

**City of Albany
Citizens' Police Review Board
GWU the Center
274 Washington Avenue- Teen Center Conference Room
December 16, 2010
6:00 p.m. – 8:00 p.m.**

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

Absent: Akosua Yeboah.

I. Call to Order and Roll Call

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

II. Approval of the Agenda

The agenda was reviewed. Andrew Phelan Jr. moved to approve the agenda. Chairman Jason Allen seconded the motion. The motion carried unanimously.

III. New Business

A. New Complaints

1. New Complaints Received since November 19, 2010 Meeting

Chairman Jason Allen reported that three (3) new complaints were received by the Board since the November 19, 2010 meeting. Anthony Potenza moved to waive the reading of the new complaints due to the amount of cases to be reviewed. Chairman Jason Allen seconded the motion. The motion carried unanimously.

2. New Complaints for Review

CPRB No. 46-09/OPS No. CC2009-104 (Presented by Chairman Jason Allen)

Chairman Jason Allen summarized the complaint. Chairman Allen reported that the incident occurred on July 7, 2009 at 9:56 p.m. The complainant alleged that she called the police on several occasions about hearing neighbors over her apartment. She felt that someone had been in her apartment when she was not home. The complainant alleged that the officers did not listen to her complaints and asked if she was receiving treatment for mental illness. The complainant further alleged that the officers called the Mobile Crisis Unit to respond.

Chairman Allen reported that he reviewed the Confidential Case, Confidential Report, several Call Tickets and Incident Reports from as far back as July 7, 2009.

Chairman Allen reported that the complainant called the police for assistance because she thought her old neighbors from Cohoes had been breaking into her house and dumping her laundry basket while she was not home. The complainant also felt that people were living on the roof above her. He further reported that based on the OPS investigation, the OPS conducted interviews with the complainant twice after her complaint was filed. The complainant had also been making many complaints to the supervisor of the building and the maintenance supervisor of the building, as well, saying the same thing: that people had been breaking into her place, dumping her laundry basket, living above her, and having parties that she could hear. Chairman Allen stated that he had also read two (2) Inter-Department Correspondences (IDC). In one of the IDCs, the officer found no evidence of forced entry and canvassed the neighborhood, as well as interviewed the maintenance supervisor of the building. Chairman Allen further reported that at that time Adult Protective Services were also brought in. He stated that he had read many sheets regarding that, but he would rather not discuss them at the meeting.

Chairman Allen noted that no monitor had been assigned to the complaint.

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

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

Chairman Allen reported that the OPS recommended that the call handling allegation be closed as *exonerated*, where the acts which provided the basis for the complaint occurred, but the review showed that such acts were proper. Chairman Allen reported that based on the OPS investigation, the responding officers investigated the complainant's claim of burglary, canvassed neighbors, and determined that based on their observations no burglary occurred. The officers recognized the signs of someone who may be suffering from a mental illness or in need of assistance and contacted the appropriate services to render assistance to the complainant.

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

CPRB No. 48-09/OPS No. CC2009-109 (Presented by Chairman Jason Allen)

Chairman Jason Allen summarized the complaint. Chairman Allen reported that the incident occurred on October 21, 2009 and the complaint was received on November 5,

2009. Chairman Allen reported that the complainant alleged that detectives entered his home without permission and told him that he had to move "the f**k out of Albany."

Chairman Allen reported that he reviewed the Confidential File. There was a mother who called the police. There were actually several incident reports involving this mother's house, where she called the police because her daughter would frequently run away from home. On this one occasion, the mother suspected her daughter was at this gentleman's house, and she felt very uncomfortable because her daughter is underage. She asked the police to go to this gentleman's house and go find her. The detective went to the gentleman's house, and the daughter was actually out in the yard. After some prodding, the detective asked the daughter to go back home to her mother. The detectives knocked on the gentleman's door, and the gentleman stuck his head out of a second story window and said "Come on up." The officers went up to the second floor and were let in and had a conversation with the gentleman. Chairman Allen reported that the gentleman had been arrested in the past by the same target officer for sexual abuse of a fifteen (15) year old in 2008. Since the complaint has been filed, the OPS has not been able to get hold of the complainant, and the certified letters requesting interviews with him have been returned as well.

Chairman Allen stated that he reviewed the Confidential File, which included the IDCs from the target officer, several incident reports, as well as incident reports dating back to the time not just from the person contacting the police about her daughter running away, but also the gentleman's arrest back in 2008.

Chairman Allen noted that a monitor had not been assigned to the complaint.

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 Allen reported that the OPS recommended that the first conduct standards allegation be closed as ***not sustained***, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that the detective took it upon himself to enter the complainant's apartment. Based on the OPS investigation, both detectives indicated that they were allowed in the apartment by the complainant. The witness that was listed by the complainant was not able to be located. The complainant was also not able to be located and did not respond to correspondence.

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

Chairman Allen reported that the OPS recommended that the second conduct standards allegation be closed as *not sustained*, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that the detective told the complainant that he better move the f**k out of Albany. Based on the OPS investigation, the target detective denied the allegation. The second detective stated that he did not hear the detective say the alleged comments made by the complainant. The detective also stated that he was only 5-6 feet from the target detective and would have heard the alleged comments if they were said. The complainant was unable to be located, as was his witness, to clarify whether or not the detective made the alleged statement.

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

Chairman Allen reported that the OPS recommended that the third conduct standards allegation be closed as *not sustained*, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that the detective threatened to arrest the complainant if he had any girls in the apartment. Based on the OPS investigation, the target detective denied the allegation. The second detective stated that he did not hear the detective say the alleged comments made by the complainant. The detective also stated that he was only 5-6 feet from the target detective and would have heard the alleged comments if they were said. The complainant was unable to be located, as was his witness, to clarify whether or not the detective made the alleged statement.

Chairman Jason Allen moved to concur with the OPS finding of *not sustained* with regard to the third conduct standards allegation. Andrew Phelan Jr. seconded the motion. The motion carried unanimously.

CPRB No. 51-09/OPS No. CC2009-102 (Presented by Anthony Potenza)

Anthony Potenza summarized the complaint. Anthony Potenza reported that the incident occurred on October 19, 2009, and the complaint was received by the GLC on November 13, 2009. Mr. Potenza noted that no monitor had been assigned to the complaint. The complainant alleged that her boyfriend was laid off from his job, and arrangements were made to pick up his check. When he went to pick up his check, he was told that it was not ready, and he should leave the property. The complainant escorted the boyfriend to the apartment complex, where they were met with the superintendent, another gentleman,

and two officers. One officer asked how much the boyfriend had to drink and he responded, "a couple of beers." While listening to the project manager speaking about the payroll check and when to pick it up, the officer did not think the boyfriend was paying close enough attention so he stated, "Well, apparently you're not going to listen to me. I can arrest you, you know, but before I do, I am going to kick your a**." The complainant requested the officer's name. The officer allegedly replied, "You don't need my name; you can see my badge right here," and opened his coat for her to see. The complainant stated that she told the officer that he was unprofessional and that her nephew was an Albany County Sheriff, to which the officer allegedly replied he "didn't give a sh*t."

Mr. Potenza reported that he reviewed the following documents: Citizen Complaint Form; Albany Police Department Civilian Complaint Report; the OPS Confidential Report, which detailed the timeline of events and the subsequent actions; Albany Police Department Citizen Grievance Notification Report; IDCs from the officers; Call Ticket; Correspondence from the Albany Police Department to the complainant sent by certified mail; and a copy of the signed receipt for the certified mail by the complainant.

Mr. Potenza stated that in reviewing the documentation, he would like to note that the complainant did name two (2) witnesses. The complainant's two (2) witnesses did not corroborate the complainant's allegations. One (1) witness stated that the complainant's companion or spouse was fired for threatening action. The other witness stated that the police were called due to the ex-employee creating a disturbance. The complainant's witness stated that there was no observance of improper or unprofessional action on the part of the police officers.

Mr. Potenza reported that the OPS recommended that the first conduct standards allegation be closed as **unfounded**, where the review showed that the act or acts complained of were misconstrued. The complainant alleged that an officer stated, "I can arrest you, you know, but before I do, I am going to kick you're a**." Based on the OPS investigation, the officer admitted that he told the boyfriend, "He was lucky that one of the construction workers didn't kick his a** for scaring the girls." The complainant's two (2) witnesses stated that they did not hear the officer threaten to kick the boyfriend's a**. They both also indicated that they did not witness any inappropriate or unprofessional behavior displayed by any officers on the scene that day. The boyfriend stated that both witnesses were present when the alleged comment was made by the officer, and that they would have heard the officer make such comment. The boyfriend indicated to the OPS that he did not drink any alcohol the morning of the incident; however, the complainant indicated that he had been drinking that morning. The officers indicated that the boyfriend had been drinking as well as the one (1) witness when the witness called the police and stated that an ex-employee was drunk and causing a disturbance. Mr. Potenza stated that the disturbance was the issue more than the fact that

he may or may not have been drinking. He further stated that the statements of the witnesses support the findings of the OPS; so he agrees with the OPS.

Mr. Potenza asked if the complainant was present. It was noted the complainant was not present.

Mr. Potenza asked if the Board had any questions. Reverend Smart stated that the officer, in his own statement, said that the man was lucky that "one of the construction workers didn't kick his a** for scaring the girls," which is profanity. Reverend Smart further stated it was not officer friendly language, which indicated to him that also in the first synopsis, he may have said he "didn't give a sh*t." Reverend Smart stated that it is certainly unprofessional. He further stated that he does not think policemen, Commanders, the Chief of Police, and the Deputy Chief go around saying "Well, somebody else is going to kick you're a**." Reverend Smart stated that he thought it was unprofessional and inappropriate. Mr. Potenza stated that he supposed he could not disagree with Reverend Smart on that, but what he was looking at was the allegation that the officer stated that to complainant or the complainant's companion. Reverend Smart stated that it would have been different if the officer had used "butt," instead of the language used. Mr. Potenza asked Reverend Smart if that had an impact on the outcome of the OPS' findings and thoroughness of the investigation.

Chairman Allen asked if the gentleman was troubled by the language. Chairman Allen asked if the gentleman filed the complainant or if it was his girlfriend. Mr. Potenza replied that his girlfriend filed the complaint. Chairman Allen asked Mr. Potenza if the gentleman had stated that the officer said those things to him. Did he corroborate his girlfriend's complaint? Mr. Potenza replied that he did not know. Chairman Allen asked if the gentleman had been interviewed. Commander Matos stated the boyfriend had been interviewed. Chairman Allen asked if he had corroborated the girlfriend's complaint. OPS Detective Kathy Hendrick stated that in the report both witnesses were present when the alleged comment was made by the officer and they would have heard the officer make such a comment. Chairman Allen stated that was correct, but wanted to know if the boyfriend said the detective said that. Reverend Smart stated that in the OPS report it stated that "conduct unfounded," in the fourth line, "the officer admitted he told the boyfriend," "he was lucky one of the construction workers did not kick his a** for scaring the girls." Reverend Smart further stated that was inappropriate language and officers are held to a higher standard than people on the street. Reverend Smart stated that if the officer stated that, then the officer admitted it was inappropriate conduct or inappropriate language. He further stated that officers represent the citizens of Albany. Reverend Smart asked if they would like someone to speak to their mothers and say "Hey, somebody is going to kick somebody's a**." Chairman Allen stated that at a minimum the officer had opened himself up for a complaint. Reverend Smart stated it was inappropriate. Chairman Allen asked if anything was said to the officer, like, "Hey,

you shouldn't do this." Commander Matos stated that the complaint was that the officer threatened to cause harm to the complainant, or the complainant's boyfriend. He further stated that when they spoke to the complainant's boyfriend, he referred everything to the witnesses who were interviewed, and they did not back it up. The witnesses stated that the officers did nothing unprofessional. The complainant's boyfriend himself also denied having any alcohol or being intoxicated. Commander Matos stated that taking into consideration what the boyfriend was saying, based upon his inconsistencies, he did not play into the OPS' investigation. He further stated that the OPS went to the witnesses that the boyfriend referred them to, but as for the officer saying that particular word, that is not something they would take action against. Reverend Smart thanked the Commander. Reverend Smart stated that he believes that if an officer was inappropriately spoken to by a layman, the officer would be offended and immediately be on guard if a person used inappropriate language to a person who represented the law. That officer would probably feel that the person's demeanor and language was escalating the situation. Reverend Smart stated that he believes that officers are to be held to a higher standard, even if someone uses inappropriate language to the officer. The officer must be in full control and not, at any time, lower to the level of that particular person. He further stated that was why our finest men and women are officers of the law. Reverend Smart stated that was why the standards for being an officer are so high, because we want the very best. Commander Matos stated that the allegation from the girlfriend was that the officer threatened to cause harm to the boyfriend. The investigation revealed that the allegations were *unfounded* on the threat on behalf of the officer to cause harm to the boyfriend.

Chairman Allen stated that he would propose that perhaps as a result of this, the Board could send a letter saying that the use of this language is unbecoming and opens the officer up to this type of situation. Chairman Allen further stated that the officer admitted to using the word, and what proceeded and followed the word is what is in dispute at this point. He stated that in the ordinary course of a given day people may not think it is an offensive word, as there are worse, but in the context of this situation it needs to be above reproach. Chairman Allen stated that the officer admitted to using the word. Chairman Allen asked if this was where Reverend Smart's head was parked. Reverend Smart replied in the affirmative. Chairman Allen asked Mr. Potenza what he thought. Mr. Potenza stated that he did not disagree. That kind of language was inappropriate, but sometimes that language is used a lot at construction sites. Maybe the officer was getting a little overzealous in trying to speak in vernacular with regard to the setting. Chairman Allen asked that if he were pulled over and said, "Hey, I'm late to a meeting, can you move you're a** on that speeding ticket," what would happen? Mr. Potenza stated he understood, and he agreed with Reverend Smart with regard to the inappropriate language. He agreed that officers do have to be held to a higher standard, and he would agree to any type of letter. Reverend Smart stated with that in mind he would concur

with the motion. Chairman Allen stated Mr. Potenza had not made a motion. Reverend Smart stated he thought he made a motion.

Anthony Potenza moved to concur with the OPS finding of *unfounded* with regard to the first conduct standards allegation and stipulate that a letter be written regarding the inappropriate language used by the officer. Reverend Edward Smart seconded the motion. The motion carried unanimously.

Mr. Potenza reported that the OPS recommended that the second conduct standards allegation be closed as *unfounded*, where the review showed that the act or acts complained of were misconstrued. The complainant alleged that an officer told her that he "didn't give a sh*t." Based on the OPS investigation, the officer indicated that the complainant told him that her nephew was a sheriff and that he took that as she was trying to sway his decision as to not arresting her boyfriend. He stated that he told the complainant, "I don't care who you call as long as you do it off the property and leave." The witnesses both indicated that they did not witness any inappropriate or unprofessional behavior displayed by any officers on the scene that day. In addition, the boyfriend, who was reportedly under the influence of alcohol, did not mention the alleged comment. It is believed that the complainant misconstrued what the officer had actually said based on the aforementioned facts.

Anthony Potenza moved to concur with the OPS finding of *unfounded* with regard to the second conduct standards allegation. Reverend Edward Smart seconded the motion. The motion carried unanimously.

CPRB No. 60-09/OPS No. CC2009-128 (Presented by Reverend Edward Smart)

Reverend Edward Smart summarized the complaint. The complainant alleged that the incident took place on November 22, 2009, in front of Jillian's. Fifteen (15) to twenty (20) officers, including plain clothes officers and at least ten (10) patrol cars were present at the scene. The complainant alleged that one officer became increasingly belligerent, pushing, shoving a man, shoving both males and females, and screamed "Get the f**k out of here." The officer extended his night stick, and another officer had to pull the officer away. The officer continued to scream obscenities and continually extended the night stick in an extremely aggressive manner. She stated that they observed the officer from across the street in a pizza place, and the officer was aggressive and shoved and pushed the crowd and extended the night stick. She stated that the officer's conduct could have incited a riot, and the officer's conduct was blatant, escalating to police brutality, and the officer showed no respect for the citizens of Albany. The complainant obtained the officer's badge number and the officer said, "Yeah, if you gotta problem with that you can call...." and proceeded to rattle off the number to file a complaint.

Reverend Smart asked if the complainant was present. It was noted the complainant was present.

Reverend Smart reported that he reviewed the following documents: Citizen's Complaint Form; Investigation Report; OPS Confidential Report dated August 30, 2010; IDC's dated April 1, 2010, December 22, 21, 23, and 29, 2009 and January 15, 2010; Rights of Officers Statement dated December 12, 2009; Confidential Report dated May 10, 2010; Citizen's Complaint Form; Albany Night Light Tracking; Arrest Report dated December 22, 2009; Taser Report dated December 22, 2009; Call Detail (16 Vehicles) dated December 22, 2009; Call Detail (2 vehicles) dated December 22, 2009; and Call Detail (5 Vehicles) dated December 22, 2009.

Reverend Smart noted that CPRB Board Members Jean Gannon and Akosua Yeboah both requested from the OPS a review of IDC statements of targeted officers which was done with no measurable changes. Also, the OPS was asked to include a statement from the complainant, and that was done as well. He stated that this was the third review by a member of the Board. Chairman Allen asked if this was the first time the complaint had been reviewed by the Board. Reverend Smart stated that was correct, but it had been previously reviewed by two (2) Board members. Chairman Allen asked if the other Board members had had questions. Reverend Smart stated the questions that were answered by the OPS, concerned statements made by the two (2) target officers, where they were asked to re-enter their IDCs and also they were asked to include a statement by the complainant. Reverend Smart stated that in terms of the complainant, who is present, it was understood that there was another person who accompanied her, and the OPS attempted to contact that person to get an additional statement. That statement was not forthcoming, and considerable attempts were made to get that person to come and make a statement.

Reverend Smart reported that the OPS discovered that the complainant was not alone that evening and attempted to interview the other party. Phone calls were made and contact was attempted. Party refused to return calls and/or submit a statement.

Reverend Smart reported that the OPS recommended that the conduct standards allegation be closed as *unfounded*. The complainant alleged that during an incident in the area of Jillian's Bar, she witnessed unprofessional conduct by police officers. An officer was belligerent, used profanity, pushed the crowd, was rude to her, extended batons, and showed no respect for the citizens of Albany.

Reverend Smart reported that based on his review of the case file, the officers were responding to a crowd that had been drinking and fighting, and it continued among the crowd. Reverend Smart further reported that supervisors asked the officers to disperse the crowd. Sufficient and reasonable force was used to protect the crowd and the

officers. Two (2) arrests were made for resistance, interference, and failure to disperse. The actions of the officers were reasonable and in line with training procedures in this chaotic, early morning, crowd control, near rioting, while members in the crowd continued to fight one another in the presence of the officers after given directions to stop fighting and move along. Reverend Smart stated that he agreed with the finding of the OPS for the conduct standards allegation as *unfounded*.

Chairman Allen stated that he would like to hear from the complainant. Reverend Smart stated that would be fine. Chairman Allen explained to the complainant that Reverend Smart had just read the OPS' findings and asked her if there was anything else she would like to add to the case. The complainant stated she would like to add something.

The complainant stated that when she came onto Pearl Street to go to the pizza place there had clearly been an incident, which was why she assumed that all the police and cop cars were there, but there was no one fighting at that time. There were no continuing fights in the crowd, and there was nobody fighting. As she went past Jillian's, the officer said something to a young man who was standing sideways. The young man said something to the officer, which the complainant did not hear what they said, but the officer's next reaction was to fully step in to him with two (2) hands and push him, nearly knocking him down. She stated that before the young man could get his balance, the officer stepped into him again, pushing him, and nearly knocking him down. With the second push, the officer pushed into the crowd, knocking down a young lady wearing a blue dress, who then fell to the ground. When the officer pushed the gentleman, the crowd became a ripple effect, and the crowd was pushed back with the young man. The complainant stated that the crowd was getting increasingly angry because nobody knew why they were being pushed. The complainant stated that the officer continued to push the young man, yet a third time, and screamed at him to "get the f**k out of here." She further stated there was no way the individual could have gotten out of there. The complainant stated that the young man was facing the officer as he was pushing him and before he was allowed to gain his balance and turn around, the officer was pushing him again. She further stated that she was worried at the fact that there was a crowd, and some people were being pushed, some people had been drinking, nobody knew what was going on except you could see the officer shoving the individual. The complainant stated that she was worried that a fight was going to happen. At the last push, the officer stepped back and grabbed his nightstick. There was an officer standing about five (5) feet away, who made eye contact with the complainant. A second officer standing near the officer grabbed him by the shoulders and pulled him back. This was when the young man was allowed to regain his balance and move back. The complainant stated that it was unnecessary, there was no incident, there was nobody fighting, and the young man was not doing anything. She stated that when the incident occurred the young man was standing a certain way when the officer spoke to him. She stated she did not hear what

was said, it could not have been a pleasant comment, but that still does not justify the officer shoving him like that and it was unnecessary. To shove him into the crowd, into other people, and to knock down other individuals who had nothing to do with it. The girl hit the ground and she starting crying because she had no idea why she was being knocked to the ground. After the incident stopped, they continued across the street to the pizza place. Upon exiting the pizza place, as people were coming out, the target officer and two other officers were coming up the street, headed towards State Street. The target officer became belligerent, and as soon as the group stepped out of the door he was trying to push them along. The complainant stated that the officer was not giving them a second to move, and he again was grabbing at his night stick. She further stated that it was completely unnecessary, and he managed to get around the group that he had been pushing. She waited until he put his night stick away because she had no idea what he was going to do at that time, and she proceeded to get his badge number. The complainant stated that the officer proceeded to tell her rudely that was who he was and if she had a problem with it, she could call the number he gave her.

Chairman Allen stated that there were a couple of things that he had a tough time following in the case. Chairman Allen stated there were no witnesses in the investigation. The complainant stated that she did not understand how there were no witnesses. Chairman Allen stated on the complaint form the complainant did not cite any witnesses. The complainant stated that people do not want to get involved so she did not want to give their names. Chairman Allen asked the complainant why people did not want to get involved. The complainant stated it was the simple fact that nothing gets done. Chairman Allen stated it was because there were no witnesses.

Reverend Smart stated that if he were the person shoved and he was upset, and the complainant did not get shoved, it was someone else she observed getting shoved. If he had been that person and it upset him, he would have been the first one to run to South Station and make a complaint, or he would have joined her and asked to go together. The complainant stated she did not know the person and had no idea who that person was. She further stated she made the complaint because she witnessed the incident, and it did not need to happen. The complainant stated that she had no connection to the boy who was shoved and had never seen him before that day, but the fact that the incident occurred did not need to happen. Reverend Smart asked the complainant if she saw all of the events that took place. The complainant responded that she did not see the first incident. Reverend Smart asked the complainant if she saw any actions of the policemen that she considered to be somewhat unusual, other than the crowd control. The complainant responded that she did not see the crowd control as unusual, they were moving people along, and most of the officers were telling people to keep moving, saying "Come on guys, let's go," and that was completely normal.

Reverend Smart asked the complainant if she had seen anyone arrested. The complainant responded that she had not. Reverend Smart asked if the complainant thought anyone should have been arrested. The complainant stated that she had not seen the initial incident. Reverend Smart asked the complainant if people were fighting and she was an officer, if she would arrest them. The complainant stated that if people were fighting, she would. Reverend Smart stated that in the sense of this, in the report he read and looked at, the officers did not arrest anyone for fighting. He further stated that they only arrested two persons who were resisting, who did not move along, and in the scheme of this incident, which were misdemeanors. If you have officers who come in who are not only outnumbered, but there are a whole bunch of people there and the officers had been advised by their supervisors to disperse the crowd and they give that particular command, he thinks that in all fairness to the officers, he would consider whether the officers did what they were asked to do and were their actions so outrageous. He does not know. Reverend Smart stated that if they had one other witness to come along and collaborate what the complainant has said, but no one came forward. The complainant stated that what Reverend Smart had basically told her is that if the officer told people to move and if they do not move quick enough, it is okay for the officer to shove them. Reverend Smart stated that was not what he meant, but that it would be okay for the officer to arrest that person. The complainant asked if it was okay for an officer to shove somebody. Reverend Smart replied that the officer could arrest the person. Reverend Smart asked if Commander Matos would like to explain the procedure for an arrest if an officer gives a command to a citizen. Commander Matos responded that an officer issuing a lawful command where crimes are being committed can effect an arrest. Commander Matos further stated that in situations of civil obedience and order needs to be restored, the use of force to restore that order is not only taught, but it is authorized, and that is what the complainant was seeing. He stated that it is riot control techniques, street clearing techniques, the sidewalk and street thoroughfares, persons blocking sidewalks and streets are in essence committing the crime of disorderly conduct as written in the Penal Law. They have the right to utilize force to move the crowd along, which is exactly what the officers did. Commander Matos stated that he would not speak to all the documents that are part of the case, but there were several, and if the complainant listened to what Reverend Smart had read at the very beginning, about all the cars that had to respond, and all of the radio transmissions regarding the crowds that were involved, which was why the officers acted in the manner in which they acted to restore order in that area. The complainant stated that obviously the decision is theirs. Chairman Allen asked if there were video recordings of the incident, and if they were reviewed as part of the case. Commander Matos stated that was correct. Chairman Allen asked if the OPS found anything. Commander Matos stated that in the video there can be seen large crowds and a large number of units responding to the area, but there is not enough clarity to pick up individual actions or identify individual persons.

Chairman Allen asked if there were any other questions from the Board. It was noted that the Board had no further questions.

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

Reverend Smart reported that OPS recommended that the second conduct standards allegation be closed as *not sustained*. The complainant alleged that the officer was rude to her. Other officers stated that at no time did they witness the officers acting inappropriately towards any bystanders during the incident. The officers stated that they were never out of control and never acted inappropriately towards anyone. Reverend Smart stated that after careful review of the case file, it was very clear that the officers were dealing with a crowd that perhaps had visited numerous establishments during the evening. Fights were taking place, and the officers arrested two individuals the entire evening. The officers demonstrated great restraint in quieting the crowd.

Reverend Smart noted that as he had previously stated, as with the case the Board deliberated on earlier, he is offended by officers who use inappropriate language. He stated that in this particular place, even though the officer was not as sweet as he possibly could have been, he did not use profanity towards the young man. Reverend Smart noted that the officer gave the complainant the opportunity to get his badge number without using an inappropriate word towards the complainant. He stated that with that, he agreed with the OPS finding of *not sustained*. Reverend Smart further stated that it indicated to him that the officer was in control and at his particular best at that moment.

Reverend Edward Smart moved to concur with the OPS finding of *not sustained* with regard to the second conduct allegation. Marilyn Hammond seconded the motion. The motion carried unanimously.

CPRB No. 62-09/OPS No. CC2009-127 (Presented by Andrew Phelan Jr.)

Andrew Phelan Jr. summarized the complaint. Mr. Phelan stated that on December 8, 2010 he went to the OPS to investigate the complaint, which contained arrest authority and procedure allegations, and conduct standard allegations. He stated to the Board that he would like to note that the complaint was not against the Albany Police Department but was against a Public Service Officer (PSO) who issued tickets. Mr. Phelan stated that the OPS did investigate the complaint, but maybe there could be a new system or something that could be done so that Board members would not get assigned these types of complaints. Mr. Phelan reported that the complainant alleged that a PSO abused her power in issuing the complainant a parking ticket. The complainant felt the ticket was issued improperly because she has a personal issue with the PSO.

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

Mr. Phelan reported that the OPS recommended that the conduct standards allegation be closed as ***not sustained***, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant was ticketed for blocking an "access ramp" and alleged that there was no access ramp in the area. The complainant alleged to have photographs of the parking situation, and when asked to provide those documents, she never responded. Based on the OPS investigation, the OPS inspected the area and it did in fact have two "access ramp" curb cutouts, where the PSO had issued a second "access ramp" ticket to a separate vehicle on the same date and time. Both tickets issued have since been paid in full for the violation. The PSO was authorized to be in that particular area. The PSO indicated that she did not know what kind of vehicle the complainant owned and did not target the complainant for vengeance. Andrew Phelan Jr. moved to concur with the OPS finding of not sustained.

Mr. Phelan asked if there were any questions from the Board. It was noted there were no questions from the Board.

Chairman Allen stated that with regard to Mr. Phelan's earlier point, he would welcome a discussion if he saw a pattern, but this is the first complaint he can remember having seen. He further stated that he did remember a case about two years ago where an officer did write a ticket as a joke against an ex-girlfriend, and it was sustained because it was true, and it was abuse. Chairman Allen stated it was not unheard of. Mr. Phelan stated that the OPS had no way of knowing if the police were involved or not until they investigated because the police can issue tickets as well. Chairman Allen agreed and asked if the complainant had a lot of tickets issued against her or if it was just the one time. Mr. Phelan replied that it was just the one time. Chairman Allen stated that he was just thinking the allegation was that the PSO was targeting the complainant, but if there was just one ticket in question, there was no history. Chairman Allen asked if there was a history or only one ticket. Mr. Phelan responded that there was only one ticket.

Mr. Phelan reported that the OPS recommended that the arrest authority and procedures allegation be closed as ***not sustained***, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that the ticket was issued because the PSO was acting out of jealousy and vengeance. Based on the OPS investigation, this was the only ticket the PSO ever issued to the complainant. The OPS has no way of determining what the PSO's state of mind was at the time. Mr. Phelan stated that he agreed with the OPS finding of ***not sustained***.

Mr. Phelan asked if the Board members had any other questions. Reverend Smart stated that he had a question for Commander Matos. Reverend Smart asked what the

relationship is between the Albany Police Department and parking enforcement. Commander Matos responded that currently parking enforcement is assigned out of the traffic safety division. He stated that there are plans being made to change where they are assigned out of. He further stated there is a relationship with the police department; however they are not sworn officers. Reverend Smart stated that he knew the answer. He further stated that the Board did not have any authority over these types of complaints. Chairman Allen asked Commander Matos about 911 dispatchers. Reverend Smart stated if they were civilians, and they were not police officers, and they are not sworn police officers, the department may have jurisdiction over them, but the Board is only issued the authority to deal with Albany Police Officers. Chairman Allen stated that he agreed the Board is not traffic court, but this is the first one he has seen in six (6) years with a PSO so it is okay. Mr. Phelan stated that without getting into it, it was just a point and they had no way of knowing who it was before they interviewed whether it was actually coming out of the traffic tickets. Reverend Smart stated that he was concerned if the Board started getting all of the complaints about everybody who gets a parking ticket. Chairman Allen stated that was not happening, and it was the first one in six (6) years. Mr. Phelan stated that there are other complaints the Board has reviewed that were completely outside the realm of authority of the Board. Mr. Phelan further stated that the Board reviewed complaints brought against court officers and county court which are complaints that in his opinion should be summarily dismissed. Mr. Phelan stated that those complainants have no standing, and the Board has no authority. Chairman Allen stated that those complaints have come before the Board quickly because there is no finding because they are Albany Court Officers, or Colonie Police or something, and the Board does not have standing, but PSO's work for traffic safety, they write tickets to citizens, and he does not know if Corporation Counsel has an opinion on standing. Counsel William Kelly stated that based upon a review of the legislation, the intention of the legislation was to review the policies and procedures of law enforcement officials in the City of Albany. He further stated that he thought that they looked outside the box, but the intention was to target, or rather look at, the activities of police officers, however, the PSOs might actually fall under the purview of that. Mr. Kelly asked Commander Matos if the PSOs were investigated by the OPS for conduct. Mr. Kelly stated that if the OPS was going to review PSOs, technically, it could come to the extent where the Board might have to review it, but the frequency of doing that would not be that often. Mr. Kelly further stated that the intention of the legislation is to review the policies and procedures of the APD and the policies and procedures of law enforcement officials. If the PSOs fall under the category of law enforcement officials, it would fit under there, but they are also involved in the policing of community policies in the City of Albany, which is also a part of the Board's legislation. The Board's recommendations are regarding police policies and practices for those goals in community policing, and based on his experience and knowledge, he can see the PSOs falling under that to a certain

extent. He further stated that he did not think the frequency of it coming up would be all that often. If, however, someone does have a complaint about a parking officer, as he does parking enforcement quite a bit, he does refer them to the OPS. Chairman Allen stated that the first one was actually written by an APD officer. He further stated it was the first one that he recalls being written against a PSO. Mr. Kelly stated that if a review falls outside of the Board's purview, they can say that and make their finding, but they should bring it to the attention of the appropriate agencies.

Reverend Smart stated that on the first conduct standards allegation that was just a question that is answered in traffic court, whether there was an access ramp or not. He stated that the second question was whether that particular person was being issued tickets for other reasons. Mr. Kelly asked what street it was where the person was blocking an access ramp. Mr. Phelan stated it was Orange Street. Reverend Smart stated he could actually understand why the person would bring the second allegation to the Board, because that would indicate that there was misconduct. Mr. Kelly stated that he handles parking tickets all the time and he has had that complaint before, where a person believed an officer was targeting them, and he has told them they were welcome to make a complaint with the OPS on Henry Johnson Boulevard. Reverend Smart stated he agreed with Mr. Phelan that the Board was not traffic court, and they did not want to start that.

Andrew Phelan Jr. moved to concur with the OPS finding of *not sustained* with regard to the arrest authority and procedures allegation. Marilyn Hammond seconded the motion. The motion carried unanimously.

The Board started to move on to the next complaint on the agenda for review and Ms. Moseley asked them to vote on the second allegation of the current complaint. Andrew Phelan apologized.

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

CPRB No. 63-09/OPS No. CC2009-136 (Presented by Reverend Edward Smart)

Reverend Edward Smart summarized the complaint. Reverend Smart told the Board that the reading material was probably the most extensive he had ever had for a complaint. Reverend Smart reported that the complainant alleged that he was falsely arrested for a false complaint written by a detective and signed falsely by the victim. The detective allegedly "roughly" took him to SSTA for a warrant from Family Court, which should have been a Sheriff's Officer, but instead the detective sent uniform officers. Allegedly the detective notified the complainant's Parole Officer that she would be arresting him and they detained him on February 18, 2009. It is alleged that again on March 3, 2009,

the complainant was falsely arrested by the detective, and, allegedly, this arrest was because he filed a civil suit against a former member of the APD.

Reverend Smart reported that he reviewed the following documents: Citizen's Complaint Form; Letter dated November 30, 2009; Pre-Trial Hearing dated October 3, 2008; Felony Complaint dated October 9, 2008; Court Documents dated April 8, 2005, June 10, 2009, May 21, 2009, and October 31, 2005; Letters dated December 11, 21, and 28, 2009; Family Court documents dated April 8, 2005 and September 13, 2005; Attorney letter dated September 11, 2009; Office Clerk dated March 5, 2008; Disposition dated July 6, 2005; Waiver dated September 7, 2005; Certificate of Conviction dated January 1, 2005; Albany Court papers dated September 12, 2005; Domestic Incident Report dated April 4, 2004; County Court documents dated April 8, 2005, January 10, 2005, September 13, 2006, April 11, 2007, and three dated April 8, 2005; Dispositions dated September 23, 2008 and October 27, 2005; Order of Protection dated April 21, 2005; Letter dated January 5, 2010; Incident Reports dated March 20, 2008 and June 8, 2008; Letter dated January 26, 2010; Arrest Record dated January 5, 2005; Court Document dated April 8, 2005, March 17, 2004 and September 13, 2005; Arrest Incident dated March 8, 2008, and June 8, 2008; Letter dated February 2, 2010; Statements dated February 21, 24, and 26, 2009; Emails dated January 5, 2009, March 23, 24, 26, 27, 2008; Reports dated December 15 and March 4, 2009; Complaint County dated February 24, and 25, 2009; Domestic Incident Reports dated February 15, 24, 2009 and January 1, 2009; Incident Report dated February 17, 2009; Complaint with the County dated January 15, 2009; Statement dated January 5, 2009; and Arrest dated December 18, 2008.

Reverend Smart asked if the complainant was present. It was noted the complainant was present.

Reverend Smart asked Chairman Allen if the complainant could speak at that time. Chairman Allen replied the complainant could speak.

The complainant stated that the records that Reverend Smart read pertained to two incidents. He stated that the first record pertained to an incident with a detective. Commander Matos, Chairman Allen, and Reverend Smart told the complainant that he could not use names. The complainant apologized. The complainant stated that the other incident involved another officer. He further stated that in 2004, he had twins with another female. Reverend Smart asked the complainant to come closer because it was hard to hear him. The complainant came closer and continued to speak. The complainant stated that he left that individual, and she did not want to leave him alone. He stated that when he moved, she moved around the corner, and the only reason she stopped was because he agreed to move back in with her. He moved back in with her and lived with her almost for a year, and she went back to the police station saying she did not want to go through with it. On January 10, the complainant stated that he was re-

arrested after coming back from Albany Police Court and after living with her for a whole year. His attorney told him that the charges were going to be dismissed. After he got the letter on January 10, he went to court, and the same detective arrested him on a charge from April 2004 which he had already been charged and sent to County Jail. The complainant stated that he was convicted of violating an Order of Protection. He explained to his female friends that he had twins, and he had to stay home with them. He stated that he was at home with his twins when a detective wrote a statement to Family Court stating that the complainant violated an Order of Protection against the lady, which was not true. The complainant stated that Family Court issued the warrant, so it was the county's job to send the Sheriff out to arrest him. He was out on parole and he had a tracking device on his ankle, so if he had committed a crime they should call parole. His parole officer would have come and told them to charge him with this, but they did not. He further stated that as soon as they got the warrant, they came and arrested him at his home. He stated that when he opened the door, they roughed him up, grabbed him, took him outside, and told him that he violated an Order of Protection issued by Family Court. The complainant stated that he told them he had not been to Family Court, and he did not have the kids. He stated that he found out that the female filed one complaint with the APD out of City Court. She changed the complaint with a detective's help and went to Family Court, alleging that he spoke to one (1) of her three (3) kids, which he did not do. He stated that the monitor on his ankle is for 24 hours a day, so it was not like he could go anywhere. The complainant stated that he was at home minding his curfew when they arrested him, and the female went back to Family Court and dropped all the charges. He stated that he sat in jail for fifteen (15) months because the detective changed the statement and had the lady file in Family Court alleging that he violated an Order of Protection, which he never did. The complainant stated that was the reason why he filed his complaint, because he had no problem with domestic violence, arrest everybody who does it, but there are a lot of females out there who you meet in a club, you hang out with for one night or maybe a weekend, and when they think you are through with them, they get upset and that was exactly what happened in his case. He stated that he had twins, and he had to move on. That is his family, and that is something you do not mess with, but once the police get involved, do not enhance the lie. The complainant stated that was why he filed his complaint, because his life was torn apart by a lie. He stated that was why he filed the complaint and he had the proof in the documentation and letters, everything that he could do to prove his innocence and there were court documents where the judge threw the charges out. The complainant stated that he served four (4) years in prison based on a lie and that was why he filed his complaint, because something needs to be done.

Reverend Smart asked Chairman Allen if he could ask a question. Chairman Allen replied in the affirmative. Reverend Smart asked the complainant if it was true that he pled guilty. The complainant stated that the reason he pled guilty in County Court was

because they would not let the detective testify at the hearing as to why she wrote those statements. After sitting in jail for fifteen (15) months, he wanted to go home. His case was on appeal to the Third Department, and he was sure it was going to be overturned. He stated that they could not get him to plead guilty to a misdemeanor when he was sitting in jail for 17 months that is past the amount of time. He stated that on top of that, the statements on the Order of Protection had already been dismissed in Family Court by the Judge that issued it, so how can they take him to trial on something that had already been dismissed from Family Court. The complainant stated that he was not going to go down that road again because it had already sent him to prison for fifteen (15) months and so he plead guilty on the advice of his attorney and the hope for an appeal, which is where the case is now. He stated that was all he could say and he explained why he filed the complaint, because if it had not been for those false reports, he would not have lost his job, his apartment, and his family. He stated that he is struggling to get everything back together because of the false police report.

Reverend Smart asked if the lady filed. The complainant replied that she went to Family Court and then she went to Police Court first. The complainant stated that she went to Police Court first and claimed he called her and spoke to her and had documentation that he spoke to her. He stated nothing happened, because she had done that the year before, and he could show the judge documentation, so the judge dismissed it. The following year when he came home he found out about previous charges, and she went back to City Court to file more bogus charges. He stated those charges did not stick; so she got a statement from a detective saying that he violated an Order of Protection. The complainant stated that he was arrested at his home with his twins sitting there, and he was brought to Family Court. The APD showed up, took him down to the jail, and when he got there, they cut off his tracking device. He stated that if they wanted to know where he was, it was easy because of his tracker. They could find out where he was anytime. He stated that he never violated a curfew, and all the crimes were crimes of passion. Reverend Smart stated that was not quite clear, perhaps to the members of the Board, what the police officer did because the police officer had a warrant. The complainant stated that the warrant was out of Family Court. Reverend Smart asked the complainant if they had a warrant. The complainant stated they had a warrant. Reverend Smart asked the complainant if they came to him without a warrant. The complainant stated they did not come to him without a warrant. Reverend Smart asked what the policeman did that was wrong. The complainant responded that he was not saying that the police officers who came to his house did anything wrong, he was saying that the police detective who wrote the report and sent it to Family Court falsely accused him of committing crimes. He never violated an Order of Protection issued by the Judge, but yet that was what was in a report given to the Family Court. He further stated that was what made them issue the warrant, they said that he violated an Order of Protection, which he had not, and that was what caused them to arrest him.

Reverend Smart asked the complainant if it was correct that he plead guilty to one charge. The complainant stated that was correct. Reverend Smart asked the complainant if that was going to the Appeals Court. The complainant replied in the affirmative. Reverend Smart asked the complainant if it was correct that his attorney had told him to do that. The complainant stated that was correct. That was the advice from his attorney because he had been in jail for seventeen (17) months waiting to go to trial. So instead of him sitting in jail for another year and a half, waiting to go to trial and taking the chance of being found guilty, he pled guilty so he could get back home to his kids and try to spend more time with them. He further stated that now his family is with him, they live in an apartment, and he and his wife are trying to get back together. If it had not been for that false police report issued by the detective to Family Court, he never would have been arrested, and that was why he was present. Reverend Smart asked the complainant if there had been any charges made against the woman for making a false report. The complainant stated that there had not been to his knowledge, but he is pursuing his own charges. Reverend Smart stated that he saw that in the reports, and there was no doubt about that. The complainant stated he was filing his own charges, because nobody else had done anything, but he is hoping that something will come out of this. He further stated that he had no problem with the police department. He thinks they are doing a great job, but you can't just take every female that comes in there making up a story and run with it. The complainant stated that the woman wrote one statement, and then she changed it and filed it with Family Court, and that was totally wrong because he had charges pending in City Court. He stated that they should not have changed it and sent it to Family Court and got an arrest warrant, so they could come arrest him, and then the charges were dismissed in Family Court, and then they still wanted to hold him in jail for the simple fact they had the charges pending against him, and they wanted him to plead guilty. The complainant stated that he had his kids, and he was sick of going through this, and they should never have arrested him. He stated that was why he filed a complaint, because it was wrong.

Reverend Smart told the complainant he was glad he was getting his family back and getting his life back together. He stated it seemed that the complainant was doing pretty good. The complainant stated he was trying, he has a long way to go, and he has lost a lot. Reverend Smart told the complainant not to get discouraged and told him that he hopes he does all of those kinds of things, and he is making progress, and that is wonderful. Reverend Smart stated he had no further questions.

Chairman Allen asked if there were any other questions from the Board. It was noted there were no more questions.

Reverend Smart reported that the OPS recommended that the arrest authority and procedure allegation be closed as **unfounded**. The complainant alleged that on January 9, 2009, he was falsely arrested for a false complaint written by a detective and signed

falsely by the victim. On February 18, 2009, he was detained. The complainant stated that he was arrested because of a civil suit filed against a former member of the APD. Based on the OPS investigation, the complainant was arrested many times for domestic related violations including an Order of Protection. Upon a plea of guilty to Attempted Criminal Contempt, Violation of Order of Protection, the complainant was sentenced to time served. The complainant was arrested based upon the signed complaint against him.

Reverend Smart stated that upon review and a detail informational gathering and reading process the complainant continued to file and re-file, write and re-write letters and has given a great deal of time to exhaust the court's time and the process of adjudication. The complainant was arrested on a complaint filed against him. Reverend Smart stated that he concurred with the OPS finding of *unfounded* on the arrest, authority and procedure allegation because the police acted on the basis of a signed complaint.

Reverend Edward Smart moved to concur with the OPS finding of *unfounded* with regard to the arrest authority and procedure allegation. Andrew Phelan Jr. seconded the motion. The motion carried unanimously.

Reverend Smart reported that the OPS recommended that the use of force allegation be closed as *not sustained*. The complainant alleged that he was "roughly" taken to the SSTA for a warrant from Family Court. The complainant was arrested and taken to Family Court on a warrant by the same. Based on the OPS investigation, no indication of force was used, and no resistance by the party was indicated. Reverend Smart stated that there was no sufficient evidence by the complainant of any rough force and with no evidence to support the claim he agreed with the OPS finding as *not sustained*.

Reverend Edward Smart moved to concur with the OPS finding of *not sustained* with regard to the use of force allegation. Chairman Jason Allen seconded the motion. The motion carried unanimously.

CPRB No. 13-10/OPS No. CC2010-018 (Presented by Anthony Potenza)

Anthony Potenza summarized the complaint. Mr. Potenza reported that the complaint was filed on March 4, 2010. It was based on an incident that occurred on March 3, 2010 at 1:00 p.m. It was noted that no monitor was assigned. Mr. Potenza reported that the complainant alleged that when she went to Albany City Court, an officer was discourteous to her and would not let her into the court building. The complainant felt that the officer's actions were harassing in nature. The complainant stated that as a result of the officer's actions she also missed her hearing that was scheduled for 1:00 p.m. at Albany City Court.

Mr. Potenza reported that he reviewed the following documents: Citizen Complaint Form; APD Citizen Complaint Report; the OPS Confidential Report, which included a

record of attempts to contact the complainant; a copy of the APD Citizen Grievance Notification Report; and IDCs of the officers assigned to court. Mr. Potenza stated that an arrest report and incident report were included, unrelated to the complaint. Mr. Potenza stated that he asked the OPS officers as to why these unrelated records were included. These records were used to try to look up an address of the complainant, because the complainant had not listed an address anywhere in the complaint and apparently they looked up the records to see if there were any records on the individual in order to corroborate or make sure there was an address for the person. Mr. Potenza stated that the arrest report was not related to the complaint. Mr. Potenza reported that he also reviewed the following documents: Certified Letter postmarked return to sender, unable to forward; a Copy of a Certified Letter sent to the complainant by APD; the APD was having a lot of difficulty contacting the complainant and informed the complainant that if there was no response by September 14, 2010, the case would be closed. Mr. Potenza stated that he also reviewed the APD Call Ticket regarding another item that was unrelated to the complaint.

Mr. Potenza reported that the OPS recommended that the conduct standards allegation be closed as *exonerated*, where the acts which provided the basis for the complaint occurred, but the review showed that such acts were proper. The complainant alleged that an officer refused to let her into court, causing her to wait for her attorney for thirty (30) minutes while her hearing was taking place. Based on the OPS investigation, the complainant's attorney, as well as the special prosecutor, both stated that the officers were not aware that there was a conference going on, and that the complainant was required to attend. The two (2) officers assigned to the magnometer also stated that they were not aware of any special arrangements for any of the court rooms. The courtroom routinely closes from 12:30 pm to 1:30 pm for lunch. The two officers do not specifically remember the complainant, as they deal with many members of the public on a daily basis and turn many people away during hours when court is closed or not in session.

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

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

Mr. Potenza stated this was really a case of a lack of communication. He stated that the officers who were assigned to court were not aware that a visiting judge was going to be holding court during the lunch hour, during the absence of the recess of regular court, and that the complainant's case was to be held during that period of time. Mr. Potenza stated that it was also ascertained that it was not absolutely necessary for the complainant to be present with regard to that hearing, but regardless, he feels there needs to be better

communication with the officers at the court regarding what may or may not be going on during the lunch hour if there is a visiting judge and cases are being heard.

Chairman Allen asked why the allegation had not been sustained. Chairman Allen asked why the first count was not *sustained* if they did not let her in and they should have. Mr. Potenza responded that they should have let her in. Chairman Allen stated that was what he did not understand, there was a lack of communication, they thought they were doing the right thing, right? Mr. Potenza stated the officers did think they were doing the right thing, but this was a result of the lack of communication, knowledge or conveying information to the officers that there was going to be something going on. The officers acted appropriately with the information that they had. Chairman Allen stated that he agreed, but the consequence of their actions was that the woman missed her case. Mr. Potenza stated that as he understood it, in discussing it with the OPS officers, it was not absolutely necessary for her to be present. Mr. Potenza asked the OPS if that was correct. Det. Kevin Dougherty replied that two (2) attorneys and the judge were there ten (10) minutes early and started the proceeding anyway. The proceeding ended very quickly. Mr. Potenza stated that was really a function, or result, of the fact that it was not necessary for her to be present at that particular proceeding. Chairman Allen stated that they were talking semantics. The officers did not let the complainant in when they should have, and they were still in there. Commander Matos stated that the woman's attorney stated that he should have communicated that to the officers, because they had no idea that it was going on. He further stated that it was a closed chamber proceeding with the special prosecutor and an outside attorney. The officers were doing what they do on a daily basis, which is, from 12:30 p.m. to 1:30 p.m. the courtroom is closed, and if they have contact with the public on a regular basis, they inform the public that the courtroom is closed until 1:30 p.m. He further stated that the actions of the officers were based upon information that they had on hand, which was court was closed. Chairman Allen stated that he did not think anyone should get in trouble over it, he was just wondering why it was not sustained. Chairman Allen asked if it was the defendant's attorney's responsibility to inform the officer or is it court staff. Commander Matos stated that if there is a court proceeding happening outside of court business, it is not incumbent upon the officer to dig into what the judges do, it is something that they should have been told. He further stated that the reason why the OPS found it to be exonerated is the officers were simply doing what they should have been doing, which is to turn somebody away.

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

Anthony Potenza moved to concur with the OPS finding of *exonerated* with regard to the conduct standards allegation. Andrew Phelan, Jr. seconded the motion. The motion carried unanimously.

Mr. Potenza reported that the OPS recommended that the second conduct standards allegation be closed as ***not sustained***, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that sometime in late April or early May of 2010, an officer stated in the complainant's presence that she was a welfare recipient while she was at Albany City Court. The officer whom the complainant undoubtedly stated is the same officer who refused to let her into the courtroom, and also the same officer who arrested her in 2009, was interviewed in reference to the allegations. Based on the OPS investigation, the officer was not present during the magnetometer incident, and denies having any contact with the complainant except for when he arrested her in June of 2009. The officer denied ever making any such comments in reference to the complainant being a welfare recipient sometime in late April, early May of 2010, or any other time.

Anthony Potenza moved to concur with the OPS finding of ***not sustained*** with regard to the second conduct standards allegation. Marilyn Hammond seconded the motion. The motion carried unanimously.

CPRB No. 14-10/OPS No. CC2010-020 (Presented by Andrew Phelan, Jr.)

Andrew Phelan summarized the complaint. Mr. Phelan reported that on December 8, 2010, he went to the OPS to review the complaint. He reported that the complaint involved one use of force allegation. According to the complainant, her daughter was at a Siena Basketball game at the Times Union Center. The complainant alleged that while her daughter was at the game, she was grabbed by an Albany Police Officer, which caused physical injury to her daughter's arm.

Mr. Phelan stated that he reviewed the case. Based on the OPS investigation, the APD officers are assigned to the Times Union Center, to the outside detail, and when they are called, they go inside. He further reported that the incident occurred inside the Times Union Center, and the APD had nothing to do with the incident. It was the Times Union security people who handled the problem.

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

Chairman Allen asked about the blacked out spots on the report, and asked if there was no badge number. Chairman Allen stated that he had seen the police inside the Times Union Center, so it can happen. Commander Matos stated there was actually a Times Union photograph of the incident, which helped the OPS reach their conclusion. Chairman Allen stated okay. Chairman Allen stated that the shield number was blank so he was okay with that.

Mr. Phelan reported that the OPS recommended the use of force allegation be closed as ***no finding***, where the review showed that another agency was responsible and the complainant withdrew the complaint. The incident involved members of the Times Union Center security staff and not the police department.

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

CPRB No. 17-10/OPS No. CC2010-024 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. Ms. Hammond reported that the complainant alleged that he was the subject of a traffic stop for not using his turn signal when he took a left turn onto Quail Street from Clinton Avenue. The complainant disputes this and asks to see the video of the traffic violation the officer pulled him over for.

Marilyn Hammond reported that she reviewed the following documents: the Traffic Ticket dated March 16, 2010; the Call Sheet dated March 16, 2010; and the Confidential Report dated May 3, 2010.

Ms. Hammond further reported that the complainant stated that the officer was not rude, but he was stopped for failure to signal. On July 28, 2010, the complainant called the OPS to withdraw the complaint because he was leaving the state.

Ms. Hammond reported that the OPS recommended that the call handling allegation be closed as ***no finding***, where the complainant has withdrawn his complaint. The OPS spoke with the complainant by phone and he stated he no longer wished to pursue his civilian complaint. The complainant stated he was leaving the state and he did not want to put anymore time into the complaint.

Marilyn Hammond moved to concur with the OPS finding of ***no finding*** with regard to the call handling allegation. Andrew Phelan Jr. seconded the motion. The motion carried unanimously.

CPRB No. 30-10/OPS No. CC2010-055 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. Ms. Hammond reported that the complainant alleged that he was in an auto accident where he lost control of his vehicle and crashed into a building. The complainant's wife and children were in the vehicle at the time. Allegedly, an officer arrived on the scene, began asking questions of the complainant, asked if he was a citizen, and asked for his papers. The complainant alleged that he asked for the officer's name and that of another officer on the scene, and both requests were refused. The officer allegedly asked the wife what her immigration status

was. The complainant felt that the officer's actions were harassment and racism. The complainant felt that he was harassed because of his color, accent, and national origin.

Marilyn Hammond reported that she reviewed the following documents: Incident Report dated May 16, 2010; Call Ticket dated May 16, 2010; Accident Report dated May 16, 2010; Certified Mail Receipt dated May 22, 2010; Witness Statements dated June 15, 2010; one (1) Witness Statement, which was the son's statement, dated June 16, 2010; a second Witness Statement, which was the wife's statement, dated July 12, 2010. When asked if she felt threatened by the officer, she replied no, she was just nervous; IDCs dated June 23, 2010; four (4) IPO statements; and many IDCs because there were seven police patrol cars that showed up. One (1) of the IDCs dated June 22, 2010, stated none of the complainants saw what happened and maybe they were not looking out the window. On June 20, 2010, stories of how the accident happened were inconsistent and the complainant was also asked if his son was driving.

Ms. Hammond stated that she also reviewed a copy of the Confidential Report dated August 4, 2010, which stated nine (9) officers were at the scene. The Albany Fire Department witness stated that all officers conducted themselves in a polite and professional manner. He did not sense any hostility between the officer and complainant number two (2), which was a female. He did not hear the conversation, but it appeared to be a friendly interaction. The sergeant stated that none of the complainant's family could give an explanation of how the accident happened or why they were in the area of the accident, which was a complex of office buildings that were closed on Sunday. The explanation of the accident kept changing, and the sergeant felt that the complainant and the family lacked credibility, when they told him they did not know how it happened. All questioning was within the proper scope of police investigations, because the family was in an area on Sunday afternoon after business hours.

Ms. Hammond asked if the complainant was present. It was noted that the complainant was present.

Ms. Hammond asked if the complainant had anything to add. The complainant stated that there were a few details that were missing from what Ms. Hammond had read. He further stated there are a few inconsistencies, and he did not know why, because he thought it was really adequately investigated by the OPS detectives. He concurred that the police could not see what was happening because it was between himself and a particular sergeant. The complainant stated that the sergeant pulled him aside. He stated that it was true that the other police officers could not see what was happening, and he asked the sergeant if he could call the police officers to come and witness what he was telling him. The sergeant refused. The complainant stated that the burden fell on him to prove if what the sergeant was saying was true or not. The complainant stated these kinds of things go on, and it was unfortunate that a police officer would ask about his

official status. He further stated he was involved in an accident, and the other police officers were very courteous, and took care to check if everyone was okay. The complainant stated that he called the police. The sergeant showed up much later when everything was going on and none of the police officers who showed up had any problem with his immigration status, his accent, or anything else, apart from whether he was okay and what happened in the accident. The sergeant came, and his main focus was of a threatening nature. The complainant stated that the sergeant was inquiring as to his citizenship, and when his wife came into the country. He further stated that he felt that it was really out of the sergeant's line of duty. He mentioned it to the sergeant and asked him if Arizona law applied here, to the accident and why he was asking those questions. The complainant stated he had been involved in an accident, everybody was shaken, and the sergeant was asking him when he became a citizen, when he came into the country, and what visas he held. He further stated the sergeant went to his 13 year-old daughter, took her to the side and scared her by asking her when they came into the country. The complainant stated that the sergeant also took his wife to the side and did the same thing. He further stated the accident occurred in his neighborhood. They took his son in a new vehicle which he had for less than a month, for a drive around the neighborhood when the accident happened. The complainant stated that he was definitely harassed because of his color. He stated that he was not surprised that it happened, but he would like it to be a teaching moment for officers. The complainant further stated that he had much respect for police officers, but that day his little girl was very terrified by the police. He personally felt that he was subject of harassment by that particular sergeant. He further stated that it was only one police officer and not all of them.

Marilyn Hammond thanked the complainant. The complainant stated that he knew that he did not speak good English, but that should not be used against him. Marilyn Hammond thanked the complainant.

Ms. Hammond asked if the Board had any questions. Chairman Allen told the complainant he thought the complainant spoke good English, and he understood everything. The complainant thanked Chairman Allen. Chairman Allen told the complainant that he had an accent, but his English was fine.

Chairman Allen stated that it did not seem to be in dispute that the sergeant said that, because the sergeant admitted to saying it. Chairman Allen asked if officers could say that. Commander Matos stated that he would comment on what occurred. He stated there was an automobile accident, and the investigation of the automobile accident revealed some inconsistencies as to who was operating the automobile. Commander Matos stated that there were questions that were asked of the occupants of the vehicle and the complainant regarding who was driving and what had occurred. When the sergeant arrived, the sergeant was trying to get answers to some of the evidence that was displayed at the scene to put the accident report together. He further stated that the particular target

officer, without giving too many identifying characteristics, has a familiarity with the immigration process through his family structure. Commander Matos stated that what the sergeant was looking to do was try to find some common ground, which is stated in the report, between him and the persons he was talking to. He further stated that when the OPS looked into the sergeant's line of questioning, it was not important to the OPS because it was not an immigration issue. The OPS did not need to look at any of that, which lent more credibility as to what the sergeant told the OPS, as far as why he was trying to do that. Commander Matos stated that was a common technique when interviewing somebody, to try to find common ground, especially with traumatic incidents, and try to bond with them and get them to answer questions, and that was at the heart of why the sergeant was talking to him, simply because he was familiar with that process through his family structure.

Chairman Allen stated that it went so far as the complainant pulling out his green card, and it was not just a conversation, as the complainant produced his papers. He further stated that it fairly seemed to go down that path. Commander Matos stated that the sergeant did ask about those, but there was no report done, and the accident report was done in a proper manner. He further stated that there was no follow up made to immigration, and he was not looking to investigate those things. Commander Matos stated that the sergeant did not go off on a divergent path to look for those things, and the OPS looked at that.

Reverend Smart stated there was some talk as to the complainant robbing something. Commander Matos stated that was part of it, as far as what the follow up was, because of the inconsistencies in the story. It was hard to explain why someone was driving through that area, an area that experiences a high number of burglaries in businesses that are closed on the weekends, so certainly that was something the officers on the scene were following up on. He further stated that was something the sergeant also confirmed when the OPS spoke to him.

Marilyn Hammond stated that she felt the question was more with regard to whether the son was driving or not. She stated that if nobody saw how the accident happened, what were they doing. She further stated everybody was in the car, and nobody knew how it happened. Ms. Hammond asked if you are not looking out the window when you are driving, then what are you doing? Reverend Smart replied that he did not know, but if he were going to rob someplace, he would not take his daughter, wife, and kids along with him. He further stated that if he did not have a card and was here illegally, he certainly would not say "Okay, this Sunday, we are all going to go rob this place." Chairman Allen stated that the sergeant told the complainant, "I want to see your papers." Reverend Smart stated that he did not know that. Chairman Allen stated that if there was an attempt to bond with the complainant, and find a common ground, it did not work. Commander Matos stated that was not disputed, and they would not be sitting here today

if it had had a positive effect. He stated that the sergeant made an attempt to identify himself with the people he was dealing with.

Chairman Allen stated that he thought they should go back to a couple of cases ago and asked it was *not sustained* and was *exonerated*. Chairman Allen stated the OPS' finding was *exonerated*, but it did occur, and the officer did ask for the complainant's papers. Commander Matos stated that was correct, but the difference between the two is that it occurred, the allegations are of misconduct. When the OPS is sustaining a complaint, it is being sustained as to the conduct of the officer. He stated that the OPS is looking at this as yes it happened, but does it rise to a level of misconduct. Commander Matos stated that from the sergeant's explanation of the events and what he did and did not do, and his familiarity with those that immigrate to the country and are here illegally, it does not ring true that he did it inappropriately or as some form of misconduct.

OPS Detective Anthony Montalvo stated that the officer in question had an intimate familiarity with immigration laws, so as an attempt to establish some common ground or consensus among everyone who was involved in the accident that was the subject he used. Detective Montalvo further stated that it was not done with the intent to harass the complainant, because the officer was questioning him at the time, and he knew all about that stuff. Detective Montalvo stated that the gist of it was that no one was giving the same story as to the accident or about anything else. The sergeant came later, as the complainant had stated, and did not know what was really going on. The sergeant asked all four (4) officers who were on the scene investigating the accident and they told him they were getting different things from everybody, so the sergeant took the complainant aside and established that as an objective and went to everybody else and asked about that to see if he could get a consensus about something.

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

Marilyn Hammond reported that the OPS finding regarding the conduct standards allegation was *exonerated*, where the acts which provided the basis for the complaint occurred, but the review shows that such acts were proper. The complainant alleged that he and his family were questioned about his immigration status after having been involved in an auto accident. Based on the OPS investigation, a sergeant responded to the scene of an auto accident in which the vehicle went off the road, continued through a wooded area for a significant distance then entered the roadway and continued into a brick building. Prior to the sergeant's arrival, officers on the scene were unable to obtain any explanation from the members of the family as to what caused the accident. Any reasonable person would find the lack of any explanation from the occupants of a vehicle that had just been involved in such a traumatic accident highly suspicious and possibly deceptive. In an effort to try to establish some sort of common ground between all

occupants of the vehicle, and with the intent of conducting an investigation of an unexplained auto accident possibly involving hundreds of thousands of dollars in private property damage, the sergeant stated that he utilized the issue of citizenship to achieve some sort of consensus between all members of the family. The sergeant stated that his questioning had nothing to do with the "color, accent, and national origin," of the family. The lieutenant that responded stated that due to the continued inconsistencies about the accident from the complainant and his family, he felt the sergeant's line of questioning "would be within the proper scope of police investigations." The sergeant was also faced with the second concern that there was perhaps other criminal activity afoot in light of the fact that the complainant, nor any other family member, could give any reasonable explanation of why they were in an office complex parking lot on a Sunday afternoon after business hours. Individuals at the scene of the incident who were interviewed (including AFD Personnel, APD personnel and the complainant's family members), all stated that they noticed no hostile or unprofessional behavior exhibited by the sergeant while he was speaking with the complainant and his family.

Marilyn Hammond moved to concur with the OPS finding of *exonerated* with regard to the conduct standards allegation. Andrew Phelan Jr. seconded the motion. Chairman Jason Allen and Reverend Edward Smart voted against the motion. The motion failed to carry by a 3-2 vote.

Chairman Allen stated the reason why he voted against the motion was because there were contradictions at the scene. He felt that it was inappropriate to ask that question, especially in an attempt to bond. Chairman Allen stated that his request is to revisit the APD's SOP and confirm whether that is appropriate or not, and whether the SOP needs more definition on whether it is appropriate to ask someone for their papers. Chairman Allen asked what would have happened if they asked the complainant for his papers, and he did not have them. Chairman Allen asked if they would have arrested him. Commander Matos asked if it stated the sergeant asked the complainant for his papers. Chairman Allen stated that the report indicated the sergeant admitted to asking the complainant about his citizenship and immigration status. He further stated the complainant stated he was asked for his papers.

The complainant stated that the sergeant insisted on seeing the papers. He further stated that the sergeant asked him what visa he had before the papers and the sergeant must have known what the proper visas were. He also stated he would just like to correct some inconsistencies. He stated that the officers put his son in the driver's side of the car to test to see if he was the one driving, and apparently he was not, because the son was taller than the complainant.

Chairman Allen explained to the complainant that it takes five (5) votes for the Board to make a motion. Reverend Smart stated the vote was three (3) - two (2).

Chairman Allen asked Reverend Smart for the reason behind his vote. Reverend Smart stated his reason was very similar to Chairman Allen's and he also thinks there are a number of things that should not have been addressed. He stated that he questions the amount of damage and would like to see how much it was; just how long off the road the complainant went and there is some question, if he was an officer, and the person driving is experienced, as he is presuming the complainant is, you put on brakes to stop at some particular point. He further stated that he did understand if it was a child, they may panic and wait a longer time, but he also entertained the thought that there are burglaries in the area and he thinks it is an inappropriate kind of thinking that a person would take the family out as cat burglars or whatever. Reverend Smart stated he thinks it should be looked at again, and he agreed with Chairman Allen.

B. *Appointment of New Members to the Committee on Complaint Review for January 2011.*

The following Board members were appointed to the Committee on Complaint Review for January 2011: Jason Allen, Marilyn Hammond, Andrew Phelan, Jr., Anthony Potenza and Reverend Smart.

C. *Approval of the 2010 Third Quarterly Report*

The 2010 Third Quarterly Report was reviewed. Chairman Jason Allen moved to approve the 2010 Third Quarterly Report. Andrew Phelan Jr. seconded the motion. The motion carried unanimously.

D. *Committee/Task Force Reports*

By-Laws and Rules

Committee Chairman Jason Allen stated that he did not have anything new to report.

Community Outreach

Committee Chairman Reverend Smart stated that he did not have anything new to report.

Mediation

Committee Chairman Jason Allen stated that he did not have anything new to report.

Police Department Liaison/ Policy Review/ Recommendations

Committee Chairman Andrew Phelan, Jr. stated that he did not have anything new to report.

Public Official Liaison

Chairman Jason Allen reported that the Public Official Liaison committee met with the Mayor two (2) weeks ago. They reviewed the Board's initiatives that had been cut in and some of the challenges they are having with mediation. Chairman Allen stated they understood that they should wait for the current issue of the Collective Bargaining Unit to pass and then they can revisit it with leadership. Reverend Smart mentioned to Chairman Allen about the vacant Board member positions. Chairman Allen stated they also discussed the Board vacancies. Chairman Allen asked if the Board had three (3) vacancies. Coordinator of the Board Sharmaine Moseley stated that was correct. Chairman Allen stated the Board had three (3) vacancies right now. Chairman Allen reported that the Mayor requested that the Board and if anyone in the public had any suggestions for new members for the Board to contact his office.

Chairman Allen asked if any Board members would like to mention anything else from the Mayor's meeting. It was noted there were no additional comments from the Board.

Chairman Allen stated that an email went out earlier in the day canvassing the Board for prospective dates for meeting with the Public Safety Committee of the Common Council. Ms. Moseley stated the date was January 12, 2010. Marilyn Hammond asked what was scheduled for January 12, 2010. Ms. Moseley stated the Board had a meeting with the Public Safety Committee of the Common Council on that date.

Task Force on Monitors

Task Force Chairman Allen stated that he did not have anything new to report.

E. *Nominations for Elected Board Officer Positions*

Chairman Jason Allen asked if there were any nominations for the Chairman position for the next year. Anthony Potenza moved to nominate Chairman Jason Allen for the Chairman position for the next year. Andrew Phelan Jr. seconded the nomination. Chairman Jason Allen declined the Chairman position. Chairman Jason Allen asked if there were any other nominations. Marilyn Hammond nominated Chairman Jason Allen. Chairman Jason Allen stated that he declined the position. Anthony Potenza stated they were not accepting the declining of the position. Chairman Allen stated that he appreciated the nominations, but he must decline. Anthony Potenza asked if Chairman Allen could continue to be Chairman for the next six months. Chairman Allen stated that was what they said last year. Chairman Allen reiterated that he had to decline, but thanked the Board for the nomination. Chairman Allen asked if there were any other nominations. Marilyn Hammond nominated Reverend Edward Smart for the Chairman position. Chairman Allen asked if a second person was needed to nominate a person. Anthony Potenza replied that they did not need a second person to nominate. They could have a second person, but it was not necessary. Chairman Allen asked Reverend Smart if he accepted the nomination. Anthony Potenza stated he would second the nomination.

Reverend Smart stated that he would accept the position, but with Jason Allen's help. Reverend Smart asked if that was agreed upon. Chairman Allen asked if there were any other nominations for Chairman. It was noted there were no other nominations for the Chairman position. Chairman Allen asked if there were any nominations for the Vice-Chairman position. Marilyn Hammond nominated Anthony Potenza for the Vice-Chairman position. Anthony Potenza respectfully declined the nomination. Reverend Smart seconded Anthony Potenza's nomination as Vice-Chairman. Anthony Potenza stated that he respectfully declined. Reverend Smart asked if Anthony Potenza would serve as Vice-Chairman for six (6) months. Reverend Smart moved to nominate Anthony Potenza as Vice-Chairman. Anthony Potenza stated that he would think about it. Chairman Allen asked if Anthony Potenza accepted the Vice-Chairman position. Anthony Potenza moved to nominate Marilyn Hammond for the Vice-Chairman position. Marilyn Hammond declined the nomination for Vice-Chair. Anthony Potenza stated that he was flattered, but declined the Vice-Chairman position. Chairman Allen asked Andrew Phelan if he would be interested in the Vice-Chairman position. Andrew Phelan declined. He stated that he thought the Board could get by with only one (1) Chairman. Chairman Allen stated that the Chairman could not make all the rules, and the Vice-Chairman helps. Chairman Allen stated that he would like to share the wealth, and he had been Chairman for a long time and needed to take a break. Anthony Potenza stated that he respectfully declined the Vice-Chair. Chairman Allen asked Anthony Potenza if he would like to think about it. Anthony Potenza stated that he was inclined to decline, but he would think about it. Chairman Allen asked if there were any nominations for Board Secretary. Anthony Potenza nominated Andrew Phelan Jr. as Board Secretary. Andrew Phelan Jr. accepted the nomination as Board Secretary and thanked Anthony Potenza for the nomination. Chairman Allen stated that Reverend Smart had accepted the nomination for the Chairman position, Anthony Potenza had accepted the nomination for the Vice-Chairman position, and Andrew Phelan Jr. had accepted the nomination for Secretary.

Chairman Allen asked if there were any other nominations for any of the Board positions. It was noted there were no more nominations for any of the Board positions.

Reverend Smart moved that the Committee/Task Force Chair positions remain the same, except for the Public Official Liaison Committee, and submit that Chairman Allen would act as Chair in that position. Chairman Allen asked if he could make a different motion. Reverend Smart stated he could make another motion. Chairman Allen moved to wait for the three new Board members and then revisit the Committee/Task Force Chair Elections. Reverend Smart rescinded his previous motion.

Anthony Potenza stated that he would like to move for a vote for all unopposed officers to make it official. Reverend Edward Smart seconded the motion. Chairman Allen stated

that would happen at the next meeting. Anthony Potenza apologized. Chairman Allen stated they were just doing the nominations at this meeting.

F. Committee/Task Force Chair Elections

Chairman Jason Allen moved to table the Committee/Task Force Chair Elections until the Board has three (3) new members. Reverend Edward Smart seconded the motion. The motion carried unanimously.

G. *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-three (73) active complaints before the Board for review. Of those seventy-three (73) active complaints, nine (9) were reviewed at tonight's meeting, which leaves the Board with sixty-four (64) active complaints. Out of those sixty-four (64) active complaints eighteen (18) cases are ready to go on the next meeting agenda for review. It was reported that the eighteen (18) cases that are ready for review were divided up between the January and February meetings, so for the month of January there might be ten (10) complaints on the agenda.

It was further reported that four hundred and seven (407) complaints have been closed. The total number of complaints that remain suspended from review is eleven (11) and one (1) complaint has been referred to mediation. The total number of complaints filed to date is four hundred and eighty-two (482).

It was reported that since the Board's last meeting, the GLC received seven (7) grievance forms. The total number of grievance forms received to date is two hundred and nineteen (219). In response to the GLC's outreach to all individuals, the GLC has received sixty-one (61) CPRB complaint forms.

Monitors

It was reported that the GLC received an email from monitor Jennifer Merritt informing the Board that she can no longer be a monitor with the Board. The Board is now down to nine (9) monitors. Chairman Allen asked if a reason was given for the resignation. Ms. Moseley replied that Ms. Merritt stated that due to lifestyle/work reasons, she could no longer be a monitor for the Board.

Upcoming Meetings

It was reported that the next Board meeting is scheduled for Thursday, January 13, 2011 at 6 p.m. Ms. Moseley stated the GLC has to find a place to hold the meeting. Chairman Allen stated he would be fine with holding the meeting at the GWU Center if it was okay with Reverend Smart. Reverend Smart stated he would be okay with that. Chairman Allen asked if any of the Board members had an issue with the location for Board meetings. It was noted there were no issues with the location. Chairman Allen stated it seemed easier to schedule.

H. *Report from the Office of Professional Standards*

Commander Ronald Matos stated there were a couple of issues to discuss. He stated that he knew the Board was involved in community outreach, and for those that might be in need during the winter, when it is cold outside, the department has re-established partnerships to offer shelter. Each station has contact information for anyone who may need referrals to get out of the cold. They have contacted South Station or Center Station and there are four (4) different places they have been in contact with.

Commander Matos stated that on a second note, the wireless microphones that are out with the officers and being utilized with the in-car camera systems are being upgraded. He further stated they had ten (10) new upgrades and the new microphones are slightly more durable, and they are hoping will operate even more efficiently than those currently being used. Commander Matos stated the department had ten (10) done and are looking to get the rest of them completed.

Reverend Smart asked if it was called Code Blue. Commander Matos responded it was called Code Blue. Reverend Smart asked if it was correct that taxis and officers would take individuals to shelters at no charge. Commander Matos stated that he knew that the homeless shelters action committee provides a van that will take folks to a shelter and when the officers come across somebody in need, they are contacting the homeless action committee who will provide the van to ferry anybody who needs a ride over to a shelter. Reverend Smart stated he thought it was also taxis. Commander Matos stated that might be, but he did not know for sure.

I. *Report from the Chair*

Chairman Jason Allen stated that he appreciated the nominations for the Chairman position. He stated that as many of the Board members know, in the last year he has had many life changes, including not only having a kid, but a promotion at work. Chairman Allen further stated that he works in Schenectady, and a lot of the Board business occurs in Albany, during business hours, and for him to stay as Chairman of the Board, would be a disservice to the Board members, the OPS, and the things the Board is trying to do and he feels that someone who might have more hours during business hours might be better. Chairman Allen stated that a lot of great things have happened in the last

few years, and he thinks the Board will find that change is good sometimes. Chairman Allen thanked the Board and stated he was very honored by their thoughts and nominations, but at this time he could not accept the position.

Reverend Smart stated that he would like to go on record to commend Chairman Allen for his great work. He further stated that some outstanding work has been done in the area of mediation, and policemen and the citizens of Albany are protected now because of the cameras that have been placed in police cars. Reverend Smart stated that it was under Chairman Allen's leadership that that was done. They have seen the kind of progress that at one time was a fiasco, and the complaints were left and right, but because of Chairman Allen's leadership, people in Albany feel safer today, and they feel officers are better trained. Reverend Smart stated that Chairman Allen is and continues to be a true servant of the community of Albany.

Chairman Allen thanked Reverend Smart.

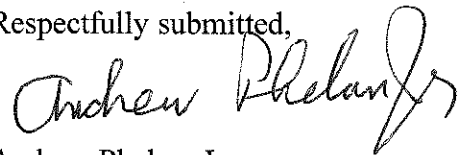
IV. Public Comment

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

V. Adjournment

Chairman Jason Allen stated that the meeting was adjourned. The meeting adjourned at 8:16 p.m.

Respectfully submitted,

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

Andrew Phelan, Jr.
Secretary