

**City of Albany
Citizens' Police Review Board
Albany Public Library
161 Washington Avenue- Large Auditorium
May 13, 2010
6:00 p.m. – 8:00 p.m.**

Present: Jason Allen, Marilyn Hammond, Andrew Phelan, Jr., Reverend Edward Smart and Akosua Yeboah.

Absent: Ronald Flagg, Jean Gannon, and Anthony Potenza.

I. Call to Order and Roll Call

Chairman Jason Allen called the meeting to order at 6:15 p.m.

II. Approval of the Agenda

The agenda was reviewed. Reverend Edward Smart moved to approve the agenda. Akosua Yeboah seconded the motion. The motion carried unanimously.

III. Approval of the September 10, 2009, October 22, 2009, November 12, 2009, January 14, 2010, and February 18, 2010 Meeting Minutes

Chairman Jason Allen asked for a motion to table the review of the previous months' minutes. Chairman Jason Allen noted that Akosua Yeboah abstained from voting because she had just joined the board and was not present at those meetings. He further noted that with Ms. Yeboah abstaining from voting, there was no quorum. Marilyn Hammond moved to table the minutes. Andrew Phelan seconded the motion. The motion carried unanimously.

IV. New Business

A. *New Complaints*

1. New Complaints Received since the March 11, 2010 Meeting

Chairman Jason Allen reported that thirteen (13) new complaints were received by the Board since the March 11, 2010 meeting. Chairman Jason Allen moved to waive the reading of the new complaints. Reverend Edward Smart seconded the motion. The motion carried unanimously.

2. New Complaints for Review

CPRB No. 19-09/OPS No. CC2009-031 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. Ms. Hammond reported that the complainant alleged that she went to Sally's Beauty Supply store to return an item. The police responded to a civil matter between the complainant and the store clerk. The complainant alleged that the officer accused her of wrongdoing and threatened to arrest her, stating that "in two minutes you will be taken downtown for disorderly conduct." The complainant further alleged that the officer was rude to the complainant by raising his voice at her. The complainant claimed that when she left the store, the officer had her item and her receipt. The complainant further claimed that the police still possess these two items. The complainant alleged that the police supervisor did not properly handle her complaint by not returning her phone calls. The call came in at 6:28 p.m. from Sally's on April 18, 2010.

Ms. Hammond reported that she reviewed the Albany Police Department's Inter-Departmental Correspondence (IDC), which stated that the store clerk gave two (2) statements. Another IDC stated that on April 23, 2009, an officer went to Sally's to interview the store manager who had received a phone call from her employee, the store clerk, on April 18, 2010, regarding the complainant. Ms. Hammond further reported that on April 27, 2010, an IDC was submitted that showed that when the complainant went to Center Station at 7 p.m. on April 18, 2010, she was told to make a complaint when she asked to speak to the supervisor. On April 30, 2010, there were more IDC's submitted. Ms. Hammond reported that on May 10, 2010, a detective called the complainant and left a message on the complainant's machine. On May 6th, there were written statements taken from the store employees and monitor Albert Lawrence was present. The store clerk stated that she and another store clerk were present for the monitor's visit. On May 7, another detective interviewed the complainant by phone and set up an appointment for another interview for May 13. Ms. Hammond noted that there was an audio recording of that interview on file. On May 13, a detective called the complainant to confirm the appointment and the complainant had to reschedule the interview for May 15. On May 15, the detective called the complainant to verify the interview time and the presence of the monitor. Ms. Hammond reported that she reviewed the IDCs, and the field investigation papers and reports.

Marilyn Hammond summarized the finding of the OPS on the allegation of violation of conduct standards as *unfounded*, where the review showed that the allegations made in the complaint did not occur. Ms. Hammond reported that the complainant alleged that an officer kept her item. Based on the OPS investigation, the officer stated that he attempted to return the item to the complainant and told her that if she wished to return the item, she would have to come back to the store and handle the transaction with the manager. The complainant stated that she did not want the item back. A store employee stated that one of the officers had the bag containing the item and as the complainant left the store, the officer said to the complainant "Ma'am here is your stuff." The complainant ignored the

officer and continued to walk away. The employee stated that the officer gave the bag to another employee, and that employee placed the bag on the counter. The other employee verified that the officer attempted to give the complainant her bag back. The complainant ignored him, so the officer then gave the employee the bag. The employee also stated that the item was left behind the counter at the store, and the complainant eventually was able to return her item and receive her refund. Ms. Hammond reported that she read both interviews conducted by the monitor of the two witnesses. She stated that since there were two witnesses, she concurred with the OPS that the conduct was *unfounded*.

Chairman Allen asked the monitor Al Lawrence if he interviewed the complainant and both store witnesses. Mr. Lawrence replied in the affirmative.

Reverend Smart asked how the argument started. Ms. Hammond replied that the complainant started the argument with the clerks. Reverend Smart asked why the complainant started the argument. Mr. Lawrence replied that the complainant was asking for a refund, and the store clerks had asked for a telephone number to process the return. The complainant told the clerks that she did not have a telephone. The store clerks called the manager regarding the refund, and the manager told the clerks to ask the complainant to come back when the manager was available. The complainant stated that she would not come back to the store and refused to leave the store when asked. Mr. Lawrence further stated that the complainant stayed at the store until closing time, and when the clerks told her the store was closing and she had to leave, she refused to do so. The clerks then called the police.

Reverend Smart noted that the refund was for \$5.29. Reverend Smart asked why the store would not just refund the \$5.29. Mr. Lawrence stated that it was the store policy to ask for a telephone number to process a refund. The clerks could not process the refund on the computer without a telephone number. The monitor stated that when the police arrived, they attempted to mediate the situation and asked the clerks if they could use a generic phone number to process the refund. The complainant then gave a number which the clerks stated they could not use.

Reverend Smart asked if the complainant was arrested. Ms. Hammond replied that the complainant had not been arrested, and she eventually got her refund. Mr. Lawrence stated that the complainant also received a \$25 gift certificate from the store.

Akosua Yeboah stated that she thought the complaint alleged mistreatment by the officers, not the store. Chairman Allen asked if there were four allegations in the complaint. Ms. Hammond replied that there were four allegations. Chairman Allen stated that he would like to go through the allegations one at a time.

Marilyn Hammond moved to concur with the OPS finding on the first allegation of violation of conduct standards as ***unfounded***. Reverend Edward Smart seconded the motion. The motion carried unanimously.

Marilyn Hammond moved to concur with the OPS finding on the second allegation of violation of conduct standards as ***exonerated***. Chairman Jason Allen seconded the motion. The motion carried unanimously.

Marilyn Hammond moved to concur with the OPS finding on the third allegation of violation of conduct standards as ***exonerated***. The complainant alleged that the officer threatened to arrest her. Based on the OPS investigation, the witness stated that the officer asked the complainant to calm down and the complainant yelled “you are not talking to me, who are you?” Chairman Jason Allen seconded the motion. The motion carried unanimously.

Marilyn Hammond moved to concur with the OPS finding on the allegation of call handling as ***sustained*** where the complainant alleged that the supervisor did not properly handle her complaint. Akosua Yeboah seconded the motion. The motion carried unanimously.

CPRB No. 27-09/OPS No. CC2009-0-046 (Presented by Reverend Edward Smart)

Reverend Edward Smart summarized the complaint. Reverend Smart noted that the allegation listed by the complainant was incomplete because the bottom part of the pages were missing, and the OPS was unable to get an accurate account of the complaint. Reverend Smart reported that he reviewed the following documents: Certified Mail Receipts in which the OPS tried to reach the complainant, dated September 23, 2009, July 27, 2009, and June 25, 2009, to which the complainant did not respond; Arrest Records dating May 20, 2009 and April 16, 2009; Confidential Reports dated December 12, 2009; Citizen Complaint Form; and Uniform Traffic Tickets #513, #542 and #6964.

Reverend Smart summarized the finding of the OPS on the allegation of call handling as ***no finding***. The complainant alleged that he was harassed by officers. Based on the OPS investigation, the complainant was unable to clarify the complaint. Reverend Smart noted that it was unclear how the complainant was harassed because the bottom portion of the three (3) page complaint was missing. The complaint was hard to understand because of incomplete sentences, and the timeline of events was out of order. Reverend Smart reported that the OPS made numerous attempts to contact the complainant by telephone and mail to clarify his complaint. The OPS received no response from the complainant.

Reverend Edward Smart moved to concur with the OPS finding of *no finding* on the allegation of call handling. Marilyn Hammond seconded the motion. The motion carried unanimously.

CPRB No. 49-09/OPS No. CC2009-114 (Presented by Andrew Phelan)

Andrew Phelan summarized the complaint. Mr. Phelan stated that the complainant alleged two counts of violation of conduct standards, and the incident occurred on November 1, 2009. The complainant alleged that an officer came to her residence and asked her children if the person in the apartment who owned the truck was home. The complainant called the South Station and asked if there was a problem. She further alleged that the police officer called her on the other line asking her if anyone had her truck. She alleged that the officer threatened her by stating "You want to play games?" and that he would throw her in jail and take her truck. The complainant alleged that the officer told her that when they saw her they would take her truck, and she would have to pay. The complaint further alleged that the complainant asked what she would have to pay for, and the officers told her to tell them what they asked. The complainant claimed that they forced her pay for towing and garage costs. The complainant was fearful, so she went to Internal Affairs at the South Station for information, and no information was given. The complainant alleged that she feared for her life and being attacked by the officers who forced her to lie.

Mr. Phelan reported that based on the OPS investigation, the incident occurred when witnesses called the police. The witnesses saw the complainant's truck being used in a crime to run a male subject over. As a result, the officer responded and a preliminary investigation revealed the model, make, and license plate number of the vehicle registered to the complainant. Mr. Phelan further reported that the complainant did not cooperate with the officers when they asked who had possession of the vehicle at the time of the incident. The officers scheduled a time with the consent of the complainant for her to come to the station, but the complainant did not show. Mr. Phelan reported that the officers obtained pertinent information from independent witnesses regarding the complainant's vehicle, which caused the officers to seize and impound the vehicle. The complainant's lack of cooperation with the investigation raised questions about her knowledge about what had occurred. Mr. Phelan stated that the officers were justified in contacting the complainant, and the line of questioning was deemed to be within the scope of the investigation. Mr. Phelan also stated that when officers told the complainant that if her vehicle was found that it would be towed and impounded, and she would have to pay the charges that this was an actual fact, not a threat. The vehicle was and remained as evidence to be used in a possible future prosecution.

Mr. Phelan reported that in regard to the second allegation of violation of conduct standards, the investigating officer attempted to contact the complainant and meet with

her shortly after the incident. The complainant agreed to meet with the officers at the station, but she failed to show. Based on the OPS investigation, if the complainant met with the officers she would have had a form of the circumstances of the incident. Mr. Phelan reported that with respect to the complainant attempting to find out information from the OPS, the reporting detective was not at liberty to discuss ongoing circumstances to prevent compromising the investigation.

Mr. Phelan noted that the complainant was not present. Chairman Allen asked if the complainant had been arrested. Mr. Phelan replied that he did not believe that the complainant had been arrested. Chairman Allen asked if the officer had denied speaking to the complainant in the manner alleged. Chairman Allen stated that he believed that the statements seemed to be rationalized instead of denied. Commander Matos stated that the officer denied the threat of arrest, but did not deny that he scheduled a meeting with the complainant at the South Station for further investigation.

Andrew Phelan moved to concur with the OPS finding of *unfounded* as to the first allegation of violation of conduct standards. Reverend Edward Smart seconded the motion. The motion carried unanimously.

Andrew Phelan moved to concur with the OPS finding of *unfounded* as to the second allegation of violation of conduct standards. Chairman Jason Allen seconded the motion. The motion carried unanimously.

CPRB No. 53-09/OPS No. CC2009-117 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. Ms. Hammond stated that the complainant alleged that he was discriminated against by an officer. The incident occurred on or about September 2005 when the complainant started to inquire about a taxi cab medallion. The complainant alleged that he received information from City Hall that the officer had the medallion applications in his office, and the only way to get an application was from the officer. The complainant further alleged that he asked the officer for an application and the officer told him that they were located at City Hall and he needed to get copies made. The complainant claimed that the officer told him that they were in transition from City Hall to his office, and that the economy cannot stand anymore cabs, so there was no need to give out applications. The complainant alleged that after going to the officer's office once a week for a year, the officer gave him an application and told the complainant to "take his time with it." The complainant further alleged that in November 2007, he was told that he was the first on the list, and it would not be until January 2008. According to the complainant, he submitted his application on November 5, 2007. In January 2008, the complainant alleged that the officer gave ten (10) medallions to two (2) other cab companies and it is alleged that the officer gave the complainant the following reasons for skipping him: the Common Council put a freeze

on giving out medallions, the Common Council stated that the medallions were to be given out only to companies that already had medallions, the Common Council scheduled a meeting with the officer, but it was canceled due to vacations, the economy cannot stand any more cabs unless the companies put them out. The complainant alleged that when he asked how he could question the procedure, he was told that the medallions belonged to the Albany Police Department and that the officer could give the medallions out to whomever he wanted, and there was no way to question the procedure. The complainant further alleged that in June and July 2009 Common Council President Carolyn McLaughlin told him that everything the officer told him was a lie. The complainant alleged that he was informed by Ms. McLaughlin that there were never any meetings scheduled and there was never any contact between the Common Council and the officer about medallions. The complainant further alleged that he had been lied to and mislead for over two years, and the behavior by the officer was very unprofessional.

Ms. Hammond reported that she reviewed the following documents; an IDC report completed by the Chief dated December 15, 2009, which stated that the officer had received an Albany County Safety Awareness Committee award recognizing excellence in his 38 years of duty in overseeing the licensing of taxi cabs and towing operations; an IDC report dated December 23, 2009 that was sent to the office regarding the officer; on January 5, 2009, the detective attempted to contact Ms. McLaughlin for clarification concerning a message that the complainant left; on January 11, 2009, the detective conducted a telephone interview with witnesses listed by the complainant. Ms. Hammond stated that the witnesses were unaware of why they had been listed because one of the witnesses already had a medallion, and the other was waiting for his medallion. Ms. Hammond further stated that she reviewed a letter at the county clerks' office dated March 12, 2009, that stated the complainant was authorized to receive a City of Albany cab license and the application was dated November 15, 2007.

Ms. Hammond summarized the OPS finding on the allegation of violation conduct standards as **unfounded**, where the review showed that the act or acts complained of did not occur. The complainant alleged that he was discriminated against by an officer while attempting to obtain his taxi cab medallion and that he had been lied to and mislead for over two years. Based on the OPS investigation, there is a process which must be followed with respect to applicants submitting the proper paperwork, as well as related fees. The officer described the various steps and also submitted a copy of the Albany City General Code relating to taxi cab business. The officer stated that the process has always been done by the APD traffic safety division and the Office of the Chief of Police. Ms. Hammond reported that the officer stated that the complainant was never told to pick up a copy of the application at City Hall because the applications are only available at the traffic safety division. She further reported that when the complainant asked for an application, the officer gave him an application, just as he had for the nineteen (19) other

applicants. This information is consistent with the General City Code. Ms. Hammond reported that the medallions do not belong to the officers, but to the City of Albany and are leased to qualified applicants, and must be renewed each year. Those who are interested in operating and/or owning a taxi in the city are required to adhere to the city guidelines. Ms. Hammond stated that upon her review she found that the complainant did adhere to the guidelines and did submit his required application and fees. However, the officer indicated that the last time a taxi cab medallion was issued was 2006. The complainant did not submit an application until November 2007. Ms. Hammond reported that the officer stated that the Chief of Police must review the files and determine who should receive a medallion. The officer stated that meetings were scheduled with the Chief of Police, but that they were canceled without reason. The officer has no control over whether the Chief of Police cancels the meeting. Ms. Hammond further reported that the complainant's witness stated that he has been waiting for a medallion for 12-14 months, he is black, and he did not feel that this issue is a racial matter. The witness further stated that he had no issues with the officer during the application process, and the witness is waiting for a medallion just like everybody else. Ms. Hammond reported that the complainant's second witness stated that he had no recollection of the complainant speaking to him about trying to obtain a medallion, he had no idea why he was listed as a witness, and he had no issue with the officer with obtaining his medallion other than the wait time. Ms. Hammond further reported that there are currently twenty (20) applicants on the taxi cab waiting list. The complainant was number seven (7) on the list and his first witness was number ten (10). The complainant's second witness was number nine (9) on the list and was awaiting his second medallion. Ms. Hammond reported that the complainant was not number one (1) on the list and therefore was not skipped as he alleged. She stated that all twenty (20) applicants were waiting just like the complainant. The names were put on the list as the applications were received. Since the APD is currently without a Chief of Police, there is an additional wait time. Ms. Hammond explained that the Chief of Police must review the files before any new medallions are issued. It is not an excuse, but a fact, as the General City Code 353-16 with respect to the number of medallions states "with the advice and consent of the Common Council the Commissioner may set a limit on the number of medallions to be issued in the interests of public convenience and necessity." Ms. Hammond further reported that there was no further information within the city code that responds to the Common Council and their responsibilities relating to taxi cabs and medallions. The Common Council has no authority over the medallions, which are owned by the City of Albany. The officer's responsibilities are to collect the applications and submit them to the Chief for review. The officer does not have the authority to accept or deny taxi cab medallions.

Ms. Hammond then asked if the Board had any questions. It was noted that the Board did not have any questions. Ms. Hammond stated that she agreed with the OPS.

Marilyn Hammond moved to concur with the OPS finding of *unfounded*. Andrew Phelan seconded the motion.

Reverend Smart stated that he did not think that it was fair for someone trying to get a medallion to have to go through the application process and continue to visit an office for over a year. He further stated that he believed that some of the statements conflicted with regard to the Chief of Police canceling the meetings. He stated that it was possible for an officer to keep stating that the meetings were canceled as a way to prevent someone from getting their application approved.

Reverend Smart asked if there was a monitor assigned to the complaint. Ms. Hammond responded that no monitor had been assigned.

Akosua Yeboah stated that the complainant was still awaiting a medallion. Ms. Hammond stated that all the applicants were still awaiting a medallion. Reverend Smart asked if the applicants were still waiting because the police department did not have a Chief. Ms. Hammond replied that that was not the cause, that while the complainant in particular did not have his application approved by the Chief, others who had approval were still waiting for a medallion because there might not be a necessity for more taxi cabs.

Chairman Allen asked who was responsible for dictating how many medallions are issued or being used. Ms. Hammond replied that it relates back to the city code that was mentioned earlier. Chairman Allen asked if it was the city code that states whether X number of medallions are issued. Ms. Hammond responded in the affirmative.

Reverend Smart asked why the complainant had to go back to the office for over a year in order to obtain an application. Ms. Hammond explained that the complainant did not get the application when he first requested it because the officer did not have the application. Reverend Smart then asked why the officer did not have the application. Ms. Hammond replied that the reasons were those alleged in the complaint.

Reverend Smart questioned why someone would waste his time going to an office fifty-two (52) times for the sole purpose of filing a complaint. It seemed that there was an underlying issue that was not addressed. Ms. Hammond responded that when the matter was researched, it was unlikely that the complainant was told to go to city hall when the applications were located at traffic safety. She also noted that when the complainant asked for an application he was given one just like the other nineteen (19) applicants. Reverend Smart stated that it was confusing why the complainant would not be given an application the first time he asked, but then be given an application on another occasion.

Andrew Phelan asked if the complainant was present. It was noted that the complainant was not present.

Chairman Allen stated that it was hard to pass judgment without knowing what the average wait time actually was. Ms. Hammond agreed with Chairman Allen. Chairman Allen stated that one point of concern was why two other taxi cab companies, Super Express and Capital Land, got licenses before the complainant. Chairman Allen asked whether the two companies were ahead of the complainant on the list. Ms. Hammond replied that she did not know, that the report stated that there were twenty applicants on the list. Chairman Allen asked whether the two companies were given medallions based on need because they were already in existence and therefore given medallions before the complainant. Commander Matos responded that medallions are issued based on the order of the applicant list. Medallions are issued for vehicles, not for actual operation of the vehicle, which is a different license. If the market is flooded with taxis and the ability of drivers to make a living is diminished, then there is a limit that is set. The issue of how many medallions are given is a decision made by the Chief of Police. Commander Matos further stated that this was the purpose of the meetings that the officer had scheduled with the Chief.

Chairman Allen asked who determines when the market is flooded. Commander Matos stated that the Common Council has the ability to confer with the Chief or Commissioner to determine the number. Chairman Allen pointed out that whether the market is flooded is based on subjective opinion. Commander Matos stated that this would be a more appropriate discussion between the Common Council and the Chief. Chairman Allen stated that maybe a letter should be written to the Common Council regarding the taxi cab situation in Albany. Commander Matos stated that he could not comment on the Albany taxi situation.

Reverend Smart stated that he was concerned that there was not a current Chief of Police and therefore additional wait time presents itself. Reverend Smart noted that the Chief of Police must review files prior to any additional medallions being issued, and that it is not an excuse, but a fact as per the general city code with respect to the Common Council. Reverend Smart asked how long the city had been without a Chief of Police. Commander Matos replied that the city had been without a Chief since September. Reverend Smart stated that it could be easily said that no medallions should have been issued from September to the meeting date. Commander Matos replied that when there is no Chief of Police, the Deputy Chief can take on the responsibilities of the Chief. Reverend Smart stated that he agreed, but according to the language, the Chief of Police must review the files, and that the OPS uses "must" in their report. Mr. Smart then asked if OPS would like to take the language back. Reverend Smart stated that he would like to know if there was a medallion that had been issued since September, and since Chief Tuffey had not been active, then the language in the report cannot be accurate.

Chairman Allen asked if the Board should send the complaint back to the OPS or send a letter to the Common Council asking what the process is in obtaining a medallion. Ms.

Hammond agreed that a letter should be written to Common Council. Ms. Hammond noted, however, that the complaint was not whether the complainant obtained a medallion, but whether he was given an application. Ms. Hammond stated that while the discussion about taxi licensing was relevant, the complainant did receive an application.

Board Counsel William Kelly reminded the Board that they had to review and deliberate the OPS's preliminary findings, and then the Board needed to determine whether they were satisfied with the procedure.

Chairman Allen stated that he was inquiring whether the Board had the authority to send a letter of concern to the Common Council not about the complaint, but specifically about the process. Mr. Kelly replied that if the inquiry was regarding the specific investigation conducted for the complaint, the Board should first discuss the matter with the Chief of Police and the Mayor. If the Board is dissatisfied with the investigation, then the Board should contact the Common Council. Chairman Allen asked whether the Board had the authority to send a letter to the Common Council, not about the specific complaint, but a general letter of concern about the process itself. Mr. Kelly stated that he did not know, but reiterated that if the matter was about the specific case, then the Board should first go to the Chief and Mayor, then the Common Council if it was dissatisfied with the investigation.

Reverend Smart stated that the complainant alleged that he was being discriminated against by the officer in connection with receiving a medallion, and in his opinion the complainant was not being discriminated against. Reverend Smart stated that it was the other part of the complaint that is an issue: where the complainant alleged that he had been lied to and misled for two years. Reverend Smart further stated that he was not quite sure that someone was not just pulling the complainant's leg for a while because it does not seem that a person, for the purposes of filing a complaint would go to an office for an entire year, week after week, and then submit an application to get on the list. Chairman Allen stated that the Board should get clarification from the OPS, and he would not rule out that discrimination could occur if there were favoritism for certain taxi cab companies. Chairman Allen asked for Ms. Hammond to make a motion.

Ms. Hammond stated that she thought the Board was going to send a letter. Chairman Allen stated that the Board was going to send a letter. Chairman Allen asked the Board what questions they would like to ask the OPS.

1) Reverend Smart asked whether a medallion had been issued to anyone in the City of Albany since September 2009. Ms. Hammond added that if medallions were issued, how many were issued.

2) Reverend Smart asked what the procedure was to obtain a medallion.

3) Chairman Allen asked if anyone gets preferential treatment.

4) Chairman Allen asked who determines whether the economy has too many taxi cabs on the street.

Marilyn Hammond moved to send the complaint back to the OPS. Chairman Jason Allen seconded the motion. The motion carried unanimously.

CPRB No. 55-09/OPS No. CC2009-120 (Presented by Andrew Phelan)

Andrew Phelan summarized the complaint. Mr. Phelan stated that he went to the OPS on May 5 and May 14, and reviewed the case file. The complainant alleged two counts of call handling. Mr. Phelan noted that the complaint was not about the police but was about a victim who went to Albany Medical Center (AMC) for medical problems. The complainant alleged that she was sexually assaulted by hospital staff. Mr. Phelan reported that based on the OPS investigation, the complainant went to Albany Medical Center and St. Peter's Hospital. Mr. Phelan further reported that the complainant did not report the incident until seven (7) days after the alleged incident occurred, so the officer handling the call referred the call to a supervisor. The supervisor managed the case based on the complainant's bizarre statement. The officer did not commit the allegations in the complaint. Mr. Phelan stated that it should be noted that two separate officers reported the bizarre statements that were made by the complainant. Mr. Phelan reported that the department policy dictated that investigation reports are to be faxed to the detectives' office. A detective from the Criminal Investigations Unit followed up on the complainant's allegations.

Mr. Phelan summarized the second call handling allegation. Based on the OPS investigation, the detective reported that he spoke with the complainant on two occasions. The complainant explained to the detectives that she needed a copy of the report to submit to the Crime Victims Board (CVB) so that she could be reimbursed for expenses. The complainant told the detective that she had been a victim of a similar incident in Chesapeake, Virginia five (5) or seven (7) years ago. The detective spoke to a detective in Chesapeake, Virginia. The detective in Virginia said that the complainant had had contact with their department, but not since 2001, and she had no history of sexual assault in her file. The detective also contacted St. Peter's Hospital, which indicated that a sexual assault kit was not conducted on the complainant during her visit on July 27, 2009. The detective asked the complainant to sign a release for her medical records from Albany Medical Center for the date she alleged the assault. The complainant refused to sign the release form. The detective closed the case due to the complainant's refusal to cooperate with regard to the release form from Albany Medical Center.

Mr. Phelan asked if the complainant was present. It was noted that the complainant was not present.

Mr. Phelan asked if the Board had any questions. It was noted that the Board did not have any questions.

Akosua Yeboah stated that she did not see a complaint against the officer. Mr. Phelan stated that he was aware that there was no complaint against the officer, but because it went to AMC, it was a sexual assault, and the complainant filed a complaint with the police, the police looked into the allegations. The police went to the AMC to get the consent to the release form, the complainant refused to sign the release, and the Board got the complaint. Ms. Yeboah stated that she was unsure why the complaint was brought to the Board if there was no complaint against an officer. Mr. Phelan stated that he agreed.

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

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

B. *Appointment of New Members to the Committee on Complaint Review for June 2010.*

The following Board members were appointed to the Committee on Complaint Review for June 2010: Chairman Jason Allen, Marilyn Hammond, Andrew Phelan, Jr., Reverend Edward Smart and Akosua Yeboah.

Reverend Smart stated that he wanted to bring to the Board's attention the amount of cases that are pending before the Board. He further stated that it might be a good idea if the Board had two meetings in June instead of meeting in July and August. Chairman Allen asked how many cases were pending. Coordinator of the Board Sharmaine Moseley stated that there were eleven (11) cases pending. Chairman Allen stated that the Board should have two (2) meetings in June so that they would not have to meet in July and August. Chairman Jason Allen moved to have two meetings in June. Andrew Phelan seconded the motion. The motion carried unanimously.

C. *Review of the First Quarterly Report*

The first quarterly report was reviewed. Chairman Allen asked if there were any questions or comments regarding the first quarterly report. Chairman Allen asked if Akosua Yeboah had to abstain from voting because she was not on the Board during the time period covered by the report. Akosua Yeboah stated that she had read the report and could vote on it if necessary. Chairman Allen stated that they would table the vote for the next meeting.

Board Counsel William Kelly stated that he believed that the Board could vote on the First Quarterly Report because Akosua Yeboah should be able to vote. Chairman Jason

Allen made a motion to approve the first quarterly report. Marilyn Hammond seconded the motion. The motion carried unanimously.

Reverend Smart stated that he thought it was interesting that they voted on the report because it set a precedent. Reverend Smart stated that he believed that it meant that if the Board only had seven (7) members, and only four (4) members showed up to a meeting that the Board would have a quorum, instead of five (5) members. Reverend Smart questioned why Ms. Yeboah could vote when she was not present on the Board during that quarter. Mr. Kelly clarified that Ms. Yeboah could vote because realistically the Board could have all members present but no vote. He explained that if all the Board members were present, but newly elected, then there would be a quorum, but the Board would be unable to pass the report because the members would be unable to vote because they were not present during the report period.

D. *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 Smart stated that he had nothing new to report. Akosua Yeboah stated that since the past meeting the committee met with the Park South Neighborhood Association. Ms. Yeboah reported that the meeting went well and that the association expressed interest in the board. There was a request by the association that they be notified when there are openings on the Board so interested people may apply. Ms. Yeboah further reported that they were still awaiting feedback from other neighborhood associations that have not yet scheduled meetings so that the committee can continue with its community outreach effort.

Mediation

Committee Chairman Jason Allen asked if the meeting was still postponed or if it had been rescheduled. Ms. Moseley replied that GLC was still in the process of rescheduling the meeting.

Police Department Liaison/ Policy Review/ Recommendations

Committee Chairman Andrew Phelan stated that he had nothing new to report. Chairman Allen asked if there was anything new to report with regard to the Early Warning System. Commander Matos stated that training materials were delivered to supervisors on April 1, including the Blue T Module. The Blue T Module is a software package that allows supervisors to enter field incidents into the IDC processor. Commander Matos stated that

the software was followed up by a meeting where he briefed the Chiefs on the Blue T Module and delivery system, which is still being developed by the training unit.

Chairman Allen asked Commander Matos if the Standard Operating Procedure (SOP) was finalized. Commander Matos replied that it was not. Chairman Allen stated that perhaps between SOP and cameras, Corporation Counsel can help define the role that the tools play in the Board. Chairman Allen further stated that between the Early Warning System and cameras in the cars, it needs to be established what the Board gets to see and when the Board gets to see it. Chairman Allen stated that the Board already received one complaint which was read to him over the phone which was captured on video. He further stated he would rather not decide the issue when the complaint comes before the Board, but before the complaint comes before the Board. Mr. Kelly stated that if it was an ongoing investigation, especially a pending criminal charge, the release of the video might be withheld. Chairman Allen stated that he did not remember the specifics of the complaint, but thought it was in regards to a traffic stop. Chairman Allen asked that, for example, if a complainant alleges rudeness during a traffic stop when the complaint comes before the Board, would the Board get to see the tape and use it to determine if there was rudeness. Mr. Kelly stated that when there is an ongoing or pending criminal investigation, the complaint is usually suspended. Commander Matos explained that the Board was questioning whether or not they would be able to review the tapes for active cases before the Board. Chairman Allen replied in the affirmative. Mr. Kelly stated that he would follow up on the matter.

Public Official Liaison

Chairman Jason Allen apologized to the Board for cancelling the last Common Council meeting last month due to work. He stated that the meeting was rescheduled for June 1, 2010. Chairman Allen stated that there was an email that had stated who could attend and asked to double-check who was available. Reverend Smart asked if the Board meetings were scheduled for June 10, 2010 and June 24, 2010. Chairman Allen replied in the affirmative.

Task Force on Monitors

Chairman Allen stated that Task Force Chairwoman Jean Gannon was not present.

E. *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 seventy-four (74) active complaints before the Board for review. Of those seventy-four (74) active complaints, four (4) were reviewed at tonight's meeting, which leaves the Board with seventy (70) active complaints. Out of those seventy (70) active complaints eleven (11) cases are ready to go on the next meeting agenda for review.

It was further reported that three hundred and sixty-eight (368) complaints have been closed. The total number of complaints suspended from review is eleven (11). The total number of complaints filed to date is four hundred and forty-nine (449).

It was reported that since the Board's last meeting, the GLC received eighteen (18) grievance forms. The total number of grievance forms received to date is one hundred and sixty-one (161). In response to the GLC's outreach to all one hundred and sixty-one (161) individuals, the GLC has received forty-three (43) CPRB complaint forms.

Chairman Allen stated that the Board was still within 25% as far as neighborhood associations that file issuances or grievances that turn into complaint forms after the Board has reach out to them.

Monitors

The GLC reported that the status of the monitors remained the same. It was further reported that the GLC has not yet received approval from the Common Council. Chairman Allen asked whether Board Counsel Patrick Jordan responded in regards to the SOP for the monitors. Ms. Moseley replied in the negative. Chairman Allen asked how to reach Patrick. Mr. Kelly replied that Patrick was only available if he was not around. Chairman Allen explained that the monitors requested the SOP.

Reverend Smart asked if the SOP was ever updated. Commander Matos responded that the SOP is periodically updated as police practices or equipment may change. Chairman Allen asked if the Board members could turn in their old SOPs and get an updated version. Commander Matos stated that he would bring that to the attention of the training sergeant.

Board Vacancies/Re-appointments

It was reported that the Board still has one (1) vacancy to fill which was left by Daniel Fitzgerald who was a Mayor appointee. It was further reported that Reverend Edward Smart and Andrew Phelan, Jr. had been re-appointed, each for a three (3) year term on the Board.

Chairman Allen asked if Ronald Flagg's term was up sometime this year. Ms. Moseley replied that his term was ending in October. It was reported that at that time the Board would have two (2) vacancies. Chairman Allen noted that Ronald Flagg was a Common Council appointee. Chairman Allen stated that the Common Council should be notified soon so that they could start interviewing new applicants.

Upcoming Meetings

It was reported that a tour of the APD's Communications Center has been scheduled for May 17th at 6 p.m. and May 18th at 11 a.m. to accommodate every Board member's schedule. The tour will satisfy the training requirement of the Board. It was noted that Chairman Allen and Anthony Potenza were scheduled for the May 17th tour. Akosua Yeboah stated that she had already completed that training. It was further noted that Andrew Phelan Jr. and Marilyn Hammond were scheduled for the May 18th tour.

It was reported that the GLC was awaiting confirmation from the Common Council's Public Safety Committee regarding a meeting scheduled for June 1, 2010 at 5:30 p.m. at City Hall.

It was reported that the GLC is in the process of rescheduling the meeting regarding the mediation program.

It was further reported that the Board's next meeting is scheduled for June 10, 2010 at the Albany Public Library on Washington Avenue. A tentative meeting is scheduled for June 24, 2010.

10th Year Anniversary of the CPRB

It was reported that this year marks the 10th anniversary of the CPRB. The GLC will be hosting a symposium in the fall. A few months ago the GLC met with Corporation Counsel to see if the City had any thoughts or suggestions. The GLC is in the process of scheduling a follow up meeting with the Mayor within the next month.

NACOLE Conference

It was reported that the NACOLE Conference is scheduled for September 23, 2010, in Seattle, Washington. Marilyn Hammond stated that the Board would like someone from the police department to be in attendance at the NACOLE Conference. She stated that it would be a great opportunity for the APD to learn from other police departments.

F. Report from the Office of Professional Standards

Commander Ronald Matos reported that the OPS had a change in staff. Detective Alisa Murray left the OPS for different duties with the intelligence unit. Taking Detective Murray's place at the OPS are Detective Anthony Battuello and Detective Andrew

Montalvo. Commander Matos reported that the in-car camera policy was updated after a March 30 meeting with Corporation Counsel and the District Attorney's office, and a draft of that update was sent to the Chief for approval. Commander Matos reiterated the discussion concerning the Blue Team training and his briefing with the Chief regarding the Blue Team training.

Marilyn Hammond asked the Commander to discuss the policy on the audio with the video. She stated that she receives questions from the community about audio when the Board makes presentations about the cameras. Ms. Hammond further stated that she knows that the video comes on at a certain point but she had the understanding that whether audio was used was up to the discretion of the officer. Commander Matos stated that the policy as written in regard to traffic stops, the audio is mandated to be turned on. For any other encounters, the policy as currently written states that audio is to be utilized at the officers' discretion. He stated that there are some changes to the policy to enhance the number of times that the officer is required the use of audio. It will change from the officers' discretion to street encounters where the officer initiates a citizen encounter, while traffic stops will remain the same, but currently it is up to the officer's discretion. Commander Matos stated that this relates to the microphone outside the police vehicle. He stated that inside the police vehicle there is a microphone, which has to be turned on when persons are being transported in the vehicle. If a defendant is in the vehicle for transport the microphone is on, as well as when the defendant is sitting in the vehicle awaiting transport.

Reverend Smart asked about the new law regarding cell phones. He stated that he believed that the police department issued a directive that there was going to be an increased stopping of people on cell phones. He asked Commander Matos if the policy did exist or if there was a policy to stop people on their cell phones as a general basis. Commander Matos stated that he had not seen a directive issued that ordered the increase of enforcement of that law. He stated that the law was written in the vehicle and traffic law and the police enforce that law. Reverend Smart asked if the police would just stop someone if they were driving and on their cell phone. Commander Matos responded that could absolutely happen, but it depended on the officer.

G. *Report from the Chair*

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

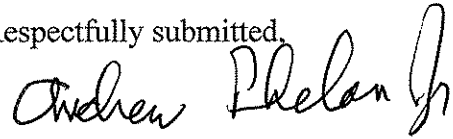
V. **Public Comment**

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

VI. Adjournment

Marilyn Hammond moved to adjourn the meeting. Chairman Jason Allen seconded the motion. The motion carried unanimously. The meeting adjourned at 7:25 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew Phelan Jr.", written in a cursive style.

Andrew Phelan, Jr.
Secretary