



**CITY OF ALBANY
COMMUNITY POLICE REVIEW BOARD**

*July 9, 2020 at 6:00 p.m.
Via Zoom*

MEETING MINUTES

I. Call to Order and Roll Call (I. Morris & A. Ayers)

Board Members Present: Ivy Morris, Nairobi Vives, Warren Hamilton, Larry Becker, Matt Ingram, Zach Garafalo, Veneilya Harden

Board Members Not Present: Reverend Victor Collier

Also Present: Ava Ayers, Lieutenant Decker, Detective Shane, Robert Magee, Lisa Rivage, and members of the public

Ivy Morris called the meeting to order at 6:00pm

II. Approval of the Agenda (I. Morris)

- a. The motion to approve the agenda passed unanimously.

III. Approval of Reports (I. Morris)

- b. The motion to approve the following reports passed unanimously.
 - i. 2019 Fourth Quarter Report
 - ii. 2020 First Quarter Report
 - iii. 2020 Second Quarter Report

IV. Approval of Minutes

- c. The motion to approve the following minutes passed unanimously.
 - i. [June 18 Meeting Minutes](#)
 - ii. [June 25 Meeting Minutes](#)
 - iii. July 2 Meeting Minutes

V. New Business

A. Public Comment

There was no public comment.

B. Report from the Office of Professional Standards (Lt. Decker)

Lt. Decker shared that he was very busy.

C. Report from the Government Law Center (A. Ayers)

- Explained that for future regular CPRB meetings, the GLC will give board members a report of all current complaints that are filed and outstanding, including when the report was received from the Office of Professional Standards.
- Oldest report that the Board has is case 17-19, which came in on February 12. Four from February 12, and three from March 18th. The backlog is due to the COVID-19 related shutdowns.
- Oldest reports range in age from 5-18, which is now 548 days old. *Still waiting for the OPS report in that case.*
- Received multiple complaints this week. Ava believes this may be due to the board's public discussion of policy recommendations.
- The three monitors hired by the Board will begin once they receive approval from the Common Council and the Mayor. Waiting for Common Council to pass a resolution approving them.
- The annual report from the GLC is late. This is due to a redesign of the report itself so it will be more user-friendly.
- Warren asked what part of the CPRB legislation called for monitor approval by the Common Council and the Mayor. Ava shared:
 - [Albany City Code § 42-343\(h\)](#) – “The investigators shall be selected on a rotating basis from a panel of investigators who are recommended by the Government Law Center and approved by the Common Council and the Mayor.”
- Letters were sent to Common Council with the CPRB policy recommendations.
 - [First Letter](#)
 - [Second Letter](#)
- Ava told everyone that she will be serving on the New York State Bar Association's task force on racial justice, which will take a look at policing issues and make statewide legislative recommendations. She told Board members this is an avenue for the Board to share any potential statewide policy recommendations.
- Five Albany Law School students are assisting the GLC with research into potential police reforms, including the possibility of disciplinary power for the CPRB.
- Although the CPRB will not continue meeting weekly to discuss policy recommendations, Ava invited Board members to send her questions about potential policy changes. She may be able to assign a student to specific questions.

D. Issue With OPS (L. Becker)

Regarding CC 2017-038/CPRB 20-2017

- Larry has an old case which has yet to be presented to the CPRB at large and raised a number of issues in the way that OPS executed its investigation.
- A complainant came to police headquarters to file a complaint against an officer. During the process of filing the complaint, there was an incident with an OPS detective. Then *that* incident led to a separate complaint. OPS interviewed OPS detectives and the complainant and came to a conclusion.

- Larry noted the distinction between OPS investigating APD officers at large, as opposed to investigating within its own unit. Larry had other concerns as well, and would like to sit down with Cmdr. Battuello, Lt. Decker, and the Chief of Police.
- Lt. Decker was not familiar with the case but said he would set up any meeting that a Board member requests him to.

E. Effects of the Repeal of NYS Civil Rights Law 50(a) (R. Magee)

(This law previously made officer disciplinary records confidential).

- Corporation Counsel Robert Magee said it was up to the board as to whether an officer's name is to be included with a complaint. Ava explained that the GLC's current process for receiving complaints is to immediately forward the complaints to OPS without keeping a copy for the GLC, then OPS redacts any information about the officer and returns it to the GLC. This was so there was no possibility of the GLC having officer disciplinary information on-file. Now, the Board can decide how they would like to proceed concerning including an officer's name.
- Warren asked whether Corporation Counsel considered the potential appearance of Board bias factored into their decision. Rob Magee said no, it was a legal analysis of the repeal of 50(a).
- Larry asked if it mattered whether a complaint was made before or after the repeal. Rob Magee said it did not matter.
- Matt Ingram wanted more time for the Board to consider and discuss the effects of the repeal.

F. Common Council

- Matt Ingram asked if Ava had received a response from Common Council regarding the Board's policy recommendations, or when they will be meeting regarding police reforms.
 - Ava said she had not received a response, and there was not a set time as far as she knew for any meeting.
 - Ivy said she had reached out but had not heard anything and that she would reach out again.
- Ava shared that legislation had been proposed by council (current proposals can be found [here](#)), but was unsure whether it was going to the public safety committee, or whether Common Council would wait until the Mayor's task force ([per NYS Executive Order 203](#)) makes its recommendations.
- Matt echoed a previous sentiment that it may be advantageous for Common Council to pass their own reforms regardless of the task force, so that the task force will then build on those reforms.

G. Case Review

1. **#06-2018/CC 2018-018**

(L. Becker)

i. Summary

Nov. 2017 - Complainant called police because of alleged issues she was having with a female rapper. Complainant alleges she was told there would be a police report and that she would hear back, but never did. Alleges she is still being harassed by rapper, and that officers are being "starstruck" and unprofessional.

There was no call ticket associated with complaint or recent calls to the complainant's address. Complainant was unable to provide names or phone numbers for witnesses, identifying information of the officers, or dates of calls to police. OPS was given numbers for the female rapper in California but were unable to reach her.

ii. Allegations

1. **Call Handling**

iii. OPS Finding

1. **No Finding**

iv. CPRB Finding/Action/Discussion

Following questioning by N. Vives, Detective Shane said she submitted the OPS report in September 2018. However, the CPRB didn't receive it until November 2019. Lt. Decker said he would look into when the case was sent to the CPRB. Multiple board members had issues with this. N. Vives' motion to defer voting until OPS provides the CPRB with information on the delay was passed.

1. **Vote Deferred**

2. #08-2018/CC2018-020

(L. Becker)

v. Summary

Complainant had an Order of Protection (OOP) against former assaulter. Alleges she called police to her home due to the subject of the OOP, but that officers didn't file a police report. She says she called multiple times after the initial call, but officers came and did nothing. The incident that gave rise to the lack of a police report was while the complainant was at a laundromat, the subject of the OOP was walking by on the street, and without stopping, "mean mugged" her.

Upon review of multiple body worn camera recordings and police reports, L. Becker found the OPS report matched interdepartmental correspondence regarding the incident. He noted that APD had helped complainant file a police report against the subject of the OOP multiple times when there was enough evidence to do so, and explained to the complainant what evidence was needed to file a report. Additionally, that the officer was courteous and explained the level of evidence needed multiple times, and APD had responded to twenty-two separate calls from complainant regarding the subject of the OOP.

This case also had an unexplained delay between the recorded dates of OPS closing its investigation, and the CPRB receiving the results of that investigation.

vi. Allegations

1. **Call Handling**

vii. OPS Finding

1. **Unfounded**

viii. CPRB Finding/Action/Discussion

M. Ingram said this followed a pattern and related to a previous recommendation of the board: the complainant likely would have been put at ease if a police report had been filed.

1. Unfounded

3. #05-2019/CC2019-002

(Z. Garafalo)

ix. Summary

Complaint Description: On 10/27/2018, complainant's security alarm in their home was triggered by their kitten, but complainant did not hear the phone call from security company because they were at work, and didn't get home until 8 or 9 p.m. To complainant's understanding, around 3 p.m. an officer entered their home by force with a door key that complainant never provided, and that the response was due to a "hang-up" 911 call. There was damage done to complainant's toilet seat, and boiler exhaust pipe. They alleged the damage to the pipe resembled a "hand grip," and there were no issues with the pipe when complainant left for work. They allege that due to the damage, they are unable to heat their home, and must replace their toilet seat. Complainant enclosed ten black and white photographs of the alleged damage and the security alarm history in their complaint.

Materials Reviewed: Z. Garafalo reviewed complainant's enclosures, body worn camera footage, 911 call, radio transmission, phone call between complainant and the investigating detective, premise history of complaint location, receipts of constructions work, photo of repair from construction company, interdepartmental correspondence, and federal court rulings about entering premises. Materials that did not exist or were not provided: security footage from home security system, and body worn camera footage between OPS and employees of the heating company that did repairs.

Timeline of Events Based On Materials Provided:

- Oct 27, 2018 (date of alleged incident):
 - 2:16 p.m. – 911 hang up call from complainant's dwelling
 - 3:11 p.m. – Two officers dispatched
 - 3:14 p.m. – Those officers arrived on scene, and another officer arrived at the same time (three officers total)
 - 3:30-3:31 p.m. – Officers cleared the house
 - Upon review of all officers' body worn camera footage, no damage was done to the toilet seat or boiler
 - Additionally, officers clearly entered through windows, not the door
- Dec. 9, 2018: Complainant filed complaint with CPRB
- Jan. 8, 2019: A detective from OPS was assigned to investigate
- Jan. 9, 2019: Complaint transmitted to Government Law Center
- Jan. 28, 2019: Detective left voicemail for complainant on their cell phone
- Jan. 31, 2019: Detective left voicemail for complainant on home phone
- Feb. 5, 2019: Complainant returned detective's call
- Feb. 20, 2019: Detective sent interdepartmental correspondences to the three target officers, which were returned on Feb. 24, 2019, and Mar. 4, 2019
- Feb. 21, 2019: Detective contacted the Department of Buildings and Regulatory Compliance to find out who serviced complainant's home. After getting that information, detective and second detective from OPS interviewed the servicer and another person. Per the OPS accounts, technicians told OPS detectives that

when they arrived to complainant's house the water lines were frozen, and after repairing the boiler, noticed a leak from the second floor, and refused to use the bathroom.

- Subsequently, notice of claim was filed against the City of Albany, and the investigation was suspended
- Mar. 19, 2020: OPS reported its findings
- June 26, 2020: Z. Garafalo was assigned to the case
- July 1, 2020: Z Garafalo reviewed the case and associated materials

x. Allegations

1. **Call Handling** - Officers entered complainant's home by force through front door while complainant was not home
2. **Call Handling** - Target officers damaged complainant's boiler and toilet seat

xi. OPS Finding

1. **Unfounded**
2. **Unfounded**

xii. CPRB Finding/Action/Discussion

W. Hamilton asked whether the circumstances made it necessary or proper for officers to enter the window. Z. Garafalo said the Board could bring that question to OPS. Lt. Decker explained that because there was both a 911 call *and* the tripped alarm, that allowed the officers to enter. Also, that officers generally will try to do such things as call back the number that called 911, or look through windows, before entering the premises. Z. Garafalo also noted that there was a lengthy discussion amongst the responding officers before entry, including the fact that it was an elderly person inside the home.

N. Vives asked whether APD had notified the complainant about the entry, prior to the complaint being filed. Lt. Decker said that Detective Shane does not recall any such notification. L. Becker asked if there is a protocol for APD entering a home or business based on an alarm. Lt. Decker said that officers generally leave a referral card behind, but was unsure whether this is a general practice, or an actual mandated policy. Z. Garafalo noted that in the footage, none of the officers appeared to leave behind a card. N. Vives suggested the Board recommend a formal policy and process for when officers must enter a home or business, and the owner is not present or aware. Z. Garafalo noted that there is a requirement for officers to give their business cards for *in-person* interactions ([Albany City Code § 42-54.1](#)), but that there didn't seem to be a requirement for this type of situation. He suggested the Neighborhood Engagement Unit (NEU) officers should be involved in the notification process. M. Ingram noted that if a card had been left behind, the complaint may have been able to be avoided entirely, saving resources, time and energy from both OPS and the CPRB. V. Harden noted that part of the issue is that because there is distrust of police, it makes situations like these more stressful for citizens. Also, that the lack of a notification policy does not help build trust.

M. Ingram said this followed a pattern and related to a previous recommendation of the board: the vague categorization of calls/complaints by OPS makes the work of the

CPRB unnecessarily difficult, and less efficient. This instance could have been codified as “unlawful entry” and “property destruction” instead of “call handling.”

N. Vives noted that if there *is* a preexisting policy that mandates officers must leave behind contact information when they enter a home/business and the owner isn't there, it would seem that the officers violated policy. There was discussion about the role of the board in initiating complaints. L. Becker noted that this followed a pattern and previous Board discussions: that complainants can't know all APD policy, so they may not be in the best position to complain, and the Board should take a more active role in addressing policy violations by officers.

1. **Unfounded**
2. **Unfounded**

H. Discussion on Policy Recommendations (I. Morris)

The Board decided to have further discussions about policy recommendations by email, and if necessary, meet again before the next CPRB meeting scheduled for August 13th, 2020.

I. CPRB Bylaw Proposal (I. Morris)

Proposal to add the following to the CPRB's bylaws: “In order to ensure that all members of the community, regardless of their beliefs, feel equally included and welcomed at Board meetings, the Board shall not invite or offer prayers as part of its meetings.”

Due to the Board procedure that bylaw changes must be discussed at two meetings, the Board voted to discuss and vote on the change at the next meeting.

VI. Meeting Adjournment

The meeting was adjourned at 8:20pm.