



**CITY OF ALBANY
COMMUNITY POLICE REVIEW BOARD
CPRB STANDING COMMITTEE
ON DISCIPLINARY MATRIX
MEETING MINUTES**

*June 1, 2023, at 6:15 p.m.
Albany Law School, Room W212*

I. CALL TO ORDER AND ROLL CALL (N. Vives)

Chair Nairobi Vives called the meeting to order at 6:15 p.m.

COMMITTEE MEMBERS PRESENT: CPRB Chair Nairobi Vives, CPRB Vice Chair Veneilya Harden (Virtual), CPRB Secretary Paul Collins-Hackett, Board Member Antoinette Santos, Board Member Victor Person, Board Member John Levendosky (Virtual)

OTHERS PRESENT: CPRB Program Manager Michele Andre, Mark Mishler, APD Lieutenant Thomas Mahar, WAMC Reporter Dave Lucas, and an Undefined APD Staff

II. AGENDA (N. Vives)

CPRB Chair Nairobi Vives called the meeting to order and recapped the last meeting's discussion, highlighting that the board took a vote to utilize Baltimore's Disciplinary Matrix model. Chair Vives noted that today's meeting will delve into the intricacies of the Baltimore model and details of the matrix. In the beginning of the meeting CPRB members are called to review the documents that will be up for today's discussion. CPRB Program Manager Michele Andre clarifies that the documents that are being reviewed are information that was previously circulated during the information and gathering stage of research, with two new additions: A Memorandum on the "*Analysis of the Baltimore PD Matrix*" (Dated Feb. 27, 2nd Document) and "*Prescribed Punishments for Additional Policy Violations (Failure to Identify, Failure to Handle Complaints Properly, and Body-Camera Violations)*" (March 30, 4th Document). These new additions were added as a result of a survey and research done to address the needs and concerns of the community.

Discussion of Materials Provided by CPRB Manager Michele Andre and APD

Chair Vives noted that the best way to commence today's discussion was to do an overview of the previously discussed categories that were provided last week by APD to discuss the additional ways that the proposed categories would be organized.

Chair Vives read the list of the original categories out loud to Committee members of the public. Violations included: Obedience to laws, regulations, and orders (including policy violations); Conduct towards others; Unsatisfactory Performance; Insubordination; Truthfulness; Use of Force; Arrest/Search and Seizure; Civil Rights/Harassment/Bias; Code of Ethics; and Criminal Conduct.

Chair Vives shared some of the additional changes that were made to the organization of the original categories based on board discussions and after meeting with consultants. Chair Vives read the list of proposed categories out loud. These included (1) Violation of APD General Orders, (2) Conduct toward others, (3) Unsatisfactory Performance, (4) Insubordination, (5) Truthfulness, (6) Use of Force, (7) Abuse of Authority and Procedure, (8) Civil Rights, (9) Bias, (10) Harassment, (11) Conduct Unbecoming of an Officer, (12) Evidence and Property Handling, (13) Failure to Intervene, (14) Failure to Properly use body camera equipment, (15) Failure to Cooperate with Misconduct Investigation, (16) Code of Ethics, (17) Criminal Conduct.

CPRB Manager Michele Andre noted that the first category- (1) Violation of APD General Orders, further includes laws and regulations.

CPRB Secretary Paul Collins-Hackett agreed with the proposed categories with the changes in (1) that CPRB manager Michele Andre proposed. He noted that the additional changes allow the board to be focused and still allow flexibility as they continue to look into the specifics of the consequences.

Board Member Antoinette Santos asked if there should be any considerations for having separate categories for firearms and firearms discharge or if they are already covered in the proposed categories.

APD LT Thomas Mahar responded that it is covered under several categories, including (2) Conduct toward others, (3) Unsatisfactory Performance, and (6) Use of Force.

Mark Mishler asked Chair Vives where did the expanded list of the proposed categories that were read come from. Chair Vives noted that it came from the part of the discussion that the board had on the previous day and also from meeting with consultants to expand on what APD had sent over. Mark Mishler also asked if it was in writing. CPRB Manager Michele Andre noted that she would send it over again to Mark Mishler via email.

Mark Mishler noted to clarify if the proposed categories tell any information as it regards to the Matrix—clarifies that the categories are different types of conduct allegations that could be alleged against officers.

Chair Vives responded that the purpose of the proposed categories is to give both officers and community members an idea of what kinds of allegations to put into the matrix.

Mark Mishler raised concern about the categories, particularly that they are low-level depending on what is alleged and that people may feel they are high-level categories. Mark Mishler highlighted that he feels the list will provide broad categories to the public to give them a general idea about misconduct but also states that in a Matrix, the level of detail needs to be more specific types of conduct, some of which (as discussed by Commander), that many things could fall under multiple categories, but the categories don't tell us where to go in the Matrix. Mishler clarifies that he understands that the proposed categories are a starting point for his concerns and presents an agreement to the categories.

Chair Vives noted that after discussing the proposed categories, the board and consultants, in a previous meeting, also discussed the degree of the situation.

CPRB Manager Michele Andre clarified that the purpose was to ensure people had access to specific allegations rather than broader categories.

Board member Antoinette Santos raised concerns about the need to further separate categories because even though some allegations may fall under the umbrella of a broader category, she notes that it might be important to make further distinctions. Mark Mishler agreed.

Mark Mishler noted that there would be an issue in the future if someone reports an officer for Misconduct, but nothing can be done because a proposed category does not exist for their behavior. Mishler also suggests that it is better to have more categories so that there is no question about imposing discipline. Mishler noted that some of the wording in the proposed categories might work, like "Evidence and Property Handling," however, some wording still needs to be cleared up.

Chair Vives noted that Lying Under Oath, Honorable Mentions should be added. CPRB Manager noted (2B) reflects Conduct Standards.

Chair Vives read out loud the additional categories, including 2B, and two additional categories that were added (18) and (19).

CPRB Secretary Paul Collins-Hackett raised concerns about the vagueness of the categories Eleanor raised in the email: (20) Failure to identify badge and #, (21) Failure to handle complaints properly, (22) Body Camera Violations (With some specifications on Intentional vs. Unintentional within that category as it relates to the severity of the harm).

Mark Mishler suggested that two tasks that should be done outside of the meeting are to make sure the order and wording of the categories – starting with general categories and then getting more specific as the list progresses.

Chair Vives noted that Kevin would provide notes and a model for the board at a later date.

CPRB Paul Hackett-Collins clarifies the Failure to handle complaints properly with the inclusion of the failure of the body camera.

Board Member John Levendosky raised concerns about officers not having body cameras while on Patrol or stand-by based on an open case and wanted to know if there should be a separate category created for that.

Mark Mishler noted John's comment that the failure to comply with body-camera procedures is serious and, even though the acts are different (or failure to act), is not necessary.

Board Member John Levendosky agrees with CPRB Secretary Paul Collins-Hackett's categories of Unintentional vs. Intentional to highlight the police officer's conduct.

Board Member Antionette Santos highlighted that if you look at the General Order, the matrix should indicate the difference between intentional and unintentional in language of constructing the matrix. CPRB Secretary Paul Hackett Collins concurred that having language available in the General orders would be useful for drafting.

Board Member John Levendosky proposed that weapons be further divided into lethal or non-lethal weapons to encompass weapons such as tasers, and pepper spray for non-lethal, and firearms categorized as lethal weapons.

CPRB Secretary Paul Hackett-Collins proposed that there are potential consequences of non-lethal weapons that have been used for lethal purposes or had a lethal consequence. Chair Vives clarifies that the "Use of Force" category could be used to mitigate this concern. Board Member John Levendosky agrees.

CPRB Manager Michele Andre clarified the organizational scheme of the Weapon category for structuring purposes of the Matrix. Chair Vives proposed for it to be in the title. Board Member John Levendosky proposes subsections of the Weapons category not specific to solely Firearms but divided into Lethal and Non-lethal. CPRB Secretary Paul Hackett-Collins and Board Member John Levendosky concurred with this structure.

Chair Vives reviewed the updated category list—during the review, there were several issues raised: raising an issue with the first category. CPRB Manager Michele Andre raised concerns about the Conduct Unbecoming to reflect a Violation of Conduct.

Chair Vives asked APD LT Mahar, "How does conduct unbecoming of an officer standard fall into immoral conduct?"

APD LT Thomas Mahar responded that the intent of APD was to provide a general basis of loose categories that could apply to different conduct and not necessarily to specify each type of misconduct to minimize confusion of categories. LT Haney emphasized that APD's general orders are not structured in the way it is being currently discussed in today's meeting (e.g., Lethal vs. Non-Lethal).

APD LT Thomas Mahar affirms that Conduct Unbecoming of an Officer falls under Immoral conduct, which can be generalized under "Violation of Conduct."

Chair Vives asked LT Mahar to clarify the difference between Conduct Unbecoming of an Officer and Immoral Conduct.

LT Thomas Mahar responded that under the General Orders, Conduct Unbecoming is covered under the category Unsatisfactory Performance and that would cover the severity of the issue.

CPRB Manager Michele Andre reads the definition of Conduct Unbecoming in Article 2 provided by CPRB interns. LT Thomas Mahar pointed out the Sub-section 11 noted Unsatisfactory Performance.

The board members agreed that the category be called Conduct Standards and will get rid of the category Conduct Unbecoming of an Officer. (Mark Mishler proposed the title of the category be called Violation of Rules of Conduct as stated in the General Orders to stay consistent).

Chair Vives noted that she preferred specific-titled categories without the list as exhaustive.

Chair Vives asked LT Mahar to clarify the details of the summary of call handling and if there is any conduct that fits or doesn't fit into that category.

LT Mahar noted that the footnotes were not representative of call handling. Chair Vives noted that she would mark the footnote and update Kevin on the issue.

Chair Vives asked if the things discussed are comprehensive in order to move forward with the proposed categories – highlighting an updated version of 20 categories. She also notes that the board took into consideration keeping categories simpler, expanding from APD's initial category of 10.

CPRB Manager Michele Andre noted that it is important to include certain categories that are major concerns from the community and make sure that those are specified rather than generalized.

Chair Vives and CPRB Secretary Paul Collins-Hackett concurred that they might need to re-visit the category list at a later date.

CPRB Secretary Paul Collins-Hackett highlighted that it might be easier to make the transition or explain the new categories in a more condensed list.

CPRB Manager Michele Andre advised the board that it would be best to keep in mind that there would be different levels as to how things would be divided.

Chair Vives asked LT Mahar about APD's feedback about the general matrix categories. LT Mahar responded that APD's intent is to minimize the number of categories and expresses that some categories are duplicitous (e.g., Civil Rights, Bias, and Harassment). LT Mahar stated that he does not think it is necessary for those three categories to be listed in three different ways. He also noted that there is also nothing stated in regard to the sexual behavior of the officers.

CPRB Manager Michele Andre responded that the categories are generally seen as separate issues and should be treated as such (e.g., Biased Based Policing vs. Civil Rights, where sexual behavior would fall into that).

LT Mahar noted that he does not think three separate categories should exist, which counteracts the intent of APD. CPRB Secretary Paul Hackett-Collins agreed that a review of categories should take place to see if things are repetitive.

Board Member Antionette Santos expressed that she feels that they owe it to the community to determine the product to create a balance between the layman and APD. CPRB Secretary Paul Hackett-Collins agreed with this idea as well.

Chair Vives confirmed with LT Mahar that he would send over an updated conversation of thoughts with APD's command. The board members are in full support. CPRB Secretary Paul Hackett-Collins requested that LT Mahar provide transparency to APD. LT Haney confirmed that it was already written down.

Chair Vives noted if the board was up for the Severity of Categories (Minor, Moderate, Severe) for discussion. The board agreed to discuss that issue now. The other issues will be discussed at a further meeting.

Chair Vives proposed that she is in favor of having the fourth category of "Major" present as it relates to the severity of Police misconduct. CPRB Michele Andre mentions the Baltimore Model as a framework.

Board Member Antionette Santos asked for clarification on the difference between "Major" and "Severe" Conduct.

Chair Vives proposed that the board should take into consideration that Severe should be considered the worst form of conduct and noted that definitions could be discussed at a later meeting.

CPRB Manager Michele Andre advised that the Baltimore Model as a framework be used – using (Minor, Moderate, and Major) vs. Mitigating Standard Aggravation. The board voted, and they preferred (Minor, Moderate, or Major) standard. The board did not vote yet on whether or not there would be a fourth category implemented.

Chair Vives noted that they define the different categories. CPRB Manager Michele noted that she would provide the board with some basic definitions that were previously used to define (Minor, Moderate, and Major) standards.

Mark Mishler proposed that another way to do definitions is to use an XY axis to have a final category on the Y-axis to have an opportunity to capulate the severe conduct. Mishler emphasized that the goal of the matrix is to provide awareness to APD officers that they will be held for misconduct, that the department hold its officers accountable, and for there to be some flexibility to go termination or not go there. Mishler reiterates that the Matrix should give clear guidelines as well being used as a deterrent for police misconduct.

Chair Vives has taken all suggestions into consideration for future meetings.

Chair Vives opened up the floor for questions or comments.

Mark Mishler noted that it would be useful to have a draft available to members to be able to discuss all the specifics for the next meeting. The board members agree.

Chair Vives opened up the floor again for questions or comments.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:35 p.m.

Respectfully Submitted,

Michele Andre
Program Manager