

**REGULAR SESSION MINUTES
MARCH 10, 2020
BOARD OF POLICE COMMISSIONERS
NEW HAVEN, CONNECTICUT**

PRESENT: Commissioners Anthony Dawson; Isaias Miranda; Evelise Ribeiro; Gregory Smith; 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 Herbert Sharp: Department of Police Service
Lieutenant David Zannelli: Department of Police Service
Sergeant Dana Smith: Department of Police Service
Officer Raul Pereira: Department of Police Service
Ramon Davis: Administrative Assistant II

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

Gerald Antunes: Board of Alders
Beatrice Codianni (phonetic)
Dave Dander
Barbara Fair
Miguel Pittman, Sr.: Community and Police Relations

OPEN SESSION

The meeting was called to order at 6:05 p.m., Anthony Dawson, Chair, presiding.

- The commissioners introduced themselves.
- Commissioner Isaias Miranda was sworn in by Attorney Michael Wolak,

DISCUSSION AND APPROVAL OF MINUTES

- ** Commissioner Smith moved to Approve the February 11, 2020 Regular Session Minutes
- ** Commissioner Ribeiro seconded
- ** Motion passed

MOTION TO ADD TO THE AGENDA

- ** Commissioner Walker moved to Add Discussions about Contingency Plans Due to COVID-19
- ** Commissioner Smith seconded
- ** Motion passed

INTERNAL AFFAIRS REPORT

Lieutenant David Zannelli

CLOSED CASES:

IA CASE NO. 090-19-C: The complainant alleged that Officers Wong and Santiago unlawfully searched her apartment and did not provide identifications. This was unfounded in part because of the body-worn camera footage. The complainant was uncooperative with the Internal Affairs process.

IA CASE NO. 057-19-C: The complainant alleged that the officer did not investigate his sister's complaint adequately. This was also unfounded due to body-worn camera footage. The complainant was uncooperative with the Internal Affairs process.

IA CASE NO. 085-19-C: The complainant alleged that the officer used his position as a police officer to intimidate him. This was unfounded. This was an off-duty, non-criminal conduct.

IA CASE NO. 067-19-C: The complainant alleged that he was handcuffed for an unreasonable period of time and sustained injuries, was placed under arrest and not Mirandized, that the police report was false. These were exonerated based on body-worn camera footage and the review of the incident reports. The complainant was uncooperative with the Internal Affairs process

IA CASE NO. 075-18-I: Then-Chief Campbell ordered an internal investigation into the off-duty criminal acts of Officer Alex Mongillo. This case was sustained.

IA CASE NO. 033-19-I: Then-Chief Campbell ordered an internal investigation into whether Officer Mongillo violated any General Orders when he encountered a walk-up complainant regarding a possible sensitive crime. This case was sustained.

IA CASE NO. 071-19-I: Chief Reyes ordered an internal investigation into Officer Mongillo for not completing multiple case reports on time several of which were domestic in nature. This was sustained.

- Lieutenant Zannelli provided the use-of-force statistics and IA breakdown.
- He also stated that the IA statistics have been posted on the Department's website.

CHIEF'S REPORT

Chief Otoniel Reyes

- Chief Reyes welcomed Commissioner Miranda on behalf of himself, the assistant chiefs and the entire staff.
- He added that he looked forward to working with him hand in hand for the betterment of the Department and the city.

- Chief Reyes stated that year to date there was one homicide which is the same last year at the same time. Non-fatal shooting year to date are nine compared to 12 at the same time last year. Combined robberies year to date are 56 compared to 39 at the same time last year. There have been 25 unlawful discharges year to date compared to 19 at the same time last year.
- The Department remains severely understaffed. There are currently 341 sworn personnel out of the budgeted strength of 434. Suffice it to say that the lion share of that deficiency lies in the officer's rank.
- The Department is working diligently in its recruitment effort. Commissioner Ribeiro and Assistant Chief Sharp can provide more details.
- The Department has gone through 40 individuals that were accepted into the background phase. They are looking forward to an academy class in May.
- Promotional examination are scheduled for the summer.
- Clergy Academy is on the tail end. The class is going very well. They will graduate at the end of this month. Notifications will sent regarding the graduation ceremony. The Department is looking forward to collaborating with the new clergy team.
- Citizens Academy will soon be posted to see if anyone in the community is interested.
- Commissioner Dawson asked about ways to curtail the robberies.
- Chief Reyes stated that the spike are juvenile-related robberies. It is being monitored. The Department has been working with its partners, not just juvenile probation but also the street outreach workers, youth program and schools to come up with ways of identifying these individuals.
- A group of individuals have been identified that are responsible for the lion share of the robberies in the East Rock neighborhood. Over a dozen robberies have been attributed to this group. The Department is working with its partners and the hope is to have an impact on the numbers very shortly.

PERSONNEL MATTERS

Consideration and action regarding the rehiring of Officer Omar Thomas

- Commissioner Dawson stated that Officer Thomas had requested to return to the Department. There is a new policy in the works regarding lateral transfers. This request has to be dealt with as the time period in which he could return will run out soon. In all fairness to this officer, he wanted to see what this body wants to do regarding this request.
- Commissioner Ribeiro stated that the Recruitment/Selection Committee that she chairs was tasked with taking a look at the process for reinstatements of officers separated from the Department and wishing to return within a year or after or for officers from other agencies who want to come to the Department as a lateral. At the last meeting she stated that a draft policy had been received, that it would be vetted through Corporation Counsel, and that they would report back at this meeting. That has been done.
- A committee meeting was held with Commissioner Walker, Assistant Chief Sharp, Lieutenant Zannelli and Sergeant Dana Smith. The General Order was reviewed and the committee had no issues with it. The committee wanted to propose that a special meeting be held whereby the General Order can be approved this month and based on that and the Chief's recommendation the Board can decide whether to rehire Officer Thomas or not and others that have requested to return.

- Chief Reyes said he was not prepared to present on Officer Thomas. He was placed on the agenda without his knowledge. And the Department has the responsibility to vet out any prospective candidate that comes to the Department. Putting him on the agenda was premature.
- As a point of order, Officer Thomas has resigned from the Department he was in. The Department is looking into that. That is not something that should be discussed at this venue. Officer Thomas should be here to have that discussion. Moreover, there is no policy in place.
- Chief Reyes said, for the record, he should not have been on the agenda. Discussions should have taken place before he was put on the agenda considering he has to make the recommendation to this Board on whether or not he should be considered.
- Commissioner Dawson said he differed with him as chair. He has been tossing this around with Chief Reyes for almost three months about whether to rehire him or not. Officer Thomas had made his request to return since August, 2019. A committee was appointed and charged with looking at a General Order for lateral transfers based on the commissioners' input.
- Commissioner Dawson further stated that he just thought they were dragging their feet too long regarding this situation. Corporation Counsel has told him that Officer Thomas needs to be working by the end of March based on the time he separated from the Department.
- Chief Reyes replied that there was no statutory obligation. This was simply to satisfy union-related collective bargaining issues.
- Chief Reyes further added that they have not been dragging their feet. This has been discussed at every meeting. A policy has been drafted that never existed in the entire history of the Department. He pushed for having a collective voice in doing that. The existing policy, past practices, actually puts the sole onus on the discretion of the Chief to present the individual for consideration before the Board. He is the one giving up that right to present an individual before the Board and to share that responsibility in order to have a transparent process.
- Chief Reyes said he had not taken anyone back since becoming chief. For the record, this individual like many others left this Department at the time during the time of peril. Officer Thomas left for nefarious reasons and under bad terms. He went to another department and has separated from that department.
- Commissioner Dawson said that information should have been shared with the Board.
- Commissioner Smith stated that Officer Thomas had requested to return to the Department back in August. It is now March and the discussion about whether this officer should return to this Department is still ongoing. To his knowledge and the time he has been on this Board, if there was a policy in place, prior to the newly drafted General Order, he had never seen it.
- Commissioner Smith also added that his understanding was they had always done this based on past practices. Numerous officers have returned based on that. The Board was never privy to reasons officers left nor information regarding their reasons for returning. The fact that this officer had requested to return to this Department since August, in all fairness to the officer, should be considered.
- Chief Reyes responded by saying he disagreed with that. No officer has returned under his tenure as Chief. When the union contract was signed, he said to the Board that the officers separated from the Department were wished well, but he would not take anybody back. As soon as a lucrative contract was signed the officers who abandoned the Department want to return. When he said that, he got a lot of confirmatory shaking of the heads from this Board.
- Chief Reyes said at the end of the day he is not bound by any past practices by other chiefs. He has not brought anyone back to this Department during his tenure. He reserves the right because this officer left under bad circumstances.

- Chief Reyes emphatically said he did not think Officer Thomas should be considered for a vote. He would not recommend him. Moreover, there is no policy in place that overrides past practice which is the police chief should be making the recommendation to the Board.
- Commissioner Ribeiro stated that she thought she had offered a recommendation that would satisfy the commission and the Department. This policy should be beyond one person. This policy should be about the Department and all the officers that are coming in after this person, if he is hired.
- Commission Ribeiro further stated that she was not comfortable with having a proposed General Order requiring a vote and circumventing that to let one person in and requiring everyone else to abide by the new General Order. She did not think that that's fair.
- Furthermore, because Officer Thomas submitted his request a while ago narrowing his window of opportunity to return, his request should be expedited.
- Commissioner Dawson responded by saying that was all he was requesting. If the Chief has a problem with that he apologizes. This request was made in August last year. Corporation Counsel told him that Officer Thomas should be back on the job by time the one year lapsed.
- Commissioner Ribeiro said as was discussed by the committee, a special meeting could be called to consider this and to also hear from the Department. She would make herself available as she understood the urgency. She is also about the process and procedure. She does not have a horse in the race regarding Officer Thomas. She does not know the facts. However, he should get a fair chance to be heard.
- Commissioner Smith stated he disagreed with having a special meeting. This is the first time he had seen the proposed General Order. He had not read the General Order. He has both his phone, his personal mobile phone and the Department-issued mobile phone, he had not received anything regarding the General Order.
- Commissioner Smith reiterated that Officer Thomas made a request in August of 2019. He does not understand why all the information was being presented then when it could have been shared with the Board previously. He recommended that the decision to hire or not should proceed.
- Commissioner Smith stated he reached out to Corporation Counsel and understood that the Board particular the chair of the Board is authorized to send a letter to the Civil Service Board and the Civil Service Board would then consider the recommendation from the Chair of the Board of Police Commissioners. He also received an e-mail from Corporation Counsel also indicating that those were the rights of the chair of the Board of Police Commissioners.
- Attorney Wolak stated that it is the appointing authority who has to make the recommendation to the Civil Service Board. The appointing authority for officers is the Board of Police Commissioners. That was what he expressed. He did not say that this particular officer should be hired. All he said that was that an officer's year for Civil Services purposes expires one year after he or she separated from the Department.
- Commissioner Dawson said this is the only request before the Board.
- Commissioner Ribeiro stated that she did not know the background of the others.
- Commissioner Dawson was emphatic that he was not trying to circumvent the chief or this body. He is just stating that this request should not have been lingering since August. He is the first officer since his tenure of about six or seven years that has been lingering for this long. So his request was to expedite the process to make a decision about whether to rehire him or not. That is fair.

- Commissioner Smith reiterated that the Board of Police Commissioners is the appointed authority.
 - Attorney Wolak said that the Board of Police Commissioners make the recommendation to the Civil Service Board. However, the Board of Police Commissioners, based on the Chief's recommendation, makes the decision.
 - Commissioner Smith wanted some clarification regarding the Board's authority.
 - Attorney Wolak responded by saying that the Board does not have to accept the Chief's recommendation. It can be voted up or down.
 - Commissioner Dawson wanted Attorney Wolak to send out a letter to the Civil Service Board expressing the difficulties the Board was having.
 - Attorney Wolak said that he could ask. It is just sort of a hard and fast rule. Officer Thomas would then morph into the lateral situation if his time expired.
 - Commissioner Smith stated that this was the first time he got any information about Officer Thomas.
 - Chief Reyes stated that the focus should be less about the authority here. Clearly, the Board has the authority. The issue here is what is appropriate. What is inappropriate is to make a decision without having all the facts that's going to have an impact on the Department for the foreseeable future.
 - Commissioner Dawson added that as long as the Chief has known this body, it has not made any decisions without the facts. All he has requested is for the Chief to present the facts to the Board in order for it to make an informed decision.
 - Chief Reyes said another point of clarification for the record regarding the delay, it has been discussed at every Board meeting and the Department has been completely transparent with a member of the Board who is a member of the Recruitment/Selection Committee. There is a desire by the Department, however, to dot its i's and cross its t's.
 - Commissioner Dawson said he was referring to the Board dragging its feet because the Board should have responded to this request. So it is not directed toward the police personnel. It is just that this has to be expedited.
 - Commissioner Walker asked about when his time would expire.
 - Chief Reyes replied by saying, March 28th, 2020.
 - Commissioner Dawson said it would have to be a special meeting. The expiration date was the reason he put him on the agenda.
 - Attorney Wolak said he spoke with someone at Human Resources and was told the rule is an officer has to return to the Department within one year after separation from the Department in order to obviate the need to go through the rigmarole of securing a position in the Department.
- ** Commissioner Smith Motioned to Table the Rehiring of Officer Omar Thomas in Order to Give the Chief an Opportunity to Present to this Body Additional Information Regarding Officer Thomas and that once that Information is Presented to this Body that this Body Then Make a Recommendation
- ** Commissioner Walker seconded
- ** Unanimously passed
- Commissioner Dawson stated that a special meeting would be called to address this matter.
 - Commissioner Walker asked about how much time it would take to be on the job after approval.

- Attorney Wolak replied that he was unsure.
- Cathleen Simpson, Director of Labor Relations, stated she would follow-up on those questions for the following day.
- Commissioner Dawson said that information should be relayed to the Chief and himself expeditiously.
- Ms. Simpson was thanked.

ELIGIBILITY LIST

- Assistant Chief Sharp stated that three individuals out of the four recommended for removal from the Eligibility List showed up.
- Commissioner Dawson said the three want to be heard in a closed session.

CORPORATION COUNSEL REPORT

(In Executive Session)

Litigation:

Gaylord Salters v. Commr. of Correction (Subpoena Only); Rockville Superior Court, Dkt. No. TSR-CV18-4009781-S

Jamarr Hailey v. K2 New Haven, et al. (Subpoena Only); New Haven Superior Court, Dkt. No. NNH-CV17-6068327-S

Marquis Jackson v. City of New Haven, et al.; New Haven Superior Court, Dkt. No. NNH-CV17-6100933-S

Charles Tyson v. City of New Haven, et al.; FOI Comm., Dkt. No. FIC 2019-0716

Michael Wilson v. Shanece Wilson (Subpoena Only); New Haven Superior Court, Dkt. No. NNH-FA18-6087308-S

Claims:

Jonathan Falero v. City of New Haven - injury claims arising from alleged altercation with police officers

Kara Hyatt v. City of New Haven - injury arising from collision with police vehicle

Steven Spofford v. City of New Haven - claims for property damage and rental car reimbursement arising from collision with police vehicle

RETIREMENTS (For Board information only)

Officer Vanessa Thompson, - eff., February 28, 2020

RESIGNATIONS (For Board information only)

There were none.

RECRUITMENT/SELECTION COMMITTEE REPORT

- Commissioner Ribeiro stated that she had sort of given her report. However, just to reiterate, the General Order 2.14 was received by the Recruitment/Selection Committee. It is entitled “Reinstatement of Officers Separated from Service.”

- The General Order was not disclosed to the other commissioners on the Board simply because it was supposed to be reported at this meeting. However, in the future, if it is the pleasure of the commissioner that it be sent to them in advance, she would do that. She was apologetic.

- The goal was to take a look at the General Order, schedule a meeting and take care of this matter expeditiously.

- Commissioner Ribeiro stated that the Chief in his report already spoke about the status of the new class. There is a posting out for lateral transfers for police officers from other departments.

EFFICIENCY COMMITTEE REPORT

There was none.

FINANCE COMMITTEE REPORT

There was none.

OTHER BUSINESS

Committee appointments/elections

- Commissioner Ribeiro stated that at the last meeting she had suggested that this issue be tabled in order to give Commissioner Miranda an opportunity to participate. Since he had just been sworn in, she was unsure if he had had an opportunity to see what committee he was interested in. If not, she suggested tabling this for another month.

- Commissioner Dawson requested that Attorney Wolak provide Commissioner Miranda with the information regarding the different committees and their responsibilities.

- Commissioner Ribeiro stated she had a copy. It is in the rules of order. She would share it with Commissioner Miranda.

- Commissioner Dawson said this matter still remained tabled.

CONTINGENCY PLAN DUE TO COVID-19

- Commissioner Walker said due to COVID-19 and the uncertainty regarding its spread, there has to be an alternative way to meet if isolation is required. There are a lot of different options.

- There necessarily has to be consideration about how the public can participate or be at least part of the meeting if the Board cannot physically meet.

- Remote meetings are inevitable. It is possible to do a virtual meeting even with public participation. There has to be an exploration of what technology or methodology will be used.

- Attorney Wolak added that it is a hot topic. There had been numerous e-mails regarding this. The biggest problem is public attendance. One of the concerns is internet access or computer access.

- Ms. Simpson stated that she has been a part of these conversations with Human Resources and Labor Relations. This is part of their protocol to work with boards and commissions and how their businesses can go forward and keep the public health issues properly adhered to. Right now, they are looking at all the boards and commissions and working this out. The board will be kept informed.

- Commissioner Dawson asked if Commissioner Walker would work with the city on that.

- Ms. Simpson replied by saying that communication would be with Corporation Counsel.

- Commissioner Smith asked if this information will be given to the public.
- Ms. Simpson said it would as things are figured out.
- Commissioner Walker asked if there was a timeline for this information.
- Ms. Simpson stated things are moving quickly. It would be as soon as possible.
- Attorney Wolak stated that as soon as he got the information about this he would disseminate them to the commissioners.

THE PASSING OF COMMISSIONER STEPHEN GARCIA

- Commissioner Ribeiro spoke about the recent passing of Commissioner Steve Garcia about passed two weeks ago. He was an integral part of this Board. He was on this Board for almost 20 years.
- Commissioner Ribeiro said he was always her right hand commissioner. He sat next to her and was dear to her. It is important to acknowledge his efforts. He is not here to smell his roses and we see his roses. He deserves a heartfelt thank you from this Board, this Department and the public for his efforts. It is appropriate to give him a moment of silence and thank God for the life he served and for his service to this city and this Department.
- Commissioner Dawson requested a moment of silence.
(There was a moment of silence.)
- Commissioner Dawson added that he informed Mrs. Garcia that the Board would do something with her at a later date.

PUBLIC COMMENT

- **Mr. Dave Dander, Colchester, Connecticut**, asked to distribute some documents to the Board regarding his public comment. He presented the same documents during his comments to the Board in January. He read the minutes of the January meeting and the minutes of the February minutes where the January meeting minutes were approved. The minutes are detailed.
- Either he made a mistake, which he didn't think he did and he didn't think he contradicted himself, or the Board approved minutes that were incorrect. He came before the Board in January because of a false police report.
- Mr. Dander stated his daughter suffered a fractured left pelvis, serious laceration to her left leg, a dislocated left hip and two broken bones in her right ankle.
- He is happy to say that as an operating room nurse at Yale, after three months home with him and his wife, she is back to work.
- Either he made a mistake, which he didn't believe he did, or the Board approved minutes that are incorrect. He came in January to correct the police report. He filed a civilian complaint.
- He is tempted to say Internal Affairs is dragging their feet, but he does not want to get the Chief upset.
- On the backside of the pictures. He took the minutes from January, his statement, half way through he cut it apart. He took the minutes approved by this Board and highlighted in red/yellow font what he said, and the cross above it with black lines is what's wrong which led to a contradiction.
- He said maybe the Board felt he contradicted himself. He is reading the last bullet just above that gray text box. His daughter said at the scene to Officer Rieser that Mr. Nieto was the driver. I did say that. It says that the police report identifies Operator No. 1 as Mr. Fabian

Nieto. He said he did not say that. The supporting documents that he distributed to the Board would confirm that. Again, maybe he made a mistake but he didn't think so.

- It goes on to say, his daughter never said Fabian Nieto was the driver. That would be him contradicting himself.

- What he said highlighted in yellow with red font down below is his daughter never said Mr. Zachary Fappiano was the driver. That concludes my citizen's comments. He thanked the Board.

- Mr. Dander was thanked.

- **Ms. Barbara Fair** stated that she was just here to invite parts of this organization. She gave copies to Commissioner Dawson and Chief Reyes.

- This is a meeting regarding criminal justice on Saturday, March 21st, 2020 from 2:00 p.m. to 4:00 p.m. at the Courtland Wilson Library.

- She invited the Chief of Police, a representative from the police commission, a state prosecutor and well-respected, local, criminal defense attorney.

- Ms. Fair stated that the invitation states, please join us in an engaging conversation between law enforcement and the community it serves. It's about building relationships and working together for a more just, compassionate, community-involved and friendly place to live. And it is free and open to the public

- She stated she would like to have at least one person from the Board to be a part of the panel as well as the Chief. She thanked the Board.

- Ms. Fair was thanked.

- **Ms. Beatrice Codianni, Fair Haven, Connecticut**, stated she does outreach in Fair Haven. She is concerned about the actions of a certain officer. She got a group of like 13 people to talk to the chief and he was very receptive.

- She would like to know if this particular officer is getting paid by McDonald's to be security because he's in there constantly, parked outside. She has videos of the officer banging on windows telling people they have to leave. It got so bad that she asked the National Lawyers' Guild to come in and observe, and they did. Unfortunately, their report is not ready yet.

- The officer is giving tickets to people who are homeless for loitering or trespassing. And this is not on behalf of the McDonald's people because if the managers at McDonald's need the people to go, they say to the people, okay, you've been here a while, you need to go.

- There's supposed to be a shortage of police in New Haven so she wondered why he was parking at McDonald's hours upon hours upon hours and ticketing people who cannot pay. As a result of their inability to pay, they get arrest warrants and then she has to go to Union Avenue. They then have to go to court. It's a waste of taxpayers' money. It is inhumane to treat vulnerable people like this.

- With this virus coming more outreach is needed to make sure the homeless are safer.

- Other things are happening in Fair Haven that are atrocious.

- She wanted to know why that car is parked there hours upon hours. She has spoken to Sergeant Fumiatti and Chief Reyes about it.

- Ms. Codianni was thanked.

■ **Ms. Barbra Fair** said that when the task force meetings were held and executive session occurred, the public was asked to step outside. She inquired where the executive session would be.

■ Commissioner Dawson said there was a meeting being held at the adjoining room separated by a broken divider. It has to be done in the current room.

EXECUTIVE SESSION

** **Commissioner Ribeiro moved to Enter Executive Session for the Purpose of Pending Litigation and Complete Reports, Pending Lawsuits and Claims and Preliminary Drafts, Internal Affairs Reports and Personnel Matters**

** **Commissioner Walker seconded**

** **Unanimously passed**

The Board entered Executive Session at 6:54 p.m.

** **Commissioner Walker moved to Exit Executive Session**

** **Commissioner Smith seconded**

** **Unanimously passed**

The Board exited Executive Session at 8:32 p.m.

PERSONNEL MATTERS

Discussion and action on the recommendation to remove the following candidates from Eligibility List #19-37:

** **Commissioner Ribeiro moved to the Approve the Removal of Alexzandria Dowdy, No.7, from the Eligibility List #19-37**

** **Commissioner Smith seconded**

** **Unanimously did not pass**

** **Commissioner Ribeiro moved to Approve the Removal of Richard Kastor, No. 10, from the Eligibility List #19-37**

** **Commissioner Smith seconded**

** **Unanimously passed**

** **Commissioner Ribeiro moved to Approve the Removal of Tyler Evans, No. 15, from the Eligibility List #19-37**

** **Commissioner Smith seconded**

** **Unanimously passed**

** **Commissioner Ribeiro moved to Approve the Removal of Naphateria Miller, No. 16, from the Eligibility List #19-37**

** **Commissioner Smith seconded**

** **Unanimously passed**

**** Commissioner Ribeiro moved to Adjourn the Regular Meeting**
**** Commissioner Smith seconded**
**** Unanimously passed**

The next special meeting was scheduled for March 17, 2020.
The next regular meeting is April 14, 2020.
The Board adjourned at 8:34 p.m.

Respectfully submitted,

Sotonye Otunba-Payne