



MINUTES OF CAUCUS Monday, August 2nd, 2023

The Common Council was convened at 5:41 PM in the Council Chambers on the Second Floor of City Hall, 24 Eagle Street, and was called to order by President Pro Tempore Kimbrough. It livestreamed on YouTube and Facebook.

Members Present: Anane, Balarin, Clarke, Farrell, Hoey, Keegan, Kimbrough, Love, and President Ellis.

Staff Present: Shaniqua Jackson, Brett Williams, Jake Eisland, Bryan Jimenez, Max Thierry, and Juliette Geraghty, Nairobi Vives, Veneilya Harden, John Levendosky, Kevin Cannizzaro, Paul “Batman” Collins-Hackett, Antoinette Santos, and Michele Andre.

Speakers:

Nairobi Vives, Chair of the Albany Community Police Review Board (CPRB)
Veneilya Harden, Vice Chair of the Albany Community Police Review Board (CPRB)
John Levendosky, Member of the Albany Community Police Review Board (CPRB)
Kevin Cannizzaro, Member of the Albany Community Police Review Board (CPRB)
Julie L. Schwartz, Managing Director of T&M USA, LLC
Martin G. Gleeson, Managing Director of T&M USA, LLC
Andrew Lah, Moeel Lah Fakhoury LLP
Russell Bloom, Moeel Lah Fakhoury LLP

Discussion/Questions:

- President Pro Tempore Kimbrough convened the meeting.
- CPRB Chair Vives introduced the membership of the CPRB, discussed the structure of the presentation, and provided an overview of the contents.
- CPRB Vice Chair Harden discussed the overall volunteer nature of being on the board of the CPRB and the hardships faced as a result of that, including the workload that each member and the sole staff member take on in conducting business.
- CPRB Vice Chair Harden further lauded the sole CPRB staff member Michele Andre and discussed the mission of the CPRB of improving police-community communication and relations and ensuring police accountability. CPRB Vice Chair Harden also discussed the general actions the CPRB undertakes in conducting its business.
- CPRB Member Levendosky discussed the work undertaken by the CPRB, including how many complaints the CPRB has reviewed and recommended findings for – 15.
- CPRB Vice Chair Harden discussed the community outreach they conduct to engage the community and make them aware of the role they play in the city, including mediating complaints, an underutilized process offered by the CPRB. CPRB Vice Chair Harden continued, discussing outreach with other organizations outside the City of Albany.

- CPRB Chair Vives discussed the Discipline Matrix and the public engagement they undertook in developing the matrix. CPRB Chair Vives noted that the Discipline Matrix is ready for submission to the Chief of Police for his approval.
- CPRB Chair Vives provided background for the outside counsel retained by the CPRB, Mark S. Mishler and Michael L. Goldstein.
- CPRB Chair Vives further discussed professional development opportunities that have been developed and sourced for board members as well as programs that make the CPRB's work more efficient. CPRB Chair Vives also introduced group of independent investigators who conduct work on behalf of the CPRB, T&M USA, LLC and consultants from Moel Lah Fakhoury, LLP.
- Julie Schwartz provided background on the work T&M conducts and provided a personal background.
- Martin Gleeson provided a personal background.
- Schwartz discussed the general steps taken during a successful CPRB investigation and elaborated on the need for unfettered access to case files. Schwartz stated that the CPRB is not receiving unfettered access and discussed issues faced when accessing documents including: disorganized document uploading; a previously 7 day, now 14 day, limit to accessing evidence before needing to resubmit a request; and audit logs that show how many times documents were accessed and by who.
- Schwartz also discussed cases they have been attempting to receive access to, one in particular where a mother was refused information by the Albany Police Department on whether a case was open for sexual assault of minor.
- Schwartz continued, stating that when beginning to investigate the complaint, only the 911 call was provided. The CPRB was informed that the case would be sent to Corporation Counsel to determine if the CPRB can receive additional case information, then the CPRB was informed that the case was too sensitive and that CPRB would need to subpoena the case.
- Schwartz continued, stating that under CPRB subpoena powers granted by Local Law J of 2020, the CPRB issued subpoenas for the case and were told by the City of Albany Corporation Counsel that the case was too sensitive, the case files would not be provided to the CPRB, and that the subpoena would need to go to a judge.
- Schwartz further continued, discussing an officer-involved shooting case where three officers, the sergeant, and the Chief of Police were subpoenaed and those individuals did not comply with the subpoena and did not submit a motion to quash the subpoena.
- Council Member Hoey spoke on a letter from the Police Benevolent Association's (PBA) outside counsel, Christopher Silva, that was sent to CPRB counsel, Michael Goldstein, prior to the date of the hearing stating that the subpoenaed police officers would not be appearing before the CPRB. Schwartz responded noting that she was not aware of the initial letter, but was aware of an email the night prior to the hearing when she was first made aware that the officers would not attend the hearing. She also stated that the CPRB's outside counsel informed the PBA's outside counsel that the officers must attend the hearing and were expected to be there, after which there was no further response.
- Gleeson stated that the letter from the PBA's outside counsel recognized that the CPRB had subpoena powers and that permission was being requested to have the officers not be present at the hearing and elaborated further on the situation.
- Council Member Hoey stated that it is important to hear both sides with regards to the CPRB issues and that the council will do what it needs to in order to ensure the CPRB can function.
- Council Member Balarin stated that he wished both sides were present at the caucus/work session to discuss the issues clearly. Council Member Balarin also discussed the NYC CPRB, their access, and asked how similar boards throughout the state have dealt with access issues similar to the Albany CPRB, to which Schwartz responded.
- Council Member Balarin requested additional information on a case CPRB was attempting to review, to which Schwartz responded that they are unable to receive information from the Albany Police Department.

- Council Member Anane spoke on the need for improved access to case information for CPRB and a resolution of differences between CPRB and the City of Albany. Council Member Anane then asked about the CPRB request for independent counsel, to which Schwartz responded.
- Council Member Anane also asked how many cases are being impacted by administration's refusal to provide material, to which Schwartz responded that two cases are unable to be worked because of the CPRB's lack of access to the case information.
- Council Member Anane discussed Local Law J of 2020 and the CPRB's investigative work as necessary to justify officer actions as much as it is to hold police officers accountable, to which Schwartz responded.
- President Ellis asked if Local Law J of 2020 establishes a 7 day limit for access to material, to which Schwartz responded no.
- President Ellis asked if Local Law J of 2020 gives subpoena power to the CPRB and if the Albany Police Department is provided an exception to the subpoena, to which Schwartz responded that there is an established procedure for reviewing subpoenas in sensitive cases.
- President Ellis asked if Local Law J of 2020 requires an access audit trail, to which Schwartz responded no, but that by using the system that the Albany Police Department uses to share information, the CPRB is subject to the monitoring. The history of CPRB access to case information was further discussed.
- President Ellis asked if confidentiality concerns were part of the reasoning for not providing material, to which Schwartz responded yes. When asked if the investigators were required to sign confidentiality agreements prior to reviewing case information, Schwartz responded yes.
- President Ellis addressed the Common Council, summarizing the issues that the CPRB are facing and spoke about the place of the Common Council with regards to establishing laws that the City must follow.
- CPRB Chair Vives spoke on the access issue and introduced CPRB consultants Russell Bloom and Andrew Lah who would speak on best practices for an effective civilian oversight board.
- Andrew Lah discussed the effective practices, including unfettered access to records, direct access to internal affairs databases, and independent counsel.
- Russell Bloom discussed the practices being used by the Bay Area Rapid Transit District (BART) Office of the Independent Police Auditor and how direct access to materials and even access to officer schedules in order to schedule conversations and discussions was established early in the office's history and that has allowed the office to work effectively, with the cooperation of officers.
- Council Member Kimbrough asked Russell Bloom how long it may take for the Albany CPRB to be established as an oversight agency with unimpeded access to investigate police activity as needed, to which Russell Bloom stated that it depends on how quickly the stakeholders make that process and that the BART Office of the Independent Police Auditor was created as an oversight agency using a robust, comprehensive model.
- Council Member Balarin asked how long it took for Russell Bloom's office to be trusted by internal affairs to be able to take the lead on investigations, to which Russell Bloom responded four to five years, mostly related to the actions of the Police Chief and consent of the police unions. The idea was floated to eliminate parallel investigations and let the Independent Police Auditor conduct its own investigations.
- Council Member Balarin also asked about the structure of the BART Office of the Independent Police Auditor and if the office is housed under BART, to which Russell Bloom responded that he is a BART employee but board appointed, separate from the structure of the BART police. Russell Bloom further discussed his access to evidence and materials.
- Council Member Balarin further inquired into the physical space of Russell Bloom's office, to which Russell Bloom replied that it is a completely separate structure.
- Council Member Anane spoke on the passage of Local Law J of 2020 and city departments needing to cooperate with the CPRB.
- CPRB Chair Vives thanked other invited speakers and further discussed the issues the CPRB is facing.

- CPRB Member Cannizzaro summarized the issues the CPRB has been facing.
- CPRB Chair Vives discussed the Albany Law School's assistance through providing administrative support to the CPRB since the creation of the CPRB in 2000, but that contract is set to expire in 2024 and will not be renewed by the Government Law Center. This will remove their one staff member and hamper other activity of the CPRB.
- CPRB Member Cannizzaro discussed proposals that the CPRB will be submitting to the Common Council for how to support the CPRB and increase its effectiveness.
- CPRB Chair Vives spoke on the dedication of the CPRB members and the impact that the issues they have faced have on the team as a whole.
- Council Member Kimbrough spoke about the absence of quorum.

There being no further business, the President Pro Tempore adjourned the caucus/work session at 7:44 PM.

Link to meeting recording:

https://www.youtube.com/watch?v=w_4skEdgK4M

Respectfully submitted,
Bryan Jimenez
Senior Legislative Aide