. The Pennsylvania State Law Enforcement Citizen Advisory Commission's Critical Incident Review Committee's recommendation is not intended to change the role of the Pennsylvania State Police's Bureau of Integrity and Professional Standards Internal Affairs Division in conducting Administrative Investigations of use of force incidents involving its members of PSP. This Recommendation is intended to ensure that the Criminal Investigation of these incidents is independently investigated.
2. The Pennsylvania State Law Enforcement Citizen Advisory Commission's Critical Incident Review Committee notes legislative changes may be necessary to mandate the use of an independent external agency to conduct the criminal investigation of use of force incidents involving law enforcement and mandate independent prosecutorial reviews of these incidents by an independent prosecutor (i.e. the Pennsylvania Office of the Attorney General), or, at a minimum, by a county District Attorney's Office outside of the jurisdiction of the incident's location.

At this time, Chairperson Brown relinquished the floor to Chairperson Hodge of the Critical Incident Review Committee for further remarks.

Chairperson Hodge reiterated that PSP's completed internal investigation of the incident met current standards regarding promptness, fairness, impartiality, and completeness. While in compliance, Chairperson Hodge noted that records indicated the County District Attorney was both involved and consulted in real time during the use of force incident. As a result, the committee determined that the County District Attorney's involvement presented an inherent conflict and raised concern among committee members. Chairperson Hodge remarked further that the committee considered all responses and rationales offered by PSP (i.e., PSP possessed expertise required for proper and speedy investigations of such incidents. However, Chairperson Hodge stated that the committee believed that having the ability to conduct these investigations did not equate to or correlate with best practices (which was where the committee focused their review). Chairperson Hodge also opined that external criminal investigations of use of force incidents will improve confidence in system, enhance impartiality and ensure integrity of such investigations as evidenced by recent reforms implemented in 21 other states (including neighboring states). Chairperson Hodge closed by stating the recommendation was necessary and appropriate and relinquished the floor back to Chairperson Brown.

At 11:17 a.m. Public Comment and consideration, deliberation, and official action(s) concerning Recommendations contained in the Critical Incident Review Committee's Preliminary Investigative Report for Internal Case No. 21-0011-P for the purpose of issuing a Final Report of the Commission.

In anticipation of the issuance of a Final Report of the Commission for **Internal Case No. 21-0011-P**, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown opened the floor to deliberation by all Commissioners, and recognized Commissioner Maines.

Though not a member of this committee, Commissioner Maines stated he believed that the recommendation was well reasoned and, after having served as an Assistant District Attorney for five and

a half years, recognized the inherent conflict between a County District Attorney (as the Chief law enforcement officer in that county) and law enforcement officers as stated. Commissioner Maines also stated that he believed the recommendation was very appropriate and appreciated the work of the committee. Chairperson Brown thanked Commissioner Maines for his comment and recognized Commissioner Coolidge.

Commissioner Coolidge wished to thank Chairperson Hodge for the clarity and way the findings, conclusions and related recommendation were presented since it was easily understood. Chairperson Brown thanked Commissioner Coolidge for his comment and recognized Commissioner Lappas.

Commissioner Lappas stated that he served on this committee, the work was difficult, and the conversations were both vigorous and became heated at times. Commissioner Lappas added that the determination of impartiality did not receive a unanimous vote among members (i.e., he voted against the determination that PSP's completed internal investigation was impartial) because he believed it was not appropriate for an agency to criminally investigate fellow members given the appearance of a potential conflict. Nonetheless, Commissioner Lappas encouraged his fellow Commissioners to support the recommendation offered by the Critical Incident Review Committee.

Commissioner Lappas also stated he requested statistical data (i.e., the number of investigations and adjudicatory reviews involving members where it was determined that the force used by involved member(s) was deemed appropriate versus those deemed not appropriate) which was not made available to the committee. For example, Commissioner Lappas remarked that if a vast majority was found to be that involved members acted appropriately then such a statistical anomaly while not conclusive is relevant but was informed by PSP that such data was not relevant to the committee's review or required under the Executive Order. Commissioner Lappas also suggested that all Commissioners keep track of what is reported by the media regarding the Commission's reviews (i.e., Spotlight article appeared just yesterday that included remarks by the applicable County District Attorney involved in this case where the prosecutor admitted to being on the scene that day and involved in discussions concerning use of force parameters throughout that day which underscores need for recommendation). If County District Attorney is actively involved on scene, the same individual cannot then be charged with rendering an independent prosecutorial review. Chairperson Brown thanked Commissioner Lappas for his comments and recognized Vice-Chairperson Pittinger.

Vice-Chairperson Pittinger thanked Chairperson Hodge for her summary and the work of the committee and remarked that the issue of the co-dependency [between County District Attorneys and law enforcement] is systemic, transcends this incident, and directly affects the ability of the public to trust the system. Vice-Chairperson Pittinger recounted that a recent October 14th use of deadly force incident in Pittsburgh where there has been no disclosure of the facts of the case or possible culpability which directly undermines public trust in law enforcement. Vice-Chairperson Pittinger added that it was incumbent on the Commission to support and advocate for a systemic change especially given the "very obvious conflict and almost arrogant involvement" of the County District Attorney alongside the actors here. Vice-Chairperson closed by stating the recommendation was timely and fully supported the committee's recommendation. Chairperson Brown thanked Vice-Chairperson Pittinger for her insight and recognized

Commissioner Marilyn Brown.

Commissioner Brown wanted to thank committee members and add for the record that a deadly use of force incident involving Christian Hall occurred last year and that a family should not be forced to civilly sue to get timely and relevant information about the death of their son at the hands of law enforcement.

With no other comments offered, Chairperson Brown asked for a motion to approve the Findings, Conclusions and related Recommendation(s) of the Critical Incident Review Committee concerning **Internal Case No. 21-0011-P**. 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 4].

At 11:31 a.m. Presentation of Preliminary Investigative Review Report for Internal Case No. 21-0001-P (a lower level use of force incident involving the Pennsylvania State Police (PSP) occurring on June 6, 2018 in Troop G).

Chairperson Brown read a summary of the Use of Force Review Committee's Preliminary Investigative Report for Internal Case No. 21-0001-P into the record as follows:

Pursuant to Executive Order 2020-04, as amended, the Use of Force Review Committee (Review Committee) completed a comprehensive review of PSP's completed internal investigation and determined the following:

During its review, the Review Committee found that PSP's completed internal investigation was prompt, fair, and impartial. These findings were corroborated by the Review Committee's review of PSP's investigative and adjudication reports, and relevant interviews, and information provided by PSP during its Oral Presentation. Regarding promptness, fairness, and impartiality, the Review Committee also concluded 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 concluded that PSP's internal investigation conducted by its Internal Affairs Division (IAD) was complete and included securing and/or making persistent efforts to obtain all material witness statements and corroborating information that was reasonably available.

The Review Committee's role is not to relitigate the facts of an incident. Rather, the mandated purpose of its review includes determining whether adjudicatory findings are reasonable under standard law enforcement protocol and identifying any policy or training deficiencies that may enhance PSP's supervision of its members. Based on its review of the IAD investigation and adjudication (which included an amateur witness video), the Review Committee found that the adjudicatory findings were incomplete regarding the lack of attention to the involved Trooper's behavior which occurred BEFORE the adjudicated use of force was applied.

Both the Review Committee and PSP agree that the Fourth Amendment legal standard against which a Trooper's use of force is to be measured is that set forth by a unanimous United States Supreme Court in *Graham v. Conner*, 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 (see below for further discussion and see Additional Factors / Notes section). The Review Committee noted, however, that the United States Court of Appeals for the Third Circuit in *Abraham v. Raso*, 183 F.3d 279 (1999), 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, after being insulted by the runaway juvenile both grabbed the runaway juvenile's shirt, spun him around and then repeatedly shouted "what did you say?" prior to the involved Trooper's use of force (i.e., a strike to the upper body/head of the runaway juvenile). As a matter of chronology, it was this apparent escalation that preceded the juvenile's head movement toward the involved Trooper which ultimately justified the involved Trooper's use of force. The Review Committee found the involved Trooper's actions (verbal challenge to and grabbing of runaway juvenile) in response to the runaway juvenile's use of 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.

During its Oral Presentation, PSP explained the involved Trooper's action (grabbing the upper chest area of the runaway juvenile's sweatshirt while handcuffed) was justified to complete a search and confronting the runaway juvenile about his or her foul language was a "control technique" (i.e., to manage the situation). Adjudicators found no violation of either the law or PSP's Use of Force policies concerning: (1) the grabbing and spinning of the runaway juvenile around to face the involved Trooper; or (2) regarding the involved Trooper's seeming escalation of the encounter (i.e., both shouting at and challenging the runaway juvenile). After the Review Committee presented its preliminary findings and conclusions to PSP in accordance with Section 8.3 of the Commission's Bylaws, PSP informed the Review Committee that the involved Trooper's conduct was "considered" by PSP's adjudicators when reaching his or her findings and conclusions. The Review Committee acknowledged that the involved Trooper's apparent escalation did not violate PSP's Use of Force policy in effect at the time of this incident because it contained no de-escalation provisions. This incident occurred in 2018 (years before PSP incorporated de-escalation provisions which are part of PSP's current Use of Force policy).

Notwithstanding this fact, under PSP's more general Duty Requirements policy (Policy No. FR 1-2), the Review Committee noted that the Trooper's behavior BEFORE the use of force incident appeared to be inappropriate (then in 2018 and now). Specifically, Section 2.12 provides, in part, "...[c]ourtesy toward the public shall be strictly observed. The conduct and deportment of members shall always be civil, orderly, and courteous. Members shall be diplomatic and tactful in the performance of their duties, controlling their temper, and exercising the utmost patience and discretion. Members shall not engage in argumentative discussions even in the face of extreme provocation." Though not as robust as PSP's current de-escalation provisions within PSP's current Use of Force policy, the adjudicators did not address the involved Trooper's verbal challenge and subsequent physical contact under PSP's Duty Requirements policy. Nonetheless, the Review Committee also acknowledged that while the involved Trooper must "act with firmness and sufficient energy to properly perform their duties," (per PSP's Duty Requirements policy), it believed the involved Trooper's response (challenging the runaway juvenile verbally and grabbing him) warranted (at a minimum) merited inquiry and should have involved corrective action of the involved Trooper's behavior by adjudicators. For these reasons, the Review Committee found PSP's adjudicatory findings appeared "incomplete."

PSP's Internal Affairs (IA) policy requires the adjudicating officer (Troop Commander) to thoroughly review the entire IA investigative file and render an adjudication of the involved Trooper's conduct, address other performance issues uncovered through the investigation, and begin a subsequent investigation (Blue Team Entry) if, and when, a separate and distinct allegation of misconduct is discovered during an adjudication. Furthermore, the reviewing officer (Area Commander) is required to thoroughly review the entire IA investigative file and consult with the adjudicating officer to reach a consensus. Based on the apparent performance issues and/or possible misconduct regarding the involved Trooper's conduct as noted above under PSP's Duty Requirements policy, this Review Committee found the adjudicatory findings appeared incomplete, not consistent with IA policy, and thus unreasonable. Finally, the Review Committee noted that video from a Body Worn Camera of the involved Trooper would have greatly assisted its review of the

underlying use of force incident (along with investigative and adjudicatory records). According to PSP, such equipment is not standard issue, and no official video of the incident was available to either adjudicators or Review Committee members.

Concerning PSP's Use of Force policy, the Review Committee concluded the policy does not permit troopers to use force unless: (1) making an arrest; (2) protecting themselves or another from bodily injury; (3) preventing an escape; (4) preventing suicide; or (5) preventing the commission of a crime. The Review Committee concluded, as a matter of chronology, at the time when the involved Trooper grabbed the runaway juvenile's sweatshirt, the runaway juvenile was not engaging in any of the requisite activities enumerated in PSP Use of Force policy. After the Review Committee presented its preliminary findings and conclusions to PSP pursuant to Section 8.3 of the Commission's Bylaws, PSP explained that (under juvenile law) "status offenders" taken into "custody" are treated the same as juveniles who are "arrested" so PSP's policies do not differentiate between the two (i.e., when authorized to take into "custody" for civil enforcement purposes such "custody" is equivalent to an "arrest"). The Review Committee acknowledged PSP's authority to take "status offenders" (individuals that have not committed a crime) into "custody" and believed adding a use of force criteria for taking individuals into custody for "legitimate law or civil enforcement purposes" would enhance PSP's existing Use of Force policy.

Additionally, after considering PSP's response to its preliminary findings and conclusions, the Review Committee clarified that PSP's Use of Force policy, as written, did appropriately incorporate the "objective reasonableness standard" mandated by the United States Supreme Court more than 30 years ago in *Graham* (i.e., a member may use reasonable force, when necessary, in the performance of their duties; and a "reasonable belief" that such use of force is necessary is defined as "an objective belief based on the totality of the known circumstances"). Similarly, the Review Committee clarified that PSP's use of force training complied with, and incorporated legal standards mandated by the United States Supreme Court in both written materials and physical instruction. Notwithstanding the above, the Review Committee identified provisions within PSP's Use of Force policy (as written) whose language, on its face, may be confusing to troopers trying to legally comply with the reasonableness standard. For example, one section in PSP's (written) Use of Force policy explicitly suggested a member's use of force may be judged based on the involved member's subjective belief (i.e., "reasonable force" is defined as the amount of force reasonably believed **by the member** ...to be necessary) and others that (when read in isolation) appeared to also imply use of a subjective standard when evaluating a use of force incident. Likewise, the Review Committee found that PSP's Use of Force policy (as written) only used the word "objective" when defining "reasonable belief" and the term(s) ("objective" and "reasonable") was absent in all other definitions and policy sections when describing types of force and conduct required of troopers. The Review Committee noted that terms like "reasonableness" and "objectively reasonable" are not self-defining and required more context to help guide and direct conduct. This lack of clarity can also mislead or confuse conscientious members as to the standard by which conduct will be judged.

By way of further example, the adjudicator cited the following two sections of PSP's policy when determining whether use of force was justified in this instance:

1. FR 9-1 which generally authorizes a member to use Reasonable Force (again defined as the amount of force reasonably believed **by the member** to be necessary under the totality of circumstances); and
2. FR 9-1, Section 1.09, which provides that members may use less lethal force which **the member reasonably believes** to be necessary to make an arrest and defend themselves or another from bodily harm while making an arrest.

The adjudicator confirmed these sections both guided the involved Trooper's actions and the adjudicator's assessment of the reasonableness of the force used in this instance. The assessment included a review of

the IAD Personnel Investigation and the involved Trooper's statement confirming he/she believed the force applied was necessary under a totality of the circumstances.

Nonetheless, the Review Committee also found the adjudicator's decision regarding reasonableness was consistent with Pennsylvania Consolidated Statutes, Title 18, Chapter 5, Section 508 which states, in part, the member is justified in the use of any force which **he believes** to be necessary to defend himself or another from bodily harm while making the arrest. However, PSP's written policy (and as supported by Section 508 of Title 18) may not (on its face) necessarily support a Use of Force policy violation without a member's voluntary admission because, as written, the reasonableness of the force can only be determined within the mind of the member applying such force. Accordingly, the Review Committee believed that PSP's Use of Force policy (as written) should be strengthened, including:

- Enhancing the definitions for use of force, reasonable belief, reasonable force, and de-escalation;
- Mandating supplemental use of force training after a use of force incident involving injury or death;
- Bolstering requirements for members to use de-escalation techniques when circumstances clearly warrant prior to any force deployment;
- Requiring that the reporting of use of force incidents include threatening the use of force and/or displaying of a weapon; and
- Adding language mandating the use of proportional force (given the totality of circumstances) to carry out a legitimate law enforcement function (i.e., circumstances where an individual must be "taken into custody" but is not "under arrest," and specific guidelines detailing a use of force spectrum).

During its review of this incident, concerning the handcuffing of juveniles (who are considered "status offenders"), and the handcuffing of persons under arrest for transportation purposes, the Review Committee also took note of another instance where the language contained in PSP's policies may prove confusing to both troopers (in the performance of their duties) and supervisors and adjudicators (in the performance of their responsibilities). First, as found by the adjudicator, the involved Trooper handcuffed the runaway juvenile to transport the runaway juvenile. The Review Committee found no fault with the involved Trooper's action since the involved Trooper properly followed PSP's Prisoner Transportation and Security policy (which permits troopers to search and handcuff anyone in custody for purposes of transportation in the interest of member safety). The problem identified by the Review Committee was that the language of PSP's transportation policy conflicts with PSP's Juveniles policy (as written). For example, PSP's Juveniles policy ONLY permits the handcuffing of a juvenile status offender (like the runaway juvenile in this incident) when the juvenile is "violent, combative, or cannot be subdued" (none of these circumstances were applicable here).

After the Review Committee presented its preliminary findings and conclusions, PSP acknowledged that its Juveniles policy can be made clearer (to include when a juvenile is taken into "custody" for civil enforcement purposes) that the juvenile will be handcuffed for both officer and citizen safety when transporting. The Review Committee acknowledged that the inconsistency identified during its review can be easily remedied by amending either PSP's Juveniles policy to permit handcuffing a juvenile status offender when he or she presents (as in this case) a flight risk and/or for transportation purposes or clarifying PSP's Prisoner Transportation and Security policy to include discretion to handcuff a person in custody who is transported for a civil enforcement purpose.

[In support of the Review Committee's Findings, Conclusions and related Recommendation(s), the Review Committee also Additional Factors as follows:]

- I. Pennsylvania Consolidated Statutes, Title 18, Chapter 5, Section 508 – Use of force in law enforcement states, in part, that while making an arrest a peace officer, or any person whom he has summoned or directed to assist him, need not retreat, or desist from efforts to make a lawful

arrest. He is justified in the use of any force which he believes to be necessary to defend himself or another from bodily harm while making the arrest.

Note: The Review Committee acknowledged that 18 Pa.C.S. § 501 defines “belief” as “reasonable belief,” thus incorporating an objective reasonableness standard consonant with the United States Supreme Court’s decision in *Graham* (as explained in more detail below). Certain sections of PSP’s written Use of Force policy also incorporated the same language. Notwithstanding the above, the Review Committee respectfully submitted that, because Section 508 does not use the precise formulation of the *Graham* justification test (namely, “objectively reasonable’ in light of the facts and circumstances confronting [the officer], without regard to their underlying intent or motivation”) there is a potential ambiguity with respect to *application* of the test in internal investigations. That is, certain portions of PSP’s Use of Force policy (as currently written) appeared to allow for a subjective reasonable standard as determined by the officer deploying such force.

II. The United States Supreme Court in *Graham v. Connor* opined the Fourth Amendment to the United States Constitution provides, in part, that the “reasonableness” inquiry is determined by whether an officer’s actions are “objectively reasonable” given the facts and circumstances confronting them without regard to their underlying intent or motivation. Accordingly, the “reasonableness” of a particular use of force incident must be judged from the perspective of a reasonable officer on the scene and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.

Note: Under the *Graham* standard, the burden to prove or disprove “reasonableness” and thus “justified” can be determined by how a **reasonable officer** with comparable training and experience would react. This standard is “objectively reasonable” and permits judgmental determinations of reasonable force to be made regarding the officers’ actions during a use of force incident by supervisors, internal affairs investigators, law enforcement adjudicators, and other reasonable officers based on an examination of the facts and circumstances of a particular incident.

III. Unlike PSP’s Use of Force policy, the Review Committee identified several law enforcement entities’ use of force policies (including those of five Pennsylvania municipalities and/or townships – Philadelphia, Pittsburgh, Lancaster, City of Bethlehem, and Cheltenham Township) that more clearly demonstrated utilization and application of an “objectively reasonable” standard when evaluating the actions of law enforcement personnel to be, for example, that of a “**reasonable or rational officer**” [Philadelphia – updated January 2017], “**an ordinary and prudent person**” [Pittsburgh – reissued January 2021], “**objectively reasonable, proportional, and necessary**” [Lancaster – reviewed November 2020], “**an officer on the scene**” [City of Bethlehem – evaluated June 2020], and “**reasonable police officer**” [Cheltenham Township – revised March 2020].

Chairperson Brown then proceeded to read related **Recommendation(s)** of the Use of Force Review Committee into the record as follows:

Recommendation No. 1

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Use of Force Review Committee recommends that the Pennsylvania State Police adopt suggested language to comply with United States Supreme Court precedent and amend its (written) Use of Force policy to correct the deficiencies identified by this review (see **Addendum 1** to Preliminary Investigative Review Report Internal Case No. 21-0001-P – *Use of Force Review Committee Policy Enhancement Recommendations*).

Note: The Use of Force Review Committee noted legislative changes to Title 18, Chapter 5, Section 508 (Use of force in law enforcement) may be necessary to better ensure compliance with United States Supreme Court precedent. Specifically, amending language permitting the determination of reasonable force to be judged as “any force which he believes to be necessary” to the “objectively reasonable” standard mandated by *Graham v. Connor* being the use of force determined “from the perspective of a reasonable officer on the scene.” The Use of Force Review Committee attached a summary of five use of force policies utilized by Pennsylvania law enforcement agencies as reference material (see **Addendum 2** to Preliminary Investigative Review Report Internal Case No. 21-0001-P – *Use of Force Policy Research and Reference Materials*).

Recommendation No. 2

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Use of Force Review Committee recommends that the Pennsylvania State Police consider enhancements to PSP’s de-escalation policies (FR 9-1 (Use of Force) and FR 9-1.09 (De-Escalation)) consistent with recommendations contained in **Addendum 1** attached hereto and with PSP’s updated de-escalation training in collaboration with PSP’s use of force training experts.

Recommendation No. 3

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Use of Force Review Committee recommends that the Pennsylvania State Police continue efforts to procure fully integrated patrol vehicle Mobile Video Recorder (MVR) systems that include cloud storage and options for Interview Room Recorder (IRR) and Body Worn Camera (BWC) systems.

Recommendation No. 4

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Use of Force Review Committee recommends that the Pennsylvania State Police consider enhancements to PSP’s Juveniles policy (FR 7-7 (Juveniles)) that specifies procedures for transporting status offenders and/or PSP’s Prisoner Transportation and Security policy to include discretion to handcuff a person in custody who is transported for a civil enforcement purpose.

Recommendation No. 5

The Pennsylvania State Law Enforcement Citizen Advisory Commission’s Use of Force Review Committee recommends that the Pennsylvania State Police consider (when and where feasible) the purchase of adequate quantities of permanently installed security shields or “cage cars” that allow transportation without the need to handcuff, as circumstances permit.

[Addendum 1 - Use of Force Review Committee Policy Enhancement Recommendations]

The Use of Force Review Committee found that PSP’s use of force training program complies with, and training instructors were aware of, and understood, legal standards mandated by the United States Supreme Court. However, the Use of Force Review Committee identified several areas in PSP’s (written) Use of Force policy that should be strengthened, including:

- Redefining the terms “Reasonable Belief” [1.02 (M)] and “Reasonable Force” [1.02 (N)] to include such belief **as a reasonably prudent member or officer would hold** and such force **as a reasonably prudent member or officer would believe** is necessary.
- Redefining the term “De-escalation” [1.02 (C)] to include verbal and non-verbal communications to reduce, stabilize, eliminate, or defuse threats to gain voluntary compliance with the use of necessary proportional force.
- Mandating supplemental use of force training after a use of force incident involving injury or death under Section 1.03 (Duties and Responsibilities), Subsection (A.4).

- Mandating reporting of all use of force incidents whether such force results in injury or death including all threatened use or display of a weapon (i.e., pointing a firearm or a taser) under Section 1.03 (Duties and Responsibilities), Subsection (B.2).
- Redefining use of de-escalation techniques prior to any force deployment to reflect the objective reasonableness standard of **“a reasonably prudent member or officer would believe to be necessary under the totality of the circumstances”** under Section 1.07 (Less-Lethal Force – General), Subsections (A1 through A5).
- Adding language mandating the use of proportional force (given the totality of circumstances) to carry out a legitimate law enforcement function and force avoidance by employing de-escalation techniques as circumstances permit under Section 1.07 (Less-Lethal Force – General), Subsections (C) and (D).

[Addendum 2 - Use of Force Policy Research and Reference Materials]

During its review, the Use of Force Review Committee researched policies of various Pennsylvania municipal law enforcement agencies. Below are the most recent pertinent updates to use of force policies regarding utilization of “reasonable belief” incorporating the **objectively reasonable** standard mandated by *Graham v. Connor* (“judged from the perspective of a reasonable officer on the scene”) versus the **subjectively reasonable** standard (as written) within the Pennsylvania State Police’s (PSP) Use of Force policy and 18 Pa.C.S. § 504 (“any force which he believes to be necessary”).

PSP FR 9-1 (distributed 08/02/2021), 1.02 Definitions, Subsection (M) – “Reasonable Belief”: an objective belief based on the totality of the circumstances; **Subsection (N) – “Reasonable Force”:** The amount of force **reasonably believed by the member or enforcement officer to be necessary** under the totality of the circumstances.

Pennsylvania Law Enforcement Agency Policies Supporting “Objectively Reasonable” Determinations –

1. Philadelphia Police Department – Directive 10.1

- Updated January 30, 2017
- Two Definitions: “Objectively Reasonable” – is a fourth amendment standard whereby an officer’s belief that they must protect themselves or others from death or serious bodily injury is compared and weighed against what **a reasonable or rational officer would have believed under similar circumstances**.

2. Pittsburgh Bureau of Police – Use of Force 12-06

- Re-issued January 5, 2021
- Under Subsection - Definitions 2.9: “Reasonable Belief” – The facts and circumstances the officer knows, or should know, that are such to cause **an ordinary and prudent person** to act or think in a similar way under similar circumstances.

3. Lancaster Bureau of Police – Use of Force 499.05

- Reviewed November 2020
- Policy states, in part: “it is the policy of the Lancaster Bureau of Police that officers may only use force when it is **objectively reasonable, proportional, and necessary**”.
- Definitions: “Objectively Reasonable” – is the legal standard to determine the lawfulness of the force used. Using *Graham v. Conner* and from articulated facts it is the determination that the need to use force and the level of force used was objectively reasonable in light of the totality of the circumstances known to the officer at the time.

4. City of Bethlehem Bureau of Police – Use of Force

- Evaluated June 15, 2020
- Section 1 C (2) – “in determining if the level of force used was “objectively reasonable,” the decision is based upon what level of force **an officer on the scene** would have used under a totality of the circumstances.”

5. **Cheltenham Township Police – Directive 3 Deadly Force and the Discharge of Firearms Policy**
- Revised March 18, 2020
 - Section III Definitions: “Reasonable Belief” – a legal concept which evaluates the officer’s actions under the following criteria: Would a reasonable police officer in the same circumstances and experiencing the same informational input feel the same level of danger? Would this reasonable police officer employ the same level of force employed by the officer under scrutiny? The evaluation must not be made under the bright light of “20-20” hindsight, but through the eyes of the officer under the conditions of the actual incident.

At this time, Chairperson Brown relinquished the floor to Chairperson Sonenshein of the Use of Force Review Committee for further remarks.

Chairperson Sonenshein wished to recognize how well attended all committee meetings were by Covered Agencies (particularly PSP) and the cooperation of PSP exhibited from its leadership (particularly Superintendent Evanchick and Captain Christopher King). Chairperson Sonenshein also wanted to salute PSP’s training unit (whose instructors provided Chairperson Sonenshein an opportunity to observe cadet training covering its use of force curriculum) and recognized that PSP’s training materials and training instructors were sophisticated and that the quality and quantity of PSP’s training program was outstanding with no known deficiencies given his 40 years of teaching experience. For example, Chairperson Sonenshein noted that two items identified by his committee were already addressed by PSP on its own volition (i.e., adoption of de-escalation policy (at time of incident no such policy existed)) and adoption of an objective reasonableness standard (which in Pennsylvania has been discussed for years by lawyers, judges, legislators, and prosecutors alike). While PSP’s written Use of Force policy does define reasonableness as an objective belief, Chairperson Sonenshein remarked that these terms are not self-defining and that the committee’s recommendations involve providing more clarity (i.e., use of “a” as opposed to “the” officer may represent a drafting problem) and avoiding confusion about what conduct is expected and how such conduct will be reviewed by adjudicators. Chairperson Sonenshein also noted that PSP’s training program is very clear on using and incorporating the appropriate legal standard and wished to recommend that PSP’s written policy “catch up” to its training. In closing, Chairperson Sonenshein added that the cases under review by the committee were randomly selected from 2016, 2017 and 2018 and that a lot has changed since those times and relinquished the floor back to Chairperson Brown.

At 12:06 p.m. Public Comment and consideration, deliberation, and official action(s) concerning Recommendations contained in the Use of Force Review Committee’s Preliminary Investigative Report for Internal Case No. 21-0001-P for the purpose of issuing a Final Report of the Commission.

In anticipation of the issuance of a Final Report of the Commission for **Internal Case No. 21-0001-P**, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown opened the floor to deliberation by all Commissioners, and recognized Commissioner Bradford-Grey.

Commissioner Bradford-Grey commented that this very important nuance (when evaluating law enforcement activity and use of force incidents) has plagued communities for years. Commissioner Bradford-Grey also suggested that Covered Agencies use community members as a resource when

determining the appropriate level of force to be used (i.e., community members know each other and can provide insight on an individual that is unknown to officers) and incorporate civilian input when developing policies and related training. Commissioner Bradford-Grey thanked committee members for highlighting this very important issue and its presentation of the legal jurisprudence. Chairperson Brown thanked Commissioner Bradford-Grey for her comments and recognized Commissioner Coolidge.

Commissioner Coolidge thanked Chairperson Sonenshein for the detail in the committee's report to the Commission and effort to bring about consistency, understanding and standardization across all policies within and across all Covered Agencies. Commissioner Coolidge also expressed confidence in Covered Agencies and stated it was reassuring that law enforcement was adapting to a changing landscape with independent implementation of revised policies to meet these needs. Chairperson Brown thanked Commissioner Coolidge for his comments and recognized Commissioner Lappas.

Commissioner Lappas asked a point of clarification concerning Recommendation No. 3 which read PSP "continue" its efforts to procure a body worn camera system and asked if this was currently being done. Chairperson Sonenshein replied that PSP was currently in the process of procuring such a system and the committee (through the Commission) wanted to support these efforts and advocate for appropriate funding. Commissioner Lappas noted that a body worn camera program was a wonderful enhancement to policing in general and offered his support.

Chairperson Brown thanked both Commissioners for their comments and recognized Commissioner Ashe who appreciated the work of the committee and echoed the sentiments of Commissioner Bradford-Grey by emphasizing the involvement of communities. While recognizing that no law enforcement agency can be expected to train for every possible scenario and that officers must make split second decisions, Commissioner Ashe noted that community members can relay vital information about what a civilian may be going through at the moment, i.e., person is on the spectrum, and that these types of incidents not only affect immediate family members but the community as a whole. Commissioner Ashe applauded the recommendations and offered her full support. Chairperson Brown thanked Commissioner Ashe for her comments and recognized Vice-Chairperson Pittinger.

Vice-Chairperson Pittinger recognized the great work of committee members and stated that this was again another systemic issue (i.e., necessary statutory amendment of Section 508) to ensure the statute comes into contemporary compliance with legal standards. Vice-Chairperson Pittinger noted that PSP trains its members one way but that its policy says something else. On the issue of a body worn camera program, Vice-Chairperson Pittinger stated that implementation of such a program would be an extraordinary step in restoring public trust in law enforcement and that the public should not have to rely on the possible availability of amateur witness video to hold law enforcement accountable. Just like teachers, Vice-Chairperson Pittinger stated that law enforcement is not equipped to solve all community ills and require support and completely supported the committee's recommendations. Chairperson Brown thanked Vice-Chairperson Pittinger for her comments and recognized Commissioner Brown.

Commissioner Brown also agreed that Section 508 requires amendment and supported the committee's recommendation for both cadet and in-service training. As an aside, Commissioner Brown

believed that training could also benefit from the addition of a generational component, i.e., “baby boomers versus Generation Xers versus Alpha-generation” who all view and react differently to law enforcement. While recognizing the high costs associated with implementation of a body worn camera program, Commissioner Brown remarked that “there is no price greater than a life” and added the price of litigation far outweighs initial program costs. Chairperson Brown thanked Commissioner Brown for her comments and recognized Commissioner Maines.

Commissioner Maines [as a member of the Use of Force Review Committee] wished to thank Chairperson Sonenshein and Vice-Chairperson Pittinger for their work since the committee only consisted of the three of them.

With no other comments offered, Chairperson asked for a motion to approve the Findings, Conclusions and related Recommendation(s) of the Use of Force Review Committee concerning **Internal Case No. 21-0001-P**. 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 5].

At 12:25 p.m. Chairperson Brown announced a brief recess before resuming presentation and consideration of the Bias-Based Policing Preliminary Investigative Report concerning Internal Case No. 21-0006-P.

At 12:36 p.m. Chairperson Brown Called Meeting Back to Order.

At 12:37 p.m. Presentation of Preliminary Investigative Review Report for Internal Case No. 21-0006-P (a bias-based policing complaint (filed May 4, 2016) involving PSP related to an incident occurring on February 4, 2016 in Troop G).

Chairperson Brown read a summary of the Bias-Based Policing Review Committee’s Preliminary Investigative Report for Internal Case No. 21-0006-P into the record as follows:

Pursuant to Executive Order 2020-04, as amended, the Bias-Based Policing Review Committee (Review Committee) completed a comprehensive review of **Internal Case No. 21-0006-P** and determined the following:

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.

Finding No. 1

The Review Committee was not able to reach determinations of whether PSP’s completed internal investigation was prompt, fair, impartial, complete, performed in a manner consistent with applicable policies, and whether the adjudicatory findings and discipline, if any, were reasonable under standard law enforcement protocol, as required.

During its Oral Presentation, PSP informed the Review committee that its practice is to initially screen complaints (i.e., review Motor Video Recording (MVR), incident report, etc.) filed by citizens with underlying pending court cases. PSP also informed the Review Committee that it preserves all records related to complaints but defers such investigations to avoid impacting underlying court proceedings. However, PSP

noted that it will initiate a concurrent administrative investigation of the complaint in circumstances where (upon preliminary review) the conduct is considered “egregious.” In circumstances with underlying court proceedings and where PSP determines (upon preliminary review) there is no “egregious” conduct, PSP advises complainants that the appropriate remedy for resolving complaints of bias against a Trooper is through the court system. PSP informed the Review Committee that because charges were pending against the complainant at the time this complaint was filed, its investigation was closed.

However, the Review Committee found PSP’s “Duty Requirements” policy (under “Requests for Assistance”), requires, in part, that it obtain all pertinent information regarding a complaint in an official manner and that the complaint be judiciously acted upon consistent with existing rules, regulations, and policies. Additionally, the Review Committee found that the same PSP policy does not permit matters necessitating investigative action to be disposed of by another entity. The Review Committee also submitted that there is no adequate procedural means either in the Pennsylvania Rules of Criminal Procedure or relevant case law through which a complainant may address an allegation of bias-based policing collateral to a pending criminal case. While PSP advises complainants that no action would be taken “at this time” in its notification letter, PSP does not advise complainants of what action(s) to take following disposition of underlying court cases or at what juncture to reinstate the complaint. Accordingly, the Review Committee found that allegations made by the complainant, if determined to be true, could have criminal and/or administrative consequences for the involved Trooper and thus merited a full and complete investigation.

After the Review Committee presented its preliminary finding (relating to PSP’s notification letter and recommendation that complaints be automatically reinstated following disposition of underlying court proceedings) pursuant to Section 8.3 of the Commission’s Bylaws, PSP acknowledged that its notification letter does not adequately provide complainants with guidance on how and when the citizen can reinstate a complaint for a full and complete investigation in accordance with PSP’s policies. However, PSP explained that it was operationally unable to suspend investigations, and automatically reinstate all such complaints independently following disposition of underlying criminal cases given the high volume of complaints and need to track criminal cases throughout all 67 Pennsylvania counties. The Review Committee acknowledged that automatic suspension and reinstatement may be logistically improbable and agreed to amend its recommendation to require that complainants initiate reinstatement of the citizen’s bias-based policing complaint following disposition of underlying criminal cases.

Finding No. 2

During its review, the Review Committee requested and received copies of policies regarding bias-based policing and confirmed PSP developed, adopted and/or operates under multiple policies designed to mitigate the risk of bias-based policing. These policies include PSP’s General and Duty Requirements, Rules of Conduct for Employees, Bias-based Profiling Review policies along with federal and state mandated policies prohibiting discrimination, discriminatory harassment, sexual impropriety, and retaliation. Collectively, these policies provide guidance for PSP Troopers, supervisors, and leadership on this subject and outline prohibitions designed to mitigate acts of bias-based policing.

However, based on its review, the Review Committee identified several deficiencies within these collective policies and initially recommended that PSP develop and publish a standalone Bias-Based Policing Policy to address a number of these deficiencies. After the Review Committee presented its preliminary finding and recommendation pursuant to Section 8.3 of the Commission’s Bylaws, PSP informed the Review Committee that there were several reasons it separated policies concerning a member’s on- and off-duty conduct (i.e., use of social media and organizational memberships) from operational policies (like those pertaining to enforcement activity by members). Following consideration of PSP’s comments, the Review Committee recommended that PSP:

1. Update its Bias-Based Profiling Review Policy (last updated 2008/2009) and all relevant employee code of conduct and enforcement-related policies to include, cover and better define, prohibitions of conduct against *all* protected classes, and (where feasible) provide examples and descriptions of acts that constitute or may be indicative of bias-based policing to provide more specific guidance.
2. Update its policy concerning organizational memberships and/or affiliations to include restriction of memberships and/or affiliations in any group that may interfere with PSP operations, limit PSP's ability to function as a law enforcement agency and/or bring PSP into disrepute.
3. Update its policy regarding members' personal use of social or other publicly accessible media to restrict (either directly or indirectly) engaging in bias-based or other discriminatory or offensive behavior against *all* protected classes.
4. Update all relevant policies and mandate a duty to report acts of bias-based policing and/or other discriminatory or offensive conduct by fellow members.
5. Specifically require that all investigations of bias-based policing complaints (either initially or upon reinstatement) be completed in compliance with internal affairs policies and procedures and that investigators receive specific annual training on how to properly identify and investigate bias-based policing complaints.
6. Mandate in-service annual bias-based policing or implicit bias training for all members.

To properly address these identified deficiencies, the Review Committee attached a "Recommended Guidelines" document that included all suggested mandates and modifications as an addendum.

Chairperson Brown then proceeded to read related **Recommendation(s)** of the Bias-Based Policing Review Committee into the record as follows:

Recommendation No. 1

The Pennsylvania State Law Enforcement Citizen Advisory Commission's Bias-Based Policing Review Committee recommends that the Pennsylvania State Police specifically mandate that all bias-based policing complaints are fully and properly investigated and judiciously acted upon if, and when, a complainant reinstates his or her complaint following disposition of underlying court proceedings. To avoid a prosecutorial conflict of interest during the pendency of underlying court cases, the Review Committee recommends that the Pennsylvania State Police revise its notification letter to more adequately inform complainants of its need to suspend the investigation until final disposition of any underlying law enforcement action(s) involving the citizen. In addition, and upon conclusion of the underlying court proceedings, the Review Committee recommends that the Pennsylvania State Police revise its notification letter to more adequately inform citizens of their right to re-file their complaint (with directions on how to do so) so that such matters can be resolved administratively and appropriately adjudicated.

Recommendation No. 2

The Pennsylvania State Law Enforcement Citizen Advisory Commission's Bias-Based Policing Review Committee recommends that the Pennsylvania State Police amend and/or modify certain on- and off-duty code of conduct policies and/or mandate certain action in accordance with its "Recommended Guidelines" document. [See Addendum to Preliminary Investigative Review Report for **Internal Case No. 21-0006-P – Recommended Guidelines**].

[Addendum for Internal Case No. 21-0006-P – Recommended Guidelines]

To more effectively safeguard against bias-based policing, ensure proper investigation of bias-based policing complaints, and strengthen community relationships, the Bias-Based Policing Review Committee (as adopted by the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission)) recommends that the Pennsylvania State Police (PSP) implement the following:

1. Update its Bias-Based Profiling Review Policy (last updated 2008/2009) and all relevant employee code of conduct and enforcement-related policies to include, cover and better define, prohibitions of conduct against *all* protected classes, and (where feasible) provide examples and descriptions of acts that constitute or may be indicative of bias-based policing to provide more specific guidance.
2. Update its policy concerning organizational memberships and/or affiliations to include restriction of memberships and/or affiliations in any group that may interfere with PSP operations, limit PSP's ability to function as a law enforcement agency and/or bring PSP into disrepute.
3. Update its policy regarding members' personal use of social or other publicly accessible media to restrict (either directly or indirectly) from engaging in bias-based or other discriminatory or offensive behavior against *all* protected classes.
4. Update all relevant policies and mandate a duty to report acts of bias-based policing and/or other discriminatory or offensive conduct by fellow members.
5. Specifically require that all investigations of bias-based policing complaints (either initially or upon reinstatement) be completed in compliance with internal affairs policies and procedures and that investigators receive specific annual training on how to properly identify and investigate bias-based policing complaints.
6. Mandate in-service annual bias-based policing or implicit bias training for all members.
7. Reaffirm and mandate that all bias-based policing complaints are fully and properly investigated and judiciously acted upon. In those circumstances where underlying court cases are pending against complainants, written notification should include information indicating the temporary suspension of the investigation of the complainant's bias-based policing complaint until final disposition of the underlying court matter and adequately inform complainants of their right, and how, to re-file their complaint so that such matters can be resolved administratively and appropriately adjudicated.

At this time, Chairperson Brown relinquished the floor to Chairperson Boyer of the Bias-Based Policing Review Committee for further remarks.

Chairperson Boyer thanked committee members for their work and PSP personnel for their assistance and cooperation during the committee's review. Chairperson Boyer remarked that the committee's review of PSP's internal investigation of the bias-based policing complaint was instructive on several different levels. For example, Chairperson Boyer stated that strengthening community relationships with law enforcement decreases complaints. Chairperson Boyer also stated that the four of the seven recommendations in their Addendum are particularly helpful in strengthening these relationships, i.e., PSP's relevant policy has not been updated since 2008/2009 and was particularly anemic (recommendations are geared toward making policy more current), restrictions regarding organizational memberships and personal use of social media are meant to ensure that PSP (as an agency) is not placed in a bad light, and the importance of annual in-service training for everyone (cadets receive training in the beginning but there was no mandatory training after that). Chairperson Boyer also remarked that it was important to the committee that the Commission help to change the perceptions that law enforcement may have about the people they serve. Chairperson Brown thanked Chairperson Boyer for his remarks.

At 12:52 p.m. Public Comment and consideration, deliberation, and official action(s) concerning Recommendations contained in the Bias-Based Policing Review

Committee's Preliminary Investigative Report for Internal Case No. 21-0006-P for the purpose of issuing a Final Report of the Commission.

In anticipation of the issuance of a Final Report of the Commission for **Internal Case No. 21-0006-P**, Chairperson Brown opened the floor to public comment, and none were offered. Following public comment, Chairperson Brown opened the floor to deliberation by all Commissioners, and recognized Commissioner Lappas.

Commissioner Lappas asked a point of clarification about PSP's practice to only investigate bias-based policing complaints with underlying court cases when conduct is considered "egregious", and Chairperson Brown responded in the affirmative. Commissioner Lappas did not wish to ascribe bad motives on the part of the agency, but if a member had other motives outside of effectuating an arrest then [as practiced] there was no consequences for such conduct. Chairperson Boyer responded that such a sentiment was a concern of the committee but appreciated impact an administrative investigation would have on court cases. Chairperson Brown added that there was no initial rationale offered by the Covered Agency other than it was the agency's practice and policy. Commissioner Lappas noted that the Commission should want to change holding investigations in abeyance. Chairperson Brown thanked Commissioner Lappas for his comments and recognized Commissioner Ashe.

Commissioner Ashe remarked that committee members engaged in good conversation and dialogue about this problem with PSP and that the committee expressed concerns about why such complaints were rejected on their face and misdirecting complainants to the courts. After PSP explained their practice and the reasoning behind it, i.e., due process and legal rights of citizens against self-incrimination, etc., members were able to understand PSP's position better and believed the committee arrived at a happy medium to ensure complainants are treated more fairly. Commissioner Ashe expressed that she was proud and happy to be a member of this committee and Chairperson Brown thanked Commissioner Ashe for her comments.

Chairperson Brown recognized Vice-Chairperson Pittinger who believed the presentation was first rate and thanked the committee members for their diligent work. Vice-Chairperson Pittinger added (as background) that there are certain protections afforded to involved members during administrative investigations, i.e., Garrity rights (certain statements made during an administrative investigation cannot be used against a Trooper in any criminal proceedings). An unintended consequence of PSP's practice (i.e., "twist in system") given the time restraints prescribed to completion of administrative and criminal investigations is the protection of members who may not be deserving of such protection. Vice-Chairperson Pittinger warned that PSP should also bar use of any coercion tactic, i.e., drop complaint in exchange for reduced charge(s). Chairperson Boyer agreed that Vice-Chairperson Pittinger offered a great recommendation.

With no other comments offered, Chairperson asked for a motion to approve the Findings, Conclusions and related Recommendation(s) of the Bias-Based Policing Review Committee concerning **Internal Case No. 21-0006-P**. 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 6].

At 1:04 p.m. Final Public Comments

Chairperson Brown opened the floor to final public comments by both citizens in attendance along with all Commissioners.

Commissioner Bradford-Grey stated that she looked forward to getting to work and hoped Chairperson Boyer along with other Bias-Based Policing Review Committee members will welcome her to their committee.

At 1:06 p.m. Final Remarks by Chairperson Brown

In closing, Chairperson Brown reflected on the Commission's inaugural year, and on behalf of all Commissioners, thanked those who supported the Commission's development including:

- OSIG Executive staff and specifically, State Inspector General Lucas Miller, First Deputy Clarke Madden, Deputy Jonathan Hendrickson, Chief Counsel Althia Bennett, Senior Counsel Jessica Diaz, Senior Special Investigators Christopher Krokos and Michelle Berg, and Business Relationship Manager Nincolle Graver for advocating, supporting, advising, and assisting in every way possible the work of this Commission and its mission.
- Ex-Officio members including the Governor's Deputy Chief of Staff Jalila Parker, Governor's General Counsel Gregory Schwab and Deputy General Counsel Anne Cornick, Pennsylvania State Police Colonel Robert Evanchick and Captain Christopher King, Pennsylvania Capital Police Superintendent Joseph Jacobs, Department of Conservation and Natural Resources Secretary Cynthia Dunn, Deputy Secretary John Norbeck, Pennsylvania Commission on Crime and Delinquency Chairman Charles Ramsey and Executive Director Michael Pennington for your leadership, advice, and continued support of our Commission and its members.
- Representatives of the Commission's Covered Agencies including the Pennsylvania Department of Corrections, Pennsylvania Capital Police, Pennsylvania Department of Conservation and Natural Resources' Bureau of Rangers, and the Pennsylvania Department of Agriculture Bureau of Dog Law Enforcement for their partnership and cooperation with establishing this Commission.
- The Pennsylvania State Police for allocating significant resources to the Commission's work and providing training and invaluable law enforcement insight to all Commissioners. PSP provided procedural details and engaged in the productive dialogue necessary for the Commission's examination of completed internal investigations and an assessment of PSP's policies, protocols, and training programs. By working together, Chairperson Brown stated that the Commission can increase community understanding of the criminal justice system while also rehabilitating community trust in law enforcement and thanked PSP for their dedication to the health and safety of all citizens.
- To all Commissioners who volunteered and sacrificed their personal time in support of the goals of our Commission, spent countless hours examining investigative reports, reviewing evidence, learning law enforcement policies and procedures, and researching best practices. Chairperson Brown thanked Commissioners for their dedication for the benefit of their fellow Pennsylvanians and that the public owed each Commissioner a debt of gratitude.

Chairperson Brown remarked that one year into their journey to build the first of its kind, statewide, citizen led, law enforcement advisory commission in the nation, the Commission successfully completed implementation of Governor Wolf’s Executive Order, and today proposed meaningful systematic law enforcement reforms that will benefit all Pennsylvanians.

At 1:09 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 OSIG and the OSIG’s Bureau of Law Enforcement Oversight or assistance.

At 1:10 p.m. Regular Public Meeting Adjourned

DRAFT



Roll Call and Attendance Form


Type of Commission Meeting: Quarterly Special Rescheduled

Date and Time of Commission Meeting: 12/16/2021 10:00am

Regular 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	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



**PENNSYLVANIA STATE LAW ENFORCEMENT
CITIZEN ADVISORY COMMISSION**

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** on **Friday, December 10, 2021 at 10:00am (Executive Session) and at approximately 10:30am (Public Session)**.

There will be Microsoft Teams capability to attend the meeting remotely. To register for this Commission meeting, please use this registration link: Available on the OSIG webpage at www.osig.pa.gov/PSLECAC. If you are unable to sign in via the registration link above, you may dial-in by using the information listed below:

Audio Dial-In Information:	267-332-8737 - United States Toll
Access Code/Event Number:	767104609#

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 10am to 10:30am**) [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 (*Public Session to begin at approximately 10:30am*).
- (3) Acceptance of Meeting Agenda.
- (4) Approval and adoption of previous Commission Quarterly Meeting Minutes from August 6, 2021.
- (5) Report of the Commission's Chairperson [State of the Commission to include accomplishments to date and preparation of the Commission's Annual Report pursuant to Section 13 of Executive Order 2020-04 (as amended); resignations, onboarding, and 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 to include formation, purpose, and membership of the Commission's Sub-committee on Rules and Procedures pursuant to Article 8 (Review Process), Section 8.2 (Commission Sub-committees and Review Committees) of the Commission's Bylaws].

- (7) Individual Brief Remarks by Chairpersons of the Commission's Review Committees (Critical Incidents, Use of Force and Bias-Based Policing).
- (8) Presentation of Preliminary Investigative Review Report for **Internal Case No. 21-0011-P** (a use of deadly force incident involving the Pennsylvania State Police (PSP) occurring on March 17, 2016 in Troop D) by the Chairperson of the Critical Incidents Review Committee.
- (9) Opportunity for public comment.
- (10) Consideration, deliberation, and official action(s) concerning Recommendations contained in the Critical Incidents Review Committee Preliminary Investigative Report for **Internal Case No. 21-0011-P**. These actions are for the purpose of issuing a Final Report of the Commission for **Internal Case No. 21-0011-P**.
- (10) Presentation of Preliminary Investigative Review Report for **Internal Case No. 21-0001-P** (a lower level use of force incident involving PSP occurring on June 6, 2018 in Troop G) by the Chairperson of the Use of Force Review Committee.
- (11) Opportunity for public comment.
- (12) Consideration, discussion, deliberation, and official action(s) concerning Recommendations contained in the Use of Force Review Committee Preliminary Investigative Report for **Internal Case No. 21-0001-P**. These actions are for the purpose of issuing a Final Report of the Commission for **Internal Case No. 21-0001-P**.
- (13) Presentation of Preliminary Investigative Review Report for **Internal Case No. 21-0006-P** (a bias-based policing complaint (filed May 4, 2016) involving PSP related to an incident occurring on February 4, 2016 in Troop G) by the Chairperson of the Bias-Based Policing Review Committee.
- (14) Opportunity for public comment.
- (15) Consideration, discussion, deliberation, and official action(s) concerning the Recommendations contained in the Bias-Based Policing Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0006-P**. These actions are for the purpose of issuing a Final Report of the Commission for **Internal Case No. 21-0006-P**.
- (16) Final Remarks by Voting and Non-Voting Commission members and Commission's Chairperson.

Individuals having questions regarding this Commission meeting, which is open to the public, should contact the Bureau of Law Enforcement Oversight within the Pennsylvania Office State Inspector General (OSIG) at (717) 787-6835. Media inquiries may be directed to Deputy State Inspector General Jonathan Hendrickson at (717) 265-8396.

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



Vote Tabulation Form

Type of Commission Meeting: Quarterly Special Rescheduled
 Date and Time of Commission Meeting: 12/10/2021 10:00am

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: MOTION
CREATION OF PSELEAC Rules Sub-Committee
Summary Tabulation of All Votes: 14 YAY 0 NAY 14 PRESENT 0 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**



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INSPECTOR GENERAL

Vote Tabulation Form

Type of Commission Meeting: Quarterly Special Rescheduled
Date and Time of Commission Meeting: 12/10/2021 10:00AM

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: MOTION ALLOWING PSLECAC Chairperson to select Member of Rule Sub-Committee
Summary Tabulation of All Votes: 14 YAY 0 NAY 14 PRESENT 0 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**

**PENNSYLVANIA STATE LAW ENFORCEMENT
CITIZEN ADVISORY COMMISSION**

RESOLUTION NO. 1

Title: Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0011-P presented by the Critical Incidents Review Committee in anticipation of the issuance of a Final Report by the Pennsylvania State Law Enforcement Citizen Advisory Commission

Meeting Date: Regular (Quarterly) Meeting, December 10, 2021 at 10:00 a.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 Incidents Review Committee (Review Committee) Preliminary Investigative Review Report for **Internal Case No. 21-0011-P** (a use of deadly force incident involving the Pennsylvania State Police (PSP) occurring on March 17, 2016 in Troop D) in anticipation of the issuance and ratification of a Final Report for **Internal Case No. 21-0011-P**.¹

Originating Request Submitted By: **Chairperson of the Critical Incident Review Committee**

¹ 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.

**PENNSYLVANIA STATE LAW ENFORCEMENT
CITIZEN ADVISORY COMMISSION**

RESOLUTION NO. 1

Title: Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0011-P presented by the Critical Incidents Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0011-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

AND NOW, on this 10th day of December, 2021, it is hereby certified that:

WHEREAS, the Critical Incidents 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;¹ and

WHEREAS, in accordance with Executive Order 2020-04, as amended, the Critical Incidents Review Committee completed its review of **Internal Case No. 21-0011-P**; and

WHEREAS, the Critical Incidents Review Committee presented its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) contained in its Preliminary Investigative Review Report for **Internal Case No. 21-0011-P** to the Commission at its Regular (Quarterly) Meeting held on December 10, 2021;² 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 membership as indicated in the Vote Tabulation Form, the Commission hereby adopts the contents of the Critical Incidents Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0011-P** and any accompanying addenda.³

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

¹ 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.

² 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.

³ 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.

BE IT FURTHER RESOLVED, that the Commission authorizes the release of, and presents its Final Report for **Internal Case No. 21-0011-P** and any accompanying addenda to the Covered Agency for further action.⁴

BE IT FURTHER RESOLVED, that the Commission directs its Chairperson to publicly post a copy of the Final Report (including the written response of the Covered Agency) for **Internal Case No. 21-0011-P** and any accompanying addenda on the Commission's webpage.⁵

**AS DULY ADOPTED BY THE PENNSYLVANIA STATE LAW ENFORCEMENT
CITIZEN ADVISORY COMMISSION (DATED DECEMBER 10, 2021)**

SIGNATURE OF THE COMMISSION'S CHAIRPERSON:



(Electronic Signature Authorized)

PRINT: Sha S. Brown

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



(Electronic Signature Authorized)

PRINT: Jaimie L. Hicks

⁴ This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.5 (Implementation of Recommendations) of the Commission's Bylaws.

⁵ 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.



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Vote Tabulation Form

Type of Commission Meeting: Quarterly Special Rescheduled

Date and Time of Commission Meeting: 12/10/2021 10:00AM

Resolution No 1 CONSIDERATION, DELIBERATION + ACTION CONCERNING
Preliminary Investigative Review Report 21-0011-P

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:

Resolution No 1 (21-0011-P)

Summary Tabulation of All Votes: 14 YAY ~~0~~ NAY 14 PRESENT ~~0~~ 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**

**PENNSYLVANIA STATE LAW ENFORCEMENT
CITIZEN ADVISORY COMMISSION**

RESOLUTION NO. 2

Title: Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0001-P presented by the Use of Force Review Committee in anticipation of the issuance of a Final Report by the Pennsylvania State Law Enforcement Citizen Advisory Commission

Meeting Date: Regular (Quarterly) Meeting, December 10, 2021 at 10:00 a.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 Policing Review Committee (Review Committee) Preliminary Investigative Review Report for **Internal Case No. 21-0001-P** (an internal investigation involving the Pennsylvania State Police (PSP) concerning a lower level use of force incident occurring on June 6, 2018 in Troop G) in anticipation of the issuance and ratification of a Final Report for **Internal Case No. 21-0001-P**.¹

Originating Request Submitted By: **Chairperson of the Use of Force Review Committee**

¹ 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.

**PENNSYLVANIA STATE LAW ENFORCEMENT
CITIZEN ADVISORY COMMISSION**

RESOLUTION NO. 2

Title: Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0001-P presented by the Use of Force Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0001-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

AND NOW, on this 10th day of December, 2021, 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;¹ and

WHEREAS, in accordance with Executive Order 2020-04, as amended, the Use of Force Review Committee completed its review of **Internal Case No. 21-0001-P**; 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 in its Preliminary Investigative Review Report for **Internal Case No. 21-0001-P** to the Commission at its Regular (Quarterly) Meeting held on December 10, 2021;² 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 membership as indicated in the Vote Tabulation Form, the Commission hereby adopts the contents of the Use of Force Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0001-P** and any accompanying addenda.³

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

¹ 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.

² 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.

³ 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.

BE IT FURTHER RESOLVED, that the Commission authorizes the release of, and presents its Final Report for **Internal Case No. 21-0001-P** and any accompanying addenda to the Covered Agency for further action.⁴

BE IT FURTHER RESOLVED, that the Commission directs its Chairperson to publicly post a copy of the Final Report (including the written response of the Covered Agency) for **Internal Case No. 21-0001-P** and any accompanying addenda on the Commission's webpage.⁵

AS DULY ADOPTED BY THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION (DATED DECEMBER 10, 2021)

SIGNATURE OF THE COMMISSION'S CHAIRPERSON:



(Electronic Signature Authorized)

PRINT: Sha S. Brown

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



(Electronic Signature Authorized)

PRINT: Jaimie L. Hicks

⁴ This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.5 (Implementation of Recommendations) of the Commission's Bylaws.

⁵ 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: 12/10/2021 10:00AM

Resolution NO 2 CONSIDERATION, DELIBERATION, AND ACTION CONCERNING
PRELIMINARY INVESTIGATIVE REVIEW REPORT 21-0001-P
Pursuant to Article 6, Sections 2, 3 and 5 of the Pennsylvania State Law Enforcement

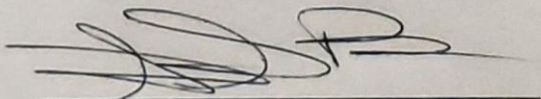
Citizen Advisory Commission's (Commission) Bylaws, and following the Robert's Rules of Order, I hereby attest to recognizing motions from Commission membership, said motions having been seconded, and recording the votes of Commission membership for matters under the Commission's review as indicated below:

ACTION ITEM:

Resolution NO 2 (21-0001-P)

Summary Tabulation of All Votes: 14 YAY 0 NAY 14 PRESENT 0 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**

PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION

RESOLUTION NO. 3

Title: Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0006-P presented by the Bias-Based Policing Review Committee in anticipation of the issuance of a Final Report by the Pennsylvania State Law Enforcement Citizen Advisory Commission

Meeting Date: Regular (Quarterly) Meeting, December 10, 2021 at 10:00 a.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 (Review Committee) Preliminary Investigative Review Report for **Internal Case No. 21-0006-P** (a bias-based policing complaint (filed May 4, 2016) involving the Pennsylvania State Police (PSP) related to an incident occurring on February 4, 2016 in Troop G) in anticipation of the issuance and ratification of a Final Report for **Internal Case No. 21-0006-P**.¹

Originating Request Submitted By: Chairperson of the Bias-Based Policing Review Committee

¹ 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.

**PENNSYLVANIA STATE LAW ENFORCEMENT
CITIZEN ADVISORY COMMISSION**

RESOLUTION NO. 3

Title: Consideration, Deliberation, and Action(s) Concerning Preliminary Investigative Review Report for Internal Case No. 21-0006-P presented by the Bias-Based Policing Review Committee in anticipation of the issuance of a Final Report for Internal Case No. 21-0006-P by the Pennsylvania State Law Enforcement Citizen Advisory Commission

AND NOW, on this 10th day of December, 2021, 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;¹ and

WHEREAS, in accordance with Executive Order 2020-04, as amended, the Bias-Based Policing Review Committee completed its review of **Internal Case No. 21-0006-P**; and

WHEREAS, the Bias-Based Policing Review Committee presented its Findings and Conclusions, Additional Factor(s) for Consideration and Recommendation(s) for Corrective Action(s) contained in its Preliminary Investigative Review Report for **Internal Case No. 21-0006-P** to the Commission at its Regular (Quarterly) Meeting held on December 10, 2021;² 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 membership as indicated in the Vote Tabulation Form, the Commission hereby adopts the contents of the Bias-Based Policing Review Committee's Preliminary Investigative Review Report for **Internal Case No. 21-0006-P** and any accompanying addenda.³

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

¹ 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.

² 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.

³ 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.

BE IT FURTHER RESOLVED, that the Commission authorizes the release of, and presents its Final Report for **Internal Case No. 21-0006-P** and any accompanying addenda to the Covered Agency for further action.⁴

BE IT FURTHER RESOLVED, that the Commission directs its Chairperson to publicly post a copy of the Final Report (including the written response of the Covered Agency) for **Internal Case No. 21-0006-P** and any accompanying addenda on the Commission's webpage.⁵

AS DULY ADOPTED BY THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION (DATED DECEMBER 10, 2021)

SIGNATURE OF THE COMMISSION'S CHAIRPERSON:



(Electronic Signature Authorized)

PRINT: Sha S. Brown

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



(Electronic Signature Authorized)

PRINT: Jaimie L. Hicks

⁴ This action is authorized by, and made pursuant to, Article 8 (Review Process), Section 8.5 (Implementation of Recommendations) of the Commission's Bylaws.

⁵ 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: 12/10/2021 10:00AM

RESOLUTION NO 3 CONSIDERATION, DELIBERATION AND ACTION

PRELIMINARY INVESTIGATIVE REVIEW REPORT 21-0006-P
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:

RESOLUTION NO 3 (21-0006-P)

Summary Tabulation of All Votes: 14 YAY NAY 14 PRESENT ABSTAIN

Seat Name	Name of Commission Member	Individual Votes			
		YAY	NAY	PRESENT	ABSTAIN
At-Large Seat 1	David A. Sonenshein	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
At-Large Seat 2	Dr. A. Suresh Canagarajah, Ph.D.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
At-Large Seat 3	Kelley B. Hodge, Esquire	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
At-Large Seat 4	Denise Ashe	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
At-Large Seat 5	Elizabeth C. Pittinger	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
At-Large Seat 6	Keir Bradford-Grey	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Troop A Seat	Jeffrey Wilson				
Troop B Seat	Brenda Tate	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Troop C Seat	Joshua S. Maines, Esquire	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Troop D Seat	Marisa C. Williams				
Troop E Seat	Bishop Curtis L. Jones, Sr.				
Troop F Seat	Honorable Erick J. Coolidge	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Troop G Seat	Charima C. Young	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Troop H Seat	Spero T. Lappas, J.D., Ph.D.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Troop J Seat	VACANT				
Troop K Seat	Andrea A. Lawful-Sanders				
Troop L Seat	VACANT				
Troop M Seat	Marvin Boyer	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Troop N Seat	Marilyn M. Brown, Ed.D.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Troop P Seat	Rev. Shawn M. Walker	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Troop R Seat	Krista Somers				

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