

**REGULAR SESSION MINUTES**  
**SEPTEMBER 8, 2020**  
**BOARD OF POLICE COMMISSIONERS**  
**NEW HAVEN, CONNECTICUT**  
***VIRTUAL AND TELEPHONIC VIA ZOOM***

**PRESENT:** Commissioners Anthony Dawson; Tracey Meares; Isaias Miranda; Evelise Ribeiro; and Donald Walker

Chief Otoniel Reyes: Department of Police Service  
Assistant Chief Renee Dominguez: Department of Police Service  
Assistant Chief Karl Jacobson: Department of Police Service  
Assistant Chief Herb Sharp: Department of Police Service  
Lieutenant David Zannelli: Department of Police Service  
Sergeant Yelena Borisova: Department of Police Service  
Sergeant Bertram Ettienne: Department of Police Service  
Sergeant Vincent Rawlins: Department of Police Service  
Sergeant Dana Smith: Department of Police Service  
Ramon Davis: Administrative Assistant II

Cathleen Simpson, Esquire: Director of Labor Relations  
Michael Wolak, Esquire: Senior Deputy Corporation Counsel

Officer Florencio Cotto: President, Elm City Local CACP  
Marshall Segal, Esquire: Elm City Local CACP

Christina Alteri	Chad's iPhone
Jakub Baliga	Jasmine
Arthur Bank	Javier
Black and White United in Action	Jordan
J. Caron	Nicohola's iPhone
Cesar Guterrez	Vincent's iPhone
Chief Ronald Huggins: Yale Police Department	
Daniel Hunt	
Larnell Jackson	
Justicepeace75@hotmail.com	
Patricia King	
Jocelyn Laveindier	
Sean Maher	
Ben Lambert: New Haven Register	
M.E.G.A. Inc.	
K. Simpkin's iPhone	
Chris Troché	
L. Pena	
Miguel Pittman, Sr.	

## **OPEN SESSION**

The meeting was called to order at 6:02 p.m., Anthony Dawson, Chair, presiding. Commissioner Dawson read an excerpt of the Notice for this meeting for the record.

- The commissioners introduced themselves.

## **DISCUSSION AND APPROVAL OF MINUTES**

- \*\* Commissioner Ribeiro moved to Approve the August 13, 2020 Regular Meeting Minutes
- \*\* Commissioner Walker seconded
- \*\* Motion passed unanimously
  
- \*\* Commissioner Walker moved to Approve the August 25, 2020 Special Meeting Minutes
- \*\* Commissioner Miranda seconded
- \*\* Motion passed unanimously

## **INTERNAL AFFAIRS REPORT**

Lieutenant David Zannelli

### **CLOSED CASES:**

IA CASE NO. 20C-037: The complainant alleged that the Officer Stone falsely arrested him and failed to arrest other suspects and prevented him from leaving the scene in his vehicle. The Internal Affairs investigation revealed that Officer Stone did not interview or identify any eyewitnesses on scene, did not collect the available video surveillance or have her body-worn camera recording throughout the entire incident. Consultation with the State's Attorney's office confirmed probable cause did exist to arrest the complainant, that the State Attorney's office would have entertained criminal charges as there were other individuals involved as well. This was sustained. Officer Stone was referred to Chief Reyes for discipline.

IA CASE NO. 20C-014: The complainant alleged that after he initially met Officer Walker on duty, he met Officer Walker later at his home while off duty on a different date, that the two negotiated a price for the complainant to do work on Officer Walker's home. The complainant alleged that Officer Walker did not pay the full amount for the work he did. However, it was alleged that the work that was done was substandard. This incident was deemed an off-duty incident and a civil matter. The complainant was told to make a police report with the respective jurisdiction.

IA CASE NO. 20C-056: The complainant alleged that he rode his bicycle by a motor vehicle stop and believed that the officers were not compassionate since they towed the person's vehicle. The complainant did not correspond to inquiries by Internal Affairs. Body-worn camera footage showed that the officers conducted a motor vehicle stop after observing the vehicle traveling through a red light. The vehicle was unregistered, uninsured and displayed a misuse of maker plate. The officers allowed the operator to take items from his vehicle before

it was towed from the scene at his own request, and they also ensured he had a ride home. The stop was lawful. And the officers were professional. They were exonerated from this complaint.

IA CASE NO. 20C-042: The complainant alleged that Officer Power was sarcastic to him and refused to provide his name when asked. This complaint was assigned to Fair Haven District Manager, Sergeant Michael Fumiatti. He reviewed a body-worn camera footage which showed Officer Power speaking with the complainant while on his balcony while he was investigating a complaint in the area. When the complainant asked Officer Power if there was a problem, Officer Power responded sarcastically, isn't there always a problem? The footage did not capture the complainant asking Officer Power for his name and badge number. Officer Power was interviewed by Sergeant Fumiatti who confirmed that he did respond sarcastically claiming that it was in a joking manner and not serious. Officer Power denied ever being asked his name. Sergeant Fumiatti took summary action on Officer Power and gave him a verbal reprimand for his behavior and counseled him further.

- Lieutenant Zannelli added that in 2018 there were 53 civilian complaints at the same time. In 2019 there were 59 civilian complaints at the same time. This year there are 58 civilian complaints.

- Lieutenant Zannelli stated that regarding the use of force, the Department is either down or equal to last year in almost all categories. It is significantly down in firearms displays and Taser deployments.

- Commissioner Meares expressed that she appreciated the retrospective as it is always important to put numbers in context.

- Lieutenant Zannelli replied that he recalled Commissioner Meares inquired about that in the past. He will always include that in his reports.

## **CHIEF'S REPORT**

Chief Otoniel Reyes

- Chief Reyes began by greeting everyone. He added that his report would be abbreviated in the interest of time as there was a lot on the agenda.

- He began by stating the current crime numbers. There are 16 homicides year to date for 2020 compared to seven in 2019 at the same time. So, a significant increase. Shooting numbers year to date are at 75. There is also significant increase from 56 shootings at the same time in 2019. Combined robberies are currently at 206 compared to 190 at the same time in 2019.

- In terms of recruitment and retention efforts, the cadets are in their eleventh week of the academy. There are currently 17 cadets. The Department lost one cadet since the beginning. The academy is progressing very well. He thanked the academy staff and Chief Sharp for all their hard work to ensure the cadets are as prepared as possible for this next chapter in their lives.

- Recruitment efforts continue. One of the Department's primary focus is to replenish the force. In addition to the reduction in the budgetary size of the Department which is currently at 406 from 434, the Department has 349 officers including the chiefs all the way down. The closing date has been extended to September 11<sup>th</sup>, 2020.

- The Department considers the response to be a .very low turnout. There are only 365 applications turned in. The Department will do some glitzing over the next few days.
- One of the things the Department will do to mitigate this issue is recruitment will be on an ongoing basis. In the past, the Department would wait until the need arose and then begin the process of filling in the ranks. The Department's goal is to always have a list available and ready to go in order to deal with attrition.
- The Department's goal is put at the very least two more academy classes in the next year to try to offset the dwindling numbers.
- There have been some difficult challenges, not the least of which was a very tough weekend. Chief Reyes commended the hard work of the men and women of the Department for the work they did behind the scene to ensure that no one got hurt. They managed thousands of people that came in from all over the country to attend the bike event that was not sanctioned by the city. There were no injuries to the public and officers. There were a lot of learned lessons that will be applied to make sure that this does not happen again.
- Commissioner Dawson asked whether things were being done differently in light of the spike in crime.
- Chief Reyes responded by saying that it is not just New Haven that is being impacted, but lots of cities across and certainly larger cities are experiencing the same spikes in violent crime. He was not quick to attribute it to COVID. The COVID dynamic is part of it. In analyzing the victims pool, it was discovered that a higher than normal rate of individuals that were victims were on probation and parole. This was not as a result of COVID decompression. In fact, we can only attribute COVID decompression to maybe a handful of individuals. The lion share of people just did their time or got out on probation or parole for good behavior or whatever the reasons may be.
- The point is that it was a perfect storm. There were a lot of people within the last six to eight months that were released on probation or parole. The recent shootings, for example. The shooting on Rosette Street, the victims were completely innocent people. They were two females and a male with no criminal records. They were victims of three individuals, two of whom were on probation and one on parole. Two have been arrested with weapons in unrelated charges. Their shootout came at the expenses of innocent people that happened to be in the area at the time.
- There is no denying this has had a significant impact because the COVID regulations have had an impact on probation and parole. Probation and Parole have not been able to do the supervisory compliance checks that they normally would do.
- Chief Reyes added that he had met with the governor, mayor, supervisors of probation and parole. Chief Jacobson had done a lot of work on his end as well. All these meetings have been in an effort to ensure that when people are returning to the community, there is a safety plan, particularly for people that are known to be violent offenders, in order to reduce the likelihood of violence associated with their return to the community. This would be the greatest contributing factor. It has not been one factor that has contributed to the spike. It's been a perfect storm this year.
- Chief Reyes commended the men and women of the Department for their work even with the diminished numbers. There have been a ton of arrests this past few weeks associated with the violent crimes. Just in one month, over 30 weapons were seized associated with the recent violent crimes from people directly or indirectly connected to the violence that's been going on

in the city throughout this year. The work is being done. Unfortunately, the Department is dealing with unprecedented times.

■ Commissioner Dawson asked about warrants served both in New Haven and Meriden. He asked if those individuals in Meriden were also involved in violent crimes in New Haven.

■ Chief Reyes replied by saying that, yes, those individuals were engaged in violent crimes in both cities. The Meriden Police Department along with the Department's task force officers seized large caliber weapons, shotguns, lots of ammunition, bulletproof vests, and lots of weaponry connected to the recent violence.

■ As a matter of fact, on several days prior, there had been a shootout where a home was shot into and there were rifle rounds. The belief is that one of the weapons that was seized is connected to that incident. The Department is awaiting ballistics results to confirm this belief. He thanked the hard work done by the Meriden Police Department and the Department to arrest three individuals, high bonds on them, that were perpetrating these violent crimes in both cities.

■ Commissioner Dawson brought this up because one of his cousins who was a correction officer was shot in Meriden and just barely made it alive. He was shot in the head and the chest. He commended the task force in the Department and the Meriden Police Department for working together to get these people behind bars.

### **PERSONNEL MATTERS**

Consideration and vote on the recommendation of Chief Reyes for Officer Kenroy Taylor with the New Haven Department of Police Service be terminated.

■ Commissioner Dawson stated that he had been informed by Attorney Wolak that the matter may not proceed as scheduled.

■ Chief Reyes stated that was his understanding and deferred to Commissioner Dawson and Attorney Cathleen Simpson. Chief Reyes stated that he was ready to proceed.

■ Commissioner Dawson stated he got a call from Attorney Wolak stating that Labor Relations received some documents at the eleventh hour prior to this meeting and they would like to review the documents before any decisions will be made about this matter. He just got this message about 25 minutes prior to the meeting commencing.

■ Commissioner Ribeiro asked if it was either Labor Relations or Corporation Counsel asking for a continuance.

■ Commissioner Dawson said both asked for a continuance.

■ Commissioner Meares stated she understood why counsel for the city would want to review every relevant piece of information before a decision is made. She asked whether there were any particular reasons the proceeding could not begin. She asked because she had been having problems accessing her New Haven e-mail. Prior to this meeting she was given all the documents through another e-mail account. She got all the documents late. She would want the opportunity to review the documents in depth with care before rendering a decision. She looked at them, however. She is wondering why the Board could not hear some presentation and then the Board continue its decision after review. Maybe, that's not how it is done.

■ Attorney Simpson, Director of Labor Relations, thanked everyone. Her understanding is that the union had in its possession the facts and circumstances regarding this matter since July of 2020. The union was informed by Chief Reyes that he was going to refer this matter to the Board for disciplinary action. Formal notice of the charges and copies of the investigation reports to support the charges were provided to the union on or about September 3<sup>rd</sup>, 2020.

■ On September 7<sup>th</sup>, 2020, a holiday, the union disclosed that it intended to submit records and testimony of witnesses in response to the charges. And it wasn't until late this morning that the union provided 20 attachments of information and records that it intends to present to the Board.

■ Inasmuch as the union claims that it's offering this information as mitigation or as materials during the disciplinary proceedings, the city has a right to review the documents and a duty to further investigate by interviewing witnesses or authenticating records as well to prepare to rebut any of this evidence or consider them as mitigation, if the city came to a wrong conclusion because it didn't have the records previously.

■ This is a pre-disciplinary hearing, a *Loudermill*, which is not meant to be a full evidentiary hearing. In *Cleveland Board of Education v. Loudermill*, the Supreme Court held an employee has a property interest in their job, and they are entitled to certain due process rights prior to termination. So, it's very important. I respect the commissioner's point view.

■ The right to clear and written notice of the charges was provided; an explanation of the employer's evidence was provided; and the opportunity to be heard and respond to the proposed action is also included by charter, by the contract.

■ Because this is a recommendation for termination which is a very serious matter, the city wants to make sure it meets the fundamental requirements of due process. The *Loudermill* court explained that something less than an evidentiary hearing was acceptable at the pre-determination stage.

■ Arguing whether the union has a right to discovery and to dump more stuff on and notwithstanding our position that the pre-disciplinary hearing was not meant to be a full evidentiary hearing, the city is not agreeable to a hearing by ambush. That is what this would be.

■ In spite of the lateness of the submission of voluminous documents, the city has a responsibility to Officer Taylor and the Board to review and investigate any claimed new or mitigating information.

■ The city objects to the proceeding of an evidentiary hearing which the union intended to proceed in part this evening on Zoom. At a minimum, the city wants to make sure the integrity and the credibility of the record is maintained. So, the parties that are necessary to the process, in the city's view, should be in the room and socially distanced to ensure that the integrity and the credibility of the record is maintained.

■ The city was ready to proceed. However, in light of the new documents, the city is in a bad position as it has not been afforded an opportunity to review these new documents which could, according to the union, mitigate these circumstances.

■ The city would like an opportunity to sift through these voluminous documents. Given COVID-19, the city is cognizant of the challenges associated with scheduling these hearings. It is terrible to waste time and efforts. However, Officer Taylor is on administrative leave with pay which costs money and impacts operations and budget for coverage. It's something the city does not want to delay.

■ In light of the union's late submission and plan to call witnesses, the city has no choice but to request a postponement so it can have an opportunity to review the last-minute disclosure of a high volume of information just hours before the hearing and also to ensure that the city has done its due diligence.

- Commissioner Meares stated she had a number of questions. She also got a lot of information late which might have to do with the e-mail issues. She asked if the Board had the disclosed documents.
- Attorney Simpson stated that the Board did not have the documents yet. It may not be proper for the Board to have them yet until the city sifts through them to decide what is pertinent or not.
- Commissioner Meares asked whether the entity that puts together the dossier is Labor Relations. Attorney Simpson replied that typically it is the Office of Internal Affairs with the Chief. Labor Relation also assists in reviewing and helping wherever necessary.
- Commissioner Meares asked, with respect to the materials that the Board already has in the hundreds already, is it the case that it's typical that at a hearing like this that the subject of the hearing would be entitled to introduce new evidence or does the evidence have to be complete and the dossier? When the Board is deciding a case, is it consistent with the rules to bring external evidence or is the Board only entitled to listen to evidence that's either in the dossier or brought forth in the context of the hearing?
- Attorney Simpson stated that this was a very good question. This is the employee's opportunity to set forth any new or mitigating information. So, they can bring in mitigation of different types. Typically, *Loudermill* hearings are very informal. If they want to bring in extra documentation to say the city should be doing further investigation, that should be done, in her view, and according to her understanding of the law, prior to this process.
- Commissioner Meares said Attorney Simpson spoke about an employee bringing in mitigation evidence. She asked if any person is entitled to introduce mitigating information other than the employee? She is familiar with *Loudermill* which does not say anything specifically about what these hearings should look like.
- Attorney Simpson stated that the union can present on behalf of the employee. In this case, they want to offer witness testimony as mitigation. Our response is that if they have it, the city would like to investigate that to ensure that the charges are based on the right stuff, all the evidence.
- Commissioner Meares asked, it's either the subject of the hearing or the subject's lawyer that can introduce information for the Board's consideration? Attorney Simpson responded, correct.
- Chief Reyes added, in response to Commissioner Meares' questions, that the employer also has the opportunity throughout the investigative process with Internal Affairs to disclose any information that they may feel is relevant to the investigation. He added that these are opportunities presented to the employee even during the investigation. Internal Affairs tend to uncover as much as they possibly can that will be relevant to the investigation including exculpatory evidence and anything the employee might present to be considered in terms of the investigation.
- Attorney Wolak stated that it's not Corporation Counsel but Labor Relations requesting a continuance of this matter.
- Commissioner Dawson asked if the Board should table this matter.
- Attorney Simpson stated that she reports to Corporation Counsel. She respectfully requested for additional time to review the information and assess it and follow-up as necessary.
- Commissioner Ribeiro asked whether if the Board decides to table this matter, would Attorney Simpson be speaking with the Department and union to reschedule.

■ Attorney Simpson said she had spoken to the union today about the city requesting a continuance. The union has no objection to a continuance. She does not want to delay this. This would be a priority.

- \*\* **Commissioner Ribeiro moved to Table the Matter.**
- \*\* **Commissioner Walker seconded**
- \*\* **Motion passed unanimously**

■ Commissioner Dawson stated that as soon as he is apprised about the information to be presented to the Board, he would request the Board meet to discuss this matter.

**RETIREMENTS (For Board information only)**

Officer Jason Bandy - eff., August 27, 2020

**RESIGNATIONS (For Board information only)**

Takyara Brooks, Records Clerk - eff., August 16, 2020

Officer David Diaz - eff., August 24, 2020

**RECRUITMENT/SELECTION COMMITTEE REPORT**

■ Commissioner Ribeiro stated that as had been stated at previous Board meetings, the General Order regarding the selection criteria for lateral hires is still being reviewed by Labor Relations. She has a copy of the draft. The committee, consisting of Commissioner Walker and herself along with staff, will review the draft. Once it has been reviewed by Labor Relations and Corporation Counsel, the committee will then bring it to the full Board for consideration.

■ Assistant Chief Sharp added that he believed Labor Relations had looked at it and said that the draft looked good. Chief Sharp stated he will get it to the committee for its review.

■ Commissioner Ribeiro stated that she wanted to confirm which copy of the draft she had. She was unsure if it was the final copy. She was unsure if there were further recommendations. A committee meeting will then be scheduled. During the last meeting the committee had, she and Commissioner Walker made some recommendations for the General Order for Reinstatement. That was also supposed to be reviewed by Labor Relations. She would like a status on that in order to bring it to the Board as well.

■ Assistant Chief Sharp stated he would have both of them ready to go.

■ Commissioner Ribeiro stated that all efforts should be made to schedule the meeting before the Board's regular meeting in October as the Department is looking to hire more officers.

■ Commissioner Meares asked how old the general order was and wondered if the Board was contemplating any major changes or whether this is considered sort of this is the way it is and only major objections.

■ Commissioner Ribeiro replied by saying that this is a new general. It is not superseding any previous general orders. This is language that the Department has drafted. It had been reviewed by Labor Relations and Corporation Counsel. The Board will then take a look at it and see if it has enough substance and meat; if the Board feels it needs more language, the Board will go back and do that with the staff. It is not final until the Board approves it.



- Commissioner Dawson added that the Board wanted a general order for lateral transfers due to increased interests in lateral transfers. Prior to this commission, no one really was doing lateral transfers in New Haven. The Board wanted a transparent procedure for lateral transfers.
- Lieutenant Zannelli confirmed that the Selections General Order was reviewed by Attorney Roderick Williams at Corporation Counsel. So Selections is good to go. Reinstatement and the other batch are still under review by Labor Relations.
- Commissioner Dawson stated that General Order 2.15 was ready. Lieutenant Zannelli replied by saying, yes, the three-page document e-mailed that afternoon.

### **EFFICIENCY COMMITTEE REPORT**

There was none.

### **FINANCE COMMITTEE REPORT**

There was none.

### **OTHER BUSINESS**

- Commissioner Dawson stated that there had been discussions regarding commissioners being on some of these committees. He would like to be on the Efficiency Committee. He asked that if the commissioners have particular committees they would like to be on, they should forward their interests to him so he can put a list together. The goal is to have at least two people on each committee between now and the next meeting.
- Commissioner Meares stated that she knew that Commissioner Ribeiro has been working on changes to the bylaws. Each commissioner can volunteer to be on a committee or there could be a committee of the whole with respect to these different committees. It is unclear how much work there is. She would feel much more comfortable on a committee and working on a committee with much more clarity regarding the bylaws that give information both about the substance of each committee, but also how each committee should operate. Other people might feel differently.
- Commissioner Dawson said her point was well taken. Commissioner Ribeiro has been working on that.
- Commissioner Ribeiro stated she was working on a draft. She would have to put this on a high priority on her priority list as it has been hanging out of a whole. She apologized for that.
- Commissioner Dawson stated he had some stuff he worked on. He would submit that to Commissioner Ribeiro. The draft could then be submitted to the Board members. All Board members will comprise the committee regarding the bylaws.

### **PUBLIC COMMENT**

- C.J. from Black and Brown United in Action welcomed Commissioner Meares to the Board. She acknowledged her being part of the Board and hearing constructive conversations. She would like to share part of her statement last week at the Police Transparency Meeting. She asked for all police to really consider what community policing means. That means having officers who look like us. And listening to this, there is a recurring problem where black and brown officers are limited even those within the community. She does not know about the commissioners, but she lives life. She makes mistakes. She wants to put it out there, really

consider when people apply to be officers and they are not given an opportunity because of something that happened many, many moons ago. She is putting that out there as there is no proper representation on these units at all.

■ Increasingly, there are officers coming out and being disrespectful to residents, showing up late, you know, just not acting in a way that is conducive to community policing. Most recently, there were officers who drove past legislator's house shinning their lights. She just wanted to put that out there. That's all she wanted to say. She thanked the Board.

■ Commissioner Dawson responded by saying thank you for bringing these to our attention.

### **EXECUTIVE SESSION**

**\*\* Commissioner Ribeiro moved to Enter Executive Session to Discuss Preliminary Drafts and Notes**

**\*\* Commissioner Meares seconded**

**\*\* Motion passed unanimously**

**The Board entered Executive Session at 6:49 p.m.**

**\*\* Commissioner Meares moved to Exit Executive Session**

**\*\* Commissioner Miranda seconded**

**\*\* Motion passed unanimously passed**

**The Board exited Executive Session at 7:05 p.m.**

**\*\* Commissioner Ribeiro moved to Adjourn the Regular Meeting**

**\*\* Commissioner Miranda seconded**

**\*\* Motion passed unanimously**

The next regular meeting will be on October 13, 2020.

The Board adjourned at 7:08 p.m.

Respectfully submitted,

Sotonye Otunba-Payne