

City of Albany
Citizens' Police Review Board
Albany Public Library
161 Washington Avenue – Large Auditorium
July 8, 2008
6:00 p.m. – 8:00 p.m.

Present: Jason Allen, Ronald Flagg, John Paneto, Andrew Phelan, Jr., Anthony Potenza, Hon. Fowler Riddick.

Absent: Daniel Fitzgerald and Reverend Edward Smart.

I. Call to Order and Roll Call

Chairman Jason Allen called the meeting to order at 6:00 p.m. It was noted that the Board does not normally meet during the summer, but agreed to meet this month because of the backlog in cases.

II. Approval of the Agenda

The agenda was reviewed. Chairman Jason Allen noted that CPRB No. 24-08/OPS No. C08-270 will not be reviewed until the next meeting of the Board. He also noted that a couple of complaints that are listed on the agenda for review will be postponed until monitor Joel Pierre-Louis is present. Chairman Allen explained that Mr. Pierre-Louis would be arriving later on in the meeting. Ronald Flagg moved to approve the agenda. Fowler Riddick seconded the motion. The motion carried unanimously.

III. Approval of the April 15, 2008 and May 8, 2008 Meeting Minutes

The April 15, 2008 and May 8, 2008 meeting minutes were reviewed. Fowler Riddick moved to approve the April 15, 2008 meeting minutes. Anthony Potenza seconded the motion. The motion carried unanimously. Anthony Potenza moved to approve the May 8, 2008 meeting minutes. Ronald Flagg seconded the motion. The motion carried unanimously.

IV. New Business

A. *New Complaints*

1. New Complaints Received Since June 10, 2008 Meeting

Andrew Phelan, Jr. reported that six (6) new complaints had been received by the Board since its June 10, 2008 meeting. Mr. Phelan read a summary of each new complaint.

CPRB No. 41-08

The complainant alleged that, on or around June 3, 2008, an officer placed a sign on his truck for removal because the truck did not have plates. According to the complainant, he obtained a dog house and dog licenses after Animal Control left notices for him to do so. The complainant claimed that a few weeks prior to this incident on June 3, 2008, he was informed by an officer living on his street that his property had no other problems. According to the complainant, on or around June 4, 2008, he was informed by his mother, who is also his landlord, that an officer told her that she must evict the complainant. The complainant claimed that when he called the officer, the officer told the complainant that the officer was required to inform the District Attorney that the complainant was convicted of a drug offense and must be evicted. The complainant alleged harassment based on these events. The complainant claimed that he does not live in a drug house, that the police have been there one time, and that there are no crowds, traffic, or inordinate activities at his home.

It was noted that a monitor was not appointed to investigate this complaint.

CPRB No. 42-08

The complainant alleged that she was wrongfully searched by an officer. The complainant claimed that an officer approached her calling out someone else's name. The complainant further claimed that when she told the officer that was not her name, the officer searched her anyway in the presence of three witnesses and two other officers. The complainant alleged that her friend's truck, which the complainant had at the time, was wrongfully searched as well. The complainant claimed that when she asked the officer why she was being searched, the officer told her it was because the police had received a call saying that the complainant and others were carrying guns and knives. According to the complainant, she felt disgusted and violated that she was the only one searched. The complainant claimed that the person who made the call has been harassing her family for a very long time. The complainant further claimed that she lives a clean life and was treated unfairly by the police.

It was noted that a monitor was appointed to investigate this complaint.

CPRB No. 43-08

The complainant alleged that, on December 14, 2007, and in the weeks thereafter, officers failed to arrest a teenage girl who had damaged the complainant's car on several occasions. According to the complainant, the girl spit on and kicked his car on December 7, 2007. On December 14, 2007, the girl and three teenage boys "bombed" the complainant's car with snowballs. Later on that day, the complainant observed the same teenagers throwing rocks at his car. The complainant alleged that he called the police and gave a brief description of the girl and boys involved in the incident. The complainant further alleged that he was told a report had been filed and to call if any more problems

occurred. On December 14, 2007, the complainant claimed that when he saw the teenagers approaching his car again, he called the police and four officers came to assist him. According to the complainant, he informed the officers that he could definitely identify the teenage girl who had damaged his car. When the officers brought the teenage girl and her mother to the lobby of the complainant's building, the complainant identified the girl to the police and demanded her arrest. The complainant claimed that the officers released the girl into the custody of her mother and told the complainant that the matter would be referred to family court. The complainant further claimed that he waited to be contacted by the APD for about two weeks. The complainant then tried to contact someone to find out what was going on. Eventually, the complainant learned that no report was filed after the original complaint. The complainant alleged that he was told by the officers that he could not and did not identify the female teenager as being the one who damaged his car even though he could and did identify her.

It was noted that a monitor was not appointed to investigate this complaint.

CPRB No. 44-08

The complainant alleged that APD detectives and other agencies have been unhelpful, inefficient, and uninformative in investigating the alleged sexual assault of the complainant's four-year-old son. The complainant further alleged that Albany County Child Protective Services (CPS) were not very discrete in approaching her home. The complainant alleged that the detective who was assigned to investigate her son's case went on an extended sick-leave soon after being assigned the case. The complainant claimed that efforts to contact that detective never led to a different detective who could provide any information about the case. The complainant alleged that the police were quick to investigate the complainant and her son's father but did not quickly investigate or question the alleged perpetrator, a ten-year-old boy, whom her son had identified as being the person who had sexually assaulted him. The complainant further alleged that she received inconsistent information from the police regarding another sexual abuse case pending in County Court. The complainant claimed that a detective told her that another case would have a direct connection to her son's case but had previously told her that the other case had nothing to do with her son's case. The complainant further claimed that evidence has been lost due to the delay in the investigation and that the alleged perpetrator has moved from Albany with his grandmother. The grandmother was the person who was caring for the complainant's child at the time of the alleged sexual assault. The complainant alleged that the police have never questioned the grandmother of the alleged perpetrator. The complainant further alleged that the police and CPS did not give the complainant contact information for the Albany County Sexual Violence and Crime Victim Center.

It was noted that a monitor was appointed to investigate this complaint.

CPRB No. 45-08

The complainant alleged that, on June 28, 2008, she was singled out by an officer for selective enforcement of the motor vehicle laws. The complainant further alleged that the officer was unfair in performing his duties. The complainant claimed that the officer wrongfully issued her several charges including: holding more than one license, stopping/standing on the pavement, and no seat belt. According to the complainant she had only one valid license in her possession at the time. The complainant alleged that the officer rudely reached into her vehicle and snatched her wallet from her for no apparent reason. The complainant further alleged that the officer was negligent in failing to review her expired licenses before charging her with possessing multiple licenses. With regard to the stopping/standing on pavement charge, the complainant alleges that other cars were parked in a similar fashion and that the officer singled her out. The complainant further alleged that this enforcement was an abuse of power by the officer. With regard to the no seat belt violation, the complainant alleges that her car was not running and that no ticket should have been issued. The complainant further alleged that another officer was a witness to all of the stated events.

It was noted that a determination as to whether to appoint a monitor to this complaint has not yet been made.

CPRB No. 46-08

According to the complainant, on July 2, 2008, she was pulled over by two officers and wrongfully given a ticket for failing to stop at a stop sign. The complainant alleged that the officers involved were rude and unprofessional. The complainant further alleged that the officers refused to tell her why she was pulled over until she gave them information. The complainant claimed that the officer loudly explained to her how to plead not guilty in a rude voice to try to intimidate her. The complainant further claimed that the officers pulled her over for no reason.

It was noted that a determination as to whether to appoint a monitor to this complaint has not yet been made.

2. New Complaints for Review

CPRB No. 24-05/OPS No. C05-295 (Presented by Hon. Fowler Riddick)

Hon. Fowler Riddick noted that the Board received a letter from Chief James Tuffey regarding this complaint. Mr. Riddick read the letter verbatim.

"As per our discussion at the May 2008, CPRB meeting, this letter is in reference to the complaint filed by [four concerned citizens]. I attended the CPRB meeting in January 2006, after being appointed as the Chief of Police, it was at this meeting I first learned about the complaint filed by [the four concerned citizens]. I agreed at that

meeting to meet with [the four concerned citizens] to discuss the issues raised in the complaint. I met with [one of the concerned citizens] on January 19, 2006 and discussed the issues described in the complaint. I feel that we had a successful dialogue and that he was satisfied with the meeting and therefore recommend that the complaint be closed as "mediated" between [the concerned citizen] and myself." Please contact me should you have any questions or concerns. Signed by James W. Tuffey- Chief of Police

Mr. Riddick moved to close the case at the request of the complainants and the Chief of Police. Ronald Flagg asked if the Board received any confirmation that the complainants were satisfied with the outcome. Chairman Allen noted that a member of the coalition was present. Chairman Allen explained that the complaint was filed before most of the members were on the Board and before Chief Tuffey became Chief of Police. He noted that he was not at the meeting between the group of four concerned citizens and the Chief. Chairman Allen explained that there was a group of concerned citizens who filed a complaint regarding the abuse of overtime, misuse of public funds, and a number of other issues. Chairman Allen added that Chief Tuffey agreed that he would meet with the group to discuss the issues and communicate to the coalition what he was doing in regards to corrective action to address the issues. Chairman Allen noted that after those meetings, the comments that he received from the coalition were that they were satisfied that the issues were addressed. Chairman Allen stated that he feels comfortable closing this case. It was acknowledged that one of the complainants from the coalition were present. The complainant agreed that his group met with the Chief to discuss several issues. Each of the issues was raised by different members of the coalition. The complainant explained the one issue that was important to him was the death of his daughter's fiancé, David Scaringe. The complainant added that the majority of the grand jury voted to indict both of the officers involved in the shooting. According to the special prosecutor, both officers should have been disciplined. The complainant stated that in his opinion nothing has really been done. One of the officers no longer works for the police department, while the other officer is still employed with the police department. The officer, who is still employed by the department, is a drunk who carries a gun. The officer has been in trouble a lot of times. The complainant stated that he gives Chief Tuffey a lot of credit because Chief Tuffey tried to have the officer fired from the APD. However, no one in the City of Albany, including the Common Council, backed the Chief up. The complainant concluded that justice is not blind, and justice has not been served in this case.

Chairman Allen stated that the Board has been working with the APD on an Early Warning System. He explained that the Early Warning System is a tool that provides outputs to the Board in terms of trends. Commander Burris Beattie added that the system tracks several factors that could be tied to an officer's behavior. Chairman Allen stated that this would be a good tool to provide the right outputs to not only the supervisors but also to police department management. Chairman Allen noted that there are other outside agencies that are involved with the investigation of the issues raised in this complaint to which he is unable to provide comment.

The complainant stated that the special prosecutor stated that the two officers that were involved in the shooting should be disciplined. He added that to his knowledge they were not disciplined. The complainant stated that there must be a politically motivated reason as to why they were not disciplined.

Chairman Allen stated that the Board has a meeting scheduled with the Common Council. He added that the Board does not gloss over any cases. The Board does everything it can within the limits of the CPRB legislation. The complainant noted his dissatisfaction. John Paneto added that he thought the officer was disciplined and was returned to the job through an arbitrator. Commander Beattie noted that he does not feel comfortable discussing it. Mr. Paneto suggested that the Board not vote on this case until they find out what happened. Ronald Flagg noted that when the complaint was filed, the Board was unable to handle it. He added that the Board would not be voting to close the case, but to acknowledge that the Chief of Police met with the coalition and they seemed to be partly satisfied. The issues are outside of the Board's purview. Chairman Allen added that the case would be closed as "mediated" and not closed as "investigated." There have been other bodies within the county that have investigated different aspects of the case. Chairman Allen stated that he did not see what the benefit would be to the Board to leave the case open. Mr. Flagg agreed with Chairman Allen.

Hon. Fowler Riddick moved to close the case as *mediated*. Ronald Flagg seconded the motion. The motion carried 5-1 with John Paneto voting in the negative. Mr. Paneto explained that he voted in the negative because he did not have enough information to make the determination to close the case as *mediated*.

CPRB No. 27-07/OPS No. C07-677 (Presented by Andrew Phelan, Jr.)

Andrew Phelan, Jr. summarized the complaint. Mr. Phelan noted that he reviewed the case file on June 26, 27 and July 1, 2008. Mr. Phelan reported that the alleged incident occurred on October 3, 2007 when a husband and wife were in the area of Broadway and Clinton Avenue. The complainant followed and repeatedly banged the couple's car with his fist and screamed "I'm going to kill you." These were annoying and alarming actions by the complainant. The couple called the police, and a report was taken. They gave the police the vehicle license number and a description of the complainant. Mr. Phelan read the APD's Office of Professional Standard's (OPS) summary of the complaint. The complainant alleged that on October 30, 2007, he returned home and found a business card asking him to call a detective. The complainant further alleged that he also found a message on his cell phone asking him to call. The complainant stated that he tried to contact the detective but the detective did not return the phone call. The complainant alleged that on Wednesday October 31, 2007, he tried to contact the detective again, but the detective was not available. The complainant alleged that he waited and got through to the detective who stated "it concerned his car" and he "couldn't talk no further on the phone about it." The complainant alleged that the detective asked him to come in for about a half hour on Thursday November 1, 2007, to talk about it. The complainant alleged he went to the "police station" and the first thing the detective asked him was,

“Sir, do you have a gun?” to which the complainant replied “No.” The complainant alleged after being questioned about a traffic incident, the detective was not sure if he was the person involved and wanted to take “mug shots” of the complainant even though the complainant was not being charged with anything. The complainant alleged that he told the detective that he did not want the “mug shots” taken, but the detective insisted that it be done. The complainant claimed he wanted to leave as soon as possible because he was very stressed, so he agreed to take the “mug shots.” The complainant alleged that after he left he felt very uncomfortable about the photos being taken and felt the detective violated his civil rights after insisting photos be taken after the complainant said “no.”

Mr. Phelan summarized the findings of the OPS on the allegation of conduct standards as *exonerated*, where the review showed that the acts which provide the basis for the complaint did not occur, or were misconstrued. Mr. Phelan reported that based on the OPS investigation, the detective was investigating an allegation of harassment filed by another party, who not only provided specifics of the complainant’s vehicle, including his license plate number, but also provided the physical description via a Standard Incident Report. The accounts of the complainant and detective are consistent in reference to the approximate time span the complainant spent at the detective’s office, which was for approximately a half hour. This is supported by the complainant, who stated the detective asked him to come in for about a half hour to discuss the matter, as well as the time(s) indicated on the booking sheet. The booking sheet indicates the start time as 9:16 a.m. and the end time as 9:22 a.m. The total amount of time it took to take photos of the complainant was approximately six (6) minutes. The detective indicated that the complainant left at approximately 9:30 a.m.

Mr. Phelan summarized the findings of the OPS on the second allegation of conduct standards as *exonerated*, where the review showed that the acts which provide the basis for the complaint did not occur, or were misconstrued. Mr. Phelan reported that based on the OPS investigation, the complainant alleged that he was asked if he had any weapons prior to entering the building. The detective indicated that he greeted the complainant at the South Station and asks everyone going into the detective’s office, “Do you have any weapons on you before we go,” due to the fact that the South Station is not equipped with a metal detector. The OPS investigation noted that only the Police Court entrance located on the Morton Avenue side of the building is equipped with a metal detector, coupled with the fact that the complainant met with the detective upon request and was never in custody and/or detained. As such, the complainant would not have been “patted down” or “frisked” prior to entering an area of the police station that is not readily accessible to the public. The complainant, by his own admission, stated that the detective addressed him as “Sir” and the detective’s line of questioning was not to be interpreted as an insult or a sign of disrespect. The question was asked from an officer’s safety standpoint, as well as the safety of employees who are authorized to be in the building.

Mr. Phelan summarized the findings of the OPS on the call handling allegation as *exonerated*, where the review showed that the acts which provide the basis for the complaint did not occur, or were misconstrued. Mr. Phelan reported that based on the

OPS investigation, the complainant alleged that the detective wanted to take mug shots of him, adding that although he did not want the photos taken, the detective insisted. Based on the investigation, the complainant stated that the detective indicated that he was not sure if the complainant was the person or not. However, the detective stated that he told the complainant that he was not absolutely sure if he was the person involved, but just that it was his vehicle. The detective further stated he asked the complainant if he would be willing to submit to a photo to be used in an array. When the complainant wanted to know why, the detective explained that the complainant would be cleared or identified. The detective stated the complainant agreed to be photographed and did sign a consent form to have the photographs and his fingerprints taken. According to the OPS investigation, the APD investigation was followed within the guidelines of the APD Operating Procedures. The steps taken were based upon requests made to the complainant to which the complainant agreed to do on his own free will. The complainant went to the South Station for the scheduled appointment, agreed to submit to photos, and signed a consent form. At any time during the interview the complainant was free to leave because he was never in custody.

Mr. Phelan summarized the findings of the OPS on the third allegation of conduct standards as *exonerated*, where the review showed that the acts which provide the basis for the complaint did not occur, or were misconstrued. Mr. Phelan reported that based on the OPS investigation, the complainant alleged that his civil rights were violated by the detective when the detective insisted that the photos be taken. As previously stated, the detective asked the complainant if he would be willing to submit to a photo to be used in a photo array. The complainant not only agreed to take the photos, but he voluntarily signed a consent form that is contrary to his allegations. The detective also indicated the complainant was given his Miranda rights prior to conducting the interview. The photo array completed by the detective in reference to this incident was not suggestive in nature, as it was prepared with subjects of the same racial makeup, age, gender and similar facial features. It was completed on the same date that the complainant had contact with the detective. The investigation was closed by the detective due to the fact that the victim decided not to follow through with any charges upon learning that harassment was only a violation and nothing would happen to the complainant.

Mr. Phelan asked if the complainant was present. It was noted that the complainant was not present. Mr. Phelan reported that based on the OPS investigation, he concurred with the OPS findings on the first conduct standard allegation as *exonerated*, the second conduct standard allegation as *exonerated*, the call handling allegation as *exonerated*, and the third conduct standard allegation as *exonerated*. Ronald Flagg asked Commander Burris Beattie if the complainant was "Mirandarized" and photographed, what was the complainant thinking at that point in time. Did the complainant still have the ability to say that he did not want to be photographed? Commander Beattie responded that based on the detective's inter-departmental correspondence (IDC), the detective explained to the complainant that he could leave at any time. Commander Beattie added that the consent form could have been withdrawn at any time by the

complainant. Mr. Flagg asked what had happened to the photographs since then. Commander Beattie replied that because the consent form was signed, it gave the police permission to use the photographs in any further investigations. It is stored electronically in the APD's mugshot system. Andrew Phelan moved to concur with the OPS findings on all four allegations. Anthony Potenza seconded the motion. The motion carried unanimously.

CPRB No. 15-05/OPS No. C05-228 (Presented by Chairman Jason Allen)

Chairman Jason Allen noted that the date of the incident was April 27, 2005.¹ He explained that the Board did not review the complaint until now because the Mayor suspended the case due to impending litigation. Chairman Allen read the APD's Office of Professional Standard's (OPS) summary of the complaint. The complainant alleged she was not allowed to visit her "husband," who was in critical condition at the Albany Medical Center Emergency Room. The uncle of the complainant's husband wrote the complaint for the complainant. The uncle claims to be the uncle of the complainant's husband. However, in the complaint, the uncle refers to the complainant's husband by a different name. The complainant alleged that members of the APD refused to consult with the uncle or the complainant as to why they were not being allowed in. The uncle alleged that after speaking with a supervisor he was advised that he would be allowed in as a member of the clergy, because of the fact that the complainant's husband was not expected to survive his medical episode. The uncle alleged that it was not until 8 a.m. on April 20, 2005, that the complainant was allowed in to visit her husband and this was after the APD's consultation with Judge Egan.

Chairman Allen summarized the findings of the OPS on the call handling allegation as *exonerated*, where the review showed that the acts which provide the basis for the complaint did not occur, or were misconstrued. Chairman Allen reported that based on the OPS investigation, the Albany Police Department provides for a temporary holding facility for prisoners until such prisoner can be arraigned. Although the Albany Police Department has a Central Booking Standard Operating Procedure, the APD is also mandated to follow procedures set forth by the New York State Commission of Correction. Under NYS Correction Law, Part 7510, Visits (A), all prisoners shall be permitted to converse with their counsel or religious advisor under such reasonable regulations and restriction as the officials in charge may establish; (B) visits to prisoners by a family member, relative or other person may be permitted at the discretion of, and in accordance with regulations established by, the officials in charge. Once the supervisor spoke with the uncle and verification was made that he was a Reverend, the uncle was allowed to visit for a short period of time. Upon advisement of the medical staff the following morning that the complainant's husband's situation was deteriorating, arrangements were made for the complainant to visit her husband. Based on the

¹ Chairman Jason Allen inadvertently reported that the date the incident occurred was April 27, 2005. April 27, 2005 was the date that the complaint was filed. The incident occurred on April 20, 2005.

investigation, a policy recommendation has been submitted for review to address the matter in the future.

Chairman Allen reported that he went to the OPS and reviewed the confidential report, as well as the letter dated June 13, 2005 from the Mayor suspending the case. He summarized that based on the confidential report, the complaint was filed on April 27, 2005. The complainant alleged that she was not allowed to visit her husband in ICU. Chairman Allen noted that he asked why the term "husband" was in quotes, and he was told that the complainant was the mother of the decedent's first child and they were not married. Chairman Allen further noted that the Reverend who is the co-complainant was the uncle of the complainant's husband. The uncle was allowed to visit the husband because he was a member of the clergy. Chairman Allen reported that based on the investigation, the husband was arrested earlier that evening in 2005 for stealing \$40 worth of incense, and he dislocated the shoulder of the store attendant. The husband was put into a paddy-wagon. The husband arrived at the police station non-responsive. Chairman Allen noted that because the husband was unresponsive, the officers had to pull him out of the paddy-wagon and took him to the hospital. The initial prognosis was that the husband was going to be unconscious for at least twenty-four (24) hours. The complainant (the wife) was denied visitation to her husband, who was in ICU, until early the next morning after the APD's consultation with the Judge. Chairman Allen further noted that there were five shifts of officers on watch that night. Based on the investigation, one of the officers reported earlier in the evening that the husband had high levels of cocaine in his blood, and the doctors expected him to be unconscious for a minimum of twenty-four (24) hours. The initial officer's reaction was based on the fact that the husband was a prisoner in custody. The prognosis changed in the morning, and medical staff recommended that the husband's family be allowed to visit him. The Judge advised the APD to "un-arrest" the husband (the detainee) and for the hospital to contact the APD if the husband's medical situation improved. Chairman Allen noted that per the Director of Security at Albany Medical Center, "When a prisoner is in custody by the police that agency holds sole responsibility and security in the hospital is available to follow their directives."

Chairman Allen reported that he reviewed a letter from the District Attorney's office dated September 23, 2005. According to the letter, the District Attorney's office "found no conduct for which criminal liability could be accessed against representatives from the Albany Police Department." Chairman Allen further reported that he also reviewed the New York State Commission of Corrections minimum standards, which was cited in the OPS report; the incident report regarding the husband stealing the forty (40) dollars worth of incense and dislocating the store attendant's shoulder; a subsequent report regarding the husband's condition upon arrival at the police station; the APD investigation report where an officer was called to an autopsy and witnessed along with two doctors that there was no sign of force to the decedent with the exception of rectal bleeding; and the arrest report.

Chairman Allen acknowledged that Monitor Joel Pierre-Louis was present. Mr. Pierre-Louis stated that Chairman Allen summarized the case. Mr. Pierre-Louis added that what was interesting to him was to determine whether or not the complainant alleged improper misconduct by the APD with respect to why her husband died. Mr. Pierre-Louis further added that it was unclear to him whether that was the issue. He noted that there were three issues raised by the complainants. The first issue was whether the APD's decision was biased in denying the complainant visitation. The second issue was whether the APD showed blatant disregard for the family's concern. The third issue was whether the APD was insensitive to the needs of the family. Mr. Pierre-Louis summarized that he looked at the case based on those three issues. He reported that he reviewed eight (8) – nine (9) documents. Mr. Pierre-Louis noted that based on his review of five of the eight documents, the OPS conducted a proper investigation. Based on the investigation, there was no improper conduct by the APD. Mr. Pierre-Louis reported that his question of why the complainants never asked why the decedent died was answered by the District Attorney's office in a letter dated September 13, 2005. The District Attorney's office considered the case closed.

Chairman Allen explained that he tried to view it from a different perspective. One of the perspectives was trying to visit friends in ICU and being turned away. He further explained that since he has never been in a position when he tried to visit someone who was under arrest in ICU, he cannot relate to what the complainant experienced. Chairman Allen reported that the initial prognosis was not that the husband was going to pass away immediately. The prognosis changed later in the evening. When the husband's prognosis changed, he was "un-arrested" and his wife was allowed in. The APD and the OPS would like to develop a policy to address this situation in the future. Mr. Pierre-Louis agreed with Chairman Allen.

Chairman Allen asked if the complainant was present. It was acknowledged that the complainant was present. Mr. Pierre-Louis noted that it really did not appear to him that the issues had anything to do with the decedent's death. It was really about the APD's procedures in handling the situation. Mr. Pierre-Louis noted that this is a highly sensitive and emotional situation for the complainant and her family. He added that the detective who reviewed the case made specific recommendations to the APD in terms of procedures and new protocols to be implemented. Mr. Pierre-Louis reported that he made some additional recommendations to the detective. Those recommendations relate to family members, and not necessarily whether or not someone is legally married. Mr. Pierre-Louis explained that because the term husband was in quotations should not matter. The real focus should be whether the individuals are family members or not.

The complainant stated that a lot of what she heard at this meeting was new to her. She explained that when her husband was arrested at 3 p.m. the hospital did not call her until 11 p.m. The complainant stated that she stayed at the hospital all night trying to see her husband. She clarified that she had been with her husband for twenty-seven (27) years, and they have two (2) kids together and not one (1) as previously reported. The doctors urged her to get there as soon as possible, and she was not allowed to see him. The

complainant explained that she was not allowed to see him not because of the AMC staff, but because of the APD. The complainant and her uncle kept trying to get in. According to the complainant, the next day she was given an appearance ticket that showed that her husband was charged with a misdemeanor. The complainant stated that she should not have been denied visitation for an appearance ticket. When the APD knew that there was a possibility that the complainant's husband was not going to survive, they allowed her in. The complainant stated that by that time, she only had an hour of visitation with her husband. The complainant explained that if she had the opportunity to talk to her husband and for him to hear her, she might not even be here today because of his death. The complainant further explained that she went to the DA and saw the videotape of her husband being picked up and held. The complainant stated that one could see that there was a possibility of grounds for neglect or additional training. The complainant added that is what she was told when they discussed this case with her.

Chairman Allen asked if the appearance ticket was given after the husband was "un-arrested." Mr. Pierre-Louis replied that the incident took place at a different location than where the husband was arrested. Once the husband was arrested, he was placed in the paddy-wagon. Mr. Pierre-Louis added that the husband was not charged with a specific crime at that time. The husband was handcuffed and was about to be arraigned. Mr. Pierre-Louis noted that he is uncertain of the procedure. He explained that when they arrived at the South Station, because the husband was non-responsive, a couple of officers carried the husband under his arms into the station and laid him down in Central Booking. Mr. Pierre-Louis noted that he did not see the video.

The complainant asked if her husband was not arraigned why she was denied visitation. Chairman Allen stated that based on his interpretation, the policy was not clear to the officers who were on duty that night. He suggested that the Board reach out to the APD to help in the development of a policy to keep this from happening again. John Paneto commented that aside from policy, a gentleman was brought into the hospital and a family member was denied visitation. If this is a secured area, the APD should be able to control the environment and allow the spouse visitation. Mr. Paneto asked why the spouse was denied visitation when she was summoned by AMC. He stated that no policy is needed for this; the officers' actions were callous. Ronald Flagg asked if the new protocols were still under discussion at the APD or if something was established to make sure this does not happen again. Commander Beattie replied that currently the APD's policies are under review, and he was not sure if the new policy has been implemented. Mr. Flagg recommended that the Board send a letter to Chief Tuffey requesting that this issue be addressed immediately so that this does not happen again. He explained that if the APD thought there was some reason to deny the complainant visitation, there should be clear protocol for the APD.

Mr. Pierre-Louis suggested that maybe the policy should include a distinction between someone that is a prisoner who has been arraigned and someone who has not been formally charged with a crime. He added that he is not sure if the APD's policy will address that issue. Mr. Paneto commented that the complainant was denied visitation and

wants to know why. The complainant added that no one can tell her why. Chairman Allen stated that there was confusion in the interpretation of the APD policy and the officers erred on the wrong side of caution. The complainant stated that when they let her uncle in to pray over her husband, her husband was handcuffed to the bed. Chairman Allen asked if an individual is in custody at the police station, are they allowed visitation by family members. He added that because there is confusion there must be a policy. Mr. Paneto stated that the hospital situation changed the whole scenario. If he was the officer, he would ask a supervisor why the complainant was not allowed visitation. The complainant stated that a supervisor was called and the supervisor also denied her visitation as if her husband did this horrible thing. The complainant added that when she was able to visit she could not stay because he had to be put on a dialysis machine. The complainant reiterated that she wants to know "why." She added that the hospital called her and told her that she should come to the hospital immediately because he was not going to make it. The hospital staff was just as shocked that the complainant was denied visitation. The complainant added that she has other issues with the APD that might be why she was denied visitation.

Chairman Allen noted that the Board needs to engage the APD in establishing a clearer protocol. Mr. Paneto added that the APD needs more sensitivity training. He stated that he still does not understand why the complainant was not allowed to go in. Anthony Potenza stated that the complainant deserves an answer. He suggested sending the case to the Chief or to the OPS to ask "what happened," because the Board does not have any enforcement authority regarding these matters. The Board agreed that it should ask the Chief because there needs to be clear protocol for the officers to follow.

The complainant stated that she met with the Chief because there were other issues. She added that the Board could see from the tape that when they pulled her husband out of the paddy-wagon, he was un-responsive. The APD thought her husband was faking, so they left him there for awhile. The complainant added that when the Sergeant saw her husband lying there, everyone started moving and the ambulance was called. The complainant stated that there was neglect by the APD in the police station, which was the reason why she was denied visitation at the hospital.

Chairman Allen summarized that the OPS investigation was complete. The Board would send a letter to the Chief requesting that the APD establish a new policy; asking why the complainant was denied visitation; and requesting sensitivity training for the officers in conjunction with the new policy. Mr. Flagg stated that he does not agree with the request for sensitivity training. He is more concerned about the implementation of the first two requests. They need to have an established protocol which would tell them what they need to do. Then if they do not handle it well, then they will request sensitivity training.

Mr. Paneto suggested that the Board should add a request for a formal apology. The Board disagreed with Mr. Paneto's suggestion. Mr. Flagg noted that the Board should ask for an explanation for what occurred, and then establish protocols to make sure this does not happen in the future. Chairman Jason Allen moved to accept the OPS finding of

exonerated on the call handling allegation and send a letter to the Chief. Ronald Flagg seconded the motion. The motion carried unanimously.

CPRB No. 1-08/OPS No. C08-29 (Presented by Chairman Jason Allen)

Chairman Jason Allen reported that the complaint was received on January 8, 2008 regarding an incident that occurred on December 16, 2007. It was noted that a monitor was not assigned to investigate this case. Chairman Allen read the APD's Office of Professional Standard's (OPS) summary of the complaint. The complainant alleged that an officer he had a problem with a year ago towed the complainant's vehicle. According to the complainant, because of this he called Traffic Division to get more details concerning the tow. The complainant stated that the officer asked what he was doing that day and why he left the car at the corner of S. Lake Ave. The complainant stated he told the officer that he was exhausted after working a 10-hour shift at an establishment where you cops love to come and get your food. The complainant stated he said this because in his experience working at the establishment he noticed cops coming in and out all the time getting food at a discount. The complainant figured that if they knew this, they might cut him some slack concerning the tow, so that he would not have to dish out almost \$200 at the garage. The complainant stated that he also mentioned that this particular cop was a "scumbag" in his opinion and that he did not belong on the force. The complainant further stated that after he got his car out of the garage, about three (3) days later he received a call from his boss who stated that two (2) police officers came into the establishment looking for the complainant. The officers allegedly told the complainant's boss that the complainant called Traffic Division and told someone that he was going to poison their food. The complainant was then told that he was fired and that the officers were probably looking to arrest the complainant in addition to there possibly being a warrant out for the complainant's arrest in Albany.

Chairman Allen reported that he reviewed the confidential report. The complainant stated that he had an issue with this particular officer in the past. Based on the OPS investigation, the complainant was recently arrested for an open container and criminal possession of a weapon (a stun gun) and also pulled over for speeding. Chairman Allen noted that this officer's name was not on the tow ticket. The officer on the tow ticket never heard of the complainant before.

Chairman Allen reported that he reviewed the speeding ticket where the complainant was traveling 56 mph in a 30 mph zone on September 20, 2007. Chairman Allen noted that that officer's name also did not appear on the tow ticket. It was also noted by the detective at the OPS who took the complaint, that the complainant said that he was filing the complaint to get his job back because he was fired.

Chairman Allen reported that he reviewed the tow report; the incident report regarding the stun gun incident on October 1, 2006; the property report from that arrest; the arrest report; the citation for speeding; and an IDC from the officer that the complainant spoke to on the phone. According to the IDC, the officer on the phone referred the complainant

to the officer who wrote the ticket. The complainant told the officer "this better not be some f***ing cop" that he had an issue with." Chairman Allen further reported that he reviewed the IDC from the officer who towed the complainant's vehicle. That officer claims that he did not know the complainant. According to the third officer, he heard rumors that members of the APD should not eat at that the establishment. This officer spoke to the manager of the establishment. The manager of the establishment spoke to the owner of the establishment. The officer learned from the manager that the complainant was not a cook, but a delivery driver.

Chairman Allen summarized the findings of the OPS on the call handling allegation as *exonerated*, where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper. While on routine patrol, a sergeant observed that the complainant's vehicle was parked in a hazardous condition. The front passenger bumper was against a snow bank and the rear end was sticking out into traffic. At the time the roads were extremely hazardous, as they were snow covered from an on-going storm. The sergeant was within his authority to tow the vehicle as its condition was not only posing a threat to the vehicle itself, but also to any vehicular or pedestrian traffic passing that area. The complainant admitted that he "crashed" onto a pile of ice and could not get the car out, so he left it there. The complainant did not make any attempts to have the vehicle moved by a tow company nor did he notify the police of the issue. During his phone conversation with the desk officer at the Traffic Division the complainant indicated that he had Triple A, and if that is the case he could have called them when the incident occurred, and a tow truck could have moved the vehicle off the icy bank without him having to pay the cost of the police tow. The officer that towed the vehicle is not the same officer the complainant had contact with a year ago, and therefore the vehicle was not towed in any form of retaliation of the former incident.

Chairman Allen summarized the findings of the OPS on the conduct standards allegation as *exonerated*, where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper. The complainant denied making any threats. However, the complainant admitted in his complaint he told the officer "I was exhausted after working a 10 hour shift at this [establishment], where you cops love to come and get your food." The complainant stated that he said this because in his experience working at the establishment he noticed cops coming in and out all the time getting food at a discount. The complainant thought that if they knew this, they might cut him some slack concerning the tow, so that he would not have to pay almost \$200 at the garage. The manager stated that he spoke with an officer who said there was a sign not to eat at the establishment. The manager further stated the complainant admitted that he had a problem with cops. The manager stated that he terminated the complainant's employment, because as an employee, he is an arm of the company and the establishment cannot have employees going around insinuating or making threats to people with regard to the business. An officer admitted that he spoke with the manager about a rumor the officer had heard, as the officer is a personal friend with the owner, and thought it was important that he be made aware of his employee's behavior. There was no indication that there was a warrant for the complainant's arrest and neither the officer nor the

manager made any indication that was said. By the complainant's own admission he was using the fact that officers purchase food from the establishment in an attempt to have the officers supersede department policy by having them waive the fees for towing the vehicle and the officer's sole purpose was to notify the manager of the conduct of his employee and not to have the employee terminated.

Chairman Allen asked if the complainant was present. It was noted that the complainant was not present. Chairman Allen moved to accept the OPS findings of *exonerated* on the call handling allegation and the conduct standards allegation. Andrew Phelan seconded the motion. The motion carried unanimously.

CPRB No. 7-08/OPS No. C08-34 (Presented by John Paneto)

John Paneto summarized the complaint. The complainant was involved in a fender bender. The APD was called and arrived on the scene. The complainant and the driver (second driver) of the other car were talked to and separated. The complainant alleged that he overheard a police officer tell the second driver that she had a suspended license. The accident took place on December 6, 2007. The complainant alleged favoritism when he received a ticket for making a U-turn, while the second driver, who was driving with a suspended license, received no ticket.

Mr. Paneto reported that he reviewed several documents for this case. He reviewed the OPS inter-departmental correspondence, NYS Vehicle and Traffic Code Section 511, Unlicensed Operation of a Vehicle in the Third Degree, and a receipt for payment in the amount of \$210 for a fine that was paid by the second driver on the following day. Mr. Paneto asked if there was no favoritism, why the second driver paid a fine the day after the accident. Mr. Paneto noted that the complainant did not file a complaint until February – almost 60 days later. The complainant filed the complaint when learned from his insurance company that the second driver did not receive a ticket.

Mr. Paneto reported that based on the OPS investigation, the officer was aware on the scene of the accident, due to his on-board computer, that the second driver's license was suspended. The reason the officer did not give the second driver a ticket was listed as "discretion." The complainant alleged improper call handling. Based on the OPS investigation, the officer failed to issue a ticket for aggravated unlicensed operation of a motor vehicle regardless of whom the officer thought caused the accident.

Mr. Paneto reported that the OPS investigation did not address the issue of favoritism in the conduct of the officer's behavior. However, the perception of favoritism is present. Mr. Paneto noted that favoritism did affect the outcome. The officer failed to issue a ticket when the circumstances warranted him to do so. It appeared that the second driver talked her way out of receiving the ticket. The second driver also lied to the officer. Mr. Paneto reported that the OPS revealed that the second driver paid the \$210 fine for the suspended license, as required by the motor vehicle law, the day after the accident. At the scene, the second driver was allowed to call a friend to drive her car away because

she did not have a driver's license. Mr. Paneto noted that the second driver is known by three (3) surnames.

Mr. Paneto reported that he searched the internet for this type of motor vehicle infraction, and found that many police agencies in New York State conduct an arrest for aggravated unlicensed operation of a motor vehicle in the 3rd degree. Mr. Paneto noted that although this is a minor offense, harm was done to the complainant by unfair application of the law, favoritism, and a dismissive attitude by the officer when he was questioned and challenged by the complainant at the scene of the accident.

Andrew Phelan, Jr. asked whether the second driver received a ticket for having a suspended license. Mr. Paneto replied in the negative. He added that the second driver paid the fine for the suspended license, for a previous incident, the next day. Chairman Allen noted that the OPS finding for the allegation was *sustained*. He asked if the complainant was present. It was noted that the complainant was present. Chairman Allen asked Mr. Paneto to explain the OPS findings to the complainant. Mr. Paneto explained that the OPS *sustained* the call handling allegation.

The complainant stated that one of the things that was left out of the investigation was that the other driver was saying names of other officers at the scene. When the officer left his vehicle to arrive at the scene, the first thing the other driver said was, "I thought they were going to send officer (name redacted)." The complainant stated that the other driver mentioned another officer's name, which led him to believe that the other driver must know members of the APD. The complainant noted that although he accepted the ticket for the unsafe u-turn, the other driver was also responsible for the accident. According to the complainant, the officer told him that the other driver was getting a ticket for having a suspended license. The complainant stated that he got into his vehicle and left the scene because he thought the other driver was also getting a ticket. The complainant further stated that in February, he found out that the other driver did not get ticketed from his insurance adjuster. The complainant asked how a person who is driving with a suspended license could not get a ticket. The complainant explained that he is one hundred (100) percent liable for the accident.

Chairman Allen asked what happens next. Can the other driver be issued a ticket ex post facto? Commander Beattie replied that the APD has a year to issue a ticket. Commander Beattie added that the case would have to be turned over to an accident investigator within the APD. Chairman Allen stated that right now the complainant is one hundred percent culpable for the accident, so it would not be unreasonable to ask whether this could be done. Commander Beattie explained that his office has never performed that function. This would be something that he would need to look into.

Board Counsel Patrick Jordan explained that offices have complete discretion in issuing tickets. Mr. Jordan noted that he understood the complainant's anger in this situation, but the insurance companies are not going to judge the accident any differently if the other person received a ticket for a suspended license. If the person received a ticket for failing

to yield the right of way, and the complainant received a ticket for an illegal u-turn, then there might be a different outcome. Mr. Jordan noted that not one officer in New York State will arrest someone for aggravated unlicensed operation in the 3rd degree for having one ticket. Commander Beattie clarified that would be custodial arrests. Mr. Jordan explained that most officers will issue a violation where the individual would appear in court. Chairman Allen concluded that the OPS agreed with the complainant's allegation, and the Board will agree with the OPS finding. Chairman Allen added that the Board will send a letter to the Chief asking what steps were done after the OPS investigation to address the complainant's concern. The complainant's friend noted that she was a passenger in the complainant's vehicle. She commented that there is a difference between having a suspended license and being in an accident. The complainant's friend added that whether the other driver got a ticket for having a suspended license was one thing, but the other driver was just as wrong as the complainant. She asked why was the complainant one hundred (100) percent at fault and paying more on his insurance while the other driver was not affected. Chairman Allen replied that the Board discussed that in terms of the accident investigator, and agreed to ask if that was appropriate in the situation. Commander Beattie added that if there was a problem with the way the accident report was written, that could be taken up with the officer who wrote the report: the officer who determined who was at fault. Commander Beattie asked the complainant whether he tried to talk to the officer. The complainant replied that he left the officer a message and did not receive a phone call back. Commander Beattie stated that the OPS will let the officer know that its investigation is done, so he can speak to the complainant to explain the way the report was written. He added that if the complainant reaches out to the officer and the officer does not respond, then the complainant should ask to speak to a supervisor.

John Paneto moved to concur with the OPS findings of *sustained* on the call handling allegation. Chairman Jason Allen seconded the motion. The motion carried unanimously.

CPRB No. 15-08/OPS No. C08-291² (Presented by Chairman Jason Allen)

Chairman Jason Allen noted that he will be reviewing a complaint that was originally assigned to Board member Reverend Edward Smart to review. He further noted that Reverend Smart was not able to attend tonight's meeting. Chairman Allen read Reverend Smart's report on this case verbatim. The complainant alleged that while he was in the holding area of the Albany County Courthouse he was pepper sprayed. He further alleged that an officer elbowed him in the throat. The complainant also made reference to a previously filed complaint, in which he alleged that a detective perjured himself during testimony.

² The complainant filed two separate complaints. The wrong complaint number was inadvertently assigned to this complaint. The complaint that was reviewed and closed by the Board at this meeting was not CPRB No. 15-08, but CPRB No. 47-08. Therefore, CPRB No. 15-08 is still an active complaint.

Chairman Allen reported that Reverend Smart reviewed a citizen's complaint form dated March 20, 2008; cross-examination of the detective; confidential report; handwritten report; transmission verification; and Part 33 Citizens' Police Review Board Article 44 General Provisions 42-322 (A),(B),(D), and (E). Chairman Allen further reported that the complainant alleged a violation of use of force when he was pepper sprayed and elbowed while in a holding cell at the Albany County Courthouse. Chairman Allen noted that the OPS finding for the allegation was ***no finding*** based on the fact that Article 44 limits the Board's deliberations, policy and practices to the City of Albany's Police Department. This independent mechanism reviews the conduct of law enforcement officials in the APD. The Board is charged with improving the relationship between the community of Albany and its police department with independent authority and the power to review the handling of citizen complaints of police misconduct.

Chairman Allen reported that Reverend Smart agreed with the OPS finding of ***no finding*** on the conduct standards allegation, because this incident occurred at the Albany County Courthouse and involved an officer with the Albany County Sheriff's Department. Chairman Allen further reported that Reverend Smart concurs with the OPS finding, where the investigation revealed that another agency, not the Albany Police Department, was responsible, and the complaint or complainant should be referred to the appropriate agency. Chairman Allen noted that the complaint was forwarded to the Albany Sheriff's Department.

The Board agreed that they were comfortable with Chairman Allen's review of the complaint on behalf of Reverend Smart because it does not involve the APD. Chairman Allen moved to concur with the OPS finding of ***no finding***. Fowler Riddick seconded the motion. The motion carried unanimously.

V. Old Business

CPRB No. 21-05/OPS No. C05-231 (Presented by Hon. Fowler Riddick)

Chairman Jason Allen asked Government Law Center Board Coordinator Sharmaine Moseley to summarize the allegations in the complaint and the Board's vote at its June 10, 2008 meeting. Ms. Moseley reported that the Board's vote for: the first allegation of arrest authorities and procedures was 5-1 to concur with the OPS findings; the second allegation of violation of conduct standards was 5-1 to concur with the OPS findings; the third allegation of violation of conduct standards was 5-1 to concur with the OPS findings. It was noted that John Paneto voted in the negative for the first three allegations. Ms. Moseley reported that the Board's vote was 3-3 for the last allegation of call handling. As a result of the tie vote, the Board need to revisit the last allegation in order to consider the case "closed."

Monitor Joel Pierre-Louis was acknowledged. Mr. Pierre-Louis stated that the OPS looked at the allegation and agreed with the officer. He added that he did not believe the statements the officer made years later, because the officer should have initially said that

he saw the complainant smoking a “blunt.” Therefore, the officer’s statement may not be credible. Mr. Pierre-Louis noted that it has nothing to do with the OPS’ investigation, but a person can recollect something in their memory sooner rather than later. The officer’s rate of speed was never determined. Mr. Pierre-Louis noted that he traveled down the road and what he observed calls the officer’s statement into question.

Chairman Allen asked how Mr. Pierre-Louis would reconcile the marijuana. Board Counsel Patrick Jordan noted that the police can stop anyone they want at whatever time. He suggested that the Board do what it did in the past which would be to send the case back to the OPS or the Chief for further investigation. Mr. Jordan noted that Fowler Riddick went to the scene and said that he could see where the complainant was standing from the road. Mr. Jordan reminded the Board that there was a “roach” burning on the ground between these individuals.

Mr. Pierre-Louis noted his concern of an officer driving by and then stopping for someone who is smoking a marijuana cigarette. We would not be here if the six (6) witnesses gave a statement saying that they did not see the complainant smoking the “blunt.” If the officer said in his initial statement that he saw the complainant smoking the “blunt,” the Board would not be discussing this. Mr. Pierre-Louis asked why the officer focused on the complainant. He noted that the officer’s initial statement to the OPS was accurate, and his second statement was inaccurate.

Chairman Allen stated his uncertainty as to what steps the Board should next take for this allegation. Mr. Pierre-Louis stated that the Board should not take this lightly, because the officer’s statement is called into question. Commander Beattie noted that during an investigation, if an officer is caught in lie, then the officer is subject to discipline. The OPS had the officer come in a second time, and the officer is obligated to tell the truth. Commander Beattie stated that the complainant pled guilty to a charge. He added that he cannot tell what another officer was able to see from a distance. The officer could approach the group. When the officer approached the group, he saw a “blunt” and a four (4) year old child was there. Commander Beattie noted that the officer was called back in the second time for questioning based on questions the Board raised when they sent the complaint back for further investigation.

Chairman Allen suggested that Mr. Joel Pierre-Louis draft a letter to the Chief for the Board to see. Mr. Paneto stated that the Board should be able to disagree with the OPS finding and not send it back to the OPS for further investigation. Mr. Pierre-Louis stated that the legislation may need to be amended to say that. Common Council Member Richard Conti stated that the Board should make a motion, and if the motion failed, then it failed.

Fowler Riddick moved to accept the OPS finding of *unfounded* for the call handling allegation. Chairman Jason Allen seconded the motion. The motion was defeated by a vote of 3-3. Ronald Flagg, John Paneto and Anthony Potenza voted in the negative.

Board Coordinator Sharmaine Moseley cited Section 42-344 of the CPRB legislation which requires the CPRB, after review and deliberation of an investigation, to make a finding by a majority vote. Board Counsel Patrick Jordan agreed that the Board needed to have a majority vote. Fowler Riddick noted that the OPS tried unsuccessfully to contact the complainant and her witnesses after numerous attempts. He further noted that before the Board's meeting in June, the complainant contacted Ms. Moseley regarding her complaint. Fowler Riddick suggested that the Board make a finding of *no finding*, based on the complainant being unavailable to clarify the complaint. The Board agreed to make a motion with that finding. Fowler Riddick moved to disagree with the OPS finding of *unfounded* and accept the Board's finding of *no finding* for the call handling allegation. Anthony Potenza seconded the motion. The motion carried unanimously.

B. *Appointment of New Members to the Committee on Complaint Review for August/September 2008*

The following Board members were appointed to the Committee on Complaint Review for August/September 2008: Ronald Flagg, John Paneto, Andrew Phelan, Jr., Anthony Potenza, and Hon. Fowler Riddick.

Chairman Jason Allen noted that normally the Board does not meet during the months of July and August. He explained that due to the backlog in the number of complaints before the Board, the Board decided to meet this month. Chairman Allen asked Board Coordinator Sharmaine Moseley for the number of complaints that are ready for review by the Board. Ms. Moseley replied that there is one complaint ready for review. OPS Detective Kathleen Hendrick added that the OPS has several that are awaiting the Chief's review. Chairman Allen proposed that the Board not meet in August due to conflicting vacationing schedules. The Board agreed to the proposal. Chairman Allen moved to not meet in August. John Paneto seconded the motion. The motion carried unanimously.

John Paneto noted that Ms. Moseley's daughter's birthday is on September 11th which is the next meeting of the Board. He proposed that the Board schedule its next meeting for September 18th. Chairman Allen asked Ms. Moseley to poll the Board to see if there would be a quorum for September 18th.

C. *Committee/Task Force Reports*

By-Laws and Rules/Mediation

Committee Chairman Jason Allen reported that the amendments to the sections in the CPRB ordinance that related to mediation have been introduced in the Common Council. Board Counsel Patrick Jordan added that the amendments are in the Council's Public Safety Committee. Mr. Jordan noted that the Committee also received legislation regarding repeat officer offenders which was introduced by Common Councilmember Dominick Calsolaro. Committee Chairman Allen noted that the Board has legislation

regarding the early warning system in its legislation. He added that the repeat offender offenders legislation is too general.

Community Outreach

Chairman Jason Allen reported that Committee Chairman James Malatras recently submitted his resignation from his position as a member of the Board. Chairman Allen read Mr. Malatras' resignation letter to the Board. Chairman Allen stated that elections need to be conducted to select a new Chairman for the community outreach committee. John Paneto expressed an interest in serving as Chairman of the committee. Chairman Allen moved to nominate John Paneto as Chairman of the community outreach committee. Fowler Riddick seconded the motion. The motion carried unanimously.

In the absence of Reverend Edward Smart, Board Coordinator Sharmaine Moseley noted that Reverend Smart expressed an interest in serving as Co-Chair of the community outreach committee. Chairman Jason Allen moved to nominate Reverend Smart as Co-Chair of the community outreach committee. Ronald Flagg seconded the motion. The motion carried unanimously.

Police Department Liaison and Policy Review/Recommendations

Chairman Jason Allen noted that Committee Chairman Daniel Fitzgerald was not present.

Public Official Liaison

Committee Chairman Ronald Flagg reported that the July 16th meeting with the Common Council will be rescheduled to only include the members of its Public Safety Committee.

Task Force on Monitors

Chairman Allen noted that James Malatras also served as Chairman of the Task Force on Monitors. He asked if anyone was interested in chairing the task force. It was noted that there was no interest. Chairman Allen noted that this will be discussed at the next meeting of the Board.

D. *Report from the Government Law Center*

Government Law Center Coordinator of the Board Sharmaine Moseley gave the report.

Complaint Inventory as of Date of Meeting

It was reported that as of today, there are currently forty-nine (49) active complaints before the Board for review. Of those forty-nine (49) active complaints, seven (7) were reviewed at tonight's meeting, which leaves the Board with forty-two (42) active complaints.

It was further reported that two hundred and seventy-three (273) complaints have been closed and nine (9) complaints remain suspended from review. The total number of complaints filed to date is three hundred and twenty-four (324).

It was reported that since last month's meeting, the GLC received four (4) APD grievance forms. The total number of forms received to date is twenty-two (22). It was further reported that in response to the GLC's outreach to all twenty-two (22) individuals, the Board received five (5) CPRB complaint forms.

Letter to Police Chief James Tuffey

It was reported that at the request of the Board, being circulated around the table for signatures, is a letter to Chief Tuffey from the Board commending him on the grievance form proposal. Ms. Moseley asked the Board to sign the letter in the appropriate space above the member's printed name.

Reports

It was reported that a draft of the Board's first quarter report for 2008 is included in tonight's meeting packets for review. It was further reported that the 2007 annual report and the second quarter report are both undergoing review and draft copies should be ready for review before the Board's next meeting.

NACOLE

It was reported that the following Board members have been registered to attend this year's NACOLE conference in October: Andy Phelan, John Paneto, Tony Potenza and Reverend Smart. It was further reported that APD Deputy Chief Stephen Reilly will also be attending the conference.

E. *Report from the Office of Professional Standards*

Commander Burris Beattie noted that he had nothing new to report from the OPS.

F. *Report from the Chair*

Chairman Allen noted that there was no report from the Chair.

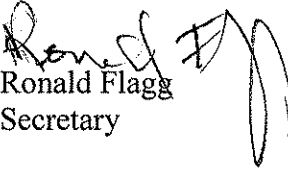
V. Public Comment

Common Councilmember Richard Conti asked Ms. Moseley to see if the Public Safety Committee can meet on July 16th at 5:30 p.m. instead of 7 p.m. Mr. Conti also asked Ms. Moseley to follow-up with Mr. Malatras to see if he sent Albany City Clerk John Marsolais a copy of his resignation letter.

VI. Adjournment

Chairman Jason Allen moved to adjourn the meeting. Ronald Flagg seconded the motion. The motion carried unanimously. The meeting adjourned at 8:20 p.m.

Respectfully submitted,


Ronald Flagg
Secretary