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Albany Community Police Review Board
c/o Government Law Center

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

*February 8, 2024, at 6:00 p.m.
Albany Law School, Room W212*

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, Vice Chair Dr. Veneilya Harden, John Levendosky, Antionette Santos, Victor Person, and Matthew Ingram (virtually).

Kevin Cannizzaro, Paul Collins-Hackett, and Rev. Dr. Victor Collier were excused from attendance.

OTHERS PRESENT:

CPRB Program Manager Michele Andre, Former Board Member Larry Becker, OPS Detective Keith Johnson, and Detective 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. PUBLIC COMMENT

Members of the public were present, but none offered any public comment.

IV. CASE REVIEW AND UPDATE

CC2023-048

(J. Levendosky)

Board Member Levendosky reported that the complaint was received October 6, 2023, and Detective Dixon was assigned the case. The allegations were one count of Call Handling and two counts of Conduct Standards violations.

The claimant alleged that on October 1, 2023, at 11:51AM, an officer came to her home and forcefully pulled on her door and threatened to arrest her for refusing to speak on a matter regarding her neighbors who called the police.

Board Member Levendosky stated that officers were called to the residence on that date due to alleged harassment by a neighbor. When the target officer arrived, he spoke to the caller who alleged that the neighbor was yelling at construction workers and kicked over a water bottle on her lawn. These actions were recorded on the Body Worn Camera (BWC) and corroborated by the officer's interview with OPS. The target officer then went to the complainant who opened her front door but not the storm door. Complainant refused to open the storm door and the officer then threatened the complainant with arrest for harassment and obstruction, all of which was corroborated by the BWC footage and the target officer's interview.

Board Member Levendosky noted that harassment and obstruction, under New York law, were violations not misdemeanors and were therefore not subject to arrest. According to Board Member Levendosky from the BWC, the complainant's action did not warrant threat of either violation.

The officer then physically tried to open the door and complainant held it closed and asked the officer not to open the door. The officer claimed that he did not stop because he did not hear her objections, but the complainant can be heard on the BWC refusing entry. The two struggled back and forth, the officer eventually gained entry, and the complainant was questioned.

Board Member Levendosky concurs with the OPS findings of Sustained as to both counts of Conduct Standards violations concerning the door confrontation and the threat of arrest. Levendosky further concurs with OPS finding of Sustained as to Call Handling and ineffective policy or training. Further training is recommended and Levendosky further raised concerns over the officer's readiness for duty given several recent complaints which were sustained by the department.

Board Member Santos asked about the officer's prior discipline which Board Member Levendosky clarified. The officer had been on the job for about two years and has had multiple recent infractions. Board Member Ingram further inquired about details on the prior disciplinary infractions. Levendosky clarified that the officer had prior issues with public interaction and call handling procedures.

Board Member Levendosky moved to table the case until he receives and reviews the final confidential report for the case. Case is tabled.

Board Member Santos reported that the complaint was filed June 15, 2021, and was initially assigned to Det. Eaton on June 22, 2021, but was then reassigned to Det. Shane on August 17, 2022. The incident occurred April 21, 2021, at 11:40AM at 7 Sand Street in Albany. The complaint named four parties, Officer 1, Officer 2, Sergeant, and a pedestrian. The allegations were Call Handling.

Board Member Santos explained that the complainant submitted several photos with their complaint showing vehicular damage to his vehicle and pedestrian's vehicle. The incident began with a 911 call by the pedestrian claiming that someone who owes him money just hit his car and drove off. BWC footage shows the complainant and pedestrian both saying the other party was at fault and the complainant requesting a report detailing the damages. BWC footage also showed the complainant affirming that he did hit the pedestrian on the arm while attempting to flee the area because he felt his safety was in jeopardy.

The three-page motor vehicle incident report was completed by Office 1 but only reported the injuries sustained by the pedestrian and did not include the vehicular damage of either the complainant or the pedestrian.

Officer 1 was hired in 2020, and none of the infractions cited in his disciplinary history are relevant to this complaint. Officer 2 was hired June 18, 2020, and similarly had no relevant infractions within his disciplinary history. Finally, the Sergeant's date of hire was January 22, 2004, and also had no relevant disciplinary history.

OPS found, as to the allegation of Call Handling, No Finding. Board Member Santos concurred with this finding. However, she noted that the investigator assigned stated that the report was written as it was explained in the BWC footage about a conflicts between the complainant and the pedestrian, but Board Member Santos found this illogical since the complainant was complaining about damages to his vehicle which is not even mentioned in the report.

Board Member Santos further found that procedurally, APD's finding was appropriate since Officers 1 and 2 both resigned within a year of OPS receiving the complaint (88 days and 216 days respectively), but further found that if the officers had been interviewed in a timely fashion, there may have been an alternative finding.

Board Member Santos moved to close the complaint 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 improper Call Handling, the CPRB and OPS reached a finding of **No Finding**.

Board Member Person reported that the complaint was received September 2021 and was assigned to Det. Keith Johnson. The complaint identified the telecommunications specialist and occurred on April 13, 2021, at the Westgate Plaza in Albany. The allegation of Call Handling.

The complaint regarded a hit-and run accident that occurred in the Price Copper Parking lot. The complainant was in the store at the time of the incident, and when she returned to her car, she noticed the damage and called 911. She was told an officer would be dispatched but one never arrived. The complainant then called APD directly and was told that they were dealing with more pressing issues and would attend to her case when they could. The complainant made a third call to the APD, but they denied ever receiving the previous calls. As of 1:33PM, no officer had arrived, and the complainant stated that the store manager could confirm this.

OPS determined that the Telecommunications Specialist accidentally canceled the initial call for service and claimed that the call was handed over to the parking enforcement department. OPS recommended ineffective policy or training as the finding for the Call Handling allegation.

Board Member Person noted that there are unanswered questions as to how the specialist was trained in transferring and prioritizing calls, and whether the policy is ineffective for him to conduct his duties. Board Member Person further questioned whether the specialist was trained to inform callers that there were more pressing issues and they would get back to them as soon as possible. OPS, however, did not address these statements made to the complainant in their report.

Board Member Santos asked, and Board Member Person clarified that the specialist did not recall any details of that date. Board Member Levendosky then asked about the timing between when the incident occurred and when it was investigated. Person answered that it occurred on April 13, 2021, and was investigated September 13, 2021. Santos then asked whether dispatchers have to submit IDCs when they are under investigation from OPS. Det. Johnson confirmed that dispatchers submit IDCs as well.

Chair Vives asked to clarify the findings; OPS found that there was ineffective policy or training while Board Member Person is saying Not Sustained. Det. Johnson explained that this was because there is a note on the call ticket that said it was turned over to parking authority and so he did not want to say Not Sustained because even though the dispatcher doesn't remember the incident, it's clear that he did type something about turning it over to the parking authority and with additional training to the dispatcher, it will hopefully ensure there will nothing like it this in the future.

Chair Vives further clarified with Det. Johnson that turning the case over to the parking authority was the wrong procedure, and that an officer was actually dispatched to the scene and arrived around 1:30PM. Det. Johnson further stated that there was no

recording of the second call, and by the time the second call was made, there were in fact higher priority calls that in need of response. However, by the third call, there was an officer response put into the system.

In response to the new information, Board Member Person amended his finding to conform with Det. Johnson's.

Finally, Board Member Ingram asked Det. Johnson why the recording of the second call would be missing and why there is no log of a call happening, and then just a general overview how the calls are logged. Det. Johnson responded that they do not know why the second call was not logged or recorded, and Lieutenant Decker attempted to clarify the content of the calls, but no progress was made as to the initial question about the second call.

Because there was confusion as to call logs and why the second call was not recorded, Board Member Person moved to table the case until this issue is addressed.

CC2021-029

(J. Levendosky/P. Collins-Hackett)

Due to Board Member Collins-Hackett's absence, Board Member Levendosky opted to read the OPS findings for this case so that the complainant, who was present, could make comments. The complaint involved one count of Conduct Standards, one count of Call Handling, and two counts of Arrest Authority and Procedure.

Complaint stated that on June 14, 2021, at his arraignment at Albany City Court, the detective made a false statement in regards to the paperwork and the court documents filed against him which he alleged ultimately affected his case and the ultimate decision of the judge. Complainant alleged that the detective failed to investigate his situation correctly, and that he has video evidence of misconduct by the detective that was obtained during discovery. Claimant ultimately concluded that he was falsely arrested and charged with a crime he never committed.

Board Member Levendosky reported OPS's preliminary findings as follows. The count of Call Handling be closed as Unfounded, as the complainant alleged that he was never offered medical treatment for a cut on his hand, but BWC footage showed that he was offered care and did not respond. The count of Conduct standards be closed as Unfounded because though the complainant alleged he had video evidence of the detective's misconduct, he did not state that this video evidence existed in his phone interview with OPS and body worn camera and interview room footage did not show any misconduct. Both counts of Arrest Authority and Procedure be closed as Unfounded, first because the evidence shows that detective followed correct arrest procedures when making the arrest, and second, because during the arraignment, the Detective was not present, and the ADA did not raise any concerns about falsified statements or documents.

The complainant was present and opted to make a statement. He noted that the case was dismissed without prejudice, but he still sees the allegations around on google and in the newspaper despite the case being dismissed. He concluded that his character is being defamed because the allegations are still being discussed.

The case was tabled for a future date.

CC2021-013

(A. Santos)

Board Member Santos reported that the incident occurred on March 3, 2021, and was reported to the Board on April 6, 2023. The detectives assigned to this case were Detectives Eaton and Shane. Julie Schwartz was assigned to this case as a monitor. The case involved two counts of Call Handling (No finding and Unfounded)

Board Member Santos stated the background of the case: that a plain-clothes police officers failed to yield the right of way and a plain-clothes detective in an unmarked vehicle failed to identify himself. The allegations of false statements and arrogant behavior were reported in the vehicle incident report, and the original complaint was forwarded to the city, but lacked mention of the officer potentially being under the influence. Lack of space was cited as the reason for its exclusion.

After the monitors report was received, the investigations unit requested a meeting with Det. Lt. Mark Decker and Investigator Hilary Burns which occurred on January 24, 2024. Board Member Santos highlighted first that Lt. Decker stated that there were no substantive discrepancies between the report and the paperwork responses that were supplied to the Board which was a concern noted by the monitor. Lt. Decker clarified at the meeting that the reason there seemed to be discrepancies was because the Board did not receive all of the paperwork due to the way it was uploaded into the system.

Board Member Santos further highlighted that the APD incident report dated March 8, 2021, was authored by one officer but then pages one through three were signed by an officer and a supervisor, and pages four through eight were signed by a separate officer and another supervisor. None of the specified officers or supervisors participated in responding to the accident. Lt. Decker explained at the meeting that those officers and supervisors were from the traffic safety unit but did not indicate this when they signed the paperwork. Board Member Levendosky clarified that it was assigned to patrol officers with reconstruction training, but this was discernable from the report.

Board Members Santos and Levendosky suggested that in the future, if someone from the traffic safety unit was reviewing a report, that they put a designation like TSU after their name to help reviewers in the future.

Next, Board Member Santos noted that the detective involved in the accident was in fact on duty at the time of the accident. APD has no policy which says whether an officer, on or off duty, must identify themselves.

Finally, as to the BWC issues, it was revealed that one of the responding investigators was a part of the Criminal Response Unit, the responding detective decided to turn his BWC off to protect the investigator's identity as he was on a detached assignment. However, Board Member Santos noted that the BWC policy in the General Order does not indicate this as a reason to turn off a BWC in a vehicular accident. Board Member Santos indicated that G.O. 2.2.00, G.O. 2.4.05, and G.O. 3.2.05 may be the subject of suggested revisions in light of this case.

As to the first count of Call Handling, Board Member Santos concurred with the monitor's finding of No Finding. As to the second count of Call Handling, Board Member Santos concurred with the monitor's finding of Unfounded. As to the count of Vehicle Operations, Board Member Santos concurred with the monitor's finding of No Finding. As to the count of Failure to Identify, Board Member Santos concurred with the monitor's finding of No Finding.

Board Member Santos moved to close the complaint 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 first allegation of improper Call Handling, the CPRB and OPS reached a finding of **No Finding**
- With regards to the second allegation of improper Call Handling, the CPRB and OPS reached a finding of **Unfounded**

V. CONSIDERATION OF COMPLAINT CLOSURE (A. Santos)
WITHOUT REVIEW AND WITHDRAWALS

Board Member Levendosky reported on CC2022-024 which was withdrawn. The complaint involved an independent journalist who is alleged to have been kicked out of city hall. The complaint was withdrawn in December and no reason was stated but there was no indication of distress with regards to withdrawing.

VI. COMMITTEE REPORTS

PUBLIC OFFICIAL LIAISON (N. Vives)

Chair Vives reported the committee did not in January but a meeting is scheduled for February 27, 2024, and the committee generally meets on the fourth Tuesday of every month. A report will be provided at the March meeting.

DISCIPLINARY MATRIX WORKING GROUP (N. Vives)

Chair Vives noted that there are still a few corrections she needs to make before it will be sent over to the consulting team. Chair Vives reported that she spoke to the Deputy Chief to apologize for the delay and the changes will be forthcoming.

INVESTIGATIONS

(J. Levendosky)

Board Member Levendosky reported that the committee is working to finalize the report on the South Station independent investigation as well as developing policy recommendations that will come out of the 2023 case review. They believe that the proposed amendments to bylaws and rules will reflect their expectations for all Board members.

Board Member Levendosky further reported that they are in contact with the Deputy Chief to advocate for transparency in the Chief's quarterly reports to the Board. The committee is looking towards discussing hiring and training approaches for a full-time investigator as the Board moves towards greater incorporation into the city structure.

Finally, Board Member Levendosky announced that several Board members will be visiting APD academy session 11 to provide education to new recruits on the Board's role with the hopes that it promotes the Board's mission and values.

So far, 6 complaints have been received in 2024, there are 81 active complaints awaiting resolution by APD. Of the 81 complaints, 13 are within OPS awaiting supervisor review, 61 are actively under OPS investigation, and 7 are awaiting detective assignment and OPS case numbers.

BYLAWS AND RULES

(A. Santos)

Board Member Santos reported that the committee is making a motion to propose an amendment to Article 11 Rules of Procedure, Section 1 which will reflect the Board's authority to vote on removal of members and ability to perform duties related to the Board such as case review. The amendment would help address the backlog of cases as well as the 55% increase in complaints by making sure new members are contributing to the primary function of the Board.

POLICE DEPARTMENT LIAISON

(Dr. V. Harden)

Dr. Harden reported that though the committee did meet, there was no OPS representation to truly convene a meeting. Though Board Members Levendosky and Santos were in attendance, many of the agenda items required the presence of OPS.

Dr. Harden asked Lt. Decker whether he would be present at the next committee meeting. He stated that he will be. Dr. Harden requested prior notice when he would not be able to attend.

COMMUNITY OUTREACH

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

Chair Vives elected to skip this report, but expressed her gratitude for Board members being available to attend these community outreach events.

MEDIATION

(Dr. V. Harden filling in for Rev. Dr. V. Collier)

Dr. Harden did not have a report for this month, but she did have a follow-up tied to the Police Liaison Committee regarding a proposed survey in partnership with OPS to understand the barriers to mediation. Dr. Harden stated that she hopes to discuss this before the March meeting.

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 has shared the 2023 Report of Independent Expert Invoice incurred as well as the 2023 Summary Contract Expense and the 2024 Summary Expense so far. Additionally, the 2023 budget has been closed, and the fourth quarter for 2023 has been submitted to the city for reimbursement.

Program Manager Andre submitted the 2023 Fourth Quarter Report and the 2023 Annual Report for approval. Operating Procedures and Bylaws and Rules amendments were additionally submitted for approval.

As to outreach opportunities, the Government Law Center at Albany Law School invited the Board to the first program of the Warren Anderson legislative series which is going to focus on the state police oversight in New York, and one of the experts is Chair Vives. The Board will also be tabling at the Black, Puerto Rican, Hispanic, and Asian Legislatures Craft Expo and Business Fair on Saturday February 17. Program Manager Andre noted that though there are some volunteers, more are welcome to join.

Program Manager Andre reported that in honor of Black History Month, she was invited to participate in the Philadelphia Citizen Police Oversight Commission's Black Her-story and Law Enforcement Oversight Panel on February 20, 2024, and Board members are welcome to attend.

The Board will be working with the New York City CCRB and Assembly Member Cruz's office on a workshop on police civilian oversight on March 9, 2024, in Albany. Program Manager Andre further reported discussions she has had with the Schenectady CCRB as well as the Center for Law and Justice to explore future partnerships.

Lastly, there is a report writing and case presentation training schedule for March 2, 2024, with the Board's consultants.

REPORT FROM THE CHAIR

(N. Vives)

Chair Vives highlighted the Warren Anderson legislative series session and encouraged everyone to attend this one as well as others coming up. Chair Vives additionally congratulated Program Manager Andre on her being a panelist with the Philadelphia Board and encouraged Board members to attend that as well.

Chair Vives thanked the Board for their hard work, especially in light of the case load and other hurdles coming up this year.

Chair Vives asked former member Larry Becker to speak, and he shared his appreciation and the shift that came with the passage of Local Law J.

VII. NEW BUSINESS

(N. Vives)

Chair Vives moved to approve the 2023 Fourth Quarterly Report and the 2023 Annual Report. Motion seconded and passed unanimously.

Chair Vives moved to approve amendments to the Operating Procedures. Motion seconded and passed unanimously.

Chair Vives moved to approve the amendments to the Bylaws and Rules. Motion seconded and passed unanimously.

Chair Vives moved to approve the minutes from the January 11 public monthly meeting. Motion seconded and passed.

VIII. ADJOURNMENT

There being so further business, the meeting was adjourned at 7:23 p.m.