

**CITY OF ALBANY
COMMUNITY POLICE REVIEW BOARD**

August 26, 2021 at 6:00 p.m.

200 Henry Johnson Blvd, 2nd FL
Albany, NY 12210

MEETING MINUTES

- **Call to Order and Roll Call** (N. Vives)

Board Members Present: Nairobi Vives, Paul Collins-Hackett, Larry Becker, Dr. Veneilya Harden, Kevin Cannizzaro, Victor Person, Dr. Rev. Victor Collier

Excused: Matthew Ingram, Zach Garafalo

Also Present: Deputy Chief Anthony Battuello, Matt Toporowski, Detective Anthony Fasciglione, Detective William Pierce

N. Vives called the meeting to order at 6:01pm.

- **Approval of the Agenda** (N. Vives)

Motion to approve agenda passed unanimously.

- **Approval of Minutes and Reports** (N. Vives)

Motion to approve July 8th minutes and Bylaws and Rules meeting minutes passed unanimously.

- **New Business** (N. Vives)

Five new complaints received since July 8th, 2021. Complaints will be assigned to board members soon.

Case Review (Collins-Hackett)

CC2020-003

On New Year's Eve of 2019, Yusef Grady, was pulled over for speeding on his way from work. The traffic stop which seem routine at first changed when Mr. Grady fled the scene in fear for his life. At this point Grady evaded police and went to Junior's (his place of employment) because that is where he felt safe and wanted others to be present for the resolution of the incident. The doors were locked and he ended up on the front porch of the establishment. When police arrived on the scene he was tased, when Mr. Grady collapsed due to the tasing, he was punched and kneed multiple times by multiple officers. At one-point Mr. Grady was held up and unable to stand on his own. Despite being that he was categorized as being uncooperative, when he seemed to be unconscious. Even when officer carried Grady to the ambulance, Grady was still

uncooperative. When he stated that he couldn't breathe, one officer responded that he should not have ran. In reviewing the OPS findings and subsequent disciplinary action after said incident, I'm still left unsatisfied. Although the reprimands follow the letter of the law, they do not serve the purpose this body is trying to accomplish. The length of time it has taken to move forward with this case is unacceptable. The actions of the officers involved, while technically permissible, do not inspire trust or help further the relationship between the department and the community.

There were disciplinary measures, reprimands, agreement to review APD policies. One was reprimanded for excessive kneeling of complainant.

Motion to accept OPS findings. Motion passes unanimously.

OPS Findings:

1. Use of Force – Exonerated - where the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper.
2. Prisoners – Injured (Failure to provide medical aid) – Unfounded - where the review shows that the act or acts complained of did not occur or were misconstrued.
3. Conduct Standards – Sustained - where the review discloses sufficient facts to prove the allegations made in the complaint.
4. Use of Force – Reporting Requirement – Sustained – where review discloses sufficient facts to prove the allegations made in the complaint.

CPRB Findings:

1. Use of Force – Exonerated - where the acts which prove the basis for the complaint occurred, but the review shows that the act or acts were proper.
2. Prisoners – Injured (Failure to provide medical aid) – Unfounded - where the review shows that the act or acts complained of did not occur or were misconstrued.
3. Conduct Standards – Sustained - where the review discloses sufficient facts to prove the allegations made in the complaint.
4. Use of Force – Reporting Requirement – Sustained – where review discloses sufficient facts to prove the allegations made in the complaint.

Discussion:

Question: What does the process look like to change the general orders that allow for the punching and kneeling of an individual who appears to be unconscious? If the department is interested taking steps to repair the relationship to make the affected parties whole?

Deputy Chief Battuello responds that our general orders are currently being reviewed and updated since a couple of years ago and right now they are going through all of the orders with an outside consultant. This specific incident was reviewed in it's entirety based on what was available: officer testimony, video surveillance, and all of the individuals involved. There was noted policy violations and recommendations to OPS. An RFP was put out for an outside consultant to review and draft general orders.

Question: Is there a timeframe for when the general orders will be completed and is it possible for members CPRB to be involved in the process and provide feedback?

Deputy Chief Battuello responded that they do not have a timeline and they would like for the CPRB to be a part of that process. He would like to individuals with knowledge and interest in this field to be a part of the process. Informal discussion about the Collaborative's role in this process and they do not know when they are expected to start.

Matt Toporowski states that an RFP has been put out and they are waiting on a response and they are working on this internally in the Mayor's and Corporation Counsel's office and they are using the Collaborative's recommendations for the general orders. They will use feedback from the Collaborative to revise the general orders with the Deputy Chief and an outside consultant. They are starting the process pretty soon, depending on when they get an outside contractor they were hoping to get a draft by the end of the year.

Question: Vives asks if it possible to take this complaint that we have here and use them as case studies to inform the general orders?

Matt Toporowski states that he plans to take information and discussion from our meetings to the department to help inform the process.

Question: Cannizzaro asks if the department maintains a list of officers who have had this kind of violation more than once and how is that tracked?

Deputy Chief Battuello states they have software, supervisor initiated, that provides a report on each one of the employees.

Cannizzaro requests a copy of general orders pertaining to excessive force and echoes Paul and Nairobi's comments about the collaboration between the CPRB and the group that is working on revising the general orders.

Matt Toporowski adds that the Collaborative's report is complete and the work was exhaustive. If there are any comments on the section about the revision to the general orders, they welcome that feedback.

Complainant - Dara Sim: Thank you for the opportunity to be heard. I would also like to thank everyone for their support for my son Yusef Grady, his name means "he that suffers for the upliftment of his people".

Please allow me to tell you about the truth of what happened to my son. On December 21, 2021, my son was hunted, targeted, chased, attacked, assaulted by a gang of 13 men in blue uniforms. Yusef was pulled over for failure to signal within 100 ft of his turn, which means that he signaled but not within 100ft and for going 40 in a 30 although he was going uphill to a red light. The traffic stop was routine until the officers called to the scene forcibly tried to enter the car by putting his left in the car through the window trying to open the door and his right hand rested on his gun. Yusef in fear for his life took off intentionally to return to his job where he just left minutes earlier because he knew that there would be witnesses and surveillance footage. Thank god he did because it was the business' surveillance footage, what the officer's body camera does not. Officers chased him with guns drawn, his hands with up banging on the window and officers came up from behind him and tased him four times. The involuntary reaction to the first tase incapacitated Yusef. Even though Yusef was incapacitated and eventually unconscious 4-6 officers held him down, while other officers hit him in his head, kneed him in his ribs over and over again causing permanent injury. Several officers can be heard saying stop resisting even though Yusef was no longer in control of his body.

In addition, an off-duty Albany detective who was at the scene enjoying a New Years Eve night out also joined in. You can hear Yusef saying multiple times "I can't breathe" it took officers 7-9 seconds to get off my baby and put him in a recovery position and then mocked him for having ran. *Repeats "I can't breathe" for 9 seconds. Yusef never received medical attention for his injuries while in custody, it was not until the following morning after he saw the judge is when he got medical attention. The question has never been what happened, the body camera footage and business surveillance footage clearly shows what happened and soon will be released to the media so the public will see the facts for themselves.

The question has always been what happens now? To this day Chief Hawkins and Mayor Sheehan have ignored my request to meet with them to discuss the events that transpired and how to right the wrong that was done to my son. All we have ever asked for was a clear and transparent investigation as well as acknowledgement and an apology from the 13 officers who attacked Yusef. And to that end – the pursuit for Justice for Yusef will continue.

Lauren Manning for the Center for Law and Justice said it best – it was not Yusef's non-violent traffic violations that caused this even to transpire– it was the officers' inability to see his humanity that made it so easy for them to attack him knowing that their actions would be covered up- and supported by a department that controlled by an administration that refuses to hold officers accountable for breaking the very laws that they are meant to enforce.

This inhumanity is extended to the ones who hold the blue wall of silence – To them I ask? Aren't you tired of standing up for people who give the badge you wear a bad name – and who wouldn't stand up for you?

This has never been a us vs. them situation for us because we know that nothing positive can ever come from a negative intention.

All police officers are not using their position of perceived power to intimate and exaggerate fear while using their shield as their weapon. However, these 13 officers did:

Sergeant Matthew Hacker, Stephen Giorgianni, Ben Burnham, Jim Lewis, Brian Franz, Curtis Graham, Gary Chrys, Christopher Nicastro, Connor O'Shea, Adam Lajara, David Kozakiewicz Wally Lodin. And for that they do not deserve the honor of wearing the badge.

My son has taught me a lesson in humility through his struggle. He has no hatred in his heart – no anger – no desire for revenge. I wish I could be more like him. He only asks that what happened to him be acknowledged.

I respectfully ask that Paul Collins-Hackett assert the authority of the CPRB to have an independent investigation of the events that transpired on and since 12/31/2020 that also include the OPS policies and procedures.

I was discouraged from filing this complaint. I was told by a Detective that I could not file a complaint because I did not witness the event and was not there. I saw all of the video footage.

In the words of Dr. Martin Luther King Jr. “Truth crushed to the earth shall rise again rise again – no lie can live forever.” And old folks will say... You shall reap what you sow.

Question: Collins-Hackett asks what is the goal for using excessive force?

Deputy Chief Battuello states that every situation is different. In general, the ultimate goal is compliance. Deputy Chief provides examples of when use of force is necessary. Based on the totality of circumstances and event that transpired determined the officers acts were justified.

Question: Vives asked if complainant was incapacitated after he was tased and unable to move his arms?

Collins-Hackett responds that there was a time when he was unresponsive. Based on the video officers picked him up and he went back down. It is troubling that the behavior would be characterized as uncooperative when it appeared complainant needed medical attention.

Vives asks what the finding was specifically for the force used against complainant when he was incapacitated?

Det. Fasciglione responds that incident comes to conclusion at rear of Juniors restaurant. 4 officers pursued the complainant and his hands were never up and there were still shots in the video of the taser dot on his chest when he turns to run. When he is tased he drops into what they refer to as the “turtle position” where the arms are hidden beneath an individual which is a very dangerous position for a police officer. Fasciglione responds that once a taser is discharged it will incapacitate you for the several seconds, once the taser stops your bodily functions return to normal. The taser was deployed once where the prongs were fired and it was dry stung the second time, when the taser is placed against the thigh to illicit response by pain.

Vives states that it is very troubling for officers to beat someone who physically cannot comply.

Det. Fasciglione states that when he states that he cannot breathe, you can hear that officers still do not have him into custody and then a few seconds later you hear them click handcuffs on and hear the Sergeant on the scene request for them to roll him over in a recovery position. Then he either becomes noncompliant or he had a medical episode. Fasciglione states that they were not given access to his medical reports despite asking for them several times. He states that they immediately called EMS who arrived and transported to Albany Medical Center.

Deputy Chief Battuello states that one part of the case that was troublesome to both him and Chief Hawkins when he reviewed the case was when the complainant stated he could not breathe. Deputy Chief Battuello states that particular detail or fact was not a part of the original complaint or allegation. That part of the incident was sustained and OPS is taking action.

Person states that he attended the Civilian Police Academy and based on the scenario provided that the procedure was to back off. Person states his concern is that based on what is taught in the academy the proper procedures were not followed and 13 officers responding to this incident is concerning.

Vives responds that Corporation Counsel is working on implementing the recommendations made by the Collaborative. We need to focus on a de-escalation policy so that we don't have children and mothers in here crying for their children's lives.

Question: Becker asks if a weapon was found?

Detective Fasciglione responds no.

Question: Becker asks if one of the officers was disciplined for kneeling the complainant?

Det. Fasciglione states that there was a sustained finding for failure to provide medical attention when requested.

Deputy Chief Battuello states that the prior event discussed when the officer responded to the complainant's statement about not being able to breathe was a violation of policy.

Question: Was there a sustained finding in reference to any use of force?

There was action taken against one of the officers.

Question: Becker asks if there is a general order that relates to the responsibility of a fellow officer to restrain another officer if that officer is using excessive force?

Deputy Chief Battuello describes some lessons they learned from a training in New Orleans about not interfering or taking charge of an accident where another officer is involved. Deputy Chief Battuello cannot recall if they have a general order specific to this request.

Question: Becker asks if the discipline the officer is receiving can be made public to the board?

Deputy Chief Battuello responds yes.

Question: Becker asks what discipline did the officer receive?

Deputy Chief Battuello responds that he is not at liberty to discuss that in this forum.

Becker states that the reason he raises that is because one of the things CPRB does is investigates and reviews the investigation of OPS but we also have a broader mission to help the people of the City of Albany and APD have more trust with each other. The issue of trust has a big tie in with the issue of justice. If people feel that a police officer acted inappropriately, it is important for the trust factor for people to see that was some justice administered by APD regarding its own officer's misconduct. During the time that I've been here, when we hear that there was discipline of a police officer we never find out what that discipline was. The public never sees if it was a just punishment in relation to the incident.

Deputy Chief responds that we are headed in that direction with the repeal of 50A and the board and have more access to information than they have had before.

Question: In regards to the "turtle position" is that something people go into physiological?

Det. Fasciglione responds that it is hard to tell.

Dr. Rev. Collier states that you listen to what everyone says and then you get the facts. You don't add any opinion, determination, or what you think it is because no two incidents are alike. When you watch those films without your attachment to it, your mindset changes because you learn to analyze the facts and data. If you look at the facts it will tell you exactly what you need to know. She said there was no ambulance, there was an ambulance. She said he cried out several times, he said it was three times in the actual report. Listen to the facts because there is conflicting information. You cannot get caught up in the conflict. What was the final report and disposition of the facts then you make a decision after considering information from the monitors, detectives, complainant. Collier proceeds to recap discrepancies in the statements provided in review.

Vives responds that it is not speculation, we need to ask questions and have a discussion. One person went to see what was in the file and now everyone gets to ask questions, we need to question OPS and question each other.

- **Complaint filed on July 27, 2021 against Albany County Sheriff**

Motion to reject complaint as it is outside of jurisdiction. One abstention. Motion passes.

Cannizzaro requests to recuse himself from voting due to a conflict of interest. Recusal granted.

- **Requested Updates from OPS**

Deputy Chief Battuello states they do not have updates prepared at this time and D/Lt. Decker will reach out to GLC.

- **Committee Reports**

- i. *By-Laws and Rules*

There are no updates.

- ii. *Outreach*

(Harden)

We recently had our first Town Hall this past Saturday. That is the first of many, we will be looking to move that around the city. We will be continuing outreach efforts and will be including some of the feedback from community members as well. Any member can participate in our outreach efforts, invited extended to assist with efforts.

Becker asked if we have flyers people can use to table at community events. Vives stated that we did slip our cards in the DiBella's boxes and agrees we should consider developing a flyer.

Harden states if anyone has additional ideas about where the board should do outreach, please let us know.

Vives adds that we have been working with YouthFX to create videos and infographics. Invited members to finish voiceover recordings.

- iii. *Mediation*

(Collier)

We have submitted the mediation cases to OPS and are awaiting next steps.

- iv. *Police Department Liaison Committee*

(Harden)

There are no updates.

- iv. *Public Official Liaison Committee*

(Vives)

There are no updates.

- v. *Monitor Task Force*

(Becker)

There are no updates.

- **Report from Government Law Center**

(Harkness)

We are waiting on the administration to select the new GLC Director any day now, once we know more we will share more.

- **Report from OPS**

(Deputy Chief Battuello)

Deputy Chief Battuello and another Commander were promoted to Deputy Chief. He is assuming the roles and responsibilities of Deputy Chief and will oversee the administrative side of the department, continue to oversee the Office of Professional Standards, Administrative

Services Bureau, Fiscal Department, and liaison between the Chief's Office and leadership. Deputy Chief will oversee Operations, Patrol Division, Engagement Unit, Special Operations, and another division.

Sergeant Josh Laiacona was promoted to Commander and will fill his position within the OPS. Cdr. Laiacona is expected to start after the Labor Day holiday. Deputy Chief Battuello will still make himself available for the board since he will be overseeing operations. APD looks for to posting more positions. They are having a ceremony in a couple of weeks to celebrate those promotions. The department continues to go through a rigorous hiring process for communications. The APD is also looking for new recruits, they are hoping to have an academy start this Fall.

- **Report from the Chair** (Vives)
We had a good turn out at the Town Hall, had a lot of board members engage with community members. This is a really important time given the short time we have until November and the referendum. We work really hard to think critically about policy changes and now is the final push. I ask board members to continue as we are during this short time to reach out to Harden to finish what we started and make this board effective, meaningful, and powerful.
- **Public Comment**
No comment.
- **Meeting Adjournment** (Vives & Harden)
Meeting adjourned at 7:19PM