



**CITY OF ALBANY
COMMUNITY POLICE REVIEW BOARD
PUBLIC MONTHLY MEETING
MEETING MINUTES**

*May 11, 2023, at 6:00 p.m.
Albany Law School, Room W212*

I. CALL TO ORDER AND ROLL CALL (V. Harden)

Vice Chair Dr. Veneilya Harden called the meeting to order at 6:00 PM.

BOARD MEMBERS PRESENT:

CPRB Chair Nairobi Vives, Vice-Chair Veneilya Harden, Secretary Paul Collins-Hackett, Kevin Cannizzaro, Rev. Dr. Victor Collier, John Levendosky, Victor Person, and Antoinette Santos

OTHERS PRESENT:

CPRB Program Manager Michele Andre, GLC Deputy Director Patrick Woods, Assistant Corporation Counsel Matthew Toporowski, Assistant Corporation Counsel Raisi K. Mobebe, Office of Professional Standards (OPS) Commander Joshua Laiacona, Councilmember Derek Johnson, Chief of Police Thomas Gibbons, Valerie Thomas, Danielle Mackey, Julie L. Schwartz (T&M Managing Director of Investigations), Patrick Keane (T&M), James P. Conroy, Consultant Andrew Lah, Attorney Mark Mishler, and Attorney Michael L. Goldstein.

II. APPROVAL OF THE AGENDA (V. Harden)

Vice Chair Dr. Veneilya Harden called the meeting to order and moved to approve tonight's agenda. Vice Chair Harden moved the public comment out of order following the case review and update.

III. REPORT FROM MOEEL LAH FAKHOURY LLP (A. Lah)

Consultant Andrew Lah from Moeel Lah Fakhoury LLP reported that his team conducted two trainings for Board and continues to support the Board.

IV. PRESENTATION FROM ALBANY STRATTON VA MEDICAL CENTER

Albany Stratton VA Medical Center Chief of Police Thomas Gibbons, provided a presentation about the Veterans Justice Outreach Program, a program of the U.S. Department of Veterans Affairs Homeless Programs Office.

V. CASE REVIEW AND UPDATE

CC2022-016

(J. Conroy)

Investigator James P. Conroy provided a report about his investigation into an incident on June 19, 2022, in which the Complainant reported that Police Sergeant Jarrod Jourdin pushed a 12-year-old boy to the ground. The Investigator reported that video footage shows that a crowd of community members and officers had gathered when an officer extinguished fireworks that were being ignited during a Juneteenth celebration. The Investigator reported that the video footage shows the 12-year-old boy and his father walking away from the incident. After reviewing the case and watching body-cam footage of the incident, the Investigator determined that the officer's use of force was not necessary and found the allegation of improper Use of Force to be Sustained.

Chair Vives made a motion to approve the Investigator's findings, which was seconded and approved unanimously. With regards to Police Sergeant Jarrod Jourdin in connection with the allegation of improper Use of Force, the CPRB reached a finding of Sustained.

CC2022-017

(J. Conroy)

Investigator James P. Conroy provided a report about his investigation into an incident on June 20, 2022, in which the Complainant reported that Police Officer Silvestre Acevedo confiscated his phone, detained and searched him, kicked his legs apart while he was being handcuffed and searched, and placed him in the back of a police vehicle. The Investigator was able to make contact with the Complainant and was informed that he was double parked; while waiting for friends to return to his car, the Complainant reported that the incident began when he was told by Officer Acevedo to move his vehicle.

After reviewing the case and video footage of the incident, the Investigator found the allegation of improper Evidence and Handling to be Sustained, the allegation of improper Use of Force to be Exonerated, and the allegation of Abuse of Process to be Exonerated.

Board Member Paul Collins-Hackett inquired as to why the Complainant had been detained and searched. The Investigator reported that he was unable to speak to the officer identified in the complaint and interprets the escalation to be caused by Complainant's alleged refusal to move the double-parked car and getting out of his car when Officer Acevedo took his phone. The Investigator determined that the officer's order to move the double-parked car was a lawful order. Chair Nairobi Vives inquired about what information the Investigator could gather from the evidence given that he was unable to access the officer identified in

the complaint. The Investigator determined that the officer's confiscation of the Complainant's phone was inappropriate.

Board Member Collins-Hackett further inquired as to why the Complainant was detained. Board Member Kevin Cannizzaro questioned the constitutionality of the detainment for a non-moving traffic violation and suggested that it is worth further investigation. Board Member Cannizzaro further inquired as to whether there were attempts made to interview the officer in question. The Investigator reported that he was unable to interview the officer.

Chair Vives moved to vote on the Investigator's findings. The motion was seconded and approved. With regards to Officer Silvestre Acevedo in connection with the allegation of improper Evidence and Handling allegation, the CPRB reached a finding of Sustained. (One abstention was recorded.) With regards to the allegation of improper Use of Force allegation, the CPRB reached a finding of Exonerated. (Two opposition votes recorded.) Chair Vives moved to vote on the allegation Abuse of Process (improper detainment) at a later meeting, which was unanimously approved.

Chair Vives moved to discuss discipline for Sustained allegations for all cases at the May 11, 2023, meeting at a future meeting after the new discipline matrix has been completed. This was unanimously approved.

June 20, 2022, Officer-Involved Shooting Investigation

(J. Schwartz, T&M)

Julie L. Schwartz, T&M Managing Director of Investigations, shared a preliminary report about T&M's investigation of an incident that began as a domestic violence call and escalated to an alleged stabbing and police-involved shooting.

Ms. Schwartz reported difficulty in obtaining access to evidence from the Albany Police Department, who reported that they were advised by Corporation Counsel not to release evidence in the case due to a related protective order issued in the matter of People v. Frazier, dated June 27, 2022. T&M concluded that the protective order, which bars defense counsel from disseminating discovery to third parties, does not prohibit APD from releasing records to CPRB Members. Ms. Schwartz also reported difficulty accessing the case file from the Albany County District Attorney's Office. Ms. Schwartz reported that the Investigators were able to access video footage from body-worn cameras of Police Officers Anthony Rogers, Will Johnson, and Fabrizio Maioriello, and limited materials from the case file.

Based on the available evidence, T&M determined that Police Officer Rogers, who appeared to take the lead in the incident, improperly handled the domestic violence call that led to the incident. Specifically, Ms. Schwartz continued, Officer Rogers arrest Mr. Frazier for assaulting the victim (the Complainant), as required by New York State Criminal Procedure Law § 140.10(4)(c) and APD General Order 3.8.20 regarding domestic violence. Ms. Schwartz also reported that T&M cannot ascertain why a warrant query was not executed sooner.

With regards to Police Officer Rogers concerning the allegations, T&M determined that they cannot make a final finding until the complete case file is released by the Albany Police Department and Albany County District Attorney's Office and T&M is able to thoroughly investigate the case. However, due to the approaching APD Administrative Statute of Limitations expiration on June 19, 2023, T&M provided a preliminary finding. With regards to Officer Rogers in connection with the allegation of improper Conduct in failing to arrest Mr. Frazier, the Investigators reached a finding of Sustained.

Board Member Antoinette Santos inquired as to whether the victim and assailant were interviewed separately; Ms. Schwartz confirmed that they were interviewed separately and that this was appropriate for a domestic violence call.

A discussion ensued about the difficulties experienced by the CPRB and Investigators when seeking access to case files related to cases under investigation by the CPRB. Board Member Kevin Cannizzaro inquired as to why the protective order has been interpreted as prohibiting APD from releasing evidence to the CPRB. Assistant Corporation Counsel Matthew Toporowski referred to the text of Local Law J and the protective order.

Ms. Schwartz clarified that APD was told by Corporation Counsel in an email not to provide materials to the CPRB, and that her impression is that APD was not the reason for the lack of access to case files. OPS Commander Joshua Laiacona confirmed that the reason that APD withheld information was the result of advice from Corporation Counsel based on the protective order. Chair Vives and Board Member Cannizzaro requested clarity about Corporation Counsel's position on the issue. Mr. Toporowski stated that he would address the matter with the office of Corporation Counsel; Chair Vives stated that she would clarify this as well.

Board Member Collins-Hackett inquired as to when the situation escalated to physical conflict. Mr. Keane, an associate at T&M, indicated that Mr. Frazier appeared to be compliant until the moment he was about to be arrested. Board Member Collins-Hackett further inquired about whether mental health resources were offered, and if they should have been; Ms. Schwartz responded that it was not clear that it was necessary.

Board Chair Vives moved to continue the investigation until T&M receives additional information from APD and the Albany County District Attorney's Office and can make a fully informed finding. The motion was seconded and approved.

Board Chair Vives moved to vote on T&M's preliminary finding of improper Conduct by Officer Rogers. The motion was seconded and approved by majority vote. (Two abstentions were recorded.) With regards to Officer Anthony Rogers in connection with the allegation of improper Conduct, the CPRB reached a preliminary finding of Sustained.

CC2018-018

(M. Ingram)

This case will be discussed at the next public monthly meeting on June 8, 2023.

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VI. PUBLIC COMMENT

Albany Common Council Member Derek Johnson shared his reflections on the discussions that took place, specifically how a police officer was able to receive a promotion while his conduct was under investigation by OPS and the CPRB. Mr. Johnson also shared his appreciation for the work of the CPRB and that he would encourage community members to attend and participate in future meetings.

Representatives from HUD Veterans' Affairs Supported Housing, a program of the U.S. Department of Veterans Affairs Homeless Programs Office, provided information about their program. The program helps homeless veterans who are income-eligible to obtain a Section 8 voucher to access housing. Social workers at the program provide services, case management, assist veterans with finding housing, and refer them to additional resources.

VII. COMMITTEE REPORTS**BYLAWS AND RULES**

(K. Cannizzaro)

Board Member Kevin Cannizzaro reported that the committee met on May 10, 2023, to discuss potentially incorporating the National Association of Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics into the CPRB bylaws and rules. The committee also discussed clarifying the public comment process and allotting 3 minutes for each member of the public who wishes to provide comment.

COMMUNITY OUTREACH

(P. Collins-Hackett)

Board Member Paul Collins-Hackett reported that the CPRB has provided presentations at various conferences, created videos promoting the Board and its activities, and plans to participate in community events to raise awareness about the Board. Board member Collins-Hackett encourages community members to contact him for further outreach.

Chair Nairobi Vives reported that the CPRB was able to participate in the APD training academy and provide information and training to the new recruits about the CPRB.

MEDIATION

(V. Collier)

Board Member Dr. Veneilya Harding reported that the committee has been using outreach to promote awareness of the mediation program. She also reported that the committee has identified three complaints to be investigated that were previously identified for mediation.

POLICE DEPARTMENT LIAISON

(V. Harden)

Board Member Dr. Veneilya Harden reported discussions to clarify the distinction between grievances and complaints. The committee has identified two complaints that were previously identified as grievances.

INVESTIGATION

(J. Levendosky)

Board Member John Levendosky reported that the committee has met with the contract investigators to discuss complaints related to the Juneteenth incident(s) and June 20, 2022, police-involved shooting, described above. The Committee identified issues with limited access to case files and information, as well as not receiving responses to emails. The Committee recommends improved access to officer statements and interviews, a longer time frame for viewing case files, and electronic access to materials.

Committee discussed the benefit of Board Members and Investigators being in regular contact to resolve questions and bounce ideas off each other to improve the strength of reports.

Board Member Levendosky referenced difficulties accessing disciplinary records of APD officers, and encouraged Commander Laiacona to address this. Commander Laiacona indicated that disciplinary records of officers are not included in case files for complaints, but that the CPRB can specifically request the disciplinary record of an officer from their personnel records.

Ms. Schwartz reported that T&M served subpoenas to three APD officers to compel them to meet with and provide information to the Investigators. Those subpoenas were served on May 4, 2023. Ms. Schwartz reported that T&M has not received a response.

PUBLIC OFFICIAL LIAISON

(N. Vives)

Chair Vives reported that the committee met on April 28, 2023, to discuss information-sharing, the need for unfettered access to information and materials for Investigators, the backlog of complaints, and strategies to improve.

Chair Vives also reported that the disciplinary matrix development process is ongoing and expects the process to be completed in the coming months. The Disciplinary Matrix Committee received new information about disciplinary procedures and feedback from APD, as well as a draft matrix from committee member Mark Mishler. The next Disciplinary Matrix public meeting will be held on May 17, 2023.

REPORT FROM THE GOVERNMENT LAW CENTER

(M. Andre, P. Woods)

Program Manager Michele Andre reported that she and Board members have participated in panel discussions and other presentations about community oversight of policing. Ms. Andre highlighted upcoming community events. Ms. Andre also reported that Board

members now have access to laptops, as well as campus identification badges so that Board members can use the GLC's space and the law school library.

Ms. Andre reported that the Board has received a lot of complaints that are not within the CPRB's jurisdiction and encouraged further education about this during outreach activities.

REPORT FROM THE OFFICE OF PROFESSIONAL STANDARDS (J. Laiacona)

Commander Laiacona reported that OPS is making progress completing case investigations and has been able to provide preliminary reports to CPRB. He also reported that the training academy is underway.

REPORT FROM THE CHAIR (N. Vives)

Chair Vives encourages continued outreach with community members to raise awareness about the CPRB as a resource. Chair Vives also acknowledges that the workload is increasing with increased awareness and encourages Board members to ask for support.

REPORT FROM CORPORATION COUNSEL (M. Toporowski)

There were no significant updates from Corporation Counsel. Mr. Toporowski indicated that he will discuss the issues of the subpoenas and orders to withhold information with the Corporation Counsel's Office.

VIII. NEW BUSINESS (N. Vives)

APPROVAL OF 2023 2ND QUARTERLY REPORT

Chair Vives moved to approve the 2023 2nd Quarterly Report. The motion was seconded and unanimously approved.

APPROVAL OF MINUTES FROM THE APRIL 13, 2023, PUBLIC MONTHLY MEETING

Chair Vives moved to approve the minutes from the April 13, 2023, public monthly meeting. The motion was seconded and unanimously approved.

REQUEST FOR LEGAL OUTSIDE COUNSEL UPDATE

Chair Vives reported that the Board recently solicited proposals for outside legal counsel and conducted interviews with candidates. The Board will move forward with two candidates: Mark Mishler and Michael L. Goldstein. The Board will submit the proposals and RFP for the agreements to Corporation Counsel.

IX. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:13 p.m.

Respectfully Submitted,

Michele Andre
Program Manager