

**CITY OF ALBANY  
COMMUNITY POLICE REVIEW BOARD**

*April 8, 2021 at 6:00 p.m.*

*Via Zoom*

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**MEETING MINUTES**

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

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

Excused: Matt Ingram, Zach Garafalo

Also Present: Ava Ayers, Commander Anthony Battuello, Robert Magee

N. Vives called the meeting to order at 6:04pm.

- **Approval of the Agenda** (N. Vives & V. Harden)  
The motion to approve the agenda with updates from Cdr. Battuello passed unanimously.

- **Approval of Minutes and Reports** (N. Vives & V. Harden)  
The motion to approve the minutes and reports passed unanimously.

- **New Business** (N. Vives)  
One new complaint received since March 11, 2021 – CC2021-002.

Discussion about active cases that have exceeded 60 days. Collins-Hackett requests update from OPS for his case assignments.

**Vives requests a meeting to discuss scheduling case review for board members with OPS.** Harden will arrange a Police Liaison Committee meeting to discuss how to avoid cases not being prepared for board members when they arrive to OPS for case review.

- **Case Updates** (L. Becker)  
CC2018-023

- This case involves two complaints; OPS provides the following findings for this case:
  - Arrest Authority & Procedure (1 ct) – OPS Finding: Exonerated - where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper.

- Call Handling (2 ct) – OPS Findings: Exonerated and Unfounded - where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper and where the review shows that the act or acts complained of did not occur or were misconstrued.
- Use of Force (2 cts) – OPS Findings: Exonerated and Unfounded - where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper and where the review shows that the act or acts complained of did not occur or were misconstrued.
- Arrest Authority & Procedure (1 ct) – OPS Finding: Exonerated - where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper.
- Call Handling (1 ct) – OPS Finding: Exonerated - where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper.
- Cdr. Battuello reports that complainant’s allegations were consolidated into the complaint number referenced. OPS re-reviewed the case and report the original findings stand “as is” for both incidents. Two new findings were reported by Det. Shane as updates to the original findings following re-review by OPS:
  - Call Handling – OPS Finding: Ineffective Training or Policy
  - Conduct Standards - Courtesy Violation of Policy
- Becker notes that he does not agree with the original findings of OPS and seeks to challenge the findings by raising it to the Chief of Police.
- Cdr. Battuello says that the case was thoroughly reviewed and investigated and re-reviewed. The dispositions stand based on the facts provided in the investigation. OPS notes “Ineffective Training and Policy” as it relates to the towing of the vehicle and inventory search. For the second incident, the new finding of “Courtesy Violation of Policy” for the “Conduct Standards” allegation was rendered by OPS.
- Becker notes that the reports filed by the officers present on the date of incident are inconsistent with what he observed in case review. **Becker makes a motion to reject OPS findings and recommends the board take appropriate next steps by statute.** Ayers provides City Code §42-343(h). The Board inquires about if the findings have been reviewed by the Chief of Police and the Mayor. Cdr. Battuello says that the Chief is aware of this particular case and Battuello insists that the complainant needs closure at this time. Cdr. Battuello states that the incident doesn’t rise to a level for disciplinary action to be taken and reiterates that the review has to be objective and OPS made a determination based on the facts presented and the case went through judicial review as well.
- The Board is seeking specificity for both cases and both allegations of misconduct. Vives agrees with Becker’s determination. Cdr. Battuello agrees that OPS will send the Board updated reports of OPS findings. Cdr. Battuello says that they usually consolidate complaints for efficiency purposes to investigate both events and note it on one report, which is what happened in this case review. **Becker requests a summary from OPS that encompasses as much of the events that the Board deems problematic.**

- Question: Vives questions if the officers reported in the complaint were re-interviewed? Cdr. Battuello responds that there was no new information discovered in case review to require re-interviewing the officers involved.

CC2017-038

- Issue about if officers properly responded to an emotionally disturbed individual (EDP). Complainant complained against members of OPS and OPS investigated themselves. The issue is about whether or not the target officers and others presented were aware if complainant was emotionally impaired or not. Becker states, the OPS position in the past was that they didn't think people knew that she was emotionally impaired. Becker recalls notes from case review where officers asked complainant several times if she went to Capital District Psychiatric Center (CDPC). Cdr. Battuello says that if the complaint is against an OPS officer, he or someone above him will review the case. Informal discussion about details of complaint. Cdr. Battuello says that the complainant charged an officer, took his glasses, and intentionally damaged them. There is no question about the fact that target officer was aware that complainant was emotionally disturbed. **Becker raised questions about whether the officer acted appropriately and following EDP protocol or de-escalation methods; whether OPS can properly investigate a claim against itself; and whether OPS improperly acted as a gate-keeper in discouraging complaints against itself.** Becker requested that case be put on the agenda for case review.

CC2018-017

- Becker agrees with OPS findings on this particular case. Complainant made stalking allegations of a local celebrity.
- Unanimous support in favor of OPS Findings:
  - Call Handling – No Finding - where, for example, the complainant failed to produce information to further the investigation; or where the investigation revealed that another agency was responsible and the complaint or complainant has been referred to that agency; or where the complainant withdrew the complaint; or where the complainant is unavailable to clarify the complaint; or where the officer is no longer employed by the City.
  - Call Handling – Unfounded - where the review shows that the act or acts complained did not occur or were misconstrued.

#### 60 day delays/OPS Case Review

(V. Harden)

- For complaints that exceed 60 days, the Board is seeking 30-day updates from OPS going forward. Cdr. Battuello states that some cases take longer than 60 days to complete a thorough review. Cdr. Battuello has tasked D/Lt. Decker to follow up with Harkness for cases that exceed 60 days.

#### • Case Review

CC2019-022

- Complaint made on July 8, 2019. No monitor assigned. Complainant filed several complaints with APD for various reasons (ID theft, burglary). Complainant alleges that no one followed up on her complaints and incident number was

denied. Complainant states that she was involuntarily committed to Albany Medical Center by the responding officer.

**OPS Findings:**

1. Call Handling – Unfounded – where the review shows that the act or acts complained did not occur or were misconstrued.
  2. Call Handling – Not Sustained – where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
  3. Call Handling – Not Sustained - where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.
- March 31, 2021 Harden reviewed body cam footage, audio interview with complainant, voicemails, [General Order 3.1.35](#). Audio began July 9<sup>th</sup> and concluded September 16<sup>th</sup>. Harden observed polite interaction between target officer and complainant when responding to allegation of damage to complainant’s car. Officer could not corroborate story because complainant removed marks from car. Harden did not observe complainant’s concern about being burglarized or vandalized. Evidence did not show that officers agreed to follow up and/or provide an incident number. Harden did not observe complainant being involuntarily committed during that time. Complainant voluntarily went to crisis by ambulance under 941 statute of an emotionally disturbed person.

**CPRB Findings:**

1. Unfounded – unanimous vote in support of finding
  2. Not sustained – unanimous vote in support of finding
  3. Not sustained – unanimous vote in support of finding
- Discussion – Vives seeks clarification on allegation #3 and if a burglary actually occurred. Harden responds that an officer was unable to inspect. Det. Shane says that the target officer is on extended leave. Harden believes the board should get together with other stakeholders in the community in a separate forum to determine how to handle these issues outside of filing civilian complaints.

CC2019-019

- Incident from April 11, 2016. The complainant reported an attack at a Trump rally to officers. Complainant reported that responding officers were disrespectful and did not pay attention to his claim. Complainant later provided information about he parties responsible for the attack to the South Station. No arrests were made, officers did apologize. The target officers are no longer in the department.

**OPS Findings:**

1. Call Handling – Unfounded - where the review shows that the act or acts complained did not occur or were misconstrued.
  2. Call Handling – Sustained - where the review discloses sufficient facts to prove the allegations made in the complaint.
  3. Conduct Standards – Not sustained - where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint
  4. Conduct Standards – Not sustained - where review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint
- Cdr. Battuello states that it is irrelevant whether the officer is still with the APD. He finds the conduct unsatisfactory hence the “not sustained” finding for the

conduct standards allegation. Target officer did acknowledge that the assignment was late to getting out because complainant was uncooperative. Cdr. Battuello says that police officers do not determine the statute of limitations, that is something determined by the court of law. Becker seeks clarification of allegations and findings.

**CPRB Findings:**

1. Call Handling – Unfounded - unanimous vote in support of finding
2. Call Handling – Sustained - unanimous vote in support of finding
3. Conduct Standards – Not sustained - unanimous vote in support of finding
4. Conduct Standards – Not sustained - unanimous vote in support of finding

• **Committee Reports**

i. Police Liaison (V. Harden)  
Harden follows up on correspondence sent 2 months ago regarding electronic case review and outdated complaints. Cdr. Battuello states they are working to get caught up.

ii. By-Laws and Rules (M. Ingram)  
There were no updates.

iii. Outreach (Harkness & Becker)  
Outreach Committee Chair and Harkness are in discussion about developing a video for the general public about who we are, what we do, how to file a complaint, and answer general FAQs about the board.

WCAA station 107.3FM is running the police recruitment PSA.

iv. Mediation (Rev. V. Collier)  
There were no updates.

v. Monitor Task Force (L. Becker)  
There were no updates.

vi. Public Official Liaison (N. Vives)  
There were no updates.

• **Report From Government Law Center** (M. Harkness)

Recently completed new member and monitor training earlier this week. An electronic recording will be available for board members and monitors. We are moving forward with media training for the board with a local media relations firm, the board has decided on the structure for the training and we are seeking to lock-in a date and agenda.

• **Report from OPS** (Cdr. Battuello)

Update

Det. Fasciglione is no longer in OPS and has transitioned to a different unit within the department. Fasciglione's position has recently closed and they are seeking to fill his spot and introduce us all to the incumbent.

Hiring

Recruitment team has done outreach at the malls and has worked with Collaborative members to get recruitment information out. Now is the time to shape the department before the civil service list is established to recruit APD officers. Once the list is established they will have to choose from that list. The results of the exam will be released sometime in mid-to-late summer. Cdr. Battuello will keep board updated on the hiring status.

Staffing

The office is down a Detective, however, they are confident that their three detectives will be able to get the new Detective up to speed. This may cause a strain staffing-wise. It is more efficient to adjudicate longstanding cases in OPS facilities than to accommodate remote review request.

Question: Harkness inquires about who should Board members contact in the interim about cases that Fasciglione is currently assigned to? D/Lt. Decker will reach out to provide Harkness with this information when he returns. OPS did complete a case review, several cases were re-assigned to Det. Johnson, Det. Pierce and Det. Shane.

- **Report from the Chair** (N. Vives)  
There were no updates.
- **Public Comment**  
No comment.
- **Meeting Adjournment** (N. Vives & P. Collins-Hackett)