

**City of Albany
Citizens' Police Review Board Public Meeting
Albany Public Library
161 Washington Avenue- Large Auditorium
September 10, 2009
6:00 p.m. - 8:00 p.m.**

Present: Jason Allen, Jean Gannon, Marilyn Hammond, John Paneto, Andrew Phelan, Jr., Anthony Potenza, and Reverend Edward Smart.

Absent: Ronald Flagg.

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. Marilyn Hammond moved to approve the agenda. Andrew Phelan seconded the motion. The motion carried unanimously.

III. New Business

A. *New Complaints*

1. New Complaints Received Since July 23, 2009 Meeting

Andrew Phelan reported that six (6) new complaints had been received by the Board since its July 23, 2009 meeting. Mr. Phelan read a summary of each new complaint.

CPRB No. 35-09

According to the complainant on July 15, 2009, an officer assaulted her. The complainant was on her way to tell her friend that she was going home for the night. The complainant's friend was standing near the officer's truck. The complainant alleges that as she approached the truck, the officer began to verbally assault her. The complainant further alleges that as she began to walk away, the officer pushed her in the left shoulder. According to the complainant, she felt threatened by the officer's verbal abuse and push. She then slapped the officer in the face. The complainant alleges that the officer then jabbed her two times in the left side of the neck, cranked her left arm behind her back, slammed her against the sidewalk, and would not release her. According to the complainant, as her friend called 911, the officer sped away in his truck. The complainant alleges that she reported the incident to two Albany officers who asked her to wait for the Sergeant to arrive because they were unable to take a report.

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

CPRB No. 36-09

According to the complainant on August 4, 2009, as he was driving on South Pearl Street, he was pulled over by two officers. The complainant alleges that the officers told him that he was pulled over for running a red light which he did not do. The complainant further alleges that the officers were extremely rude and nasty to him because he told the officers that his address was a P.O. Box.

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

CPRB No. 37-09

According to the complainant on August 20, 2009, her fifteen year old son was punched in the face by another teenager. When the complainant's husband went to confront the teenager, three of the teenager's friends went to jump the complainant's husband. While the complainant was trying to take her son to safety, she and her son were attacked. According to the complainant, her three year old daughter was also punched. When the complainant went into her friend's house to call 911, the group followed her and attacked her friend. The complainant alleges that the police officers who arrived on the scene had attitude problems. The complainant further alleges that the officers asked her if she wanted to press charges to which she responded in the affirmative. The complainant claims that the officers told her that there was no reason to file charges or arrest anyone. The complainant further claims that when she went to the South Street station to report what happened, the officer told her to stay inside her house, lock her windows and doors, and to not come out if she felt threatened.

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

CPRB No. 38-09

The complainant alleges that his arrest on June 27, 2009 was unlawful and without probable cause. According to the complainant, he was sleeping in his van which was running when an officer tapped on the window of the van. The complainant got out of the vehicle and went to pop the hood of the van to turn off the lights on the van. The complainant alleges that one of the officers asked him his name to which he asked "What does that have to do with anything?" The complainant further alleges that the officer told him to walk across the street towards the patrol car since he wanted to be smart. The complainant claims that he was then pushed against the rear of the patrol car, handcuffed, and searched. The complainant alleges that he was racially profiled because one of the officers told him that he was being arrested because he was on Grand Street.

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

CPRB No. 39-09

The complainant alleges that on August 22, 2009, an officer approached her while she was standing at the top of the stairs of her building and told her to move out of the way so he could enter the building. The complainant further alleges that when she asked him if he had a search warrant, the officer rudely said "What did you say to me?" When the complainant repeated herself, and told the officer that he could not just enter her home like that, the officer grabbed both of complainant's wrists very tightly and turned them backwards the wrong way. The complainant alleges that she struggled trying to free her wrists when she felt her elbow pop. The complainant further alleges that the officer rammed the complainant twice, and the complainant's head smacked the mailbox. The complainant felt a burning sensation travel down her right arm to her legs. The complainant alleges that the officer pushed her, and she fell back into the door. The complainant further alleges that the officer entered her home and proceeded to approach the complainant's bedroom. According to the complainant, she called 911 and tried to block the walkway. The complainant alleges that the officer pushed her into the ironing board. The complainant claims that when she tried to give the 911 dispatcher the officer's badge number and name, the officer covered it with his arm. The complainant alleges that the officer grabbed another individual in the home, dragged him, twisted his arm, smacked his head on the wall, and searched him before taking him out of the home.

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

CPRB No. 40-09

The complainant alleges that on September 5, 2009, an officer chased her son into her house and pointed his weapon at the complainant's chest. The complainant further alleges that the officer never identified himself as a police officer until she kept insisting, and her son was dragged outside by the officer. The complainant claims that the taller officer took his badge out to show her. The complainant alleges that her son's rights were never read to him.

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

2. New Complaints for Review

CPRB No. 40-08/OPS No. C08-282 (Presented by Chairman Jason Allen)

Chairman Jason Allen summarized the complaint. He stated that the complaint was received on May 30, 2008 for an incident that occurred on March 30, 2007 at 9:31 p.m. The complainant alleged that her son was being harassed and arrested as a steady practice by two police officers. The complainant further alleged that the officers lied in court that the complainant's son had crack in his possession but when the complainant's son appeared before the judge, there was never any evidence.

Chairman Allen reported that the complainant submitted a copy of the certificate of conviction which documents on April 9, 2007 that the son was convicted of criminal trespass and received a \$260 fine plus surcharges. Chairman Allen further reported that he reviewed the confidential report. Attempts were made by the Office of Professional Standards (OPS) to interview the son, but they were unsuccessful. Chairman Allen noted that the confidential report contained a timeline. The complainant's son was arrested on March 30, 2007. In the complaint, there was a three-day discrepancy between May 27, 2008 and May 30, 2008.

Chairman Allen stated that he found it interesting that a month went by in which pre-certified mailings went to the complainant's residency and were unclaimed. The OPS contacted the director of the Albany Housing Authority in attempts to reach out and ensure that the complainant had a complaint form in order to be filed on May 30, 2008.

Chairman Allen read the intra-departmental correspondence (IDC) from two (2) officers. One (1) of the officers remembered the incident and recalled recovering a bag of crack. The other officer did not recall the details of the incident nor did the officer recall any previous contact with the complainant's son. Chairman Allen reported that he read thirty-nine (39) arrest records from 1991-2007 for the complainant's son which included criminal possession of a weapon, possession of controlled substances, loitering and trespassing. Chairman Jason Allen further reported that he read a deposition from an officer of a test of crack cocaine testing positive on March 30, 2007 at South Station and the property report which outlined the crack cocaine as well as the arrest report.

Chairman Allen summarized findings of the OPS on the allegation of arrest authorities and procedures where the complainant alleged that her son was being harassed and arrested as a steady practice by two police officers. Chairman Jason Allen reported that the OPS recommended that this portion of the investigation be closed as *unfounded*, where the review showed that the act or acts complained of did not occur. Based on the OPS investigation, the records indicate that the only contact or arrests that the officers were involved in occurred on March 30, 2007. The complainant's son has an extensive arrest history specific to the possession of controlled substances, i.e. crack cocaine, dating as far back as 1998 and as recent as March 30, 2007. The previous contacts that the son had with the APD were with a number of different officers. There is no indication that he is being harassed; he is being detained due to his continuous violation of the law.

Chairman Allen summarized the findings of the OPS on the first allegation of conduct standards where the complainant alleged that the officers lied in court that her son had crack in his possession but when the son was brought before the judge there was never any evidence. Chairman Allen reported that the OPS recommended that this portion of the investigation be closed as *unfounded*, where the act reviewed shows the act or acts complained of did not occur. Chairman Allen noted that the documents completed and submitted by the officers in reference to the son's arrest on March 30, 2007 were the confidential report, property report, affidavit and certificate of conviction. The certificate of conviction that was completed at Albany Police Court documented the son's conviction of criminal trespass. The documents indicated that the son's criminal

possession of a controlled substance was covered under the conviction. The sentence imposed as a result of the conviction was a fine and surcharge of \$260. Chairman Allen reported that the documentation completed by the officers coupled with the conviction substantiated that physical evidence existed. There was nothing that would indicate otherwise that the officers were untruthful during the judicial process.

Chairman Allen summarized the findings of the OPS on the second allegation of conduct standards where the complainant alleged that her son was arrested when he was coming out of the elevator and charged with trespassing when he was in his legal residence. Chairman Allen reported that the OPS recommended that this portion of the investigation be closed as *unfounded*, where the act reviewed showed that the act or acts complained of did not occur. Based on the OPS investigation, the complainant's son was not arrested for criminal trespass on this particular incident. He was arrested for criminal possession of a controlled substance on March 30, 2006. Chairman Allen stated that it should be noted that on March 9, 2007, the son was arrested for criminal trespass; however, the arrest, however, did not occur in the location/building of his residence. The son's legal residence was the same as the complainant's. The arrest that occurred on March 9, 2007 was unrelated and involved two different police officers. Prior to March 2007, the son was arrested on May 3, 2006 for criminal trespass and loitering. That arrest was unrelated and involved two different police officers, in addition to the officers who were involved in both of the March arrests.

Chairman Allen summarized the findings of the OPS on the third allegation of conduct standards where the complainant alleged that officers stole her son's money and put the money in their pockets. Chairman Allen reported that the OPS recommended that this portion of the investigation be closed as *not sustained*, where the review fails to disclose sufficient facts with which to prove or disprove the allegation made in the complaint. Based on the OPS investigation, the son failed to contact the OPS despite the requests that were made. Chairman Allen stated that his account may have provided clarification as to the amount of money that was allegedly stolen as well as a description of the officer(s) who took his money. The complainant could not offer any assistance as to what occurred due to the fact that she was not present. The complainant's son's arrest record indicated that he was given an Appearance Ticket for his arrest; therefore he was not lodged in the cellblock. It would not be required to secure his personal property. If the son was lodged in a cell, his personal property would have been secured and properly documented on an APD Property Report, including, but not limited to, his money. The son's lack of cooperation prevented the OPS from conducting a complete and thorough investigation.

Chairman Jason Allen moved to concur with the OPS findings on the arrest authority and procedure allegation as *unfounded*. Andrew Phelan seconded the motion. The motion carried unanimously.

Chairman Jason Allen moved to concur with the OPS findings on the first conduct standards allegation, where the complainant alleged that the officers lied in court that her son had crack in his possession but when the son was brought before the judge there was

never any evidence, be closed as **unfounded**. Marilyn Hammond seconded the motion. The motion carried unanimously.

Chairman Jason Allen moved to concur with the OPS findings on the second conduct standards allegation, where the complainant alleged that her son was arrested when he was coming out of the elevator and charged with trespassing when he was in his legal residence, be closed as **unfounded**. Marilyn Hammond seconded the motion. The motion carried unanimously.

Chairman Jason Allen moved to concur with the OPS findings on the third conduct standards allegation, where the complainant alleged that officers stole her son's money and put it in their pockets, be closed as **not sustained**. Marilyn Hammond seconded the motion. The motion carried unanimously.

Reverend Edward Smart stated that some time ago the Board had discussed the time constraints from when the incident takes place until the time the complaint was filed. Chairman Allen noted that a year had gone by since the last incident in the complaint took place and the complaint was filed, and it took another year before the Board reviewed it. Chairman Allen asked Reverend Smart if he was asking if there was a statute of limitations. Reverend Edward Smart stated that he recalled there being a statute of limitations in the legislation. Chairman Jason Allen replied that he did not recall if there was a limitation and asked Coordinator of the CPRB Sharmaine Moseley if there was a time limitation between the incident and the filing of the complaint. Ms. Moseley replied that there was a limit. Board counsel Patrick Jordan stated that it depended on the allegation. He further stated that if the allegation is of wrongful arrest, there would be a three-year statute of limitation. Ms. Moseley stated that she believed that the Board has to vote on it, according to the legislation.

Reverend Edward Smart stated that he will look through his notes but he believed that the Board was very definitive. Reverend Edward Smart explained that it is obvious that in this particular case, a great deal of time elapsed from the time that the incident occurred and when the person filed the complaint.

Chairman Jason Allen asked Ms. Moseley and Mr. Jordan to send the Board clarification of the rule. This way the Board will be able to decide whether they want to change the rule or if no action should be taken.

Reverend Edward Smart added that this puts the OPS in a difficult position if they investigate something that happened two years ago and perhaps the people have moved. Chairman Jason Allen stated that Mr. Jordan would clarify what the legislation says.

CPRB No. 50-08/OPS No. C08-629 (Presented by Reverend Edward Smart)

Reverend Edward Smart summarized the complaint. The complainant alleged that he was taken into a detective's office where a shackle was placed on his leg, and he was handcuffed with his hands in front of him. The detective left and after some time the

complainant stated that he was “pissed off and upset.” The complainant stated that he began yelling that he wanted to speak to someone. A uniformed officer and a detective came into the room. The complainant alleged that the detective closed the door and told the complainant, “Shut the f**k up” and started punching and elbowing the complainant in the face and kneeing him in the chest and the stomach. The complainant stated that he grabbed the detective’s shirt which caused the detective to push him. The complainant further alleged that when the detective left the room, the complainant then started yelling, “Is that all you got?” The complainant claimed that about five minutes later, the detective returned to the room and punched the complainant in the face causing his mouth to bleed and pain in his back and chest. The detective never took a statement from the complainant and took him downstairs where the uniform officers completed his paperwork.

Reverend Smart noted that he reviewed the following documents: citizen’s complaint form filed on July 17, 2008, CPRB investigation dated July 25, 2008, CPRB investigation October 10, 2008, CPRB investigation May 22, 2009, OPS report dated July 18, 2008, confidential report May 14, 2009, Albany Fire Department report, intra-departmental correspondence (IDC), incident report dated June 8, 2008, other IDCs on October 8, 2008, December 3, 2008, August 13, 2008, August 19, 2008, August 9, 2008, September 26, 2008, incident “man with pipe” report, arrest report/ incident report, transportation report dated June 28, 2008, and property report dated June 28, 2008.

Reverend Smart summarized the findings of the OPS on the use of force allegation. The complainant alleged that he was punched and elbowed in the face, and kneed in the chest and stomach without cause and justification. Reverend Smart reported that the OPS finding was **unfounded**, where the review showed that the acts or acts complained of did not occur. Based on the OPS investigation, there was force used upon the complainant. The force, however, that was used was not as described by the complainant. The complainant swung at the detective, who in turn defended himself against the complainant and gave several directives to calm down to which the complainant refused. The complainant refused to adhere to the detective’s directives, used profane language, and swung at the detective. The detective used necessary force to defend himself against the complainant. Reverend Smart stated that he agreed with the OPS finding of **unfounded**. He suggested that officers be instructed and receive additional training on how to deal with suspects who are belligerent, hostile, upset, agitated, and confrontational. Reverend Edward Smart stated that it was clear that the officer needed assistance and additional help while interviewing the suspect. The suspect may have been handcuffed for his own protection as well as for the officers’ protection. Reverend Smart further stated that additional training would better equip officers in the interview process for so-called “hostile suspects.”

Reverend Smart summarized the findings of the OPS on the arrest authorities and procedures allegation, where the complainant alleged that he was falsely arrested. Reverend Smart reported that the OPS finding was **unfounded**, where the review showed that the act or acts complained of did not occur. Based on the OPS investigation, the complainant was charged with 2nd degree assault and criminal possession of a weapon

because he physically assaulted another person with a pipe. The complainant was charged with those charges because an investigation was completed, the complainant was identified by a supervisor as being the suspect, and the complaint was signed by the victim of the assault. Reverend Smart reported that the charges filed by the detective were due to the actions of the complainant while in the interview room, where he used physical force upon the detective, and damaged the detective's shirt. Those charges filed by the detective were reduced and the complainant paid restitution to the detective for the damages to the shirt. The complainant agreed to a plea bargain.

Reverend Smart stated that the complainant was arrested for 2nd degree assault and criminal possession of a weapon. The resulting charges, plea bargain and other actions clearly suggested that the allegations were *unfounded*.

Reverend Edward Smart summarized the findings of the OPS on the conduct standards allegation, where the complainant alleged that the detective told the complainant to "shut the f**k up you punk." Reverend Smart reported that the OPS finding was *not sustained*, where the review failed to disclose sufficient facts to prove or disprove the allegation made by the complainant. Based on the OPS investigation, the detective denied that the statement was made. The OPS is unable to prove or disprove the incident occurred due to the lack of witnesses to the alleged event and the lack of any further evidence. Reverend Edward Smart stated that he agreed with the OPS finding of *not sustained*, due to the lack of a witness, evidence, or a video of the incident.

Ms. Gannon asked about the first OPS finding of use of force, where the complainant stated that he was punched and elbowed in the face, which does disagree significantly from what the complainant said. Ms. Gannon stated that there were no witnesses to that, yet the Board was willing to find it unfounded. Ms. Gannon further stated subsequently when the Board discussed the use of profanity the Board stated that the claim was not sustained because there were no witnesses to it. She stated that she did not understand the difference.

Reverend Edward Smart stated that the complainant was very hostile, irrational, and confrontational. He further stated that he believed that there was another detective in the interview room who told him to wait and calm down so there would not be any additional confrontation between the people. Instead, the opposite happened and there was a confrontation. There was evidence that something occurred because the complainant plea bargained and had to pay restitution for the officer's shirt. The officer also filed a report regarding the incident.

Reverend Edward Smart stated that the officer did not go into the room to provoke the complainant. The officer wanted to question the complainant without making him feel violated. Ms. Gannon stated that there were two incidents involving the police officer punching the complainant in the mouth. Ms. Gannon stated that in both incidences, the detective got out of his chair, and went around his desk coming face to face with the complainant. In Article 64.1, where the APD addresses arrest, prisoner transfer and security, the policy stated that in controlling the arrest, the officer shall remember that his

actions can influence the subject in custody. The officer should attempt to remain calm because extreme reactions could influence the situation rather than frighten the subject into submission. A belligerent attitude could trigger a sudden violent response. Ms. Gannon stated that the police should receive some training so that their actions do not have a negative impact.

Ms. Gannon stated that she did not hear a lot of discussion about the second punch. Ms. Gannon asked why the detective did not make the report after the first punch and he realized that the complainant was not going to calm down. Ms. Gannon further stated that there was not a report given to the supervisor at that time. According to the complaint, the complainant stated that the second punch came after he was kneed and the detective left the room. Ms. Gannon stated that based on the report, the police officer was sitting behind his desk when the complainant got belligerent. The detective got up to calm him down and hit him in the mouth. Ms. Gannon stated that the detective apparently went back to his desk and the complainant became belligerent again. The complainant was not handcuffed and should have been handcuffed at that point. Ms. Gannon stated that there should have been somebody else brought in. There should have been some other policy followed. Ms. Gannon stated that the APD cannot continue to allow a situation to exist where officers are allowed to punch a person who is in custody.

Reverend Edward Smart stated that he agreed with Ms. Gannon, but did not read all that in the police report. Reverend Smart stated that the room they were interviewing the complainant in was very small. The complainant was also shackled to the floor. Ms. Gannon stated that there is an allegation that the police officer kneed the complainant first. Reverend Smart stated that there was no proof that that happened. Ms. Gannon stated that there was no proof that this did not take place.

Chairman Jason Allen asked monitor George Kleinmeier if he had any insight on this complaint. Mr. Kleinmeier replied that he observed the video. Mr. Kleinmeier stated that upon seeing the video, and observing the complainant, most people would not think to enter the room with the complainant without him being handcuffed. Mr. Kleinmeier stated that the complainant should have been handcuffed after the first punch, and the detective should have sought assistance at that point.

Ms. Gannon asked why the officer was not questioned as to why he did not leave the room after the first punch. Ms. Gannon asked why the officer did not handcuff the complainant after the first punch. Ms. Gannon also asked why the officer did not go for help after the first punch.

Reverend Smart stated that he suggested that the officers need to be instructed and receive additional interview training with respect to suspects who are belligerent, irrational, upset, agitated, hostile, and confrontational. Reverend Edward Smart stated that the detective needed assistance and should have considered obtaining help while interviewing the suspect.

Ms. Gannon agreed that this was a great solution for the future, but it did not solve the allegations before the Board tonight. Ms. Gannon stated that she had a great deal of problems with the facts presented to and leading the Board to a conclusion of *unfounded*. Chairman Allen asked Ms. Gannon what she would recommend. Ms. Gannon replied at a very minimum *not sustained*.

Ms. Gannon stated that she did not see how the Board could truly say that the police officer violated anything because there is nothing in the policy book that addressed the behaviors that we are expecting in interview rooms. If there are policies to that effect maybe the Board should have copies of that so the Board could see whether or not police officers are in violation of things that occur in central booking. Ms. Gannon stated that she did not have a central booking policy which she believed must exist. Ms. Gannon further stated that she believed that the Board should have access to other policies to help them decide if an officer is in violation of a stated policy.

Commander Ronald Matos stated that he wished to offer some clarification. Commander Matos stated that the interview room is not central booking, so where the officer was had nothing to do with central booking policy. Secondly, that room is equipped with a large one way mirror to be seen into the room. There is no porthole in the door, but there is a way to view inside that room. Commander Matos further stated that on the night of this incident, the detective was by himself. He suggested that the Board look at case law regarding involuntary statements when talking about shackling, handcuffing, and interviewing.

Commander Matos stated that courts have ruled over and over again that a statement taken by somebody in a coercive environment, i.e. a room where he is handcuffed, is not voluntary and therefore the statements cannot be admitted into any court proceeding and therefore that is not a practice that a detective anywhere would take to interview a subject.

Commander Matos stated that the room was about the size of about a table as long as half of the table where the Board was seated. The detective does not go around the desk to access that person, that person is seated to the left of the detective. There is a computer on the table and he walks toward that person. One strike was deployed when the subject attempted to strike the detective and the detective struck back in defense of himself. The second strike was deployed in the same manner. If the officer left the room that would have lead to an extraction. An extraction or self-extraction is a very involved process in which multiple force options could have been deployed. Commander Matos further stated that the complainant was belligerent, handcuffed, and would have had to be either tasered or some type of chemical spray would have to be introduced in order to subdue him. The detective took the complainant down after the first strike, handcuffed him after the second strike, and then removed the complainant.

Commander Matos explained that although the officer could have left the room, his action would have resulted in using even more force to extract somebody from a cell. It is a much more aggressive method of subduing somebody which the officer chose not to

utilize. The officer's use of force choice was up to him at that point in time. The officer was trained by the New York State Police to interview people. The training involved sixteen (16) hours of intensive interview and interrogation training.

Ms. Gannon stated that she wanted to make sure that she is clear you are saying that the APD is adhering to its policy that when its officers are confronted with a belligerent shackled prisoner, they could smack the prisoner more than once if they continue to get belligerent.

Commander Matos stated that the Board is talking about two different things. The Board is talking about interview interrogation techniques and the use of force and how force should be deployed. Commander Matos stated that an officer could use force to defend himself or terminate a threat and the officer was defending himself from a threat.

Ms. Gannon replied that while she understood, that was not her issue. Ms. Gannon stated that she did not know what the policy was. Ms. Gannon further stated that she did not see anything in the Standard Operating Procedures (SOP) with regard to policies in interview rooms. She would like clarification on what the interview policy is regarding a situation like this.

Commander Matos stated that there is no absolute answer as to how a police officer should respond to force being utilized against him. Another police officer may have handled the situation in a different way, i.e. using chemical spray or a taser.

Ms. Gannon stated that chemical spray was not allowed in the interview rooms. Commander Matos agreed that chemical spray was not allowed, but officers in this situation are left to their physical tools.

Chairman Allen asked how much time elapsed between the first punch and the second punch. Reverend Smart stated that according to the complainant, there was five (5) minutes in between the punches.

Reverend Smart stated that there were several interviews of police officers and others that disagreed with what had taken place. Reverend Smart further stated that the detective and the complainant were in a small room. The physical size of the complainant and the detective were significant. Reverend Smart stated that the detective was not aggressive but did what he had to do to protect himself. Reverend Edward Smart further stated that the question he focused on was whether the detective used reasonable force. He believed that the detective did use reasonable force.

Chairman Allen asked Reverend Smart if he was recommending anything else in conjunction with his motions, such as including a letter for corrective action. Reverend Smart suggested that the Board send a letter to the OPS because the officers need to be instructed and receive additional interview training. Reverend Smart stated that personally, he would not have entered the room with the complainant. The room was too small and the complainant was irritable and aggressive. Reverend Smart stated that the

detective may have been using bad judgment by entering the room. Something else should have taken place because the officer could have gotten badly hurt.

Chairman Allen asked Ms. Moseley to receive input from both Reverend Smart and Ms. Gannon before creating the letter.

Ms. Gannon stated that she did not have a problem with the officer's training and thinks that the officers receive good training. Ms. Gannon further stated that she did not agree with the finding of **unfounded** because no one was a witness to the incident. Chairman Jason Allen stated that in the past, the Board has changed findings from **unfounded** to **not sustained** in certain cases. Ms. Gannon recommended that the Board do so in this instance. Reverend Smart stated that he agreed with the OPS finding of **unfounded**.

Reverend Edward Smart moved to concur with the OPS findings on the first allegation of use of force as **unfounded**. Andrew Phelan seconded the motion. The motion carried 5-2. Jean Gannon stated that she voted against the motion because she believed that the finding should be **not sustained**. There was insufficient information to support a finding of **unfounded**. John Paneto stated that he voted against the motion because a finding of **unfounded** meant that nothing really happened.

Reverend Edward Smart moved to concur with the OPS findings on the allegation of arrest authorities and procedures as **unfounded**, where complainant alleged that he was falsely arrested and charged with 2nd degree assault and criminal possession of a weapon. The charges were reduced by the detectives. The complainant paid restitution for damages to the detective's shirt and agreed to a plea bargain. Chairman Jason Allen seconded the motion. The motion carried unanimously.

Reverend Edward Smart moved to concur with the OPS findings on the allegation of conduct standards as **not sustained**, where the complainant alleged that detectives told the complainant to "shut the f*** up, you punk." The OPS finding was not sustained because there was no proof that this was said. Andrew Phelan seconded the motion. The motion carried unanimously.

CPRB No. 72-08/OPS No. C08-694 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. The complainant alleged that on October 24, 2008, at approximately 2:00 a.m., the complainant made a right turn from Partridge Street to Western Avenue and was traveling slowly down a completely unpopulated street, looking for a parking spot. Halfway down the block, an officer approached the complainant's car from behind. The complainant signaled to make a right turn onto Ontario Street and stopped at a red light. After hesitating for people in the crosswalk, the complainant made the turn and was immediately pulled over by the officer. A second officer came to the scene. When the first officer came to the window, the complainant gave him his license. The officer came back and asked if the complainant had been drinking, to which the complainant answered "no." When the officer asked the complainant where he was going, the complainant replied that he was looking for a

parking spot. The officers then asked where the complainant was coming from. The complainant replied "Price Chopper on Madison." When the officers asked what the complainant bought, the complainant replied "Groceries." The officer looked in the back seats with a flashlight and asked where the groceries were. The complainant replied "in the trunk." The complainant was then asked to step out of the car. While outside the car the second officer asked the passenger to put out his cigarette and asked if he had been drinking. The passenger was also asked for ID and a phone number. Once outside the car, the complainant asked the officer what he was being stopped for. The officer told the complainant that he was stopped for improperly signaling before making a turn. The complainant insisted that he signaled before turning. The officer allegedly stated "you didn't signal soon enough." The officer brought the complainant behind the car and asked him to complete two sobriety tests which involved counting backwards and the alphabet. After completing the tests, the complainant returned to the car and both officers' returned to the first officer's vehicle. The first officer then returned to the car and issued a ticket for insufficient turn signal less than 200 feet. When the officer was explaining how to plea for the ticket, the complainant asked him to repeat where he said the complainant needed to go. The officer became agitated and insisted that the complainant not interrupt him. After completing his speech, the complainant asked the question again. The officer confirmed it was the town hall.

Ms. Hammond noted that this was a DWI stop, which is a part of Operation Impact where officers have the street blocked and the officers are checking on all the cars that go by. Ms. Hammond checked the records and on July 23rd the officer submitted in the IDC that on October 24, 2008, he was working Operation Impact from 12:00 a.m. to 4:00 a.m., which he did backup. The officer could not recall the line of questioning or if the party was subjected to any field sobriety test. Ms. Hammond referred to a comment that Reverend Smart said about something being done a year or so ago and then having them have to recall what happened. The officer could not recall some of the things that had been said.

Ms. Hammond stated that the witness stated that he had been drinking that night. They could not determine if the officer was in a bad mood, and there was not enough information on his demeanor. This goes back to the question of how can you remember something back that far. The complainant admitted that he attempted to argue his case by insisting that he signaled which would lead a reasonable person to believe that the complainant was also acting in an agitated manner.

Ms. Hammond stated that she reviewed all of the IDCs, the Vehicle & Traffic Law, and the field interview contact sheet. She further stated that if this in fact was Operation Impact she did not understand how the complainant could make a complaint. During this kind of stop everybody randomly gets checked. Ms. Hammond noted that the complainant paid the fine.

Chairman Allen asked why the complainant did not protest the fine. Chairman Allen stated that he thought that the ticket was rather unnecessary. He asked what signaling not

sufficiently was because he had never heard of it. Ms. Hammond stated that she never heard of it either.

Ms. Hammond reported that the OPS recommended that the call handling allegation be closed as *exonerated*, where the acts which provided the basis for the complaint occurred, but the review showed that such acts were proper. The complainant alleged that he stopped after signaling to make a turn. Based on the OPS investigation, the witness did not understand why they were stopped because they were stopped at the light, and the complainant had his turn signal on. The officer said they did not have it on early enough, but they stopped because there were drunken kids walking in the road. The officer took all of the witnesses' information, which the complainant thought was odd because the officer said that he did not have to give it. The officer explained to the complainant why he got pulled over. He asked him to step out of the car, asked if he had been drinking, and had him get back in the car. The witness stated that he had been drinking. They went to Price Chopper. He did not think that the complainant had been drinking since they had just met up at that part of the night. They did not buy beer only picked up some food that was in the trunk. The officer did not ask to see what was in the trunk. The officers told him what they were doing. The officer had the complainant exit the car. The officer did not give any sobriety tests and the complainant came right back into the car. The officer had the spotlight on and his flashlight and it was about 2 in the morning. The witness heard the officer talking to the complainant and thought the officer was in a bad mood.

Ms. Hammond reported that based on the OPS investigation, the first officer stated that he did not recall the exact details of the traffic stop. After reviewing the summons that was issued for violation of section 1163B (Insufficient Turn Signal) of the NYS Vehicle and Traffic Law, based on the time the summons was issued the officer believed that he was on a DWI Enforcement detail. If the complainant was asked to step out of his vehicle it could have been due to any number of different factors that would have been an indication that he had been drinking some type of an alcoholic beverage. Thus, if this was the case and he was asked to complete a few field sobriety tests it was due to the fact the officer believed the complainant may have been impaired or intoxicated by an alcoholic beverage. The complainant was asked several questions because there are a few standard questions used during an interview of a person suspected of DWI or DWAI. These questions are used because they are standard questions on the NYS DWI Supporting Deposition/Bill of Particulars. The second officer recalled the traffic stop, but did not recall any particulars as indicated by the complainant. The witness stated that he had been consuming alcoholic beverages that night. If the vehicle windows had been closed at the time, the odor of an alcoholic beverage would have been emanating inside the vehicle. Upon approach, the officer may have in fact observed the odor, believing the driver may have been under the influence. It was unclear if the complainant was asked to submit to Field Sobriety Testing. If the officer observed the odor of an alcoholic beverage, the officer had a duty to investigate further to determine if the driver was under the influence. The officer could have asked the complainant to exit the vehicle to get him away from the closed area and observe his actions and speech. If the officer's observations led him to believe that the complainant was under the influence, the officer

would have been within his line of authority to ask the complainant to submit to Field Sobriety testing. Ms. Hammond further stated that it is standard procedure for an officer to ask certain types of questions during a traffic stop. The officer was conducting a preliminary investigation. The complainant was stopped for a traffic infraction. The officer was well within his authority to investigate that no further criminal activity was taking place. The traffic summons was issued for a violation of the Vehicle and Traffic Law. The complainant accepted to pay a fine for a reduced infraction.

Ms. Hammond stated that the second officer who asked for pedigree information on the passenger was within department standards. The officer was required to complete a Field Interview Card upon contact with the public which did not result in an arrest, an SIR, DIR, or UTT being generated. This card contained pedigree information on the subject and the reason for the contact. The officer may walk up to a car and the odor of alcohol will emanate. Ms. Hammond explained that this is because if you are in a closed vehicle and someone has been drinking, the whole car smells of alcohol. The complainant also acted in an agitated manner.

Ms. Hammond reported that the OPS recommended the conduct standards allegation be closed as *not sustained*, where the review fails to disclose sufficient facts to prove or disprove the allegations in the complaint. The complainant alleged that the officer was agitated when he interrupted the officer. Based on the investigation, the witness stated that the officer was in a bad mood, but the witness did not elaborate. Ms. Hammond noted that there was insufficient information to establish that the officer's demeanor was unprofessional based upon the statements made by the complainant and his witness. It should be noted however, that according to the SOP, when issuing traffic summons, the driver shall be informed of such offence and issued such summons without discussion. The officer should avoid unnecessary conversation and shall not offer any excuse for issuance of ticket. The officer should be courteous but firm. A reasonable person could believe that the complainant was acting in an agitated manner because he tried to argue and plead his case with the officer.

Reverend Smart asked if it was normal for DWI programs like this one to be operating on a Thursday night. Commander Matos stated that the dates of the sweep vary to correspond with different popular events, times, or simply just to keep the public aware that DWI enforcement is happening throughout the town. Commander Matos stated that Thursday night is a large college bar night.

Mr. Paneto stated that this neighborhood is a known student hangout every night of the week. In addition, what is not in the report is that this is a high student population area. Mr. Paneto stated his surprise that the officers did not mention that they were also on the lookout for drug buyers. Mr. Paneto further stated that he believed that the encounter was legitimate.

Reverend Smart stated that if the person really felt that he was innocent then he would not have paid the ticket.

Marilyn Hammond moved to concur with the OPS findings on the allegation of call handling as ***exonerated***. Reverend Edward Smart seconded the motion. The motion carried unanimously.

Marilyn Hammond moved to concur with the OPS findings on the allegation of conduct standards as ***not sustained***. Chairman Jason Allen seconded the motion. The motion carried unanimously.

CPRB No. 76-08/OPS No. CC2009-743 (Presented by Anthony Potenza)

Anthony Potenza summarized the complaint. The complainant alleged two counts of improper call handling. According to the complainant, four (4) officers had their stun guns drawn when they entered her home to arrest her son. The complainant alleged that no warrant was shown at the time even though a copy was requested. The complainant's son was taken outside in just his shirt and the officer helped him get dressed. The complainant stated that there was no warrant, so the complainant asked the officers why there was not a warrant. The complainant stated that she requested that the officers show her the warrant several times.

Mr. Potenza reported that he read the civilian complaint form, the OPS Civilian Complaint Report, IDC, arrest report, statement by the complainant, and the arrest warrant. Based on the OPS investigation, the complainant's son was arrested for loitering. He was released and issued an appearance ticket. The son was re-arrested for failing to appear.

Mr. Potenza reported that the complainant alleged improper call handling due to the fact that the officers entered her home with their "guns drawn." The complainant further alleged improper call handling because the officers did not produce an arrest warrant. The complainant did cooperate with the officers in the matter. Mr. Potenza noted that there was no monitor assigned to this case.

Mr. Potenza summarized the findings of OPS on the first call handling allegation, where the complainant alleged that the officers entered her house with their guns drawn. Mr. Potenza reported that OPS recommended that this portion of the investigation be closed as ***exonerated***, where the facts which provide the basis for the complaint occurred, but the review shows that such acts were proper. Based on the investigation, there was only one officer who had his weapon drawn. He was a backup/cover officer during the attempted arrest of a known gang associate. The officer reported that his pistol was at the side of his leg and in no way was pointed in a threatening manner at anyone. This was confirmed by another officer at the scene. The supervisor reported that due to the known background of the subject they were looking to arrest, such action by the officer was not out of the ordinary. Gang members or associates are known for their propensity of violence and possession of weapons. Also, the fact that officers were attempting to locate a known gang associate at his residence adds to an officer's awareness that there was a higher threat potential present.

Mr. Potenza summarized the findings of OPS on the second call handling allegation, where the complainant alleged that officers did not provide her with a copy of the warrant. Mr. Potenza reported that the OPS recommended that this portion of the investigation be closed as *exonerated*, where the facts which provided the basis for the complaint occurred, but the review showed that such acts were proper. The complainant alleged that the officers did not provide her with a copy of the warrant. She admitted in her statement that she brought the letter from the Albany Police Department's Warrant Control Unit to South Station which clearly stated that her son had a warrant for failure to appear on a previous appearance ticket when the complainant's son was arrested for loitering. The letter also stated the following "Please be advised that this warrant remains in effect and you are subject to arrest at any time." In addition, the supervisor stated they did not have a copy of the warrant in their possession. He also stated that they obtained the information from the warrant control unit and an investigation confirmed that the son still had an active warrant. Once the subject was secured the supervisor on the scene spoke with the complainant and explained the situation to her.

Mr. Potenza stated that according to the New York Criminal Procedure Law Section 120.80 Subsection 2-Warrant of Arrest, "a defendant may request a copy of the warrant and the officer must show him the warrant if it is in his possession. The officer need not have the warrant in his possession, and if he has not, he must show it to the defendant upon his request as soon after the arrest as possible." According to the supervisor, they did not have a copy of the warrant in their possession at the time of the arrest. Mr. Potenza stated that the supervisor and the officers were in compliance with department policy and New York State Law.

Mr. Potenza reported that the complainant alleged that certain conduct should have been followed by the police in coming to her son and there was a question as to why it was not carried out. Based on the investigation and evidence presented in the case, the officers acted appropriately in this manner.

Mr. Paneto stated that he was unsure why the police officers arrived at this specific location. Mr. Potenza stated that based on what he found from researching the case that officers periodically conduct warrant sweeps.

Commander Matos clarified that the APD sends letters based on compliance. If someone is not compliant then a warrant sweep is conducted.

Chairman Allen stated to an audience member that the Board is not open to public comment until the end of the meeting.

Anthony Potenza moved to concur with the OPS findings on the first allegation of call handling as *exonerated*, where the facts which provided the basis for the complaint occurred, but the review showed that such acts were proper. Andrew Phelan seconded the motion. The motion carried unanimously.

Anthony Potenza moved to concur with the OPS findings on the second allegation of call handling as *exonerated*, where the facts which provided the basis for the complaint occurred, but the review showed that such acts were proper. Andrew Phelan seconded the motion. The motion carried unanimously.

CPRB No. 78-08/OPS No. C08-772 (Presented by John Paneto)

John Paneto summarized the complaint. Mr. Paneto noted that the monitor George Kleinmeier assigned to the case was present. The complainant alleged that two officers entered her house with no permission or warrant and upon entering they began verbally assaulting and antagonizing a male occupant who answered the door. The complainant further alleged that the officers continued to harass him and asked him to step away. As he turned away complying with their orders, they pepper sprayed him with an excessive amount of pepper spray, with no regard for the occupants in the house. The complainant alleged after he fell to the ground blinded by the pepper spray, the officers began punching him in the back of the head and kneeing him in his back. She further alleged that the officers threw the man into the television. She noticed that he was bleeding from his forehead. The complainant claimed that the officers threw him down the stairs. She alleged that the two officers used unnecessary violence and abused their power.

Mr. Paneto noted that there was a 911 call which played a critical role in this. The complainant in this case is the daughter of the woman who is renting the apartment. The daughter does not pay rent but resides at the residence. The male occupant is the boyfriend of the mother. He did not reside at this residence. Mr. Paneto stated that there is a "stay away" order from the court, so the male occupant should not have been at the residence in the first place. Additionally, the complainant's record of the police encounter is incomplete and condensed.

Mr. Paneto stated that the residence is a two family house. The first floor of the house was unoccupied for six months with no tenant. Mr. Paneto stated that the new tenant decided to move in at 12:00 midnight. According to the complainant, her family and her mother lived on the second floor of the home. Mr. Paneto stated that he knew the neighborhood. Based on the police report, the complainant's residence had twenty five (25) police calls. Out of those twenty five (25) calls, eight (8) were against the male occupant for domestic violence against the mother. Mr. Paneto reported that the mother did not file this complaint, nor did she file domestic violence charges against the boyfriend.

Mr. Paneto noted that the police got a 911 call from the residence. The call was received at the same time the new tenant was moving into the downstairs apartment. The family on the second floor was unaware that they had a new neighbor. The male occupant decided to confront the new tenant. The new tenant dismissed the conversation and called 911 from two (2) blocks away. The new tenant met the police two (2) blocks away and had a preliminary meeting with the police. The new tenant had enough information to allow for the police to make a determination. In addition, when the police checked their records, the house came up as a domestic abuse house. Mr. Paneto stated that this was

when the domestic abuse and the stay away order became a real issue. Before the police knocked on the door, they already had a physical identification of the suspect, a 911 phone caller in their presence, the police history of this residence, and one of the police officers knew the mother of the complainant. Mr. Paneto reported that one of the issues of the complainant was that there was no warrant. Based on the OPS investigation, the police had the tenant's complaint that he was a victim of harassment. This was before the police even knocked on the door. There was also an allegation of use of force. Mr. Paneto reported that based on the investigation, there was no indication that the use of force was excessive or inappropriate. The use of pepper spray is an acceptable deterrent outlined in the police department policy. According to the officers, while not entirely handcuffed, the male occupant reached for couch pillows. The officers used pepper spray at this time because they felt threatened by the male occupant reaching for the couch and underneath the pillows. Additionally, while the male occupant was finally handcuffed and he was being escorted out of the residence, the suspect intentionally lunged forward and ran into the television. The responding officers, including a supervisor, substantiated this account. The supervisor stated at no time was the male thrown into the television. After being helped up from the floor and escorted to the stairs, the officer stated the male again broke away from his grasp and intentionally threw himself down the stairs head first. Both instances were done under his own power and free will. The male suffered a minor laceration to his forehead, although it could not be determined if it was the result of throwing himself into the television or fighting with the officers. He was treated at the scene by AFD/EMS and he refused and continued to be uncooperative. He was later treated at the South Station while in central booking for his complaint of pain to the right wrist. He received medical treatment at Albany Medical Center and was later released.

Mr. Paneto reported that the photos depicted a small scratch to the forehead and scratches and redness to his right wrist. There was no indication that excessive force was used by the arresting officers and the level of force used by the officers was justified and required to effect a lawful arrest. Based upon the complainant's allegations, the male occupant may be a victim and witness of the officers' actions. Attempts were made to contact him via certified mail requesting to interview him as well as affording him the opportunity to file a complaint. His accounts may have provided clarification of what occurred on that date. Mr. Paneto further reported that the tenant could not offer any assistance as to what occurred because he was not present at the time of the incident. He met with officers at a different location. After being threatened by the male, the tenant immediately left the driveway and called police at a different location where officers responded to and assisted him. Again, but not for the male's own actions, officers would not have responded to the home for any reason. The male occupant had established a pattern of violent behavior when it relates to the complainant which was documented. This pattern of violence presented itself once again and was directed at the tenant and later directed at the responding officers as they attempted to conduct an investigation. Mr. Paneto stated that he was concerned that the complainant directed her outrage at the APD, so he read documents on domestic violence when reviewing this case file. The complainant did not want to press charges because she loved the male occupant.

Mr. Paneto asked monitor George Kleinmeier if there was anything he wanted to add. Mr. Kleinmeier stated that the male occupant pled guilty to criminal contempt. It was noted that the complainant was not present.

Mr. Paneto stated that based on his review, he agreed with the OPS finding of *exonerated* for the use of force allegation. John Paneto moved to concur with the OPS finding of *exonerated*, where the facts which provided the basis for the complaint occurred, but the review showed that such acts were proper. Reverend Edward Smart seconded the motion. The motion carried unanimously.

CPRB No. 16-09/OPS No. CC2009-020 (Presented by Anthony Potenza)

Anthony Potenza summarized the complaint. The complainant alleged that he forgot to put his headlights on while operating his vehicle and was stopped by the police. He acknowledged that his NYS driver's license was suspended, and he was arrested. The complainant alleged that the arresting officer was rude to him, used profanity, and pushed him around during a pat down search. The complainant further alleged that the officer made false statements when he signed the information against the complainant claiming that he had personal knowledge that the complainant was in possession of some pills, when the officer did not witness the complainant in possession of said pills. According to the complainant, the pills were his and were located in a plastic baggie in his glove box. He was in possession of the pills for headache pain. When the complainant opened the glove box to get his registration, the trooper saw the bag of pills and asked the complainant about them. The trooper was dealing with the complainant at the driver's side of the vehicle. The complainant told the trooper that they were headache tablets and the trooper asked for the bag. The complainant then gave the trooper the baggie containing the pills. According to the complainant, the trooper was professional and courteous at all times. He was in fear for his safety and if it were not for the trooper he felt that he would have been in danger.

Mr. Potenza reported that he reviewed the citizen complaint, OPS confidential report, profile of the trooper, IDC, arrest report, incident report, and a suicide screening guideline. Mr. Potenza noted that the complainant was arrested for vehicle equipment violation because of muffler issues. Based on the interview of the witness, the complainant called her to pick up the vehicle. According to the witness, the officer was rude to her when he told her to "Get the f**king truck out of here," and "Where the f**k are the drugs?" The witness could not remember exactly what the officer said. Mr. Potenza stated that a routine traffic stop escalated into this complaint.

Mr. Potenza summarized the OPS findings on the use of force allegation, where the complainant alleged that the officer pushed the complainant around while the officer was patting him down, as *unfounded* where the review shows that the act or acts complained of did not occur. Based on the OPS investigation, the complainant's witness stated that she did not see any officers push or shove the complainant around. The trooper stated that the officer did not push the complainant around during a search of him. The officer

further denied that he pushed the complainant. Mr. Potenza stated that this is a he said she said matter.

Mr. Potenza summarized the OPS findings on the first violation of conduct standards allegation, where the complainant alleged that an officer was rude, threatening, and used profanity towards him, as **not sustained**, where the review failed to disclose sufficient facts to prove the allegations made in the complaint. Based on the OPS investigation, the trooper stated that the officer acted professional and courteous at all times and did not use any profanity towards the complainant.

Mr. Potenza summarized the OPS findings on the second violation of conduct standards allegation, where the complainant alleged that an officer lied on his information filed with the court due to the officer not having personal knowledge of the complainant's possession of the controlled substance, as **unfounded** where the review shows that the act or acts complained of did not occur. Based on the OPS investigation, the trooper and officer both stated that they approached the vehicle during the traffic stop. The trooper approached the driver's side of the vehicle and the officer approached the passenger side of the vehicle. The trooper stated that the officer witnessed the actions of the complainant inside the vehicle and the possession of the plastic baggie containing the pills. The officer stated that he witnessed the actions of the complainant reaching into the glove compartment revealing the pills in plain view in a zip-lock bag. Many times the driver of the vehicle does not even know that there is a second officer present, especially at night. In addition, it is common for the driver to focus on the officer who he is talking to on the driver's side, as was in this case, and never noticed a second officer. Clearly, the complainant did not notice the officer on the passenger side of his vehicle, witnessing the actions during the entire traffic stop.

Mr. Potenza stated that when the officer advised the complainant that his vehicle was going to be towed, the complainant was prompted to call his girlfriend to come and get the vehicle.

Reverend Smart stated that the girlfriend said that she did not see any physical contact between the officer and the complainant; however, she did state that the officer used profanity towards her. Reverend Smart stated that if the Board is willing to believe her first statement as being truthful, then they will have to consider the second allegation that the officer used profanity as true. Mr. Potenza stated that the complainant alleged that the officer used profanity and was rude towards him. Reverend Smart stated that if the Board does not believe the witness's first statement, then they cannot verify the second statement. Mr. Potenza stated that the witness was not on the scene when the stop began, therefore she did not witness any physical contact. The complainant alleged physical contact. Mr. Potenza stated that all the paper work that he reviewed showed that the officer acted appropriately. Chairman Allen stated that mediation and cameras could have played a role in this case.

Mr. Paneto stated that he was unclear on the revoked license. Mr. Potenza clarified that the complainant had a suspended revoked license. It was noted that the complainant was not present.

Anthony Potenza moved to concur with the OPS findings on the use of force allegation as ***unfounded***. Reverend Edward Smart seconded the motion. The motion carried unanimously.

Anthony Potenza moved to concur with the OPS findings on the first violation of conduct standards allegation as ***not sustained***. Reverend Edward Smart seconded the motion. The motion carried unanimously.

Anthony Potenza moved to concur with the OPS findings on the second violation of conduct standards allegation as ***unfounded***. Reverend Edward Smart seconded the motion. The motion carried 6-0. John Paneto abstained from voting.

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

The following Board members were appointed to the Committee on Complaint Review for October 2009: Jean Gannon, Andrew Phelan, Anthony Potenza, and Reverend Smart.

C. Committee/Task Force Reports

By-Laws and Rules

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

Community Outreach

Committee Chairman Reverend Edward Smart stated that he had nothing new to report.

Mediation

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

Police Department Liaison

Committee Chairman Andrew Phelan stated that he had nothing new to report.

Public Official Liaison

Chairman Jason Allen noted that Committee Chairman Ronald Flagg was not able to attend this meeting of the Board. Chairman Allen asked Ms. Moseley to schedule upcoming meetings with Deputy Mayor Philip Calderone and the Common Council Public Safety Committee.

Task Force on Monitors

Committee Chair Jean Gannon stated that Ms. Moseley would report for the task force during the report from the Government Law Center.

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 the Board reviewed six (6) complaints at tonight's meeting and closed six (6) of them, which leaves the Board with fifty (50) active complaints. The CPRB received five (5) reports from the OPS. As soon as we receive the monitors' reports, those five (5) cases would be ready to go on the next meeting agenda for review.

It was further reported that three hundred and forty-one (341) 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 ninety-seven (397).

It was reported that the Board received ten (10) grievance forms since its last meeting. The total number of grievance forms received to date is one-hundred and three (103). In response to the GLC's outreach to all one-hundred and three (103) individuals, the GLC has received twenty-five (25) CPRB complaint forms.

Appointment of CPRB Monitors

It was reported that a couple of weeks ago, the GLC staff along with Vice-Chair of the Board Ronald Flagg interviewed (ten) 10 possible monitors. Out of those ten (10) monitors, the interview committee selected 5 to serve as monitors for the Board. Their experience included several years of investigative work in state agencies and with the state police. The GLC will notify the selected monitors early next week and put together a training session for them as soon as possible.

Board Vacancies

It was reported that four (4) members of the Board will be up for re-appointment in October. Two (2) of those four (2) members have informed the GLC that they do not want to be reconsidered for reappointment. The GLC sent a letter to the Mayor and Common Council regarding the re-appointments of Jean Gannon and Rev. Edward Smart, and also requesting that they fill in the vacancies that will be left by Dan Fitzgerald, John Paneto and Andrew Phelan.

International Visitor

It was reported that last month, members of the Public Official Liaison Committee met with Margaret Sampson-Browne. Ms. Sampson-Browne is the Senior Superintendent of Police in Trinidad and Tobago. The International Center of the Capital Region asked the CPRB to meet with Ms. Sampson-Browne to discuss police/community relations.

Next Board Meeting

It was reported that the next Board meeting is scheduled for Thursday, October 8th at the Albany Public Library. Chairman Allen stated that neither he nor Vice-Chairman Flagg would be present at that meeting. He asked Ms. Moseley to see if the Board has a quorum for that meeting

E. Report from the Office of Professional Standards

Commander Ronald Matos reported that due to the resignation of Chief James Tuffey, Deputy Chief Stephen Krokoff is responsible for patrol and Deputy Chief Stephen Reilly is responsible for policy and functions. Chairman Allen stated that the Board is concerned about the lack of a mediation program and the early warning system.

F. Report from the Chair

Chairman Jason Allen reported that the importance of cameras in patrol cars would have weighed in heavily on what happened in the news. Chairman Allen further reported that it would also be helpful if both parties are able to sit down and talk over what transpired. Mediation is very important to bringing closure to an issue.

IV. Public Comment

A member of the public asked why there are troopers in Albany and who authorized it? Chairman Allen replied that the APD has a joint operation with the NYS Police. Commander Matos added that it's a force magnifier which allows more officers to be on the street. The citizen stated that troopers are not trained to be in the city. The sheriff is man of the county. The citizen further stated that a trooper kicked a door in and beat this kid up. Chairman Allen suggested that the citizen reach out to the Common Council with his concerns.

The citizen stated that the APD is problematic. This guy was drunk, when the officers jumped the guy and beat him down. This is uncalled for because the APD works for the community. If you enter a house, you need a warrant.

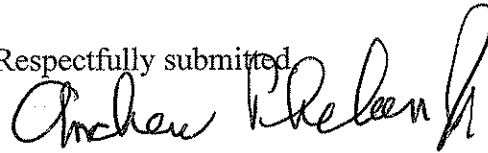
Reverend Smart stated that when the CPRB meets as a board, we need to educate our citizens. The CPRB operates out of the law. If there is an unlawful act committed, it will not be swept under the rug. The Board's time is limited, so the Board could not get to the

complaint on the agenda. If something unlawful is done by an officer, people in the community should file a complaint.

V. **Adjournment**

Reverend Edward Smart moved to adjourn the meeting. Chairman Jason Allen seconded the motion for adjournment. The motion carried unanimously. The meeting adjourned at 8:10 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew Phelan, Jr.", with a stylized flourish at the end.

Andrew Phelan, Jr.
Secretary