

**City of Albany
Citizens' Police Review Board
Albany Public Library
161 Washington Avenue – Large Auditorium
December 12, 2006
6:00 p.m. – 8:00 p.m.**

Present: Jason Allen, Mauri Davis Lewis, Daniel Fitzgerald, Ronald Flagg, James Malatras, John Paneto, Andrew Phelan and Anthony Potenza.

Absent: Fowler Riddick.

I. Call to Order and Roll Call

Chairman Jason Allen called the meeting to order at 6:00 p.m. He noted that a quorum of the Board was present.

II. Approval of the Agenda

The agenda was reviewed. Chairman Allen moved to approve the agenda. Mauri Davis Lewis seconded the motion. The motion carried unanimously.

III. Approval of the November 14, 2006 Meeting Minutes

The November 14, 2006 meeting minutes were reviewed. Chairman Allen asked if Board members had gotten a chance to read the minutes. A general affirmative response was given by those members in attendance. Chairman Allen then moved to approve the minutes. Ronald Flagg seconded the motion. The motion carried unanimously.

IV. New Business

A. *New Complaints*

1. New Complaints Received Since November 14, 2006 Meeting

Chairman Allen reported that there were two (2) new complaints received by the Board since its November 14, 2006 meeting. Andrew Phelan read a summary of each new complaint.

CPRB No. 39-06

On October 12, 2006 at about 12:15a.m., the complainant claims that he was arrested by the Albany Police Department and State Troopers. The complainant alleges that after the officers handcuffed him, they proceeded to kick and punch him in the head and body. The complainant claims the he lost his boots and was soaking wet from lying on the street. The complainant claims that he was transported downtown after an officer stated that a videotape was recording their actions. The complainant says that after he was downtown, he was then transported to the hospital for x-rays, a CAT scan, and treatment. The

complainant was informed that he had multiple contusions and abrasions, but no broken bones. His ears were still ringing and his vision blurry. After he was transported back to the station about 3:45 a.m., the complainant claims that he was handcuffed to a bench and made to sleep on the bench until 8:30 a.m. The complainant alleges that the officers made racial slurs and jokes about sexual acts with black women and that when you run that's what happens to you. The complainant claims that he was denied access to a phone call for three (3) days and that he has pictures of his injuries and the hospital report to support his claim of excessive use of force.

A monitor was appointed to this complaint.

CPRB No. 40-06

On November 18, 2006, the complainant alleges that during a traffic stop by two police officers in Albany, after looking at his license, one of the officers asked him "are you going to do laundry?" The complainant was confused by the question, so he looked around his car and saw his girlfriend's scarf. The complainant says that he guessed that's what the officer was referring to, so he replied "no, it's just my girlfriend's scarf." The complainant claims that when he said that both officers smirked. The complainant alleges that the officer's laundry statement to him was a stereotype of Chinese and Asians.

A determination as to whether to appoint a monitor to this complaint had not yet been made.

2. New Complaint(s) For Review

It was reported that there was five (5) new complaints on the agenda for review by the Board.

CPRB No. 23-06/OPS No. C06-254 (Presented by John Paneto)

Mr. Paneto summarized the complaint. The complainant states that he was sitting on the church steps when two cops approached him. The cops said, "Hi," and the complainant replied with "Hello." The cops asked for the complainant's name and where he lived. One cop asked for the complainant's ID. The cops continued to ask the complainant the same questions. The complainant then alleges that the cops did not answer his questions. One cop told the complainant to come down from the steps and to place his hands over his head. The complainant states that he asked the cop why he was asked to place his hands on his head and are they arresting him. The complainant alleges that one cop proceeded to place the complainant's right arm behind his back and the other cop placed the complainant's left arm over his head. The cops then removed the complainant's wallet from the complainant's pocket and checked it for ID. The complainant was questioned about any warrants. The cops returned the complainant's wallet and allowed the complainant to leave. The cops walked away and the complainant went to the South Station to submit this complaint on the basis of the incident.

The OPS review states that the police are allowed to initiate a street encounter that consists of general and non-threatening questions. Further, the OPS review states that the complainant's demeanor, refusal to cooperate with replies to basic questions and refusal to provide identification were justification for retrieving the wallet from the complainant. The OPS report states that police level of engagement was appropriate for this setting.

A monitor was assigned to this case. The monitor's report agrees with the OPS review that the allegation of illegal search was closed as *exonerated*. On the matter of the excessive use of force, the monitor also agrees with the OPS that the case be closed as *not sustained*.

It was noted by Chairman Allen that the monitor, Joel Pierre-Louis, was not yet present. He then asked if the complainant had anything to add. The complainant had nothing to add.

Mr. Paneto moved that the matter of the illegal search be closed as *exonerated*. On the second matter of excessive force, he moved that the case be closed as *not sustained*. Mauri Davis Lewis seconded the motion. The vote carried unanimously.

CPRB No. 27-06/OPS No. C06-421 (Presented by James Malatras)

Mr. Malatras summarized the complaint. The allegation submitted by the complainant took place on five separate occasions: twice on June 1st; once June 8th; once on June 12th; and once June 13th, 2006. The complainant alleges one count of excessive force on June 1st, one count of police misconduct on June 1st, one count of police misconduct on June 8th, and one count of police misconduct that took place on June 12th and 13th. The facts are as follows:

On June 1, 2006 the complainant's daughter called police communications stating that she believed the complainant was experiencing a mental health emergency. The police assigned to the call went to the complainant's residence, canvassed the area, and spoke to the complainant briefly. Since the officers did not notice anything out of the ordinary, they apologized for disturbing the complainant and left. Later on that evening, the complainant's other daughter, who was at the complainant's residence, once again called police communications. She stated that the complainant was experiencing a mental health emergency. The same police officers again responded and it was during this call on June 1st in which the complainant alleges that the police unnecessarily handcuffed her and tackled her on her living room couch. They then transported her to Albany Medical Center against her will and without legal basis. The result of the excessive force, the complainant further alleges, made her feel like they were breaking her arms and thus the complainant cried out in pain. The complainant alleges that because of force used during handcuffing, she sustained numbness and scarring of her wrists in which a doctor told her to take a week off of work to heal.

The OPS and the monitor's report both stated that according to the officers and other emergency responders, the complainant was handcuffed and restrained during the second visit on June 1st because she was "irrational, agitated, and highly aggressive." Finally, according to the OPS and monitor reports, emergency health responders that were called by the officers at the scene suggested that the complainant be transported to a health facility since her agitated state of mind made it impossible to complete an examination or assessment at her residence.

On June 8, 2006, the complainant called the police, inquiring why she was "kidnapped" by the police on June 1st. According to the OPS report, the same officers that were on the scene on June 1st were dispatched to the complainant's residence because of the kidnapping allegations made by the complainant. Upon arrival, the OPS and the monitor's reports state that the complainant began yelling and screaming, as well as becoming physically agitated. The OPS stated that the complainant was handcuffed to protect her and the officers' safety. While emergency health responders were called to the scene, they did not arrive to evaluate the complainant. Once again, the complainant was transported to a health care facility for further evaluation. During this call, the complainant alleges that when she asked an officer "Is this where my tax dollars are going," she was expressing her view that the police presence was unnecessary. The officer threw a penny on the complainant's coffee table and told the complainant that she only pays about one percent of his salary and, therefore, she could have it back.

Finally, the complainant alleges that she was provided false information by the police department. On June 12, 2006, she stopped by the South Station to pick up copies of the reports from the three police visits. She was told that there were only two – one for June 1st and one for June 8th. On June 13, 2006, the complainant called the department again regarding the first visit on June 1st and she was once again told that there was no report taken on the first visit on June 1st. The complainant believes that this was "a lie" because she had let the officers into her residence on both occasions on June 1st.

The OPS completed an extensive review, including interviewing the officers and other emergency responders at the scene on June 1st and 8th, by examining emergency calls, and interviewing neighbors as well as the complainant's daughters. The OPS, therefore, recommended the following actions. With regard to the allegation that the police unlawfully transported the complainant to a health care facility, the OPS recommended that the officers be *exonerated*. The OPS found that since a relative called emergency services fearing a health emergency and since the complainant was highly aggressive and verbally combative, the officers and other emergency responders were justified under the law to send the complainant to a health care facility for further assessment. The monitor assigned to this case concurred with the OPS' findings. With regard to the allegation of excessive use of force where the officers restrained the complainant with handcuffs on June 1st, the OPS recommended

that the allegation be **unfounded**. The officers and other emergency response individuals agreed that the complainant was combative and fighting and, therefore, the handcuffs were tightened during the complainant's struggle. The monitor's report, in addition, stated that one of the complainant's daughters concurred. The monitor assigned to this case concurred with the OPS' findings. With regard to the third allegation of police misconduct where, according to the complainant, the officers threw a penny on the coffee table, the OPS recommended that the allegation be **not sustained** because other officers did not recall this occurring. The monitor assigned to this case also noted that one of the emergency response technicians could not recall this allegation ever occurring. The monitor assigned to this case also concurred with the OPS' findings. Finally, with regard to the final allegation of police misconduct where the complainant stated that department representatives intentionally mislead and lied to the complainant regarding the production of a police report, the OPS recommended that the allegation be **unfounded**. The OPS stated that a review of the file showed that the call ticket in reference to the initial call on June 1st stated that the complainant was "gone upon arrival" and, thus, no report was produced. However, as the monitor's report points out, a review of the records shows that officers did have contact with the complainant during the first visit on June 1st. Therefore, it is unclear why a police report was not generated. Thus, the monitor disagrees with this finding of the OPS.

The complainant was recognized. She stated that when the officers first came to her house she let them search her whole house and she told them that everything was fine. She had been drinking so she didn't want to move her car and that is when she called her daughter to move her car. The complainant then got into an argument with her daughter and the daughter then called the police. The daughter let them in her boyfriend's house. The complainant told the officers that everything was fine and they could leave. She states that she did not have any weapons, she had not hurt anyone, and she was not a danger to herself or to anyone else. The officers attacked her on her couch and they not only put handcuffs on her, they also put shackles on her feet and put her in a straightjacket against her will. The officers then took her to Albany Medical Center and then to a psychiatric center for evaluation. The complainant stated that the officers came back the next week, after she made the phone call that she was kidnapped. The first report would have shown that the officers spoke with her. They apologized, they searched her whole house, and they left her daughter at her boyfriend's house. If they checked her record this wouldn't be the brightest thing to have done, but they didn't check the record. The officers didn't speak to the complainant when they came back the second time, they spoke with the complainant's daughter. The complainant stated that the officer insulted her when he threw a penny on her coffee table and said she could have it back and when the officer walked around her boyfriend's house picking up stuff with his baton off the table, and when he made suggestions that the complainant didn't take her medicine – a sleeping aid that she can take if she chooses to. She has never had any psychiatric episodes or anything like that; she has never made any suicide threats or homicidal threats. The same officer that came all three times is the one that initiated

the whole thing. Now this is on the complainant's record and she doesn't like it because she doesn't have any psychiatric problems.

When the officers came the second time, she wasn't nice and she wanted them to leave. The officers woke her up in the middle of her sleep the first time and she was in shock that they were there. She thought that something happened to one of her children. The officers told her what happened, but not who made the phone call. The only reason that the daughter came to the house was to move the complainant's car because the complainant had been drinking. Then the complainant ended up getting handcuffed, shackled, and straight-jacketed. She missed work going to the doctor for her arms and everything else. When the complainant called to see who put the shackles on her, no one knew so she called the Mohawk Ambulance to see, but they don't have shackles so it must have been the Albany Police. The complainant then called the police department and she told them that officers had kidnapped her. When the officers came back to her house, she didn't know that she didn't have to let them in, and they did the same thing all over again. The officers had the nerve to ask her "Do you feel like walking out this time or should we carry you out on the gurney like last time?" The complainant replied that they might as well do what they did last week because they were going to commit her. This was unnecessary and ridiculous.

The monitor, Joel Pierre-Louis, was recognized. Other than what he provided in the report, he did not have anything new to report. The facts are what they are and based upon the records that were available to him, there were certain statements and documents that he did not get to review. From a whole, based upon the record, his recommendations stand.

Chairman Allen asked Mr. Pierre-Louis to go over the finding where he didn't concur with the OPS. Mr. Pierre-Louis stated for the record that there were no allegations raised in the complaint with respect to the police unlawfully entering the apartment. The complainant did in fact indicate that she let them in, that was an issue that was never raised by her. With respect to the issue or allegation raised by the complainant about a report not being filed for the first visit. The officer, by his own admission, indicated that they did show up at the residence, entered the house, and conducted a peripheral, consensual search of the apartment, and did not find anything. Then the officers apologized and left. Mr. Pierre-Louis is not sure what the Standard Operating Procedures (SOP) are for police entering a private residence and why a report wasn't filed. It seems to Mr. Pierre-Louis that a report should have been filed and is questioning why a report wasn't filed. The reason why it was not filed is best left to the police department to explain.

Chairman Allen asked the complainant if it concerns her that a report was not filed the first time. The complainant replied that if a report was filed, it would state something like she was okay. She was half asleep when they almost broke down the door, but she let them in because she thought that something had happen to one of her children. The police looked all around and she thinks that a report should have been

taken because this would have invalidated the second report (the first report they did take). The officers talked to her, she was fine, and she wasn't doing anything. It is an abuse of power and if they didn't like her attitude, they should have just left. She doesn't have to be nice to them.

Chairman Allen asked Mr. Pierre-Louis if he had touched upon everything he wanted to say. Mr. Pierre-Louis replied that he didn't find anything in the record from an individual who responded to the crisis. If you look at the report, this was one of the major points he wanted to raise. He wanted the chance to review the documentation, he is not sure if this even exists. Also, the EMT indicated that he and his partner responded, but it is not clear who his partner was and whether or not a statement was taken from his partner.

Chairman Allen asked Mr. Pierre-Louis if he had gotten a chance to ask the OPS if they had these documents. Mr. Pierre-Louis replied no.

Sergeant Eric Kuck was recognized. This is the first time he has heard that there were any concerns about the case. If there were any questions about the case before it is heard publicly, the OPS should be given the opportunity to address it. There are two statements from the EMTs that were in the record that the monitor is privy to as well as the Board members. Regarding the other statements, there would have been notes taken on any conversations that occurred in the case file. Further, regarding the indication that the officers cleared with signal one, it is indicated right on the report that the officer cleared on the first call, which means unfounded. That they did respond to the second call and deemed, at that point in time, that the complainant was an emotionally disturbed person. Upon the first call, the officers did a cursory check of the complainants' home and did not deem her to be a danger to herself or to others. That is why a report was not generated because no action was taken and a report was not needed. Upon going back subsequent times, they were much more qualified to make these evaluations. The officers deemed that the complainant should be transported.

The monitor stated that with respect to what is not in the file, and generally he does work well with the OPS, he is not saying there is a problem with not providing the documentation. Mr. Pierre-Louis clarified that after having reviewed the report that by the time these questions were raised this weekend, he didn't have much time. Mr. Pierre-Louis noted that he was not faulting the OPS, but is noting for the record that certain documentation was not available for his review.

Chairman Allen asked if more time is needed for this case. Mr. Malatras asked if signal one itself act as a report that nothing happened and is this something that we can have access to. Sergeant Kuck responded that typically under the current system they can only reflect and log one disposition per call. The dispatcher put in signal one, which was incorrect. The officer recorded and noted in the report a signal eleven, which was appropriate. More than likely, the dispatcher was around for years

and this was something they picked up from past practices. The officer went back properly and there is no indication of any deception on the officer's part.

Mr. Malatras stated that they put the code in incorrectly and that is why the officer went back. Sergeant Kuck added the dispatcher returned and put the proper code in to indicate that he did go there and it was unfounded on the first call. This is noted in the OPS' report on the last page, in the last paragraph. Mr. Malatras said that it is important to clarify this for the complainant because she wanted to base the second piece on this.

Mr. Pierre-Louis said that Detective Alisa Murray did report an explanation about the signal eleven and one. Mr. Pierre-Louis pointed out that the officers showed up and they didn't only ring her bell to talk to her, they entered the house. As the Sergeant just explained, to him as a monitor and lay person, it just seems that an issue is raised in terms of at least saying that they entered and this is what they found. He is not questioning the SOP. Sergeant Kuck added that the SOP says that no evaluations referred to from the initial call.

Mr. Malatras moved to accept the four findings based on the OPS report. He noted that he concurs with the monitor's report, although in the standard operating procedure this is something that can be confusing to the community and complainant. This is something that can be worked on, not as a matter of disposition for this case, but for future cases. Mauri Davis Lewis seconded this motion. The motion carried 7 -1, with John Paneto voting against the motion.

CPRB No. 28-06/OPS No. C06-452 (Presented by Mauri Davis Lewis)

Ms. Davis summarized the complaint. The complainant alleged that he was parked along Central Avenue a few feet from the CVS, however, he was not double parked. There were two cars behind him that were and that an officer only issued the complainant a parking ticket. The officer only issued the complainant a ticket. The complainant alleged that the officer allowed the third vehicle to drive off and bypassed the vehicle parked directly behind the complainant to issue the complainant a parking ticket. The complainant alleged that when he asked the officer what his name was, the officer stated that he just gotten a parking ticket for asking what his name was.

Regarding the first allegation, the OPS recommended that the officer's conduct to be *exonerated*, where the acts which provided the basis for the complainant occurred, but the review shows that such acts were proper. The officer stated that he observed the complainant parked in the outside lane, obstructing west-bound traffic as well as two available parking spots. The officer further stated that the complainant was the cause of the problem because he was obstructing traffic and the two vehicles were stuck behind the complainant. The complainant admitted that he was double parked by stating that he did not block in any cars and was not double parked, but there were

two cars behind him that were, clearly indicating that he was not legally parked. The complainant went on to state that he never left his vehicle, he had his hazard lights on, and that he moved his vehicle into the immediate parking space that was in front of him. The complainant's witness stated that the complainant was parked where the curbing bumps out in front of CVS, which further substantiates the fact that the complainant was parked in violation. To get to the root or cause of the violation, the officer bypassed the other vehicles and proceeded directly to the complainant's vehicle because the complainant was the cause of the vehicles that were stuck behind him. The officer's contact with the complainant consisted of running him for a valid driver's license, a check for any outstanding warrants, and subsequently issuing the complainant a parking ticket for traffic obstruction. The call ticket indicated that the checks took approximately six minutes after the officer dealt with the complainant and it is more likely than not the other two vehicles had driven off prior to the officer finishing up with the complainant.

Regarding the second allegation, the OPS recommended that the officer's conduct be *not sustained*, where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The officer stated that the complainant demanded his name and badge number and he watched the complainant write down his name properly and then his badge number. He also explained to the complainant that his name and his badge number would be listed properly on the parking ticket. The complainant alleged that the officer stated that he had just gotten a ticket for asking what his name and badge number was. The complainant's witness never references the officer making such a statement.

A monitor was not assigned this case and the complainant was not present. John Paneto commented that he goes to this CVS and everyone double parks there. Ms. Davis Lewis noted that the complainant wasn't double parked, but was standing on the outside lane westbound with two cars behind him. The officer addressed the obstructing traffic issue. When this situation was resolved, the other cars moved.

Ms. Davis moved to accept the OPS' findings. Chairman Allen seconded the motion. The motion carried unanimously.

CPRB No. 32-06/OPS No. C06-526 (Presented by Anthony Potenza)

Mr. Potenza summarized the complaint. The complainant alleged unprofessional conduct of a police officer after the complainant was stopped by the officer at the intersection of Hudson Avenue and Quail Street for a traffic violation, which the officer stated occurred at Washington Park and South Lake Avenue. The violation was for passing a red light. The officer asked the complainant to pull over. The officer also stated to the complainant that the speed of the complainant's vehicle was paced by the officer as traveling at a speed of 40 miles per hour for which no ticket was issued. The officer asked if the complainant had seen the red light, which the officer said the complainant had gone through. The complainant stated that the light

was not red. The officer asked the complainant to pull over farther, which bothered the complainant as the complainant thought that the first request was sufficiently complied with. The officer ran a check of the complainant's license and registration, noted that the complainant was also licensed to operate a motorcycle, and stated to the complainant "I hope you don't ride your motorcycle like you drive your car." The complainant also stated that upon issuance of the ticket for running a red light, the officer said nothing about what the ticket was for and gave no other information about the ticket. A monitor was assigned to the case.

The OPS investigated the matter extensively and concluded that the statement "I hope you don't ride your motorcycle like you drive your car" was in fact made by the officer as a result of observing what was concluded by the officer to be poor driving habits, and that the officer also stated that there were 4,500 motorcyclists killed in traffic accidents in 2005. The investigation also revealed that the officer did inform the complainant of the court date of July 25, 2006 and that the officer's statement to the complainant regarding riding a motorcycle was made out of concern for the complainant's safety.

The allegation of a violation of standards of conduct by the officer was concluded by the OPS to be **unfounded**. This conclusion was supported by the monitor assigned to the case.

The monitor, Joel Pierre-Louis, stated that the officer, in his statement, in fact admitted that he did make the statement and he gave the rational why he made the statement. The monitor didn't find the statement to be particularly offensive, irresponsible, or unprofessional.

Mr. Potenza moved that the conduct of the officer be **exonerated**. James Malatras seconded the motion. The motion carried unanimously.

CPRB No. 34-06/OPS No. C06-558 (Presented by Andrew Phelan)

Mr. Phelan summarized the complaint. On August 30, 2006, the complainant called 911 to report a break-in in her apartment. The police did not arrive in a timely fashion. The complainant called 911, and gave a description and the direction of the suspect. An hour after this call was made, the complainant flagged down an Albany Police car and a report was taken. The call to 911 was improperly entered and should have been entered as a burglary-in-progress and not for a report. The complainant states that she did not notify the Albany Police or the officer taking her report that she had a problem with 911 and how that call was handled. Mr. Phelan went to the OPS and read their report and the 911 call was through a cell phone to the NYS Police office of 911. This was an isolated case.

The OPS report found that this investigation should be closed as **sustained**. Mr. Phelan moved that the Board uphold the OPS' findings.

The complainant was recognized. The complainant stated that she waited a total of one hour (1) and fifteen (15) minutes and then called 911 again after she talked with her downstairs neighbors. It was raining out and she went out and flagged down an officer. Chairman Allen added that internal affairs agreed with the complainant and the case was sustained. There were no other details regarding corrective actions or what was going to be done to prevent a recurrence of the error. He was not sure whether this was going to be attributed to just keystroke entry error or not.

James Malatras commented that 911 services are important and fundamental. If someone called 911 twice, the officers didn't come for 1 hour and 15 minutes, and the complainant had to actually flag someone down, there appears to be a breakdown in the process and chain of command that can be improved to make sure that these emergency calls are responded to. Mr. Malatras would like to see this result in an improvement to the process, not necessarily a disciplinary action on the individual.

Chairman Allen stated that the OPS found the complaint sustained and the policy subcommittee will look at this. Mr. Malatras noted for the record that the Board concurred with the severity of what happened and the OPS' findings, but would like more information about what needs to happen to improve the 911 dispatch process and prevent this type of occurrence.

John Paneto commented that the complainant came to see what was to be done with the complaint and is confused. He added that the Board heard an earlier complaint about excessive confusion caused by the police, and then there is a situation with a 911 call where the police were not responsive. Based on these circumstances, Mr. Paneto noted his disagreement with the OPS' findings. Mr. Phelan explained and clarified that the 911 complaint was addressed by the OPS with a finding of sustained and it was reported that corrective action would be taken with respect to the dispatcher. Mr. Paneto was satisfied with the explanation and clarification.

Mr. Phelan then moved to uphold OPS' findings. Mr. Malatras seconded the motion. The motion carried unanimously.

B. *Appointment of New Members to the Committee on Complaint Review for January 2007*

The following Board members were appointed to the Committee on Complaint Review for January 2007: Jason Allen, Mauri Davis Lewis, Daniel Fitzgerald, Ronald Flagg, Andrew Phelan, John Paneto, Anthony Potenza, and Fowler Riddick.

C. *Committee/Task Force Chair Elections*

Chairman Allen noted that included in the Board's packets was a list of committee/task force nominations that were discussed at last month's meeting. Ronald Flagg

was not present at that meeting, but was nominated to continue as Chair of the Public Official Liaison Committee. It was noted by Government Law Center staff that according to the Board's By-laws, the Board Chairperson must serve as Chair of the Public Official Liaison and as an ex-officio member on all of the committees. In response, Chairman Allen agreed to Co-Chair the Public Officials Liaison Committee with Mr. Flagg, and serve ex-officio as a member of all committees.

Chairman Allen noted that the Mediation Committee had been driven by Barbara Gaige, former Chair of the Board, and a draft copy of the Mediation Protocols were forwarded to the Board for its review. Presently, the police department is working with the union internally, so Chairman Allen gave the Board a month to review the protocols and get input from Ms. Gaige. According to Chairman Allen, the bottom line is that this is coming to an end soon and there is no need to continue mediation as a standing committee.

The changes to the committees/task force structure are as follows: Jason Allen, Co-Chair of the Public Official Liaison Committee and as ex-officio member of the Committee on Complaint Review and Community Outreach Committee. Chairman Allen moved to approve the committee/task force structure with amendments. Anthony Potenza seconded the motion. The motion carried unanimously.

Chairman Allen agreed to discuss with the committee chairs, meeting rhythms and suggestions as to what constitutes a public meeting, what is not a public meeting, and a vision statement based on his experience about where these subcommittees can do the most good for the community and for the Board. Next month, the Board will breakout each committee on the agenda, and each Chair will report on what they are working on. It is up to the committee chair to determine when each committee will meet.

D. Nominations for Elected Board Officer Positions

Chairman Allen opened up the floor for nominations for Board officer positions. Next month, the Board will vote on its slate of nominations. Barbara Gaige has been the Chair of the Board and she resigned earlier this year. As Vice-Chair, Chairman Allen assumed her duties, so the Vice-Chair position is open. Currently, Chairman Allen is Acting Chair of the Board and Ronald Flagg is the Secretary.

Chairman Allen moved to nominate Ronald Flagg to continue in his role as Secretary. Anthony Potenza seconded the motion. The motion carried unanimously. There were no other nominations for Secretary.

James Malatras moved to nominate Mr. Allen to the position of Chair. Ronald Flagg seconded the motion. The motion carried unanimously. There were no other nominations for Chair.

Chairman Allen moved to nominate Fowler Riddick be nominated as Vice-Chair as he has experience on the Board and has done a solid job. Ronald Flagg seconded the nomination. The motion carried unanimously. There were no other nominations for Vice-Chair.

E. Report of the Government Law Center (GLC)

Executive Assistant Sharmaine Moseley gave the report. As of today, there are currently **27** active complaints before the Board for review. **211** complaints have been closed and **10** complaints suspended from review. The total number of complaints filed to date is **248**.

In your meeting packets, handed out at the beginning of the meeting, there is a memo asking you to read the Complaint No. 40-06 and decide whether or not to appoint a monitor. Please fill out the memo and return it to GLC staff at the end of this meeting.

The Albany Police Department Ride-Along Request Form was forwarded to the new members via email. Please let GLC staff know the status of your ride-along. We would like to make sure that this requirement is complete so that we can move on to coordinating the Albany Civilian Police Academy training, which must be completed within six months of your appointments.

F. Report from the Office of Professional Standards

Detective Sergeant Kuck introduced himself to the Board. Sgt. Kuck commented that he had nothing new to report.

G. Report from the Chair

Chairman Allen noted that in the Board's packets there are two documents. The first handout is a proposed monitor's protocol. A draft went out to the previous Board for review and some of their comments were incorporated into this draft. He noted that a draft was also sent to the monitors for their comments and review. Chairman Allen asked the Board to look at the handout and submit comments to the Government Law Center. He commented that the purpose of the document is to standardize the monitors report. There are different people looking at different cases and the Board wants to make sure there is a clear guidance as to due diligence with respect to the monitors. He reported that a copy has been sent to Assistant Chief Anthony Bruno and a copy will be sent to Commander Beattie. Comments have been received from Chief Bruno concerning what the monitors could and couldn't see. Chairman Allen noted that this document has not been voted on, so he would like everyone to review it and provide feedback so that it can be voted on next month. Chairman Allen noted that the timeline for review/comments would be two weeks and another draft will be

issued before the next meeting and hopefully everyone will agree upon this. Then the Board will vote on the document at the next meeting.

The second handout is a Mediation document that was also forwarded to the Board. This is the product of former Chair Barbara Gaige and her work with Chief Bruno. Chairman Allen asked that the Board review and comment on this document. A copy of this document will be sent to Commander Beattie. Chairman Allen has communicated to Chief Bruno that the Board's vote isn't binding on this document, but if he wants the Board's support on this they will vote on it next month.

Chairman Allen noted that if a Board member is assigned a case and finds that they can't prepare for it, please let him/GLC staff know as soon as possible so the case can be reassigned. Also, if the Board perceives that there are going to be a number of people that cannot make it to the meeting, it will try to reschedule the meeting to conform to people's schedules. If a member feels that he/she cannot make the January 9th meeting, please let the Board know as soon as possible, so that the schedule can be adjusted. In case there is inclement weather, if the library facility is open then the meeting is on, if the facility is closed the meeting is off.

V. Public Comment

The floor was opened for public comment.

A complainant was recognized. The complainant asked for a copy of the full report of her complaint/case. The officer that was initially assigned to her case said that they were going to do a detailed investigation into what happened. She has not been contacted once since that initial conversation. She had doctor notices, pictures of the condition of her arms, and other information that she would like added. She had not been contacted again until she received the letter informing her of the Board's meeting. She didn't know what to expect or what to do. Chairperson Allen stated that the complainant should file a FOIL request.

Patrick Jordan was recognized. He stated that the complainant should contact the City Clerk and she will provide her with the paperwork to fill out.

Jim Lyons was recognized. He asked the Board that when they make a determination of unfounded or sustained, what other determinations can be made and what are the definitions of those? Chairman Allen replied that the definitions are embedded in the Board's legislation. Sustained is where the review discloses that there are sufficient facts to prove the allegations made in the complaint. Not sustained is where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint. Exonerated is where the acts which provide the basis for the complainant occurred, but the review showed that such acts are proper. Unfounded is where the review shows that the act or acts complained of did not occur or were misconstrued. Ineffective policy or training is where the matter does not involve guilt or lack thereof, but rather ineffective departmental policy or training to address the situation. No finding is where, for example, the complaint failed to produce information to further the investigation or

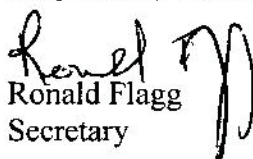
the investigation revealed that another agency was responsible and the complaint or complainant has been referred to that agency; the complainant withdrew the complaint or complainant is unavailable to clarify the complaint; where the officer is no longer employed by the City; or, the complaint is resolved by mediation. These are the findings that the OPS make. Chairman Allen then described the complaint review process.

Mr. Lyons asked what is appropriate for public comment and what are the parameters? What is the role of the public comment in the Board and what are the parameters? What do you accept and not accept? Chairman Allen replied that there is a complaint process, which he gave in a nutshell. The Board has been presented with complaints made by people, some of those complaints the Board has taken and tried to mediate between the complainants and the Chief while others go through the process. The Board members are laymen, working a part-time position, and are not investigators. Internal affairs works full-time at what they do and monitors are paid to follow internal affairs and a report is given to the Board. If you want to come to a public comment session and say "Hey, I don't think this policy is police procedure." For example, after the Scaringe incident a few years ago, I think the procedure needed to be changed and if constructive comments were given the policy subcommittee would accept your comments and work with the police department to see if those things could be changed. So any reasonable or rational, constructive comment you want to make at the meeting is certainly allowed and the Board will see if they have the power or influence to do anything about.

VII. Adjournment

Chairman Jason Allen moved to adjourn the meeting. Mauri Davis Lewis seconded the motion. The motion carried unanimously. The meeting was adjourned at 7:15 p.m.

Respectfully submitted,


Ronald Flagg
Secretary