

**City of Albany
Citizens' Police Review Board
Labor Temple
890 Third Street- 2nd Floor Meeting Room
October 16, 2008
6:00 p.m. – 8:00 p.m.**

Present: Jason Allen, Daniel Fitzgerald, John Paneto, Andrew Phelan, Jr., Anthony Potenza, and Hon. Fowler Riddick.

Absent: Ronald Flagg and Reverend Edward Smart.

I. Call to Order

Chairman Jason Allen called the meeting to order at 6:05 p.m.

II. Approval of the Agenda

The agenda was reviewed. Daniel Fitzgerald moved to approve the agenda. Fowler Riddick seconded the motion. The motion carried unanimously.

III. Approval of the June 10, 2008 Meeting Minutes

The June 10, 2008 meeting minutes were reviewed. Andrew Phelan moved to approve the June 10, 2008 meeting minutes. John Paneto seconded the motion. Daniel Fitzgerald abstained from voting. The motion carried 5-1 with Daniel Fitzgerald abstaining.

IV. New Business

A. *New Complaints*

1. New Complaints Received Since September 18, 2008 Meeting

Chairman Jason Allen reported that five (5) new complaints had been received by the Board since its September 18, 2008 meeting. Andrew Phelan read a summary of each new complaint.

CPRB No. 65-08

The complainant alleges that he had recently been given conflicting stories by police officers regarding his license to sell goods. The complainant claims that two officers told him his license was no good and that he had to pack up his merchandise and stop selling it. The complainant further claims that a different officer whom he met at a community function told the complainant that his license was fine and that he could sell his merchandise. The complainant further claims that he approached the original officer who had told him to stop selling in order to inform him that another officer had told the

complainant that it was okay for him to sell his goods. The complainant alleges that the officer then told him that the other officer did not know what he was talking about and that the complainant would be arrested if he sold his goods. The complainant further alleges he was given the "run-around" by officers when he tried to make an appointment to see them regarding this matter.

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

CPRB No. 66-08

The complainant alleges that on June 26, 2008, police dispatchers and officers were slow to respond to her 911 call shortly after she was sexually attacked. The complainant initially claimed that it took forty (40) seconds for someone to answer her 911 call. The complainant further alleges that it took an additional long period of time for the APD to be dispatched into her call. The complainant alleges that the dispatcher who eventually took her information told her that a police unit would be on the way soon. Once the complainant was at home, the complainant claims that she called the APD to follow up on her 911 call. She was told that her prior sexual attack call had never been dispatched to a unit. The complainant further alleges that the man told her she would receive a follow up call after officers searched the area of the alleged incident. According to the complainant, she never received that follow up call. The complainant further alleges that she called the APD again to follow up herself and was told that the officers searched the area, found nothing, and tried to call her but had the wrong number. The complainant further alleges that she was told that an officer could come to her residence to file a report of the incident that night. After several delays, the complainant claims that an officer arrived at her home to file her report at one (1) o'clock in the morning, about four (4) hours after the alleged sexual attack occurred. The complainant further alleges that the officer was initially rude and unprofessional when he said, "I can tell you right now, I'm not going to apologize for anything that has happened to you today. I just got on this shift and I had nothing to do with what went on earlier, so I'm not going to apologize for anything." The complainant further alleges that she had forgotten a lot of the minute details that the officer asked her because so much time had passed since the actual incident.

The complainant further alleges that she was told by OPS that the original 911 dispatcher who had failed to send her call to a police unit could not be identified because there was no clear way to identify who exactly fielded her call. The complainant further alleges that the emergency response system should be improved. The complainant further alleges that when she called a detective again to see if the 911 dispatcher could be identified, the detective was snide and condescending in asking whether she was going to file a complaint or not.

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

CPRB No. 67-08

The complainant alleges that an officer wrongfully arrested him for a violation of an order of protection that had been vacated. The complainant further alleges that the officer arrested him despite the fact that the person who had originally obtained the order told the officer that the order had been vacated. The complainant further alleges that he and his mother also told the officer the order had been vacated.

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

CPRB No. 68-08

The complainant alleges that an officer made a false statement about his character. According to the complainant, the false statement resulted in the complainant's denial of housing from South Mall Towers. The complainant further alleges that the officer was working as a painter at the time of the interview and interacted with the complainant only in that capacity. The complainant further alleges that the officer never addressed the behavior discussed in the officer's signed statement. The complainant further alleges that the officer made the false statement for financial gain.

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

CPRB No. 69-08

The complainant alleges that, as he was driving away, an officer stopped the complainant and asked the complainant for his license and registration. The complainant alleges that the officer asked the complainant to roll his window down, which the complainant did not do. The complainant claims that the officer opened the driver's door to the car. The complainant alleges that the officer grabbed the complainant's arm so firmly to snatch the complainant out of the vehicle, that the complainant suffered a sprained elbow. The complainant further alleges that his car was searched and then was towed.

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

2. New Complaints for Review

CPRB No. 29-07/OPS No. C07-700 (Presented by Anthony Potenza)

Anthony Potenza noted that a monitor has been assigned to this case. Mr. Potenza reported that the complainant alleged misconduct with regards to the arrest authority and procedures and use of force. Mr. Potenza added that the citizen complained formally with the Albany Police Department. Mr. Potenza reported that he reviewed the monitor's report and the OPS confidential case file. Mr. Potenza further reported that the complainant alleged that he was improperly stopped, searched, and arrested by officers on May 31, 2007. Mr. Potenza summarized the complaint. The complainant stated that while on the way home, after stopping at a friend's house after work, the incident occurred. The complainant stated that the police officers exited their car and approached

him saying "Hello, long time no see" and asked if the complainant was on parole and where he was coming from. The complainant claimed that he told the officers that he was "on the way home from work." Mr. Potenza reported that based on a subsequent investigation, it was revealed that the complainant's claim that he was leaving work was inconsistent with the complainant's sworn statement and the witnesses' statement.

Mr. Potenza summarized the findings of the Office of Professional Standards (OPS) on the allegation of a violation of arrest authority and procedures as *exonerated*, where the acts, which provide the basis for the complaint occurred, but the review shows that the acts were proper. Mr. Potenza reported that based on the OPS investigation, the complainant was not walking home from work as stated in his sworn statement. Mr. Potenza further reported that the complainant's employer stated that the complainant left work at 2:10 p.m. and the incident did not occur until 11:22 p.m. The complainant's witness stated that the complainant came to the house between 8 p.m. and 9 p.m. Mr. Potenza added that an Albany Police Department supervisor received detailed information, which led to the questioning of the complainant and the complainant's subsequent arrest. During the course of a drug arrest, the supervisor received detailed information of a person matching the description of the complainant, a black male, wearing a black hat, black leather jacket and black pants in a certain location distributing narcotics. The complainant's property report showed that the complainant was wearing a black leather jacket and a black hat. Mr. Potenza added that an officer stated that the complainant was wearing a black leather jacket. The complainant admitted in his statement that the crack cocaine fell out of his pants. Mr. Potenza concluded that based on these facts, the complainant was not harassed or unlawfully stopped, but the complainant was stopped during the course of a narcotics investigation.

Mr. Potenza summarized the findings of the OPS on the allegation of conduct standards as *unfounded*, where the review shows that the act or acts complained of did not occur or were misconstrued. Mr. Potenza reported that based on the OPS investigation, the complainant stated that the officer only checked his buttocks area from the outside of his pants and not actually into his buttocks area which the complaint alleged in his complaint. The complainant alleged that when he was stopped, the police officers actually reached inside his pants and rather than just do a pat-down search, they did a search inside his clothing. Mr. Potenza added that during the officers' interviews, the officers stated that the buttocks area is a common place where narcotics are concealed by drug dealers. The officers also stated that the search of the complainant was only done from the outside of the complainant's clothing, after receiving a verbal consent by the complainant. Mr. Potenza concluded that based on the conflicting description of events by the complainant, and the questioning of the officers, this allegation is *unfounded*.

Mr. Potenza summarized the findings of the OPS on the allegation of use of force as *unfounded*, where the review shows that the act or acts complained of did not occur or were misconstrued. Mr. Potenza reported that during the complainant's sworn statement, the complainant never mentioned that he was assaulted, but the complainant mentioned that he kept turning away from the officers and trying to roll on his back. Mr. Potenza further reported that based on the OPS investigation, the officers stated that the complainant began to fight and resist the officers, especially after an officer said "I got

it,” in reference to the narcotics. Mr. Potenza added that according to the officer, the complainant’s actions resulted in the complainant’s injury. The complainant reported in his complaint that he suffered injuries to his wrists from the handcuffs. Mr. Potenza noted he reviewed the admission screening sheet that was signed by the complainant. The complainant did not state on the screening sheet that he had any signs or symptoms of an injury. Mr. Potenza reported that the monitor’s report concurred with the findings of OPS.

Mr. Potenza moved to concur with the findings of OPS and the monitor. Mr. Potenza summarized the findings in regards to a violation of arrest authority as *exonerated*, where the acts which provided the basis for the complaints and the review show that the acts were proper. Mr. Potenza summarized the findings in regards to the violations of conduct standards and use of force as *unfounded*, where the review shows that the acts or acts complained of did not occur or were misconstrued.

Chairman Jason Allen noted that the complainant was not present. Chairman Allen acknowledged that Monitor Joel Pierre-Louis was present. Mr. Pierre-Louis stated that he had nothing further to add.

Chairman Jason Allen reiterated that the complainant arrived between 8 and 9 and was arrested at 11:30. Chairman Allen asked what caused the search and why was the complainant arrested. Chairman Allen clarified that the officer searched the complainant because someone else gave the Sergeant a description of someone who was selling crack cocaine. Chairman Allen asked how the complainant was selling if he was eating dinner. Mr. Pierre-Louis explained that one of the complainant’s witnesses indicated that she gave the complainant a \$100 bill to go to the store. When the complainant was on his way back from the store, the complainant was allegedly stopped, searched, and arrested. Chairman Allen added that the witness said that the complainant was only gone for a couple of minutes when that happened. Chairman Allen said that he thought that was pretty quick. Mr. Pierre-Louis noted that another individual gave a description of a guy at a certain location wearing a black hat, black leather jacket, and black pants that just sold crack cocaine which was relayed to police units and the officers immediately converged upon the complainant in just a matter of minutes. Chairman Allen stated that he understood the answers to his questions. It was noted that there were no more questions.

Anthony Potenza reiterated that he moved to concur with the findings of the OPS on all three allegations. Chairman Jason Allen seconded the motion. The motion carried unanimously.

CPRB No. 28-08/OPS No. C08-297 (Presented by Andrew Phelan, Jr.)

Andrew Phelan noted that he reviewed the case file at the OPS on October 6th and 8th. Mr. Phelan summarized that the incident occurred on the corner of State and Lark on May 4, 2008. According to the complainant, a dark blue, Chevy pick-up truck nearly hit him. In response, the complainant slapped the driver’s side of the door or cab of the truck with his left hand. The vehicle stopped and a young 21-year-old male jumped out

of the passenger side of the vehicle and came at the complainant with his hand in a fist. The male struck the complainant in the temple. As the complainant attempted to duck out of the way, the male continued to come at the complainant. The complainant grabbed the male in an attempt to prevent the male from striking the complainant again. The complainant also claimed that a jogger stopped and separated the two men. The complainant reported that he stepped away to call 911 and the male spit in the complainant's face.

Mr. Phelan reported that based on the OPS investigation, in regard to the allegation of a violation of conduct standards, the complainant alleged that the officer scolded the witness. However, none of the officers reported scolding any witnesses. One of the detectives reported that he spoke with the witness who stated that the officers were very calm and professional. The other witness, who was a passenger in a vehicle, also stated that the officers were professional in handling the situation.

Mr. Phelan reported that based on the OPS investigation, in regard to the call handling allegation, the complainant alleged that he told the officers that he wanted to file charges against the other party for assaulting him. During their interviews, both officers stated that the complainant neither complained of injury, nor did he have any signs of injury. One officer stated that the complainant told him that he understood they both were wrong in their actions. According to the officer, the complainant specifically said "I should not have hit their truck with the chain." The other officer stated that both parties involved shook hands prior to the officers leaving the incident. The witness who was the passenger in the truck, stated the officer explained to the complainant that the complainant should not have hit the truck with the chain, which the complainant understood. The officer explained that, as far as they knew, it was done and over with and no one wanted anyone arrested.

Mr. Phelan reported that based on the OPS investigation, in regard to the second allegation of a violation of conduct standards, the complainant alleged that the officers were rude to him when they told the complainant that he should go back to Amsterdam or he will be arrested for starting a fight. The officers denied making that comment to the complainant. In addition, the passenger in the truck stated that she never heard the officers threaten the complainant in any way or talk rudely to him.

Mr. Phelan noted that a monitor was appointed to this case. Monitor Richard Lenihan was acknowledged. Mr. Lenihan stated that the complainant got some form of retribution. He explained that during the OPS investigation, they ascertained information that the other party involved was incarcerated for an unrelated matter and was unwilling to cooperate during the interview.

Mr. Phelan reported that based on the OPS investigation, he concurred with the OPS findings on the first conduct standards allegation as *unfounded*; the call handling allegation that the officers refused to file charges against the other person for assaulting the complainant as *unfounded*; and the second conduct standards allegation where the officers were rude to the complainant and told him to go back to Amsterdam as *unfounded*.

Daniel Fitzgerald requested clarification regarding the complainant's request to file charges. He asked if the witnesses stated that the complainant did not request to file charges for being struck. Mr. Phelan responded in the affirmative. Chairman Allen asked if the complainant was present. It was noted that the complainant was not present. Andrew Phelan moved to concur with OPS on all three allegations. Anthony Potenza seconded the motion. The motion carried unanimously.

CPRB No. 35-08/OPS No. C08-311 (Presented by John Paneto)

John Paneto acknowledged that the OPS detective, the complainant, and the monitor of the case were present. Mr. Paneto noted the incident occurred on Delaware Avenue in Albany and was identified by the Albany Police as a felony, high-risk traffic stop. Mr. Paneto noted that a high-risk traffic stop is extremely dangerous and carries a greater possibility of risk to police force personnel. Some of the reasons are that there is unknown activity and the police officers are in a greater state of adrenaline rush. Mr. Paneto further noted that he researched the definition of high-risk traffic stops on the internet.

Mr. Paneto reported that he reviewed the complaint, seven (7) inter-departmental correspondences (IDC), the OPS report, the call ticket, and the monitor's report. Mr. Paneto further reported that he listened to the oral tape of the dispatcher, the Albany police officers and detectives.

Mr. Paneto summarized the complaint. The complainant alleged that officers stopped her vehicle, told her to turn her vehicle off, roll down her window, and put her keys on top of the car. The complainant further alleged that she was told to step out of the car with her hands up, to turn around, and then walk backwards towards the officer. According to the complainant, in the confusion, she turned around and began walking face forward toward the officer. The officer yelled at her and told her to turn back around and walk backwards. The complainant claimed that as she proceeded to do that, an officer said "So, you can follow instructions." The complainant alleged she was told that she was stopped because the officers were looking for a person in a gold Lexus ES300 automobile on Whitehall Road and the dispatcher stated that a gun was in the vehicle. The complainant claimed that her vehicle was silver. Mr. Paneto concluded that the complainant alleged that she was stopped, the call was handled inappropriately, and an officer spoke to the complainant unprofessionally.

Mr. Paneto reported that based on the OPS investigation, in regard to the first allegation of call handling, the officers were given limited information pertaining to the vehicle - a Lexus ES300 in the area of Whitehall Road and Picotte Drive. The person in the vehicle was supposedly in possession of a weapon. A detective observed a Lexus ES300 turning onto Whitehall Road. The detective was unable to identify the driver or obtain registration information upon observation of the subject vehicle. The detective followed the vehicle. When the detective was able to obtain registration information, he had the dispatcher check the information and stated the vehicle was gold and could be considered tan. The detective also stated that he was unable to ascertain whether the vehicle was

being driven by a male or a female. However, the detective thought it might have been a female. Once the APD officers arrived in marked patrol units, a felony traffic stop was initiated. This type of traffic stop was initiated due to the fact that the officers believed they were stopping a vehicle in which the occupant was in possession of a weapon. This type of stop is for the protection of the officers as well as the occupants in the vehicle. Based on the information from the complainant regarding the manner that she was stopped and removed from her vehicle and the information provided by the officers, the officers followed the procedures and handled the stop in a proper fashion. Although the complainant indicated she was driving a silver-colored vehicle, all things considered, the vehicle's make, model, location, and direction of travel all added up to the officers' suspicion that this was possibly the vehicle they were looking for. As for the color of the vehicle, the complainant stated it to be silver. The detective believed it to be gold or tan. The detective stated that there was a glare from the sun reflecting off the vehicle and depending on the shading and sunlight it was possible it could have affected the color of the gold.

Mr. Paneto reported that based on the OPS investigation, in regard to the violation of conduct standards allegation, the complainant stated that an officer said to her "So, you can follow directions." The officer admitted making an inappropriate statement when he was giving the complainant directions to exit the vehicle and walk backward towards his voice. The officer stated that the complainant walked towards him while facing him. The officer stated that he repeated the order, but the complainant continued to walk facing him at which time he said "I see you can't follow directions." Mr. Paneto concluded that the officer should have continued to give out precise directions as to what he wanted her to do and not give out sarcastic comments.

Mr. Paneto read the transcription from the oral tape of the call dispatched to the Albany Police Department. Mr. Paneto read "A guy... A guy with a gun... He is in a Lexus ES... A guy with a gun in a '92 Lexus ES300 with tinted plates." The dispatcher asks "Where is he?" The caller said "On Picotte Drive near..." The dispatcher then asked the caller if the caller knew who it was. The caller replied "No." The caller gave a phone number and then hung up. When the dispatcher called the phone number back, the dispatcher heard a voice recording with the phone number that was given to the dispatcher. Mr. Paneto reported that according to the monitor's report, several police units responded to this call. He noted that at least seven (7) police vehicles were involved in this incident. Only one police officer was identified; the target officer who made the remark. The Lieutenant was advised the vehicle was stopped on Delaware Avenue and the target officer stated he would notify the other units. The police unit called in that they made a felony stop and were all set. The target officer was identified as the officer who made the remark from the IDC's. At the request of Chairman Allen, Mr. Paneto read the transcription of the call that was dispatched to the APD. He explained that this call was the only information that the officers had which led them to stop the complainant's car.

Mr. Paneto reported that the whole stop took thirty (30) minutes. During the time the complainant's vehicle was stopped, another gold Lexus was stopped about four blocks

away. Within 30 minutes after the call was terminated, the police decided there were no other vehicles in the area and decided to discontinue the search for the Lexus.

Chairman Allen asked the OPS what is the typical corrective action for rudeness. OPS Detective Kathy Hendrick responded that the discipline goes to the Chief of Police. She added that the discipline could range from charges to suspension, to loss of wages.

Chairman Allen acknowledged that the complainant was present. Chairman Allen asked the complainant if there was anything she wanted to add. The complainant stated that she was concerned with how she was treated. The complainant further stated that she did not believe that her car looks gold or that the sun blocked anyone's view as to what color it was. The complainant also stated that she did not believe that the police officer followed guidelines. The complainant stated that when she got out of the car, the police officer told her to turn around and walk backwards. The complainant further stated that, as she explained to the officer, as the driver of the vehicle, she had no understanding as to why they were stopping her. She added that she was pulling over to the side of the road thinking they were going to go past her to go to someone else. As she started to pull out, the officers said "Stop! Stop! Stop!" The complainant stated that there were about seven (7) police officers there. She explained that in the confusion, she turned around and started walking toward the officer again. The complainant stated that she felt there was no reason for the officer to speak to her the way he did. She commented that these are the kind of issues and complaints that she gets at the NAACP; complaints about how officers treat people. The complainant stated that she was out of the car with her hands up. If there was anything on her it would be obvious because they would see it. She added that she was not reaching for anything; therefore there was no reason for the officer to speak to her in such a condescending way. The complainant commented that this is the kind of behavior that causes an incident to become another incident. The complainant stated that there is an expectation that police officers will maintain their composure and control of the situation. She stated that she does not believe that is what the officer was doing at this time and that is the nature of her complaint.

Monitor Theresa Balfe stated that as the monitor appointed to this case, she believed that Detective Hendrick did a very thorough job. Ms. Balfe added that in the IDC's, each officer gave an explanation of what they remembered from the scene and the officers on the scene thought that the target officer was very direct in his instructions. Ms. Balfe stated that she had a case like this before where the person being pulled over did not know what they were being pulled over for. She added that the officer followed the instructions, but it probably was not clear. The complainant reiterated that still did not give the officer the right to speak to her unprofessionally and his remarks were unnecessary. Ms. Balfe agreed with the complainant. Ms. Balfe added that the officers thought that the complainant might have had a weapon, were trying to get the complainant to walk backwards, and were just trying to do their job. Ms. Balfe noted that out of all the officers interviewed, two of the officers recalled the target officer giving very direct directions to the complainant, and they did not recall him saying the remark. But one of the officers remembered the target officer saying "I see you can't follow instructions." Ms. Balfe stated that she found the officer's comment to be derogatory and, based on their investigation, she concurred with the OPS findings. The complainant

explained where the officers were standing when the incident occurred. She added that she could not say why she did not hear him. The complainant concluded that what she said is what he said. The complainant added that after everyone else had left, the officer acknowledged that his remark was unnecessary.

Mr. Paneto moved to concur with the OPS findings on the call handling allegation as *exonerated*. He noted that the police acted appropriately for this type of high-risk traffic stop and everything done was clearly according to the Standard Operating Procedures (SOP).

Mr. Paneto moved to concur with the OPS findings on the violation of conduct standards allegation that the officer said an inappropriate remark to the complainant as *sustained*.

Daniel Fitzgerald seconded the motion. The motion carried unanimously.

Chairman Jason Allen explained to the complainant that the Board reviewed her complaint and there was a thorough investigation by the OPS. Chairman Allen further explained that Theresa Balfe was the monitor assigned to follow this investigation and Detective Hendrick investigated the case at the OPS. He stated that the Board did not have the authority to view the officer's file to see what disciplinary actions may have been enforced. Chairman Allen stated this may be a way to open up the dialogue to see if training may be done to prevent this from happening again. The complainant stated that her complaint was filed in May and asked why the process took so long. Chairman Allen answered that there is an investigation followed by a monitor, and then the complaint and the results of the investigation are brought before the Board. He added that Mr. Paneto then reviewed the file, met with the monitor, and then presented the case to the Board for consideration. Ms. Balfe added that each of the officers on the scene has to give an IDC, which happened quickly in this case. Chairman Allen noted that by statute the case must be presented to the Board within 60 days, but the Board usually takes a month or two off in the summer which may have backlogged this case a little.

CPRB No. 37-08/OPS No. C08-329 (Presented by Daniel Fitzgerald)

Daniel Fitzgerald summarized the complaint. Mr. Fitzgerald reported that the complainant alleged that an officer responded to his residence in reference to a car blocking. The complainant further alleged that when he tried to explain the situation to the officer, the officer refused to listen to him and took the word of the white man for granted instead of the brown complexioned man. The complainant claimed that he was made to move his car which was blocking his driveway even though his neighbors could have moved their vehicle to the other end of the driveway. The complainant further claimed that other vehicles were parked in a similar fashion and those vehicles did not get a ticket which made the complainant feel like he was racially profiled. The complainant alleged that the officer has the notion that Indians are uncivilized.

Mr. Fitzgerald reported that he reviewed the case, the citizen complaint, the OPS confidential report, the police department inter-departmental correspondence, copies of the parking violations, the police department's SOP regarding towing the vehicles, the

City of Albany documents regarding parking, call dispatch records, and the monitor's report. Mr. Fitzgerald summarized that the complaint contained three (3) call handling allegations as well as two (2) violations of conduct standards allegations.

Mr. Fitzgerald explained that the complainant claimed that he was discriminated against. The complainant's car was parked where it blocked the sidewalk and two (2) other cars in a shared driveway. The complainant claims that the people in the residence next door, whose cars the complainant was blocking, called the police. Upon arriving at the scene, the police officer ran the license plate in an attempt to locate the individual who was parked behind the other cars, hoping to contact them so he/she could move the car. The address that came up was several blocks away, so the officer assumed that the car belonged to someone not in the area. Mr. Fitzgerald further explained that the police officer ticketed the vehicle because it was in violation of the parking ordinance by being on the sidewalk. Mr. Fitzgerald stated that at that time, the complainant came out of the house rather upset because the neighbors violated an agreement they had about parking. The complainant felt that the officer had just taken their word over his. The police officer explained to the complainant that he could have called and had the vehicles towed, but because the actual parking area is on private property, the complainant could not do so. At this time, the complainant felt the officer was taking the neighbor's word over his.

Mr. Fitzgerald summarized the findings of the OPS on the first call handling allegation as ***exonerated***. Mr. Fitzgerald explained that based on the OPS investigation, the officer indicated that the complainant's vehicle was parked in such a manner that the center of the vehicle was placed over the sidewalk which prevented pedestrians from passing and prevented tenants from leaving the residence. The complainant's vehicle was in violation of the City of Albany's ordinance and was subsequently ticketed for sidewalk parking. Additionally, the officer stated the two other vehicles on the scene were parked in the driveway and on private property where the officer did not have jurisdiction.

Mr. Fitzgerald summarized the findings of the OPS on the second call handling allegation as ***unfounded***. Mr. Fitzgerald explained that this was based on the officer's statement that the officer explained to the tenant and attempted to explain to the complainant that it would be their responsibility to tow the vehicle out of the driveway since the officer had no authority to tow or remove the vehicle as it was parked on private property.

Mr. Fitzgerald summarized the findings of the OPS on the first violation of conduct standards violation as ***unfounded***. Mr. Fitzgerald explained that based on the officer's statement, the complainant's vehicle was parked in such a manner that the center of said vehicle was placed over the sidewalk preventing pedestrians from passing and preventing tenants from leaving. The vehicle was in violation of an Albany city ordinance regarding sidewalk parking.

Mr. Fitzgerald summarized the findings of the OPS on the third call handling allegation as ***exonerated***. He explained that the officer attempted to locate the registered owner of the vehicle to have them move the vehicle; however, based on the information, the owner did not reside in the immediate area.

Mr. Fitzgerald summarized the findings of the OPS on the second violation of conduct standards allegation as ***not sustained***, where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. Mr. Fitzgerald explained that the officer stated that at no time did she, the tenant, or the complainant have a discussion that was based on race.

Mr. Fitzgerald reported that he and monitor George Kleinmeier concurred with the OPS findings. Mr. Kleinmeier had nothing new to add. Chairman Allen asked if this was the complainant's private driveway. Mr. Fitzgerald responded that both parties rent the residence and it is a shared driveway. Mr. Fitzgerald explained that one tenant's vehicle is left in the front while the other tenant's vehicle is in the back. Since two cars were parked in the driveway, the complainant parked behind the two cars on the sidewalk. Mr. Fitzgerald reiterated that the officer attempted to locate the owner of the vehicle before issuing the ticket; however, the ticket was already issued by the time the complainant arrived.

Daniel Fitzgerald moved to accept the findings of OPS on all five (5) allegations. Chairman Jason Allen seconded the motion. The motion carried unanimously.

CPRB No. 38-08/OPS No. C08-343 (Presented by Andrew Phelan, Jr.)

Andrew Phelan noted that he reviewed the case file on October 8, 2008 at OPS. He reported that this case is about a missing cell phone. Mr. Phelan summarized that the complainant alleged that his cell phone was taken from him during processing, along with his other property. The complainant further alleged that after his release, his property was returned to him except his cell phone. The complainant claimed that a friend told the complainant that the friend had been receiving phone calls from an unknown male from the complainant's phone. The complainant alleged that his cell phone was taken from him by detectives and placed with his property. Upon his release, while receiving his property back, the phone was missing. Detectives reported the complainant never had a cell phone when they took him into custody.

Mr. Phelan reported that based on the OPS investigation, the OPS was unable to prove or disprove the allegations made by the complainant. An OPS detective spoke with an investigator from the Colonie police department and reported that no paperwork was generated on property that was taken from the complainant. The complainant was a passenger in a vehicle that was stopped during a traffic stop when it was learned the complainant had an outstanding warrant with the Albany police. The complainant was transported to the city line where detectives picked him up. Mr. Phelan reported that the complainant failed to produce information to further the investigation. The complainant alleges that an unknown person was using his cell phone. The complainant was instructed to supply OPS with his cell phone records. To this date, the complainant has not supplied such copies. Therefore, the OPS was unable to further their investigation.

Mr. Phelan noted that the complainant was not present. Mr. Phelan reported that he concurred with the OPS as ***not sustained*** regarding the prisoner's property. Mr. Phelan

further reported that he concurred with the OPS as *no finding* in regard to the complainant's friend receiving phone calls from the complainant's cell phone from an unknown male.

Mr. Paneto asked if the complainant was stopped by Colonie police. Mr. Phelan responded that the complainant was stopped by Colonie police who found out that the complainant had a warrant in Albany. The Colonie police called the Albany police to pick the complainant up at the city line. Mr. Paneto asked OPS if that was common practice between jurisdictions. Detective Hendrick responded that it is standard procedure. Mr. Paneto asked if, when the Albany police have custody of the person, they do a property inventory. Detective Hendrick answered in the affirmative. Mr. Paneto asked if the property inventory included a cell phone. Mr. Phelan replied that the property inventory did not indicate a cell phone. Mr. Paneto asked if the cell phone is still missing. Mr. Phelan replied that the complainant could not provide any documentation that he ever had a phone. Mr. Fitzgerald asked whether the complainant filed a complaint with the Colonie police department. Mr. Phelan responded that he did not know.

Andrew Phelan moved to concur with OPS' findings of *not sustained* regarding the prisoner's property and *no finding* regarding the complainant's friend receiving phone calls from the complainant's cell phone from an unknown male. Chairman Jason Allen seconded the motion. The motion carried unanimously.

B. *Appointment of New Members to the Committee on Complaint Review for November 2008*

The following Board members were appointed to the Committee on Complaint Review for November 2008: Chairman Jason Allen, John Paneto, Andrew Phelan, Jr., and Anthony Potenza.

C. *Committee/Task Force Reports*

By-Laws and Rules

Committee Chairman Jason Allen noted that he had nothing new to report.

Community Outreach

Committee Chairman John Paneto reported that the committee has a meeting scheduled for Wednesday, October 22, 2008 at the Government Law Center of Albany Law School. The meeting will take place at 5:30pm on the 3rd Floor of the 2000 Building. Committee Chairman Paneto reported that currently, there are no meetings scheduled with any of the neighborhood associations.

Mediation

Committee Chairman Jason Allen noted that he plans on following up with Chief James Tuffey regarding the status of the program.

Police Department Liaison-Policy Review/Recommendations

Committee Chairman Daniel Fitzgerald reported that the plans were good but the funding for the cameras was not completely in place. Mr. Fitzgerald added that the APD has changed the Early Warning System that they were using with newer software that should work much better. The APD is working on the implementation of the newer software.

Public Official Liaison

Chairman Jason Allen stated he would like to schedule a meeting in November with the Deputy Mayor to update him on the Board's four initiatives which were discussed in the last meeting. He added that in December the Board will follow up with a meeting with the Common Council's Public Safety Committee.

Task Force on Monitors

Chairman Jason Allen reported that he had nothing new to report.

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 the Board reviewed five (5) complaints at tonight's meeting, which leaves the Board with fifty-eight (58) active complaints. Last month, the Board had ten (10) suspended complaints. Since that meeting, the City lifted the suspension status from five (5) of those complaints. Recently, the City suspended one (1) complaint. The total number of complaints that are suspended from review are six (6).

It was further reported that the Board received five (5) grievance forms since its last meeting. The total number of grievance forms received to date is forty-nine (49). In response to our outreach efforts, we have received nine (9) CPRB complaint forms. Daniel Fitzgerald asked if the amount of forms received at the GLC is overwhelming for staff. Ms. Moseley responded in the negative. Chairman Allen asked how many forms are received each month. Ms. Moseley responded that it varies. She explained that one month, the GLC could receive five (5) and then the following month they could receive thirteen (13).

Business Cards

It was reported that at the last meeting, the Board asked the GLC to look into purchasing business cards. Ms. Moseley stated that she has reached out to Board Counsel Patrick Jordan and is awaiting a response from him on how to move forward with the request.

John Paneto asked for an update on CPRB No. 35-05 which was suspended on January 11, 2006. Detective Hendrick responded that the case is still suspended due to a notice of claim filed against the City. Chairman Allen explained that this meant that the case was still in the court system.

John Paneto also asked for a status report for CPRB No. 61-08, where the complaint was filed with the OPS in August 2006 and not forwarded to the Board until September 4, 2008. Ms. Moseley replied that a letter was sent from the Board to the Chief regarding the time lapse. Mr. Paneto asked if the complainant was still alive. Ms. Moseley responded that the complaint was returned and she believed that the phone number was disconnected. Chairman Allen asked if that complaint was read to the Board. Daniel Fitzgerald explained that last month the Board suspended reading the new complaints because there were eight (8) pages. Chairman Allen noted he signed a letter to the Chief, on behalf of the Board, stating the Board voted for a monitor to be appointed to this case. The letter also noted this has not been effective and asked for an explanation. Chairman Allen asked what happened to the second complaint that came in at the same time. Detective Hendrick replied that it was suspended. Chairman Allen asked how many cases are in backlog. Detective Hendrick replied that she has at least ten (10) to thirteen (13) ready for the Chief to sign.

Board Vacancies/Re-appointments

It was reported that the GLC has not heard from the Mayor's office of the Common Council regarding the status of both vacancies and re-appointments. Mr. Paneto noted that there was a Times Union article regarding the vacancies. Chairman Allen asked that the article be forwarded to the Board.

NACOLE Conference

It was reported that the NACOLE conference is coming up in two (2) weeks. Mr. Phelan and Mr. Paneto said that they will be there.

Next Board Meeting

It was reported that the next Board meeting is scheduled for November 13, 2008 at the library. Chairman Allen apologized for changing the date of this month's meeting. Chairman Allen confirmed that meetings are held the second Thursday of every month.

E. *Report from the Office of Professional Standards*

Detective Kathy Hendrick of the Office of Professional Standards gave the report.

Early Warning System

Detective Kathy Hendrick reported that the OPS has been doing training over the last few days on the Early Warning System. She and Deputy Chief Reilly are working out the bugs in the system. Detective Hendrick added that it will probably take a few weeks to practice on the system and hopefully they will be implementing it shortly. She stated that the other jurisdictions using the system in the state include Rochester, Buffalo, New York City and federal agencies.

Change in OPS Staff

Detective Kathy Hendrick reported that Commander Beattie is retiring on October 29, 2008. She noted that Deputy Chief Stephen Reilly will be overseeing the OPS.

John Paneto requested an update from Chief Tuffey on his assessment of the police officers outside the station house, including the reorganization, and the deployment of cars.

F. *Report from the Chair*

Chairman Allen noted that he had nothing additional to report.

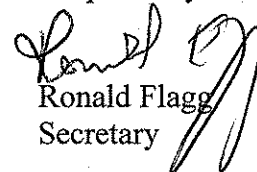
V. Public Comment

Chairman Jason Allen opened the floor for public comment. Monitor George Kleinmeier asked if the GLC could send out an email of the notice of the meetings to the monitors in addition to sending the letters in the mail. Ms. Moseley responded in the affirmative.

VI. Adjournment

Chairman Jason Allen moved to adjourn the meeting. Daniel Fitzgerald seconded the motion. The motion carried unanimously. The meeting adjourned at 7:15 p.m.

Respectfully submitted,


Ronald Flagg
Secretary