



City of New Haven Civilian Review Board

Monthly Board Meeting Minutes

November 28, 2022

Date: November 28, 2022, 6:00 pm

 **November 2022 Agenda**

Minutes by Alyson Heimer, CRB Administrator

Approved by the Board: May 22, 2023

1. Call to Order: 6:08pm

Attendance:

- a. **Present:** Acting Chair Rivera Berrios, Member Fawcett, , Member Pescatore
- b. **Absent:** Member Carter, Member Counsel, Member Jenkins (excused), Member Johnson (excused), Member Richardson, Member Peralta.
- c. **Guests:** Assistant Chief Bertram Etienne, LT Mk Colon, Atty Catherine LaMarr, Al Lucas (BoA)
- d. **Members of the Public:** Mary O'Leary (press),

2. Approval of Minutes - None to approve.

3. Acting Chair's Report - Next meeting is scheduled for December 26 - should the meeting date change to accommodate holidays

Member Pescatore: on vacation starting the 17th ends January 2nd.

Member Fawcett: I will be available for whatever works for everyone.

Member Rivera-Berrios: we will keep the original date of December 26th.

4. Internal Affairs report

The following closed complaints were received this week: 22C-025, 22C-039, 21C-012, 21C-068. *(Submitted and sent by email from Lt Colon for review before meeting)*

- a. Updates on complaints currently in IA: of the 71 complaints in 2022 so far, 51 currently open cases. Two were withdrawn, one was sent to a different agency for investigation.

Lt. Colon Most common type of complaint is "neglect of duty," followed by "excessive force" and then "rudeness." We are implementing a new use of force policy to conduct training for watch commanders to ensure they report every incident. For incidents it used to be the policy that one



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person would make a report and say “5 officers at the scene used their hands, or drew weapons.” Now, each officer who uses any type of force will file their own report so we can more accurately show the numbers - so they will appear higher in the charts than before 2021 saw 158 and for 2022 we see 415 - but that's not individual incidents, it could have been 5 people on scene who all helped get someone into a van and now they file distinct reports.

b. Closed cases

i. 22C-025

Received: Feb 2022

Summary: Mrs. Walker filed a complaint that the report taken by an officer was incomplete. The report did not include that her son (deceased) had blunt force trauma, there was a female on scene with her son before he died who was never questioned. The drugs her son may have taken were not tested. The officers had been called to a scene with an unresponsive male who had been placed in the AMR vehicle (ambulance) before officers arrived. He had a pulse at that time but passed away at the hospital. A broken crack pipe was found in the trash, a woman was found on scene and questioned. The coroner's report later said the cause of death was an intoxication overdose with a combination of Fentanyl and Xylazine and Cocaine and so the death was determined as accidental. No mention of blunt force was found in that report. The Complainant became upset with Sgt. Fennessey when he called her to explain the Medical Examiner (ME) report and hung up, after several attempts to reach her. The officers were found to have acted within the New Haven Police General Orders during this case.

Disposition: Unfounded

Discussion: No discussion.

ii. 22C-039

Received: May 2022

Summary: The complainant (Mr. McFadden) called the police three times within an hour to seek help with a dispute with a neighbor. He was asked if there was a weapon on site and he said he didn't know but didn't see one. The neighbor mentioned her son was police, but he was not on duty at the time. This son banged on Mr. McFadden's door aggressively. After his second call another individual returned with a firearm. Officer Brunski spoke to McFadden on the phone after McFadden called dispatch to cancel the call. McFadden said there was a gun involved but the issue was handled, and the damage was already done and they would handle it



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themselves. Officer Brunski apologized for the delay in response. There was no evidence of a new haven police officer involved in this. During investigation Mr. McFadden withdrew the complaint.

Disposition: Unfounded.

Discussion: None.

iii. 21C-012

Received: February 13, 2022

Summary: Complainant Mattei filed against Officer Lopez who she says pushed her at the Vandome nightclub. She states she was drinking and got involved in an argument with a guy who “popped her chain” and her phone was taken. The complainant said it happened inside and then outside of the club. She left the scene at the officer’s direction and was under the impression that the officer would look for her chain and phone. She claimed the officer threatened to pepper spray her if she did not leave and she told him that if he wasn’t going to find her phone then she would look for herself. This is when she claimed the officer pushed her down and she says she hurt her elbow. The officer called her boyfriend to come pick her up at Ms. Mattei’s request. Lopez stated that he encountered at the club screaming at a group of people in the hookah area. She was taken out the back door but then she went around front and started screaming at officer Lopez again. The phone was located in the bathroom and Officer Lopez called the boyfriend of Ms. Mattei to pick it up. This was the second time she lost her phone in this club within 2 weeks. She was advised not to return to the club after multiple instances of erratic behavior. Officer Lopez was found to be in violation of not wearing the body cam to capture the encounter with Mattei.

Disposition: Summary Action regarding body camera policy.

Discussion: Acting Chair Rivera-Berrios: Had questions initially but going to IA to view associated documentation and footage helped to clear up those questions, as well as being able to talk to people in IA.

iv. 22C-068

Received: October 13, 2022

Summary: Raquan Jackson filed an excessive force complaint against officers and that officers had come to his place of employment and began filming him in an attempt to intimidate him. This interaction stemmed from a report by New Haven Firefighters that a man later identified as Jackson had approached a city owned vehicle while it was in operation and



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punched the passengers side glass, cracking the window. Jackson was identified by the firefighters as he was walking down the street once the FFs had alerted police officer Samartino at York and N. Frontage streets. Jackson was asked to put his hands behind his back and did not comply. The officers put their hands on Jackson who tensed up and was eventually secured. Officer Hall was scratched on his left wrist during this incident. Jackson claimed injuries to his neck and AMR was called to the scene. Body cam footage corroborated this event. Jackson was transported to the hospital before returned to police custody. The complainant also said that his belongings were missing and Sgt Dunford's body cam shows that Jackson's belongings were collected during intake. IA investigated the complaint and Jackson indicated he wished to withdraw the complaint. Review of body worn cameras for officers show no policy was violated.

Disposition: Withdrawn

Discussion: Member Pescatore: question about being approached by firefighters, what type of city vehicle was it?

Lt. Colon: It was not a fire truck, more like a city owned fire team SUV.

Member Pescatore: why was the individual approaching the firefighters?

Lt Colon: This individual has many documented incidents of erratic behavior. It seemed very random.

Member Rivera-Berrios: the footage shows that it was very random.

Member Pescatore: Is there footage of the approach to the firefighters?

Member Fawcett: You need to see the footage and read the file. This particular fellow and why he ended up where he was, looking at the footage it becomes clear.

Member Pescatore: There's not footage of why this individual punched the fire vehicle. Is there any indication of why this occurred.

Lt. Colon: this individual behaves erratically a lot and he needs serious mental health support. I couldn't tell you why he did what he did.

Member Pescatore: so the only reason Mr. Jackson was arrested was because the firefighters indicated him on the street.

Lt. Colon: after he broke their property.

Member Pescatore: was this reason enough for an arrest. Was there a conversation or an argument with this individual?

Lt. Colon: there was no reported interaction other than the random violence that destroyed their property, city property. The police can stop this man, question him and the officers told him to stop, he indicated he might run and the police officers stopped him from trying to escape.



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Member Pescatore: did they give him a chance to explain before cuffing him?

Lt. Colon: the only way you can have that conversation is once the person is detained if you have an instance where eyewitnesses are pointing out an individual, the officers ask him to stop and that individual who was aggressive looks like he's not going to stop. There was other corroborating information - the individual was wearing the clothing that the firefighters had described prior to finding him on the street. We didn't just take someone's word.

Member Pescatore: Is there any other information you can provide as to why the complaint was withdrawn?

Lt. Colon: The withdrawal request was captured on body-worn cameras and came completely from him. Jackson was actually the one who called IA in order to withdraw the complaint.

Asst. Chief Etienne: I know it sounds strange but I've seen this kind of thing across my years on the force where someone just does something that appears totally random and they don't have an explanation for it.

Member Rivera-Berrios: It would be good to itemize possessions on the camera when they are being removed from the individual as they are being taken into custody and placed into the personal effects bag. It's become best practices in other communities and maybe we can make sure to add that to protocol, so when we take off an individual's jewelry the officer can show the camera and say, "one stud earring, a timex watch, etc" because one of the main reasons for this complaint being filed was to track down his belongings.

Member Fawcett: It wasn't put in as evidence on the form, and on the camera we hear the officer say "one earring, only one earring?" Then there's additional logging of the items taken into custody.

5. General Public Comment (Questions in chat and public comment)

None.

Member Pescatore: is there an update on the next training?

Lt Colon: we have everyone's availability, this would be a training that takes place over three days and as soon as we have the dates we will let you know.

Asst Chief Etienne: The three days would be for the first day to discuss the procedures, the second day is to have the action and roleplay. The third day is to come back together to discuss the entire exercise.

Lt Colon: each will be approximately 4 hours. It may be less for certain parts.



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Member Rivera-Berrios: Thursdays and Sundays were the most commonly available days. It won't be until after the new year. February or March.

Asst Chief Etienne: thank you all for being receptive to this exercise.

6. Unfinished business and General Policy Items

A. Attorney update

Attorney Lamarr wrote in chat at minute 45:56:

Madame Chair, you may proceed with the meeting without a quorum, but do not take action (i.e. vote) without a quorum.

Attorney LaMarr sent out updates on the hiring of an attorney - it's a draft of the scope of services for that position. Corporation Counsel is under city ordinance to handle the hiring of all lawyers even though this lawyer would represent you. It includes that the selection committee will be members of the CRB who will review all bids.

Member Rivera-Berrios: should we add that they need to come to monthly meetings?

Attorney LaMarr: lawyers tend to charge by the hour.

Member Rivera-Berrios: But if we hire someone with a retainer then can we expect them to attend all of our meetings?

Attorney LaMarr: We normally do not do it that way, we pay for billed time. And I will make sure whoever is on the review committee has access to the purchasing and solicitation information so they know when bids are received.

B. Hiring of Administrative Staff (Who reviewed documents?)

Member Rivera-Berrios: there was one complete packet that was completed, correct?

Attorney LaMarr: correct.

Member Rivera-Berrios: So I want to share the proposed scope of work that was submitted. This is the individual who submitted the packet (Alyson Heimer), and the scope of work covers managing virtual and in person meetings, establishing record keeping, writing annual reports, handling correspondence, remaining accessible to the Board. For the first year it includes clearing any backlog to minutes. Proposed annual rate of \$32,000 and a one time payment of \$5,500 for reviewing and correcting minutes. Renewal of contract will include an annual increase of 2.5%. There is a resume, and this individual currently works for the New Haven Democracy Fund and also works as a teacher.

Member Rivera-Berrios: we had discussed having a subcommittee meeting and interview the individual. Let's get two different dates from the individual.

Attorney LaMarr: Do you want me to assist?

Member Rivera-Berrios: lets ask the candidate for a Thursday to Monday availability for the candidate to schedule an interview.

Member Pescatore: I felt this person was qualified if not well qualified. Attorney LaMarr do you have any insight on the candidate?



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Attorney LaMarr: Her work is appreciated and approved of by the folks I have spoken to on the Democracy Fund Board and she is well thought of by people whose opinions I value.

C. Consultant (Who reviewed documents?)

Member Rivera-Berrios: I sent out a packet after having a discussion with Emma Jones, and we had requested from Emma a proposal and she had given me which stated that she recommended the hiring of an investigator, a lawyer on retainer, an Administrative Coordinator and a short term consultant. We discussed this in depth on a phone call. There was no mention of money.

Emma Jones submitted a proposal entitled "Proposal for Emma Jones to act as 'Consultant to New Haven Civilian Review Board'." Proposed salary \$50,000 for December 1 2022 to November 30, 2023. Once the year is over it would go to an RFP. The responsibilities would include attending monthly meetings and any other meetings, (subcommittees, review committees, etc.) as requested. Observe and verbally summarize any advice deemed necessary by the consultant during a 10 minute time slot at the end of each meeting. Advice will be pertinent to the meeting. Other advice from the consultant will be delivered in writing. Deliver a written report within two weeks of the conclusion of the monthly meetings. Deliver an annual report by February 15 detailing consultant conclusions and observations of the successful/unsuccessful functioning of the CRB and further recommendations. Depth and length of written reports at the discretion of the consultant.

Emma Jones requested that the following options also be presented:

welcome Emma as a Volunteer to provide advice and direction,

ask her to be a non-paying consultant,

pay Emma Jones as a contract to be the consultant

Welcome Emma Jones as an at-large member

Determine if Emma Jones to be the Consultant while also serving on the Board.

Member Pescatore: I think the proposal for her to work as a consultant at the \$50,000 rate makes sense.

Member Rivera-Berrios: Emma wanted to make sure all Board members were on the same page and made sure to include her in making active recommendations. She wanted everyone to know she's not in it for the money and she doesn't know if the most productive way would be to be paid or not.

Member Pescatore: she did not bring forward a proposal with specifics?

Member Rivera-Berrios: the only thing she was in agreement to do was bring forward options and ideas to the board, and we don't have enough board members to vote tonight.

Member Pescatore: Can we do a unanimous consent, voting on an action item, by email?

Attorney LaMarr: That might be a way to take action during meetings. I will check the bylaws.



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Member Pescatore: Since we don't have a real proposal by Emma maybe we can give her our proposal and she can agree to it or not.

Member Rivera-Berrios: Let's check the bylaws. There's been a lot of controversy on this topic and I want to make sure everyone is a part of this, and we only have three members who attended today.

7. Act on complaints and reports

None of the members in attendance have concerns on the cases presented this evening.

8. Recess to Executive Session, if appropriate

None

Member Rivera-Berrios: The only old business is voting on new member roles for the Board.

Attorney LaMarr: you need to fill the positions as soon as possible but without quorum that is difficult.

Member Rivera-Berrios: We only have three members in attendance and only two who gave me a reason to not be in attendance. So maybe once we have clarification on voting by email we can try to work through that. If not, maybe at the December Meeting.

Al Lucas: there will be reinforcements coming in 2023 but the earliest you'll see approved people for new members in February at the earliest. The reappointments and vacancies should be coming as a slate. As far as officers go, you have officers on the Board right now. You have a parliamentarian in Alder Avshalom Smith, you have an acting chair who is the Vice Chair. The secretary position is vacant and needs to be filled, and hopefully you have administrative help coming on that side. I know you've been talking about adding a treasurer. The Chair and the Secretary are the vacant roles.

Member Rivera-Berrios: Member Fawcett has been assisting with the secretarial role as well. Thank you for that. When we get clarity on voting digitally we can move forward with that. The December meeting will be on the 26th.

Attorney LaMarr: Is that a city holiday?

Al Lucas: it is when we do our Kwanza celebration at City Hall so you can come to that at 5:30 and then proceed with your meeting.

Member Rivera-Berrios: there is not good option here for Mondays, December 19th is Hannukah, December 26th is the day after Christmas and Kwanza, and January 2nd is the day after New Years, which is a holiday observed. In the last three months there have only been three members who have been down to IA, so I want to make it known there are some members who have never been down there or only been one time in two or three years.

10. Adjournment was not voted on due to lack of quorum. All members left the meeting at 7:20pm.