

FINAL REPORT OF THE COMMISSION

Name of Review Committee	USE OF FORCE REVIEW COMMITTEE
Chairperson(s) of Review Committee	DAVID A. SONENSHEIN, ESQ.
Members of Review Committee	JOSHUA S. MAINES, ESQ., and Vice-Chairperson ELIZABETH C. PITTINGER
Non-Member Advisors	Commission Chairperson SHA BROWN, and OSIG Senior Special Investigator TIFFANY WELCOME
Ex-officio Member	ANGELA P. FITTERER*
Date Review Started	11/09/2021
Report Number	21-0015-P
Date of Report	10/28/2022

* NOTE: Appointment of an Ex-officio (or non-voting) Member to all Review Committees is required by Article 8 (Review Process), Section 8.2 (Commission Sub-committees and Review Committees) of the Commission's Bylaws; however, the Ex-officio Member does not vote on any of the content contained in this report.

TYPE OF COMMITTEE REVIEW

Name of Covered Agency	PENNSYLVANIA BOARD OF PROBATION AND PAROLE [WITHIN THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS]
Nature of Completed Internal Investigative Findings Under Review (i.e., Police-Involved Shooting, Lower-Level Use of Force, Bias-Based Policing)	LOWER-LEVEL USE OF FORCE – (TASER DEPLOYMENT)

BACKGROUND

Incident Date	April 9, 2018
Troop Jurisdiction of Incident	Troop K (PA Board of Probation and Parole – Philadelphia, PA)
Criminal Disposition	Not Applicable
Agency Administrative Disposition	Ruled Justified – Deputy Secretary (Parole Field Services, November 23, 2018)

SCOPE AND METHODOLOGY OF REVIEW

Under Executive Order 2020-04, as amended, the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) is required to review a Covered Agency's completed internal investigation concerning lower – level uses of force during interactions with law enforcement personnel to determine the following:

1. Whether the completed internal investigation was:
 - Prompt;
 - Fair;
 - Impartial;
 - Complete; and
 - Performed in a manner consistent with applicable policies.
2. Whether the internal adjudicatory findings and discipline (if any) were reasonable under standard law enforcement protocol; and
3. Whether there is a perceived policy or training deficiency.

Under the methodology contemplated by Executive Order 2020-04, as amended, a Covered Agency is required to provide a Comprehensive Written Summary and an Oral Presentation of its completed internal investigation that shall include a description and relevant dates of all investigative activities along with a summary of all facts as determined by the investigation, and criminal and administrative adjudications.

In performing its review of the matter currently under consideration, the Commission's Use of Force Review Committee (Review Committee) used the following methodology:

1. Reviewed how the Covered Agency's completed internal investigation was conducted when compared to internal policy and relevant collective bargaining agreements to determine whether the investigation was conducted in a prompt and fair manner.
2. Reviewed internal relevant policies designed to safeguard fairness and impartiality to ensure that the Covered Agency's completed internal investigation was conducted in accordance with said policies and determine whether any conflict of interest exists based on all known information.
3. Reviewed the Covered Agency's completed internal investigation to ensure investigators collected all relevant facts reasonably obtainable and conducted all relevant interviews.
4. Reviewed the Covered Agency's adjudication report to ensure all relevant facts were considered, including all known actions by the law enforcement officer(s), to determine whether the adjudicator's decision was reasonable and based on a totality of the circumstances.
5. Compared the discipline issued (if any) with past disciplinary precedent to confirm that the discipline (if any) was reasonable and consistent with the Covered Agency's just cause standard, rules and regulations, collective bargaining agreements, and/or grievance and arbitration decisions.
6. Compared facts and circumstances described in the Covered Agency's completed internal investigation with relevant internal policies and training along with best practices guidelines (i.e., Final Report of "*The President's Task Force on 21st Century Policing*") to determine if any policy or training deficiencies exist. Where deficiencies are identified, make recommendations for corrective action(s).

RELEVANT POLICIES AND CRITERIA EXAMINED

1. Collective Bargaining Agreement between the Commonwealth of Pennsylvania and Council 13 American Federation of State, County, and Municipal Employees AFL – CIO (July 1, 2016 through June 30, 2019);
2. United States Department of Justice’s (US DOJ) Standards for Internal Affairs (2005);
3. PBPP Policy No. 4.03.08 – Arrest Procedures Resistance and Control Continuum (effective March 1, 2016);
4. PBPP Policy No. 4.03.08 (Appendix A) – Resistance and Control Continuum (effective June 5, 2006 – Present);
5. PBPP Policy No. 4.03.08 (Appendix B) – Federal Law Enforcement Officers Safety Act of 2004 (effective July 22, 2004);
6. PBPP Policy No. 4.03.08 (Appendix C) – Response to Resistance and Control Report (effective March 1, 2016); and
7. PBPP Policy No. 12.02.07.01 – Care and Control of Commonwealth Property (effective October 29, 2020).

COMMISSION’S FINAL DETERMINATIONS, FINDINGS, AND CONCLUSIONS

Pursuant to Executive Order 2020-04, as amended, the Commission completed a comprehensive review of **Internal Case No. 21-0015-P** in accordance with Article 8 (Review Process) of the Commission’s Bylaws and adopts such Findings and Conclusions and determines the following:

The Commission finds that the Pennsylvania Board of Probation and Parole’s (PBPP) completed internal investigation was prompt, fair, and impartial which was corroborated by examining PBPP’s investigative reports, relevant interviews, and information provided by PBPP during its Oral Presentation. The Commission also finds that PBPP’s completed internal investigation was consistent with published standards and guidelines established by the United States Department of Justice (US DOJ) concerning internal affairs investigations and PBPP’s relevant collective bargaining agreement.

Additionally, PBPP provided the Commission with documentation to form a sufficient understanding of the underlying facts related to the incident under review to identify any potential policy or training deficiencies as required by Executive Order 2020-04 (as amended). Based on its review, the Commission finds that PBPP’s completed internal investigation was performed in a manner consistent with applicable law enforcement protocols. Further, the Commission did not identify any policy and/or training deficiencies during this review (other than those offered by the Commission within its companion **Final Report for Internal Case No. 21-0014-P**).

BASED ON ITS REVIEW, THE COMMISSION FINDS THAT THE COVERED AGENCY’S COMPLETED INTERNAL AGENCY INVESTIGATION WAS –

- ✓ **Prompt**
- ✓ **Fair**
- ✓ **Impartial**
- ✓ **Complete**
- ✓ **Performed in Manner Consistent with Applicable Policies**
- ✓ **Included Adjudicatory Findings and Discipline (if any) that were Reasonable and Based on Applicable Standards.**

ADDITIONAL FACTORS / NOTES

Not Applicable

FINAL RECOMMENDATION(S) FOR CORRECTIVE ACTION(S)

Not Applicable

AS ADOPTED AND PRESENTED BY RESOLUTION NO. UOF-2 OF THE USE OF FORCE REVIEW COMMITTEE (DATED OCTOBER 14, 2022)

AS ORIGINALLY ADOPTED AND RATIFIED BY RESOLUTION NO. 5 OF THE PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION (DATED OCTOBER 28, 2022)

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



Sha S. Brown
(Electronic Signature Authorized)

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



Jaimie L. Hicks
(Electronic Signature Authorized)