

**City of Albany
Citizens' Police Review Board Public Meeting
Albany Public Library
161 Washington Avenue - Large Auditorium
May 14, 2009
6:00 p.m. - 8:00 p.m.**

Present: Jason Allen, Jean Gannon, Marilyn Hammond, John Paneto, and Andrew Phelan, Jr.

Absent: Daniel Fitzgerald, Ronald Flagg, Anthony Potenza, and Reverend Edward Smart.

I. Call to Order and Roll Call

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

II. Approval of the Agenda

The agenda was reviewed. Chairman Jason Allen moved CPRB No. 43-08 to the beginning of the agenda under old business of the Board. Andrew Phelan, Jr. moved to approve the agenda. Jean Gannon seconded the motion. The motion carried unanimously.

III. Approval of the January 26, 2009 Meeting Minutes

The January 26, 2009 meeting minutes were reviewed. Andrew Phelan moved to approve the meeting minutes. John Paneto seconded the motion. Jean Gannon abstained from voting on the motion. The motion failed 4-1 to carry. It was noted that approval of the January 26, 2009 meeting minutes was tabled until the next meeting of the Board.

IV. Old Business

CPRB No. 43-08/OPS No. C08-391* (Presented by Andrew Phelan, Jr.)

Andrew Phelan summarized the complaint. The complainant alleges that he called the police in reference to a group of juveniles that caused damage to his vehicle. The complainant further alleges the following incidents occurred on Friday, December 14, 2007: At approximately 12:53 hrs, he called the police and an officer responded in reference to criminal mischief to his vehicle. The complainant alleges that when he informed the officer of the damage to his vehicle, the officer stated, "Chalk up the damage to a lesson learned" and then the officer left the scene. At approximately 13:48 hrs, the complainant alleges that he called the police again and told an officer that the group was damaging his vehicle. At approximately 18:01hrs, the complainant alleges that he called the police again and told the responding officers that his vehicle was being vandalized by four (4) young teens. He specifically identified and pointed out a young

* This case was moved by the Board from New Complaints for Review to Old Business because the complainant involved had to leave tonight's meeting early.

black female as one of the suspects who damaged his vehicle. The officers did not arrest her. He further alleges that he told the officers that he could make a definite identification of the black female whom he saw causing the most damage. The complainant alleges that he identified the black female and demanded that she be arrested. He further alleges that he was told by an officer that the black female was being released and that he would complete a supplemental report which would be referred to Family Court. A supplemental report was never completed. He further alleges that the officers stated that he could not identify the black female.

Mr. Phelan summarized the findings of the OPS on the allegation of call handling as **unfounded**. The complainant alleged that he called the police in reference to criminal mischief to his vehicle and identified the female suspect who caused the damage, but the officer did not arrest the suspect. Based on the OPS investigation, the officer indicated that the complainant was not certain that the juvenile female was in fact the suspect. The officer stated that the complainant indicated that he “believes” or “thinks” that the female caused the damage, which is not a positive identification. The officers did not have enough evidence to make an arrest based upon the complainant’s belief. There was no indication by either the complainant or the responding officers of an independent witness to substantiate the complainant’s allegations.

Mr. Phelan noted that although an arrest was not made on the date in question, the complainant’s case was forwarded to the Children and Family Service Unit for further investigation. The investigation consisted of a detective interviewing the complainant further in regards to his claim, as well as interviewing the juvenile female (suspect) in the presence of her parents. Prior to the juvenile’s interview, Miranda Rights were read because she was a potential suspect. Mr. Phelan stated that by reading the juvenile her rights, any evidence obtained would be safeguarded if incriminating statements were made during the interview. The detective also conducted interviews with the officers who had contact with the complainant. The officers reiterated the fact that the complainant could not be certain with regard to identifying the suspect. The complainant was given an opportunity to review photographs of students from a Middle School yearbook, which the alleged perpetrator’s picture was in. The complainant failed to identify the perpetrator whom he claimed that he could identify. This further supported the officers’ accounts as well as their decision of not affecting the arrest. The incident to which the officer responded to on the third call/incident had been previously documented by an officer earlier that same day. The Children and Family Services Unit Detective conducted a complete and thorough investigation based upon the complainant’s allegations. Subsequently the complainant picked out the wrong female in the yearbook. This female was never in question nor mentioned as having been involved. Based upon the follow up investigation conducted by the detective, the complainant again failed to identify the suspect, as he did on the scene with uniform officers. Both the officers and the detective did not have enough probable cause to affect an arrest with respect to anyone.

Mr. Phelan summarized the finding of OPS on the conduct standards allegation, **not sustained**, where the review fails to disclose sufficient facts to prove or disprove the

allegation made in the complaint. The complainant alleged that when he informed an officer of the damage to his vehicle the officer stated to him, "Chalk up the damage to a lesson learned," and then the officer left the scene. Based on the OPS investigation, this allegation could not be addressed due to the fact that the target officer was on extended sick leave. What should be noted is that the complainant telephoned the South Station after the alleged comment and specifically requested that officer so that he could return and assist. The complainant further indicated that the officer told the complainant to call him if the juveniles returned, which is contrary to his suggestion that the officer was rude and his comment inappropriate and unprofessional.

Mr. Phelan noted that the complainant was present. The complainant stated that there was a discrepancy. The complainant further stated that he spoke to the officer who responded to the third call and the officer told the complainant that he was releasing this female to her mother and that it counted as an arrest. Furthermore, the officer told the complainant that it would be referred to family court, and the complainant was never contacted. The complainant stated that he waited and waited figuring justice was taking its course and that the officer was going to put in a supplemental report which was never done. According to the complainant, the detective showed the complainant a small picture for which the complainant had to view use a magnifying glass. The complainant stated that he could not make an identification based on a tiny picture like that. The complainant added that this person lived in the same complex as he lived, but he did not know where they live now because they are transient. The complainant stated that he never said that any of the officers were rude, but that the officers led him to believe that the child was being arrested there, and that never took place.

Chairman Jason Allen asked if the complainant had said it was definitely her and she did it, would that be enough to effect an arrest and a conviction. Board Counsel Patrick Jordan stated that he did not know.

The complainant stated that at that point he said that the female suspect caused the damage. He explained that at the time this young lady, her mother, and a few kids were coming back in the building to try and look for his apartment because the mother wanted to give the complainant a piece of her mind. The daughter alleged that the complainant exposed himself to her. The complainant stated that he called the police because they went to the wrong building, and the police came and got her. The complainant stated that is where they met in the lobby of the complex. The officer said that this counts as an arrest and he would release her to her parent, and that it was going to be taken care of. The complainant stated that nothing was ever done. He waited because he was going to get the car fixed because he had saved enough money, and then he was told that nothing was ever done. The complainant stated that when he went and spoke to the juvenile detective that is when he had him try and identify the suspect. There were two people who looked similar, and the complainant picked the wrong one. When the detective told the complainant what the parent and child alleged, the complainant stated that he asked him how come there were not any charges against him. He was told that they did not want to press any charges. The complainant stated that he was misled as to what was supposed to happen, and nothing happened.

Chairmen Allen asked the complainant whether he understood that the suspect was read her rights and interviewed by the Children and Family Services Unit detective. The complainant answered in the affirmative. The complainant stated that he was told that the juvenile was going to be released to her mother and that a supplemental report was going to be completed. The police were there three different times, and the second time was when they took the report. The third time was when the police officer said he was going to add that to the second report, and nothing was added.

Andrew Phelan moved to concur with the OPS findings in which the call handling allegation was ***unfounded*** and the conduct standards allegation was ***not sustained***. John Paneto seconded the motion. The motion carried unanimously.

Chairman Allen explained to the complainant that Mr. Phelan reviewed the case, the confidential file, and the recommendations from OPS. Due diligence was performed, based on the fact that the juvenile was brought in, interviewed by the detective, and read her rights. The allegations in the complaint were ***unfounded*** and ***not sustained*** on the two counts and the Board just voted on the findings. Chairman Allen thanked the complainant for bringing his issue to the Board's attention. The complainant stated that he just thought it was sloppily done if they tell him that the person was arrested. He further stated that he believed what they said and then nothing happened.

Detective Alisa Murray stated that handing over a child to her mother does not constitute an arrest and that was never indicated in the complaint either. The complainant stated that this information was indicated in his complaint. Detective Murray stated that the information was forwarded to the investigating detective who followed up with the juvenile and her parents.

Chairman Allen stated that the juvenile was voluntarily interviewed, read her rights, but not detained or arrested. Detective Murray stated that the juvenile was not arrested. Her rights were read to her just in case she made any incriminating statements during her interview. The complainant stated that the officer stated that he was releasing her to her mother and not taking her down to the station because this was counting as her being arrested, and she had to go to family court. Chairman Allen thanked the complainant.

CPRB No. 4-05/OPS No. C05-63 (Presented by Chairman Jason Allen)

Chairman Allen stated that this was an old complaint from 2005 which was tabled several times, because the Board was working on putting into practice the mediation program. The complainant agreed for her complaint to go to mediation. Chairman Allen stated that he wanted to present this complaint to the Board in order to determine if five years later mediation was appropriate. If the case was thoroughly investigated, should the Board vote on it?

Chairman Allen summarized the complaint. The incident took place on January 28, 2005, at the intersection of Lexington Avenue and Washington Avenue at 12:30 a.m.

According to the complainant, she was walking along Lexington Avenue to meet her friend, because they were going to the store. While walking on Lexington Avenue in the area of Sherman Street, the complainant observed a police unit driving alongside of her, which continued on Lexington Avenue and turned into Orange Street. The complainant stated that she observed her friend walking towards her and that all the stores appeared to be closed, so they began walking back towards Bradford St. on Lexington Ave. The police unit pulled up and officers exited their vehicle. The complainant alleged that the officers stated, "Freeze, hands out of your pockets, put them up in the air." The complainant allegedly was separated from her friend, and the officers began to question the complainant about the friend and how long had she known him. The complainant stated that they were later allowed to leave the scene. As they began walking away, the complainant allegedly asked the officer what the purpose was for the stop. It is alleged that the officer stated, "Let's just say you live in a prostitution area." The complainant felt that she was improperly stopped and detained by the officers.

Chairman Allen stated that he reviewed the confidential file, which includes the confidential report from OPS, intra-departmental correspondence (IDC) from the target officer to Chief Turley at the time, call record from January 28, 2005, contact inquiry for the complainant, and contact inquiry for the complainant's companion. Chairman Allen reported that the reason why the Board felt that this was he said/she said was because the witness was not available to be interviewed, and the Board thought it would be best for the officer and the plaintiff to sit and talk it over rather than continue the investigation. Chairman Allen stated he is uncertain if mediation is still appropriate at this point. Chairman Allen stated that, as far as he was concerned, all was done regarding the investigation that could be done given what happened that evening or was alleged to have occurred.

Chairman Allen noted that the complainant was not present.

Chairman Allen reported that the OPS finding regarding the call handling allegation, was *exonerated*, where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper. The complainant alleged that she was improperly stopped and detained by the officers. Based on the OPS investigation, officers are allowed, under the *NYS Court of Appeals in People v. DeBour*, to initiate street encounters. The case states that the common law right of the police officer to inquire of a citizen is activated by a founded suspicion that criminal activity is afoot and permits a police officer to interfere with a citizen to the extent necessary to gain explanatory information although the officer may not forcibly seize the person. The court noted that a request for information involved general, non-threatening questions such as those regarding identity, address or destination. The officers stated that they observed the complainant walking alone in the area of Central Avenue and Lexington Avenue. Several minutes later they observed the complainant walking with a male subject across Central Avenue from Lexington Avenue. Knowing the area of Central Avenue, especially between Lexington Avenue and N. Lake Avenue, to be highly populated for the purpose of prostitution as well as loitering in the area for the purpose of prostitution, the officers stated they separated both parties and began to question them their

knowledge of one another. As per department policy, a field interview card was completed in relation to the encounter. When the officers were satisfied that no criminal activity was afoot, both parties were released. The total time of the stop was eight minutes, which is not an unreasonable amount of time. Based upon the factors involved, the time of night, the location, the fact that the complainant was observed walking alone and a few minutes later observed walking back with a male subject, raised the suspicion of the officers that there was the possibility of criminal activity. They were well within their rights to stop and inquire.

Mr. Paneto asked if there was no mediation for this complainant. Chairman Allen replied that, as mentioned before, the complainant had expressed an interest in doing mediation. Chairman Allen noted that the Board had reached out to the complainant to say that her case was being heard this night and that she was not present. Chairman Allen stated that he wondered whether five years later they should keep it open, because by voting to concur with OPS findings we are making the statement that even if there was a mediation program, was it really timely to hold it such a long time (five years) after the incident took place. Mr. Paneto stated that he agreed with Chairman Allen.

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

V. New Business

A. New Complaints for Review

CPRB No. 39-08/OPS No. C08-346 (Presented by Marilyn Hammond)

Marilyn Hammond read the complaint verbatim.

The complainant alleges that her daughter and two friends were leaving their program from the YMCA and they were walking down Washington Ave. crossing the street. The officers were at the light. The complainant's daughter stated that she threw a can at her friend/cousin and they kept going. She alleges that as they were walking the officers were yelling something, but the only one who heard them was her friend who stated that the officers said pick up the can. They thought she (the friend) was joking. The complainant alleges that an officer hopped out of the car and stopped her friend. As the complainant turned around, the officer ran up to her and grabbed her arm real tight and told her to pick up the can. She alleges that she asked the officer nicely if he could please let go of her arm. As she moved away from him, the officer "yoked" her up and she told him not to touch him. While all of this is taking place, another officer is talking to her two friends and she continued to ask the first officer if he could let go of her arm. The second officer saw this, ran over, and began to hit on the

complainant too. Her two friends were watching everything. One of her friends went to pick up the can. The complainant alleges that the two officers hit her in her side, threw her against the brick wall, and cuffed her. She further alleges that they grabbed her by her arms and threw her down on the cold wet stairs. According to the complainant, as she stood up off of the stairs, an officer yelled "sit down." She just stood there. The complainant claims that the officers took her by her arms and dragged her down the stairs. The officer tried to throw her into the car but she put her leg down with all of her weight trying to prevent her head from hitting the car. The officer then took her leg and tried to shove it in the car. The complainant asked the officer, "Can you please let me go, I can get in by myself." The officer let her go and she got in. She asked her cousin to call her mother and she did. The officer talked to her mother. The complainant alleges that the other officer walked over to a family and asked them if they could be a witness to the complainant hitting him first. A supervisor arrived on the scene. The officers explained to the sergeant what happened and the sergeant replied, "You guys over did it, just take her home." The sergeant came to the car and asked the complainant for her name and what happened. The sergeant told the complainant that she really needed to calm down and told the officers to take her home. The complainant stated that she told the officers "it's not right what you are doing to me." The officer replied by saying, "Shut your f***ing mouth." The complainant stated to the officers that it was not right how they were beating her over a can that had gotten picked up and how they continued to beat her with the cuffs on. The officer said, "If we see you again and you throw a can, we'll do it to you again" and just laughed. When they arrived at her house they told her mother everything except for the part when they were beating on her. According to the complainant, her mother was listening to the story and was upset with her because the officers told her that the complainant was very rude and did not pick up the can. The officer came to take her out of the car and began saying "don't litter." She asked him to take the cuffs off and he said, "If I take the cuffs off are you going to listen?" When the complainant said "yes" she was released. When she looked at her arms they were red, swollen and scratches on her hand that was bleeding. The officer yelled "look at me." The officer asked the complainant "You wouldn't want somebody to throw something in front of your house?" When the complainant did not answer, the officer yelled, "Answer the question." The complainant replied in the negative. The complainant stated that the officers left but the sergeant remained in his car in front of their house listening to the complainant's version of what happened. She told her mother they were beating on her and how sore her stomach and ribs were. The

complainant stated that she told her mother, "It's not right how they beat on her, she's a female, they just don't care because they have the authority to do what they want because they have a badge." The complainant alleges that the sergeant got out of the car and began saying how they do not care if she's a male or female, or what age she is. When they have custody of her they can do whatever they want to. He stated if he had grabbed her arm and she moved just a little bit, he would have thrown her on the floor. He began to say how most of the crime was "black on black."

Ms. Hammond reported that she reviewed the call sheet, records from St. Peter's Hospital from May 18th and the 19th, certified letters that were returned, and all the confidential reports. The complainant was referred to probation as a PINS, which means Person In Need of Supervision. Ms. Hammond noted that the stories differed quite a bit. One of the officers at the scene recalled several other witnesses out of the corner of his eye. The officer remembered speaking to his partner afterwards. The officer stated that he believed the witnesses complimented them on the way they handled the complainant. The officers spoke with the complainant's mom on the phone of one of the other witnesses and the mom said "I know I am having trouble with her." Then the sergeant spoke with the mom on the phone. Based on the investigation, the sergeant never indicated that the officers over did it. When the officers got the complainant home, her mom told her to be quiet and get in the house. She told the complainant "You got to knock this off. I thought we were past this." The officer was not sure if those were her exact words but the complainant was very rude to her mom as well. They tried to contact the independent witness whom the officer got information from, but the officer's notes were lost. The officer was issued the notebook rules article 50.1 and article 2.2 on Duties and Responsibilities. Chairman Allen asked what does that mean. Ms. Hammond asked the monitor to explain article 50.1, relating to the loss of the officer's notebook.

Monitor Richard Lenihan explained this is a violation of a department regulation where they are supposed to make records and not dispose of them. Mr. Lenihan added that the patrol supervisor indicated in the OPS report that he had followed the subordinate officers home. The young lady allegedly admitted to her mother that she threw the can and that she refused to pick it up, and she also thought that she may have bit the officer.

Ms. Hammond noted that the OPS really went out of their way to contact the two witnesses, the complainant's cousin, and her friend, but no one talked to them at all. The OPS sent out all certified letters, which were returned. Ms. Hammond stated in her opinion that she did not know what else they could do.

Chairman Allen asked Mr. Lenihan to read his timeline to the Board. Mr. Lenihan read his timeline.

11-25-08 OPS Investigator spoke to the mother of witness. Requests were made for permission to speak to her minor child regarding the case. A message was left on the answering machine for the mother of another witness.

12-09-08 OPS contacted the mother of a witness a second time. The witness stated that she would call back.

12-26-08 Both parents have not responded back to OPS. Certified letters were prepared for mailing to parents of minor witnesses.

1-05-09 OPS received the mother of witness' letter back as unclaimed. Three notices were left for the mother of the witness on 12/31/08, 1/6/09, and 1/14/09.

3-10-09 Complainant's medical records were received from St. Peter's Hospital.

5-18-08 Medical treatment listed diagnosis as chest wall contusion. She received more meds of 75mg Orudis. No bruising observed.

Chairman Allen stated that he wanted the timeline read because he was troubled by the fact that there were witnesses there. He wanted to make sure that the OPS made every effort to reach out to the witnesses. Mr. Lenihan noted that the officers had witnesses written down but failed to maintain possession of the notebook. The police claimed that they did not remember who they were and could not find the notebook. Chairman Allen noted that the officer was written up per Article 50.1. He added that there were also witnesses with the complainant, who were her two friends, and they did not help in this case. Ms. Hammond agreed.

Chairman Allen asked how old the complainant was. Ms. Hammond responded that the complainant was about 15 years old, 5ft 7 inches tall, and 130 pounds. Ms. Hammond noted that the complainant was not present.

Marilyn Hammond moved to concur with the OPS findings that the conduct standards allegation be closed as **unfounded**. Andrew Phelan, Jr. seconded the motion. John Paneto voted against the motion. The motion failed to carry by a 4-1 vote.

John Paneto explained that although he agreed that the OPS did a very good job and the monitor did a good job, his concern was the reasons why the police would stop this young person from throwing a can. Mr. Paneto noted that they are teenagers coming out of the YMCA and this type of behavior is expected for that age group. There was no police call for broken windows, broken vehicles, or assault. Mr. Paneto stated that he did not see any real reason for the police officer to get engaged with the juvenile.

Jean Gannon asked Mr. Paneto if he was suggesting that it was inappropriate to stop someone from littering. Mr. Paneto responded in the affirmative. Ms. Gannon noted that there are laws that say it is illegal. Mr. Paneto stated there are a whole bunch of laws. Chairman Allen stated that the girl would probably have just been cautioned but

unfortunately the situation escalated. Ms. Gannon stated that it appeared what the officers were looking for initially was for the girl to pick up the can and throw it away, and then it would have been over. Mr. Paneto stated that he understood that, but felt that we have more important duties for the police officer to do then monitor soda can activities.

CPRB No. 68-08/OPS No. C08-663 (Presented by John Paneto)

John Paneto noted that there was no monitor assigned to the complaint. Mr. Paneto read the complaint verbatim.

The complainant alleges that an officer made false statements about his character which has resulted in the complainant's denial of housing from South Mall Towers. The complainant further alleges that the officer met him for no more than 10 minutes during his interview about a housing application with housing staff. The complainant alleges that the officer was present in the capacity as a painter working in the South Mall Towers and the officer interacted with him only in that capacity. The complainant alleges that the officer never addressed in any way the behavior that the officer discusses in his signed statement. The complainant further alleges that the officer made a false statement for financial gain at the behest of the housing staff member.

The complainant, who was present, stated that he had to make some corrections. This does not involve the housing authority per se. This is a private senior citizen complex. It is the management of the complex in question, not the housing authority. Mr. Paneto stated that he had not finished reading the OPS report. Chairman Allen asked the complainant to hold on for one second and wait for Mr. Paneto to finish reading the allegations. The complainant stated that this is a housing discrimination issue. Chairman Allen asked the complainant to let Mr. Paneto finish.

Mr. Paneto reported that the complainant alleged that the officer made false statements about the complainant's character which resulted in his denial of housing from the South Mall Towers. The complainant interrupted and asked if the Board had a copy of the police officer's statements. Mr. Paneto asked if he could finish. Mr. Paneto stated that the South Mall Towers management has the authority to screen and select applicants as they deem necessary to secure an appropriate tenant. The complainant was not selected, and his application was rescinded. According to the South Mall Towers, the complainant submitted an incomplete application on past references.

Mr. Paneto further reported that the complainant filed a complaint with the NY Division of Human Rights. The executive director of housing noted that the complainant exhibited aggressive and intimidating behavior. The complainant sent an intimidating fax to the executive director of the housing complex calling her an evil person. According to reports by the South Mall Towers, the complainant was rude, intimidating, and tended to

alienate its staff. Mr. Paneto reported that the target officer was not part of the selection process and had little or no official contact with the complainant. Clearly, the complainant's issue is with the South Mall Towers and not the target officer. The target officer did provide his personal opinion outside of the scope of his official police duties, but in response to a request by the South Mall Towers attorney. The target officer never acted as a police officer, nor was he required to act as a police officer.

Chairman Allen asked the complainant if he had anything to add. The complainant stated that this was an issue of his application for housing in the South Mall Towers of well over a year. The complainant further stated that he was offered an apartment by the housing director of South Mall Towers. His application was complete, and everything was discussed. The complainant stated that he had been offered an apartment in Schenectady and left it to move to South Mall Towers. At a later date, they rescinded his application stating that they did not want to rent it to him. The complainant stated that they did this after they agreed to rent him the apartment. They told him that one of his former addresses was omitted from his housing application. The complainant stated that he tried to explain that he could get references from his old landlord, which is also a Section 8 housing complex in Albany. For an unknown reason, the housing director made a 180 degree turn and denied the complainant housing after the complainant had already given notice to where he was living to move out. On the day of his application to South Mall Towers, the complainant stated that he met with the target officer whom he did not know was a policeman moonlighting as a painter. The APD officer made false statements to the manager which resulted in the South Mall Towers denying him housing. The officer gave character references as to why the complainant should not be given an apartment in South Mall Towers.

Chairman Allen stated that the complainant already filed a complaint with the Office of Human Rights and the Office of Fair Housing and Equal Opportunity. Chairman Allen further stated that the OPS did not make a finding in this case because they did not have standing. It was not a decision made by the APD, but the South Mall Towers. It is not an OPS investigation, and that is how the complaint is being presented to the Board. Chairman Allen proposed that there are other avenues that the complainant can pursue because there has not been misconduct on the part of the APD.

The complainant stated that there has been misconduct because this man is an APD officer in the community. Chairman Allen stated that this is true, but the decision to deny housing was not made by that police officer. Other people made that decision which was investigated by the Office of Fair Housing and Equal Opportunity as well as the Office of Human Rights. The complainant stated that those are separate issues that are still pending. Chairman Allen stated that the other issues are not pending but closed. The complainant stated that the two investigations are still open. Chairman Allen stated that the report read on January 29, 2009 by the Office of Fair Housing and Equal Opportunity closed the complaint. The complainant stated that they closed the complaint, but that is not the end of it because they had support based on the statements of this officer. The complainant further stated that the case is still pending before the Supreme Court.

Mr. Paneto stated that the complainant filed an application with the South Mall Towers, a complaint with Human Rights Division, and a complaint with the Office of Fair Housing. All complaints were closed. Mr. Paneto explained that the police officer was not acting as a police officer but as a painter in this capacity. The officer had no jurisdiction in accepting or rescinding the complainant's application. The South Mall Towers and their attorneys had jurisdiction.

Chairman Allen noted the complainant stated that his case is before the Supreme Court. The complainant agreed. Chairman Allen stated then why not let that play out then. The complainant stated that this is an issue of an APD officer who has gone wrong and is making false statements to get money. This is the integrity of the APD officer who is doing sleazy stuff in the community. The complainant stated that he did not know what the officer has done in the police department for the last 17 years. The complainant asked to see the officer's record to determine his character. The complainant stated that the officer made character references in support of South Mall Towers saying that they are right to deny the complainant housing, not because he omitted one of his former addresses, but because the complainant was aggressive.

Chairman Allen asked if it was appropriate for the Board to delay findings because this is a court case. Board Counsel Patrick Jordan stated that this complaint is not within the Board's or the OPS' jurisdiction. Chairman Allen stated that the complainant has an open court case, and the Board did not have jurisdiction to make a finding. The complainant stated that this is a separate issue regarding an Albany police officer who moonlighted as a painter and made statements under oath against another fellow citizen. Chairman Allen stated that he is comforted by the fact that the complainant's case is before a court and the court will decide. Chairman Allen asked the complainant to stop interrupting him.

John Paneto moved to concur with the OPS finding of *no finding*. Chairman Jason Allen seconded the motion. The motion carried unanimously.

Task Force on Monitors

Committee Chairman Jason Allen noted that in the last meeting the members were given the changes to the monitor's protocol. Ms. Gannon noted that on page two it indicates that there is still a question pending, that 24 hours may be problematic, and asked if the Board had resolved that. Chairman Allen noted that it was discussed in the red line version of the packet; if the monitor can't meet the 24 hour requirement, the monitor shall notify the Government Law Center immediately.

Mr. Paneto questioned whether there would be a written transcript. Chairman Allen stated that the written transcript should be available upon request and that is consistent with transactions with the Chief. The Chief told Chairman Allen upon request he can get a service to do that.

Chairman Jason Allen made a motion to accept the redline changes. Marilyn Hammond seconded the motion. The motion carried unanimously.

It was noted that Jean Gannon agreed to chair the Task Force on Monitors committee.

B. Appointment of New Members to the Committee on Complaint Review for June 2009

The following Board members were appointed to the Committee on Complaint Review for June 2009: Jason Allen, Jean Gannon, Marilyn Hammond, John Paneto, and Andrew Phelan, Jr.

C. Committee/Task Force Reports

By-Laws and Rules

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

Community Outreach

Chairman Jason Allen reported that he met with the NYCLU about three weeks ago. The NYCLU suggested that the Board not only send letters to the complainant before the case is heard, but in case there is a literacy issue, the Board should call complainants as well prior to their complaint being reviewed.

Chairman Allen noted that it was a good exchange of information. He asked Sharmaine Moseley to e-mail the letter from the NYCLU to the Board. Chairman Allen noted that the next community outreach meeting would be with the Center Square Neighborhood Association. Ms. Moseley stated that an outreach meeting has also been scheduled with the Hudson Neighborhood Association.

Mediation

Chairman Jason Allen reported that he expressed his concern to the Common Council about the mediation program and moving that forward. He noted that he will address it with the Police Chief and the Mayor to get the program moving forward.

Police Department Liaison

Committee Chairman Andrew Phelan, Jr. reported that he had a discussion with the OPS Commander regarding the early warning system named IAPRO. This program is used by the NYC police department, Rochester police, and some other police agencies. All police department employees are on the system. Mr. Phelan stated that this is an early warning system that keeps track of such items as civilian complaints, administrative investigations, car accidents, use of force, and injuries to officers. Mr. Phelan further stated that the program has been up for three months and information is still being

generated. As more data becomes available, this will become a good tool and very helpful.

Mr. Phelan reported that the program keeps track if three or more use of force allegations are made against an officer. Mr. Phelan reported that he, Chairman Allen, Mr. Paneto, and Mr. Fitzgerald met in City Hall and they are going to have a follow-up meeting where the Board can get together with them and express their concerns and ideas.

Chairman Allen stated that he would like to follow up with Councilman Scalzo and understand who from the Council would like to meet with the Board and Commander Matos. Chairman Allen noted that it was a good update on the cameras, and they learned more about the policy. Chairman Allen stated that during public comment at the City Council subcommittee meeting an individual mentioned that she was concerned about dead spots using a wireless system and loss of video.

Commander Matos clarified the dead spots issue. He stated that the wireless ports access to the South Station is complete. The center station and traffic division will be scheduled by Tech Valley for the installs. All the equipment is on hand, but it is just a matter of the company doing the installs. The video itself will not experience a dead spot. There is a backup system in the car which will always capture the data which will be stored on the laptop and is uploaded to the wireless access points when the vehicles travel through the areas with wireless access points, so there will be no loss of data. It is just a matter of when the car travels into an area that is covered by a wireless access point then that data will be uploaded, so there is not going to be a loss of data to a dead point. It is just a matter of when it is uploaded into the server.

Chairman Allen stated that after he heard the comment it made sense. He further stated that the way Commander Matos explained it is that it will record in the car, and it is buffered in the car so if there is a loss of coverage it is stored in the laptop until it is reestablished. Chairman Allen stated that this is a better solution than just recording it in the car in the sense that if leadership needs real time footage, if there is a crisis then they can watch remotely. Chairman Allen stated it sounds like it is a good system and that there is audio. Chairman Allen further noted that when the Board presents it to leadership in the City they want to keep them informed and as stakeholders they should be part of it as well.

Public Official Liaison

Chairman Jason Allen reported that the committee met with Corporation Counsel John Reilly because the Deputy Mayor was not available. The members of the committee updated Mr. Reilly on the initiatives of the Board.

D. Report from the Government Law Center

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

Complainant 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 three (3) were reviewed at tonight's meeting, which leaves the Board with forty-six (46) active complaints. Out of those forty-six (46) active complaints two (2) are ready to go to the agenda for review.

It was further reported that three hundred and twenty-six (326) complaints have been closed. The total number of complaints that remain suspended from review is six (6). The total number of complaints filed to date is three hundred and seventy-eight (378).

It was reported that the Board received six (6) grievance forms since its last meeting. The total number of grievance forms received to date is eighty-five (85). The GLC has reached out to all eighty-five (85) individuals, and has received twenty (20) CPRB complaint forms.

10th Anniversary of the CPRB

It was reported that next year will be the 10th year anniversary of the CPRB. Ms. Moseley noted that at the last meeting the Board agreed to put together a subcommittee which she will chair. It was noted that a meeting of the subcommittee will be scheduled for next month.

It was reported that the 15th Annual NACOLE conference this year will be held in Austin, Texas from October 31st – November 3rd. It was noted that this year the Board is hoping that Chief Tuffey will once again send a representative from the APD.

Next Board Meeting

Chairman Allen noted that he will send instructions about the new scheduling tool on the internet that will be used to schedule all the subcommittee and outreach meetings so the dates will be easily available to board members.

Detective Hendrick asked about CPRB No. 16-08 and wanted to know the status of the case. Ms. Moseley replied that a letter that was sent to the Chief and the Board is still awaiting a response. Chairman Allen stated that he did not remember the particulars of the letter. Detective Hendrick asked for a copy of the letter. Ms. Moseley agreed to send Detective Hendrick a copy of the letter.

It was reported that the next Board meeting is scheduled for Thursday, June 11th, at the library.

E. Report from the Office of Professional Standards

Commander Ronald Matos reported that he had a meeting regarding the in-car cameras policy with the Schenectady Police Department, which has been using the car cameras for three years. Commander Matos gave the Board a copy of the Schenectady Police Department policy to review.

F. Report from the Chair

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

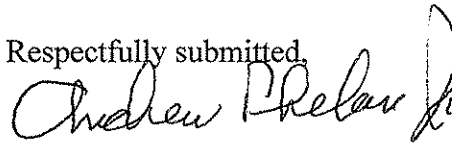
VI. Public Comment

Chairman Jason Allen opened the floor for public comment. It was noted that there were no public comments.

VII. Adjournment

Chairman Jason Allen moved to adjourn the meeting. John Paneto seconded the motion for adjournment. The motion carried unanimously. The meeting adjourned at 7:15 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Andrew Phelan, Jr.", written in dark ink.

Andrew Phelan, Jr.
Secretary