

City of Albany
Citizens' Police Review Board
GWU the Center
274 Washington Avenue- Teen Center Conference Room
February 21, 2012
6:00 p.m. - 8:00 p.m.

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

Absent: Akosua Yeboah.

I. Call to Order and Roll Call

Chairman Edward Smart called the meeting to order at 6:05 p.m. He stated that the OPS has a new detective in its office. Office of Professional Standards (OPS) Commander Ron Matos introduced Detective Eric Crist. Detective Crist has been employed by the police department since 2008. He brings a lot of experience to the office including working with the recruits at the Police Academy. He has dedicated time and effort working with the training unit and bringing that experience to the Albany Police Department's (APD) training office which will bridge the gap regarding training deficiencies and policy issues. Commander Matos further stated that the department looks forward to working with him.

Chairman Smart also stated that new CPRB Board member Pat Toye was present at tonight's meeting to observe. He asked Albany Common Council Public Safety Barbara Smith if she would like to comment on the new Board members. Common Councilmember Smith stated that there was a good pool of candidates this year. She further stated that it was a pleasure to conduct the interviews with Board member Andrew Phelan and that it was helpful to have a board member participate in the interview process.

II. New Business

A. *New Complaint(s)*

1. New Complaints Received since the January 12, 2012 Meeting

Chairman Edward Smart reported that the Board received six (6) new complaints since its January 12, 2012 meeting. Board Secretary Andrew Phelan, Jr. read the new complaints.

CPRB No. 3-12/OPS No. CC2012-010

The complainant alleges that on August 6, 2011, as he was walking across New Scotland Avenue, he kicked a glass bottle against the curb and it shattered into a few pieces. As he approached his home, an officer allegedly ran towards him, shouting, and pushed the

complainant towards his car and grabbed his arms. The complainant claims that the officer took him back to where the glass was broken and made him pick up the broken glass. Then another officer allegedly approached the complainant and asked him where he lived and worked. The complainant claims that due to the force used by the officer, his fingers were numb for two (2) months. The complainant alleges that the officers were unprofessional and aggressive.

*A monitor **was** assigned to investigate this complaint.*

CPRB No. 4-12

According to the complainant on January 18, 2012, she witnessed an assault on a young man. She went to see if the young man was okay and noticed that he was badly injured. The complainant called 911 for assistance. Two (2) patrol cars entered the area but failed to stop. The complainant ended up flagging down another patrol car. The officer allegedly yelled at the young man that he told him to go home thirty (30) minutes ago. The young man's friends got upset and yelled at the officer that the young man needed to go to the hospital. After telling the people to back up, one officer pushed another young man, and the young man pushed back. Other officers arrived on the scene and allegedly tackled and tasered the young man two (2) to three (3) times. After the incident, the complainant called Police Chief Steven Krokoff and was referred to the Office of Professional Standards (OPS). The complainant alleges that the OPS failed to inform her that the conversation was being recorded before she described most of her complaint.

On February 6, 2012, this complaint was received as a letter written to Chief Krokoff. On February 6, 2012, the Board sent the complainant a letter asking her to fill out a complaint form if she wanted to file a complaint against members of the Albany Police Department. The complaint will be accepted and processed once a complaint form is filed.

CPRB No. 5-12/OPS No. CC2012-020

The complainant alleges that he has had numerous encounters with a target officer. The officer allegedly stares, abruptly stops, and circles the area where the complainant is.

*A monitor **was not** assigned to investigate this complaint.*

CPRB No. 6-12/OPS No. CC2012-016

According to the complainant, in February 2012, he was standing on an aluminum ladder near a broken window at the rear of a house, when four (4) police officers approached him with their flashlights and guns drawn. The officers allegedly pulled the complainant off the eight (8) foot ladder onto the ground. The complainant alleges that the officers stomped him in the kidneys, punched him in the face, kicked him in his head, and

destroyed two (2) pairs of glasses. According to the complainant, he was never arrested as a result of the incident.

A monitor was appointed to investigate this complaint.

CPRB No. 7-12/OPS No. CC2012-015

According to the complainant, she was involved in an altercation with a bouncer outside of the Armory, when someone approached her from behind and picked her up. The complainant began to kick her legs and the officer threw her onto the concrete, grabbed her hair, and slammed her face into the concrete. The officer allegedly put the complainant's hands behind her back and informed her that she was being arrested for assaulting an officer. According to the complainant, this was when she realized that the person who grabbed her was a police officer. When the complainant complained about the handcuffs being too tight, the officer allegedly used profanity, picked her up, and slammed her into the police vehicle. The complainant alleges that when she asked for the officer's name he screamed his name in her face and used inappropriate language.

A monitor was assigned to investigate this complaint.

CPRB No. 8-12/OPS No. CC2012-014

The complainant alleges that on January 25, 2012, police officers allegedly knocked down the complainant's door and entered her home with their guns drawn yelling at her to get down on the floor. The officer allowed the complainant to get on the couch because she was pregnant. The officer allegedly handcuffed the complainant and told her that they had a warrant for the complainant's friend for drugs. The officer's allegedly threw the complainant's friend onto the ground, took \$500 off of him, which they put into their pockets and handcuffed him. The complainant alleges that the officers illegally searched and trashed her apartment and car looking for drugs. Her name was not on the warrant. The complainant further alleges that the officer signed another officer's name onto the paperwork as the arresting officer. She is aware of this because she knows what the officer looks like. The officer was making another arrest across town.

A monitor was appointed to investigate this complaint.

II. Approval of the Agenda

Anthony Potenza moved to approve the agenda. Marilyn Hammond seconded the motion. The motion carried unanimously.

III. Approval of the October 13, 2011 Meeting Minutes

Marilyn Hammond moved to approve the October 13, 2011 meeting minutes. Andrew Phelan seconded the motion. The motion carried unanimously.

Approval of the December 8, 2011 Meeting Minutes

Marilyn Hammond moved to approve the December 8, 2011 meeting minutes. Anthony Potenza seconded the motion. The motion carried unanimously.

IV. Old Business

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

Andrew Phelan stated he went to the OPS to review this case on February 10-13. This complaint had two (2) allegations of call handling. This case was heard on October 13 and there were some questions from the Board. The incident occurred on March 29, 2009 and the complaint was filed April 20, 2010. There was correspondence where the Board sent the complaint back to the OPS with questions. Mr. Phelan read from the correspondence, stating that at the Board's October 13 meeting during review and deliberation of this case, the Board was unable to ascertain from the OPS if a field card and an incident report are the same. The Board also expressed concern that there was no police report of the incident. The Board received correspondence back from Deputy Chief Stephen Reilly stating that the officer on the scene stated that complainant was intoxicated, uncooperative, and belligerent to the officers and without the cooperation of the complainant the officers were unable to obtain the necessary information to complete the incident report. They did in fact, as required by the APD's Standard Operating Procedure (SOP), fill out the field interview card, documenting their contact with the complainant. The complainant came to the South Station willing to file a complaint and his request was granted, filed and assigned to the OPS for investigation. The field interview card is required for all contact with the public not involved in an arrest and is different from an incident report. There were conflicting stories being provided by the witnesses and the complainant. Mr. Phelan stated that a monitor was appointed to investigate this case and the monitor reached the same findings as the OPS.

Mr. Phelan asked if the complainant was present. It was noted that the complainant was present. The complainant stated that when he was sat on the curb the officers took their ID's and scanned their names through the computer to see if they had any warrants. The complainant asked if he was drunk like the officers said he was, why did the officers allow him to drive home to Troy, approximately 12 miles from where he was? The complainant stated that he wants someone to pay the medical bills that he has. Regarding the conflicting stories from the witnesses, the complainant stated that the officer assigned to investigate was working 12 a.m. to 9 a.m. shift. The officer stated in his report that he had spoken to the complainant's mother when the complainant's mother does not speak English and no one came to the house or called the house.

The complainant stated that when people get hurt, they go to the hospital. The officers did not offer help.

Mr. Phelan stated that the Board had statements that said that the complainant refused medical attention returned certified mail. A monitor was appointed to investigate this case and he reached the same conclusion that the complainant refused medical attention. They tried for seven months to get a hold of the complainant. No phone calls were returned and certified letters were sent back. The complainant further stated that the officers never offered any medical attention.

The complainant stated that plenty of times he got up in the middle of the night to call the officer and was always told that he was not in his office. He left several messages for the officer and never heard back from him. When the complainant went back to the APD Precinct, he discovered that the phone number on the field card was wrong and the officers never called him. The complainant stated that he never received a letter or any phone calls. The only officer he spoke to was the OPS's Detective Andrew Montalvo in 2009.

Chairman Smart thanked the complainant for coming in and expressing his concern. He stated that there was concern when the Board first heard this complaint. The Board addressed these concerns at our last meeting. This particular item that we are addressing now is an item that has to deal with something that the Board can prove or disprove legally. Chairman Smart explained that the Board is not saying that the complainant's allegations did not happen. The Board is saying that according to the investigation, they cannot sustain those allegations. What the Board can do is address the allegation dealing with the field card and incident report. Chairman Smart stated that if an incident report had been filed with witness's names, addresses, and phone numbers, which is required, then perhaps the complainant would not be here today. The Board's job is to find out why some of this did not take place. Chairman Smart further stated that the Board received a report back from Deputy Chief Stephen Reilly. The letter fails to clarify if a field card is a substitute for a police report that captures the witnesses' information.

Chairman Smart asked Commander Matos to clarify the difference between a field card and an incident report. Commander Matos stated that a field card and incident report are two different items. The officer is required to complete a field interview card with an Standard Incident Report (SIR), which would have been the report required for an assault that is not filed. The SIR was not filed due to the officer's statement that the victim was not cooperating with the investigation on the scene. Due to the fact that the officer could not complete a SIR, he completed the required document and satisfied our policy which is to complete the field interview card. When the complainant availed himself to the South Station officer, the assault report was then completed. It would have been completed on the scene but there was no cooperation from the complainant. The OPS finding on this allegation did not produce enough facts and no video or audio of the incident exists to sustain any type of allegation regarding whether or not it was appropriate to take that report.

The complainant stated that the officers saw that his eyes were swollen shut and did not question him and assumed he was intoxicated. He further stated that he has bills that are stacking up. This complaint is all about one (1) letter that he wanted to bring to the Crime Victims Board. The complainant asked where the letters are because he never saw them. The complainant stated that a bunch of Puerto Ricans beating up a Caucasian kid would have been investigated but since this is different it was not.

Board Counsel Patrick Jordan addressed the Board with a concern of videotaping complainants because they are to remain anonymous and the identity of the complainants is to be confidential. Mr. Jordan requested that the Board ask the individual videotaping the Board meeting to cease recording.

Chairman Smart stated to the individual videotaping the meeting that its counsel requested that no videos take place inside the meeting. The individual stated that he wanted to video tape his complaint.

Mr. Jordan informed the Board that they can allow it if they choose but it had never been voted on or considered in the past and is against the spirit of the statute and the Board's own by-laws to video tape any complainants because they are suppose to be anonymous.

Eugene Sarfoh stated that he understood that the individual who was recording has a relationship with the current complainant but the concern of the Board was that the complainants present are entitled to anonymity and may not want to be videotaped. The individual stated that he was not going to tape anyone and that the complainant of the current case asked him to video tape his complaint.

Chairman Smart requested again that the individual to turn off his camera.

The individual stated that he wanted to record his complaint because he wanted to ask questions about his past female doctor and the police harassing him all the time.

Chairman Smart stated to the individual that if he had a case on the agenda, the Board was not reviewing his case at this time. Chairman Smart requested again that the individual turn off his video camera. The individual stated that he was turning the camera off.

Chairman Smart stated that there are two (2) issues that the Board needs to address in terms of this complaint. He stated that first issue is if the field card and the incident report were the same. It has been reported that those two cards are different by Commander Matos. Since both of those cards were not completed as required by the OPS in terms of its SOP does that have a bearing on this particular case? If the incident report had been filled out, if all of those things had taken place, would it have affected differently the information the Board presently has or would it have affected the OPS

investigation or the monitors? Chairman Smart asked if the monitor was present. It was noted that monitor Richard Lenihan was present.

Chairman Smart asked Mr. Lenihan for his opinion on if the incident report had been filled out, if all of those things had taken place, would it have affected differently the information the Board presently has or would it have affected the OPS's investigation or the monitor's investigation. Mr. Lenihan replied that what we are talking about is the lack of documentation and possibly lack of resolution. There probably would have been a lot of documentation if all of the combatants were arrested. The OPS would have all of their names, addresses and phone numbers. Mr. Lenihan further stated that in light of the complainant's serious eye injury, if it was him, he would have had them arrested. Presumably the complainant did not want to press charges. In light of that fact, there is no documentation that the individuals were intoxicated and wanted to continue the fight. The police arrived and separated them. If everyone was arrested there would have been plenty of documentation.

Chairman Smart asked if Mr. Lenihan if he agreed with the OPS finding for the second allegation. Mr. Lenihan replied in the affirmative. He stated that there seems to be a lot of frustration being directed towards the police in this incident for something they only responded to. They cannot prevent the incident nor were they there to witness it. They arrived on the scene, separated the individuals, and asked if everyone were okay and if anyone wanted to go to the hospital. Everyone's response was "No." The police asked if the complainant wanted to press charges. The response they received was "No." Seven (7) months go by and now it becomes a problem. There was a certified letter and phone call made to the complainant and the number was not in service at the time.

Chairman Smart told the complainant that he is allowed to speak. The complainant's father stated that he wished to speak. The complainant's father does not speak English, so the complainant translated what his father was stating to the Board.

Through the complainant, the complainant's father stated:

"Thank you very much. The respect they should have towards you, Albany County and Police of Albany. On behalf of the police station, their directive is that you have had the best point of view with relation of any case for consideration in your hands. There are not two truths. There is only one truth. Yes, there are two versions but only one truth. You guys are responsible to take judgment that is reasonable and in good terms. The truth is the procedure of a complaint that was not done but the abilities of everyone on this panel is analysis that someone is lying and someone is telling the truth or that both parties are lying but not that both parties are saying the truth. One thing in common is that the procedure was done correctly. The only thing is there has not been good

communication. This complaint would have been offered. You guys been talking for 7 months but what you are not talking about is the couple of facts given to show that there was some irresponsible acts. There could have transcended two (2) deaths that happened in other cases where crime victims have been interviewed without necessity to produce or supply a letter on behalf of the police station or on behalf of District Attorney that Crime Victims are required to have open. Some actions have been taken that were not managed the proper way. The law and the police are supposed to protect and serve and that is all we are looking for. The police did not do their job properly and the fact that the police did not do their job the proper way does not mean the Board will not do their job the proper way. I advise that this situation be reviewed carefully because this situation can be repeated and could involve Caucasians, Blacks, Hispanics, no matter who it is. I was born in Lincoln Hospital in Bronx NY. The citizenship we have today cost blood, sweat, and tears. We are here giving our lives as citizens and asking that our rights are looked at and protected like everyone else. Thank you very much."

Chairman Smart thanked the complainant's father for his statement. He asked if there was a motion on the call handling allegation. Andrew Phelan, Jr. moved to concur with the OPS finding of ***not sustained*** for the call handling allegation. Eugene Sarfoh seconded the motion. The motion carried unanimously.

Andrew Phelan, Jr. moved to concur with the OPS finding of ***not sustained*** for the second call handling allegation that a copy of a report was not filed. Marilyn Hammond seconded the motion. The motion failed to carry by a vote of 4-1 and was sent back to the OPS. It was noted that Chairman Edward Smart opposed the motion. Chairman Smart stated that he opposed the motion because the reports not being filed have impacted this particular case.

Andrew Phelan stated to the Chairman that the field interview card was not filled out on the day that it happened. What was filled out was the SIR. On April 2, 2009, the field interview card was completed and turned in a few days later.

Chairman Smart stated that he understood that and that was a lack of information. He stated that the Board must be diligent and at least require some training so that these particular incidents do not take place again. That is why he is not voting to agree with the OPS finding for that allegation.

Eugene Sarfoh asked for clarification. Chairman Smart stated that allegation in the complaint goes back to the OPS. He further stated that his recommendation is that he would like to see training on this particular item. Officers need to be trained and take the time so that information is compiled on the scene. At that time, names, phone numbers, and other information that are vital to a case are collected. When information is compiled

after the incident, as an afterthought, problems are created. Chairman Smart stated that he believes that this represents a question of training. He further stated that the Board has an opportunity to sustained, not sustained, exonerated, unfounded, ineffective policy or training. Chairman Smart stated that his vote is for "ineffective policy or training" so that we can get our officers to do a better job.

Mr. Sarfoh stated this was a difficult case to address because there were some discrepancies and some frustration in regard to the information that was left for the OPS and the Board to consider. If it had been handled differently there would have been more information retrieved by interviewing the other combatants. The officers, as the complainant himself indicated, encounter a number of fights. They encountered this one and basically separated the parties and told them to go their own separate ways. However, one of them had a significant injury. When it came time for him to file a complaint and further investigation into what had occurred, it was too late as the other people involved had left, making it difficult to identify him. The complainant's frustration is understood. Mr. Sarfoh stated that he knew that there has been some discrepancies as to who called when and it appears that there must have been some mistake with regard to the contact information because there was a phone call that went out, but according to the complainant, it did not go to his house, it went to somewhere else. Mr. Sarfoh further stated that at the end of the day, given what the Board has left to consider, the information the Board is looking for we cannot get. The OPS will usually interview anyone whose name is listed on a complaint in connection to an incident. Mr. Sarfoh stated that he thinks everyone's frustration with this case is noted but at the end of the day it is what it is. The complainant was seeking correspondence from the APD to deliver to the Crime Victims Board that would have allowed him to presumably get some type of compensation for the outstanding medical bills.

The complainant stated that he is still looking for that letter. The letter should say that he was hurt in the incident, and that there was an investigation going on. That is all the Crime Victim's Board is looking for. The complainant further stated that he asked the police department for that information. All of this would have been moot if they would have sent us the letter.

Chairman Smart stated that we are going in circles with this discussion. We are not going to resolve this. The Board reviewed the case and reached its decision.

Chairman Edward Smart acknowledged that the regional chairperson of the NAACP, Ms. Anne Pope, Councilman Ron Bailey, and Councilman Anton Konev were present at tonight's meeting.

V. **New Business (Con't)**

2. **Complaint(s) for Board Review**

CPRB No. 9-11/ OPS No. CC2011-019 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. The complainant alleged that he was riding on his dirt bike when he was approached by two officers. According to the complainant, one of the officers was very friendly but the other officer spoke to him in a degrading and unfair manner. The officer allegedly called him derogatory names and told him that he would never see his bike again. The complainant felt harassed and thought that the officer's behavior was slightly racial.

Ms. Hammond reported that she reviewed the following documents: Confidential Report; Call Sheet dated February 13, 2011; Inter-Departmental Correspondence (IDC) dated March 17, 2011 and February 13, 2011.

Ms. Hammond summarized the OPS finding for the first conduct standards allegation as **sustained**, where the review discloses sufficient facts to prove the allegations made in the complaint. Based on the OPS investigation, there was a witness who was behind the police officers as the officers pulled up behind the complainant. The witness heard one of the officers call the complainant an "a**hole." She did not hear him say anything else so she drove away. Ms. Hammond noted that a monitor was assigned to this case. She asked if the monitor was present. Monitor William Van Valkenburg replied that he was present.

Ms. Hammond reported that the OPS detective stated that the complainant was very short and rude with them. While the complainant was being interviewed, the officer recognized him from a former incident and said to the complainant "No, he didn't pull you over for nothing but you were the a**hole to the people who found your dog for you." The complainant received a ticket. Officer #2 never heard officer #1 call the complainant an a**hole, a d**k, or a d****bag. After the incident, the complainant left the scene on foot and thanked both officers. Ms. Hammond stated that the monitor wrote a well-written report. She asked if Mr. Van Valkenburg had anything else to add.

Mr. Van Valkenburg stated that he partially disagreed with one of OPS' findings that **sustained** the officer using the term "a**hole." He further stated that the OPS explained to him that the officer admitted to the use of that word regardless of the context, so that was enough for them to sustain the allegation. Mr. Van Valkenburg stated that he looked at it differently because the officer admitted to using the word but in a different context, i.e., "You acted like an a**hole in the previous incident." That is a big difference than calling him an a**hole to his face as well as the other terms which there is no evidence for. Mr. Van Valkenburg further stated that he did not think that there was sufficient

evidence that the officer called him an "a**hole." Ms. Hammond asked if the complainant was present. It was noted that the complainant was not present.

Chairman Smart asked Mr. Van Valkenburg if he thought there was ever an occasion that an officer of Albany should use that word on any occasion when addressing a citizen of the community on Albany. Mr. Van Valkenburg replied in the negative.

Chairman Smart stated that he does not believe that the officer should use that term at all under any circumstances. The code of conduct states that an officer should always be professional. Chairman Smart further stated that he would not expect the Chief of Police or Commander Matos to go around using that word at all. All officers have pledged to have a higher standard of behavior than our citizens.

Mr. Van Valkenburg stated that he understood Chairman Smart's point of view. He stated that he was not against the OPS finding of *sustained* and probably should not have said anything. Mr. Sarfoh stated that we enlist these monitors and welcome their comments. Mr. Van Valkenburg stated that the only testimony was two (2) telephone calls from the complainant and the witness which left the monitor with a lot of unanswered questions. The complainant stated that in the first instance the officer called him an "a**hole" but that did not bother him though because that was his first interaction with the Albany Police Department. This did not make any sense to him. Mr. Van Valkenburg further stated that he did not like the fact that the witness knew the complainant and was following him somewhere. That is not to imply that there was anything wrong going on here, but he would have liked that to have been addressed when she was being questioned. Mr. Van Valkenburg stated that he agreed with the OPS finding of *unfounded* on the second conduct standards allegation.

Ms. Hammond stated that although she agreed with the OPS finding of *sustained* for the first conduct standards allegation, she was also splitting hairs with regard to the term "a**hole" which could be taken out of context and thinks that officers should be careful with the language they are using. Marilyn Hammond moved to concur with the OPS finding of *sustained* for the first conduct standards allegation, but she would like it to be brought up in training that officers should really be careful about the language they are using. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Ms. Hammond stated that she agreed with the OPS finding of *unfounded* for the second conduct standards allegation where the complainant thought that other officers were being slightly racial. Marilyn Hammond moved to agree with the OPS finding of *unfounded*. Ms. Hammond stated that based on the OPS investigation, there were no racial comments made. Eugene Sarfoh seconded the motion. The motion carried unanimously.

**CPRB No. 11-11/OPS No. CC2011-027; CPRB No. 12-11 /OPS No. CC2011-026;
CPRB No. 13-11 /OPS No. CC2011-028 (Presented by Chairman Edward Smart)**

Chairman Edward Smart stated that he would review each of these complaints separately but they involve the same incident. Chairman Edward Smart summarized the complaint. The complainant alleged that the officer who responded when she was struck by a vehicle was negligent in recording the proper information. The officer did not interview her or the people she was with during the incident.

Chairman Smart reported that on all three (3) of these cases he reviewed the following documents: Confidential Report; Citizen's Complaint Form; Video Report; Cab Report; Ticket; Officer's Note; and Diagram of the Scene. It was noted that a monitor was not assigned to these three particular cases.

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

Chairman Smart summarized the OPS finding for the first conduct standards allegation as ***not sustained***, where the review failed to show sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that the responding officer was negligent in recording the proper information and failed to interview her or the people with her during the incident. Based on the OPS investigation, the responding officer stated that he approached the injured pedestrian and spoke to the EMTs, Albany Fire Department, EMS, and interviewed the driver of the vehicle. Medical attention was provided to the complainant and the video shows the injured person being attended to. Independent witness testimony was provided from other EMS and EMT workers at the scene. There is no evidence that suggests that information was not gathered and recorded.

Chairman Edward Smart moved to concur with the OPS finding of ***not sustained*** for the first conduct standards allegation. Marilyn Hammond seconded the motion. The motion carried unanimously.

Chairman Edward Smart summarized the OPS 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 the officers who responded to the scene where her sister was struck by a vehicle were negligent, rude, and told her to move or she will be arrested. Based on the OPS investigation, the arriving officer stated that he approached the injured pedestrian and spoke to the EMT, EMS, Albany Fire department, and interviewed the driver of the vehicle. Medical attention was provided to the complainant's sister and video shows the injured person being attended to. Independent witness testimony was provided from other EMS and EMT at the scene. All of the officers stated that they witnessed the supervisor's contact with the various

groups and with the complainant. The officers stated that the groups were uncooperative, belligerent and referred to the officers as “white racist pigs.” At no point did witnesses state that they saw officers act in an unprofessional way. Chairman Smart stated that the incident occurred late at night and various groups had been drinking, were belligerent, and not dispersing. Officers were called to the scene and various groups were yelling and shouting out of control. No other party was arrested and no one was injured at the hands of the officer. The video shows that the officers acted in a responsible manner and all parties showed great concern for the complainant’s sister. Chairman Edward Smart moved to concur with the OPS finding of ***not sustained***. Marilyn Hammond seconded the motion. The motion carried unanimously.

Chairman Smart summarized the OPS finding for the third 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 the officers were rude in the manner they spoke to her during an incident where her sister was struck by a vehicle. The complainant further alleged that the officers failed to give her proper attention. Based on the OPS investigation, the responding officer stated that he approached the injured pedestrian and spoke to the EMT, EMS, Albany Fire Department, and interviewed the driver of the vehicle. Medical attention was provided to the complainant’s sister and video shows the injured person being cared for. All of the officers stated that they witnessed the supervisor contact with the various group and with the complainant. The officers stated the groups were uncooperative and belligerent and referred to the officers as “white racist pigs.” At no point did the witnesses state that they saw officers act in any way unprofessional. The group began to interfere with the investigation. The officer stated to the complainant and others that they could not ride in the ambulance if they were going to act unruly.

Chairman Smart stated that no new evidence is given to support the complainant’s allegation of a violation of conduct standards. The officers and others did all they could do to care for the family and in the midst of a belligerent and unruly crowd, maintained order and remained professional. Abusive language was thrown their way and witnessed by many. The officers arrested no one but continued to care for the victim. Chairman Edward Smart moved to concur with the OPS finding of ***not sustained*** for the third conduct standards allegation. Anthony Potenza seconded the motion. The motion carried unanimously.

CPRB No. 39-11/ OPS No. CC2011-127 (Presented by Anthony Potenza)

Anthony Potenza stated that this complaint was received on November 11, 2011. It was noted that a monitor was not assigned to this complaint. The incident occurred on New Scotland and Holland Avenue. The complaint alleged a violation of conduct standards by an officer.

Mr. Potenza summarized the complaint. The complainant alleged that the officer pulled up to him, while he was standing in the street close to the curb, and told the complainant in an angry manner that he was not allowed to stand in the street and to get back on the sidewalk. The complainant alleged that the police were harassing him because of a complaint he filed against a medical professional in 2004.

Mr. Potenza reported that he reviewed the following documents: Citizen's Complaint Form; Civilian Complaint Report; and the OPS confidential report.

Mr. Potenza summarized the OPS finding as *unfounded* for the conduct standards allegation where the complainant alleged that whenever he is in the vicinity of Albany Medical Center, he is followed or harassed by members of the Albany Police Department. The complainant believes that a medical professional, against who the complainant filed a complaint with the New York State Health Department, solicited the Albany Police Department to harass the complainant for filing the complaint. Based on the OPS investigation, the investigating detective contacted the complainant by phone. A recording of this conversation is on file. Details were given to the detective by the complainant. The complainant was not able to recall the patrol car number of the alleged harassing police officer. The investigating detective contacted the medical professional. The medical professional stated that the complaint was at one time a patient of the medical professional several years ago. The medical professional affirmed that the complainant filed a complaint against the medical professional with the Department of Health. The medical professional has since moved to another state for several years due to the complainant's harassment of her. The medical professional stated that she was aware of numerous YouTube videos posted by the complainant of random individuals and Albany Medical Center thinking that they were her. The medical professional has retained a lawyer in the event of further harassment. The medical profession stated that there was no request or solicitation of Albany Police Department by the medical professional to harass the complainant. The Albany Medical Security Services Director was contacted by the OPS investigating detective. The security director stated that he was aware of a history between the complainant and the medical professional and investigated the complainant's behavior. The police department in another jurisdiction is investigating the medical professional's mother being the victim of harassment. The Rensselaer Polytechnic Institute (RPI) police investigator was notified by Albany Medical Center's Security Director regarding the complainant's harassing behavior towards the medical professional. The complainant was prohibited from being on the grounds of the college and would be arrested if found on the college grounds. The RPI investigator stated that the complainant was spending a large amount of time in the RPI library researching the medical professional's whereabouts.

Chairman Smart noted that the complainant left the meeting.

Mr. Potenza further reported that several years ago the complainant filed a complaint with the New York State Health Department against the medical professional. The complainant alleges that the medical professional solicited the Albany Police Department to harass him. An example of the alleged harassment was that the complainant was recently told by an officer that he could not stand in the street. The OPS viewed numerous YouTube videos posted by the complainant where he reported random females, mistaking them for this medical professional in the area of Albany Medical Center. There are also several videos of Albany police officers engaged in random activities, for example, traffic stops unrelated to the complaint in which the complainant comments that the particular officer in the video is following him. Mr. Potenza further stated that the OPS investigation uncovered no evidence of a conspiracy between the medical professional and the Albany Police Department engaging in a relationship with the intent to harass or monitor the complainant. The investigation did however present evidence to give reasonable cause to believe the complainant has been engaged in an ongoing course of conduct with the intent and objective of obtaining contact information of the medical professional for the sole purpose of continuing what has been described by the medical professional as a campaign of harassment toward her.

Anthony Potenza moved to concur with the OPS finding of *unfounded* for the conduct standards allegation, where the review shows that the act or acts complained of did not occur or were misconstrued. Mr. Potenza commented that the OPS conducted a very thorough and complete investigation of this matter. Marilyn Hammond seconded the motion. The motion carried unanimously.

CPRB No. 1-12/OPS No. CC2012-003 (Presented by Marilyn Hammond)

Marilyn Hammond summarized the complaint. The complainant alleged improper conduct standards and call handling procedures from Bethlehem Police Officers.

Ms. Hammond stated that she agreed with the OPS because this was the Bethlehem Police Department. The OPS detective that was assigned to this case spoke to the deputy chief of the Bethlehem Police Department and faxed a copy of the complaint to the Bethlehem Police Department. Ms. Hammond explained that the finding for the conduct standards allegation was *no finding* because this case involved a different agency.

Marilyn Hammond moved to concur with the OPS finding of *no finding* for the conduct standards allegation. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Ms. Hammond moved to concur with the OPS of *no finding* for the call handling allegation. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Chairman Edward Smart asked Coordinator of the CPRB Sharmaine Moseley to note that the complaint citizen's complaint form is a form he has never seen before. He asked if that is something that is manufactured in the Albany Police Department. OPS Detective Kathy Hendrick replied that the form was the old form used before the Citizen's Police Review Board was established. She further stated that she was not sure where this form came from.

Chairman Edward Smart stated that the Board encourages people to use the new form.

B. 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 Committee Chair Akosua Yeboah was not present to give her report.

Mediation

Committee Chairman Edward Smart reported that the Board had a brief discussion with the president of the APD Police Union and will continue to come together to continue discussions about mediation.

Police Department Liaison with 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 wanted to express his thanks to the Common Council for their great work and providing the Board with three (3) new Board members. Chairman Smart stated that the Board has taken care of the complaints filed with the OPS and is up to date. He further stated that this was the first time in the history of the CPRB that we have stood in this position with complaints.

Task Force on Monitors

Chairman Edward Smart stated that Committee Chair Akosua Yeboah was not present and her report will be heard at the Board's next meeting.

C. Appointment of New Members to the Committee on Complaint Review for March 2012

The following Board members were appointed to the Committee on Complaint Review for March 2012: Marilyn Hammond, Andrew Phelan Jr., Anthony Potenza, and Chairman Edward Smart.

D. Report from the Government Law Center

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

Complaint Inventory as of Date of Meeting

It was reported that included in tonight's packets is the complaint database scorecard. As of today, there are currently thirty-three (33) active complaints before the Board for review. Of the thirty-three (33) active complaints, six (6) were reviewed and closed by the Board at tonight's meeting. This leaves the Board with twenty-seven (27) active complaints. There are five (5) cases ready for the next meeting agenda.

It was reported that four hundred and ninety-one (491) complaints have been closed. The total number of complaints that remain suspended from review is thirteen (13). The total number of complaints filed to date is five hundred thirty-one (531).

It was further reported that since the Board's last meeting, the Government Law Center (GLC) received ten (10) grievance forms, bringing the total number of forms received to three hundred and six (306). In response to the GLC's outreach to all individuals, the GLC has received eighty-four (84) Citizen Police Review Board (CPRB) complaint forms.

New Board Members

It was reported that there are three (3) new Board members all appointed by the Common Council. Coordinator of the Board Sharmaine Moseley thanked new Board member Pat Toye for joining the Board at the meeting tonight to observe the proceedings. It was noted that the orientation for the new Board members is scheduled for February 28th at 5:30 p.m. This orientation will also serve as a mandatory refresher training for current Board members as well. Due to the amount of material that needs to be covered, there will be two orientation/training sessions. Ms. Moseley asked to the Board to inform her of their availability for the week of March 5th and March 12th. It was also reported that the Citizen's Police Academy has been tentatively scheduled to begin on March 1 at 6 p.m.

It was reported that the GLC has not received correspondence regarding Board member Potenza's re-appointment.

APD Ride-Along

It was reported that Board members should participate in at least one ride-along per year.

Upcoming Meetings

It was reported that there is a Community Outreach Meeting scheduled for next Monday at 7:30 p.m. with the NAACP. It was further reported that the next Board meeting is scheduled for Thursday, March 8 at 6 p.m.

E. Report from the Office of Professional Standards

OPS Commander Ron Matos stated that he wanted to remind everyone that Detective Eric Crist will now be working with the OPS. He further reported that a training bulletin came out in February 28, 2012 regarding training being offered to officers regarding connecting cops and kids. It is a trainer trainee program being offered by the Department of Justice in cooperation with their community oriented policing services division. The goal is to establish effective and age appropriate procedures with children and the police and to help at-risk kids and assist them and their families in identifying partners in the community to support the officers in their actions to provide a safer community.

Commander Matos stated that he will be retiring from the Albany Police Department in the first week of March. There will be a reorganization of the OPS where Deputy Chief Stephen Reilly will assume the duties he had in the past in the short term. Commander Matos thanked the Board for the past three (3) years and stated that he has learned a lot from the Board and admires their dedication to the community and service in ensuring the public that investigations of misconduct grievances are being conducted in a fair and objective manner. Commander Matos also thanked Sharmaine Moseley and the GLC for their service and the Common Council. Commander Matos thanked all involved and said he believes that the Police Department is heading in the right direction.

F. Report from the Chair

Chairman Edward Smart thanked the Board members for working hard. Chairman Smart reported that the next NACOLE conference will be held in October 14 in San Diego, California. He stated that it would be a good idea if more officers and members of the Common Council attend and that any member from the Board who wishes to attend should do so as well. Chairman Smart stated that our Citizen Police Review Board is one of the most admired across the country because we have a great relationship between the Board, Common Council, police department, and the mayor.

Eugene Sarfoh noted that the Board should address the policy of videotaping meetings. There should be no videotaping here if the names and faces of complainants are confidential. Board Counsel Patrick Jordan stated that it is up to the Board to decide.

Chairman Edward Smart stated that Common Council would review the policy.

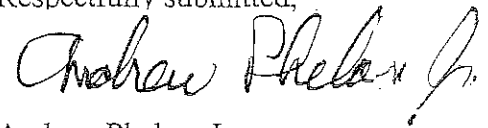
VI. Public Comment

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. Marilyn Hammond seconded the motion. The motion carried unanimously. The meeting adjourned at 7:40 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Andrew Phelan, Jr.", written in black ink.

Andrew Phelan, Jr.

Secretary