

City of Albany
Citizens' Police Review Board Public Meeting
80 New Scotland Ave
Dean Alexander Moot Court Room
November 12, 2009
6:00 p.m. -8:00 p.m.

Present: Jason Allen, Jean Gannon, Marilyn Hammond, Andrew Phelan, Jr., and Anthony Potenza.

Absent: Ronald Flagg and Reverend Edward Smart.

I. Call to Order and Roll Call

Chairman Jason Allen called the meeting to order at 6:10 p.m.

II. Approval of the Agenda

The agenda was reviewed. Marilyn Hammond moved to approve the agenda. Anthony Potenza seconded the motion. The motion carried unanimously.

III. New Business

A. New Complaints

1. New Complaints Received Since October 22, 2009 Meeting

Chairman Jason Allen reported that six (6) new complaints had been received by the Board since its October 22, 2009 meeting. Anthony Potenza read a summary of each new complaint.

CPRB No. 46-09

The complainant alleged that she repeatedly contacted the Albany Police Department (APD) officers to assist her because, when the complainant moved into her new apartment in the South Mall Towers, the complainant's previous neighbor allegedly moved into the apartment above her and continued to harass the complainant. When the complainant lived at her previous address in Cohoes, she was in constant contact with the Cohoes Police Department. The complainant alleged that the APD officers failed to help her and properly investigate her situation. The complainant claimed that there was a family squatting on the roof in the equipment storage room directly above her apartment. The officers allegedly told the complainant that she was suffering from a mental illness.

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

CPRB No. 47-09

The complainant alleged that officers seized the cash which the complainant was carrying with him in the amount of \$968.64. The complainant stated that this cash was illegally seized and that it was a loan from the complainant's employer. According to the complainant, the employer testified to that fact during the complainant's arraignment. The complainant accused the arresting officer of informal, unethical, unprofessional acts unbecoming of an officer.

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

CPRB No. 48-09

The complainant alleged that on October 21, 2009, APD officers entered the complainant's home without his permission. The complainant further alleged that the officers asked the complainant if he remembered the officer and the complainant replied in the affirmative. The complainant claimed that the officer told the complainant that the complainant better not have any girls in his home or the complainant would be arrested and the complainant's child taken away. The complainant further claimed that the officer told the complainant to "move the f**k out of Albany," or he would "make his life a living hell."

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

CPRB No. 49-09

The complainant alleged that an officer asked the complainant if she was the owner of the truck parked in front of her apartment. The complainant replied in the affirmative. The complainant stated that she owned the truck but that she had lost the keys and had just made a new set of keys. The complainant alleged that the officer started threatening the complainant and told the complainant to stop playing games. The complainant stated that she had no idea what he was talking about. The complainant alleged that the officer told the complainant that he would tow her car and make her pay towing fees, if she did not tell him what happened. According to the complainant, she still had no idea what the officer was talking about. The officer then told the complainant that her vehicle was used in a crime. The complainant felt that the officer was coercing the complainant to get her to lie.

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

CPRB No. 50-09

According to the complainant, on November 1, 2009, the complainant and his friend were returning home when they were attacked by a group of approximately

five (5) to eight (8) men. They were beaten up and robbed so the complainant's friend called the police. The complainant alleged that the police did not respond, so the complainant's friend called again. In the mean time, the complainant alleged that the group of "hooligans" had broken and damaged windows in a nearby house. The police responded to the 911 call of the homeowners. The complainant alleged that when the police arrived, the complainant went over to the police car along with his friend and the owner of the home and told the officer that he got robbed and beat up. The complainant's cell phone and wallet were stolen and his glasses knocked off. The complainant alleged that the police did not take the complainant's name to file a report. Additionally, the complainant believed that the group of "hooligans" was still in the area. The police refused to investigate and asked the complainant, "Do you want to play Kojack?" When the complainant went with his mother to the police station the next day to get the names of the officers, only one officer's name was given to them. The complainant further alleged that he was given the runaround when he asked for a complaint form and was unable to obtain one until the complainant's relative, a former firefighter, got involved.

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

CPRB No. 51-09

On October 20, 2009, an individual who was laid off from his job returned to the job site to pick up his check. He was told that his check was not ready and to leave the property. According to the complainant, the individual went out to the complainant's car to get her. They both walked back to the building where they were met by the superintendant, another man and two police officers. The complainant alleged that one of the officers was very outspoken and asked the individual how much he had to drink. The individual responded that he had a couple of beers. Meanwhile the project manager came out from the office to discuss the status of the check with the individual. The complainant alleged that the officer got upset and threatened them because they were not listening to him.

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

2. New Complaints for Review

CPRB No. 44-08/OPS No. C08-438 (Presented by Chairman Jason Allen)

Chairman Allen summarized the complaint. Chairman Allen stated that the complaint was received on June 3, 2008. The complainant alleged misconduct and call handling. The incident occurred on or about August 2007. Chairman Allen stated that the complainant alleged that the detective who was assigned to her case did not conduct the investigation in a timely fashion, and precious time was lost in evidence collection. The complainant listed numerous allegations with

respect to and during the investigation which included that she was not advised of any services by the police or Albany County Child Protective Services (CPS), and that she and her son should have been treated with respect. The complainant alleged that she should have been kept up to date on the progress being made on the case. It was her understanding that the case was at a standstill because the detective went out on extended sick leave after being assigned her case. The complainant further alleged that her efforts to contact him never led to another detective that could provide information on her son's case. She alleged that there was a delay in the investigation and the opportunity to secure evidence was in jeopardy. She further alleged that the suspect child was not interviewed or tested for a period of over a month from the date of the report that indicated that the child was the perpetrator. She alleged that the detective told her that he was collaborating with CPS to determine the age of the perpetrator which is difficult at times because the CPS workers' day ends when his begins. The complainant alleged that the CPS did not speak with the grandmother until eight (8) months after the incident, and the police have yet to speak with her.

Chairman Allen reported that he reviewed the fairly long confidential report which was heavily redacted with names and details about what occurred to the young boy. Chairman Allen summarized that the four-year-old son was a victim of sexual abuse and contracted a sexually transmitted disease (STD). The mother (the complainant) believed that the perpetrator was another child. Chairman Allen reported that he also read the interview with the detective assigned to the Children and Family Services Unit. Chairman Allen stated that based on what he read, it was apparent the detective was challenged with his investigation because he found out that basic information such as who lived at the house, and who the uncle and father were, were not conclusive as he investigated further. Chairman Allen further stated that he read a letter from the senior attorney for the Department for Child Youth and Families (DCYF), which stated that the CPRB was not an "enumerated agency" that could review DCYF records so the Board was not privy to those records. Chairman Allen also stated that he reviewed the incident report and another report where a complaint had been filed subsequent to this report where the son goes to school for inappropriate touching as well.

Chairman Allen stated that the OPS recommended that the call handling allegation be closed as *unfounded*, where the review shows that the act or acts complained of were misconstrued. The complaint alleged that the detective did not conduct the investigation in a timely fashion and that "precious time" was lost in evidence collection, there was a delay in the investigation, the opportunity to secure evidence was in jeopardy, and that the ten-year-old child was not interviewed for a period of over a month from the date of the report that indicated that the child was the perpetrator. Based on the OPS investigation, the detective indicated that he conducted the investigation and was assigned the case as a referral from CPS regarding the complainant's son. In the detective's case management log, which documents his progress on the investigation, the detective indicated that on Friday, August 24, 2007, he met with the complainant and her

son at CPS. Chairman Allen stated that the call ticket for this incident was generated on Monday, August 27, 2007, and the remark stated "CPS referral of investigation of sexual abuse." Chairman Allen further stated that after having been assigned the case, the detective stated that he had a number of telephone conversations with the complainant prior to actually sitting down and interviewing her or her son. The detective stated that during those conversations, the complainant provided basic information about her son and her family which turned out to be untrue. The detective stated that the complainant repeatedly told him that she lived at her address with her son, and that his father lived somewhere else and was not involved in the child's life. The detective stated that the complainant informed him that there was an uncle who stayed at the house occasionally and that information was not factual. Based on the investigation, the complainant continued to lie to the detective. The son disclosed to the detective that the "uncle" who stayed at their house was actually her son's biological father. Chairman Allen further stated that the complainant continued to lie about the "uncle." She finally admitted that she lied about who her son's father was because she was afraid her son would be denied services that she was getting from the county or the state. Chairman Allen reported that the complainant had been deceptive for weeks regarding her son's father. Chairman Allen stated that had the complainant been forthcoming from the start of the investigation, disclosing pertinent information, this time lapse may have been prevented, but her own actions caused the delay in the investigation. Chairman Allen reported that the detective stated, during his interview with the son in the presence of the complainant, that he believed that the son was coached by his mother. This raised questions as to the validity of her allegations. Chairman Allen stated that the complainant made a conscious decision to continuously lie regarding the actual paternity of her child for fear of losing services rather than be truthful during the investigation, affording the detective an opportunity to conduct a thorough investigation. Chairman Allen further stated that a review of the case file documents showed numerous names of people who may have had contact with the son, all of which were provided by the complainant. This indicated that the detective investigated all leads in the investigation. Chairman Allen reported that the alleged perpetrator was subsequently interviewed on September 18, 2007, along with his mother and sister. The case file noted that they all went to New York City and the length of the trip was unknown. The CPS was contacted regarding the investigation. Chairman Allen stated that CPS has respectfully informed the Board that they cannot and will not release any information regarding the complainant's case. Chairman Allen further stated that this investigation was delayed due to the complainant's untruthfulness from the very beginning, coupled with the fact that the interview with the four-year-old son appeared to have been "coached."

Chairman Allen stated that the OPS recommended that the second allegation of call handling be closed as *not sustained*, where the review failed to disclose sufficient facts to disprove the allegations made in the complaint. The complainant alleged that she was not advised of any services by the police or

CPS. Chairman Allen reported that based on the OPS investigation, the detective stated due to the fact that there was nowhere else to go in the investigation, coupled with the fact that the complainant's son's interview was skewed or flawed, he suggested that the complainant put her son into therapy. It was obvious that something happened to her son. The police and CPS' ultimate concern was the child's welfare and well-being. Chairman Allen reported that the detective aided the complainant in that process. The detective made all the medical appointments because the complainant was not capable of doing so. The detective aided the complainant in getting therapy set up through the NYS Crime Victims Board (CVB). The detective thought something would come out during therapy that would lead him in another direction. The detective stated from one of the conversations that he had with the complainant, while he was on medical leave, the complainant tried a couple of therapy sessions but did not continue with them. The complainant was provided with crime victims' information to increase the amount of services she got. The detective may have provided the information to the complainant, or CPS may have. Chairman Allen stated that CBV could not release any information because they are bound by confidentiality. The function of CVB is to provide legal advocacy for crime victims, therapeutic and counseling services, and assistance in applying for CVB compensation.

Chairman Allen stated that the OPS recommended that the third allegation of a violation of conduct standards be closed as ***not sustained***, where the review failed to disclose sufficient facts to prove or disprove the allegations made in the complaint. Chairman Allen stated that the complainant stated she and her son's father should have been treated with respect. Chairman Allen stated that the detective stated he was never disrespectful.

Chairman Allen stated that the OPS recommended that the fourth allegation of call handling be closed as ***unfounded***, where the review showed that the act or acts did not occur. The complaint alleged that she should have been kept up to date on the progress being made on the case; the detective went out on extended sick leave after being assigned her case; and her efforts to contact him never led to another detective who could provide information on her son's case. After interviewing the suspect and reaching a dead end, the detective suggested that the complainant continue with therapy with the help of the services they were able to provide for her. The detective told his supervisors where he was with each case assigned to him. The detective's supervisors told him that there was no need for the complainant's case to be assigned to anyone else. They agreed that the investigation was at a dead end, and the complainant should go to therapy and see what happened in six (6) to eight (8) weeks when he returned from medical leave. While the detective was out on medical leave, the complainant called him on more than one occasion, and he spoke with her. The detective stated that the complainant was kept in the loop at every step in the investigation. There were things that the detective did not want the complainant to know because she might have been considered as a suspect, but when things changed she was informed. There were periods of time where things were stagnant and nothing was really

changing. Chairman Allen stated that during those periods, the detective was under the impression that the complainant followed through with her plan and sought therapy with her son which was needed at the time.

Chairman Allen stated that the OPS recommended that the fifth allegation of call handling be closed as *unfounded*, where the review showed that the act or acts in the complaint did not occur. The complainant alleged that she was advised by the detective who was collaborating with CPS, that investigating her complaint was difficult at times because the CPS worker's day ends when the detective's begins. During the course of the investigation, the detective was assigned to the 'c' shift from 4 p.m. to 12 a.m. A review of the detective having completed work during normal business hours with respect to this case revealed that he worked a total of nine (9) hours of overtime. The detective submitted overtime specifically for the complainant's case on three separate dates: August 3, 2007 from 1300 hours to 1600 hours, September 18, 2007 from 0800 hours to 1100 hours, and November 27, 2007 from 1300 hours to 1600 hours. Chairman Allen stated that there were two (2) agencies investigating the incident and it was more likely than not that they worked closely together to get to the truth of what happened to the complainant's son.

Chairman Allen stated that the OPS recommended that the final allegation of call handling be closed as *exonerated*, where the acts which provided the basis of the complaint occurred but the review showed that such acts were proper. The complainant alleged that the police have yet to speak with the grandmother. Chairman Allen reported that based on the OPS investigation, the detective stated that there was another person in the complainant's son's life, and this other person was awaiting trial for another case involving touching a young girl. The detective asked the son about this person whom the son did not seem to know anything about. The same question was posed to the alleged child suspect. The alleged child suspect stated that this male was very nice and treated him very well. The detective stated given the fact that the male was not named by any of the children as a suspect and the fact that he had a trial pending, he obviously could not talk to that male. Chairman Allen stated that the complainant cannot dictate or determine the direction of the investigation. He further stated that speaking to the grandmother would have only compromised the investigation in that she and the male remain in a personal relationship.

Monitor Richard Lenihan stated that the same detective handled another incident subsequent to this case, and the complainant did not object to him being the investigative detective on the second case which is unusual if she voiced some concerns about what he was doing originally.

Chairman Allen asked if the complainant was present. The complainant was acknowledged as being present. The complainant stated that her family was trying to move on from the incident, but her main issue is that the detective did take a medical leave as soon as the incident happened. The complainant stated

that if the detective had at least called her and told her that he was leaving for a few weeks, it would have made a huge difference. The complainant further stated that during the time that the detective was on leave, the boy who allegedly did this to her child had enough time to have fled to the city. The complainant's husband stated that the complainant was trying to protect him because they were struggling to pay bills. He stated that he was at work when the incident occurred and the complainant informed him that their son had an STD. The complainant's husband stated that he immediately came home and spoke to the woman from CPS and cooperated with the investigation which included taking an STD test. The complainant stated that although she originally lied about her son's father, she told the detective the truth about her son's father a couple of days later. The complainant stated that while the detective was respectful, he was disrespectful in the way that he handled her son's case. The complainant stated that she and her son have to live with this and her son is not a number. He is her son and she is there to fight for him. The complainant further stated she did not believe the detective did everything in his power to fight for her son. The complainant stated that she has paper work to show that she contacted CPS and that the CPS worker tried to contact the detective on several occasions but was not able to because they had different work schedules. The complainant stated that they needed to work together, even if that meant appointing another detective. At this time, she and her son were getting counseling because she did not believe that her son's case was handled the right way. The complainant's husband agreed and stated that his wife was on medication because of the stress and pressure from the incident. The complainant stated that it was not until they went into debt by hiring a lawyer that people began to pay attention to them. The complainant further stated that she sent seven letters. Deputy Chief Reilly knocked on her door in the afternoon with tears in his eyes because the letter she had sent moved him. The complainant further stated that if the case had been given the attention it deserved from the start, the alleged perpetrator could have received the help that he needed. The complainant's husband stated that their son could have been taken away from them if he did not hire a lawyer to make sure that the situation was taken care of the way that it was. The complainant added that they hired a lawyer a year and a half after the incident occurred because the investigation seemed like it was dragging. She called the detective many times and even went to the South Station, but the detective was not there, and the CPS detective did not know where he was for two weeks because the detective did not notify CPS or the complainant, which is disrespectful.

Chairman Allen stated that the case is very heartbreaking, and he is sure there are many details which he was not privy to and records he could not review. Chairman Allen stated the purpose of the Board is to ensure that the case was fully investigated by the OPS. Chairman Allen explained that because of the allegations in the complaint, the Board had appointed independent monitor, Richard Lenihan to also write a report. Chairman Allen stated that there was quite a bit of due diligence in this investigation in terms of the complainant's allegations about the conduct of this case. He stated that the Board cannot weigh

in on what transpired in the investigation. Chairman Allen asked if there were any questions from the Board. It was noted that there were no questions.

Chairman Jason Allen moved to concur with the OPS finding of *unfounded* with regard to the first call handling allegation. Andrew Phelan seconded the motion. The motion carried unanimously.

Chairman Jason Allen moved to concur with the OPS finding of *not sustained* with regard to the second call handling allegation. Andrew Phelan seconded the motion. The motion carried unanimously.

Chairman Jason Allen moved to concur with the OPS finding of *not sustained* with regard to the third allegation of a violation of conduct standards. Anthony Potenza seconded the motion. The motion carried unanimously.

Chairman Jason Allen moved to concur with the OPS finding of *unfounded* with regard to the fourth allegation, call handling. Andrew Phelan seconded the motion. The motion carried unanimously.

Chairman Jason Allen moved to concur with the OPS finding of *unfounded* with regard to the fifth allegation, call handling. Andrew Phelan seconded the motion. The motion carried unanimously.

Chairman Jason Allen moved to concur with the OPS finding of *exonerated* with regard to the final allegation of call handling. Andrew Phelan seconded the motion. The motion carried unanimously.

CPRB No. 48-08/OPS No. C08-451 (Presented by Chairman Jason Allen)

Chairman Allen summarized the complaint. Chairman Allen reported that the complaint was received on July 16, 2008. The complainant alleged use of force. Chairman Allen further reported that monitor Allen Lawrence was assigned to the case. The incident occurred on June 12, 2008 at 8:31 p.m. Chairman Allen stated that the complainant alleged that she had no names of the officers because her son could not see their badges when they interrogated him about a shooting that occurred on Central Avenue and North Lake Avenue. The complainant further alleged that her son was treated unfairly, unlawfully, his rights were not read, and the right to the presence of an attorney was not given as were his civil rights as a resident of the City of Albany. The complainant claimed that her son was at the scene when the police randomly grabbed him and his cousin and hauled them down for questioning. According to the complainant, the police said that the suspect had on a black shirt with yellow. The complainant alleged that her son was slapped around and knocked out of his chair during questioning. Although her son repeatedly told them that he knew nothing, they persisted on hitting and shoving him. The complainant's son is a severe hemophiliac, so he was bruised. The police interrogated the complainant's son from 8:30 p.m. to 3:00 a.m. The

police took his shirt at 3:00 a.m. after he had it on during the whole interrogation saying that they were going to have it tested for gun powder residue. The complainant alleged that the police said they would give him a ride. The complainant further alleged that when her son and the officers went outside the officers told her son to "Get the f**k out of our face. When we see your little friend, we are going to tell him that you snitched on him so he can get released, and shoot your dumb black a**. If you f**k with us, we'll f**k with you. I can get one of your homies to turn on you and shoot your stupid a**."

Chairman Allen stated that he read the confidential report. He noted that there had been a previous complaint on April 23, 2008 by the same complainant for an incident on May 23, 2007. The CPRB voted unanimously not to accept or review this case because it was a year old. Chairman Allen reported that the OPS made many efforts to contact the complainant that included two certified letters, and two rounds of phone calls met with busy signals or unanswered voice mails. Chairman Allen stated that he also reviewed the incident report and the delivered receipt statements from the post office; the most recent one on October 27, 2008.

Chairman Allen stated the OPS recommended that the use of force allegation be closed as ***no finding***, where the complainant failed to produce information to further the investigation. Based on the OPS investigation, the complainant and her son failed to clarify the complaint, despite repeated unsuccessful attempts to contact them via both phone and certified letters. The complainant offered no cooperation to the OPS in reference to addressing the complaint filed by the complainant; therefore a complete investigation could not be conducted at this time. The complainant had no direct knowledge as to what occurred because she was not present at the time of the incident and could offer no assistance in reference to this investigation.

Chairman Jason Allen moved to concur with the OPS finding for the use of force allegation as ***no finding***. Marilyn Hammond seconded the motion. The motion passed unanimously.

CPRB 75-08/OPS No. C08-724 (Presented by Jean Gannon)

Jean Gannon summarized the complaint. Ms. Gannon stated that a fight broke out in front of Sadie Klutz's Bar on Madison Avenue. A knife was dropped, and the complainant allegedly picked it up and walked to the officer's car. Ms. Gannon stated that someone ran up and told the officer that the complainant had a knife. From that point on, the complainant alleged that he was slammed against a minivan repeatedly, and every word out of his mouth was another hit to his body. Even when asked a question, the complainant alleged that he was not free to speak. The complainant further alleged that his ID card was taken from him and never returned. The complainant claimed that the officer told him if he saw him again under any circumstances, there would be consequences. According to the complainant, he had pain on his face, knees, feet, hands and the back of his head.

According to the complainant, street and police cameras will prove his allegations.

Ms. Gannon reported that she reviewed the Citizen's Complaint form received by the GLC on November 6, 2008, the OPS Confidential Report in which calls to the complainant and his witness were made but were unsuccessful as well as calls to a third person which were unsuccessful, the Monitor's Report, the letter to the complainant dated July 22, 2009 and sent by the OPS, the returned receipt from the post office dated July 29, 2009, the Call Ticket, the Field Interview Card for the complainant, the Field Interview Card for a person involved with the complainant, and the Unit Activity Sheet. Ms. Gannon stated that after reviewing the information it was clear that there were repeated attempts to contact her and in person. Ms. Gannon further stated there were attempts made to contact the complainant's son, the son's witness and the other person involved in the situation and all attempts were unsuccessful.

Ms. Gannon reported there were five (5) cars that responded to this call, one (1) initial car and four (4) backups. The earliest arrived at 1:48 a.m. and the last cleared at 1:59 a.m. Ms. Gannon stated that this was not an extended call. There were no street or police cameras in use at the time of the incident. Ms. Gannon further stated that based on the OPS investigation, there was insufficient information for the OPS to conduct a more complete investigation due to the lack of cooperation by the complainant and his witness. Ms. Gannon acknowledged that monitor Joel Pierre Louis was appointed to the complaint. Mr. Pierre Louis stated that he had nothing to add.

Jean Gannon moved to concur with the OPS finding for the use of force allegation as *no finding*, where the complainant failed to produce information to further the investigation. Andrew Phelan seconded the motion. The motion passed unanimously.

CPRB No. 1-09/OPS No. C08-841 (Presented by Anthony Potenza)

Anthony Potenza stated that the complaint consisted of two conflict/call handling allegations and one of conduct. He further stated that no monitor was assigned to the case.

Mr. Potenza summarized the complaint. The complainant alleged that officers responded to a domestic call. According to the complainant, during a disagreement between her daughter and son-in-law, she was grabbed by her ankle and pulled all the way outside to the street. She alleged that the officers were not nice. The complainant claimed that the officers talked to her daughter and son-in-law and wrote up a false report that she fell on the ice. She further alleged that the officer did not assist her at all and that she asked for an ambulance before the officers finally called EMS. She alleged that an officer told her to get up really "nasty."

Mr. Potenza reported that he reviewed the citizen complaint form, the OPS Civilian Complaint Report documentation, and the OPS Confidential Report which documented and substantiated the events which led up to the matter. Mr. Potenza stated that the complainant alleged that she was grabbed by her ankles and pulled outside of her residence, the officers were not nice to her ("nasty"), the officers wrote a false report that the complainant fell on the ice rather than being dragged across the ice down the steps, the complainant requested an ambulance then the police officers called EMS, and the complainant was transported to the hospital by ambulance.

Mr. Potenza stated that in the Domestic Incident Report there was a statement by the complainant's daughter that her mother, the complainant, came up from Mt. Vernon to start trouble because the complainant's daughter's brother got arrested that night. Mr. Potenza further stated that the complainant's daughter and her husband asked the complainant to leave but she refused, so the complainant wanted to get her daughter's husband arrested. The complainant's daughter admitted that her mother, the complainant, slipped on the ice on the way out.

Mr. Potenza reported that he read the Intra-Departmental Correspondence (IDC) from the officers, and the Hospital Discharge Report which revealed that the complainant had a sprained ankle and was given instructions for care. Mr. Potenza further reported that he inspected the Albany Police Department Call Tickets which stated that the complainant's daughter said that her mother, the complainant, was "bugging out." Mr. Potenza stated that upon the complainant slipping on the ice which covered the stairs, the APD/EMS report stated that the complainant was moved to a stretcher and taken to St. Peter's Emergency Room. Mr. Potenza stated he also reviewed the emergency room records.

Mr. Potenza stated that the OPS recommended that the call handling allegation be closed as **unfounded**, where the review showed that the allegations made in the complaint did not occur. The complainant alleged that the officers were not nice and after they talked to her daughter and son-in-law, they wrote a false report that the complainant fell on the ice. Mr. Potenza reported that based on the OPS investigation, the narrative on the call ticket for the incident stated that the mother was "bugging out" which would have been reported by the caller, complainant's daughter, and documented by the dispatcher. The officers would have spoken with the caller as she was the complainant. Two officers arrived at the scene. One officer spoke to the complainant while the other entered the residence to speak with the daughter and son-in-law. The officer interviewed the complainant with respect to her injuries, and the report generated included the allegations made by the daughter and son-in-law.

Mr. Potenza stated that what was evident was that the complainant arrived at the residence unexpectedly, and started a verbal argument in her daughter's home. Based on their preliminary investigation, coupled with their observation of the

significant amount of ice on the steps, which was verified through researching the case, there was no indication that the complainant was dragged through the snow. The officers' documented their accounts of the incident.

Mr. Potenza stated 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 the officers did not assist her. Based on the OPS investigation, the officers on the scene assisted the complainant with respect to her injury by requesting EMS approximately ten (10) minutes after arriving at the scene. Mr. Potenza further stated that this was substantiated in the documentation regarding the call made to EMS, who responded to treat the complainant, and later transported her to St. Peter's Hospital for further treatment.

Mr. Potenza stated the OPS recommended that the violation of conduct standards allegation be closed as *unfounded*, where the review showed that the allegations made in the complaint did not occur. The complainant alleged an officer told her to get up "real nasty." Based on the OPS investigation, both officers stated that at no time was the complainant addressed in a "nasty" manner. Mr. Potenza stated this was further substantiated by the complainant's daughter and the responding APD personnel.

Anthony Potenza moved to concur with the OPS finding of *unfounded* for the first call handling allegation. Marilyn Hammond seconded the motion. The motion passed unanimously.

Anthony Potenza moved to concur with the OPS finding of *exonerated* for the second call handling allegation. Marilyn Hammond seconded the motion. The motion passed unanimously.

Anthony Potenza moved to concur with the OPS finding of *unfounded* for the violation of conduct standards allegation. Chairman Jason Allen seconded the motion. The motion passed unanimously.

CPRB No. 17-09/OPS No. CC2009-026 (Presented by Andrew Phelan, Jr.)

Andrew Phelan stated that the incident occurred on March 31, 2009. He further stated that he reviewed the case at the OPS the first week in September 2009.

Mr. Phelan summarized the complaint. The complainant alleged that two parties came to her house and called her on the phone telling her that they were out front. She further alleged that she went to sleep because she was on medication for her back and awoke to find two police officers and one other party in her house. The complainant further alleged that when she asked the officers how they got in, the officers told her that a locksmith let them in. The complainant claimed that the officer called her on March 29th, asked her what time she would be home, and

explained to her that her boyfriend needed to get his belongings. The complainant alleged that the officer stated that the boyfriend had been staying at his mother's house since March 8, 2009 and needed some clothes. According to the complainant, the officers had no right entering her apartment. She alleged that they damaged her lock and door. They are responsible for the money that she had to pay the landlord on April 3, 2009 for the damage to the door and the lock. She further alleged that the officers paid the locksmith to open the front door of her apartment.

Mr. Phelan reported that the complaint consisted of three call handling allegations. The complainant alleged that the officers damaged her door and lock. Based on the OPS investigation, the Domestic Incident Report filed by the complainant indicated that her boyfriend was arrested for damaging the door to her apartment. Mr. Phelan stated that in a statement written in the same report, the complainant stated "I tried calling 911 but he broke the phone and he kept on hitting the door. He did not have keys at all to my house and being that I didn't want to let him in he kicked the door and now my room door has two holes. I just need him to pay for what he did to my house and my car." Mr. Phelan further reported that the landlord stated that the complainant called her and told her that her boyfriend kicked the door in, damaged the door, and she needed it fixed. Mr. Phelan reported that the maintenance worker stated that the complainant told him that her boyfriend kicked the door in causing the damage. Mr. Phelan stated that the statement given by the locksmith and the officers was that at the time they were there, there was no damage to the door. Mr. Phelan stated that the complainant's boyfriend stated that the officer did not kick or damage the door, and there was no forced entry.

Mr. Phelan reported that with respect to the second call handling allegation, the complainant alleged that the officers paid a locksmith to open the door. Mr. Phelan stated that based on the OPS investigation, the locksmith stated that he received a call from the complainant's boyfriend in reference to a service call. The boyfriend indicated that he was locked out of his residence and needed a locksmith to gain access. The locksmith was paid by the boyfriend's mother a few days after the day of service. The boyfriend stated that he had hired the locksmith so he could gain access to his apartment, and his mother paid for the services.

Mr. Phelan reported that with respect to the third call handling allegation, the complainant alleged that the officers had no right to enter her apartment. Mr. Phelan stated that based on the OPS investigation, an officer indicated that he was familiar with the boyfriend and the situation, and that it was his residence. The officer was one of the arresting officers of the boyfriend when he was alleged to have damaged the apartment door. Mr. Phelan stated that it was determined at the scene that day that the boyfriend resided in that apartment. Based on the OPS investigation, the boyfriend told the OPS that he was living at the residence. The boyfriend told the officers at the scene that it was his residence and that he was

instructed by the court to retrieve his items accompanied by the police. Mr. Phelan stated that this is a common practice in instances where a temporary order of protection is issued by the court. The judge issued a temporary order of protection for the boyfriend to stay away from the apartment. Mr. Phelan stated that the boyfriend is afforded the right to retrieve his belongings with the accompaniment of police. Mr. Phelan further stated that the boyfriend was not evicted from the apartment because such an eviction could only be obtained by the Albany County Sheriff's Department or by the landlord. Mr. Phelan stated that according to the landlord, the boyfriend was not on the lease, however, he clearly established residency there by sleeping there regularly and maintaining the apartment as his residence.

Mr. Phelan reported that several attempts were made by the officers to contact the complainant inside the apartment by knocking on the front and rear doors. Mr. Phelan further reported that the power and gas were turned off at the home. This was confirmed by the locksmith who stated that when he attempted to turn on the lights, there was no power. Mr. Phelan stated that there was no way to tell whether the complainant was home or whether the residence had been abandoned. Mr. Phelan further stated that the boyfriend had the right to enter the apartment to gather his belongings. According to the officers, once inside, he obtained his belongings and everyone involved left the apartment.

Andrew Phelan moved to concur with the OPS finding of *unfounded* for the first call handling allegation. Marilyn Hammond seconded the motion. The motion carried unanimously.

Andrew Phelan moved to concur with the OPS finding of *unfounded* for the second call handling allegation. Chairman Jason Allen seconded the motion. The motion carried unanimously.

Andrew Phelan moved to concur with the OPS finding of *exonerated* for the third call handling allegation. Marilyn Hammond seconded the motion. The motion carried unanimously.

CPRB 34-09/OPS No. CC2009-062 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. The complainant alleged that as she poured a cup of coffee, she was asked by a short, Caucasian male with sandy brown hair, "Is that your music playing?" She replied yes. The complainant further alleged that the man stated that children were outside the store. The complainant replied that when she entered the store there were no children outside. The complainant claimed that the man stated that she should not be listening to this type of music and profanity. The complainant asked the man who he was to tell her what to listen to. The complainant alleged that the man then was very loud and arrogant. The complainant further alleged that the officer pulled out his badge and stated, "I can tell you what to do, you idiot." According

to the complainant, she told the officer to call the police if he did not like it and thought she was doing anything illegal. The complainant alleged that she walked out of the store, and the officer followed her to her vehicle and continued to call her an “idiot” and “f**king moron.” The complainant further alleged that the man leaned on her car with his hands and upper body and continued to call her names.

Ms. Hammond reported that the OPS attempted to identify the officer, and a witness was interviewed. The witness was an employee in the store. Ms. Hammond further reported that the OPS’s finding was *no finding* because the officer was from the Mt. Vernon Police Department.

Ms. Hammond reported that the OPS made several unsuccessful attempts to contact the complainant. Ms. Hammond stated that the complainant was sent registered letters on July 21st, 23rd and 24th. The letters were being forwarded to the Mt. Vernon Police Department.

Ms. Hammond stated that the OPS recommended that the violation of conduct standards allegation be closed as *no finding*, where the investigation revealed that another agency was responsible and the complaint or complainant has been referred to that agency. Ms. Hammond stated that based on the OPS investigation, upon review of the video surveillance, it was learned that the officer in the video was not a member of the APD but is employed by the Mt. Vernon Police Department. Ms. Hammond stated that the Mt. Vernon Police Department Internal Affairs was contacted and the complaint was forwarded to them.

Chairman Jason Allen stated that the other board members had not received the complaint in their packets but that he had heard the complaint before and understood what Ms. Hammond had just said. Chairman Allen asked if the other board members were comfortable with not seeing the complaint again and they answered in the affirmative.

Marilyn Hammond moved to concur with the OPS finding of *no finding* on the violation of conduct standards allegation. Chairman Jason Allen seconded the motion. The motion carried unanimously.

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

The following Board members were appointed to the Committee on Complaint Review for December 2009: Chairman Jason Allen, Jean Gannon, Marilyn Hammond, Andrew Phelan, Jr. and Anthony Potenza.

C. Committee/Task Force Reports

By-Laws and Rules

Committee Chairman Jason Allen reported that the only item was the sixty (60) day standard on the cycle for complaints. He stated that the OPS is gathering data on how long it really takes to process complaints. Chairman Allen further reported that Coordinator of the Board Sharmaine Moseley is benchmarking other municipalities to further rationalize and justify what direction the Board should move in.

Community Outreach

Chairman Jason Allen stated that Committee Chairman Reverend Edward Smart was not present to report. Ms. Moseley added that the Government Law Center (GLC) staff is in the process of scheduling outreach meetings.

Mediation

Committee Chairman Jason Allen reported that the Board was trying to schedule a meeting for the following week to discuss the mediation protocol. He stated that the APD wanted to review the protocol again. Chairman Allen further stated that it is a “win-win” for everyone in those cases where it is better that the complainant sit down with the officer and the complaint not investigated.

Policy Review Recommendations

Committee Chairman Andrew Phelan stated that he had not attended the meeting. Chairman Allen stated that the SOP for the early warning system would be ready at the end of the week and the cameras will be in vehicles soon. Commander Ronald Matos stated that forty-seven (47) vehicles will be equipped with cameras. Reserve vehicles would not be equipped, but as cars are retired, the equipment will be recycled through. Chairman Allen stated that the cameras, the SOP, and the mediation program are still initiatives that may take a long meeting or three (3) separate meetings.

Public Official Liaison

Chairman Jason Allen stated that members of the Committee met with the Deputy Mayor the other day. Chairman Allen apologized that he was not able to make it in person but was able to be conferenced in via phone. He stated that it sounded like the meeting went well, and he is looking forward to good progress.

Task Force on Monitors

Task Force Chairperson Jean Gannon reported that the Mayor approved the list of monitors. She further reported that Board Counsel Patrick Jordan will be reaching out to the Common Council’s Public Safety Committee before next week’s meeting to give them the monitors’ resumes. Ms. Moseley stated that the

meeting with the Public Safety Committee is scheduled for November 18, 2009 at 5:30 p.m.

D. Report from the Government Law Center

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

Complaint Inventory as of Date of Meeting

It was reported that as of today, there are currently fifty-two (52) active complaints before the Board for review. Of those fifty-two (52) active complaints, six (6) were reviewed at tonight's meeting which leaves the Board with forty-six (46) active complaints. Out of those forty-six (46) active complaints, six (6) possibly seven (7) are ready to go to the agenda for review.

It was further reported that three hundred and fifty-one (351) complaints have been closed. The total number of complaints that remain suspended for review is eleven (11). The total number of complaints filed to date is four hundred and eight (408).

It was reported that since the Board's last meeting, the GLC has received eleven (11) grievance forms. The total number of grievance forms received to date is one hundred and nineteen (119). In response to the GLC's outreach to all one hundred and nineteen (119) individuals, the GLC has received twenty-eight (28) CPRB complaint forms.

Chairman Jason Allen asked Ms. Moseley how many minutes are spent calling and sending letters to each complainant. Ms. Moseley replied that reading the script would take approximately five (5) minutes, and sending the letter would take approximately two (2) - three (3) minutes. Ms. Moseley stated that it takes fifteen minutes to half an hour for each complainant when waiting for someone to call back.

Board Vacancies

It was reported that the Board currently has two (2) vacancies. Last month, the GLC received a letter of resignation from Board member John Paneto effective immediately, so Mr. Paneto is no longer a member of the Board. It was further reported that the GLC sent a letter to the Mayor and Common Council regarding the re-appointments of Jean Gannon, Reverend Edward Smart, and also requesting that they fill the vacancies left by Daniel Fitzgerald and John Paneto. Ms. Moseley stated that she would send a follow-up letter to the Mayor regarding the re-appointment of Andrew Phelan as well.

APD Ride-alongs

It was reported that the GLC sent an email to the Board earlier today regarding scheduling ride-alongs and asked that board members respond as soon as possible. This would fulfill the Board's continuing education into the police community relations requirement under the CPRB legislation. Chairman Allen requested that Ms. Moseley send out an email with the necessary form.

NACOLE Conference

It was reported that last week Ms. Moseley and Board member Marilyn Hammond attended the conference. It was further reported that a flash drive with the information from the conference was included in the Board members' packets for this meeting.

Marilyn Hammond stated that she was trying to get in touch with the individual who is trying to start up a regional NACOLE Conference from Cambridge. She stated it would be a great idea to have a regional conference for the Northeast.

Chairman Jason Allen asked if they had seen a lot of things at the meeting they wished the Board did. Ms. Hammond stated that she spoke a lot about mediation because the Board still does not have a program. Nationally, the program is effective. The Board should have the mediation program up and running by now. Ms. Hammond stated she has an issue with the fact that no one from the city administration or from the APD attended the conference because there is a lot of information to be gleaned from the conference. At least fifty (50) percent of the attendees were officers. Ms. Hammond further stated that Albany need to send more than just Board members to these conferences.

Chairman Allen asked where and when the conference is for next year. Ms. Hammond stated that it will be in Seattle, Washington from September 15th - September 18th.

Upcoming Meetings

It was reported that the next Board meeting is scheduled for December 10, 2009 at the Albany Public Library.

E. Report from the Office of Professional Standards

Commander Ronald Matos stated that the SOP for the Early Warning System is very close to being completed. The training system is going to be put in place for the system as well as the cameras. A company called Insight would be in on December 16, 2009 to work with the Albany Police Department for about a week and should have the system up and running. The APD should be ready to

demonstrate the system soon. Commander Matos further stated that someone made a mock-up that can be carried from room to room to demonstrate the system and will show all the wiring and the components that are involved. When the APD and the Board meet to discuss mediation, they can demonstrate the system at that time.

Chairman Allen stated that they may want to focus on mediation only with union leadership, and then discuss the system at another time to learn how the tools will help both the Board and the APD.

Commander Matos stated that the Board asked about turnaround times in completing investigations. Commander Matos further stated that he looked at the 2008 numbers and it appears that it takes about four and a half months or so for the OPS to complete its investigations. Commander Matos further stated that he met with the department analysts who are going to take the data and draft a report that he will present to the chief. They will be looking at cases at different times of the year and see how long the turnaround time is.

F. Report from the Chair

Chairman Jason Allen reported that the Board has a meeting with the Public Safety Committee on November 18, 2009. Jean Gannon stated she could not attend the meeting. Chairman Allen stated that the Board received a letter of suspension from the Mayor that CPRB No. 35-09 is suspended due to an Albany County District Attorneys' Office investigation.

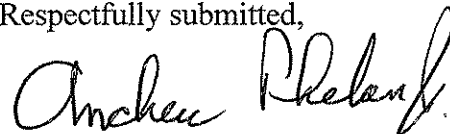
IV. Public Comment

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

V. Adjournment

Chairman Jason Allen moved to adjourn the meeting. Marilyn Hammond seconded the motion. The motion carried unanimously. The meeting adjourned at 7:20 p.m.

Respectfully submitted,

A handwritten signature in black ink, reading "Andrew Phelan, Jr." in a cursive style.

Andrew Phelan, Jr.
Secretary