

**City of Albany
Citizens' Police Review Board
Albany Public Library
161 Washington Avenue- Large Auditorium
June 10, 2010
6:00 p.m. – 8:00 p.m.**

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

Absent: Ronald Flagg, Jean Gannon, and Akosua Yeboah.

I. Call to Order and Roll Call

Chairman Jason Allen called the meeting to order at 6:00 p.m.

II. Approval of the Agenda

The agenda was reviewed. Anthony Potenza moved to approve the agenda. Chairman Jason Allen 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 Minutes

The September 10, 2009 meeting minutes were reviewed. Chairman Jason Allen moved to approve the meeting minutes. Andrew Phelan, Jr. seconded the motion. The motion carried unanimously.

The October 22, 2009 meeting minutes were reviewed. Chairman Jason Allen moved to approve the meeting minutes. Anthony Potenza seconded the motion. The motion carried unanimously.

The November 12, 2009 meeting minutes were reviewed. Chairman Jason Allen moved to approve the meeting minutes. Marilyn Hammond seconded the motion. The motion carried unanimously.

The January 14, 2010 meeting minutes were reviewed. Marilyn Hammond moved to approve the meeting minutes. Chairman Jason Allen seconded the motion. The motion carried unanimously.

The February 18, 2010 meeting minutes were reviewed. Anthony Potenza moved to approve the meeting minutes. Chairman Jason Allen seconded the motion. The motion carried unanimously.

IV. New Business

A. *New Complaints*

1. New Complaints Received since November 12, 2009 Meeting

Chairman Jason Allen reported that four (4) new complaints were received by the Board since the May 13, 2010 meeting. Reverend Edward Smart moved to waive the reading of the new complaints and suggested that Board members read them on their own. Chairman Jason Allen seconded the motion. The motion carried unanimously.

2. New Complaints for Review

CPRB No. 42-08/OPS No. C08-385 (Presented by Anthony Potenza)

Anthony Potenza summarized the complaint. Mr. Potenza noted that a monitor was assigned to the case, which involved one allegation of call handling. Mr. Potenza stated that he reviewed the following documents: the Citizen Complaint Form; the Albany Police Department (APD) Civilian Complaint Report; two monitor's reports dated February 12, 2009 and July 1, 2009; the Office of Professional Standards (OPS) Confidential report; five (5) Inter-Departmental Correspondences (IDC); premises report for an address; a call ticket dated June 15, 2008 regarding a call about a person with a weapon; a field investigation contact report; correspondence to two witnesses with USPS confirmation of delivery; documentation of a telephone interview with one witness, and the Standard Operating Procedures (SOP) regarding searching women in custody. Mr. Potenza noted that there were no charges filed in the case and no arrest made regarding the case. He reported that the complainant alleged improper call handling when one officer grabbed her hands and searched her. The complainant further alleged that when she asked why she was being searched, the officer told her that they had received a call saying that they had guns and knives. The complainant claimed that the officer also searched her friend's truck, and she was in possession of the truck. The complainant alleged that she was the only one searched, and there were other people present. The complainant further alleged that she was disgusted with the situation and felt violated that she was treated like a criminal. The departmental paperwork contained witnesses interviewed and correspondence received.

Mr. Potenza reported that the complainant alleged improper call handling on the part of the APD because the complainant was singled out and searched for weapons. Based on the OPS investigation, the complainant was not the person sought by police and was the only one searched among a group of people present in the area. The APD responded to a call regarding a person with a weapon. The complainant fit the description, so the complainant and the vehicle she was operating were searched. A police officer in an IDC stated that he could see that the complainant was wearing tight fitting clothes and did not have a weapon and therefore no pat/frisk took place, which would have been permissible because of the suspicion of a weapon. The officer also visually searched the vehicle. On the day after the incident, the complainant went to South Station to file the complaint.

Based on the IDC, a police officer stated to the complainant the reasons why the complainant was stopped and why the vehicle was also visually searched. In an IDC the police officer stated that he was sorry for the uncomfortable situation the complainant was placed in.

Mr. Potenza summarized the finding of the OPS for this allegation of call handling 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 an officer grabbed her hands and searched her and when she asked why she was being searched the officer told the complainant that there was a call saying they had guns and knives. The officer also searched the complainant's friend's truck that she was in possession of. The complainant further alleged that she was the only one searched and there were other people present. The investigation conducted by the officer was based upon allegations made by someone else.

Mr. Potenza stated that based on the OPS investigation, there was also evidence that there may have been some disagreements between the complainant, possibly the complainant's family, and a neighbor, which also had an effect on the matter in a general way. The information was received from a caller who telephoned 911 three (3) times and was transmitted to the responding officers by the dispatchers who were continuously updating the call ticket. Mr. Potenza stated that the officer was conducting a preliminary investigation. His actions were in response to the information that he received, and there was no impropriety or malicious intentions with respect to singling the complainant out. Mr. Potenza further stated that responding officers look for suspects based upon received information and in this case the complainant fit the description that was relayed to the officer by a radio transmission. Although the complainant alleged that she was the only one searched and there were other people present, the officer's actions were in response to the description provided by the call. Mr. Potenza stated that in both monitor reports, the monitor agreed with the findings of OPS in this case. Based on a supervisor's IDC, the supervisor stated that he spoke with the complainant, who came to the South Station the day after the incident. He had advised the complainant that she fit the description of short, black female with dark hair as the call ticket described. He told the complainant that the officers were responding to a weapons call and the complainant, and her vehicle license plate fit the description of the party with the gun. The officer informed the complainant that since she was the only person in the vehicle while the officer believed he was calling out to her, it would make sense that the responding officers would single the complainant out from other people on the street. The officer also informed the complainant that given the above circumstances, it was understandable why the responding officer would check the complainant for weapons. With respect to the alleged search, the officer stated that there was no need for a pat/frisk because as he walked closer he could see that the complainant was not carrying any type of gun because the

complainant was wearing rather tight fitting clothing. Witnesses stated that the complainant was searched by the officer, and they both thought that a male officer could not search a female. Mr. Potenza reported that he had researched whether a male officer could search a female. Mr. Potenza stated that based on the OPS investigation, an incident involving a person with a weapon falls under the criteria of exigent circumstances, and officers are placed in a position where they are not only responsible for the safety of the public, but their own safety as well. Officers, specifically male, are permitted to conduct a search of a female if there is the presence or indication of weapons involved. A search would be conducted specific to the weapon. If a more intrusive search is necessary, a female law officer shall perform the search. Mr. Potenza further stated that all of the documentation he reviewed showed that there was no pat/frisk type of search. The officer conducted a visible search, not only of complainant, but also of the vehicle. Based upon his observations upon approach, the officer stated that he could see that the complainant was not carrying any type of gun because of her rather tight fitting clothing. He further stated that she immediately complied, putting her hands on top of her head as he directed her to do so. Neither the officer, nor the complainant, referenced that the complainant was placed in handcuffs. However, the complainant was stopped and detained, while the officer conducted his preliminary investigation. The officer stated that he asked the complainant to put her hands down and explained to her why she was being stopped. After he explained why she was being stopped, she stated she understood. The officer further stated that the complainant gave him unprompted verbal consent to search her vehicle, and while he did not feel it was necessary, he visually checked under the driver's side seat. The officer observed the complainant standing inside the driver's side door and the complainant appeared to be reaching for something under the seat. Mr. Potenza reported that the check of the area underneath the seat is considered an area within the vehicle, where a weapon, if any, could be easily concealed and readily accessible.

Anthony Potenza stated that based upon the documentation provided and the reports of the monitor, he agreed that a thorough and complete investigation of the complaint was conducted and moved to concur with the findings of the OPS as *exonerated*.

Chairman Allen asked if the complainant was present. It was noted that the complainant was not present.

Chairman Allen asked if the monitor had anything to add. Monitor Theresa Balfe stated that there were two (2) monitors' reports because the complaint was sent back for review. She further stated that the detective conducted an extensive investigation, and it was important to detail that there was quite a history. The reports showed that the detective detailed the repeated calls to the residence, and in the report, there were numerous calls to the residence. The report of the possible weapon that was dispatched to the officer might have come through from the person calling the police to the scene. Maybe the person

wanted to escalate the situation. Ms. Balfe reiterated that there was quite an extensive history between the two families.

Reverend Edward Smart stated that based on one (1) of the monitor's reports, a person made three (3) calls, and the complainant stated there were a bunch of people outside harassing her guests. After the second call, the dispatcher sent some patrol cars. The person calling stated that there was a block full of people outside trying to jump her and her children, and they could not get home. When the dispatcher asked if any weapons were involved, the person responded that they "all have weapons, guns, and everything." Reverend Smart asked why, if they all had "weapons, guns, and everything," everyone wasn't searched. Ms. Balfe stated that she believed that the question was brought up at another meeting, and that was why the complaint had been sent back. She further stated that the caller had given a description in one of the calls detailed in the report. The report was very extensive. A description was dispatched to the officers, as well as a description of the vehicle. When the police officer arrived at the scene, the complainant was in the vehicle. The officer called out her name, and the complainant acknowledged the officer. Reverend Smart asked if she was the person described. Ms. Balfe responded in the affirmative. Reverend Smart asked for clarification regarding if the complainant had actually done anything wrong. Ms. Balfe replied that no one had weapons, and no one had knives. She also stated that she believed that the complainant was a participant in the alleged harassment. Reverend Smart asked if the complainant was charged with anything. Ms. Balfe replied that she was not charged with anything. Reverend Smart asked if the complainant was cooperative. Ms. Balfe replied that the complainant appeared to be cooperative. She further stated that when officers arrived at the scene there was no one blocking anybody and there was no one harassing anybody. There was no one with guns or knives and there was not a whole group of people as described in the call. Reverend Smart asked if it was possible to be arrested for making a false complaint. Ms. Balfe replied that she was not a police officer and she could not make that determination. She further stated that the escalating allegations of weapons and the call to get the police to the scene was a waste of taxpayer money. Reverend Smart agreed with Ms. Balfe.

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

CPRB No. 9-09/OPS No. CC2009-010 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. The complainant alleged that an officer was making false statements and perjured himself while testifying in court. This occurred over an incident in which the complainant's tree fell onto the officer's property, landing on the roof of his shed. The complainant was later told to report to the Town of

Guilderland Police Department to be arrested for reckless endangerment and criminal mischief based on the false statement made by the officer. According to the complainant, the officer alleged that he saw the complainant cut down the tree which was a lie. On December 18, 2008, Guilderland Town Court Judge Bailey heard the case. It was admitted in open court and for the record that the officer lied about seeing the complainant cut down the tree. Based upon his admittance of these false statements and the evidence admitted, all charges were dismissed.

Ms. Hammond stated that there were lots of exhibits in the case file. It was obvious that the tree fell first before it was cut. Ms. Hammond further stated that there were a lot of exhibits in the packet, and she reviewed all the records and the OPS report. Ms. Hammond noted that the complaint should have been filed against members of the Guilderland Police Department, and the events occurred in Schenectady. Chairman Allen asked for clarification as to where the events occurred. Ms. Hammond replied that the address of the complainant was Schenectady, but the mailing address was Guilderland.

Reverend Edward Smart stated that the Board did not have jurisdiction over the complaint. Marilyn Hammond agreed with Reverend Smart. Reverend Smart stated that whether it was Guilderland or Schenectady, it did not matter. Marilyn Hammond stated that the officer was off-duty. Board legislation dictates that a definition of a complaint is a "written statement involving police conduct." Chairman Allen asked if the neighbor was an Albany city police officer. Marilyn Hammond replied in the negative. She stated that both individuals live in Guilderland. Chairman Allen asked for clarification regarding if there was any Albany city officer involved. Marilyn Hammond stated that the police officer was an Albany city officer who was off-duty. Reverend Smart stated that the officer was acting as an individual citizen. He was not acting in the capacity of an officer or policeman. Marilyn Hammond stated that it was a simple neighbor dispute.

Chairman Allen asked if a neighbor's tree fell in his yard, and he called the police department, would they arrest that person. Chairman Allen further questioned whether the officer had any influence because of his job or connections. Marilyn Hammond replied that he did not, because everything reviewed showed that it went through the Guilderland Town Court, the Albany City Court; three (3) different district attorney's (DA), and three (3) different courts looked at the case and all came to the same conclusion that it was simply a neighbor dispute. Ms. Hammond stated that there was no way the officer could have influenced three (3) judges and three (3) district attorneys.

Chairman Allen asked what the outcome of the case was, whether the complainant was arrested or fined. Ms. Hammond stated that the case was dismissed. The complainant was arrested and ended up having to appear in court. Chairman Allen stated that if a tree fell in his yard, he would not expect his neighbor to be arrested. He asked if that would ever happen. Did the Albany city police officer used influence that other people do not

have, to get his neighbor arrested? The OPS Commander Ronald Matos stated that in the report sent to the Board there was a summary in the final paragraph of the second page that indicated that that exact issue was investigated, and there was no finding of any undue courtesies afforded to the person because he was an Albany police officer. Chairman Allen asked who made that determination. Marilyn Hammond replied that it was an independent investigator. Chairman Allen asked who the independent investigator was working for. Marilyn Hammond responded that the independent investigator works within Albany County which holds jurisdiction over the area in which the incident occurred.

Anthony Potenza asked how did an incident which took place in Tally Ho Court in Guilderland end up with this Board. He stated that it should be dismissed administratively out of hand as the wrong jurisdiction. Mr. Potenza further stated that the Board reviewed lots of paperwork and investigative reports, for something that did not even occur within the jurisdiction of the City of Albany. Reverend Smart and Ms. Hammond both agreed.

Reverend Smart stated that he believed that policemen have to be off-duty sometime, and they are just human beings. If they have a dispute with their neighbors, then it should be just a dispute between them. Reverend Smart further stated that if that was the case then every time an officer's tree falls down on his property, then he or she has to be concerned with being taken to the police review board. Chairman Allen stated that there are a lot of trees that fall down in the Capital District, and no one gets arrested for it. Chairman Allen asked why the complainant was arrested. Marilyn Hammond stated that they would have to ask the Guilderland Police Department why they arrested the complainant.

Anthony Potenza asked if the complainant was present. It was noted that the complainant was not present.

Reverend Edward Smart moved to disagree with the OPS finding on the allegation of conduct standards as *unfounded*. Reverend Edward Smart moved for the Board to accept a finding of *no finding* for the allegation of a violation of conduct standards. Anthony Potenza seconded the motion. The motion carried unanimously.

CPRB No. 22-09/OPS No. CC2009-060 (Presented by Chairman Jason Allen)

Chairman Jason Allen summarized the complaint. Chairman Allen stated that the complaint was received on July 7, 2009 for an incident which occurred on March 20, 2009 on Trinity Place. The complainant alleged that he was in the alleyway on the north side of Trinity Place when he was approached and charged with the criminal sale of a controlled substance and unlawful possession of marijuana. The complainant further alleged that he did not resist arrest or attempt to flee the area and was injured by an officer who allegedly used unnecessary force by slamming the complainant on the right

side of his body, causing a cut on his right knuckle, and right shoulder blade and pain in his upper spine and back.

Chairman Allen summarized the OPS finding on the allegation of use of force as ***unfounded***, where the review showed that the act or acts complained of did not occur. Based on the OPS investigation, the complainant admitted that his co-defendant had given the complainant money for Dutch Masters cigars, which are commonly used to smoke marijuana. Upon police contact, the co-defendant had a piece of crack cocaine in his hand. The complainant fled the scene, and, according to the officer, attempted to jump the fence. At that time, the complainant was apprehended, and he and the officer fell to the ground. The injuries indicated by the Albany County Correctional Facility booking staff and medical staff were consistent with the complainant being apprehended while attempting to climb a fence and falling to the ground. The injuries did not appear to be due to any unnecessary force used upon the complainant except the force necessary to gain compliance to take him into custody. Further, the complainant's criminal history indicated that in the past he had resisted arrest which would lead a reasonable person to believe that during this arrest he attempted to flee and resist arrest. Chairman Allen noted that a monitor was appointed for the complaint. He stated that the monitor concurred with the OPS finding.

Chairman Allen reported that he reviewed the following documents: Confidential Report; two field test reports for substance which both tested positive for crack, one was for co-defendant and the other was for the complainant; an oral statement report from the defendant; an oral statement report from the co-defendant; two APD investigative reports; several APD property reports; two arrest reports; a call sheet; two IDCs; two sworn statements from complainant; notice of claim filed by the complainant; an arrest record for both complainant and co-defendant; and correctional/health services documents regarding complainant's health and history, as well as physical assessment.

Chairman Allen asked monitor Joel Pierre-Louis if he would like to add anything. Mr. Pierre-Louis responded in the negative.

Chairman Allen asked if the complainant was present. It was noted that the complainant was not present.

Chairman Allen asked if the Board had any questions. It was noted that the Board did not have any questions.

Chairman Jason Allen moved to concur with the OPS finding on the allegation of use of force as ***unfounded***. Reverend Edward Smart seconded the motion. The motion carried unanimously.

Reverend Edward Smart summarized the complaint. The complainant alleged that detectives went to her house to interview her, and she had previous contact with one of the detectives. The complainant stated that since the detective had arrested her in the past, the detective allegedly asked her "Don't you have an order of protection?" The detective also allegedly stated that "I was called on Valentine's Day and told that you and he were seen at the mall on that day." The complainant stated that the order of protection was no longer in effect. The detective allegedly stated that he was sick and tired of the complainant and her boyfriend, they were both retards, and he did not want any part of her. The complainant further alleged that the detective told her that she was a fool and must be a whore to deal with a younger man, and he did not believe that she had been raped and believed her boyfriend's words over hers. The complainant alleged that the detective stated if she were called to the stand that she would be treated like a whore and he would feel sorry for her. The complainant further alleged that the detective stated that he was closing the case and even if she was raped she deserved it anyway.

Reverend Smart reported that he reviewed the following documents: Confidential Reports October, 13, 2009; IDCs dated August 17, 2009 and May 8, 2009; Investigative Report dated April 14, 2009; Case Management log dated April 14, 2009; Investigation Report dated April 11, 2009; Property Report dated April 11, 2009 and April 12, 2009; Domestic Incident report dated April 11, 2009; and an Incident Report dated April 11, 2009, which consisted of two (2) call logs dated April 11, 2009.

Reverend Smart summarized the finding of the OPS for the first allegation of a violation of conduct standards as ***not sustained***, where the review failed to disclose sufficient facts to prove or disprove the allegations made in the complaint. The complainant alleged that the detectives were rude to her. Based on the OPS investigation, the detective stated that he never used disparaging names toward the complainant or told her that he did not believe her or that she deserved to be raped. The complainant's son stated that he heard some of what the detective said. The son stated that he heard one of the detectives say that "they are going to think you're lying" and that "they would make the complainant look like a whore on the stand." The son would not give specifics as to what was said except that he heard one of the detectives tell the complainant that she would look like a "dumbass." Reverend Smart reported that the son was in another room when he heard the statement and was not an independent witness. The son had been arrested by the detective in the past.

Reverend Smart asked if the complainant was present. It was noted the complainant was not present.

Reverend Smart stated that he was concerned that a female detective was not assigned to the case considering the sensitive nature of the case and the gender of the victim. He further stated that the dialogue in the case was distressing in the alleged comments and personal references made by a professional. Although the son's statement might be slanted, it might contain some dialogue that was overheard. The son was cooking and was allegedly asked what was being cooked. All of the personal conversations indicated a less than professional investigation process. Reverend Smart stated that he concurred with the OPS finding of ***not sustained*** with a strong note of consideration to assign cases of this nature with gender in mind and a strong sense of understanding to victims.

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

Reverend Smart summarized the OPS finding for the second allegation as ***no finding***. Based on the OPS investigation, the officer was no longer employed by the city. The complainant alleged that the detective was talking loud at her. The detective retired prior to the complainant submitting her complaint form.

Reverend Edward Smart moved to concur with the OPS finding on the second allegation of a violation of conduct standards as ***no finding***. Chairman Allen noted that there was a five (5) month gap between the incident and the complaint form. Chairman Jason Allen seconded the motion. The motion carried unanimously.

Reverend Smart summarized the OPS finding for the call handling allegation as ***unfounded***, where the review showed that the act or acts complained of did not occur or were misconstrued. The complainant alleged that the detective was not handling her complaint. Based on the OPS investigation, the complainant was interviewed by detectives. The report indicated that the complainant stated that she was very drunk when the incident occurred and had consensual sexual encounters with the suspect prior to the date when the incident happened. The complainant further told the detectives that she was currently in a sexual relationship with the suspect and did not want to pursue the matter. The criminal case was closed and approved by the detective supervisor. The other detective on the case stated that he had explained to the complainant that no crime had been committed.

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

CPRB No. 52-09/OPS No. CC2009-123 (Presented by Andrew Phelan Jr.)

Andrew Phelan summarized the complaint. Mr. Phelan reported that he went to the OPS on June 4, 2010 and June 8, 2010 to review the case file. The incident occurred on the railroad tracks on Livingston Ave and Broadway. The complainant filed a complaint against the Albany Police Department for use of force. The police officer saw the complainant on the railroad tracks, approached the complainant, asked several basic questions as to where he was coming from, and what he was doing on the railroad tracks. Based upon the complainant's behavior the police officer called the paramedics, and the complainant was transferred to Albany Medical Center for treatment. Mr. Phelan noted that this complaint was not a complaint against members of the Albany Police Department, but a complaint against Albany Medical Center for removing the complainant's clothing, forcing the complainant to wear a nightgown and to be restrained. The complainant may have taken an unknown quantity of narcotics and had not been taking his medication.

Mr. Phelan reported that he reviewed the following documents: interview with security management at Albany Medical Center, security services report, and correspondence submitted by target officers.

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

Chairman Allen asked Mr. Phelan if he had reviewed all of the hospital records on file. Mr. Phelan replied in the affirmative. Chairman Allen asked if the mother had been interviewed. Mr. Phelan replied that everyone had been interviewed.

Andrew Phelan moved to concur with the OPS finding on the use of force allegation as ***no finding***. Chairman Jason Allen seconded the motion. The motion carried unanimously.

CPRB No. 59-09/OPS No. CC2009-122 (Presented by Reverend Edward Smart)

Reverend Edward Smart summarized the complaint. Reverend Smart stated that the complaint was somewhat extensive, but he would do his best to condense the complaint. The complainant alleged that she was conversing with another party and an officer grabbed the male around the neck in a headlock and slammed him onto the floor. It was further alleged that another officer got onto the males' back with his knees and two other officers came. One of the officers proceeded to manhandle the male. The complainant alleged that the officer tased the male, then pointed his taser at her and said "get back before I f**king taser you." The complainant ran back upstairs and called 911. The complainant alleged that when she went back downstairs, the officers were around the corner with the male, and there were police cars parked in the front of her aunt's home.

The complainant further alleged that the officer started walking towards her, stating that he was going to tase her if she did not get back upstairs. The complainant claimed that she heard the male screaming, so she went back downstairs to ask the officers for their names and badge numbers. An officer ran towards her and chased her up the stairs saying he was going to "take her down" if she came back outside. The complainant went to visit the male at the Albany County Correctional Facility. He had a swollen left eye, a gnash on the left side of his face by his eye, and a cut on the left side of his head. The complainant alleged that the male told her the officer beat him on Cortland Place, continued to tase him while he was handcuffed, and he was punched in the eye twice.

Reverend Smart stated that he reviewed the following documents: Confidential Report dated January 25, 2010; Citizen Complaint Report dated November 18, 2009; Report called November 17, 2009; IDCs dated January 3, 2010 and December 22, 2009; two (2) Arrest Records dated November 17, 2009; IDC dated November 17, 2009; Subject Resisted Report dated November 17, 2009; Assault Injury Report dated November 17, 2009; Arrest Record dated November 17, 2009; Data Line dated November 17, 2009; Booking and Arrest Record dated November 17, 2009; Incident Report dated November 17, 2009; photo APD safenet.web dated November 17, 2009; and November 20, 2009 mugshotsafenet.web.

Reverend Smart stated that all of the documents indicated that the police were called to the incident at that particular residence. Reverend Smart further stated that the report also indicated that the police were not driving by in a squad car, but were actually called to the home because the aunt called the police and indicated that there was an incident going on. Reverend Smart stated that he thought this information was important because when someone calls the police, they are asking them to intercede. This was a domestic call which involved the complainant who was the wife of the person. It indicated that there was a very close relationship with them. There was also an indication of tattoos, which possibly indicated affection for this person. Reverend Smart stated that he noted these details because this was a domestic case.

Reverend Smart asked if the complainant was present. It was noted that the complainant was not present.

Chairman Allen asked if the man had been arrested and charged with assault, resisting arrest, and disorderly conduct. Chairman Allen also asked whether the man was found guilty and the outcome of the case. Reverend Smart stated that it was Detective Alisa Murray's case, and she was no longer with the OPS. Commander Matos asked if Reverend Smart knew the case disposition. Reverend Smart responded that he did not know the case disposition. Chairman Allen stated that it was good to include the outcome in the reports because anybody can be charged with something, and he was curious how the court of law found the cases. Reverend Smart stated that he did not think

that information was in the report, and Detective Murray was with another department. Marilyn Hammond noted that Detective Murray went to see the defendant at Albany Correctional Facility, so he must have been arrested. Reverend Smart stated that the defendant was arrested and charged, but the question was in regards to the case disposition.

Reverend Smart summarized the finding of the OPS as to the use of force allegation 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 she was conversing with a male and an officer grabbed him around the neck in a headlock, slammed him on the floor and then another officer got onto the males' back with his knees. Reverend Smart stated that based on the OPS investigation, the officers acted appropriately because they were called to the residence where the person was attempting to kick the door down of the aunt's house. The aunt called because she felt that her children, or children in the house, were in danger.

Reverend Edward Smart moved to concur with the OPS finding on the use of force allegation as *exonerated*. Marilyn Hammond seconded the motion. The motion carried unanimously.

Reverend Smart summarized the finding of the OPS as to the violation of conduct standards allegation as *exonerated*, where the complainant alleged that the officer pointed his taser at the complainant and said "get back before I f**king taser you." Based on the OPS investigation, the officer who was equipped with the taser was justified in warning the complainant. The officer stated that the complainant was jumping on the back of the officer as he tried to handcuff her in an attempt to prevent her from interfering with a lawful arrest. The Sergeant further substantiated the incident because the complainant could have been arrested at the time and charged with obstruction. Reverend Smart stated that he agreed with the OPS finding and believed that the police officers acted very nicely by not arresting the complainant.

Reverend Edward Smart moved to concur with the OPS findings on the first allegation of conduct standards as *exonerated*. Chairman Jason Allen seconded the motion. The motion carried unanimously.

Reverend Smart summarized the finding of the OPS as to the second violation of conduct standards allegation as *unfounded*, where the review showed that the act or acts complained of did not occur. The complainant alleged that she went back downstairs to see why the officers who were around the corner with the male, and an officer started walking towards her stating that he was going to tase her. Based on the OPS investigation, the officers indicated that the complainant was screaming and yelling. The

officers further stated that an officer informed the complainant that if she continued to yell obscenities she would be arrested for disorderly conduct.

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

Reverend Smart summarized the OPS finding as to the third violation of conduct standards allegation as ***unfounded***, where the complainant alleged that she heard the male screaming, and she went back down to get the officers' names and badge numbers. The officer allegedly told the complainant that he would "take her down" if she came back outside. Based on the OPS investigation, the complainant was screaming and yelling. The officers further stated that if she continued to yell obscenities, she would be arrested. An officer stated that as he made his way towards the residence, the complainant went inside and locked the door.

Reverend Edward Smart moved to concur with the OPS finding on the third violation of conduct standards allegation as ***unfounded***. Chairman Jason Allen seconded the motion. The motion carried unanimously.

Reverend Smart summarized the OPS finding as to the call handling allegation as ***unfounded***, where the act or acts complained of did not occur or were misconstrued. The complainant alleged that she went to visit the male at Albany County Correctional Facility and he had a swollen left eye, a gnash on his right side of his face by his eye, and a cut on the left side. The complainant also alleged that the male was tasered twice. Reverend Smart reminded the Board that for every cartridge that is used, every tase is accounted for, and there is a lot of paperwork when an officer tases someone. In addition, officers who carry the tasers have to be tased themselves before they can carry one.

Reverend Edward Smart moved to concur with the OPS finding on the allegation of call handling as ***unfounded***. Anthony Potenza seconded the motion. The motion carried unanimously.

CPRB No. 61-09/OPS No. CC2009-126 (Presented by Andrew Phelan Jr.)

Andrew Phelan summarized the complaint. Mr. Phelan stated that he went to the OPS on June 4, 2010 and June 8, 2010 to review the file. The incident occurred on November 18, 2009. The complaint contains two (2) allegations of conduct. The complainant alleged that she was at City Hall at a Public Safety Committee meeting. The committee had members of the CPRB there to discuss their current initiatives, and after the discussion, the committee was to begin interviewing candidates for the vacancy on the CPRB. The complainant left the meeting room and went to look for the next applicant, who was not

present at the time. The complainant went downstairs and asked the officers if they saw the applicant. An officer allegedly asked the complainant what the interview was for, to which the complainant responded, "the CPRB." The officer allegedly responded "Oh those scumbags! They have no authority. They are a joke." The officer allegedly further stated that officers are there to protect citizens and they did not need the CPRB. He then got up, pointed his finger at the complainant and allegedly stated, "You people...not you, but you people, need to stop being cry babies and let the law do its job."

Mr. Phelan summarized the OPS finding on the violation of conduct standards allegation. The complainant alleged that the officer pointed his finger and stated "You people...not you, but you people, need to stop being cry babies and let the law do its job." Based on the OPS investigation, a witness who was an officer was interviewed and stated that he did not recall any conversation between the officer and the complainant, and he had no idea about the alleged incident or conversation. Another officer stated that the first witness officer left the area prior to the conversation. The officer stated that the complainant walked away from the security desk to the front lobby door, had a conversation with the target officer and they were talking about the CPRB, but he did not know exactly what they were discussing. The target officer stated that he did not remember if anyone was close enough to hear the conversation. He admitted that he told the complainant "Maybe you people on the Board, CPRB, should investigate the complainant and see what kind of record they have." The target officer admitted that he may have said that it is his opinion that "These criminals are cry babies who make false complaints and don't want the law to do its job." Mr. Phelan reported that the statements that the officer admitted to saying were different than those alleged; therefore there were insufficient facts to prove or disprove the allegations.

Mr. Phelan summarized the OPS finding on the second violation of conduct standards allegation as **sustained**, where the review disclosed sufficient facts to prove the allegations made in the complaint. The complainant alleged that the officer stated, "Oh those scumbags! They have no authority. They are a joke," when referring to members of the CPRB. Based on the OPS investigation, while the officer's account of what he said differed slightly from that alleged by the complainant, he stated that he may have stated that he felt these "criminals, drug dealers, wife beaters, and thieves are "scumbags."

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

Andrew Phelan moved to concur with the OPS finding on the first allegation of a violation of conduct standards as **not sustained**. Reverend Edward Smart seconded the motion. The motion carried unanimously.

Andrew Phelan moved to concur with the OPS finding on the second allegation of a violation of conduct standards allegation as *sustained*. Marilyn Hammond seconded the motion. The motion carried unanimously.

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

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

It was noted that the Board would not meet in July or August.

C. *Committee/Task Force Reports*

By-Laws and Rules

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

Community Outreach

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

Mediation

Committee Chairman Jason Allen reported that the status of the mediation program had been discussed at the Public Safety committee meeting that some of the Board members attended. It was noted that there was a meeting regarding mediation scheduled for June 14, 2010 at 2:30 p.m. at the Public Safety Building.

Police Department Liaison/ Policy Review/ Recommendations

Committee Chairman Andrew Phelan stated that had nothing new to report. Chairman Allen noted that the Board has had discussions with the Common Council regarding the cameras in the police vehicles.

Public Official Liaison

Chairman Jason Allen stated that Committee Chairman Ronald Flagg was not present. Chairman Allen reported that some Board members attended the meeting with the Public Safety Committee. Chairman Allen asked Coordinator of the Board Sharmaine Moseley if the Board had any upcoming meetings with the Deputy Mayor. Ms. Moseley responded that the Board did not have any upcoming meetings with the Deputy Mayor because he has been unavailable due to personal reasons. Chairman Allen stated that maybe the Board could schedule a meeting with Corporation Counsel instead of the Deputy Mayor. Acting Board Counsel William Kelly stated that the Board should meet

with Deputy Mayor Phil Calderone. Chairman Allen asked if the GLC could coordinate a meeting with the Deputy Mayor.

Task Force on Monitors

Chairman Allen asked Ms. Moseley about the latest news regarding the new monitors. Ms. Moseley replied that last week the Public Safety Committee met the new monitors, but she was unsure whether the Committee had approved the monitors. She further stated that as soon as the GLC receives notice of approval, a training session will be scheduled for the monitors. It was noted that Reverend Smart had agreed to run the meeting. Chairman Allen stated that he would try to attend the meeting as well. Chairman Allen stated that he thought the Common Council motion to approve the new monitors had carried, but the Board would wait for notice of the approval.

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 seventy-four (74) active complaints before the Board for review. Of those seventy-four (74) active complaints, seven (7) were reviewed at tonight's meeting, which leaves the Board with sixty-seven (67) active complaints. Out of those sixty-seven (67) active complaints six (6) cases are ready to go on the next meeting agenda for review.

It was further reported that three hundred and fifty-five (375) 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 fifty-three (453).

It was reported that since the Board's last meeting, the GLC received twelve (12) grievance forms. The total number of grievance forms received to date is one hundred and seventy-three (173). In response to the GLC's outreach to all one hundred and seventy-three (173) individuals, the GLC has received forty-six (46) CPRB complaint forms.

Board Vacancies/Re-appointments

It was reported that there is still a vacancy on the Board which is to be filled by the Mayor.

Board Member Orientation

It was reported that Board member Akosua Yeboah and Ms. Moseley successfully completed the APD's Citizens' Academy, which included a ride-along. The Academy was a fifteen (15) week course filled with a lot of information, insight and hands on training. It was further reported that last month, several Board members participated in a tour of the APD's Communications Center located on Henry Johnson Boulevard. Chairman Allen stated that the Communication Center was impressive and that it has a lot of good technology.

NACOLE Conference

It was reported that the NACOLE Conference is being held from September 20th-23rd in Seattle, Washington. It was further reported that Board members Akosua Yeboah, Marilyn Hammond, and GLC Coordinator of the Board Sharmaine Moseley would be attending the conference on behalf of the CPRB.

Upcoming Meetings

It was reported that the Common Council's Public Safety Committee was available to meet with the Board on June 1st at 5:30 p.m. The GLC would notify Board members as soon as confirmation is received. It was also reported that there was a meeting regarding the mediation program scheduled for Monday, June 14, 2010, at 2:30 p.m. in the Public Safety Building.

E. Report from the Office of Professional Standards

Commander Ronald Matos stated that the OPS gathered the Standard Operating Procedures updates for the Board and everyone should have received them at tonight's meeting. There is also a copy pending for the public. Commander Matos further reported that the OPS is in the process of putting together a distribution checklist through the OPS administrative services, so that the Board's version of the SOP does not lag behind. Some of the Board's SOP's have not been updated since 2004.

Commander Matos reported that the Board already discussed the mediation meeting to be held at headquarters. Both he and Deputy Chief Reilly should be in attendance. On June 8, 2010, Commander Matos and the Deputy Chiefs further discussed the video reviews during case review and they would be looking at the legal implications regarding confidentiality as discussed at the Public Safety Committee. Chairman Allen noted that he would be attending a meeting on June 11, 2010 with some members of the Common Council and the Chief to discuss the issue of video reviews. Commander Matos stated that he would also be attending the meeting.

F. *Report from the Chair*

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

V. **Public Comment**

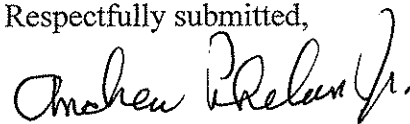
Chairman Jason Allen opened the floor for public comment. A complainant stated that she had been told that her complaint would be heard at tonight's meeting. She stated that she called the office and asked if she would be notified when her complaint was going to be reviewed. She stated that she did not hear her complaint. Chairman Allen told her that Ms. Moseley would be able to tell her when her complaint would be heard. Chairman Allen apologized for any misunderstanding. The complainant stated she would have left, but found the meeting informative. Chairman Allen thanked her.

Monitor George Kleinmeier asked for an update on a copy of the SOP for the monitors. Chairman Allen stated that he asked Corporation Counsel for an opinion on whether monitors could have a copy of the SOPs. Chairman Allen asked Mr. Kelly whether monitors could have a copy of the SOPs. Mr. Kelly replied that there had been discussions about it, and that there was something in the works. Mr. Kelly asked if Ms. Moseley had a copy of the SOP available at the GLC. Ms. Moseley replied that the GLC had two (2) copies, and one (1) redacted copy. Mr. Kelly stated that they would have to look at the redacted copy and have a copy available. Chairman Allen stated it was for the monitors and he believed that it would make the monitors more efficient. He further stated that it would prevent monitors from charging for hours to travel to the OPS to look at the SOP.

VI. **Adjournment**

Chairman Jason Allen moved to adjourn the meeting. Marilyn Hammond seconded the motion. The meeting adjourned at 7:05 p.m.

Respectfully submitted,



Andrew Phelan, Jr.
Secretary