



80 NEW SCOTLAND AVENUE  
ALBANY, NEW YORK 12208-3494  
*Albany Community Police Review Board  
c/o Government Law Center*

## NOTICE OF CPRB PUBLIC MONTHLY MEETING AGENDA

Thursday, July 11, 2024 - 6:00 PM

### THERE ARE THREE WAYS TO ATTEND AND PARTICIPATE:

- 1. In Person:** West Wing Classroom (W212) of Albany Law School's 1928 Building, 80 New Scotland Avenue, Albany, NY 12208 ([Parking Lot Entrance on Holland Ave.](#))
- 2. Online:** Participate via [Online Zoom](#) enter code: 812 8068 0884 and numeric meeting password: 880330
- 3. Listen:** 1 646 931 3860 US and enter code: 812 8068 0884 and numeric meeting password: 880330

**SUBMIT WRITTEN PUBLIC COMMENT:** If you would like to submit written comment on an upcoming agenda item, please fill out the public comment form [here](#) on website at or email [cprb@albanylaw.edu](mailto:cprb@albanylaw.edu).

**BOARD MEMBERS:** Chair Nairobi Vives, Vice Chair Veneilya Harden, Secretary Paul Collins-Hackett, Reverend Dr. Victor L. Collier, Antoinette Santos, John Levendosky, and Victor Person.

**STAFF:** Program Manager Michele Andre, Deputy Director of the Government Law Center Patrick Woods, Esq., Outside Counsel Michael Goldstein, and Outside Counsel Mark Mishler

The Albany Community Police Review Board (CPRB) independently reviews and investigates complaints of alleged misconduct committed by officers of the City of Albany Police Department (APD). The CPRB is staffed by civilians, and it is not part of the APD.

The CPRB holds a working meeting open to the public on the **second Thursday of every month**. CPRB's monthly meetings provide a platform for community members to learn more about the Board's scope and priorities. Board members also use the meetings to review complaints, ask questions, and share concerns about police-community relations in Albany neighborhoods. Speaking at Board Meetings is open to all. **Please be advised that according to Albany Law School, the possession of firearms or weapons is prohibited on any property owned or occupied by the school.**

### Albany Community Police Review Board Agenda

Thursday, July 11, 2024

- |   |  |
|---|--|
| <b>I. CALL TO ORDER &amp; ROLL CALL</b>                   | <b>(N. Vives)</b>                              |
| <b>II. APPROVAL OF JULY 11, 2024 AGENDA</b>               | <b>(N. Vives)</b>                              |
| <b>III. PUBLIC COMMENT</b> (Three (3) minutes Per Person) | <b>(N. Vives)</b>                              |
| <b>IV. CASE REVIEW</b>                                    |  |
| <b>A. CC2020-006</b>                                      | <b>J. Levendosky &amp; Monitor Al Lawrence</b> |

The complainant alleges that he was stopped for failing to yield to an ambulance and subsequently taken into custody. He reports that at South Station, he underwent a strip search and was struck three times in the mouth. Additionally, he claims that personal belongings inside his vehicle were damaged during the search.

**Allegation(s):** Strip Searches (1ct), Evidence and Property Handling (1ct), Call Handling-Vehicle Towing (1ct), Use of Force (1ct), Discourtesy (1ct)

1. Discussion
2. Complainant Related Public Comment
3. Action – Vote to approve each finding

**B. CC2022-027**

**P. Collins-Hackett & Monitor Al Lawrence**

The complainant stated that she felt unsafe while officers were trying to help her retrieve items from the property. According to the complaint, the officers yelled at her and accused her of being difficult during the process. The complainant believed that the officers' behavior was inappropriate and did not adhere to proper police etiquette.

**Allegation(s):** Call Handling (1ct)

1. Discussion
2. Complainant Related Public Comment
3. Action – Vote to approve each finding

**C. CC2022-034**

**P. Collins-Hackett & Monitor Al Lawrence**

The complainant alleged that while she was out for a walk, an officer pulled up next to her and asked her where she was going. The complainant alleges that the officer then asked for her phone number as well as sexual favors, which she declined.

**Allegation(s):** Conduct Standards (1ct)

1. Discussion
2. Complainant Related Public Comment
3. Action – Vote to approve each finding

**D. CC2024-003**

**V. Harden**

The complainant that Officer Thomas (later identified as Clerk Janis Thomas) was uncooperative during their phone interaction when she attempted to file a complaint. The complainant further asserts that Officer Alania (later identified as Confidential Secretary to the Chief of Police, Elena Turley) also presented difficulties during their telephone conversation.

**Allegation(s):** Conduct Standards (2ct)

1. Discussion
2. Complainant Related Public Comment
3. Action – Vote to approve each finding

**E. CC2023-001**

**A. Santos**

The complainant alleges that on officers demonstrated a lack of urgency, care, and professionalism in their conduct. At approximately 2300hrs, the complainant claimed that she contacted 911 upon observing an unknown male situated within her parked vehicle at the intersection of Morris St and Delaware Ave. Dispatch informed her that all available officers were engaged in another incident, but she elected to await their arrival. The complainant asserts that despite her efforts to attract the attention of a sheriff's vehicle and an Albany PD car, she was disregarded. Subsequently, she managed to signal an APD SUV squad, who confirmed the registration of her call but were unable to respond due to an ongoing call. The complainant maintains that law enforcement displayed dismissiveness, lacked promptness in addressing her situation, and treated her as a peripheral concern. She expresses the belief that a more empathetic and professional approach could have been adopted. Despite this, she expressed appreciation towards Officer Day and his partner for addressing her concern with compassion upon their arrival.

**Allegation(s):** Conduct Standards (1ct), General Call Handling and Procedures (1ct)

1. Discussion
2. Complainant Related Public Comment
3. Action – Vote to approve each finding

**F. CC2021-028**

**A. Santos**

The complainant has alleged that, during a phone conversation with an officer, she inquired about the involvement of the New York State Police in the case of her missing niece. The complainant reported that the officer responded by stating, "NO, it's a local matter.

**Allegation(s):** Call Handling (1ct)

1. Discussion
2. Complainant Related Public Comment

3. Action – Vote to approve each finding

V. **REPORTS**

A. CPRB Standing Committee Reports

- I. Bylaws and Rules (A. Santos)
- II. Community Outreach (P. Collins-Hackett)
- III. Investigation (J. Levendosky)
- IV. Mediation (V. Collier & V. Harden)
- V. Police Department Liaison (V. Harden)
- VI. Public Official Liaison (N. Vives)

B. Report from the Office of Professional Standards

C. Report from the Government Law Center (P. Woods & M. Andre)

D. Report from the Chair (N. Vives)

VI. **APPROVAL OF MEETING MINUTES** (N. Vives)

A. Approval of Minutes from Regular Meeting on June 13, 2024

VII. **NEW BUSINESS** (N. Vives)

A. Approval of 2024 2<sup>nd</sup> Quarterly Report

B. Approval of amendments to the Bylaws and Rules to codify Section 10: Conflict of Interest under Article VII: Committees

C. Resignation of Board Member, Michael G. Gaynor, Mayoral Appointee

D. Friday, July 26, 2024 5:30 PM Community Forum on the Future of Civilian Oversight in Albany

E. Saturday, July 27, 2024 10 am to 3:30 pm CPRB Retreat at Albany Law School

F. New CPRB Brochure Redesign

VIII. **BOARD MEMBER COMMENTS (Time Permitting)**

IX. **ADJOURNMENT**

(N. Vives)

**Materials Provided:**

- New CPRB Brochure Redesign
- 2024 2<sup>nd</sup> Quarterly Report
- Amendments to the Bylaws and Rules
- Minutes from Regular Meeting on June 13, 2024

During board meetings, all members and guests are expected to show utmost courtesy towards each other, speakers, and city employees. Refrain from making rude or derogatory remarks reflecting negatively on the integrity of others or making abusive comments about their motives or personalities.

**Public Comment** is an opportunity for members of the public to address the Community Police Review Board on matters under their jurisdiction. Public comment is limited to three (3) minutes per person out of courtesy to all community members who wish to speak.

**Accommodations:** CPRB provides accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address CPRB Board/Committee matters. A request must be made within 48 hours in advance of a Board or Committee meeting, depending on the service requested. Please contact the CPRB's Office by phone at (518) 445-2383 for information.

## FREQUENTLY ASKED QUESTIONS

### What happens after I file a complaint with the CPRB?

You will receive a letter from the Board notifying you that your complaint has been received. After you file your complaint, staff at the CPRB and APD Office of Professional Standards (OPS) will determine if it falls within the CPRB's jurisdiction. If your complaint is not in our jurisdiction, it is referred to the appropriate agency or entity to investigate the incident. If it is within our jurisdiction, you will receive a letter from the CPRB informing you of our next steps.

### Can I file a complaint if I don't know the name and/or badge number of the officer?

Yes. We often get complaints against unidentified officers. CPRB investigators or OPS detectives are usually able to identify the officers.

### Can I file an anonymous complaint?

Yes, you can file an anonymous complaint. However, if you would like our office to follow up with you, please be sure to provide your first and last name and preferred method of contact.

## COMMUNITY ENGAGEMENT

The CPRB maintains an ongoing program to educate the public about the purpose of the CPRB and the complaint review process. The CPRB is actively involved in community outreach, including participating in and hosting community events, co-facilitating educational programs, and forging partnerships in the community.

### LEARN MORE

- Visit [www.albanycprb.org](http://www.albanycprb.org)
- Email [cprb@albanylaw.edu](mailto:cprb@albanylaw.edu) to request a presentation about the CPRB in your community
- Share your thoughts about police-community relations at our monthly public meeting. For information on our upcoming meeting visit: [www.albanycprb.org/board-meeting](http://www.albanycprb.org/board-meeting)

### Albany Community Police Review Board (CPRB)

518-434-2383

Albany Law School  
80 New Scotland Avenue  
Albany, NY 12208

Facebook:

[www.facebook.com/AlbanyCPRB](http://www.facebook.com/AlbanyCPRB)



## HAVE YOU WITNESSED OR EXPERIENCED POLICE MISCONDUCT?

### File a complaint with the Albany Community Police Review Board

## WHO WE ARE

The Albany Community Police Review Board (CPRB) independently reviews and investigates complaints of alleged misconduct committed by officers of the City of Albany Police Department (APD). The CPRB is staffed by civilians, and it is not part of the APD.

## JURISDICTION

The CPRB is authorized to review and investigate various types of allegations of police misconduct involving officers of the APD. Complaints against members of police departments other than the APD must be filed with the appropriate local or state police department.

## FILE A COMPLAINT

If you have experienced or witnessed potential misconduct by a member of the APD:

- Fill out the complaint form online
- Or download a paper form at [www.albanycprb.org](http://www.albanycprb.org).
- Click “File a Complaint.”

Send your signed complaint form via email to [cprb@albanylaw.edu](mailto:cprb@albanylaw.edu) or mail the paper copy to:

Albany Community Police Review Board  
via Government Law Center  
Albany Law School  
80 New Scotland Ave  
Albany, NY 12208

The complaint form is available in English and Spanish.

## HOW COMPLAINTS ARE RESOLVED

The CPRB determines whether complaints are appropriate for review, monitoring, investigation, or mediation. If the complaint is determined appropriate for review, Albany Police Department’s Office of Professional Standards (OPS) will lead the investigation.

### Monitor

The CPRB can assign a monitor to observe and monitor the OPS investigation of a complaint if the allegation involves excessive force or civil rights violation.

### Independent Investigation

A CPRB investigation is a comprehensive way to gather evidence about allegations of police conduct within the CPRB’s purview and prepare reports for action by the Board. The CPRB investigators gather as much evidence as possible, including obtaining video evidence and statements from witnesses and officers.

An investigation can take several months to complete. Your cooperation, which will involve answering questions and giving a complete statement about the incident, is vital. When the investigation is complete, the CPRB makes a determination of whether the officer violated department policy.

## Discipline

If the CPRB finds that an officer committed misconduct after a completed investigation, it recommends discipline, which can range from verbal warning to termination from the APD for the most serious violations. Only the Chief of Police has the authority to decide the level of discipline and impose punishment on an officer.

## Mediation

Mediation provides an opportunity for civilians and police officers to meet in a safe, quiet, and private space with a trained and impartial mediator to talk confidentially about what happened. Mediation is a voluntary process—all parties must agree to participate. You can request mediation on your complaint form.





## Bylaws and Rules of the Community Police Review Board of the City of Albany, New York

Updated: [July 10, 2024](#)

Effective Date: [July 11, 2024](#)

The Community Police Review Board (hereinafter referred to as the “Board”) shall seek to fulfill the purpose and goals established by the Common Council for the Board in paragraph E of section 42-332 of Part 33 of Chapter 42 (Departments and Commissions) of the City of Albany. Consistent with the express understanding of the Mayor, the Common Council, the Albany Police Department (hereinafter referred to as the “Department”) and the people of the City of Albany, the Board shall serve as an independent, autonomous body concerned with the welfare of all the people of the City of Albany. In furtherance of the mission given to the Board by the Common Council, the Board shall promote and enhance a relationship of mutual respect, understanding and trust between the people of the City and the members of the Department.

The Board shall promote and implement, in concert with involved stakeholders, including but not limited to the Mayor, the Common Council, the Department, and interested civic groups, programs and practices to achieve positive interaction among the Department, the City administration and all members of the community, irrespective of age, race, ethnicity, religious, philosophical or political persuasion, gender, sexual orientation or economic status.

The Board encourages all persons with a legitimately founded complaint of misconduct by an officer or employee of the Department, including, but not limited to, complaints of excessive use of force or violation of civil rights (including complaints pertaining to civil rights as defined by New York Civil Rights Law, ch 6, art. II, and discrimination based upon protected characteristics as defined in New York Human Rights Law, ch. 18, art. XV), to submit such complaint in writing to the Board or the Department.

The Board and its members shall execute their duties and responsibilities and apply the powers granted to them in accordance with the provisions of local law set forth in such Part 33, as it may be amended from time to time, and shall act in compliance with all State laws applicable to the conduct of the affairs of the Board.

Effective with the date of approval of these Bylaws and Rules by the Common Council, the Board shall assume responsibility for all civilian complaints of misconduct by officers and employees of the Department pending before the Community-Police Relations Board as of such approval date. The Board shall act upon such pending complaints as if the same had been filed originally with the Board.

### ARTICLE I: NAME

Section 1. Name of Board. The Name of the Board shall be the Community Police Review Board.

### ARTICLE II: LOCATION

Section 1. Location of Board; Official Mailing Address. The location of the Board shall be the City of Albany, New York.

The official mailing address of the Board shall be:

Community Police Review Board  
C/O The Government Law Center  
Albany Law School  
80 New Scotland Avenue  
Albany, NY 12208

All persons and other entities wishing to correspond with the Board for any reason, including the submittal to the Board of a civilian complaint against any officer or employee of the Department, shall direct correspondence to the Board at its official mailing address.

#### ARTICLE III: MEMBERSHIP

Section 1. Membership of the Board. The members of the Board shall be appointed by the Mayor and Common Council as provided by section 42-334A of such Part 33.

Section 2. Terms of Members. Members of the Board shall be appointed for three-year terms, provided that, of members initially appointed by the Common Council, one shall be for a term of one year, two shall be for a term of two years, and two shall be for a term of three years; of members initially appointed by the Mayor, one shall be for a term of two years and two shall be for a term of three years, pursuant to section 42-334 of such Part 33. Members of the Board shall be subject to the two-consecutive term limitation pursuant to section 42-334 of such Part 33 and may be considered for reappointment to the Board after one year of non-membership. Members of the Board shall continue to serve until their successors have been appointed. The members of the Board shall annually elect an individual from their membership to serve as Chair.

Section 3. Attendance at Board Meetings; Removal for Excessive Absences. The qualification of members of the Board, the removal of members, and the filling of vacancies on the Board shall be governed by the provisions of sections 42-335, 42-336 of such Part 33. Upon the unexcused absence of any member of the Board from three consecutive regular monthly meetings of the Board, or upon the unexcused absence of any member from six or more regular monthly meetings of the Board during any 12-month period, the Board may, by two-thirds vote of the entire Board, recommend to the Common Council that it remove such member for cause.

After completion of the roll call at each regular monthly meeting, the Chair shall announce each absence that the Chair has excused for substantive and valid excuse and the same shall be recorded in the minutes of such meeting.

Section 4. Completion of Orientation Program by New Members. Within thirty days following the appointment of a new member, such new member shall complete the orientation program prescribed in section 43-339 of such Part 33. No member may participate as a voting member without completion of such program.

Section 5. Procedure for Initial Case Review by Newly-appointed Members. Upon the first assignment of a case to a newly-appointed member, the Chairperson shall also designate another member of the Community Police Review Board who has completed a minimum of three (3) case reviews, to accompany the newly appointed member on their first case review and assist them in analyzing the complaint and take any and all necessary steps in orienting the new member to the review process.

Section 6. Resignations from the Board. Any member of the Board seeking to resign from it shall submit his or her resignation in writing to the appropriate appointing authority and also to the Chair of the Board.

Section 7. Filling of Board Vacancies in Timely Manner. Upon the creation of a vacancy on the Board because of resignation, death, disqualification or removal of a member, the Board shall give public notice of such vacancy to the media in order to inform persons interested in becoming a member of the Board to make applications for appointment to the appropriate appointing authority, and shall also request the appropriate appointing authority to fill the vacancy within 30 days in order to facilitate satisfaction of the quorum requirements of the Board.

#### ARTICLE IV: OFFICERS

Section 1. Election of Officers. The members of the Board shall annually elect from their membership a Chair, a Vice-Chair and a Secretary and such other officers as the Board may determine by resolution. Except as provided below, such election shall take place at the first regular meeting of the Board in January of each year. Nominations for the election of offices shall be made at the regular monthly meeting immediately preceding the meeting at which elections are to take place. The term of the Chair and other officers shall commence on the date of their election and shall end upon the date when their successors have been elected and qualified.

The Temporary Chair, Vice-Chair and Secretary elected at the initial meeting of the Board held on November 30, 2000, shall continue to serve in their temporary capacity until their successors have been elected and qualified as set forth below. For the initial election of officers in the year 2001 only, nominations for the election to the office of Chair, Vice-Chair, Secretary, and such other officers as the Board may establish, shall be made at the first regular monthly meeting, or at a special meeting called for that purpose, following approval of the Bylaws and Rules by the Common Council. Consideration upon such nominations shall be determined by election at the regular monthly meeting or special meeting called for that purpose, next succeeding the meeting at which nominations are made.

Section 2. Powers and Duties of the Chair. The Chair shall:

- (a) be the presiding officer at all regular, special and emergency meetings of the Board and shall be authorized to call special and emergency meetings.
- (b) establish such ad hoc committees of the Board, not otherwise created by these Bylaws and Rules, as may be necessary or desirable for the Board to conduct its business.
- (c) appoint the chair and members of all committees of the Board and specify the duties of such committees except as such duties may be expressly set forth in these Bylaws and Rules or be altered or modified by the Board. All such appointments shall continue at the Chair's discretion, provided that a chair of a committee established by these bylaws shall not be removed by the Chair except upon a majority vote of the members of the Board. The Board, by a majority vote of its members, may recommend to the Chair the name of a member to be considered by the Chair for appointment as the chair or a member of a committee.
- (d) serve as chair of the committee on public official liaison and serve as an ex-officio member of all other committees of the Board.



- (e) perform all duties incident to such office and such other duties as may be prescribed by these Bylaws and Rules, or delegated to the Chair by the members from time to time.
- (f) decide on all points of order and procedure **during the meetings, and the Chair's** decision shall be final unless overruled by a majority vote of the members.
- (g) appoint a Parliamentarian to assist the Chair.
- (h) be the principal spokesperson on behalf of the Board and may designate another member of the Board as a media liaison officer to assist the Chair with respect to media relations.

Section 3. Powers of Duties of the Vice-Chair. In the absence of the Chair, **or in the event of the Chair's** resignation, death, disqualification, removal or inability or demonstrated continued refusal to fulfill the powers and duties of the office of the Chair, the Vice-Chair shall perform the powers and duties of the Chair and, when so acting, shall have all the powers and duties and be subject to all the restrictions upon the Chair. The Board shall determine by a majority vote if the Chair has demonstrated a continued refusal to fulfill the powers and duties of the office. When the Vice-Chair succeeds to the office of Chair in the event of resignation, death, disqualification, removal, or by a vote of the Board as authorized in this section, they shall complete the term of the Chair. In the event that the Vice-Chair notifies the Board in writing that they are unwilling to accept the responsibilities of the Chair for any reason, then both the office of Chair and Vice-Chair shall be deemed vacated and the Board shall proceed to nominate and elect a Chair and Vice-Chair at a special meeting to be called by the Secretary within 7 days of the date when the Vice-Chair provided the Board with such written notification. The Secretary shall act as Chair during the meeting to nominate and elect a new Chair and Vice-Chair and also during the interim period between the date when written notification is made and the special meeting is conducted.

Section 4. Powers and Duties of the Secretary. The Secretary shall have the primary responsibility for the preparation of the minutes of all meetings of the Board, including minutes of executive sessions of the Board as authorized under the Open Meetings Law (Art. VII of the New York Public Officers Law). The Administrative Agency, as set forth in Part 33, shall assist the Secretary in his or her duties. In order to enable the Secretary to be fully involved in the deliberations of the Board, the Secretary, with the consent of the Board, may utilize the services of a stenographer or a recording device as made available by the Administrative Agency for the purposes of the preparation of accurate Board minutes.

If the Board authorizes the use of a stenographer or a recording device during the course of any meeting, including a closed executive session, to facilitate the preparation of minutes, the Board shall direct that all stenographic documents or recordings of any such meeting shall be maintained by the Board for the period of time specified in section 57.25 of the New York Arts and Cultural Affairs Law. If the use of a stenographer or recording device has been so authorized, the Secretary, on behalf of the Board, shall review the stenographic or recording device record of the discussions conducted by members at meetings and shall prepare minutes that accurately summarize the essential and material matters discussed and determined by the Board. Such minutes shall recite the votes of each member taken by a roll call pursuant to section 11 of Article V of these Bylaws and Rules. The Secretary may secure the assistance of the Administrative Agency to prepare such minutes.

The minutes of an executive session shall be approved only in an executive session meeting. The minutes of

the executive sessions of the Board required to be taken by the Open Meetings Law of the state shall be modified by redaction or otherwise to the full extent permitted by such law in order to protect statutorily protected rights of privacy and confidential material safeguarded by exemptions applicable to the conduct of such executive sessions.

Section 5. Powers Duties of Other Officers. The duties of such other officers as the Board may establish from time to time shall be those that are assigned to such officers by the Chair and those that may be specified by the Board in the motion providing for the establishment of such officers.

#### ARTICLE V: OFFICIAL STATEMENTS OF THE BOARD

Section 1. Official Statements of the Board. It is the intention of the board to promote full, active, and meaningful participation by the members of the Board in the undertaking of their responsibilities as members. It is the further intention of the board to encourage the exercise of thoughtful discretion in order to curtail or minimize the potential for inconsistent public statements made by members of the Board that may be construed by the public or the media in a manner detrimental to the fulfillment of the Board's mission under Part 33 and these bylaws.

Only the Chair or his or her designated media liaison officer shall make official statements for the Board. Except when expressly authorized by the Chair to speak on behalf of the Board, each member shall refrain from speaking for the Board and shall make diligent efforts to avoid the appearance of doing so. When a member is invited to participate in an event or to make a presentation in his/her official capacity as a member of the Board, such member shall make diligent effort to notify the Chair as far in advance as possible and, where not possible to notify the Chair in advance, to do so promptly following such presentation. Whenever a member has participated in an event of general topic or special interest, but not in his/her capacity as a member of the Board, and has, nevertheless, been called upon to speak about issues concerning the Board, such member shall notify the Chair promptly thereafter. Nothing herein shall be deemed, however, to prohibit a member from expressing individual opinions or perspectives.

#### ARTICLE VI: MEETINGS

Section 1. Regular Monthly Meetings. The Board shall hold a regular monthly meeting in each month from September through June at a time and place to be determined by the Board. If feasible, based upon summer vacation considerations of members and the likelihood of obtaining a quorum, the Board may schedule regular monthly meetings for the months of July and August. In the event that a serious and emergent matter involving the public interest for which the prompt attention of the Board as a body is necessary or appropriate shall arise in either of such months, the Chair shall exercise prudence and due diligence in calling a special emergency meeting to address such matter at that time. The time and place for such special emergency meeting shall be determined by the Chair and communicated to the members in writing at least seven days prior to the meeting. The Chair shall send a copy of the proposed agenda for each such special emergency meeting and regular monthly meeting held on an altered date to each member with the notice of such meeting. The Chair shall send a copy of the proposed agenda for each other regular monthly meeting to each member at least seven days prior to such meeting.

A member may request the Chair in writing to add an item of consideration to the agenda. Such request shall be made at least fourteen days prior to the date of the communication meeting to which it pertains. At the

completion of the roll call at a regular monthly meeting, a member may request an item to be added to the agenda by motion and such item shall be so added upon a vote of a majority of members. Except with respect to issues raised during the public discussion period or in response thereto, care shall be taken by members to avoid discussions of non-agenda items. The Chair shall be diligent in the enforcement of the provisions of this section so that meetings of the Board shall be conducted in an orderly manner.

Section 2. Calling of Special and/or Emergency Meetings. The Chair may call special and/or emergency meetings in his or her discretion for substantial reasons warranting the convening thereof and shall also call such meeting upon the written request of at least three members of the Board. A notice to the board members stating the place, date, hour and agenda (as determined by the Chair in the furtherance of his or her exercise of discretion, or to cover subject matter specified in the request made by the herein above specified individuals) shall be delivered either verbally or in writing, as practicable, to each member at least 24 hours prior to the special or emergency meeting. Where time permits and practicable conditions allow, the Chair shall attempt to disseminate a brief written statement of the matters to be discussed at any such meeting.

Section 3. Public Notice of Board Meetings. The Board shall give public notice of regular monthly meetings and special and/or emergency meetings. The meeting notification requirements of the Open Meetings Law of the state shall apply to the regular monthly meetings. Print, television, radio and other news media entities that have requested the Board to be notified regarding special and/or emergency meetings shall be given as much advance notice as practicable before the time of any such special and/or emergency meeting. The Administrative Agency will coordinate the giving of notice as required under this section.

Section 4. Agenda Form of the Board. The regular order of business at regular, special and/or emergency meetings shall be as follows:

Regular Monthly Meetings

- (a) Call to order
- (b) Roll call
- (c) Acceptance of minutes of last regular meeting of Board
- (d) Changes to agenda
- (e) Public comment
- (f) Communication made to the Board from the Mayor, President or Members of the Common Council or Chief of Police
- (g) Board member announcements
- (h) Report from the Chair
- (i) Committee reports
- (j) Old business
- (k) New business
- (l) Review of complaints
- (m) Adjournment

#### Special and/or Emergency Meetings

- (a) Call to Order
- (b) Reading of the notice of the meeting and roll call
- (c) Public comment
- (d) Transaction of the business for which the meeting was called and recommendations.
- (e) Call of executive session if warranted.
- (f) Adjournment

Such order may be varied at the discretion of the Board or the Chair.

Section 5. Voting by Proxy Prohibited. There shall be no vote by proxy at any meeting of the Board.

Section 6. Public Comment Allowed. Time shall be made available for open public comment at all meetings of the Board, exclusive of those portions of a meeting conducted in executive session. The Chair may establish a reasonable time limit for public comment based upon the scope of the agenda established for the particular meeting. The Chair shall announce the time limit for public comment, which time limit shall not ordinarily be less than 30 minutes. The Chair, or the Board, upon motion approved by a majority of its members, may provide for an extension of the time period for a period as specified in the motion. The Chair shall recognize speakers and may establish uniform time limits per speaker, which time limits shall not ordinarily be more than three minutes per individual. Public comment shall be limited to matters which involve the Albany Police Department and the responsibilities of the Board under Part 33. The public comment portion of the meeting shall not be used as a forum to comment upon other matters of public interest which are not directly related to the mission of the Board.

Section 7. Making of Motions. Motions may be made or seconded by any member of the Board, including the Chair.

Section 8. Confidentiality of Privileged Information. Members of the Board shall maintain the confidentiality of all confidential or privileged information received in the course of their service on the Board, in accordance with the provisions of State and local law, including but not limited to Part 33 and Section 50-a of the Civil Rights Law of the State of New York. Members shall maintain a thorough knowledge of the legal protection accorded by State and local law to the privacy of police records, including the penalties for the violations of laws which guarantee the security of such records and the individuals' rights of privacy and confidentiality.

Except as expressly authorized by the Chair or the Board in the furtherance of members duties, members of the Board shall make diligent efforts to avoid ex parte discussion of any matter that is or may come before the Board with any person interested in such matter. A member who has had an unauthorized communication concerning an agenda item outside of a public meeting with an interested party, including but not limited to a complainant, an officer or other employee of the Department who is a subject of a complaint, a witness to the events giving rise to such complaint, any person representing or purporting to represent the interests of any such person, or a relative of any such complainant, officer or employee of the Department or witness, shall promptly notify the Chair of the contact, and furnish to the Chair the name of such interested party, the nature of the interest and the specifics of the communication, including copies of any correspondence with such party and a written synopsis of any portion of the communication that was verbal.

Section 9. Recommendation for Removal of a Member for Violation of Provisions Relating to Confidential and Private Information. The Board, by a vote of at least six members, may recommend to the Common Council the removal of a member from the Board for cause based upon a violation of the provisions of section 8 of this article or any provision of Part 33 or other local or state law that guarantees the security of confidential records or the rights of privacy for individuals, including, but not limited to, complainants and any officer or other employee of the Department who is the subject of a complaint.

Section 10. Conflicts of interest; Member Recusal. Members who believe they have a conflict of interest on a matter about to come before the Board shall state the reason for the conflict of the interest, leave the meeting before discussion of the matter begins, and remain out of the meeting during the discussion of the matter and during any vote taken thereon.

Section 11. Voting. Five members of the Board shall constitute a quorum. The Board shall take no action at a meeting other than to recess or adjourn in the absence of a quorum. Except as otherwise provided herein, the affirmative vote of no fewer than five members is required for adoption of any action or motion, including a motion for the Board to conduct an executive session under Article VII of the Public Officers Law of the State of New York. Upon request of any member, voting on a motion or resolution shall be by roll call and will be recorded by yeas and nays. Every member of the Board, including the Chairperson, is required to cast a vote upon each motion. A member who abstains shall state the reason for abstention.

Section 12. Roberts Rules of Order. The rules of the current edition of Roberts Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules or order the Board may adopt. The application of Roberts Rules of Order may be suspended by the Chair for all or any part of a Board meeting unless suspension is objected to by a majority of the members of the Board.

#### ARTICLE VII: COMMITTEES

Section 1. Standing Committees. The standing committees of the Board shall be:

- (a) Bylaws and Rules
- (b) Community Outreach
- (c) Police Department Liaison
- (d) Public Official Liaison
- (e) Complaint Review
- (f) Such other standing committee(s) as the Board may by resolution authorize from time to time

Section 2. Duties of Standing Committees. Each of the standing committees shall perform the functions specifically delegated to such committee by the applicable section of this Article pertaining thereto or the resolution creating such committee. In addition, each standing committee shall perform such other functions as the Chair shall assign.

Section 3. Standing Committee on Bylaws and Rules. The Standing Committee on Bylaws and Rules shall be charged with periodically reviewing the effectiveness of these Bylaws and Rules as such relate to advancing the efficient conduct of board business. The committee shall make an annual report to the Board at its December

regular monthly meeting containing any recommendations for amendments, which shall be considered for adoption by the Board at its January meeting.

Section 4. Standing Committee on Community Outreach. The Standing Committee on Community Outreach, working with the Administrative Agency, shall be charged with developing a broad program of outreach to all sectors of the city populace for the purpose of informing the diverse communities of the city of Albany with respect to the mission of the Board and its duties, functions, powers and responsibilities under Part 33 of Chapter 42 (Departments and Commissions) of the Code of the City of Albany.

The committee shall endeavor to design a program that will improve the relationship between the diverse communities of the City and the Department, taking into account to the extent the committee deems necessary, desirable or appropriate age, race, ethnicity, religious, philosophical or political persuasion, gender identity, sexual orientation, and economic status. The committee shall consider the creation of advisory committees to the Board involving diverse interest groups in the City. The program shall maximize the dissemination of information to the public through pamphlets, media press releases, public appearances or other methods reasonably calculated to heighten public awareness of the role of the Board in achieving its goals of improving communications between the Police Department and the Community; increasing police accountability and credibility with the public; and creating a complaint review process that is free from bias and informed of actual police practices.

The committee shall consult with the Standing Committee on Complaint Review to coordinate a procedure for making available complaint forms at convenient sites throughout the city.

The committee shall issue quarterly reports to the Board with respect to its outreach program and its future plans and may issue update reports more frequently.

Section 5. Standing Committee on Police Department Liaison. The Standing Committee on Police Department Liaison shall be charged with the duty of acting as a liaison between the Board and the Department. Contact between the committee and the Department shall be through the office of the Chief of Police and certified union representatives. **The Committee shall meet with the Chief of Police or the Chief's designees and with certified union representatives either upon the committee's request or at the request of elected or appointed union officials** on a periodic basis to discuss matters of mutual concern. The committee shall also meet periodically with representatives of the higher-ranked officers of the Department who are not represented by the Union. The chair of the Committee shall provide the Chief of Police with advance courtesy notice with respect to any such meeting with union officials or other higher-ranked officers not represented by such union.

The chair of the committee shall establish with the Chair a schedule for making reports to the Board of the **committee's actions under this section**. Where authorized and/or required by Article VII of the Public Officers Law of the State of New York, such reports shall be made in whole or in part in executive sessions of the Board.

Section 6. Standing Committee on Public Official Liaison. The Standing Committee on Public Official Liaison shall be charged with periodically meeting with the Mayor, the Corporation Counsel, and the President of the Common Council. Such meetings shall be conducted upon the request of such officials and may include one or more elected members of the Common Council. The chair of the committee may also request such additional meetings with such officials as may be necessary, appropriate or desirable to further the effectiveness of the Board

and the accomplishment of its mission. Such meetings shall be scheduled at mutually convenient times.

The committee may engage in discussions with such public officials on topics of interest to them or the Board that relate specifically to the inter-relationship of the Board, the Police Department, the Office of the Mayor, or the Common Council with respect to the duties, powers and functions of the Board under Part 33. The Chair shall bring any matters discussed that bear upon the submittal or filing of complaints and/or the action of the Chief of Police or the Professional Standards Committee upon such complaints to the attention of the chair of the complaint review process as the Chair shall determine appropriate.

The committee shall establish with the Chair a schedule for making reports to the Board of the committee's actions under this section where authorized and/or required by Article VII of the Public Officers Law, such reports shall be made in executive session.

Section 7. Standing Committee on Investigations. The Standing Committee on Investigations, with the assistance of the Administrative Agency, shall be charged with assisting the Board in fulfilling its responsibilities under Part 33, with specific focus on the role of the Board under sections 42-342, 42-343 and 42-345 of such Part.

The committee, with assistance from the Administrative Agency, shall develop procedures that will assist the Board in fulfilling its responsibilities in an informed and deliberative manner. Such procedures shall provide, without limitation, that:

- (a) Members shall be entitled to view the entire preliminary report of the Chief of Police on each complaint, including underlying materials determined to be relevant by members, and the report prepared by any individual appointed by the Board as observer, monitor or investigator.
- (b) Members shall be entitled to question a representative of the Professional Standards Unit having principal responsibility for the preparation of the preliminary report and the individual appointed by the Board as an observer, monitor or investigator.
- (c) Members shall be entitled to request fuller description of the matter contained in the preliminary report and shall be entitled to ask such other questions as needed to enable members to vote on a fully informed basis regarding the findings to be determined with respect to a case.

The conduct of the members of the Board with respect to its actions under the sections of Part 33 enumerated in this section shall be subject to procedures adopted by the Board for the transaction of its affairs. Such procedures shall address the utilization and evaluation by the Board of the services of observers, monitors and investigators. In order to assist the community, as well as to enable the Board to comply with Article VI of the Public Officers Law, the Administrative Agency shall be the repository of all complaints submitted to the Board or received by the Board from the Chief of Police. The Agency shall assist the Board in its compliance with section 42-342 A of Part 33.

The Standing Committee on Investigations shall periodically communicate and meet with the Corporation Council, the President Pro Temp of the Common Council, the Chair of Albany Common Council's Public Safety Committee, and the Albany Police Department (APD) Chief of Police. The committee shall hold biweekly

meetings with the Administrative Agency, designated agents of the Board, and the Board members. The chair of the committee may also request such additional meetings with board members as may be necessary, appropriate, or desirable to further the effectiveness of the Board. The Committee, with assistance from the Administrative Agency, shall be charged with:

- (a) Monitoring and tracking all expenditures related to mediation, monitoring, and investigations.
- (b) Reviewing and assessing APD General Orders/policies, procedures, patterns, practices, and training, and making recommendations for changes to both the Board and APD as necessary.
- (c) Participating in the review, consideration, and determination of Board actions regarding complaints filed with the Office of Professional Standards or with the Board at the Administrative Agency. The Committee shall assess the need for mediation, monitoring, or investigative assignment and promptly notify the Administrative Agency of its determinations.
- (d) Formulating findings related to each case by using a multi-step process based upon factual determinations, and providing a comprehensive and reliable account of events.
- (e) Tracking the progress of ongoing investigations and providing reports at the Board's public monthly meetings.
- (f) Interpreting and informing the diverse communities of the City of Albany about applicable laws, policies, and procedures.
- (g) Advocating, within the bounds of the law, for the provision of all relevant evidence and materials to be provided to The Board members and designated agents of the Board.

The Committee on Investigations shall periodically consult with the Standing Committee on Police Department Liaison to discuss matters of mutual concern and ensure effective collaboration.

These provisions of Article VII of the Public Officers Law govern the establishment, responsibilities, and operations of the Standing Committee on Investigations.

Section 8. Limitation on Service as Chair or Member of Committees. No member shall serve as the chair of more than one standing committee at the same time. Each such committee shall be comprised of not less than three nor more than five members. No member shall be required to serve on more than two committees of the Board, inclusive of the standing committees established under this Article. A member may indicate to the Chair his or her willingness to be appointed as a member of more than two committees.

After the election of the initial chair of the Board following approval of these Bylaws and Rules by the Common Council and the appointment by the Chair of the chairs of the standing committees created by this article, all temporary appointments made by the Board at its initial meeting of November 30, 2000, shall terminate.

Section 9. Ethical Conduct. The Code of Ethics adopted on August 12, 2015, by the National Association for Civilian Oversight of Law Enforcement (NACOLE) shall govern the members of the Board in all conduct and instances to which they are applicable and in which they are not inconsistent with these bylaws and any special



rules or order the Board may adopt. See Appendix A for the Code.

Section 10. Conflict of Interest. When a complaint investigation before the CPRB presents an actual or potential conflict of interest for a Board member, the Board member shall recuse himself or herself from discussion and consideration of the particular complaint investigation. Where a member has recused himself or herself, the recusal shall be noted in the meeting minutes. A conflict of interest occurs in instances that include but are not limited to where a CPRB member is the complainant, a witness to an incident that is the subject of a complaint, the attorney or other legal representative for the complainant, or the officer who is the subject of the complaint.

CPRB members are required, once the facts that might create an actual or potential conflict become known, to immediately disclose to the Chair and Program Manager any professional, personal, or financial relationship with any complainant, witness, or police officer involved in an incident under review by the CPRB that may raise the possibility of an actual or potential conflict of interest in regard to an investigation. CPRB members have an affirmative obligation to examine any circumstances that might create an actual or potential conflict of interest and to avoid even the appearance of impropriety. However, the Board does not consider that mere acquaintance with a complainant, witness, or officer involved in an incident under investigation creates an actual or potential conflict of interest. Board members are encouraged to engage in dialog with the Chair and/or Program Manager and/or Board Counsel regarding whether recusal is necessary or appropriate, the determination as to whether to recuse from a case is an individual determination to be made by the Board member.

#### ARTICLE VIII: CONDUCT OF BUSINESS

Section 1. Committee Reports. If Committees have information to report at the regular monthly meeting, the Chair shall recognize the chair of the committee and ask the chair to make the committee report.

At each regular monthly meeting, the chair of the standing committee on compliant review shall provide a summary report of the findings made by the Board on complaints at the preceding regular monthly meeting. The report shall state the number of investigations the Board reviewed and deliberated upon and the number of findings the Board made thereon. Pursuant to section 42-344 A of Part 33 the Board may render six different categories of findings. The report shall be strictly limited to the number of findings made under each of the six categories enumerated in section 42-344 A. The confidentiality that governs the review and deliberation of investigations and the findings made on specific cases shall be preserved as required by law. The purpose of this report is limited to providing a summary of Board findings by category and shall not include any case specific information. The Chair shall not permit any questions by any Board member which extends beyond the citation of the number of findings by category.

Section 2. Old Business. Under the agenda item of old business, the Board shall consider any unfinished business from previous meetings and members may seek such clarifications of actions taken by the Board at a previous meeting as the member shall deem helpful.

Section 3. New Business. Under the agenda item of new business, the Board shall consider any matters noticed by the Chair under this item as set forth in the mailed agenda as well as any item of new business added to the agenda at that regular monthly meeting by majority vote of the members.

Section 4. Review of Complaints, in Executive Session. At the conclusion of discussion of new business, the

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Board shall, if necessary to comply with applicable laws and permitted under the Open Meetings Law (Article VII of the New York Public Officers Law), recess and convene in executive session for the purpose of its review and deliberation, in whole or in part, of complaint investigations and the making of findings on cases before it in such session and such other specific business, if any, as may be properly considered in executive session. Nothing herein shall be construed to permit the consideration of any matter in executive session contrary to law.

In reviewing and deliberating a complaint investigation and its findings thereon, the Board shall give highest priority consideration to cases alleging the use of excessive force or a violation of civil rights (including complaints pertaining to civil rights as defined by New York Civil Rights Law, ch 6, art. II, and discrimination based upon protected characteristics as defined in New York Human Rights Law, ch. 18, art. XV). The Board shall give priority to cases based upon the length of time that has intervened between the submittal or filing of a complaint and the time that case was first presented to the Board **pursuant to the preliminary report of the Department's findings.** The previous sentence shall be construed to include all pending complaints that were made to the former Community Police Relations Board. The Board shall give the next order of priority to all cases wherein the Board **was unable to render a finding within 60 days of the receipt of the preliminary report of the Department's findings.**

Section 5. Board Rules to be Utilized in the Review of Complaint Investigations and the Making of Findings when in Executive Session. The Board shall adhere to the following rules for each case:

- (a) The Chair shall announce each case. The Chair may assign this duty to the chair of the standing committee on complaint review.
- (b) The Chair, or such committee chair, as the case may be, shall review with the Board the **preliminary report of the Department's findings to the Board.** Such review shall also include consideration of the preliminary or final findings made by the individual appointed by the Board as an observer, monitor and investigator pursuant to Section 42-343 of Part 33, and any other information the committee may have received bearing upon the complaint.
- (c) The Board shall consider the content of the preliminary report, the response from the Mayor and the Chief and all other relevant information as described in subdivision (b) of this section. Video and audio tapes, if available, may be reviewed in the discretion of the Board.
- (d) Upon completion of the review of such report or response, discussion shall be conducted by the members regarding such Report or response.
- (e) At the conclusion of such discussion, written findings by the Board shall be made consistent with section 42-344 of Part 33. The Board shall then comply with section 42-345 of Part 33. The written findings made by the Board shall be made known to the Chief of Police, the affected officer, and the complainant within 30 days under such section 42-345. The Chief of Police shall review the Department's preliminary report in light of the Board's finding and then make the Department's final determination known to the Board, the affected officer, and the complainant. In the event that the Department's final determination is inconsistent with the Board's finding, the Board may request

that the Chief provide a written explanation of the Department's final determination. The report shall indicate the vote of the Board on the particular case, indicating the number of ayes, nays, and abstentions on the matter. There shall be no indication of the names of the members who cast such votes.

- (f) The written findings of the Board shall be signed by the Chair or, in the absence of the Chair, by the Vice-Chair.

Section 6. The board shall adopt such additional procedures as shall be necessary to regulate the conduct of executive sessions.

Section 7. At the conclusion of its business in any executive session, the board shall recess and return to the regular order of the agenda.

#### ARTICLE IX: PUBLIC ACCESS TO BOARD RECORDS AND CONDUCT OF OPEN MEETINGS

Section 1. Board Compliance with Freedom of Information Law and Open Meetings Law. The Board shall comply with Article VI (Freedom of Information Law) and Article VII (Open Meetings Law) of the Public Officers Law.

Section 2. Role of the Administrative Agency. The Administrative Agency shall serve as the repository of all Board records and assist the Board in maintaining such records, and in granting public access to such records under Articles VI and VII of the Public Officers Law. Where desirable, and with the consent of the Chair, the Administrative Agency may enter into agreement with the City Clerk to assist the Agency with its role under this section.

#### ARTICLE X: MISCELLANEOUS PROVISIONS

Section 1. Annual Report of the Board. The Administrative Agency, on behalf of the Board, shall file quarterly and annual reports with the Common Council and the Mayor which contain statistics and summaries of complaints, including a comparison of the Board's findings with the final determinations of the Department. Such report shall be submitted to the Board at its November meeting and shall be acted upon at its December meeting.

The Administrative Agency shall contract with one or more local colleges, universities, or research institutions to conduct surveys of complainants concerning the level of their satisfaction with the process and to conduct surveys of the community to get feedback concerning the Board and the Police Department. The results of those surveys shall be reported to the Board, the Chief of Police, and the Common Council. In addition, the Administrative Agency shall collect data concerning alleged offenses and offenders and report this data to the Chief of Police. The Chief shall analyze and use the data concerning repeat alleged offenses and offenders to implement an "early warning system" to track repeat alleged offenses and offenders reported to the Board and the Police Department.

Section 2. Member Training; Ride-a-longs Advised. The Board reaffirms the merit of members fully complying with the training, orientation and continuing education provisions detailed in section 42-339 of Part 33.

The Board recommends that each member of the Board participate in at least three ride-a-longs per year

lasting an aggregate of not less than ten hours, but the failure to do so by any member shall not disqualify such member from performing his or her duties as a member.

Section 3. Good Faith Complaints. It is the policy of the Board to encourage persons with good faith complaints of misconduct by an officer or other employee of the Department, including but not limited to an alleged use of excessive force or a violation of any individual's rights through the action of a police officer, to submit such complaints in writing to the Board or to the Department.

Complaints alleging excess use of force and violation of civil rights (as defined in Article XII, Section 4, of Bylaw and Rules) shall be given highest priority of consideration by the Board.

The Board will make every effort to ensure that no adverse consequences will result to any person or witness as a result of submittal or filing of a complaint in good faith. The Board will request that the Chief of Police promptly investigate any claim of retaliation arising from the submittal or filing of a complaint and report the findings of such investigation to the Board in the same manner that other complaints of misconduct are investigated and reported.

Section 4. Annual Review by Board. The Board shall conduct an annual review, with the assistance of the Administrative Agency, to evaluate the city's complaint investigative and review process. Such review shall include, without limitation, an analysis of trends and patterns in complaints, investigations and discipline. Upon completion of the annual review, the Board shall transmit to the Mayor, the President of the Common Council, and the Chief of Police its written findings incident to such review and all remedial recommendations, including any proposed amendments to Part 33, the Board determines necessary or advisable.

Section 5. Advisory Opinions of the Board prohibited. Neither the Board nor any member shall render any advisory opinion to any person or persons with respect to the preparation of a complaint or to any officer or other employee of the Department who is the subject of or who may become the subject of a complaint investigation.

#### ARTICLE XI: RULES OF PROCEDURE

Section 1. Adoption of Rules of Board. Within 180 days after approval of these Bylaws and Rules by the Common Council, the Board shall adopt such rules of procedure as it may determine further necessary, desirable or appropriate for the performance of its duties, powers, functions, and responsibilities under Part 33, and may thereafter amend, modify or supplement such rules of procedure.

Such rules, which shall be consistent with such Part 33 and any other applicable provision of law, may address the following matters:

- (a) The procedure used by the Board for the purpose of making recommendations to the Common Council for the removal of members of the Board, pursuant to section 42-335 of Part 33, for repeated absences, for violations of requirements of protection of privacy rights and preservation of confidentiality, and for other matters of serious misconduct that impugns or threatens to adversely affect the integrity of the Board, inability to perform duties related to the Board and which, as determined by the Board, that in the determination of the Board constitutes cause for removal by the Common Council;

- (b) The appointment by the Board of individuals who serve as observers, monitors, and investigators and the consideration of their reports under section 42-343. Any rule addressing these provisions shall specify that no report of an investigator appointed pursuant to section 42-343 shall be made to the Chief of Police without the express authorization of the Board acting by majority vote;
- (c) The establishment of consistent procedures to be adhered to by the Board in executing the powers of the Board under section 42-343 in Part 33. The Board shall specify a consistent procedure which shall govern the method it will utilize to make its findings in executive session under section 42-344 of Part 33;
- (d) Such other matters as the Board may deem necessary, appropriate or desirable to operate effectively or based upon a review of its activities up to the date such rule is proposed for adoption.

Section 2. Waiver of Rules by Chair or Board. Upon the recommendation of the Chair for good cause shown, or where the strict application of any rule would serve to cause an injustice or to curtail the Board in the performance of its duties, functions, and powers, the Board, by affirmative vote of not less than six of its members, waive in whole or in part the requirement of any rule in application to a specified matter under its consideration, provided that the rule governing the method of making its findings in executive session under section 42-344 of Part 33 shall not be waived.

#### ARTICLE XII: AMENDMENTS

##### Section 1. Bylaw and Rules Amendments.

- (a) These Bylaws and Rules may be amended only at a regular monthly meeting of the Board, provided that written notice of the proposed amendment be given to each Board member no later than the regular monthly meeting conducted prior to the meeting at which the members will vote on the proposed amendment. Presentation to the Chair of a copy of such proposed amendments for the benefit of an absent member shall satisfy the herein above requirements. The Chair shall provide the text of the amendments to any absent member as soon thereafter the end of the meeting as practicable but not later than three days subsequent thereto. Subject to the provisions of subsection (b) of this section, the Board may adopt such amendment at its next regular monthly meeting or it may consider and approve a modified amendment prepared in accordance with such subsection (b). In no case, however, shall any adopted by-law or rule be applicable to any complaint commenced prior to the adoption of such amendment, where the application thereof to complainant, any officer or other employee of the Department who is the subject of the complaint or other interested party would result in surprise, hardship or injustice to any such person.
- (b) Any member of the Board may submit a proposed by-law and rules amendment to the Board in complete written form at any regularly monthly meeting. Action upon the proposed by-law and rules amendment shall be deferred until the next regular monthly meeting. The Chair may request the Committee on Bylaws and Rules to review the proposed bylaw and rules amendment and further request such Committee to work with the sponsor of the proposed amendment with respect to any modifications the Committee may deem appropriate. If the sponsor agrees to modify the proposed

amendment, the Chair shall forward a copy of the proposed amendment as so modified to the members of the Board at least 7 days prior to the next monthly meeting. If the sponsor prefers that his or her original proposal be submitted to the Board for its consideration at the next monthly meeting, the Board shall consider such proposal. The Board may also consider modifications to the original proposal as recommended by such committee if the Chair forwards a copy of such modifications to the members of the Board at least 7 days prior to the next meeting.

## APPENDIX A



### National Association for Civilian Oversight of Law Enforcement

#### Code of Ethics

##### **PREAMBLE**

*Civilian oversight practitioners have a unique role as public servants overseeing law enforcement agencies. The community, government, and law enforcement have entrusted them to conduct their work in a professional, fair and impartial manner. They earn this trust through a firm commitment to the public good, the mission of their agency, and the ethical and professional standards described herein.*

*The standards in the Code are intended to be of general application. It is recognized, however, that the practice of civilian oversight varies among jurisdictions and agencies, and additional standards may be necessary. The spirit of these ethical and professional standards should guide the civilian oversight practitioner in adapting to individual circumstances, and in promoting public trust, integrity and transparency.*

##### **PERSONAL INTEGRITY**

Demonstrate the highest standards of personal integrity, commitment, truthfulness, and fortitude in order to inspire trust among your stakeholders, and to set an example for others. Avoid conflicts of interest. Conduct yourself in a fair and impartial manner and recuse yourself or personnel within your agency when a significant conflict of interest arises. Do not accept gifts, gratuities or favors that could compromise your impartiality and independence.

##### **INDEPENDENT AND THOROUGH OVERSIGHT**

Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional, or political consequences.

##### **TRANSPARENCY AND CONFIDENTIALITY**

Conduct oversight activities openly and transparently, providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.

##### **RESPECTFUL AND UNBIASED TREATMENT**

Treat all individuals with dignity and respect, and without preference or discrimination including, but not limited to: age, ethnicity, citizenship, color, culture, race, disability, gender, gender identity, gender expression, housing status, marriage, mental health, nationality, religion, sexual orientation, socioeconomic status, or political beliefs, and all other protected classes.

Adopted by the Board of Directors on August 12, 2015

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#### **OUTREACH AND RELATIONSHIPS WITH STAKEHOLDERS**

Disseminate information and conduct outreach activity in the communities that you serve. Pursue open, candid, and non-defensive dialogue with your stakeholders. Educate and learn from the community.

#### **AGENCY SELF-EXAMINATION AND COMMITMENT TO POLICY REVIEW**

Seek continuous improvement in the effectiveness of your oversight agency, the law enforcement agency it works with, and their relations with the communities they serve. Gauge your effectiveness through evaluation and analysis of your work product. Emphasize policy review aimed at substantive organizational reforms that advance law enforcement accountability and performance.

#### **PROFESSIONAL EXCELLENCE**

Seek professional development to ensure competence. Acquire the necessary knowledge and understanding of the policies, procedures, and practices of the law enforcement agency you oversee. Keep informed of current legal, professional and social issues that affect the community, the law enforcement agency, and your oversight agency.

#### **PRIMARY OBLIGATION TO THE COMMUNITY**

At all times, place your obligation to the community, duty to uphold the law and to the goals and objectives of your agency above your personal self-interest.

The following oversight agencies have adopted the NACOLE Code of Ethics:

- Citizen Oversight Board, City & County of Denver, CO
- Citizens' Law Enforcement Review Board, San Diego County, CA
- Citizens' Review Board on Police Practices, San Diego, CA
- Civilian Review Board, Eugene, OR
- Independent Review Panel, Miami, FL
- Milwaukee Fire and Police Commission, Milwaukee, WI
- Office of Citizen Complaints, San Francisco, CA
- Office of Community Complaints, Kansas City, MO
- Office of Police Complaints, Washington, D.C.
- Office of Professional Accountability, Seattle, WA
- Office of the Community Ombudsman, Boise, ID
- Office of the Independent Monitor, City & County of Denver, CO
- Office of the Independent Police Auditor, Bay Area Rapid Transit District, San Francisco, CA
- Office of the Independent Police Auditor, San Jose, CA
- Office of the Police Auditor, Eugene, OR
- Office of the Police Ombudsman, Spokane, WA
- Richmond Police Commission, Richmond, CA





**CITY OF ALBANY  
COMMUNITY POLICE REVIEW BOARD  
PUBLIC MONTHLY MEETING  
MEETING MINUTES**

*June 13, 2024, at 6:00 p.m.  
Albany Law School, Room W212*

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

CPRB Chair Nairobi Vives called the meeting to order at 6:00 PM.

**BOARD MEMBERS PRESENT:**

CPRB Chair Nairobi Vives, Vice Chair Dr. Veneilya Harden, John Levendosky, Antionette Santos, Michael G. Gaynor, Rev. Dr. Victor L. Collier, and Paul Collins-Hackett.

**OTHERS PRESENT:**

Deputy Director of the Government Law Center Patrick Woods, CPRB Program Manager Michele Andre, Outside Counsel Michael Goldstein and Outside Counsel Mark S. Mishler.

**II. AGENDA APPROVAL (N. Vives)**

Before approval, Chair Vives moved to change the order of items in New Business.

Chair Vives moved to approve the amended meeting agenda. Motion seconded and passed.

**III. NEW BUSINESS**

Chair Vives introduced former board member, Matthew Ingram, granting him the opportunity to speak about his time on the board and say goodbye to his former colleagues.

Former board member, Matthew Ingram, reflected upon his time on the board, thanking the members of the board and the community. He noted that his eight years of service on the board was a great experience and reiterated his support of the board's mission in building trust between law enforcement and the community.

Chair Vives thanked former Board Member Ingram for his service and continued support of the board. Dr. Harden extended her thanks to former Board Member Ingram for his teachings and his continued contributions to the board.

Chair Vives introduced and welcomed new board member Michael G. Gaynor and granted him the opportunity to speak to the board.

Board Member Gaynor noted his commitment to listening and learning in his new role, expressing that as a lifelong resident of the city of Albany he understood the importance of a properly functioning criminal justice system.

Chair Vives announced an upcoming Citizen Police Academy, taking place June 26<sup>th</sup> for board members that had not yet completed the course and new board members.

Sergeant Sayre, the acting Sergeant of the training unit for the police department, reiterated that the start date for the course was June 26<sup>th</sup> and that it would run for 12 weeks, ending on September 18<sup>th</sup>. He noted that the academy would not be in session during the week of July 4<sup>th</sup> due to the holiday. He further noted that the hours of the course would be from 6:00pm to 9:00 pm, held either at the academy building on Washington Ave Extension, or the training center/West Station on Washington Ave Extension.

Chair Vives moved to address Member Romero's update on the CPRB administrative agency transition in Local law D of 2024. Member Romeo was not present, and Chair Vives elected to move on to the remainder of the agenda.

## **PUBLIC COMMENT**

There were no public commenters during this meeting.

## **IV. CONSIDERATION OF SUBPEONA (M. Goldstein & J. Schwartz)**

Investigator Goldstein explained that counsel was seeking approval to move forward with a separate litigation to enforce compliance with a subpoena for documentation concerning a police-involved shooting, taking place on April 17<sup>th</sup>. He explained that hard copies of the documentation had been requested by counsel from OPS, as well as records from the criminal investigation units, and that counsel had been refused the documentation.

Investigator Schwartz reiterated that even after serving the subpoena counsel did not receive access to the documentation they requested. She further noted that they received

a limited response to a letter written by Investigator Goldstein on their behalf but still did not receive the entirety of the documentation they had requested. She restated that counsel was looking to move forward on litigation to enforce the subpoena.

Chair Vives moved to approve a motion to compel for the subpoena served on the independent investigation for the officer involved shooting. Motion seconded and passed. The voting results are as follows: six members (Vives, Harden, Collier, Levendosky, Person and Santos) voted affirmatively, while one members (Gaynor) voted negatively.

## V. CASE UPDATE & REVIEW

**CC2019-029**

**(J. Levendosky)**

Board member Levendosky reported that on April 11<sup>th</sup>, 2024, former board member Matt Ingram added three supplemental issues to the complaint, which included:

- detectives not wearing body-worn cameras;
- officers turning body worn camera microphones off during the incident; and
- one officer wearing a Blue Lives Matter wristband.

On May 8<sup>th</sup>, 2024, the investigator assigned by Detective Johnson, reported that at the time of the incident the officers had not been issued body-worn cameras. He further reported that there was nothing in the policy concerning an officer wearing a wristband of that nature or officers turning off their microphones, except that officers were instructed during training to only mute their microphones when discussing tactics or speaking with a supervisor.

Board member Levendosky reported the findings of the monitor in conjunction with former board member Matt Ingram as follows;

- With regards to the 1 count of allegation of improper Body Worn Cameras, No. General Order 3.2.15, the CPRB reached a finding of **Sustained**.
- With regards to the 2 counts of allegation of improper Use of Force, the CPRB reached a finding of **Not Sustained**.
- With regards to the 2 counts of allegation of improper Use of Force, the OPS reached a finding of **Unfounded**.
- With regards to the 2 counts of allegation of improper Conduct Standards, General Order No. 2.2.00, the OPS and CPRB reached a finding of **Unfounded**.

Board member Levendosky moved to make a motion on those findings as they stood.

Chair Vives asked for a seconding of board member Levendosky's motion. Motion seconded and passed. The voting results are as follows: seven members (Vives, Harden,

Collins-Hackett, Collier, Levendosky, Person and Santos) voted affirmatively, while one members (Gaynor) chose to abstain.

## **VI. NEW BUSINESS**

Chair Vives reintroduced council member Romero, who was present with an update on Local Law D.

Council member Romero began by presenting the most recent version of Local Law D and explained that Local Law D would effectively bring the CPRB into the city as an entity, serving as a codification, or piece of legislation that would make that action official and formalize the legal process through which CPRB would exist under common council.

Council member Romero then granted Kevin Cannizzaro and Michael Goldstein the opportunity to comment on the most recent version of Local Law D. Michael Goldstein did not have any comments. Kevin Cannizzaro commented on council member Romero's contribution and the success of the final product.

Council member Romero explained what the next steps would be in the approval process of the bill, asking for the counsel's submitted support of the bill before the committee meeting where it would be voted on.

Chair Vives reiterated the importance of Local Law D in formalizing the CPRB as an independent entity. She commented on counselor Cannizzaro's contributions, as well as the contributions made by council members Romero, Robinson, and Hoey, and the rest of the common counsel.

Board member Collins-Hackett briefly commented on the contributions of counselor Cannizzaro and council member Romero.

Chair Vives then gave counselor Cannizzaro the opportunity to comment. Counselor Cannizzaro commented on the leadership qualities of the board as well as the contributions made by council member Hoey, Robinson, and the other co-sponsors of Local Law D.

Chair Vives commented on counselor Cannizzaro's departure from the board. Counselor Cannizzaro thanked Chair Vives and concluded.

## **VII. CASE UPDATE & REVIEW**

**CC2020-008**

**(V. Harden)**

The complaint was received in June of 2020, and was filed on May 30<sup>th</sup>, 2020. Dr. Harden reported that the complainant was awoken by a spotlight in her bedroom window and a strong odor, which was later identified as tear gas. She reported that the

complainant suffered from sore eyes and a scratchy throat for around 24 hours after the incident.

Dr. Harden reported that the summary of her review coupled with what she received from OPS, showed that the complaint was reviewed on January 31<sup>st</sup>, 2024, nearly four years after the initial complaint was filed.

Dr. Harden reported that APD policy only allowed officers who had undergone specified training the privilege to deploy chemical agents and that at the time of the incident the use of chemical agents in the city of Albany was not banned. She reviewed GEO number 1.300, which authorized regions discretion to determine the appropriate use of OC spray, including in instances of civil demonstrations in which subjects were passively resistant or in crowded areas with the approval of a supervisor, absent any exigent circumstances. She reported she had also reviewed call tickets relevant to the complaint.

Dr. Harden reported that Sergeant Logan had received a call from the state police that evening to assist with approximately 300 individuals protesting in front of the governor's mansion. She further reported that the incident was one of a multi-agency approach, with members of the Albany Police Department deployed, as well as the Colony Police, the State Police, and fire departments from East Green Bush.

Dr. Harden stated the three allegations outlined in the complaint, including:

- call handling;
- conduct standards; and
- use of force.

Dr. Harden then gave the complainant the opportunity to speak.

The complainant noted that as a resident of Albany she had never experienced such an overreaction. She explained that the governor's mansion was two and a half blocks away from her home and there had been no people or protestors on her street. She noted that tear gas was a known endocrine disruptor and lung and eye irritant, and that she found it was outrageous that the use of chemical agents in residential areas had been approved.

The complainant stated the following questions:

- who was approved to use the chemical agent;
- how had it been approved;
- why was it approved when no civil disobedience was occurring in that area; and
- why weren't residents in those areas warned?

Lieutenant Decker explained that the situation on that evening had evolved to the point where there was a dictated necessity for the use of the chemical agent, and that individuals at the scene had determined it was necessary. The complainant asked Lieutenant Decker to clarify whether the personnel who were present at the time of the

incident were those who were approved for use of the chemical agent. Lieutenant Decker clarified that the approved individuals were the ones who had responded to the incidents going on that night.

The complainant questioned why tear gas had been unleashed nearly two and a half blocks away from where the protests were occurring.

Dr. Harden stated that the records listed Officer Scott Patterson as the officer who gave the order to deploy the chemical agents. Lieutenant Decker answered stating that there was no mention of Officer Patterson in the OPS materials that he had been supplied.

Dr. Harden clarified that because it was a multi-agency response it was unclear who had actually deployed in the area of the complainant's home. She stated that there was no video footage showing what happened in the complainant's neighborhood, and that officers took appropriate action based on APD policy.

Board member Santos asked Lieutenant Decker who the governing body was in a multi-agency response. Lieutenant Decker answered that when the APD calls for mutual aid in circumstances such as the ones present during the specified incident, the agencies themselves are responsible for the actions they take.

Ms. Santos asked if Lieutenant Decker could clarify who had deployed the chemical agents. Lieutenant Decker directed Ms. Santos' question to Detective Johnson. Detective Johnson answered that the Albany County Sheriffs, the New York State Police, and the Colony Police Department were all present on that evening and that he would need to review his materials to determine which agencies had deployed chemical agents.

Board member Collins-Hackett asked for clarification as whether there was an agency providing direction, goals, or directing traffic on the ground. Lieutenant Decker answered that because of the widespread, chaotic nature of the events that night, additional resources were required and there was no available manner in which to organize the rapidly evolving situation.

Board member Collins-Hackett expressed his concern for disorganized deployment of chemical agents by several departments at once. Lieutenant Decker reiterated that because of the rapidly evolving nature of that night, the APD had only been concerned with requesting aid and managing the situation as it evolved. Board member Collins-Hackett reiterated his concern with that approach. Lieutenant Decker responded, noting that a member of the APD is often placed with outside groups to maintain communication, and that there were certainly efforts to organize that night.

Detective Johnson stated that based on his interview with Detective Mulligan and through discussion with members of the emergency services teams, it was clarified that other agencies were deploying chemical agents, but that a member of the APD was

present with those agencies. Board member Collins-Hackett responded, expressing his concern with the policy and the need for civilian safety to be prioritized.

Board member Gaynor asked the complainant whether she or anyone else present in the residence at the time suffered any injuries. The complainant answered that her injuries had been included in the complaint. Board member Gaynor asked whether she had been treated for those injuries. The complainant stated she had not been, but that her daughter had brought all three of her children to the pediatrician as a result of the incident.

Dr. Harden reiterated that there were three allegations contained in the complaint and recommended that all three portions be closed and exonerated as the conduct had been standard under city policy and began the voting process.

Board member Collins-Hackett asked whether there was any limiting language on the use of teargas in certain situations, such as in residential areas. Dr. Harden answered that there was not, only that when feasible, a warning should be given. Board member Collins-Hackett questioned whether the lack of notification had constituted a violation of the call handling or conduct standards. Dr. Harden answered that there had been no violations.

Dr. Harden reported that through reviewing the evidence, there was no visibility of the areas being complained about, and therefore no way to tell whether deployment was effectuated there. She further noted that while OPS and APD did not deny the deployments there was no evidence to confirm otherwise. She concluded, stating that while the complaint was exonerated, it did not justify the policy and that there could have been at the very least a post-debrief meeting from leadership to acknowledge the harm done. After review and deliberation of the investigation of the complaint, the CPRB has made the following findings as to the conduct of the specific officer involved:

- With regards to the 1 count of allegation of improper Call Handing, the CPRB reached a finding of **Exonerated**.
- With regards to the 1 count of allegation of improper Use of Force, the CPRB reached a finding of **Exonerated**.
- With regards to the 1 count of allegation of improper Conduct Standards, General Order No. 2.2.00, the CPRB reached a finding of **Exonerated**.

Chair Vives confirmed Dr. Harden's motion. Motion seconded and passed. The voting results are as follows: seven members (Vives, Harden, Collins-Hackett, Collier, Levendosky, Person and Santos) voted affirmatively, while one members (Gaynor) chose to abstain.

**CC2020-007**

**(D. Harden)**

The complaint was received December 19<sup>th</sup>, 2023, concerning an incident that took place on May 30<sup>th</sup>, 2020, in the area of South Station, Westerlo, and Trinity Avenue in downtown Albany, between the times of 11:30pm to 1:00am. Three allegations contained in the complaint, including:

- call handling;
- conduct standards; and
- use of force.

The complaint alleged that on May 30<sup>th</sup>, 2020, police began firing tear gas with no warning, and that while some measure of crowd control and aggressive clearance were needed due to the nature of the event, even after the streets had been cleared of protestors the police continued to throw tear gas cannisters into residential streets. The complainant had requested information about the policy in the city of Albany for the use of tear gas, and an answer as to whether it was a banned weapon. The complainant further requested information as to why city residents were not alerted that APD was shooting tear gas throughout the residential area.

Dr. Harden reported that the complaint was received four years previously. She stated that the complainant had been interviewed but that no other witnesses were listed to be contacted. She further reported that the complainant stated in his interview that many community members had complained about the incident but had been fearful of filing an actual complaint.

She noted that the policies in place for the use and deployment of those agents were all provided along with the vote from common council to veto the ban on the use of those chemical agents.

Dr. Harden reported the inclusion of more than 100 call tickets, as well as online public videos which did not capture footage of the above-mentioned streets, covering activity on neighboring and surrounding streets.

Dr. Harden then gave the complainant the opportunity to speak.

The complainant addressed the lack of accountability and transparency concerning APD behavior. He voiced contention with how long he had waited to appear before the board and with APD officers present via Zoom, who had failed to ensure their cameras were working. He stated that he felt there was a lack of seriousness on behalf of the APD, specifically when it came to taking accountability for egregious behavior or misconduct taking place in the city.

He continued, noting that he was present on May 30<sup>th</sup>, 2020, and was part of the protest. He explained he had not wanted to participate in any of the protests, but he felt as though it was his obligation as a responsible member of the community who mentored a lot of young individuals, including many teenagers who were present on the streets that afternoon and had made their way to South Station. He reported that alongside



other mentors and leaders in the community, he had done his best to dissuade or avoid any physical, violent confrontations with the police.

He emphasized that the reason he had filed his complaint was in response to the amount of tear gas that had been deployed. He explained that it was the beginning of the summer season, it had been hot, and that there had been a great deal of individuals with their windows open or running air conditioning units, essentially pulling the tear gas into their homes. He noted that there did not appear to be any regard by the APD or other jurisdictions for the residents in the area not involved in the protests.

The complainant asked several questions, including:

- whether anyone had taken accountability on behalf of the police department for actions taken during the incident;
- who other jurisdictions had been taking orders from;
- whether the APD have any knowledge concerning action taken by assisting officers;
- what EMS response typically looked like in a situation such as the one that evening;
- whether there was any recourse for community members to gain answers; and
- why had it taken four years to appear before the board?

He also questioned whether there was documentation governing the deployment of tear gas, whether deployment was recorded and whether the officer who approved deployment was required to go on record as well.

Dr. Harden asked if Lieutenant Decker could provide clarification concerning the tear gas deployment policy and its record. Specifically, who gives the order and whether there is record of it? Lieutenant Decker responded, clarifying that there are only certain personnel in the APD who are privileged to deploy chemical agents. He noted that those individuals require extensive schooling and are exposed to the agents themselves. He went on explaining that the use of chemical agents is governed by Article 35 of the New York State Penal Law, which requires that chemical agents only be deployed when necessitated.

He then provided answers to the complainant's questions about EMS protocol and debriefing policy, explaining that oftentimes EMS will stage nearby during large-scale events such as the one referenced in the complaint, but that ultimately, they are not allowed to move on-scene until it has been made safe to do so, and that he was under the impression that there was no specific policy governing debriefs.

Chair Vives then asked whether there was anything in the policy or penal code that spoke about a confining radius and questioning the need for deployment of chemical agents on empty streets. Lieutenant Decker answered that he did not believe there was any type of policy regarding canisters being deployed in what appear to be unoccupied areas. He reiterated that the individuals with permission to deploy those agents are highly trained and that the goal of the APD in an incident such as the one referenced in the complaint is to mitigate the situation, and to protect life and property. He

emphasized that the goal of the use of those agents is to stop violence, and that under the guiding principles of Article 35 of the New York State Penal Code, officers would only deploy those agents in an effort to stop property destruction and violence of that nature when totally necessary.

The complainant responded, clarifying that he understood what the policy was, but reiterating that what he observed was tear gas cannisters being deployed in areas where there were no people, in streets that had been cleared. The complainant reiterated that his contention was not with the deployment of tear gas in areas where crowd disbursement was undoubtedly necessary, but instead was with the deployment of chemical agents in residential communities where no protesters were present.

Lieutenant Decker responded stating that he would bring those suggestions and concerns back to the command staff and the board administration to discuss.

Board member Collins-Hackett asked whether the APD was able to identify the individuals who had deployed chemical agents that evening, and who had given the authorization to do so. Lieutenant Decker answered that he could only speak on behalf of the APD, reporting that Officer Godman, who was an EST on the APD SWAT team, was the member present that evening who was trained in the deployment of chemical agents, and was the individual who would authorize the deployment of chemical agents for the approved APD members. He stated that he did not have an answer as to the exact quantities dispersed on that evening.

Board member Collins-Hackett asked whether Lieutenant Decker knew if any of the other outside agencies present that night had dispersed tear gas. Lieutenant Decker stated that Detective Johnson would need to answer that question.

Board member Collins-Hackett responded, questioning why the process had taken four years to come to fruition. More specifically, if there was any information on why it had taken so long for the complaint to come before the board. Lieutenant Decker answered that he was aware the board had contacted the APD to conduct mediation, to which the department immediately agreed. He noted that at that point they were waiting to get facilitated and had asked for several updates. He further noted that they were then asked to investigate the complaints and that there had been some lag due to the turnover and detectives in the office.

Board member Collins-Hackett asked two follow-up questions: (1) whether outside agencies deployed tear gas near residential neighborhoods in Albany when they came in; and (2) whether there was any information as to how much tear gas was distributed that evening. Lieutenant Decker answered that they had confirmation that other agencies had utilized CS gas, but that he did not have an exact number as to the quantity of cannisters deployed that night.

Chair Vives granted the remaining members of the community who were present the opportunity to comment.

The first resident noted his presence on the evening of the above-mentioned incident, stating that he had been observing what was going on and working to encourage individuals not to engage in destructive behavior. He reported that he followed the crowd as it moved toward South Station and down Pearl Street, and that he witnessed the police chasing individuals into the residential neighborhoods in and around that area. He reported that when he moved back towards Madison and Phillip, he did not observe anyone in the area except for a few individuals in the middle of the road creating a barricade. He noted that aside from that there was no other risk present at that time. He further reported that the barricade was in the widest part of Madison Avenue and the police had left the individuals there for nearly two hours before officers began to launch tear gas cannisters.

The resident emphasized that there were several children in that area who were susceptible to different respiratory illnesses, including asthma and bronchitis, and that officers were deploying upwards of five to ten cannisters at a time. He reported that at one point in time, it was so foggy on the street that it was not possible to see one's hand in front of their own face. He explained that at that point, the streets were clear and everyone present had sought refuge inside residences, but that even then officers had continued to deploy cannisters.

A second commentor began, reporting that she had also been there that night, present for hours on the corner of Madison Avenue and Phillip Street. She explained that it was mostly neighbors present apart from a few other individuals, and that around 1 o'clock in the morning, when the area was almost entirely taken up by residents, was when officers began deploying cannisters, driving people into the surrounding neighborhoods.

Chair Vives then turned communications back over to Dr. Harden.

Dr. Harden began the voting process on the three findings contained in the complaint. As to call handling, she stated that the use of those agents was approved by APD policy and that it was her recommendation that that portion of the complaint be closed and exonerated. As to conduct standards, she recommended that that portion of the complaint also be closed and exonerated, and to the use of force, she recommended that that portion of the complaint be closed and not sustained, noting that the review failed to disclose sufficient facts to either prove or disprove the allegation.

The complainant asked for clarification as to the last portion of the motion, questioning why the complaint was not sustained. Dr. Harden answered that her reasoning behind voting in accordance with OPS was that upon review, there was no proof, based upon the facts, that any of the actions complained about in the complaint did or did not occur.

The complainant questioned what review took place, emphasizing that he was never called or contacted concerning the investigation. Chair Vives clarified that Dr. Harden

was making a personal determination as to whether there was a violation of policy based on her independent review of the evidence.

Dr. Harden clarified that she and OPS were not denying the events alleged in the complaint, but rather they are saying there is not enough evidence to definitively show the allegations were true. The complainant questioned how the CPRB could conduct a factual review with only a fraction of the evidence available.

Dr. Harden explained that because of how they had previously conducted investigations and in an effort to change the process of how the investigations were being conducted, the board was forced to work backwards once Local Law J had been passed. She further explained that any opportunity for mediation that could have happened in real time or to make requests that could have been made for video footage after the incident had since expired.

Chair Vives then asked for a second for Dr. Harden's motion.

Rev. Collier briefly commented that the process the complainant had undergone to access the board and be heard before its members was one that was still evolving, that the community and the CPRB were still engaged in a learning process, and that ultimately their goal was to address crime, but that the board and the community needed to extend mutual understanding and patience.

Board member Collins-Hackett noted that everyone present wanted what was best for the community and the safety of its residents. He stated that he was intrigued to see how the APD planned to address the deployment of tear gas moving forward, as well as, its distribution in residential areas, the quantity, the tracking body cam measures, and the oversight of those actions, stating that it would be key for the board to gain a better understanding of the process, so as to shape it more effectively to serve the community and its residents.

After review and deliberation of the investigation of the complaint, the CPRB has made the following findings as to the conduct of the specific officer involved:

- With regards to the 1 count of allegation of improper Call Handing, the CPRB reached a finding of **Exonerated**.
- With regards to the 1 count of allegation of improper Conduct Standards, General Order No. 2.2.00, the OPS and CPRB reached a finding of **Exonerated**.

Vice Chair and Board Member Veneilya Harden put forth a motion to approve her finding of **Exonerated** regarding one count of alleged improper Use of Force in case no. CC2020-007. The motion was seconded. Regrettably, the motion failed to garner a pass. The adoption of any action or motion required an affirmative vote of no fewer than five members, which was not achieved. Therefore, no finding regarding the allegation of Use of Force was made. The voting results are as follows: three members (Rev. Collier, Harden, Levendosky) voted affirmatively, while four members (Vives,

Collins-Hackett, Santos and Person) voted negatively, and one member (Gaynor) chose to abstain.

Board Member Harden motioned to approve the remainder of her findings into Complaint no. CC2020-007. The motion was seconded and passed. The voting results are as follows: seven members (Vives, Harden, Collins-Hackett, Collier, Levendosky, Person and Santos) voted affirmatively, and one members (Gaynor) chose to abstain.

### **CC2020-001**

**(A. Santos & J. Schwartz)**

The complaint was reported to OPS on January 22<sup>nd</sup>, 2020, and was assigned to Detective Pierce. Investigator Schwartz reported that Detective Pierce finished the case on August 25<sup>th</sup>, 2020, but that it was not sent to the board until 2023 and that she and board member Santos were not officially assigned the case until January of 2024.

Investigator Schwartz reported that on January 8<sup>th</sup>, 2020, a young male was attacked by a group of children and that two days later, when the mother of the boy who was attacked was picking him up, another group of children attempted to attack her daughter. The mother called 911, first observing Officer Styles who was in an R&P. Investigator Schwartz reported that the mother attempted to talk to him about the situation and to ensure they could get home safely but that she was told by the officer to move it along. She reported that he was aware of other incidents going on in the area through a prior conversation with another officer but chose not to inquire further.

On their walk home, the daughter was jumped. Investigator Schwartz reported that the mother was able to get her daughter away, but upon arriving home the mother and daughter were both subsequently assaulted. She reported that two officers responded, as well as an unidentified state trooper, and that despite the woman's obvious distress, Detective Johnson was rude and talked down to her throughout their interaction. He stated that there was nothing he could do because the assaulters were juveniles. Investigator Schwartz reported that he did not ask for information, nor did he do anything required to file a report or aid the victims.

The following Monday, the individuals who had assaulted the victims returned and two different officers responded to the 911 call. Investigator Schwartz reported that the officers were politer and more professional, but also failed to take a report on the grounds that they had not observed anything. She stated that it was clear both sets of officers were not properly trained in how to deal with juvenile offenders and that the response by the officers had been unacceptable.

OPS reviewed four counts of call handling, the counts and findings were as follows;

- Inadequate response time, **unfounded**.
- Failure of the APD to effectively do their job to prevent the resulting assault and file a report, **exonerated** on the grounds that the complainant was uncooperative.

- Failure to effectively take a report, **not sustained** on the grounds that the officers had not witnessed the incident that had occurred the day before and believed they were responding to an assault in progress.
- Failure to effectively take a report, **unfounded** upon review of the officer's body worn camera footage which confirmed that the complainant had already filed a report, and because the perpetrators had been juveniles.

Investigator Schwartz reported that the grounds upon which the findings were concluded were unfounded and that the incidents had not been properly investigated.

Investigator Schwartz and board member Santos' findings as to the call handling counts were as follows;

- Inadequate response time, **not sustained**.
- Allegation against Officer Styles, **not sustained**, recommendation for an allegation and finding of discourtesy based on the way the officer spoke to the complainant.
- Failure of Officer Togias to effectively take a report, **sustained**.
- Failure of Officer Ryan Johnson to effectively take a report, **sustained**, recommendation for an allegation and finding of discourtesy based on the way the officer spoke to the complainant.
- Failure of Officer Balarin to effectively take a report, **sustained**.
- Failure of Officer Cory Johnson to effectively take a report, **sustained**.

Further recommendations made by Investigator Schwartz;

- IDCs not to be used in complicated cases, and if necessary, to be cross-referenced with body-worn camera footage and other statements.
- New statements to be taken if conflicting accounts arise.
- Officers Togias, Ryan Johnson, Cory Johnson, and Ballarin to be retrained in general order 3.805, Juvenile Operations.
- Officer Styles and Ryan Johnson to be retrained in general order Rules of Conduct 2.200, Discourtesy 24 A-C.
- Officer Styles and Ryan Johnson to be required to review their body-worn camera footage in the presence of their supervisor.

Board member Santos stated the findings for motion;

- With regards to the 1 count of allegation of improper Call Handing, the CPRB reached a finding of **Not Sustained**.
- With regards to the 1 count of allegation of improper Call Handing, the CPRB reached a finding of **Sustained**.
- With regards to the 1 count of allegation of improper Call Handing, the CPRB reached a finding of **Sustained**.
- With regards to the 1 count of allegation of improper Call Handing, the CPRB reached a finding of **Sustained**.
- With regards to the 1 count of allegation of improper Discourteous Conduct, the CPRB reached a finding of **Sustained**.

Chair Vives asked for a second for board member Santos' motion. Motion seconded and passed. The voting results are as follows: seven members (Vives, Harden, Collins-Hackett, Collier, Levendosky, Person and Santos) voted affirmatively, and one members (Gaynor) chose to abstain.

**CC2022-008**

**(A. Santos & A. Lawrence)**

An officer received an alert of a suspicious person writing on the car windows around City Hall, and later observed the complainant engaged in the same activity on the windows of the Department of Environmental Conservation on Broadway. The officer stopped the complainant and asked him to provide identification, to which he gave various versions of his name. The complainant questioned why his ID was needed, to which the officer reasoned that he had been touching the buildings.

Two other APD officers and a state trooper arrived for back-up, at which point the complainant became aggravated. He was told by an officer he was not free to go and asked to remove his hands from his pockets. When he did not respond, he was detained. A knife was found in his pocket, however after finding no outstanding warrants, the knife was returned to him, and he was told he was free to go.

The complaint alleged an unconstitutional stop and seizure and use of excessive force. The conduct of the officers had to be reviewed in pieces to apply the standards appropriate for addressing the constitutionality of a search and seizure, starting with an articulable suspicion that a crime had been committed.

Detective Johnson concluded that following;

- As to the allegation that the complainant had been improperly stopped, **exonerated** on the grounds that the stop was proper because the complainant had been writing on the building windows and matched the description of the individual who had been seen writing on the car windows near City Hall.
- As to the allegation of excessive use of force, **unfounded** on the grounds that the only force used was to place the complainant in handcuffs when he refused to comply.

Board member Santos motions on the findings were as follows;

- With regards to the 1 count of allegation of improper Call Handing, the CPRB reached a finding of **Exonerated**.
- With regards to the 1 count of allegation of improper Use of Force, the CPRB reached a finding of **Sustained**.
- With regards to the 1 count of allegation of improper Police Detention, the CPRB reached a finding of **Sustained**.
- With regards to the 1 count of allegation of improper Searches, the CPRB reached a finding of **Sustained**.

Board member Santos made a motion which was seconded by Harden and passed. The voting results are as follows: seven members (Vives, Harden, Collins-Hackett, Collier, Levendosky, Person and Santos) voted affirmatively, and one members (Gaynor) chose to abstain.

**CC2022-027 & CC2022-034**

**(P. Collins-Hackett & A. Lawrence)**

Chair Vives made a motion to table CC2022-027 and CC2022-034. Motion seconded and passed.

**CC2022-045**

**(A. Santos)**

The complaint was received on December 6<sup>th</sup>, 2022, and reported to the CPRB on February 26<sup>th</sup>, 2024, assigned to Raven Dixon. The incident took place from 10:55am to 11:55am on I-787, Madison Avenue and South Pearl Street. The allegation contained in the complaint was on relating to conduct standards.

The complainant alleged that an APD officer had attempted to run her off the road, almost colliding with a vehicle as a result of the officer's road rage. Board member Santos reported that the officer admitted through a subsequent interview that he was on route to an overtime duty at Albany South Station on the date and time of the alleged misconduct. She further reported that through CCTV video footage that she had reviewed, the complainant could be seen following the officer westbound on Madison Avenue. As the officer approached the intersection of Madison Avenue and South Pearl Street, he made a last-minute decision to enter the turning lane without properly signaling. Simultaneously the complainant was seen entering the turning lane and as a result of the officers' failure to signal, she was forced to widen her turn over the double yellow line.

Board member Santos reported that she reviewed the officer's incident file and that there was nothing in the file like the event alleged in the complaint. She reported that Raven Dixon had attempted to contact the complainant several times for an interview, but that she was uncooperative.

The target officer was interviewed by the investigative Sergeant, during which he admitted he first saw the complainant on S. Pearl and Madison Avenue and that when turning onto S. Pearl he observed the complainant pass him. Board member Santos reported that the target officer was interviewed by OPS on January 30<sup>th</sup>, 2024, 420 days after the incident initially took place.

The OPS findings were as follows;

- With respect to the allegation of conduct standards, **exonerated**.
- With respect to the acts which provided for the complaint, the review showed they were private.
- With respect to the incident, the complainant had failed to maintain a safe sufficient distance between her own vehicle and the officers' and was following



too closely. The officer attempted to move into the turning lane on S. Pearl, the complainant did so also in an effort to overtake the officer's spot, resulting in her having to brake to allow the officer to merge first.

- Based on CCTV, and NYS Traffic Laws the officer had the right of way, putting the complainant at fault to maintain a safe distance.

After review of CCTV footage and statements made by the target interview, the findings were as follows;

- With respect to the allegation of conduct standards, **not sustained** on the grounds that the review did not produce sufficient evidence to prove or disprove the allegation.

Requesting information as to what time and date the target officer was interviewed by the investigative Sergeant.

Board member Santos' made a motion which motion seconded by Dr. Harden and passed. The voting results are as follows: seven members (Vives, Harden, Collins-Hackett, Collier, Levendosky, Person and Santos) voted affirmatively, and one members (Gaynor) chose to abstain.

## **VIII. COMPLAINTS AND CONSIDERATION OF CLOSURE (N. Vives)**

Complaints out of jurisdiction;

- (1) Received May 14<sup>th</sup>, 2024.
- (2) Received May 6<sup>th</sup>, 2024.
- (3) Received May 6<sup>th</sup>, 2024.
- (4) Received April 18<sup>th</sup>, 2024.
- (5) February 7<sup>th</sup>, 2024.
- (6) February 14<sup>th</sup>, 2024.

Chair Vives made a motion to close the aforementioned cases because they are outside CPRB jurisdiction. She asked for a seconding of the motion. Seconded by board member Levendosky. Several in favor, no opposed, one abstention. So moved.

Withdrawn complaints;

- CC2024-012
- CC2023-009

Chair Vives made a motion to close the aforementioned cases because they had been withdrawn or out of jurisdiction. She asked for a seconding of the motion. Seconded by Vice Chair Dr. Harden. The voting results are as follows: seven members (Vives, Harden, Collins-Hackett, Collier, Levendosky, Person and Santos) voted affirmatively, and one members (Gaynor) chose to abstain.

## **IX. COMMITTEE REPORTS**

## **GOVERNMENT LAW CENTER**

**(M. Andre)**

Program Manager Andre speaking on behalf of GLC, stated that she had requested necessary information regarding the 2025 budget, including deadlines and template requirements. She reported that on June 6<sup>th</sup>, 2024, she received a response from the budget director providing a memo for the budget requests and a template to assist budget submission. The budget director noted that with respect to the requests made for 2025, that it ensured the residents with the service they expect and deserve at the lowest possible cost.

She reported that CCRB budget was unique for the upcoming year and would need to cover additional costs for full-time staff benefits, the transition of the administrative agency, as well as office space lease if not provided by the city

Outreach reports;

- Worked with the communication office to develop a policy recommendation tracker modeled after Rochester PBA.
- Reminder that NACO would be celebrating its 30<sup>th</sup> year, holding an annual conference on October 14<sup>th</sup>-17<sup>th</sup> in Tucson, Arizona. The board in conjunction with Rochester and New York City CCRB was scheduled to present at the conference on Overcoming Obstacle Strategies for Effective Civilian Oversight Law Enforcement.
- Developed a document highlighting the scheduled events of the year for community outreach.
- Developed a new FAQs document.
- Updated community resource guide to include crisis support context in the community.
- Reminder that consultants would be coming down on July 27<sup>th</sup>, 2024, to direct a training retreat.
- Reached out to the council president and city clerk in regard to former board member Ingram's resignation, and requested consideration for replacement, to which the common council issued a call for application to fill the opening.

Professor Woods spoke briefly about his resignation from the GLC and thanked the board for the opportunity to support them in the work they conducted. Board member Levendosky extended his thanks, along with board member Collins-Hacket, Dr. Harden, board member Santos, Rev. Collier, and Chair Vives.

## **BYLAWS AND RULES**

**(A. Santos)**

Board member Santos reported that the most recent Bylaws Committee meeting was held on May 7<sup>th</sup>, 2024, during which there was discussion in regard to including a conflict-of-interest policy into the board's bylaws and rules. The purpose was for board members to refuse themselves based on involvement in cases brought before CPI, to ensure impartiality, objectivity, fairness, and equitable treatment. The proposed complaint model, had been sent to outside counsel for legal opinion, with plans to

propose and accept a recommendation to codify the proposed language at the next board meeting.

## **COMMUNITY OUTREACH**

**(P. Collins-Hackett)**

Board member Collins-Hackett referenced several community outreach events, including an upcoming Juneteeth march and the Allstar Challenge on June 29<sup>th</sup>, at the MVP Arena. He reported that the committee had just had a meeting with the Grand Street Community Arts Radio station to conduct recruitment for open positions on the common council. He noted that Program Manager Andre had developed a spreadsheet with the dates of upcoming events.

## **INVESTIGATION**

**(J. Levendosky)**

Board member Levendosky reported that the Investigation Committee had been working with the Public Office Liaison Committee to help plan and establish the integration of the CPRB administrative agency into the city structure. He reported that they had been working with other board leaders and the common council members, specifically the public safety commissioner, Councilman Hoey, and legislative staff to develop a practical framework to make the administrative agency more sustainable.

He reported that they had also been working with consultants on drafting job descriptions for in-house investigations and investigative protocol, and training needs for full-time staff to aid integration into the city. The committee also worked with OPS Commander Maury to arrange for an APD representative to attend RRB meetings, who spoke briefly about the Civilian Police academy program.

APD responded to policy recommendations made on March 12<sup>th</sup> and April 12<sup>th</sup> and were shared with Program Manager Andre, who developed a new policy tracker. Board member Levendosky also spoke briefly about contentions between the CPRB and APD regarding unfettered access to case materials and department records.

He reported that the committee was investigating four incidents and one complaint, with 74 active complaints as of June 13<sup>th</sup>, 2024, awaiting resolution by APD, including;

- Active under OPS supervision, **11 complaints.**
- Active under OPS investigation, **63 complaints.**
- Active awaiting detectives and OPS case numbers, **1 complaint.**

He reported that the CPRB had reviewed 17 OPS cases so far in 2024, and that the board had reviewed findings on 12 complaints, and the APD had completed 26 investigations of active complaints.

## **POLICE LIASON AND MEDIATION**

**(D. Hardin & V. Collier)**

Dr. Harden reported that through aid from Program Manager Andre, the Mediation Committee's complaint policy had been updated to model the policy and program goals

of the one utilized in Philadelphia. In collaboration with APD and outreach events, the committee had been working to educate the public on the mediation policy and its use.

Dr. Harden reported that the Police Liaison Committee had met with OPS the previous week and had also presented the new recruit's class. She also reported that the committee was waiting on feedback from the chief concerning a recommendation for a focus group rather than a survey, to gain officer feedback on the use of mediation to more effectively bridge the gap between police and community communication.

## **PUBLIC OFFICIAL LIAISON**

**(N. Vives)**

Chair Vives reported that the committee met on May 28<sup>th</sup> and heard from council member Romero on Local Law D, and that was the most important project the committee had been actively working on.

## **XI. APPROVAL OF MEETING MINUTES**

Chair Vives moved to approve the meeting minutes from the regular meeting on April 11th, 2024. Motion seconded and passed.

Chair Vives moved to approve the meeting minutes from the special meeting on April 26th, 2024. Motion seconded and passed.

## **XII. NEW BUSINESS**

Chair Vives noted the requirement for approval of the minor amendments to the mediation process to enhance the program and ensure officer participation.

Dr. Harden made a motion to amend the policy and include the new updates, including minor participation so long as a legal guardian was present. Motion seconded and passed.

There was a brief discussion and clarification as to board member Gaynor's vote on the consideration of subpoena, and his abstention from the remaining cases.

Chair Vives reported on the updated community resource guide document, the new CPRB FAQs document, and the 2024-2025 upcoming events document.

The updates on status board requests were as follows;

- CPRB letter sent to Mayor Sheen regarding recent developments, board membership, and appointment procedures.
- CPRB letter to common council regarding recent resignation and request for consideration of replacement.
- CPRB letter to OPS Commander Maury for APD representatives at the CPRB public monthly meeting.

- CPRB letter to the budget director regarding a request for guidance on CPRB budget submission for fiscal year 2025, for budget timeline guidance and template.
- Response from APD on March 15<sup>th</sup> policy and practice recommendations related to the South Station Arch Street protest.
- Response from APD on June 11<sup>th</sup> to the April 12<sup>th</sup> policy and practice recommendations, relating to general order 2.4.05 office of professional standards complaint procedures and general order 3.2.15 body-worn cameras and enhancing the clarity of APD withdrawal form.

### **XIII. ADJOURNMENT**

There being so further business, the meeting was adjourned at 9:43 pm.