

**City of Albany  
Citizens' Police Review Board  
GWU the Center  
274 Washington Avenue – Teen Center Community Room  
May 16, 2013  
6:00 p.m. - 8:00 p.m.**

**Present:** Mickey Bradley, Anthony Potenza, David Rozen, Eugene Sarfoh, Edward Smart,  
and Akosua Yeboah

**Absent:** Marilyn Hammond and Maritza Martinez

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

Chairman Edward Smart called the meeting to order at 6:05 p.m.

**II. Approval of the Agenda**

The agenda was reviewed. Mickey Bradley moved to approve the agenda. David Rozen seconded the motion. The motion carried unanimously.

**III. Approval of the November 1, 2012 Meeting Minutes**

The November 1, 2012 meeting minutes were reviewed. Anthony Potenza moved to approve the November 1, 2012 meeting minutes. David Rozen seconded the motion. The motion carried unanimously.

**IV. Old Business**

**CPRB No. 43-12/OPS No. CC2012-098** (Presented by Chairman Edward Smart)

Chairman Edward Smart reported that the Board received correspondence from Albany Police Department Police Chief Krokoff in regard to CPRB No. 43-12/OPS No. CC2012-098. He further reported that the Chief reviewed the investigation and agreed with the deliberation recommendation of the Board that the matter should be closed as *sustained*. Chairman Smart stated that in regard to the officer's statement regarding the matter, further training was given. He further stated that the APD's determinations are consistent with those of the Board.

Mickey Bradley moved to accept the correspondence stating that the APD agrees with the Board's recommendation. David Rozen seconded. The motion carried unanimously.

**V. New Business**

**A. *New Complaints***

1. New Complaints Received since the March 14, 2013 Meeting

Chairman Edward Smart reported that the Board received five (5) new complaints since its March 14, 2013 meeting. Board Secretary Akosua Yeboah read the new complaints.

**CPRB No. 9-13/OPS No. CC2013-021**

According to the complainant, on March 6, 2013, as he was walking to the store he stopped several times to talk to several friends before he entered the store. The complainant alleges that when he exited the store and walked down Clinton Street, an officer stopped, searched, and questioned him. The complainant further alleges that the officer arrested him and changed the charges against him once he was downtown.

*It was noted that a monitor **was not** appointed to investigate this complaint.*

**CPRB No. 10-13/OPS No. CC2013-027**

According to the complainant, on the night of March 14, 2013, police officers allegedly banged on her door. When she opened the door, the officers allegedly forcefully barged right into her home and used profanity. When the complainant asked why they were there, the officers allegedly refused to tell her and called her vulgar names and used profanity. The complainant alleges that the officers used excessive force when they arrested her. One of the officers allegedly used extreme excessive force when he dragged the complainant down three (3) flights of stairs. According to the complainant, she was taken to civil court in handcuffs and shackles. The charge filed by the officer was "unusual and unnecessary noise." The complainant alleges that she was denied a phone call by the Sergeant. After the complainant was released, she went back home. Fifteen to twenty minutes later, the officer appeared at her door and began to bang excessively on the door for ten minutes waking up the complainant's neighbors. He left after the complainant called the police department and held her phone up to the door.

*It was noted that a monitor **was** appointed to investigate this complaint.*

**CPRB No. 11-13/OPS No. CC2013-029**

According to the complainant, police and detectives allegedly stopped her car, removed her boyfriend from the car, and asked the complainant to turn off the car and not to get on the phone. The officers and detectives allegedly told the complainant and her two children to stay in the car. The complainant alleges that they asked her for the keys to her apartment which she refused to give them because they did not have a warrant yet. The officers and detectives allegedly busted down her door even though her grandmother offered to give them the keys. The complainant alleges that the officers took property from her house and never gave her a property receipt.

*It was noted that a monitor **was not** appointed to investigate this complaint.*

**CPRB No. 12-13/OPS No. CC2013-017**

According to the complainant, two police officers approached her with questions in February 2013. Before the complainant could show her ID, the officers allegedly handcuffed her and forced her to sit down on a bench outside. The complainant further alleges that the officers took her to Albany Medical Center where she was forcibly injected with an anti-psychosis drug. The complainant claims that her civil rights were violated.

*It was noted that a monitor **was** appointed to investigate this complaint.*

**CPRB No. 13-13/OPS No. CC2013-037**

According to the complainant, his tenant misinterpreted his text message which resulted in two (2) police officers allegedly breaking the front doorknob. The next day, the tenant had him arrested for trespassing. The complainant believes that the officers allegedly retaliated against him because he complained about the prior incident. The complainant further alleges that he informed the officers that he suffered from a medical condition and they still forcefully handled and hurt him. The complainant alleges that he was held at the station for several hours before being thrown out in his slippers at midnight.

*It was noted that a monitor **was** assigned to investigate this complaint.*

2. Complaint(s) for Board Review

**CPRB No. 20-12/OPS No. CC2012-047** (Presented by David Rozen)

David Rozen reported that the initial complaint was filed more than six (6) months after the alleged incident occurred. The alleged incident occurred November 9, 2011-November 12, 2011. Mr. Rozen stated that the complaint was filed with the Board on May 14, 2012. He also stated that according to the Board's by-laws, a vote must be taken with a majority of members in favor of hearing the case in order to review the case. Mr. Rozen stated that he reviewed the case in anticipation of the Board hearing the case and that he attached the relevant section of local law. He read the section of the law as follows: "Complaints shall be filed within six (6) months of the date of the incident giving rise to the complaint. Complaints filed after six (6) months of the alleged misconduct shall, however, be returned or accepted and reviewed by the CPRB upon majority vote of its members to do so. The complainant shall be notified by the board of the decision whether the complaint be returned or accepted and reviewed. Akosua Yeboah moved to give the complaint the benefit of review." Eugene Sarfoh seconded. The motion carried unanimously.

Mr. Rozen stated that monitor Frank White was assigned to this case. Mr. Rozen summarized the complaint. He stated that a fire destroyed the home of the complainant's mother. On or about November 9 to 12, 2011, the Albany fire chief directed an officer to arrest the complainant when the complainant tried to photograph personal property belonging to the complainant and his mother at the location. The complainant further stated that the officer threatened to arrest him because he allegedly interfered with fire

department activities. Mr. Rozen further stated that the complainant alleged that the Albany Fire Department and Albany Police Department and their contractors stole personal property.

Mr. Rozen reported that he reviewed the following documents: APD Confidential Report, APD Call Detail Reports, and Intra-departmental Correspondence (IDC).

Mr. Rozen stated that, after reviewing the complaint, he found that the Albany Fire Department (AFD) captain and two (2) engineers working for the AFD—one (1) was an independent contractor—assessed the property as severely damaged. The property was having the roof repaired when the building burned down. He further stated that the property was not suitable for habitation, so it was determined that the building was to be demolished. The complainant allegedly kept interfering with the AFD's activities by trying to take personal pictures of belongings. The fire chief allegedly asked the complainant to stop and leave for his own safety, which he refused to do. An APD officer, who was directing traffic nearby, was called over and allegedly instructed the complainant to stop, otherwise the officer would have to arrest him. The complainant stopped.

Mr. Rozen stated that based on the OPS investigation, no one knew anything about any personal property being stolen, and the complainant did not mention it to any fire or police personnel at the scene. He only mentioned it in subsequent reports.

Mr. Rozen summarized the OPS finding for the conduct standards allegation as **unfounded** where the review shows that the actions complained of did not occur. Based on the OPS investigation, there was no indication of any public official having any intent to steal or withhold any personal belongings from the complainant or his mother for their personal benefit. Mr. Rozen stated that there was also no evidence that suggested that the APD or any of its members engaged in assisting public officials or its contractors in stealing any property from the location that had burned down.

In regard to the decision to demolish the damaged house, Mr. Rozen stated that the process of determination was made in accordance with the City of Albany Local Law Section 133-28 "Power to Make Order to Repair or Demolish," which states, "Whenever any building or any part of any building in the city of Albany shall become unsafe by reason of its use, made or construction, or which demolition of an adjoining building shall be discovered to be unsafe or shall be determined to be unfit for human habitation, or is a hazard to the health and safety of occupants or public, the commissioner of buildings shall have the power to make an order declaring that the building or part of the building be discontinued, modified, repaired, strengthened, or demolished."

Mr. Rozen stated that he concurred with the OPS finding for the conduct standards allegation as **unfounded**. The AFD Captain had determined the area unsafe during the demolition phase of the incident in question and advised the complainant to leave the area for safety reasons. When the complainant did not leave, an APD officer advised the complainant that he would be arrested if he continued to interfere with the AFD personnel at the scene. The complainant complied. Mr. Rozen further stated that he

found no indication that any public official had any intention to steal or withhold any property belonging to the complainant.

It was noted that the complainant was present. The complainant stated that he had a CD-ROM with documents that he received from the city's attorney, including a file that was altered/back dated to make it look like it was created in the past. The complainant further stated that he believed the city attorney attempted to create a "drop gun defense," where the city engineer created a false report, making it look like the report existed two (2) months before it was created. This was done to cover up another report.

The complainant stated that the only damage to the building that was visible to the police and everyone on the scene was that the roof had burned away. A damaged roof does not justify the demolition of a three-story building with basement.

The complainant explained that he considered the building and items in the building, which were all destroyed with the demolition of the building, as the property that was stolen or withheld because, in his opinion, the building should not have been demolished. He stated that he did not believe the condition of the building was a threat to people, which is required by the city code to demolish a building. The complainant also stated that contractors and others on the scene salvaged various metals and wood, and that the CD-ROM includes a photograph of a contractor stealing a piece of plywood. The complainant stated that if a person's life is threatened because a building is unsafe, that person would not walk into the building to salvage a \$20 piece of plywood.

The complainant further stated that an engineer was called, to create the "drop gun defense," in which the engineer created a report to indicate a bow in the front wall of the building, which could not be detected by a trained eye without using a level. After the complainant filed a civil lawsuit on fraud, the engineer filed a report that did not mention a bow.

The complainant further stated that he believes that the police do not assume that people in public office lie. He is not accusing the fire chief of lying because he did not lie in his affidavit. But the fire chief was acting under the influence of the engineer and city attorney in demolishing the building. The chief was told the justification would be created because the evidence would be gone.

The complainant further stated that as soon as he heard the engineer say that he did not see a bow, he knew instantaneously that it was a fraud. Had it not been for the hole already put in the second floor in preparation for demolition, the complainant would have used force to defend his property, which he was within his rights to do. The complainant believes that he would have been stopped forcibly by the police for defending his property. The theft of his property and destruction of his building "would not have occurred if weren't for the police and their guns."

Chairman Smart asked the complainant if he submitted the documents on the CD-ROM to the OPS when he filed his complaint. The complainant stated that the documents were not available to internal affairs. The complainant further stated that the OPS never asked for the documents. He offered the documents but the OPS did not want them. The

complainant stated that an officer told him the following: 1) He could file criminal charges against the people who withheld his property. 2) The police at the scene were only following orders from the fire department. 3) The fire department had determined that the house was unsafe. The complainant further stated that the idea of the police following orders is the Nuremberg Defense which is why he filed this complaint. The house was not falling down.

Chairman Smart asked the complainant if he personally offered the CD-ROM contents to OPS and did OPS refuse to look at them? The complainant replied that he had no way of getting the documents to the OPS because the officer only gave him a phone number. Chairman Smart stated that if a complainant has evidence that helps the case, the Board believes the evidence should be turned over to internal affairs. The complainant stated that he limited his issues in this complaint to the police allowing the removal of his personal property and did not necessarily engage the Board in a determination of all the issues. He further stated that the fabricated documents were created by an engineer hired by the city to defend the city in a lawsuit, which the Board has nothing to do with. The city attorney created a false document as evidence in defense of an officer of the city, which the complainant believes is relevant to the Board with or without this complaint.

Chairman Smart stated that if that is the case, this is a concern for everybody in the city. However, the CPRB is charged only with the complaints filed against the misconduct of shielded officers of the APD. Chairman Smart further stated that when the Board looks at a complaint, it needs to have proof that an officer violated its standard operating procedures. Chairman Smart also stated that the complainant spoke mostly of his valuables, the AFD and the city engineers and attorney. He stated that he is concerned about the allegation that an APD officer took the complainant's property at gunpoint. Chairman Smart stated that he would like the complainant to show proof that the police officer took his property at gunpoint.

The complainant asked the chairman to provide his exact quote about the officer taking his property at gunpoint. Chairman Smart stated that he could not provide the quote but that the complainant's oral testimony said this. The complainant stated that the officer was on the scene and he had a gun. If a person "defies [an officer], the guns could come out." The complainant further stated that this violated his rights to defy the city if they were acting in an obvious manner without legal authority.

Mr. Rozen asked the complainant if he had any proof that the officer took his personal property. The complainant replied that he had photographs identifying who physically removed his property, and he was not alleging that the APD officer touched his property. The complainant explained that he was alleging that the APD officer aided and abetted the people who were taking his property. The complainant further stated that some of his property, including a bathtub, was placed on the sidewalk and was taken. He was not allowed to come within ten (10) feet of the items.

Mr. Sarfoh stated that it was not his impression that the complainant was alleging that the officer somehow physically, with his gun, took the complainant's property. Mr. Sarfoh further stated that he felt that the complaint was that the presence of armed law enforcement prevented the complainant from using other means to defend his property

from being taken by the contractor. Mr. Sarfoh further stated that Chairman Smart's comment on the Board's charge is well taken. The Board's task is to determine whether or not the police officers acted properly and, more specifically, whether or not the investigation by the OPS into the conduct of the police officers was conducted properly. Mr. Sarfoh stated that he believed this is more a case for a civil lawsuit, which the complainant has already begun. The dispute is more between the complainant and the contractor about whether the property the contractor allegedly took was done lawfully or not. Mr. Sarfoh further stated that the Board could not comment on that. The Board was concerned only with the APD officer.

Monitor Frank White stated that he reviewed a lengthy audio recording of a conversation between the detective and the complainant, in which the complainant stated that he did not believe that any police officer knowingly engaged in assisting in any theft from the building. Chairman Smart asked the complainant if he said that. The complainant replied that those were not his words. The complainant stated that he was not saying that he thought the police officers knew, at the time, that the people had no right to take the property, but rather the policy or training of the police officers does not give the officers the basic legal knowledge to know the difference. If they were there only to follow orders, then they are aiding and abetting acts that are obviously not authorized by law. The complainant further stated that his point was that the officers' policy of blindly following orders is inherently inconsistent with their independent duty to know the law and to protect people from offenses and crimes.

Mr. Bradley stated that the complainant was suggesting that the police officers, before they enforce whatever the fire department has determined, should independently investigate the charge and verify that the structural integrity of the building is compromised. The complainant stated that there was no obvious reason why the building was torn down, so why didn't the police officers know enough to ask? Mr. Bradley replied that he was not in favor of blind obedience to disregard people's civil rights, but this case seems to be much more subtle than that. Mr. Bradley further stated that he understands that the complainant was saying that the police should have obviously known the building should not have come down, but it is more subtle for someone who has no expertise in that area.

The complainant stated that he believed the city acted with premeditation in using this particular engineer and that the city knew the engineer would create whatever evidence the city needed in a case like this. He further stated that he understood that the police may not have expected that, but should have because it has happened in the past.

Chairman Smart thanked the complainant for his complaint and for taking the time to speak at the meeting and wished him and his family well in seeking justice in other areas outside the Board's jurisdiction where the family feels it has been wronged.

David Rozen moved to concur with the OPS finding of *unfounded* for the conduct standards allegation. Anthony Potenza seconded the motion. The motion carried unanimously.

**CPRB No. 33-06/OPS No. CC6-482** (Presented by David Rozen)

Mr. Rozen stated that the alleged incident occurred on July 25, 2006 and that a vote will need to be taken, similar to the previous case, in order to hear the case. Mr. Rozen also stated that in the complaint is a letter dated July 25, 2006, where the complainant states, "I am at the Office of Professional Standards and would also like to add that I would like this complaint to be handled by this office and not the Citizens' Police Review Board." Mr. Rozen stated that he would like a vote to be assured that the Board is okay in regard to the letter.

It was noted that the complainant's attorney was present and the attorney stated that the complaint was filed the day of the alleged incident, therefore the issue of the complaint being filed within six (6) months does not apply here. The complainant's attorney further stated that his client's statement regarding the OPS handling the complaint, and not the the Board, was coerced from his client before he was represented by an attorney and the coercion was done by an OPS detective.

Mr. Rozen stated that the CPRB received the complaint April 24, 2013. Coordinator of the Board Sharmaine Moseley stated that the OPS gave the investigation report to the Board on April 24, 2013, but that the complaint was filed with the OPS on July 26, 2006, the day after the alleged incident. The Mayor's office suspended the complaint. Chairman Smart stated that the Board was prepared to review the case.

Mr. Rozen stated that the complainant alleged that he was in his vehicle when he was stopped by an officer. The officer advised him that his registration was suspended. Mr. Rozen further stated that the complainant then told the officer it was impossible. The complainant alleged that the officer told him to exit the vehicle and used unnecessary force. The complainant further alleged that he suffered injuries as a result of the force and had to be treated in the emergency room. An officer allegedly stated, "When you fight with the police, you end up getting arrested. That is what you get."

Mr. Rozen reported that he reviewed the following documents: APD OPS Confidential Reports; Central Florida Police Department documentation; Complainant's Statements dated July 25, 2006 and September 15, 2006; letter from the complainant's attorney dated July 27, 2006; Albany Fire Department Reports; Mohawk Ambulance Fire Service Reports; Albany Medical Center filings; Albany Memorial Hospital filings; Whitney M. Young Health Services filings; APD Interdepartmental Correspondence dated July 31, 2006, August 10, 2006 and August 12, 2006; AFD Teletype showing a suspended registration; SIR for injury to prisoner; Arrest Record; Call Ticket; Complainant Oral Statements; Drug Test Result Form; Complainant Subject Resistance Form; Complainant Screening Sheet; SIR of another individual involved; Complainant SIR; two (2) property reports for evidence of another individual involved; Property Report; Pictures of the complainant; APD communication blotter dated July 25, 2006; Appearance Letters; and Evidence Exhibits.

Mr. Rozen summarized the complaint. The complainant refused to pull over after allegedly being summoned by an APD officer for running a red light and excessive speed while heading east on Central Avenue on July 25, 2006 at approximately 2:20 a.m. After running a check with the NYS DMV, the officer determined the vehicle's registration was suspended for lack of insurance. The complainant was uncooperative and threw his



business card out of the car window at the officer. The complainant refused to comply with simple commands, refused to exit his vehicle when asked, and would not unlock the vehicle. Once out of the vehicle, the complainant refused to put his hands behind his back as instructed and kept pulling one arm away, twisting away before the officer could place him in handcuffs. The complainant grabbed the officer's wrist before being placed in handcuffs, and began to bend the officer's wrist backwards. At that point, the officer allegedly spun the complainant around and threw him to the ground, causing him to receive a laceration above his left eye. The complainant was transported to Albany Medical Center for treatment and then to Albany Police Department South Station for processing. A statement was taken from the complainant when he was in custody, providing his version of events, which included the complainant's statement, "I wasn't really compliant." The complainant further stated that he was twisting around after an officer had one handcuff on his right arm. The complainant stated that he was non-compliant even after being taken to the ground, including trying to push himself up and twist around. The complainant allegedly admitted that it was only then that he allowed the officer to put the other handcuff on his left arm.

The complainant's attorney asked the Board what the OPS finding was before he and/or his client would address the Board. Noting that this is against the usual order of events, Chairman Smart asked the rest of the Board if there were any objections to stating what the OPS findings were. Mr. Potenza stated that he objected because the procedure has always been for the Board member who is responsible for investigating the case to give the report, and then the Chairman asks if the complainant is present. If so, the complainant is asked if he/she has something to say or add to the investigation. Mr. Potenza further stated that after the complainant speaks, then the Board hears the recommendation.

Ms. Yeboah stated that she did not see an issue with disclosing the OPS findings earlier than usual. She further stated that the Board is a proxy for the citizens of Albany, and if the citizen is present and asking for information that will be disclosed in a few minutes and it will not affect how the Board will act, she did not see any reason why they should not disclose the information.

Mr. Rozen stated that he agreed with Mr. Potenza's statement. He further stated that he believed that every citizen should be given the same rights and treated in the same way as others and that includes following the same protocol each time and not changing on a case-by-case basis.

Mr. Bradley stated that he agreed with Ms. Yeboah.

Mr. Sarfoh stated that he was a little baffled that they were taking this vote. He stated that it seemed to him a standoff of who was going to go first. He further stated that he failed to see where it was required of the Board to not disclose the OPS findings before the complainant speaks and would be interested in hearing anyone who had reasoning suggesting that it was proper to follow protocol.

Chairman Smart stated that it appeared that the Board was split down the middle on the issue of whether or not to disclose the OPS findings at this point in the proceedings.

Chairman Smart also stated that the Board has a protocol of hearing the Board member's report and then the complainant comments, while the monitor may give his/her at any point. Chairman Smart further stated that the protocol was established for a reason, and if an exception is made once, then others, including the OPS, may request the exception as well. He also stated that no one has ever asked to hear the OPS findings before speaking and that it is in the complainant's interest to do so. Chairman Smart further stated that he believed this decision was a chairman's decision, that he finds the request compelling, that he will allow the OPS findings to be disclosed early.

Mr. Sarfoh stated that the Board is not tasked with anonymity but rather tasked with revealing complaints as they come in. Mr. Sarfoh stated that this complaint is procedurally the same as every other complaint and the only difference is that the Board is being asked for a piece of information a little bit out of order. Mr. Sarfoh, as Chairman of the By-Laws Committee, stated that there is no law stating that the Board cannot reveal the OPS findings at this point in the order of events. Chairman Smart stated that there is a procedure law, which the Board has followed.

Mr. Rozen summarized the OPS findings for the use of force allegation as ***not sustained*** and ***unfounded*** for the conduct standards allegation. The complainant stated that he was driving down Central Avenue and saw the officer on Partridge Street. When the officer turned on his lights, he pulled over immediately. The complainant asked the officer why he was being stopped. The officer allegedly asked the complainant for his license and registration. The complainant's window was down and doors were locked. The complainant said that when the officer returned to his window, the officer said, "It's not right." The complainant stated that the dates and insurance were all correct and he had the proof. The complainant alleged that the officer repeated, "It's not right. Get out of the car." The complainant stated that he was trying to unlock his door to get out at the same time the officer was trying to open the door. This caused the door to not unlock. Once the door was unlocked, the complainant stated that the officer reached into the car, grabbed him by the shirt, and pulled him out of the car. The complainant stated that the officer told him to move to the back of the car, which he did, and the officer allegedly slammed his head against the window. The complainant further stated that his hands were above his head so he asked the officer to "be easy" and the officer then allegedly foot swiped him, which slammed him to the ground, his head hitting the curb. The complainant stated that about "twenty (20) cops" showed up and jumped on top of him. He stated that he told the officers he was bleeding and they allegedly used obscene language in telling him to be quiet. According to the complainant, the ambulance and fire department arrived but the complainant could not talk with the responders because he was dizzy from hitting his head on the curb. When the complainant's head hit the curb, it caused a laceration to his forehead and a fracture to his face in three (3) different places. The complainant did not know the extent of his injuries until he went back to the hospital the next day. The complainant stated that he did not tell anyone he was wrong the night of the incident. He further stated that he went to the police department the following day to make his complaint and decided to retain an attorney. The complainant also stated that all charges against him were dismissed.

Mr. Rozen reported that there was not a monitor assigned to the case.

The complainant's attorney stated that he had some concerns regarding whether excessive force was used and that the medical documentation showing fractures was provided to OPS. He further stated that the inconsistencies between the statements the complainant made in the hours after the incident before consulting a lawyer and the statements he made the following day after he did consult a lawyer were very minor and irrelevant. The complainant's attorney stated that—in addition to disagreeing with the OPS finding which he asked the Board not to accept—there were some procedural aspects of this case which are troubling, including a monitor not being assigned, which the attorney requested in writing two days after the complaint was filed because of allegations of excessive force and civil rights. He was also concerned that it took seven (7) years for the Board to hear this complaint, especially since he received a letter in February 2007, from the Board's secretary, stating that the OPS investigation was complete. Several months later, he received another letter stating that the city had suspended the Board's role in this complaint because of other litigation. The complainant's attorney stated that there was no other litigation and the latest date that a lawsuit could have been filed was August 2010. He further stated that it was improper of the City and Board to suspend this complaint. He also stated that the complainant and attorney had one day's notice to be at this meeting, that they received the letter the day before, and that it was a high expectation for them to be at this meeting.

The complainant's attorney further stated that he felt that the evidence was clear that there was a high level of force used without cause, and the notion of the complainant making the statements admitting to wrongdoing is "simply not true." He further stated that in criminal cases, the police have to disclose if statements were made that would be used against the suspect, and the police did not disclose any such information in this case. The complainant's attorney asked that the Board reject the OPS findings and send the investigation back to the OPS for further investigation.

Mr. Rozen asked the complainant if when the officer placed him under arrest and placed the handcuff on him, did he (the complainant) resist the officer in any way? The complainant replied that the officer "never asked me at first. What he did was take my arms and bend my arm way up. That's when I told him to be easy, and that's when he slammed my head on the window." Mr. Rozen asked, "So you never touched the officer?" The complainant stated, "I never touched him. I didn't have a chance to touch him."

Ms. Yeboah stated she had a question for either the complainant or his attorney. She stated that she was bothered by the seemingly conflicting facts of the case. The only evidence she sees is what Mr. Rozen has presented and what the OPS record shows. She further stated that the evidence she sees shows that the complainant resisted and in certain instances when the officer is trying to get control, he has to apply a certain amount of force. The complainant and his attorney said the evidence is that the complainant did not resist the officer. She'd like to know what that evidence is. The complainant's attorney stated that there is no video tape of the incident so the evidence are statements made by the complainant describing what happened, including a detailed statement made September 15, 2006, and medical records describing the severity of the injuries and supporting the complainant's stand of excessive force but not the officer's account of

what happened. Ms. Yeboah stated that she did not see the medical records and had to depend on Mr. Rozen's review of the investigation.

Mr. Rozen stated that during his review of the investigation, he noted that the police department stated the complainant threw his business card out of the window and has evidence supporting that claim, but the complainant's account of what happened omits that. The complainant stated that as he was trying to take his ID out, the business card was mixed in with the information he was giving to the officer. The officer allegedly threw out the things he did not need, including the business card.

Chairman Smart stated that he had a question about the attorney's procedural concerns. He asked if the letter giving the date of the meeting was received by the complainant yesterday or the day before. The complainant's attorney stated that he received the notice on May 13, the Monday before the Thursday meeting. Chairman Smart asked when the letter was sent out. Ms. Moseley replied that letters are always sent out ten (10) days before the meeting. Mr. Sarfoh stated that he believed the attorney was saying he was only able to contact his client the day before the meeting. Chairman Smart stated that he felt the implication of the attorney's statements was that he only had one day's notice and that the Board needed to know when the notice was sent out, because the Board must send out notice ten (10) days in advance. The attorney then stated that he did not mean to imply that he (the attorney) was given only one day's notice and apologized. The attorney stated that he was only able to find the complainant the day before because he had not had contact in years.

Ms. Yeboah stated that the OPS findings were *not sustained*, meaning that the OPS was not exonerating the officer. The finding meant that the complaint is neither proven nor disproven, and that it is one version of events against another version of events. Ms. Yeboah asked if there was any further evidence the complainant would like to show. The complainant's attorney replied they did not.

David Rozen moved to agree with the OPS finding of *not sustained* for the use of force allegation. Mickey Bradley seconded the motion. The motion carried unanimously.

Mr. Rozen summarized the OPS finding as *unfounded* for the conduct standards allegation and that the officer's intent of the statement was misconstrued by the complainant. The complainant stated that he believed just he and the officer were in the room together when the statement was made.

David Rozen moved to disagree with the OPS and find the allegation of conduct standards as *not sustained*. Chairman Edward Smart seconded the motion. The motion carried unanimously.

**CPRB No. 79-08/OPS No. CC2009-091** (Presented by Anthony Potenza)

Anthony Potenza stated that this complaint alleged improper arrest authority and procedure and use of force. He noted that monitor Richard Lenihan was assigned to this case.

Mr. Potenza reported that he reviewed the following documents: Citizen's Complaint Form; Written Statement; Suspension Notice; APD Civilian Complaint Report; Monitor's Report; OPS Confidential Report; Complainant's Oral Statement; Oral Statement Report; Copy of Duties and Responsibilities of Officers; APD Property Report; K-9 Utilization Report; Statements of Interview Subjects; APD Investigation Report; Complainant Statements; Arrest Report; Notice of Trial; Notice of Oral and Written Statements; Notice of Identification; Grand Jury Indictment; two (2) Call Tickets dated October 6, 2008; Albany Fire Department EMS Reports; APD Incident Report; APD Subject Report; APD Further Investigation Reports; APD Vehicle Impound Property Reports; and the following reports for two (2) individuals who are not mentioned in the complainant: Arrest Report with Attached Depositions; Property Report; Booking and Admission Screening Sheets and Suicide Prevention Screening Guidelines. Mr. Potenza further reported that there was a lot of documentation not directly related to the complaint but to the investigation of the bank robbery that was part of this complaint.

Mr. Potenza stated that this case can be reduced to three (3) parts: 1) Police response to a bank robbery, which included a video of the robbery suspect that was reviewed by the police; 2) The complainant was stopped and arrested in connection to the alleged bank robbery; and 3) The complainant allegedly resisted the arrest.

Mr. Potenza stated that the complainant alleges that the officer used excessive force against him during the course of arresting him, causing him to suffer a broken ankle. Mr. Potenza reported that based on the OPS investigation, the complainant's alleged failure to comply with the officers resulted in the officers physically restraining him. This led to an altercation between the complainant and the two (2) initial officers who were unable to get him into custody and required the assistance of additional officers. Mr. Potenza reported that even with the assistance of additional officers, the officers had difficulty getting the complainant into custody as he continued to be non-compliant and resist. Mr. Potenza stated that, while the physical altercation with the initial officers and then the backup officers was captured on video, there was minimal footage with the backup officers; however it is evident that the complainant was not taken into custody without incident. Mr. Potenza further stated that the officers indicated that the complainant kicked, punched, and attempted to run away in an attempt to prevent his lawful arrest.

Mr. Potenza reported that the complainant's combative and uncooperative demeanor is documented on the subject resistance report. Mr. Potenza further stated that the officers documented that the complainant placed his hands in the waistband of his pants and refused to remove them when asked, placing the officers in fear of death or serious physical injury. The officers were notified by the dispatcher of the bank robbery and that a gun was implied. Mr. Potenza stated that the complainant was later found to be in possession of a pocket knife hidden in his waistband that was recovered and placed into evidence. Mr. Potenza further stated that it was likely that the complainant was under the influence of crack cocaine as he admitted to smoking two pieces just prior to going to the store as he was trying to get away. Mr. Potenza stated that, considering the complainant's violent non-compliance and resistance, coupled with the fact that he was probably under the influence of crack cocaine, the complainant could have sustained the injury to his ankle by his own actions.

Mr. Potenza reported that the complainant admitted that he was pulling away and trying to get away from the officers, who were grabbing him and preventing him from running away, and in the midst of him reaching into his pocket, the complainant admitted that the officers "had to do what they had to do." Mr. Potenza further stated that the complainant was on the ground but could not remember how he got there. The officers did not hit, kick or punch the complainant. The complainant said they "didn't do anything wrong." The complainant stated to another officer, "I was resisting the officers." Mr. Potenza further reported that the officers used the least amount of force to get the complainant into custody although there was the threat or the implication that the complainant was in possession of a handgun, based on the dispatched information. The contact that transpired between the complainant and the officer was a direct result of the complainant's failure to comply. Mr. Potenza stated that it is unknown how the complainant sustained the broken ankle, however it is clear that a violent struggle ensued that required several officers to gain control of him and place him in custody.

It was noted that the complainant was not present.

Monitor Richard Lenihan was acknowledged as being present. Mr. Lenihan stated that the video showed that the amount of resistance by the complainant was met with a commensurate amount of force by the police. It was a violent confrontation, initiated by the complainant resisting arrest.

Mr. Potenza stated that the OPS found the allegation of use of force as **unfounded**. Anthony Potenza moved to concur with the OPS finding. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Mr. Potenza summarized the finding as **no finding** for the arrest authority and procedures allegation. The complainant alleged that he was not charged with resisting arrest or the pocketknife on his belt until after he filed a claim, approximately fifty-eight (58) days after he was arrested. The complainant further alleged that he was being charged with and accused of resisting arrest, fighting with the police, and intending to use the pocketknife against the police, which the complainant denied doing. Allegedly these charges were not filed by the Albany County DA's office until November 25, 2008 when the complainant was indicted on other charges, which included robbery in the first degree.

Mr. Potenza reported that the OPS finding was **no finding**, where the finding is the responsibility of another agency and that the complainant has been referred to that agency. Anthony Potenza moved to concur with the OPS finding. Mickey Bradley seconded the motion. The motion carried unanimously.

**CPRB No. 10-09/OPS No. CC2009-019** (Presented by Chairman Edward Smart)

Chairman Edward Smart summarized the case. The complainant alleged that the public service officer is harassing him; however the complainant admitted to double parking, which is a violation of the law. The complainant further admitted that the public service officer did not issue a ticket but told the complainant to move along. The complainant alleged that the public service officer was rude towards him. The complainant further

alleged that he witnessed the public service officer being rude to other civilians who were parking their vehicles on Central Avenue.

Chairman Smart reported that he reviewed the following documents: Confidential Report; Citizen's Complaint Form; Newsfront; Citizen's Police Review Board City Code (7-17-2000); and Article EXLIV 42-222 E.

Chairman Smart stated that the CPRB was created as an independent review board with respect to complaints of misconduct by officers of the Albany Police Department. Chairman Smart moved for the Board to choose *no finding* for the allegations because a public service officer is not a shielded member of the APD and therefore the CPRB has no standing on CPRB No. 10-09/OPS No. CC2009-019. Anthony Potenza seconded the motion. The motion carried unanimously.

**CPRB No. 5-09/OPS No. CC2009-004** (Presented by Chairman Edward Smart)

Chairman Edward Smart summarized the complaint. The complainant alleged that his friend was double parked in front of 59 Central Avenue, with packages she had picked up for him. The complainant went to open the store when he noticed the Parking Enforcement Officer (PSO) allegedly harassing the friend to move her vehicle. The complainant stated that a law enforcement officer informed him previously that business owners have a 15-minute load and unload time entitled to businesses located along Central Avenue. Allegedly the PSO stated, "Well, not if there is an empty spot available." The PSO allegedly told the complainant that she was above the law. In the middle of this, the complainant stated that he noticed a police car pulling up. He walked over to the driver's side window of the car to request to have the PSO's supervisor respond to the scene. Allegedly the officer told the complainant to get out of his face. Allegedly the officer stated to the complainant he can take his f\*\*\*\*\*g a\*\* down to the Traffic Division on Central Avenue to talk to the supervisor. Other officers arrived and allegedly threatened the complainant to get out of the roadway or they would arrest him. The complainant stated he stopped and just happened to be standing in front of the police car. At that time the officer released the breaks and the vehicle started to roll right into the complainant. All of the officers swore at the complainant and called him a piece of sh\*t. Fed up with the officers, the complainant shouted, "F\*\*k you, pigs," and then turned to go into his store. The officers allegedly came upon the complainant; he felt they were going to push him through the glass, so he planted his feet on the ground. He was handcuffed and allegedly the officers called him "a Black piece of s\*\*t." Allegedly the officers dragged the complainant to the police car and "stuffed" him inside.

Chairman Smart reported that he reviewed the following documents: Statement dated 1/23/2009; Confidential Report; Certified Receipts; Parking Ticket; Violation/Obstruction; Citizen Grievance Form; six (6) IDC; Resistance Arrest Form; Arrest Incident Form; Unit Status Call Record; Monitor's Report; and City of Albany Ordinance Section 25-25.

Chairman Smart noted that monitor Richard Lenihan was assigned to this case and was present. Mr. Lenihan stated that after the incident, the complainant and the officer met

and both extended apologies to each other for their actions. Mr. Lenihan further stated that he recommended mediation.

Chairman Smart summarized the OPS finding as ***sustained*** for the conduct standards allegation, where the review disclosed sufficient facts that proved that the officer told the complainant to get out of his face and used profanity. Chairman Smart stated that both the complainant and the officer agreed that the officer did say that the complainant could take his <profanity> down to Traffic Court to speak to the supervisor. This conduct is against the APD Standard Operating Procedures. Chairman Smart further reported that the officer and the complainant met and the officer apologized for his conduct. Chairman Edward Smart moved to agree with the OPS finding of ***sustained*** for the first conduct standards allegation. Akosua Yeboah seconded the motion. The motion carried unanimously.

Chairman Smart summarized the OPS finding as ***not sustained*** for the second conduct standards allegation, where the review failed to disclose sufficient facts to prove or disprove that other officers on the scene threatened the complainant to get out of the roadway or they would arrest him. Chairman Smart moved to concur with the OPS finding of ***not sustained***. David Rozen seconded the motion. The motion carried unanimously.

Chairman Smart summarized the OPS finding for the second conduct standards allegation as ***unfounded***, where the review showed that neither the officers nor the witness from the barbershop indicated that the officer called the complainant a Black piece of <profanity>. Chairman Edward Smart moved to concur with the OPS finding of ***unfounded***. Akosua Yeboah seconded the motion. The motion carried unanimously.

Mickey Bradley stated that he commended the officer and the complainant for discussing and resolving the issue. Mr. Bradley further stated that he finds this attitude laudable and that this is a positive case in favor of mediation.

**CPRB No. 32-12/OPS No. CC2012-071** (Presented by Akosua Yeboah)

Akosua Yeboah summarized the complaint. The complainant witnessed an arrest by members of the Albany Police Department. When she was approached by the arresting officer requesting that she sign a trespass agreement, which she allegedly would have witnessed, she refused. The officer then asked for her name and again she refused. The officer then allegedly stated that he would get her name from the license plate of her car, which she was next to, and tell her supervisor that she was uncooperative and that she would lose her job. Ms. Yeboah reported that there was a lot of documentation regarding the witnessed arrest, which was immaterial to this complaint, therefore, she and the monitor left it out of their reports. Ms. Yeboah further reported that monitor Al Lawrence was assigned to this case.

Ms. Yeboah reported that she reviewed the following documents: OPS Confidential Reports; Inter-Departmental Correspondences; K-9 Utilization Reports; Call Details; APD Subject Resistance Report; Complaint Form; Monitor's Report; and various handwritten notes in the file.



Ms. Yeboah stated that the record showed that on the night of the incident, the complainant went to the police station to complain and gave her name. She further stated that the sergeant on duty explained the CPRB complaint process to her and gave her a complaint form. The complainant said that she would fill out the form and return it. Ms. Yeboah reported that when the woman turned in the complaint form, it had a different name than the one she gave to the police station on the night of the incident. The complainant chose to not use her real name when she went into the station but she used her real name on the form. Ms. Yeboah further reported that the detective talked to the woman whose name was used in the station that night, and the woman stated that she was not in town on the night of the incident and did not work with the complainant.

Ms. Yeboah reported that based on the OPS investigation, all civilian witnesses described the officer as polite, courteous and professional but a bit frustrated at not being able to get the information he wanted from the complainant. Ms. Yeboah further reported that none of the officer's witnesses, who were interviewed, reported the officer using the statements alleged in the complaint. She further stated that the APD had no record of the officer making a radio request for the license plate information; therefore, there is no proof that the officer made that threat or followed up on the threat.

Ms. Yeboah asked if the complainant was present. It was noted that the complainant was present. The complainant stated that when she went to the station, she gave her correct name and did not know how another woman's name got attached to her complaint. The woman used to work at the same location where the complainant currently works. The complainant stated that maybe the officer she spoke to at the station did not hear/remember her name and Google searched her employer and came up with this former employee. The complainant also stated that no other officers would have heard the conversation she had with the officer allegedly threatening to get her fired, because the others were in the back of the building. The complainant stated that the officer asked her to sign a piece of paper stating that the man was trespassing and selling drugs behind the building and she refused to sign it. She stated that she told the officer that she did not know if what she was being asked to sign was accurate or not because she did not see him selling drugs, and that she did not want the arrest to be based on her false statement. The complainant stated that the man being arrested had nothing to do with her. The complainant further stated that the officer then started "going off." The conversation with the officer was about 30 minutes. The officer told her that she could kiss her job with the city goodbye and that the man was a rapist and would rape her sister and mother. The complainant said people were coming into the parking lot because it was a shift change and there was confusion. She stated that she called her supervisor to confirm that she did not have to sign the paper that she was uncomfortable signing and that her boss told her to direct the officer to Human Services. The complainant further stated that the officer got her supervisor on the phone and told her supervisor that she was being rude and nasty toward the officer. The complainant stated that as she walked away, the officer asked for her name. She asked the officer if she broke any laws and he allegedly said, "Whatever. I would just get it off your <profanity> license plate," and he wrote down her license plate number.

Ms. Yeboah stated that the case file reflected the story just as the complainant had just stated, including the suspect's alleged drug dealing.

Monitor Al Lawrence stated that the complainant identified a witness that corroborated that the officer mentioned that he could get her name from her license plates and that the complainant would hear from them. However, the witness did not corroborate that the defendant was selling drugs nor the officer explicitly threatening her job. Mr. Lawrence stated that he thinks that the witness gave her account of what happened and did not spontaneously include the defendant selling drugs or the officer threatening the complainant's job. Ms. Yeboah stated that in the monitor's report, the witness stated that she did not hear the threats. The complainant stated that her witness was only outside for maybe two minutes of the 30-minute conversation. Ms. Yeboah stated that part of the problem with this case is that this is a "He said, she said" situation where no one heard the alleged remarks.

Ms. Yeboah stated that the OPS finding for the conduct standards allegation was ***not sustained*** and the investigation was thorough. Akosua Yeboah moved to agree with the finding of ***not sustained***. Chairman Edward Smart seconded the motion. The motion carried unanimously.

**CPRB No. 50-12/OPS No. CC2012-124** (Presented by Akosua Yeboah)

Akosua Yeboah summarized the complaint. The APD received a call that a female was being held against her will in an apartment. Upon arriving, the officer asked the complainant to step outside and he refused. She further stated that the officer then asked to enter the living area and the complainant refused. The complainant alleged that the officer forced the complainant to the ground, punched him, and used inappropriate foul language.

Ms. Yeboah noted that a monitor was assigned to this case.

Ms. Yeboah reported that she reviewed the following documents: Confidential Reports; Subject Resistance Report; Call Details; Complaint Form; Intra-Departmental Correspondences; and APD Booking and Arrest Report.

Ms. Yeboah stated that the woman who was allegedly being held against her will by her boyfriend called her mother and asked her mother to call the police for help, which she did. Ms. Yeboah further stated that given that the call was of a female being held against her will—a situation in which the safety of that individual was in question—the officer would have been acting within his authority to enter the home without permission, but the officer asked for permission anyway. Ms. Yeboah further stated that according to the complainant, upon entering his home, the officer threw him onto the ground, punched him, and handcuffed him using excessive force in the process of arresting him. Ms. Yeboah stated that the officer's testimony was that the complainant already had an arrest warrant in another town. When the officer entered the home, the complainant began to move his hand to his left pocket. Ms. Yeboah stated that the officer then forced the complainant to the ground, fearing that he was reaching for a weapon.

Ms. Yeboah reported that based on the investigation, the officer used force that was reasonable and necessary to gain proper control. He was possibly restrained in the use of that force, by using an open hand technique on the complainant's shoulder. Ms. Yeboah further reported that the complainant's sister stated that she was close enough to the officer during the arrest to be pushed away. The complainant kept his hands under his body and did not move them behind him when the officers were ordering him to do so.

Ms. Yeboah asked if the complainant was present. It was noted that the complainant was not present.

Ms. Yeboah acknowledged that monitor Tom Neilen was present. Mr. Neilen stated that he concurred with Ms. Yeboah that the use of force was reasonable. Chairman Smart asked how the officer knew the complainant had an arrest record in another town. The monitor stated that the officer knew the complainant's name before arriving at the residence. Ms. Yeboah added that the officer called for backup.

Ms. Yeboah stated that the OPS finding for use of force allegation was *exonerated*. She further stated that the investigation was conducted in a thorough and professional manner and failed to uncover sufficient facts to prove the allegation. Akosua Yeboah moved to concur with the OPS finding of *exonerated*. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Ms. Yeboah summarized the OPS finding as *sustained* for the conduct standards allegation. Based on the OPS investigation, the officer stated that he did in fact use profanity when he thought the complainant was reaching for a weapon. The officer was trying to gain compliance and used language that he thought would get the complainant's attention. At that point, the officer thought his life was in danger and that he would need to draw his duty weapon in an effort to defend himself. She further stated that the officer made no attempt to deny the use of profanity. Ms. Yeboah moved to concur with the OPS finding of *sustained*. Chairman Edward Smart seconded the motion. The motion carried unanimously.

#### *B. Committee Task Force Reports*

##### By-Laws and Rules

Chairman Edward Smart stated that Committee Chair Gene Sarfoh had to leave the meeting early and so a report will not be given.

##### Community Outreach

Committee Chair Akosua Yeboah reported that, thanks to member Maritza Martinez, the Spanish version of the brochure is complete and that the committee will be sending them out.

Committee Chair Yeboah also stated that some members of the Board, herself included, attended a session on using Facebook and social media. She felt the information was good and interesting; however, its use for the CPRB would be limited, as the material covered was geared toward businesses.

### Mediation

Committee Chair Mickey Bradley stated the Board has approval from the Board's counsel Patrick Jordan that the Police Union representatives are okay with the documents regarding the mediation process. The next step will be to select mediators and send those names to the Police Union for approval.

Coordinator of the Board Sharmaine Moseley asked if the committee could meet before selecting mediators in order to review the approved documents. Chairman Smart stated that the committee was close to setting a date.

### Public Official Liaison

Committee Chair Anthony Potenza stated that he had nothing new to report.

### Police Department Liaison-Policy Review/ Recommendations

Committee Chair David Rozen stated that he had nothing new to report.

### Task Force on Monitors

Chairman Edward Smart stated that Task Force Chair Gene Sarfoh had to leave the meeting early and so a report will not be given.

## *C. 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-six (36) active complaints before the Board for review. Of those thirty-six (36) active complaints, seven (7) were reviewed and closed by the Board at tonight's meeting. This leaves the Board with twenty-nine (29) active complaints. There are at least five (5) cases ready for review at the June meeting.

It was reported that five hundred and fifty-two (552) complaints have been closed. The total number of complaints that are suspended from review is twelve (12). The total number of complaints filed to date is five hundred and ninety-three (593).

It was further reported that since the Board's last meeting, the GLC received twelve (12) grievance forms, bringing the total number of forms received to four hundred and twenty-four (424). In response to the GLC's outreach to all individuals, the GLC has received one hundred and nineteen (119) CPRB complaint forms, which is 28%.

### Board Member Vacancies/Re-Appointments

It was reported that Board Member David Rozen will soon complete the Citizens' Police Academy. His ride-along is scheduled for tomorrow. It was further reported that two (2) Board members (Martinez and Yeboah) whose terms expired, were re-appointed to three (3) year terms ending in 2015. The GLC is waiting on Chairman Edward Smart's re-appointment. There is still one mayoral vacancy created by former member Andrew Phelan.

### NACOLE

It was reported that this year's NACOLE conference is scheduled for September 22-September 26 in Salt Lake City Utah. The GLC will make all necessary arrangements for travel which will include: registration fees, hotel, and airfare. Ms. Moseley asked the Board to let the GLC know if plans to attend change because certain costs have deadlines for reimbursements. Ms. Moseley also reminded the Board that at that point, the member will be responsible for refunding the airfare costs to Albany Law School.

### Upcoming Meetings

It was reported that the next Board meeting is scheduled for Thursday, June 13 at 6 p.m.

#### *D. Report from the Office of Professional Standards*

OPS Detective Kathy Hendrick stated that regarding CPRB No. 18-12, there was an informal mediation between the complainant, officer, and police chief and everyone left satisfied.

#### *E. Report from the Chair*

Chairman Edward Smart stated that he gave his report as the Board has moved through its agenda.

### **VI. Public Comment**

Chairman Edward Smart opened the floor for public comment.

The complainant from the first case reviewed spoke. He stated that he had waited to the end of the meeting to comment on the CPRB procedure as he experienced it. He had been on the attorney general's website to see if the CPRB was an agency for the Freedom of Information Law purposes. He further stated that he did not know about the CPRB meetings nor was he asked for documentation for the purpose of the meeting. He found it "peculiar" and "unusual" that the Board has a small trial, yet the answer to the complaint was not given to the complainant. This goes against what happens in a civil trial.

Anthony Potenza stated that this is not a trial. He asked the complainant for clarification. The complainant stated that he is only making a comparison to the civil procedure of usual adversarial cases.

The complainant stated that he requested the police department's file on his case and was told that he could apply to the city under FOIL, which he assumes is true but he did not have time to do so. He further stated that usually both sides must disclose its case to the other side and asked the question, what if someone made something up, what opportunity would they have to research it? David Rozen stated that this is not a trial. The OPS investigates a complaint and the Board's task is to determine if the OPS did a thorough and proper investigation of that complaint and if the Board agrees with the findings.

The complainant further stated that the opposition is not given an opportunity to present its side. What happens when the complainant does not agree with the OPS findings? Ms. Yeboah replied that the complainant must take that up with the OPS.

Chairman Smart stated that he does not believe that any process is perfect. The OPS investigates, the monitor investigates, and a Board member investigates, and at the conclusion of the investigation they may be in total agreement or total disagreement. The Board meets to review the investigation and rules by majority. As a direct result of the Board, the APD has added cameras in its police cars, which has eliminated some problems that come up in complaints. This ensures that the police treat citizens of Albany in a decent way.

The complainant stated these findings should be public documents and that the Board should review whether or not it should keep complainants in the dark about the findings. Ms. Yeboah stated that she believes the complainant may have gotten the wrong impression with the second case, in that the information is made available to the complainant immediately and complainants do not need to apply for FOIL. The complainant in the second case was asking the Board to do something it does not normally do. Mr. Rozen stated that there are confidential reports associated with each complaint that, if disclosed, would have to go through FOIL, which is determined on a case-by-case basis.

Chairman Smart stated that the police chief attended a meeting where a complainant stated that he was pulled over on Central Avenue simply because of who he was and what he looked like, and was told it was because his car was identical to one they were looking for in connection with a crime. Chairman Smart further stated that the chief took that complainant back to the police station and showed him the tape of the stop and the complainant saw that his car matched the car they were looking for exactly in year, make, model, and color. Chairman Smart stated that in Clifton Park, where this particular complainant lived, they do not have this type of Board and that Albany citizens should be confident in that they are protected.

The complainant then stated that he has property in another county and is vigilant in arresting trespassers on that property. He also stated that he witnessed a young driver "recklessly" run a red light that nearly hit his mother's car and that when he confronted the driver, the driver admitted that he has done it in the past. The complainant then stated that he tried to perform a citizen's arrest, which the law allows him to do, and the law requires the police to assist him in doing so. The 911 dispatcher was unhelpful and told him that officers are only interested in traffic infractions that they witness. He further stated that he has arrested the same person twice, twenty (20) years apart, for robbing his

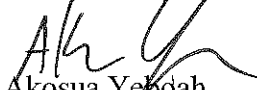
mother's house, and the second time, he testified before the grand jury and the suspect was indicted. The complainant stated that he arrests people who he thinks are dangerous and the Albany Police need to understand that citizens have that right.

Another person in attendance spoke and stated that she has had a lot of thefts in her yard recently and that the police do not take it seriously. She stated that "They don't give you a report; they don't even write it down." The police say that they are afraid of the people in her neighborhood and in neighborhoods close by. Chairman Smart asked the speaker to let him know the next time this happens.

**VII. Adjournment**

Chairman Edward Smart adjourned the meeting at 8:56 p.m.

Respectfully Submitted,

  
Akosua Yeboah  
Secretary