

**City of Albany**  
**Citizens' Police Review Board**  
**GWU the Center**  
**274 Washington Avenue- Teen Center Conference Room**  
**September 8, 2011**  
**6:00 p.m. - 8:00 p.m.**

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

**Absent:** Lilian Kelly.

**I. Call to Order and Roll Call**

Chairman Edward Smart called the meeting to order at 6:10 p.m.

**II. Approval of the Agenda**

Akosua Yeboah moved to approve the agenda. Anthony Potenza seconded the motion. The motion carried unanimously.

**III. Approval of the February 9, 2011, March 10, 2011, April 11, 2011, and May 18, 2011 Meeting Minutes**

The February 9, 2011 meeting minutes were reviewed. Marilyn Hammond moved to approve the meeting minutes. Akosua Yeboah seconded the motion. The motion carried unanimously.

The March 10, 2011 meeting minutes were reviewed. Marilyn Hammond moved to approve the meeting minutes. Anthony Potenza seconded the motion. The motion carried unanimously.

The April 11, 2011 meeting minutes were reviewed. Marilyn Hammond moved to approve the meeting minutes. Andrew Phelan, Jr. seconded the motion. The motion carried unanimously.

The May 18, 2011 meeting minutes were reviewed. Chairman Edward Smart moved to approve the meeting minutes. Anthony Potenza seconded the motion. The motion carried unanimously.

**IV. Old Business**

**CPRB No. 12-08/OPS No. CC2008-177** (Presented by Anthony Potenza)

Anthony Potenza summarized the complaint. He stated that the original findings of the Albany Police Department's Office of Professional Standards (OPS) for the allegation of improper call handling was *no finding* and on the allegation of violation of conduct standards was *not sustained*.

Mr. Potenza explained that this is a case where the initial motion by the Board was made to concur with the findings of the OPS, but a number of questions were raised by the Board for the manner in which this case was investigated. During its review and deliberation, the Board agreed to send this case back to the OPS for further review. Since then, the Board received correspondence from the OPS regarding the Board's letter addressing questions that were raised in this case. Mr. Potenza summarized the responses with the consensus of the Board. According to the complainant, the officer had a gun out first and was from the Albany Police Department (APD) and not a U.S. Marshall. The APD was assigned as back up in this case. The vehicle stop was initiated by the U.S. Marshall and Albany police responded as back up. The vehicle was stopped upon the arrival of the first two (2) APD units. When the complaint was filed, the investigating detective made arrangements to obtain statements from the complainant and her companion or husband, in the presence of monitor George Kleinmeier. It was noted that Mr. Kleinmeier was present.

Mr. Potenza reported that the Board asked a question regarding one of the police vehicles, a 2004 Ford Explorer, that the vehicle was assigned to a detective who was not at the stop. The U.S. Marshalls use unmarked vehicles, so the vehicle could have been assigned to one of the U.S. Marshalls.

Mr. Potenza further reported that another question raised was whether the officers' guns were drawn or not drawn. One of the key issues raised by the complainant at the time is that the OPS report stated that the APD police did not have their weapons drawn. Based on the OPS investigation, the APD did not have their weapons drawn. If weapons were drawn it was for a police safety measure for stopping a vehicle that had a wanted felon in it. Another issue that raised considerable questions among the members of the Board was that there is no procedure for an officer to call in the U.S. Marshalls. The response stated that the U.S. Marshalls are contacted by detectives or a high ranking officer. The officer was not retired at the time of the incident but was retired at the time of the investigation. The U.S. Marshalls contacted the retired detective as to the location of the wanted felon. Another question raised was how that retired officer knew that the U.S. Marshalls knew that there was an investigation. The response stated that the officer was not retired at the time and knew that they were looking for a particular suspect who was a wanted felon. The officer was the lead investigator from the Albany Police Department, and had received information of the whereabouts of the suspect. The task force did not involve the New York State Police; it was initiated by the U.S. Marshalls. Another issue raised was whether an APD representative would be able to meet and address the concerns of

the complainant. The response stated that the APD would be willing to meet with the complainant to discuss any concerns. Mr. Potenza stated that he spoke to the complainant's father. The father stated that the complainant is willing to speak to the APD regarding this matter because they were found not to be the people wanted. Mr. Potenza asked Mr. Kleinmeier if he had anything to add. Mr. Kleinmeier responded in the negative.

Mr. Potenza stated that the response by the OPS towards the Board's request to further investigate was done in a professional manner. Anthony Potenza moved to concur with the OPS finding of *no finding* on the improper call handling allegation, where the investigation revealed that another agency was responsible and the complainant has been referred to that agency. Andrew Phelan seconded the motion. The motion carried unanimously.

Marilyn Hammond asked if the complainant was present. It was noted that the complainant was not present.

Chairman Edward Smart stated that this case was somewhat disturbing simply because these particular individuals, who had not committed a crime, were picking up their child from school. An officer called in and identified this particular couple as the people who the U.S. Marshalls had a warrant out for. Chairman Edward Smart reiterated how the Board discussed how officers should be the first ones to protect the citizens of the public. This case shows that there needs to be training and families should be protected a little better. The call was made by an Albany police officer identifying the vehicle.

Commander Matos explained that this was an unfortunate mistake involving a nice family. The person who was wanted was observed by a member of the community. He was known to be violent, carry weapons, and operates the identical car as the family. The person lives in the same neighborhood where the vehicle stop took place. The informant believed that this dangerous party was driving by his home and relayed it to the detectives. The APD, on duty to protect, called it in to the U.S. Marshalls Taskforce who then conducted the vehicle stop. Commander Matos further stated that this was an unfortunate incident that transpired based upon the information that was relayed by a reliable credible source who cooperated during the investigation.

Anthony Potenza summarized the OPS finding of the conduct standards allegation as *not sustained*. The complainant alleged that an officer yelled, "Get the f\*\*k out of the car." Based on the OPS investigation, the OPS were unable to determine who made the alleged comment. Since the U.S. Marshalls controlled the stop, the complainant may have confused them with the Albany Police Department. Anthony Potenza moved to concur with the OPS finding of *not sustained*. Andrew Phelan seconded the motion. The motion carried unanimously.

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

Marilyn Hammond stated that this is a complaint that the Board initiated a review of some time ago. Ms. Hammond summarized the complaint. The complainant alleged that he was involved in an auto accident where he lost control of his vehicle and hit a building. The complainant's wife and child were in the car. The police arrived and asked questions about the complainant's citizenship and asked for his papers. The complainant asked for the officer's name and was allegedly refused the requested information. The officer allegedly asked the wife of the complainant for her immigration status. The complainant feels that he was harassed because of his color and national origin. Ms. Hammond further reported that the complaint was sent back to the OPS for review. The finding of the OPS for the conduct standards allegation was *exonerated*. Ms. Hammond stated that the Board sent a letter to Chief Steven Krokoff requesting a further investigation. She read the Chief's response to the Board's letter verbatim.

*"During the review and deliberation of this case, the CPRB expressed concern that the target officer asked the complainant for his immigration status to find out how the accident occurred. The CPRB also expressed concern that this "technique" by the target officer was unwarranted and not within the proper scope of investigative questioning."*

*Chief Krokoff's response: "There is no SOP with regard to interview techniques; however there is an accepted standard interview training in which an officer can ask certain questions to establish a common ground with a party being interviewed for suspicious activity. In this case, the complainant did not produce a license at the scene instead giving the officer a Permanent Residence Card. This raised the officer's suspicion that criminal activity was afoot, meaning what the complaint's status in this country was and his authorization to operate a motor vehicle upon a public roadway within an office complex which has been the historic target of burglary offenses. This particular officer has intimate personal knowledge of immigration laws and used that knowledge to establish a common ground with the complainant in an attempt to establish a straight flow of information. There is no evidence obtained in this investigation to substantiate this matter was racially motivated or biased in any way."*

Chairman Smart stated that the Chief's letter cited new information that the complainant gave a Permanent Residence Card instead of a driver's license to the officer. That is pertinent information which was not in the initial review of the case. Chairman Smart stated that if you are stopped by the police and they ask you for your license and you give your Permanent Resident Card; that is not the same as giving them your license.

Marilyn Hammond moved to concur with the OPS finding of *exonerated* for the conduct standards allegation. Chairman Edward Smart seconded the motion. The motion carried unanimously.

V. **New Business**

A. *New Complaints*

1. New Complaints Received since the June 9, 2011 Meeting

Chairman Edward Smart reported that there are eight (8) new complaints since the Board's June 9, 2011 meeting. Chairman Edward Smart asked the Board to read them briefly and if the Board feels that a monitor needs to be appointed that they would read the complaint, if not, he would suggest that the Board waive the reading of the complaints. Andrew Phelan moved to waive the reading of the complaints. Anthony Potenza seconded the motion. The motion carried unanimously.

2. Complaint(s) for Board Review

**CPRB No. 23-10/OPS No. CC2010-035** (Presented by Andrew Phelan)

Andrew Phelan informed the Board that the monitor who was assigned to this case was not present. Andrew Phelan moved to table the complaint until the next meeting. Chairman Smart asked if the complainant was present. It was acknowledged that the complainant was present. Chairman Smart explained that that the monitor that investigated his complaint was not present and that the monitor may agree with his complaint and make his case stronger. Chairman Smart further explained that the Board appreciates that the complainant came out and that the monitor was expected to be present but because of the weather was not able to attend this meeting. Chairman Smart assured the complainant that he would be able to speak first at the following meeting. This complaint was tabled until the Board's next meeting.

**CPRB No. 12-10/OPS No. CC2010-016** (Presented by Chairman Edward Smart)

Chairman Edward Smart summarized the complaint. The complainant alleged that she was double parked outside of a pizza shop on South Pearl Street. The driver of the other vehicle made harassing gestures to the complainant. The complainant and the other driver engaged in an argument over the parking spot when two officers approached and asked if everything was alright. She explained what had happened and that everything was alright. Soon after, the Sergeant arrived and instructed the officer to write the complainant a parking ticket. The complainant alleged that the Sergeant was disrespectful to her. The complaint further alleged that the Sergeant threatened to arrest her and search her car. He allegedly stated "I should search your car and see what I can find."

Chairman Smart asked if the complainant was present. It was noted that the complainant was not present. He stated that a monitor was not assigned to this case.

Chairman Smart reported that he had reviewed the following documents: the Confidential report by the OPS; Citizens Complaint Form; and Intra-Department Correspondences (IDC) dated June 22, June 15, June 23, June 24, December 20, and December 18, of 2010.

Chairman Smart summarized the findings of the OPS for the conduct standards allegation that the Sergeant was rude to the complainant, as *not sustained*, where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. Based on the OPS investigation, the Sergeant denied that this ever occurred. One of the officers present on the scene stated that the complainant became verbally abusive to the Sergeant and the Sergeant advised the complainant that she would be issued a parking ticket. The complainant, her brother, and sister-in-law were interviewed and their recollection of the incident is consistent with each other. Based on the fact that there were no independent witnesses there was no evidence to prove or disprove the incident.

Chairman Smart stated that sufficient facts are not available in this case to come to a satisfactory resolution. The officers on the scene did not indicate the need to issue a citation and were controlling the incident. The Sergeant instructed the officer to issue a citation to the complainant. Although the various statements on both sides support the *not sustained* finding, Chairman Smart stated that he believed that this allegation deserves more than a *not sustained* finding. The allegation indicated that more training was needed in conflict resolution and/or *ineffective policy or training* when the manner did not involve guilt or lack thereof but rather ineffective departmental policy training to address the situation. Chairman Edward Smart recommended that a letter addressing this matter to be sent to Chief Steven Krokoff. Chairman Smart moved to concur with the OPS finding of *not sustained* and to send a letter to Chief Krokoff.

Chairman Smart further explained that the officers, rightly so, came to control the situation and asked the lady if everything was okay. Chairman Smart stated that based on the officer's testimony, the officers did not intend to issue a citation but to control the situation and get the individuals to move on. It was the Sergeant who came in and told the officers to issue the lady a citation. Chairman Smart stated that this sounded like a training issue. The officers may know people in the area and may decide that it is in best interest of everyone to allow people to move on. All of this could have been avoided without the Sergeant telling them to issue the ticket. Marilyn Hammond seconded the motion. The motion carried unanimously.

Chairman Smart summarized the findings of the OPS for the second allegation of conduct standards as *not sustained*, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. Based on the OPS investigation, the Sergeant denied that the allegation that he threatened to arrest the complainant ever occurred. One of the officers present stated that the complainant became verbally

abusive to the Sergeant and the Sergeant advised the complainant that she would be issued a parking ticket. The complainant, her brother, and sister-in-law were interviewed and their recollection of the incident was consistent with each other. Based on the fact that there were no independent witnesses, there was no evidence to prove or disprove the incident, Chairman Smart moved to concur with the OPS findings of ***not sustained*** and send a letter to Chief Krokoff addressing this issue. Marilyn Hammond seconded the motion. The motion carried unanimously.

Chairman Smart summarized the findings of the OPS concerning the third allegation of conduct standards as ***not sustained***. He reported that the OPS recommended that the third allegation of conduct standards be closed as ***not sustained***, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. The Sergeant allegedly threatened to search the car. Based on the OPS investigation, the Sergeant denied that the allegation ever occurred. One of the officers who were present stated that the complainant became verbally abusive to the Sergeant. The Sergeant advised the complainant that she would be issued a parking ticket. The complainant, her brother, and sister-in-law were interviewed and their recollection of the incident is consistent with each other. Based on the fact that there were no independent witnesses, there was no evidence to prove or disprove the incident. Chairman Smart moved to concur with the OPS finding of ***not sustained***. Marilyn Hammond seconded the motion. The motion carried unanimously.

**CPRB No. 2-11/OPS No. CC2010-005** (Presented by Chairman Edward Smart)

Chairman Edward Smart summarized the complaint. The complainant alleged that the second incident that occurred on December 3, 2010, was out of retaliation for his arrest on the first incident on September 7, 2010. The complaint further alleged that both arrests were unlawful. Chairman Smart reported that a monitor was assigned to this case. He further reported that he reviewed the following documents: Confidential Reports; \$1,692 dollars which were in evidence in (9) \$100 bills, (1) \$50 bill, (33) \$20 bills, (5) \$10 bills, (5) \$5 bills, (5) \$1 bills, and two dollars in change. The complainant stated that he had \$3,000 dollars. Chairman Smart asked if the complainant was present. It was noted that the complainant was not present. Chairman Smart reported that a monitor was assigned to this case. Monitor Al Lawrence was acknowledged as being present. Mr. Lawrence stated that one witness named by the complainant could not be contacted.

Chairman Smart reported that he also reviewed the following documents: Terry v. Ohio Stop and Frisk; Strip and Search Arrest/Prisoner Transport; Property Storage Report; Central Booking Duties and Procedures; Citizens' Complaint Form dated January 12, 2011; Sworn Document dated February 15, 2011; Safety Net Web; Certified Mail Receipt dated March 4, 2011; three (3) Property Reports; two (2) Arrest Reports; Mug Shots; two (2) Call Reports; two (2) Arrest Reports; Positive tests for cocaine; Screening

Tests; Safety Net; Capnet Report; three (3) Bookings and Arrest, thirteen (13) Inter-Departmental Correspondence (IDC); Superior Court Warrant of Arrest dated November 19, 2010; Police Property Report; Roll Call Report; Seized Cash Audit dated November 17, 2010; Bank Accounting dated September 8, 2010; Safe Street/Safe Home document; Albany City Court documents; various motions by the defendant; three (3) investigation reports; and a request for return of money.

Chairman Smart summarized the OPS finding for the arrest, authority, and procedure allegation as *exonerated* where the acts which proved the basis for the complainant occurred, but the review showed that such acts were proper. The complainant alleged that his civil rights were violated when he was unlawfully arrested. The complainant further alleged that he was subjected to an illegal strip and search in Central Booking, that charges were fabricated, and that officers intentionally booked him under a different name so that he could not retrieve his money.

Based on the OPS investigation, there is no evidence to support the unlawful arrest charge. The complainant was seen committing the Trespass/Criminal Trespass. The complainant was found in possession of contraband on the scene. The officers stated that the complainant identified himself using a different name but his finger prints proved differently. The complainant was charged with False Impersonation. An arrest warrant had been issued for the complainant and the officers arrested the complaint as a result of the warrant.

Chairman Smart stated that the officers were justified in their actions and an active arrest warrant had been issued for the complainant. The actions of the officers were within the guidelines of proper police Standard Operating Procedures (SOP). The contraband on the complainant was identified. Chairman Edward Smart moved to concur with the OPS finding of *exonerated*. Andrew Phelan seconded the motion. The motion carried unanimously.

Chairman Smart summarized the OPS finding for the evidence and property allegation as *unfounded*, where the review showed that the act or acts complained of did not occur. The complainant alleged that he had \$3,000.00 in his possession when he was arrested. No formal complaint was made several months after the complainant's arrest; the complainant had representation and the opportunity to make the complaint. The complainant stated that he was willing to accept the amount listed on the property report and also accounted for by audit of the police department. The money was placed and entered into the files of the City of Albany Seized Assets Account pending the outcome of the complainant's charges.

Chairman Smart moved to concur with the OPS finding of *unfounded*. He explained that the evidence is clear that the money was housed in the City account; that the bills were



counted and given numbers; the tabulation of the date and time of each transaction was clear and defined and there was no evidence that said amount of \$3,000.00 was on the person of the complainant. The documentation clearly indicated that \$1,692.00 was accounted for and was carefully confiscated and properly deposited into the Seized Assets account. Marilyn Hammond seconded the motion. The motion carried unanimously.

Chairman Smart summarized the OPS finding on the conduct standards allegation as *not sustained*, where the review failed to disclose sufficient facts to prove or disprove the allegation made by the complainant. The complainant alleged that an officer told him to “shut up.” The complainant further alleged that the officer asked him if he “had anything in his a\*\*?” All officers denied making the comments. There is no evidence that proves or disproves the allegations made by the complainant.

Chairman Smart moved to concur with the OPS findings of *not sustained* because there was not enough evidence to prove or disprove the allegations made. Marilyn Hammond seconded the motion. The motion carried unanimously.

**CPRB No. 39-10/OPS No. CC2010-077** (Presented by Andrew Phelan, Jr.)

Andrew Phelan summarized the complaint. He stated that the incident happened on July 5, 2010 and involved a conduct standards allegation. The complainant’s son was in the police station. The complaint alleged that the officers were rude to her on the phone and in person at the police station. Based on the OPS investigation, all phone records held between the complainant and any of the officers involved have been retrieved and there is no evidence that the officer acted unprofessional or spoke inappropriately. All of the officers involved did not admit to acting unprofessional or calling the complainant a derogatory name. The investigation revealed that there was no indication that the complainant was promised a ride home from the police station.

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

Andrew Phelan moved to concur with the OPS finding of *not sustained*. Anthony Potenza seconded the motion. The motion carried unanimously.

**CPRB No. 54-10/OPS No. CC2010-124** (Presented by Anthony Potenza)

Anthony Potenza reported that the date of the incident was September 29, 2010 at 1:50 p.m. and the complaint was received by the OPS was October 26, 2010. The complaint consisted of two (2) counts of alleged improper call handling. Anthony Potenza summarized the complaint. The complainant states that he was approach by two males and asked them to move their vehicles. One of the males told him to wait until he was

done. The complainant called the police to respond. The complainant alleged that when the officer responded he did not respond properly. While the officer was not on the scene, a male allegedly threatened the complainant and the officer. The male who was mentioned was the individual that was blocking the driveway of the complainant. Mr. Potenza noted that a monitor was not assigned to this case.

Mr. Potenza reported that the following documents were reviewed: Citizens' Complaint Form; Civilian Complaint Report; OPS Confidential Report which included a report of the complaint of criminal mischief in the 4<sup>th</sup> degree; Order of Protection; Criminal Summons for Court Appearance all lodged against the complainant; Complainant's Statement; Citizen Grievance Notification Report; Information Report; city court document setting charges against the complaint; Order of Protection; emails between the complaint and the detective; Albany Police Department Incident Report; the original call of blocking the driveway and banging on the car hood resulting in cracked windshield glass; Albany Police Department Investigation Report; Call Tickets; Facts Request from APD for the tape log; Inter-Departmental Correspondence (IDC) dated December 20, 2010 to the officer requesting information on the case, December 21, 2010 for the response by the officer, May 19, 2011 to the officer requesting information on the case, and May 23, 2011 response by the officer.

Mr. Potenza reported that with regards to the first count of improper call handling, the OPS recommended that the allegation be closed as *unfounded*. Based on the OPS investigation, the person against whom the complaint was made brought a charge against the complaint alleging that the complainant banged on the hood of the blocking car and broke the windshield. The complaint alleged that he was threatened by the male who was blocking the driveway in front of the officer and the officer failed to assist him. According to the OPS investigation, the officer stated that he did not witness any threatening behavior by either male that would rise to harassment. The officer said that he could not leave the scene until he had completed his preliminary investigation of the allegation made by the male against the complainant that the complainant broke the windshield. The officer stated that he had advised the complainant of the procedure that he was following, and the officer also informed the complainant of the report that was going to be filed documenting the male's complaint against the complainant. Mr. Potenza stated that the officer acted properly by following procedure to determine if an offense had taken place, as well as by judiciously acting upon the male's complaint. The fact of the matter was that in regard of any charge against the complainant brought by the male, the detective offered that was something outside the nature of the case as far as that complaint being pursued.

Anthony Potenza moved to concur with the OPS finding of *unfounded*, where the review showed that the act or acts complained of did not occur or were misconstrued. A

thorough investigation of this matter took place and was done professionally and completely. Andrew Phelan seconded the motion. The motion carried unanimously.

Mr. Potenza summarized the OPS finding for the second count of alleged improper call handling as *unfounded*. The complainant alleged that the officer created a wrongful report against him, which has caused him anxiety and pain over the matter. The complainant further alleged that these actions were intentional because the officer was not provided free meals from the complainant's restaurant. Mr. Potenza stated that one of the officers that investigated this complaint was also a beat officer who knows the neighborhood people.

Chairman Smart asked if the complainant alleged that the officers did this because he would not provide the officer with free meals. Mr. Potenza replied in the affirmative.

Mr. Potenza further stated that the officers explained to the complainant that a Standard Incident Report and an Investigation Report were both completed and filed by the officers as a result of the incident. On both documents, the officers established that the male made the allegation against the complainant, and that the male stated that he witnessed the crime. This could not be corroborated by any other witnesses in the area or on the scene, including the officer. The officer only admitted to witnessing the damage to the vehicle. The officer did discuss the incident with a supervisor, and it was ultimately determined that a report be filed to document the incident. The officer stated that he informed the complainant of the situation, and that he advised the male that he had to initiate the criminal summons process by signing the necessary paperwork and having it forwarded to Albany City Court. The Investigation Report documents the reason why the complainant was not under arrest at the time of the incident, which is based on conflicting statements made by the male's witness account. The investigation revealed that there was no indication that the officer behaved a certain way because he was not provided with free meals by the complainant. All of the following reports being filed have been handled in Albany City Court, and as such are results of judicial review.

Anthony Potenza moved to concur with the OPS finding of *unfounded* for the second call handling allegation, where the review showed that the act or acts complained of did not occur or were misconstrued. Mr. Potenza noted that no monitor was assigned to this complaint. Andrew Phelan seconded the motion. The motion carried unanimously.

**CPRB No. 1-11/OPS No. CC 2010-153** (Presented by Eugene Sarfoh)

Eugene Sarfoh summarized the complaint. The incident occurred on December 24, 2010. It was received by the Board on December 27, 2010. The complainant alleged that an officer rang his doorbell and loudly asked him to turn down the music. The complainant responded by saying its early and its Christmas Eve. The officer allegedly responded loudly and said, "You're being a d\*\*k, and if I get called back here, I'm taking your a\*\*

to jail.” The complainant immediately asked the officer for his I.D, but the officer allegedly just said “Have a good night,” and drove away. The complainant repeatedly called dispatch and then spoke to a supervisor. The supervisor came to his house and informed him of the complaint process. Mr. Sarfoh stated that a monitor was not assigned. The complainant alleges two counts of conduct standards. Mr. Sarfoh asked if the complainant was present. It was noted that the complainant was not present.

Mr. Sarfoh reported that he reviewed the following documents: OPS Case file; OPS Confidential Report (4 pages); two (2) Call Tickets; hand written notes; Intra-departmental Correspondences (IDC); Grievance Notification Report; and the Citizen’s Complaint Form.

Mr. Sarfoh reported that in reviewing this matter, the OPS detectives spoke to the officer involved. According to the officer, when he arrived on the scene he could hear loud music from the sidewalk. He could see the complainant inside dancing. When the complainant answered the door, in response to the knocking, it appeared to the officer that the complainant was intoxicated at which point he asked the complainant to turn down the music. The complainant asked the officer “Why”? The officer stated that his response was “Sir, I’m not trying to be a d\*\*k here. I’m just asking you to turn down your music. We got a couple of complaints. I know that it’s Christmas Eve. Turn it down and I’ll be on my way.” Mr. Sarfoh reported that the OPS also spoke to the cousin of the complainant who was also present at the scene. The cousin recalled that the music was loud and his recollection of the officer’s statements was that the officer indicated that, “I better not have to come back down. Don’t be such a d\*\*k. If I have to come back down here, I’ll lock you’re a\*\* up.” The cousin also stated that when the officer was asked for his badge number, the officer walked away. The officer denied the presence of a second individual and an encounter with anyone other than the complainant.

Mr. Sarfoh summarized the finding of the OPS. He reported that the OPS recommended that the first allegation of conduct standards was *sustained*, where the review discloses sufficient facts to prove allegations made in the complaint. The complaint alleged that an officer came to his house and told him to turn the music down. It was further alleged that the officer was rude and threatened to take the complainant to jail if the complainant responded back. The officer admitted to stating, “Sir, I’m not trying to be a d\*\*k here. I’m just asking you to turn your music down. We got a couple of complaints on it. I know it’s Christmas Eve. Turn the music down and I’ll be on my way.” Although the officer stated that he did not use the exact language alleged, he did respond in a manner that is not in accordance with the Department’s Rules of Conduct with regards to courtesy. Mr. Sarfoh moved to concur with the OPS finding of *sustained* on the first allegation of conduct standards. Marilyn Hammond seconded the motion. The motion carried unanimously.

Mr. Sarfoh summarized the finding for the second conduct standards allegation 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 he asked for the officer's I.D. but the officer responded, "Have a good night" and drove away. The witness stated that the officer walked away when the complainant asked for his badge and name. Based on the OPS investigation, the officer stated that he could recall no one at the scene asking him for his name or badge number and he never gave anyone his name or badge number while on the call. Mr. Sarfoh moved to concur with the OPS finding of ***not sustained***. Marilyn Hammond seconded the motion. The motion carried unanimously.

**CPRB No. 5-11/OPS No. CC2011-002** (Presented by Akosua Yeboah)

Akosua Yeboah summarized the complaint. The complaint involved one call handling allegation. After a hostile encounter with a homeless individual, the complainant called the APD requesting support. The officers on the scene claimed that they responded to a call for an "Emotionally Disturbed Person." The complainant alleged that there were damages to property, obscene gestures, and behavior and physical threats to employees. The police located the individual on the street, spoke to him and released him. The complainant feels that the call was not handled appropriately because there was criminal mischief involved and no report was taken regarding the damages to the property. He claimed that the officers never entered the building to inspect the damages and released the alleged offender without consideration to his criminal behavior. The police reports stated that the complainant never mentioned damages so there was no reason to enter the building and that there were no indications of this being anything other than a call for an emotionally disturbed person who needed assistance. Ms. Yeboah reported that a monitor was not assigned. She asked if the complainant was present. It was noted that the complainant was not present.

Akosua Yeboah reported that she had reviewed the following documents: Citizens Complaint Form; Confidential Reports from January 11, 2011- June 6, 2011; Albany Police Department; Citizen Grievance Notification Report; Sworn Statement of complainant; Sworn Statement from witness on the scene; APD Incident Report; and APD Call Detail Report.

Akosua Yeboah explained that she had two questions while reviewing this complaint.

1. Why couldn't the police department file a report after the event?
2. Why did the police report state that there were no witnesses when she saw a signed statement from someone claiming to be a witness?

Ms. Yeboah summarized the findings of the OPS on the call handling allegation as ***not sustained***. Based on the OPS investigation, the police records support statements from

the officers that this was a call for an emotionally disturbed individual. Once they determined that there was no danger to the individual or the public, their actions were appropriate to the situation. Given that there were no witnesses to the original conversation with the complainant and the officers, there was no evidence to the claims from the complainant that he told the officers about the damages. The complaint was filed ten (10) days after the incident. The complainant asked for a report but did not press criminal charges and did not want the offending individual arrested. Because of the amount of time between the event and the request for the report, the damages could reliably be attributed to the actions of the offending individual.

Akosua Yeboah moved to concur with the OPS findings of *not sustained* for the call handling allegation, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. Chairman Edward Smart seconded the motion. The motion carried unanimously.

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

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

*C. Approval of the 2010 Annual Report*

The 2010 Annual Report was reviewed. Chairman Edward Smart moved to approve the report. Akosua Yeboah seconded the motion. The motion carried unanimously.

*D. Committee/Task Force Reports*

By-Laws and Rules

Committee Chairman Edward Smart stated that during the summer, the committee met and made progress regarding how to move forward with the mediation program.

Community Outreach

Chairman Edward Smart stated that Committee Chair Lilian Kelly was not present. Coordinator of the Board Sharmaine Moseley stated that the GLC has been trying to schedule a meeting during the summer and was unsuccessful. The meeting was to finalize the draft brochures and scheduling outreach meetings. Akosua Yeboah stated that she will work with Lilian Kelly in scheduling the meeting with the outreach groups in the neighborhoods and community.

Mediation

Committee Chairman Edward Smart reported that new APD union representatives were in place to be elected. Commander Matos asked the union to meet with their attorney and get back to him. He stated that he has received zero response from the union and will make sure to contact them again. The union is having elections at the end of the month, so he does not expect to hear from them until the elections are over. There has been no word back yet from the union regarding mediation.

#### Police Department Liaison

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

#### Public Official Liaison

Committee Chairman Edward Smart stated that the Board is aware that they are approaching (4) four vacancies on the Board.

#### Task Force on Monitors

Task Force Chair 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-five (45) active complaints before the Board for review. Of those forty-five (45) active complaints, eight (8) were reviewed and closed at tonight's meeting. This leaves the Board with thirty-seven (37) active complaints. There are eight (8) complaints ready to be reviewed at the next meeting.

It was reported that four hundred and sixty-four (464) complaints have been closed. The total number of complaints that are suspended from review is thirteen (13). The total number of complaints filed to date is five hundred and fifteen (515).

It was further reported that since the Board's last meeting, the GLC received twenty (20) grievance forms, bringing the total number of forms received to date to two hundred and sixty-eight (268). In response to the GLC's outreach to all individuals, the GLC received seventy-six (76) Citizen Police Review Board (CPRB) complaint forms.

#### Board Member Vacancies

It was reported that former Chairman of the Board Jason Allen resigned from the Board during the summer. Ms. Moseley stated that it was a pleasure working with him on the Board. He will be missed.

It was reported that there are now two vacancies on the Board, both of which are Common Council vacancies. Chairman Edward Smart moved to send a letter from the Board and the Mayor to Jason Allen commemorating him. Anthony Potenza seconded the motion.

Akosua Yeboah asked Sharmaine Moseley if the Common Council had scheduled interviews for those vacancies.

Chairman Edward Smart answered that they are in the process.

#### NACOLE CONFERENCE

It was reported that the NACOLE conference is taking place beginning this Sunday through Thursday in New Orleans. Chairman Smart, Marilyn Hammond, and Sharmaine Moseley will be attending this year's conference on behalf of the CPRB. The CPRB received notice last week that Board member Lilian Kelly will not be able to attend. Replacement Anthony Potenza will not be able to attend either.

Chairman Smart stated that the law center has paid for the registration, hotel, and air flight in advance so it does not come out of the pockets of the Board. Ms. Kelly, because she has personal pressing issues out of state, could not attend. She will, however, reimburse the cost of the air ticket to the CPRB.

#### APD Ride-Along

It was reported that the GLC has asked the Board to notify the GLC if they have not completed the ride-along this year. Eugene Sarfoh needs to schedule a ride-along. Ms. Moseley stated that the Board members need to participate in a ride-along to fulfill the Board's legislative requirement.

#### Training

It was reported that that the GLC is waiting on recommendations from the City on training topics and hopes to have at least one training topic indentified and a session scheduled by the next meeting.

#### Upcoming Meeting

It was reported that the next Board meeting is scheduled for Thursday, October 13<sup>th</sup> at 6 p.m.



*F. Report from the Office of Professional Standards*

Commander Ron Matos reported that in addition to the casework, the APD has worked through the hiring process of fifteen (15) new firefighters and two new dispatchers. In addition, the traffic safety division has been relocated from 526 Central Ave to 165 Henry Johnson Boulevard. Their new telephone numbers is 462-6593. The new traffic safety fax number is 462-8781. The new phone number for animal control is 462-7107.

Chairman Smart asked Commander Matos if there was a way for the Board to have keys to the elevator or an ID card to allow use of the elevator. Commander Matos stated that he would check into it but would be available if the Board needs entry into the OPS.

*G. Report from the Chair*

Chairman Smart stated that he had given his report in the due course of the meeting.

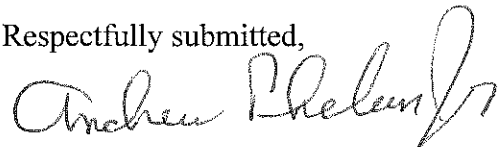
**VI. Public Comment**

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

**VII. Adjournment**

Chairman Edward Smart moved to adjourn the meeting. Andrew Phelan seconded the motion. The motion carried unanimously. The meeting was adjourned at 7:35 p.m.

Respectfully submitted,



Andrew Phelan, Jr.  
Secretary