

**City of Albany
Citizen's Police Review Board
GWU the Center
274 Washington Avenue-Teen Center Conference Room
June 9, 2011
6:00 p.m. – 8:00 p.m.**

Present: Marilyn Hammond, Lilian Kelly, Andrew Phelan Jr., Anthony Potenza, Eugene Sarfoh, Reverend Edward Smart, and Akosua Yeboah.

Absent: Jason Allen.

I. Call to Order and Roll Call

Chairman Edward Smart called the meeting to order at 6:03 p.m.

II. Approval of the Agenda

Lilian Kelly moved to approve the agenda. Anthony Potenza seconded the motion. The motion carried unanimously.

III. Old Business

CPRB No. 65-09/OPS No. CC2009-132 (Presented by Chairman Edward Smart)

Chairman Edward Smart summarized the complaint. He stated that a letter was received at the GLC in December 2009. At that time former Board Chairman Jason Allen sent a letter to the complainant asking him to fill out a complaint form. The citizen complaint form was sent to the complainant and the complainant has not responded. The time for filing the complaint has expired. Chairman Edward Smart moved to close the case. Akosua Yeboah seconded the motion. The motion carried unanimously.

Chairman Smart stated that item B on the agenda was assigned to a monitor at the Board's last meeting. It was noted that CPRB No. 16-10/OPS No. CC2010-021 was stricken off the agenda until the Board receives a disposition from the OPS.

CPRB No. 18-11/OPS No. CC2011-046 (Presented by Andrew Phelan, Jr.)

Andrew Phelan reported that this case was presented to the Board and previously voted on by the Board to be closed. The Board sent the complainant a letter prior to May 6th notifying the complainant of its findings. The complainant submitted a letter to the Government Law Center after May 6th asking that the Board re-open his complaint.

Andrew Phelan moved to close this case. Anthony Potenza seconded the motion. The motion carried unanimously.

CPRB No. 32-09/OPS No. CC2009-057 (Presented by Anthony Potenza)

Anthony Potenza stated that this case was previously reviewed and findings were made for all allegations except for one allegation of improper call handling. The OPS finding for that particular allegation was *sustained*. In the course of the investigation by the OPS, it was found that the officer failed to submit a use of force report as required by Standard Operating Procedure (SOP) Article 21. The motion to concur with that finding was a vote of 4-0 but since a majority of five (5) votes is needed for the motion to pass, the motion failed. One member abstained from voting on that allegation. The abstention arose from the fact that the complainant would not have known that the officer was required to submit a use a force report. Anthony Potenza moved for a concurrence for the finding of *sustained* on the allegation of improper call handling. Andrew Phelan, Jr. seconded the motion.

Akosua Yeboah asked Mr. Potenza if the failure of the officer to submit the use of force report was administrative and had a bearing on the outcome of the case. Anthony Potenza responded that if the OPS had just confined themselves to the parameters of the complaint the issue of *sustaining* a finding in regards to an improper call handling would not have even occurred. He further stated that he thought the OPS was even more thorough then the actual parameters of the case.

Akosua Yeboah asked was there any disciplinary action taken against the officer? Mr. Potenza replied that whatever action was taken by the OPS against the officer would not have occurred without this investigation. Commander Ron Matos stated that they are not at liberty to say whether the officer received disciplinary action but the officer was found to have failed to submit the report.

Chairman Smart stated that part of the OPS job is to make certain that all officers abide by the SOP. If they do not abide by the SOP, the OPS is charged with informing the Board. They would actually be undermining the Board if they just swept a violation of the SOP under the rug and did not say anything of the officer's failure to follow the SOP. Even though the complainant has no knowledge of that, they are still held accountable for their actions and he believe if the OPS holds everyone accountable then some action on the behalf of the OPS must be taken. Chairman Smart thinks that it is commendable on their part that an officer must obey the SOP and the directives of the Albany Police Department. Chairman Smart stated that he understood that the complainant had no knowledge of the paperwork process, but the OPS did.

Ms. Yeboah responded that the OPS acted in good faith and good conscience in reporting this to the Board but it seems that it had no bearing on the complaint. It did not harm the complainant.

Lilian Kelly reiterated that it is not part of the complaint that the complainant brought in front of the Board. The Board reviewed and acted on the findings of a complaint that is something internal to the police department's administrative actions as a part of the investigation.

Chairman stated that he agreed but when there are complaints made in front of this Board, the complainants never know the number of various counts that they are bringing against that officer. Chairman Smart explained that they are just talking about one count. The OPS divides that one count into a number of different infractions that the complainant alleged against the officer. If the Board takes away one, isn't the Board also taking away all of them? If a person only says that the officer was abrasive and did not talk to me nicely then we are taking away the OPS's ability to really hold the police officer accountable for everything that the police officer has done. If you take away one you must take away all.

Anthony Potenza moved to concur with the OPS finding of *sustained* on the call handling allegation. Andrew Phelan seconded the motion. The motion passed with a vote of 5-0. Lilian Kelly abstained from the vote.

Lilian Kelly stated that she abstained from this vote because this was the second time that this matter came up for a vote and she will abstain for the same reason that she did before. While she agrees that the Board wants to be thorough and understand the internal investigation of the OPS it is not the Board's responsibility to adjudicate their professional conduct within their department but for the Board to look at the allegations brought by the complainant. Ms. Kelly explained that if we do not draw the line somewhere and say that we are looking at the substance of the complaint that the citizen brings before us and nothing else, we could become entangled in the details of the department's administration. The Board should maintain its focus on the citizen's complaint.

Chairman Edward Smart stated that he would like to take this issue up with the CPRB's By-laws and Rules Committee. Ms. Kelly stated that she would like to commend the OPS for bringing this to the Board's attention.

IV. **New Business**

A. *New Complaints*

1. New Complaints Received since the May 18, 2011 Meeting

Chairman Edward Smart reported that one (1) new complaint was received by the Board since its May 18, 2011 meeting. Andrew Phelan, Jr. read the new complaint.

CPRB No. 23-11

According to the complainant, the Albany Police Department detectives contacted the complainant's employer regarding a sexually explicit ad on Craigslist and the complainant was fired. This complaint was previously reviewed by the Board at its February 9, 2011 meeting. At that meeting, after the discussion and deliberation, the OPS, the APD, and the Board unanimously voted to concur with the OPS finding of **unfounded** and closed the case. On May 23, 2011, the complainant filed CPRB No. 23-11 which contains the same allegation that the complainant filed on October 4, 2010. On May 26, 2011, the Board agreed by majority vote not to accept CPRB No. 23-11. Andrew Phelan, Jr. moved to close the case. Anthony Potenza seconded the motion. The motion carried unanimously.

Chairman Edward Smart stated that the Board reviewed this case in February and the complainant resubmitted the same complaint.

2. New Complaints for Review

CPRB No. 60-10/OPS No. CC2010-137 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. Ms. Hammond stated that the complainant alleged that he and another person were pulled over by officers. When the officer allegedly asked for the complainant's address, the complainant replied that he did not have one. The officer allegedly made rude statements, used profanity, punched the complainant in the chest, made him put his chair up, and tried to spread the complainant's legs but the complainant would not allow that. The complainant alleged that he was pushed into a window and slammed to the ground. The complainant further alleged that he was pepper sprayed and the officer put his knee in the back of the complainant's neck. Ms. Hammond reported that based on the OPS investigation, the reason for the use of the pepper spray was that the complainant was resisting arrest. The complainant stated that he resisted arrest several times and on his own admission did not comply with the officers' commands. The complainant's friend tried to help the officer to restrain him. Mr. Hammond further reported that she reviewed: the OPS Confidential Report; Call Ticket; six (6) Intra-Department Correspondences (IDC); Arrest Report; Resistance Report; Printout of the RMS system; the APD Grievance Notification Form; and the Call History. Ms. Hammond reported that not only was the complainant resisting arrest, but also when they were found, they were hiding behind a building. The complainant alleged that the officer called him an "a**hole". The officer stated that he said "No one is being an "a**hole" cop" and "There is no reason for you to act like that." The complainant made numerous threats to the officer, in reference to finding him off-duty and also

threatened to harm the victims that called the police. The monitor reviewed the transcript video.

Marilyn Hammond stated that she agreed with the OPS finding of *exonerated* for the use of force allegation, where the acts which provided for the basis of this complaint occurred but the review showed that such acts were proper. Akosua Yeboah seconded the motion. The motion carried unanimously.

Monitor Theresa Balfe was acknowledged as being present. Ms. Balfe stated that the video confirmed what really took place. It was noted that the complainant was not present.

Ms. Hammond reported that the OPS recommended that the finding as to the conduct standards allegation be closed as *sustained*, when the review disclosed sufficient facts to prove the allegations made in the complaint when the officer allegedly stated “you don’t know me, I’m an a**hole cop.” The way it was taken was not the way it was said because he was referring to what the complaint’s friend said earlier. Marilyn Hammond moved to concur with the OPS finding of *sustained*. Andrew Phelan, Jr. seconded the motion. The motion carried unanimously.

CPRB No. 42-10/OPS No. CC2010-081 (Presented by Andrew Phelan, Jr.)

Andrew Phelan reported that this complaint had a use of force allegation and a conduct standards allegation. He stated that on June 1, 2011, he went to the OPS and reviewed the case file. A monitor was assigned to the complaint. Mr. Phelan summarized the complaint. The complainant alleged that he was waiting in a crowd attempting to get on the bus, when the driver told him to get off the bus because there was no more room. The police arrived and told him to get off the bus but he failed to comply. The police allegedly ran up and threw the complainant to the ground which caused him to strike his head on the concrete. The complainant had his hands behind his back and the police allegedly told him to stop resisting.

Mr. Phelan summarized the OPS finding for the use of force allegation as *not sustained*. Based on the OPS investigation, the officer stated that he did not tackle the complainant to the ground and that the complainant’s head did not make contact with the ground. However, the complainant’s head did strike the ground as a result of the incident. The officer stated that he did not hold the complainant’s head to the ground and that the complainant suffered only a minor scratch or contusion due to the incident. A witness stated that he saw the officer bring the complainant to the ground but made no statement that the police officer tackled him to the ground or held his head to the ground. The witness also saw that the complainant had scratches and bruises on his face. Another witness did not see the officer bring the complainant to the ground or witness any injuries. According to the complainant, he was not resisting the officers. Based on the

OPS investigation, the complainant refused to get off the bus after being repeatedly told to do so by the bus driver and police. The bus was over capacity and the officer stated that he physically escorted the complainant off the bus. Once off the bus, the complainant continued to refuse to follow the orders of the officers to leave the area.

Mr. Phelan summarized the OPS finding for the conduct standards allegation as ***not sustained***. Based on the OPS investigation, the officer denied telling the complainant that he was not hurt. The officer stated that they offered medical attention to the complainant and the complainant refused. The complainant did not recall being asked if he wanted medical attention or seeking it following the incident. Mr. Phelan asked if the complainant was present. It was noted that the complainant was not present.

Lilian Kelly commented that the monitor's report was very helpful. Mr. Phelan added that the monitor Sal Munafo found no wrongdoing on the use of force allegation because the officers were warranted in their actions to issue an arrest. The injuries that the complainant suffered were entirely consistent with the force that the officers were warranted to use and did use according to the APD's subject resistance report. Mr. Phelan further stated that the complainant pled guilty to disorderly conduct.

Andrew Phelan moved to concur with the OPS finding of ***not sustained*** for the use of force allegation, where the review failed to disclose sufficient facts to prove or disprove the allegation that was made in the complaint. Anthony Potenza seconded the motion. The motion carried unanimously.

Andrew Phelan moved to concur with the OPS finding of ***not sustained*** for the conduct standards allegation, where the review failed to disclose sufficient facts to prove or disprove the allegation that was made in the complaint. Lilian Kelly seconded the motion. The motion carried unanimously.

It was noted that Board member Eugene Sarfoh has arrived.

CPRB No. 36-10/OPS No. CC 2010-074 (Presented by Eugene Sarfoh)

Eugene Sarfoh summarized the complaint. The complainant alleges that he and a friend were walking home from a tavern near Washington Park. They decided to walk through Washington Park because his friend's motorcycle was parked in the park. The complainant alleges that while at the motorcycle they were met with a flashing light in their eyes. The police approached them and asked them to empty their pockets and place their hands upon the hood of a car. The complainant alleges that when he reached for his cell phone, the officers grabbed and threw him face first to the ground and he felt a blow to his left side. The officers were monitoring the park for prostitution and were in an unmarked car. Mr. Sarfoh reported that he reviewed the following documents: the Citizen Complaint Form, Emergency Room Exit Care Instructions, Monitor's Report,

Confidential Report, ten (10) Intra-departmental Correspondence (IDC), APD Discipline Rules of Conduct, Sworn Statement from the Complainant, Albany Medical Center Documents, and the OPS Preliminary Report.

Mr. Sarfoh reported that based on the OPS investigation, the target officer indicated that they observed two males that were about to engage in prostitution activities. The officer was able to determine that the two individuals were intoxicated and approached the two while they were at the motorcycle. The officer was driving in an unmarked police vehicle so there was no spot light. He does not recall using a flashlight. The officer identified himself as a police officer and instructed them to put their hands on their head. They put their hands on the car which were not his instructions. For safety reasons, the officer did pat down both individuals and removed the complainant's cell phone and placed it onto the police vehicle. At some point the complainant ceased to follow instructions, reached to grab the cell phone, and slapped the officer's hand away. In response to the complainant's actions, the officer decided that he would handcuff both individuals and move them away from the motorcycle to the grassy area. The officer stated that due to the fact that both individuals were fairly intoxicated, there was no physical struggle involved in that process. The officer was able to confirm that the motorcycle did in fact belong to one of the individuals and both individuals were released. The officer stated that the only physical contact occurred during the handcuffing and moving to the grassy area but there was no struggle involved.

Mr. Sarfoh reported that the complainant alleged otherwise. The complainant stated that while being moved from the area where the motorcycle was, he was struck in the side and suffered bruised ribs. He filed a complaint the next day and saw medical staff two days later. The complaint was diagnosed with bruised ribs as well as some bruising on the upper extremities.

Mr. Sarfoh mentioned the report written by monitor Frank White as being thorough. Chairman Smart asked Mr. White if he would like to add anything. Mr. White replied in the negative. Chairman Smart asked if the complainant was present. It was noted that the complainant was present earlier, but had to leave. Mr. Sarfoh moved to concur with the finding of the OPS on the conduct standards allegation as *exonerated*, where the acts which proved the basis for the complaint occurred, but the review showed that such acts were proper. Marilyn Hammond seconded the motion. The motion carried unanimously.

Eugene Sarfoh moved to concur with the finding of the OPS on the use of force allegation as *not sustained*, where the review failed to disclose sufficient facts to prove or disprove the allegation that was made in the complaint. Marilyn Hammond seconded the motion. The motion carried unanimously.

Eugene Sarfoh moved to concur with the finding of the OPS on the call handling allegation as ***sustained***. With respect to the officer's use of force, the officer failed to submit a report on his use of force. Andrew Phelan seconded the motion. The motion carried with a vote of 6-0 with one Board member abstaining from the vote.

Lilian Kelly explained that this count was not included in the complaint by the complainant and as she stated before that this was an administrative and internal matter and not an issue raised by the citizen in the complaint.

CPRB No. 59-10/OPS No. CC 2010-147 (Presented by Chairman Edward Smart)

Chairman Edward Smart summarized the complaint. The complainant alleges that she was subject of a traffic stop and the officer was abrupt, threatening, spoke in a bullying voice, and was intimidating. Chairman Smart reported that he reviewed the following documents: the Confidential File, Citizen Complaint Form, Time Log, and the Safety Dispatch. He noted that a monitor was not assigned to this complaint. Chairman Smart asked if the complainant was present. It was noted that the complainant was not present.

Chairman Smart summarized the OPS finding on the conduct standards allegation as ***unfounded***, where the review showed that the act or acts did not occur or were misconstrued. The complaint alleged that the officer was rude, intimidating, and refused to tell her why she was stopped. Based on the OPS investigation, the video revealed that the officer stopped the complainant because her license plate was covered in a plastic cover in violation of New York Vehicle & Traffic section 4021B. The video also revealed that the complainant was escorted to the rear of the car and shown the violation. The video revealed that the officer's conduct was not abrupt or threatening. The video showed that the officer's conduct was professional and polite.

Chairman Smart reported that the video clearly indicated that the officer acted in a professional manner and that the acts of the officer were not bullying or intimidating. In fact, the officer took the complainant to the back of the car to show the complainant what the violation was.

Chairman Edward Smart moved to concur with the OPS finding for conduct standards allegation as ***unfounded***. Anthony Potenza seconded the motion. The motion carried unanimously.

Lilian Kelly asked if there was a recording of the incident. Chairman Smart replied that it would be nice if the Board was allowed to view the video. He acknowledged that Common Councilmember Leah Golby was present at tonight's meeting.

CPRB No. 29-10/OPS No. CC2010-059 (Presented by Chairman Edward Smart)

Chairman Edward Smart summarized the complaint. The complainant alleged that she was sitting on a porch when she threw a brown bag into the street. An officer stopped in front and asked her to pick up the trash. The complainant's friend told the officer that she would pick up the trash because it was hers. The officer told her friend "no" and told the complainant to pick it up because it was hers. The complainant then told the officer that she would pick it up but wanted to get her shoes that were near the door. When she went to get her shoes, the officer allegedly grabbed her arm, twisted it and threw her to the ground. It is further alleged that the officer then sat on the complainant and kned her in the face twice. She stated that her mouth started to bleed and her nose hurt extremely bad. The complainant also alleged that when her neighbor asked her for her mom's number, the officer covered her mouth, and pushed her into the patrol car. The complainant alleged that when she asked the officer to roll the window down so she could spit the blood out of her mouth, the officer told her "no" and to "shut up."

Chairman Smart stated that a monitor was assigned to this case. He reported reviewing the following documents: Monitors Investigation Report; Confidential Report; Citizen Complaint Form; three (3) sworn testimonies by various witnesses; Call Log which included the time of the incident; Subject Resistance Report filed by the officer; Arrest Record; Juvenile Booking and Arrest Record; Safety Net; Photos of the Complainant; Information Release Forms; four (4) separate and distinct incident reports; two (2) Conviction Reports; Albany Memorial Hospital Report; Patient EDM; and a Diagnostic Imaging Report which was filed by the hospital as well.

Chairman Smart acknowledged that the complainant was present. The complainant stated that she wanted to go get her shoes and at the time of the incident she was pregnant.

Chairman Smart reported that it was not stated in the complaint that the complainant was pregnant. Chairman Smart asked the complainant if she was aware she was pregnant at the time. The complainant replied in the affirmative.

Chairman Smart acknowledged that monitor George Kleinmeier was present. Mr. Kleinmeier stated that based on the investigation the officer asked the complainant to pick up the bag. The officer felt that the complainant was trying to get away by going into the house. The complainant stated that the officer should not have assumed that she was going into the house. It was not that serious.

The complainant's mother stated that she wanted to speak. She stated that she got the call at her place of business. She was told that the officer was on her daughter and that her daughter was bleeding from the mouth and that she needed to come home. When she arrived home, the officer told her that her daughter was resisting but her neighbors stated to her that that was not what happened.

Mr. Kleinmeier stated that he saw the video of what occurred inside the vehicle. There was no video of the daughter being slammed to the ground on the porch. Mr. Kleinmeier stated that based on the video inside the car, the complainant was spitting blood on everything and the squad car needed to be completely de-contaminated. The officers had to get another vehicle.

The OPS detective Andrew Montalvo stated that the next door neighbors who were present during the interaction were interviewed. The neighbors stated that the complainant escalated the situation. The officer gave her numerous chances to pick up the garbage and she was defiant. It appeared that she was trying to go inside the house in an attempt to escape.

Marilyn Hammond asked if these were the same neighbors who called the complainant's mother. Detective Montalvo replied that he was not sure what neighbors the complainant's mother was talking about but they did interview the next door neighbor who was present.

Chairman Smart asked the complainant's mother if she had a list of names of people who would corroborate her story. The complainant's mother stated that she would make an attempt to do so but again she was not sure what neighbors the officers interviewed already.

Chairman Smart stated that the Board would like to resolve this situation as best they can with the information that the complainant has presented and the information from the OPS. It becomes a question as to one piece of information that can be weighed or tip the scale that the officer used excessive force on the complainant. Chairman Smart further stated that the officer thought the complainant was trying to leave. The witnesses all agreed that the complainant was asked more than once to pick up her trash.

The complainant stated that the officer was not asking. She stated that she told the officer that she was not picking it up because it was not her trash, it was her friend's. Her friend said that she would pick it up but the officer wanted the complainant to pick it up because he thought she threw it, so the complainant had to pick it up. The complainant further stated that she had to get her shoes on and that was when she turned half way and that was when the officer grabbed her arm.

Chairman Smart asked the complainant if it was her trash. The complainant replied that it was not her trash. She threw the trash but it was not hers. The complainant stated that her friend said that she was going to pick it up.

Chairman Smart reiterated that it was not her trash but she threw it. The complainant replied in the affirmative.

Chairman Smart asked the complainant if there was anything else she would like to add. The complainant replied in the negative.

Chairman Smart summarized the OPS findings for the use of force allegation as *exonerated*, where as the acts that provided the basis for the complainant occurred but review shows that the acts were proper. The complainant alleged that the officer used excessive force during the arrest by twisting her arm behind her neck and throwing her to the ground. Based on the OPS investigation, according to the witnesses, the complainant did resist the officer's arrest. The officer used the arm bar technique to take the complainant to the ground after she was actively fighting the officer. The arm bar technique does not involve the twisting of the arm. It does involve taking the subject to the ground face down. The complainant was resisting arrest and wound up on her back and the officer told her to turn over and stop resisting which was verified by an independent witness. The arrest of the complainant was lawful and the officer indicated that he believed that the complainant was trying to enter the house to flee from the officer. According to the hospital records, the complainant never mentioned pain to her arm or was treated for an arm injury. The complainant's actions were seen by an officer and she refused to comply with the officers instructions. Chairman Smart further stated that we must keep in mind that when an officer says "stop" and "pickup" we are compelled to do so. The officer told the complainant numerous times. The video confirmed that the complainant was kicking and destroying police property.

Chairman Edward Smart moved to agree with the OPS finding of *exonerated*. Andrew Phelan seconded the motion. The motion carried by a vote of 6-1. Marilyn Hammond voted in the negative.

Akosua Yeboah stated that she had two questions. She asked the complainant if at any time did she inform the officer that she was pregnant. The complainant replied that she did not. Ms. Yeboah asked is there a way to confirm if the witness that the complainant stated called the mother was interviewed by the OPS. Chairman Smart stated that the witness in the complainant's case was contacted unsuccessfully. The complaint's mother stated that they would not come forward in fear of retaliation.

Chairman Smart summarized the findings of the OPS for the second use of force allegation as *unfounded*, where review showed that the acts complained of did not occur or was misconstrued. The complainant alleged that the officers used excessive force during the complainant's arrest by kneeling her twice in the side of the face. Based on the OPS investigation, the officer denied the allegation. An independent witness stated that there was no kneeling of the face. Medical records indicated that there was no bleeding and the complainant was released with instructions to take Tylenol for pain. The alleged injury to her jaw may have occurred during the lawful arrest. Photos of the complainant did not indicate bruising, bleeding, or kneeling in the face.

Chairman Edward Smart moved to agree with the OPS finding of *unfounded*. Andrew Phelan seconded the motion. The motion carried unanimously.

CPRB No. 45-10/OPS No. CC2010-012 (Presented by Lilian Kelly)

Lilian Kelly stated that this case involves an incident that occurred at the South Station on September 9, 2010. The complaint was filed on September 13, 2010. A monitor was assigned in this case. Ms. Kelly reported that she reviewed the following documents: Complaint Form; Monitors Report; Confidential Report; a variety of different citations that were included in the report including the rules of conduct and citations of the New York State penal law; sworn statements by witnesses including the friend of the complainant; sworn statements by additional witnesses; correspondence from the sergeant; Call Ticket; Inter-departmental Correspondence (IDC); and documents related to the incident. Ms. Kelly stated that there are two (2) allegations that arose from the circumstances at the police station and two (2) that arose from calls that occurred later.

Ms. Kelly summarized the OPS finding for the first allegation of conduct standards, where the officer allegedly used profanity and was rude to him as *sustained*. The complainant is a friend of an individual who reported a crime. They proceeded to the police station and were in the roll call room in the South Station. The complainant's friend raised some questions about the investigation to the officer. The officer began to answer those questions and then the complainant started to reiterate the same questions. The officer told the complainant not to interfere with the investigation and to leave because the questioning began to get heated. All the witnesses that were called were standing at the door but did not leave. The officer allegedly moved the complainant out of the doorway and closed the door. The complainant alleged that the officer was rude and used profane language towards the complainant. The officer in the interview admits to using the "f word" once stating that his interference would "f*** up his investigation."

Ms. Kelly summarized the OPS finding for the use of force allegation as *exonerated*, where the actions occurred but were justified. The complainant alleged that he was physically assaulted and injured when pushed out the door. Based on the OPS investigation, the testimony from the witnesses and the officers stated that the complainant was not assaulted. The complainant admitted that he did not seek any medical attention.

Ms. Kelly reported that the third and forth allegations were conduct standards allegations based off of calls that the complainant had with officers following the incident at South Station. These calls were taped. Ms. Kelly summarized the OPS finding for the second conduct standards allegation as *sustained*. Based on the OPS investigation, a review of the audio recording showed that the complainant's allegation was justified.

Ms. Kelly summarized the OPS finding for the third conduct standards allegation as **unfounded**. The complainant alleged that the Sergeant was rude. Based on the OPS investigation, during the conversation, the Sergeant recognized that the complainant was not happy, so he advised the complainant on how to file a complaint. Ms. Kelly stated that the OPS finding was **unfounded** because the tape recording showed that the officer was professional. Ms. Kelly asked if the complainant was present. It was noted that the complainant was not present. Ms. Kelly asked if monitor George Kleinmeier had anything to add to her review. Mr. Kleinmeier responded in the negative.

Lilian Kelly moved to agree with the OPS finding for the first conduct standards allegation as **sustained**. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Lilian Kelly moved to agree with the OPS finding for the use of force allegation as **exonerated**. Akosua Yeboah seconded the motion. The motion carried unanimously.

Lilian Kelly moved to agree with the OPS finding for second conduct standards allegation as **sustained**. Akosua Yeboah seconded the motion. The motion carried unanimously.

Lilian Kelly moved to agree with the OPS finding for the third conduct standards allegation as **unfounded**. Marilyn Hammond seconded the motion. The motion carried unanimously.

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

The following Board members were appointed to the Committee on Complaint Review for September 2011: Marilyn Hammond, Lilian Kelly, Andrew Phelan Jr., Anthony Potenza, Eugene Sarfoh, Chairman Edward Smart, and Akosua Yeboah.

C. *Approval of Amendments to Operating Procedures*

The amendments to the Board's operating procedures were reviewed. It was noted that the Board had no questions. Andrew Phelan, Jr. moved to approve the amendments to the operating procedures. Chairman Edward Smart seconded the motion. The motion carried unanimously.

D. *Committee/Task Force Reports*

By-Laws and Rules

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

Community Outreach

Chairman Edward Smart stated that the Board needs to elect a chair for this committee. Akosua Yeboah nominated Lilian Kelly to serve as chair. Lilian Kelly accepted the nomination. The Board voted unanimously for Ms. Kelly to serve as chair. Ms. Kelly was elected to chair the Community Outreach Committee.

Mediation

It was noted that committee Chairman Jason Allen was not present to report. Chairman Smart reported that they are waiting on the APD's response on that issue.

Police Department Liaison-Policy Review/ Recommendations

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

Public Official Liaison

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

Task Force on Monitors

Task Force Chairperson Akosua Yeboah stated that she had nothing new to report.

E. *Report from the Government Law Center*

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

Complaint Inventory as of Date of Meeting

It was reported that included in tonight's packets is the complaint database scorecard. It was further reported that as of today, there are currently forty-eight (48) active complaints before the Board for review. Of those forty-eight (48) active complaints, nine (9) were closed at tonight's meeting, which leaves the Board with thirty-nine (39) active complaints. Since the Board's last meeting, one (1) complaint was received by the Board and by majority vote closed with no review.

It was reported that four hundred and fifty-six (456) complaints have been closed. The total number of complaints that remain suspended from review is eleven (11). The total number of complaints filed is five hundred and seven (507).

It was further reported that since the Board's last meeting, the GLC received five (5) grievance forms. The total number of forms received to date is two hundred and forty-eight (248). In response to the GLC's outreach to all individuals, the GLC received seventy-three (73) complaint forms.

Community Outreach

It was reported that in the packets are drafts of the meeting guidelines brochure as well as the complaint process brochure. The photos that are in the brochure cannot be used due to copyright law. The GLC are looking for any ideas the Board may have in coming up with pictures for the brochure.

New Board Member Orientation

It was reported that Board members Lilian Kelly and Eugene Sarfoh have successfully completed the APD's Citizens' Academy. It was a 15-week course filled with a lot of information, insight, and hands on training.

NACOLE Conference

It was reported that the NACOLE conference is taking place from September 12-15 in New Orleans. Chairman Smart as well as Board members Marilyn Hammond and Lilian Kelly will be attending this year's conference on behalf of the Citizen's Police Review Board. We are awaiting a response from the City regarding reimbursement for airfare. Anthony Potenza agreed to be an alternate in case someone can't make it.

Board Vacancies

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

APD Ride-Along

It was reported that yesterday, the GLC sent an email to the Board regarding scheduling a ride-along with the APD. Ms. Moseley asked the Board to fill out the form in their packets and return it to her as soon as possible.

Training

It was reported that the GLC asked the City for recommendations on training topics in addition to the two which we have identified. The Board will be notified as soon as those topics are confirmed.

Upcoming Meeting

It was reported that the next Board meeting is scheduled for Thursday, September 8, 2011 at 6 p.m. The Board's new counsel, Pat Jordan, will be at that meeting.

F. *Report from the Office of Professional Standards*

OPS Commander Ron Matos stated that the Chief has approved funding for one detective to attend the NACOLE conference. He reported that he spoke to the new APLU President who said that he would check with staff attorneys and get back to him regarding mediation. The department has created a position for one lieutenant in charge on training and strategic planning. The spirit of that posting is to have someone in charge of the departments strategic planning as the APD moves forward in its mission of overall community policing.

Commander Matos reported that for the second year, the department is going to participate in the National Coalition Institute training which will be taking place on June 14, 2011. Like last year, it covers topics about building trust in the community and developing effective leadership skills, and negotiations in solving conflicts.

G. *Report from the Chair*

Chairman Edward Smart stated that he wanted to thank the OPS, the monitors for the hours that they have put in, and GLC staff.

H. *Summer Meeting Schedule*

Chairman Edward Smart stated that the Board will reconvene with its meeting in September 2011. Chairman Smart moved for the Board to not meet in July and August. Lilian Kelly seconded the motion. The motion carried unanimously.

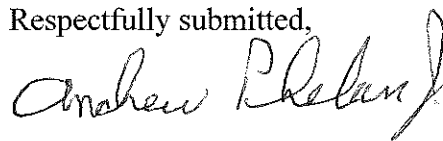
V. **Public Comment**

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

VI. **Adjournment**

Chairman Edward Smart moved to adjourn the meeting. Andrew Phelan seconded the motion. The motion carried unanimously. The meeting adjourned at 7:34 p.m.

Respectfully submitted,



Andrew Phelan, Jr.
Secretary