



## CITY OF ALBANY COMMUNITY POLICE REVIEW BOARD

*August 13, 2020 at 6:00 p.m.*

Video of this meeting is available at  
<https://www.albanycprb.org/home/minutes-and-reports/>

### MEETING MINUTES

- I. **Call to Order and Roll Call** (I. Morris)  
Board Members Present: Ivy Morris, Nairobi Vives, Warren Hamilton, Larry Becker, Matt Ingram (until 7:40 p.m.), Zach Garafalo, Veneilya Harden. Reverend Victor Collier joined at 8:00 p.m.
- Also Present: Cristina Alberto, George Kleinmeier, Al Lawrence, Robert Magee, Lisa Rivage, and members of the public.
- I. Morris called the meeting to order at 6:07 p.m.
- II. **Approval of the August 13, 2020 Agenda** (I. Morris)  
a. The motion to approve the agenda passed unanimously.
- III. **Approval Reports** (I. Morris)  
a. 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** (I. Morris)  
a. The motion to approve the following minutes passed unanimously.  
i. April 9, 2020  
ii. June 11, 2020  
iii. July 9, 2020
- V. **New Business** (I. Morris)  
A. **New Complaints**  
One new complaint (08-20) received since the meeting on July 9, 2020
- B. **Discussion of Upcoming NACOLE Conference** (I. Morris, W. Hamilton)  
I. Morris said that all Board members had virtual access to the [NACOLE](#) conference.

## W. Hamilton

- Wide variety of topics, about 30 or 40 individual sessions.
- Explained what NACOLE conference is.
  - Annual conference of people involved in civilian oversight across the country.
  - Vast majority are practitioners, and not police officers.
  - W. Hamilton, and L. Becker would like more officers to attend.
  - Great opportunity to learn best practices, and network with others around the country.
  - Also, this satisfies the requirement in the CPRB legislation mandating training for board members.

## C. Complaints for Review

### 1. #2019-004/06-019

(M. Ingram)

#### i. Summary

*Complaint:* Feb. 2019 - Complainant alleges he was called “sweetie” and “honey” by clerks at the Greyhound station “in an incendiary tone.” The clerks called police because he was being a “disturbance.” Complainant was upset about gender misidentification. Alleges he was knocked to the floor by officers with a “leg sweep”, kicked by them, and had his hand stomped on while handcuffed, and has a chipped tooth as a result. Parts of the complaint were illegible.

#### *Materials Reviewed:*

- Monitor’s report,
- OPS’ report,
- Original 911 call,
- Arrest report,
- Relevant state and local laws,
- Two body camera videos,
- Video from Greyhound terminal, and
- Several voicemails left by complainant,
- Interview with witness at bus terminal,
- Voicemail left by OPS investigator.

#### *Timeline*

- The Greyhound footage shows the complainant drinking in the terminal, and throwing a pamphlet stand onto the floor. The complainant threw their beer can over their shoulder and almost hit another civilian.
- According to the terminal manager, the complainant had their bus ticket from the Department of Social Services (DSS), which is not unusual for the Greyhound terminal. DSS called ahead to warn about the complainant, which *was* unusual.
- Body camera footage starts in the patrol car.
- Officers arrived and began to talk to staff, and complainant came over and started talking over the staff.
- Gender misidentification agitated complainant.

- Both officers asked complainant to leave multiple times over two and a half minutes and did so in several ways, saying that they didn't want to ticket the complainant.
- Told complainant at least twice that they needed to leave or they would be arrested for trespassing.
- Complainant responded that they would only leave on a bus.
- Complainant used a lot of racist and vulgar language towards the staff.
- Officers gave two "final warnings."
- Officers did use a leg sweep.
- Complainant was subdued and placed sitting up against the counter.
- In the body camera footage, you can audibly hear the complainant yelling that the officer was standing on their foot, however the video shows that the officers were nowhere near the complainant.
- While officer was interviewing staff, they told the officer that the complainant *previously* had a chipped tooth.

There were two officers on scene during the incident, however only one was using their body camera. It was inconsequential in this case, but this is an issue.

M. Ingram agreed with OPS on the second allegation. Regarding the "throwing to floor" allegation, he was unsure what else the officers could have done given the repeated warnings they gave.

G. Kleinmeier, the monitor assigned to the case, gave his report. He found that officers gave complainant 22 lawful orders, and that the complainant's intoxication was corroborated by the medics' reports.

ii. Allegations

1. **Use of Force** – Throwing to Floor
2. **Use of Force** – Kicking and Stomping

iii. OPS Finding

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

iv. CPRB Finding/Action/Discussion

W. Hamilton wondered whether the leg sweep was necessary, considering the officers both had complainant by the arms. However, the use of force policy allows for force when "reasonable," and not "necessary." This is part of a larger problem, where slamming people to the ground is used when it is unnecessary, regardless.

N. Vives asked for clarification about the struggle that led to the use of force. She felt that the use of force was unreasonable despite the complainant's temperament and use of profanities, they did not need to be slammed to the ground to the point of causing bleeding.

L. Becker wondered what else could have been done considering the complainant's level of intoxication. Wonders if this *should* be a type of situation for police. Board members discussed that this played into the discussion around reorganizing/reformatting police functions.

G. Kleinmeier said that other departments will hold drunk individuals long enough to let them sober up. Here, they gave them an appearance ticket and let them go. W. Hamilton noted there was no breathalyzer, so it could have been something other than intoxication which contributed to the complainant's behavior.

M. Ingram was troubled by the lack of de-escalation, the fact that the officers were talking over each other and giving conflicting commands while telling the person to leave, the second officer's body camera being off, and the complaint mentioned a hand, whereas the video showed the complainant saying that officers had stepped on his foot.

1. *Exonerated*

- 4 in favor, 3 against.
- M. Ingram moved to reconsider the vote and to get more information because he realized that he can get the disciplinary history of the officers involved because of the repeal of NYS Civil Rights Law 50(a). This motion passed.
- The vote and further discussion were moved to the September meeting.

2. **Unfounded**

2. #CC2017-052/CPRB #23-017

(V. Harden)

i. Summary

*Complaint Description*

- Complaint filed on 12/5/2017 alleged that police officer lied in saying they saw complainant destroying other person's (3rd Party) property.
- Complainant said they were the one who called the police because the Third Party at their house wouldn't leave, and complainant wanted them removed.
- Complainant claimed they were denied when they asked officers at the scene to take pictures of the alleged damage to Third Party's property
- During interview with OPS, alleges officer lied that they saw complainant breaking a kitchen table, and that officer didn't properly investigate the incident

*Materials Reviewed*

- Radio
- Booking Footage
- Arrest Reports
- (No body camera footage of incident because program was not in place at time of incident)

*Timeline*

- November 11, 2017
  - Third Party called police

- Apparently complainant's roommate allowed Third Party to stay, without telling complainant, who works night
- Complainant came home, and there was a verbal altercation
- When officers arrived, Third Party appeared to have bruising and redness, and wanted complainant to be arrested. Complainant was arrested for assault in the third degree (misdemeanor)
- November 13, 2017
  - Following complainant's court date, another 911 call was made from the residence. One of the responding officers had been at the call two days earlier.
  - When police arrived they saw complainant breaking a table with a tool.
  - When asked what he was doing, complainant said he didn't want the table in his house so he got rid of it
  - The Third Party said complainant wanted her to remove the table, she refused, he removed and broke it, and that's why she called the police
  - The officer who had been there two days earlier said to complainant that (a) he couldn't break her property, and (b) he was violating the Order of Protection between him and the Third Party
    - Officer placed him under arrest for violating the Order of Protection, which he had just received hours before at court
  - V. Harden had access to video during the complainant's ride in the officer's vehicle
    - Complainant said that the officer had never seen him hit the Third Party (on November 11) and the charges, and therefore the Order of Protection, were not legitimate
    - Complainant said he owned the home and had a verbal agreement for the Third Party to stay there, and wanted her out, so started moving her items out
    - The officer was courteous, explaining to complainant why he had been arrested (i.e., formal eviction process), what he couldn't do, and how to avoid it in the future
    - The officer did not respond to the claims that he hadn't seen complainant strike Third Party

This case was reviewed by OPS on 2/8/2018. V. Harden began review on July 9, 2020. She asked OPS why there had been such a delay and had not received any response back from OPS.

ii. Allegations

1. Alleged that officer lied about seeing injury to Third Party, as well as damage to property

iii. OPS Finding

*Summary:*

- Complainant alleged the APD lied about seeing Third Party have injury, and seeing complainant damage property

- Arrested for criminal contempt and mischief; nothing to do with assault or injury.
- Officer said in interview that he never saw complainant damage property, nor was there any report that said that; the information came from complainant's admission during the ride in the car.
- The Third Party pressed charges independently, and they were then provided the Order of Protection

#### 1. **Unfounded**

##### iv. CPRB Finding/Action/Discussion

V. Harden agreed with the OPS finding. There was no further discussion.

#### 1. **Unfounded**

### 3. #CC2018-023 /CPRB10-018

(I. Morris)-

I. Morris said she had many questions about this case, which would not be able to be answered during the meeting because OPS was not attending. Thought it would be important to have an extra set of eyes on the case.

The first incident was regarding trespassing. There were a group of men in front of an address, that is considered 'no trespassing' because it is enrolled in a program called TAP. I. Morris had not heard of the program before, but said that it gives the police the authority to detain and identify people if they are in the vicinity of certain addresses. She wanted to also know how the program was implemented, and whether it was more prevalent in underserved neighborhoods.

The second incident was not initiated by the complainant. So, when she watched body camera footage and listened to the interviews, it made her disagree with the OPS findings.

She apologized to the complainant if they were on the call, but asked for their patience so the CPRB could give the complaint the review that it deserves.

She proposed that she give the case to L. Becker to review, with N. Vives assisting because she is a new board member. L. Becker and N. Vives said they would be happy to do so.

There was a lot of body camera footage to go through of the incident. What she saw gave her great concern.

L. Becker asked for at least thirty days to go through the complaint, all agreed.

I. Morris' motion to transfer the case to L. Becker and N. Vives for the first meeting after thirty days was unanimously

The [Trespass Affidavit Program](#) allows officers to have expanded powers for enrolled properties, and allow for arrest of individuals who don't live there.

## D. Committee Reports

- i. By-Laws and Rules - Update (M. Ingram)  
M. Ingram had to leave at 7:40 so he was unable to provide an update.
- ii. Outreach (I. Morris, V. Harden)  
Nothing to report.
- iii. Mediation (Rev. V. Collier)  
Nothing to report.
- iv. Monitor Task Force (L. Becker)  
I. Morris said that once A. Ayers returns, there will be hiring of new Monitors.
- v. Public Official Liaison (I. Morris)  
A citizen contacted them about body-worn camera storage. They will be joining a future call to share information, or to discuss body-worn camera footage, which is relevant for the CPRB.

**E. Report from the Government Law Center** (L. Ravage)

There was no report from the Government Law Center.

**F. Report from the Chair** (I. Morris)

Regarding the CPRB's recommendations to Common Council, she has not heard anything.

The Board plans to attend any relevant Common Council, or Public Safety Committee meeting.

She is doing research into a qualified immunity, and requested the assistance of other Board members.

**G. Adjournment** (I. Morris)

I. Morris adjourned the meeting at 8:10 p.m.