



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

*December 14, 2023, at 6:00 p.m.  
Albany Law School, Room W212*

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**I. CALL TO ORDER AND ROLL CALL** **(N. Vives)**

CPRB Chair Nairobi Vives called the meeting to order at 6:00 PM.

**BOARD MEMBERS PRESENT:**

CPRB Chair Nairobi Vives, Antionette Santos, Matthew Ingram, Rev. Dr. Victor Collier, Victor Person.

Vice Chair Dr. Veneilya Harden, John Levendosky, Paul Collins-Hackett and Kevin Cannizzaro were excused from attendance.

**OTHERS PRESENT:**

CPRB Program Manager Michele Andre, OPS Detective Hilary Burns, and Lieutenant Decker.

**II. APPROVAL OF AGENDA** **(N. Vives)**

Chair Vives called the meeting to order and moved to approve tonight's agenda. Motion passed unanimously.

**III. CASE REVIEW AND UPDATE**

**CC2023-042** **(A. Santos)**

The date of the alleged incident is June 18, 2023. The OPS report is dated August 21, 2023, and the assigned detective was OPS detective Hillary Burns. Board Member Santos reported that the complainant alleged APD officers Patrick Gary and Joshua

Austin failed to provide her with proper safety measures when she was confronted by four youths. Complainant further alleges Officer Gary failed to identify himself properly when requested. The allegations in this case are Call Handling, and Conduct Standards – Identification.

Board Member Santos summarized the background of the allegations as follows: The incident occurred on June 15, 2023, at about 4:30 AM when the complainant called APD for a noise complaint due to her upstairs neighbors; she had also called for the same complaint the night before. Officer Austin was there both nights. On the 15th, he went to check out the upstairs apartment, and shortly after, there was a pounding on her front door which was a male teenager and three female teenagers, all of which were yelling and screaming at the complainant. Complainant noted that the officers were present but did nothing to intervene. Complainant then picked up a stick to defend herself, after which the officers told her to close the door which she did. After the teenagers left and as APD was leaving, complainant requested the badge number of Officer Gary, whom she was unfamiliar with, and he allegedly gave her the wrong number. Complainant called APD the next morning and eventually spoke with Sergeant Meyers who stated that he reviewed the Body Worn Camera (BWC) footage and was unhappy with what he saw.

Board Member Santos stated that the following documents were reviewed: the call ticket histories, emails, intra-departmental correspondence (IDC) between both officers and the sergeant, BWC footage, the confidential report, the case file content report, disciplinary files, and G.O.s 1.1.10 – Code of Ethics and 2.2.00 – Rules of Conduct.

OPS Detective Burns found the allegations for call handling and failure to intervene are exonerated. She reported that though the officers did not intervene, the complainant was actually the initial aggressor, and the officers did intervene once the female teenagers came downstairs and began to yell. Board Member Santos did not concur with these findings, found the allegations to be sustained, and referenced the IDC from Sergeant Meyers where he stated that the complaint has merit, and it was inappropriate for the officers to allow the teenagers to go downstairs and confront the complainant. Sergeant Meyers further counseled both officers about the inappropriate nature of their actions. Board Member Santos finds the officers' actions in violation of G.O. 1.1.10.

OPS further found the allegation of Conduct Standards – Identification, to be exonerated with which Board Member Santos concurs. According to the BWC footage, Officer Gary is asked his badge number to which he responded why, I didn't do anything? Why are you coming at me so aggressively." Officer Gary did then provide his badge number.

Board Member Santos described her review of the disciplinary files, both of which have multiple but unrelated infractions (5 for Officer Austin, 8 for Officer Gary). However, neither detailed the corrective actions taken by Sergeant Meyers.

Board Member Santos made a motion to close this case based on the findings below. Motion seconded and passed.

After review and deliberation of the investigation of the complaint by the Office of Professional Standards (OPS), the CPRB has made the following findings as to the conduct of the specific officers involved:

- With regards to the allegation of APD's response to Call Handling, the CPRB reached a finding of **Sustained**.
- With regards to the allegation of APD's response to Call Handling, the OPS reached a finding of **Exonerated**.
- With regards to the allegation of APD's response to Conduct Standards – Identification, the CPRB and OPS reached a finding of **Exonerated**.

The CPRB and/or OPS may make a finding of Sustained – where the review discloses sufficient facts to prove the allegations made in the complaint and Exonerated – where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper and Unfounded – where the review shows that the act or acts complained of did not occur or were misconstrued.

#### **IV. SUPOENA CONSIDERATION**

**(Julie Schwartz)**

No subpoenas for consideration.

#### **V. CONSIDERATION OF COMPLAINT CLOSURE WITHOUT REVIEW AND WITHDRAWALS**

**(A. Santos)**

Board Member Santos reported that one person had emailed the CPRB to make sure the Board knows that the description of events he sent in was not a complaint, and it was more a generalization of what happened. Program Manager Andre has sent a letter explaining that it will not be reviewing because the Board understands now that it was not a complaint.

Chair Vives noted that a number of cases have been withdrawn by the complainant in 2023: CC2023-055, CC2023-054, CC 2023-052, CC2023-043, CC2023-035, CC2023-023, CC2023-012, CC2023-008, CC2023-003, CC2023-002, and an additional complaint that did not receive a complaint number which was filed January 23, 2023.

#### **VI. COMMITTEE REPORTS**

##### **PUBLIC OFFICIAL LIAISON**

**(N. Vives)**

Chair Vives reported that the December meeting will be changed as it is scheduled for the day after Christmas. The Committee last met on November 28, 2023. Present at the meeting was Chair Vives, Dr. Harden, Program Manager Andre, outside counsel Michael Goldstein, Council Member Hoey, Common Council attorney, APD Chief Hawkins, Deputy Chief Battuello, and Commander Liacona. The mayor was not present, but she sent her chief of staff.

Chair Vives reported that they discussed their case backlog and things that frequently came up in meetings, specifically the provision of discipline histories. However, they determined to bring up this issue during the Police Department Liaison Committee meeting. Chair Vives discussed with Commander Liacona that the Board expects to receive discipline histories with each case file as well as case cover sheets which indicate what information could be and is in the case files.

Finally, Chair Vives stated that the committee discussed the Discipline Matrix, succession planning with the Mayor, planning for the Board to become a City agency, and plans to replace Rev. Collier. As to Rev. Collier's replacement, no official call for applicants has been made, but the Mayor's office is reviewing resumes.

## **BYLAWS AND RULES**

(A. Santos)

Board Member Santos reported that there are no new revisions at this time but she is hoping to have some for the next meeting.

## **INVESTIGATIONS**

(A. Santos filling in for J. Levendosky)

Board Member Santos reported that the independent investigation of the South Station incident is on the verge of completion. Further the committee is drafting letter to address concerns regarding complaint CC2021-013. They are also preparing their section of the CPRB annual report.

The committee attended the Police Department Liaison Committee on December 11, 2023, and proposed amendments to APD G.O. 2.4.05 – Complaint Procedures. These suggestions included modifications to the OPS withdrawal form and the supervisor's inquiry report. The suggestions were submitted to Lieutenant Decker.

As of December 14, 2023, there are: 75 unresolved complaints – 64 of which are under investigation by OPS and 11 are under supervisor review, 20 pending complaints under Board review with four complaints related to one independent investigations. Seventy-five active complaints have surpassed 60 days which is in opposition to G.O. 2.4.05 (completion mandated generally within 60 days of assignment to an OPS detective). The Board has initiated 6 independent investigations and has reviewed two of them. Of the cases closed 11 were withdrawn, 20 were closed due to being outside of jurisdiction, and 9 were closed without review. In 2023, the Board received a total of 41 OPS case summary confidential reports, a significant increase from the 4 received last year.

## **POLICE DEPARTMENT LIAISON**

(A. Santos filling in for Dr. V. Harden)

Board Member Santos reiterated what the Investigations Committee suggested at the Police Department Liaison Committee meeting. Additionally, the committee had questions about language in the disciplinary histories with the intent that if the language

was added, they would know if cases had been settled by the supervisor. Lieutenant Decker seemed receptive to these suggestions and the CPRB awaits his response.

### **DISCIPLINARY MATRIX WORKING GROUP**

(N. Vives)

The working group met December 14, 2023, with APD leadership. Present at this meeting was Chief Hawkins, Deputy Chief Battuello, Chair Vives, Dr. Harden. Program Manager Andre, and community member Melanie Trimble former president of the NYCLU. At the meeting, they discussed changes to the matrix and they are in the final stages of finalizing some small issues. Chair Vives highlighted that the meeting was very productive. APD had no changes to the substance of the matrix but did have some issues with the introductory language, specifically allowing the Chief some discretion in certain cases. APD will be meeting with their union leadership later and the NYCLU will be meeting and providing commentary soon.

Chair Vives concluded by highlighting the fact that this is a huge step forward in police accountability and thanked those she has worked with throughout the creation process of the matrix. Chair Vives predicted that there will be a product by early 2024.

### **COMMUNITY OUTREACH**

(N. Vives filling in for P. Collins-Hackett)

Chair Vives noted that she gave a presentation for the Normans Kill Neighborhood Association and updated them on the budget, openings for membership, and the discipline matrix, and stated that if there were any other neighborhood associations in the area that would like to hear from the Board, to reach out.

### **MEDIATION**

(M. Andre filling in for Dr. V. Harden)

Program Manager Andre and Dr. Harden worked on some proposed questions for a mediation survey for officers which were shared at the Police Department Liaison Committee to make sure that process can be utilized. Program Manager Andre also attended a civilian mediation training where some resources were shared and the idea was brought up of doing an educational forum with some officers about the mediation program.

### **OFFICE OF PROFESSIONAL STANDARDS**

(Lt. Decker)

Lieutenant Decker stated that there are no updates.

### **GOVERNMENT LAW CENTER**

(M. Andre)

Program Manager Andre reported that she is working on the Board's annual and quarterly reports which will be up for approval in January of 2024. She also followed up with corporation counsel as to renewing contracts with T&M and consultants which they said would be renewed. Finally, Program Manager Andre offered up the public

monthly meeting minutes from November 7th as well as a slate of nomination for elected officials. She also worked on the 2024 adopted budget which was approved by the Chair. All 2024 public monthly meetings and committee meetings have been scheduled.

Program Manager Andre mentioned her time at NACOLE which, in part, provided good information and strategies for community outreach as well as mediation strategies. Some of these strategies include making the reports more accessible by have executive summaries, doing a monthly quick update as to what the Board is working on, etc.

As to case management, Program Manager Andre reminded Board members about the goal of reviewing cases within 45 days of receipt, that the case management system will now send out reminders, and the Board members have a lot of resources that they can access to help with case review.

Looking forward to next year, the closing of the contract with Albany Law School and case review will be the biggest focuses, and to streamline the latter, Program Manager Andre suggested potentially a monthly update email instead of multiple emails throughout the month.

## **REPORT FROM THE CHAIR**

(N. Vives)

Chair Vives highlighted the accomplishments of the Board throughout the year including utilizing technology for efficiency, introduction of the Investigations committee, and overall hard work and commitment.

Chair Vives further noted that herself, Vice Chair Harden, Board Member Santos, and Program Manager Andre attended the NACOLE conference which gave the attendees a chance to connect with other oversight boards and meet with one of the Board's consultants, Russell Bloom. Chair Vives stated that the conference showed her how special and rare police oversight agencies are, and it is her goal and passion to continue the work of the Board.

Recently, the Board was honored by the NYCLU with the Ned Pattison Award and Chair Vives received an award from Omega Psi Phi and will receive an award from the YWCA for her accomplishments in social justice along with other influential women in the committee.

Looking toward next year, Chair Vives reiterated the changes that will take place including leaving the law school and becoming a city agency.

## **VII. NEW BUSINESS**

(N. Vives)

Chair Vives moved to approve the 2024 adopted budget. Motion seconded and passed unanimously.

Chair Vives moved to approve the 2024 public monthly meeting schedule. Motion seconded and passed unanimously.

Chair Vives moved to approve contract renewal with T&M and Moeel Lah Fakhoury as independent investigators. Motion seconded and passed unanimously.

Chair Vives moved to adopt the slate of nominations and vote in Board officer positions for 2024. Motion seconded and passed unanimously. Chair, Vice Chair, and Secretary were uncontested and will remain the same for 2024.

Chair Vives moved to approve meeting minutes for the November 7, 2023, public monthly meeting. Motion seconded and passed unanimously.

#### **VIII. PUBLIC COMMENT**

Members of the public were present but none were signed up to comment.

#### **IX. ADJOURNMENT**

There being so further business, the meeting was adjourned at 6:52 p.m.