

**City of Albany
Citizens' Police Review Board
GWU the Center
274 Washington Avenue – Teen Center Community Room
December 12, 2013
6:00 p.m. - 8:00 p.m.**

Present: Mickey Bradley, Maritza Martinez, William McCarthy, Anthony Potenza, David Rozen, Edward Smart, and Akosua Yeboah

Absent: Marilyn Hammond and Eugene Sarfoh

I. Call to Order and Roll Call

Chairman Edward Smart called the meeting to order at 6:00 p.m.

II. Approval of the Agenda

The agenda was reviewed. David Rozen moved to approve the agenda. Akosua Yeboah seconded the motion. The motion carried unanimously.

III. Approval of the November 1, 2012 Meeting Minutes

The March 14, 2013 meeting minutes were reviewed. David Rozen moved to approve the March 14, 2013 meeting minutes. Mickey Bradley seconded the motion. The motion carried unanimously.

IV. Old Business

CPRB No. 42-13/OPS No. CC2013-089 and CPRB No. 49-13/OPS No. CC2013-130

Chairman Edward Smart reported that complaints CPRB No. 42-13/OPS No. CC2013-089 and CPRB No. 49-13/OPS No. CC2013-130 do not fall within the scope of the timeframe allotted in the legislation.

Chairman Edward Smart moved to close both cases. David Rozen seconded the motion. The motion carried unanimously.

V. New Business

A. *New Complaints*

1. New Complaints Received Since the September 9, 2013 Meeting

Chairman Edward Smart reported that the Board received ten (10) new complaints since its September 9, 2013 meeting. Board Secretary Akosua Yeboah read the new complaints.

Akosua Yeboah asked to proceed to only read complaints that were not assigned monitors, consensus was given.

All ten (10) new complaints received at the GLC are listed as follows:

CPRB No. 43-13/OPS No. CC2013-056

According to the complainant, she spoke to an officer about loud music and a previous situation. While they were leaving the complainant's home, fireworks went off and all of the officers ran up the street. The complainant alleges that the officer returned to her house and started yelling and cussing at her about having company. The officer allegedly handcuffed the complainant, searched her home, and called Code Enforcement. The complainant was not allowed to stay at her house for three (3) days.

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

CPRB No. 44-13/OPS No. CC2013-034

According to the complainant, he was sitting in front of a building on Central Avenue talking to some tenants who lived in that building. An officer allegedly approached the complainant and told him not to go into that building. The complainant further alleges that the officer is harassing him because the officer told him this on three separate occasions. The complainant claims that the officer defamed his character by telling the other people about his past history.

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

CPRB No. 45-13/OPS No. CC2013-109

According to the complainant, on June 11, 2013, he let officers search his vehicle and under the seat was a club used for checking tires on trucks. The complainant was arrested for possession of a weapon. The complainant alleges that during transport, the station officer drove very aggressively and almost hit another car. The complainant further alleges that the officer called him a derogatory name while waiting for the fingerprint machine to work. The complainant alleges that the officer accused him of burning his fingers on his crack pipe.

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

CPRB No. 46-13/OPS No. CC2013-124

According to the complainant, on October 24, 2013, around 1 a.m., three officers allegedly stopped the complainant and asked him for I.D. As the complainant began to tell them his name, the officers allegedly tackled him. The complainant claims that one of the officers is the same officer who he filed a complaint against several months ago. The complainant further alleges that these officers caused him to suffer a second injury. The complainant claims that he was illegally searched by the officer using false probable cause.

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

CPRB No. 47-13/OPS No. CC2013-125

According to the complainant, he was in the Home Depot parking lot buying marijuana from a friend when two (2) black trucks came out of nowhere. While the complainant was running, he was allegedly tasered and hit by the detective's truck. The complainant further alleges that the detective punched him in the face multiple times, causing physical injury. The complainant alleges that he was falsely arrested and then re-arrested a week later for assault in the second degree.

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

CPRB No. 48-13/OPS No. CC2013-123

According to the complainant, on September 1, 2013, an officer shined his flashlight into the complainant's premises. The complainant asked the officer, two times, to turn the light away from his face because he and his wife suffer from seizures. The officer allegedly got an attitude, entered the premises (kicking over stuff), and asked the complainant for I.D. The complainant went to get his I.D. The officer was allegedly cussing at the complainant.

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

CPRB No. 49-13/OPS No. CC2013-130

According to the complainant, he was arrested on August 17, 2012 for an incident that occurred on May 2, 2012. The complainant was arrest for criminal sale of a controlled substance in May 2012, due to a mistaken identity. The complainant stated that he lost his ID, which someone used to commit the crime. The complainant further alleges that one of the detectives tampered with the photo line-up, so that he was identified as the suspect. The complainant further alleges that the investigation was improper and one of the detectives, filed false instruments, committed perjury, and tampered with a witness.

It was noted that a monitor was not assigned to investigate this complaint. Due to the date of the incident, the GLC contacted five Board members to decide how to proceed with this case. Those Board members voted and agreed to close the complaint without review.

CPRB No. 50-13/OPS No. CC2013-131

According to the complainant, on November 18, 2013, as he was turning to unlock his car door, an officer pulled up next to him and rolled down his patrol vehicle's window. The officer allegedly told the complainant that his plate light was illegal because it was too bright. The complainant told the officer that the lights are approved and that he purchased the vehicle eight (8) months ago. The officer asked the complainant for his license and registration a couple of times before he allegedly grabbed the complainant's arm and aimed his taser at the complainant while calling for back-up on the radio. The complainant gave the officer his license and registration. At that time, five (5) to six (6) police cars arrived on the scene. According to the complainant, as he proceeded to make a call, a state trooper and an officer snatched his phone from him, stated that he was under arrest, and started to push and pull him. The complainant alleges that while they were handcuffing him, other officers started, hitting, punching, kicking, and kneeling the complainant. The complainant further alleges that Miranda Rights were never read and the officer tased him. The complainant claims that the officer caused him bodily injuries and damaged his glasses and the bumper to his car. The complainant alleges that he was also denied water and a phone call.

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

CPRB No. 51-13/OPS No. CC2013-134

According to the complainant, on October 30, 2013, while he was traveling as a passenger in a car, the car was allegedly cut off by police officers. The officers allegedly snatched the complainant from the car at gunpoint and assaulted, punched, choked, and kicked the complainant. The complainant claims that there was no reason for the stop because no crime or traffic infraction was committed. The complainant was charged with two (2) counts of possession of crack cocaine and one (1) count of resisting arrest. The complainant further claims that instead of bringing him to the police station, the officers took him to a residence which they allegedly broke into and searched without a warrant. The complainant further claims that the police officers sexually assaulted the driver of the car who was a female.

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

CPRB No. 52-13/OPS No. CC2013-132

According to the complainant, on October 31, 2013, an officer pulled the complainant over. The complainant's husband, who was a passenger in the car, asked the officer why he pulled the complainant over. The officer allegedly told the husband that he did not have to tell the husband but he would tell the complainant shortly. When the husband began to explain his reasoning for the questions, the officer allegedly got agitated. He asked the husband for his license and told him to calm down. The complainant states that the officer allegedly threatened to give her many tickets if her husband did not calm down. The officer informed the complainant and her husband that they had a partial tail light out and were pulled over as a DWI stop.

It was reported that a monitor was not assigned to investigate this complaint.

2. Complaint(s) for Board Review

CPRB No. 4-13/OPS No. CC2013-006 (Presented by Chairman Edward Smart)

Chairman Edward Smart reported that this complaint alleged that the officers forced entry into her residence, used profanity, and used force upon her boyfriend who was holding her child at the time.

Chairman Smart reported that he reviewed the following documents: Citizens Complaint Form; two (2) Subject Resistance Reports; CAPS call; CAPS Net report; Child Abuse Report; twenty (20) Inter-Departmental Correspondence (IDC); and a Disciplinary Rights Form.

Chairman Smart stated that monitor William Van Valkenburg was assigned to this case. It was noted that Mr. Van Valkenburg was present at the meeting.

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

Mr. Van Valkenburg summarized the complaint. He reported that officers were responding to a domestic violence call. When officers responded they heard yelling and screaming. The officer knocked on the door, a woman with red eyes, indicative of crying, answered. The officer asked her if she was alright, to which she responded it was alright now and that everything was getting better. The officer asked if he could come inside and look around to make sure everything was actually alright. Mr. Van Valkenburg further reported that according to the police officer the woman at the door allowed him to enter.

Mr. Van Valkenburg noted that as the officer entered the apartment another officer arrived on the scene. As the officers entered the apartment the complainant's boyfriend entered the living room and began making a ruckus. The officer stated the due to the ruckus; the complainant's boyfriend became an obstruction. The boyfriend was informed

that he would be arrested for obstruction. An altercation then ensued between the boyfriend and officers.

Mr. Van Valkenburg further reported that the complainant alleged that when the altercation began her boyfriend was holding her young child. The young child was reported to be four (4) to six (6) months old at the time of the incident. It was noted that according to the officers, the child had been handed to the complainant before the altercation with the boyfriend. It was further reported that the complainant jumped on the officers during the altercation with her boyfriend. The complainant was then arrested, and handcuffed. Once handcuffed, the complainant continued to fight by kicking at the officers. Mr. Van Valkenburg stated that the boyfriend was brought under control during the altercation by an officer punching him in the face. A sergeant arrived on the scene and requested medical attention for the boyfriend who had suffered some injury to his face.

Mr. Van Valkenburg stated that he viewed a video in which OPS Detective Eric Crist was brought to the station house to interview the complainant. The video showed the complainant in an agitated state where the complainant used obscenity. It was reported that the video afforded the complainant the opportunity to add additional information to the complaint which the complainant did not utilize.

Mr. Van Valkenburg reported that he reviewed the police file which had little information from the complainant. There were no supporting witnesses for the complainant. Mr. Van Valkenburg further reported that he concurred with Detective Crist's finding that there was no basis to the allegations.

Chairman Smart summarized the OPS finding for the call handling allegation as ***not sustained***, where the review failed to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complaint alleged that she told the officers everything was ok. The officer allegedly put his foot in the door and entered. The complainant put her arm up and the officer began to curse and argue with her and her boyfriend. Chairman Smart reported that based on the OPS investigation, it was concluded that the officer stated that complainant had red puffy eyes and had been crying. The complainant stated that she was fine. The officer asked if he could come in and check to make sure everything was okay and the complainant told him that he could come in. After stepping one foot in the door the complainant's boyfriend came from a back room with a baby in his arms yelling "What the **** are you doing in my girl's house? Get out! You need a warrant to get in here." The officer stated that he tried to explain that the complainant gave him permission to come in and they were going to do some paperwork. The boyfriend did not respond to the officer and continued to yell. He was then told he was under arrest for obstruction. Chairman Smart stated that officers are required, whether the combatants are cooperative or not, to complete a Domestic Incident report after responding to such incidents. It would be irresponsible not to ask to come inside a residence where it was apparent there had been a domestic incident. The boyfriend's actions and demeanor only caused the officers on the scene more concern for the safety of all parties present.

Chairman Smart stated that he concurred with the OPS finding of *not sustained* for the call handling allegation. It was further stated that officers must usually see and ascertain that victims of a domestic dispute are safe and there has been an amicable resolution to the conflict. The officers had been pushed and touched by the boyfriend and various charges were filed and arrests were made.

Chairman Smart summarized the OPS finding for the use of force allegation as *not sustained*, where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that her boyfriend had her baby in his arms when the officer tried to tackle the boyfriend. The complainant quickly took the baby while the boyfriend and the officer hit the ground. The officer restrained, punched, and choked the boyfriend. The complainant stated, "Okay he was wrong. You want to arrest him that's fine, but he had my baby." Chairman Smart stated that according to the OPS investigation, the officer stated that he ordered the boyfriend to place his hands behind his back and told him he was under arrest for obstruction. The boyfriend gave the baby to the complainant. The officer grabbed his wrist and the boyfriend shoved him away with his other hand. The officer then used a leg sweep to bring the boyfriend to the ground. The complainant did not have standing to complain about the treatment of her boyfriend. However, the allegation that her child was placed in harm's way was investigated.

Chairman Smart stated that he concurred with the OPS finding of *not sustained*. The child involved was not hurt and the complainant's boyfriend admitted to his inappropriate actions and pled guilty to the charges.

Chairman Smart summarized the OPS finding for the conduct standards allegation as *not sustained*, where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that the officers were rude and unprofessional. She further alleged that during her interview the officer got mad and put his foot in the door and started cursing at her. It was noted that the officer stated the complainant had red puffy eyes and had been crying. She stated that everything was okay. Based on the OPS investigation, the complainant told the officer he could come in. All of the officers involved stated that none of the officers on the scene were rude or unprofessional.

Chairman Smart stated that he concurred with OPS finding of *not sustained* for the conduct standard allegation. He further stated that the actions of the officers were appropriate and were well within the SOP to proceed and make certain of the safety of all involved.

Chairman Edward Smart moved to concur with the OPS finding of *not sustained* for the call handling allegation. Akosua Yeboah seconded the motion. The motion carried unanimously.

Chairman Edward Smart moved to concur with the OPS finding of *not sustained* for the use of force allegation. Anthony Potenza seconded the motion. The motion carried unanimously.

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

CPRB No. 35-09/OPS No. CC2009-064 (Presented by Mickey Bradley).

Mr. Bradley summarized the complaint. The complainant was assaulted by an off-duty police officer when leaving a bar in the early hours of July 15, 2009. The complainant alleges that she went to say goodbye to her friend who was with the officer, near the officer's car. The officer began verbally abusing and pushing her. The complainant responded by slapping his face and the officer retaliated by putting her in a restraining hold, which pinned her to the side of his car. The complainant told her friend to call 911. During the call, the officer released the complainant from the side of his truck.

Mr. Bradley reported that he reviewed all the notes relating to the OPS investigation. He stated that he also reviewed interviews with the complainant's friend who is the officer's ex-girlfriend, and interviews of the officer who responded to the scene.

Mr. Bradley summarized the OPS finding for the off-duty conduct standards allegation. The complainant alleged that the target officer left the scene before responding officers arrived, and that the officer initiated the physical confrontation. Based on the OPS investigation, the complainant attacked the officer first and the officer was simply reacting to the attack.

Mr. Bradley further reported that while not part of the initial complaint, but during witness interview, it was also alleged that the officer placed her on a list banning her from entering area bars. Mr. Bradley reported that this was also investigated by the OPS. Based on the OPS investigation, the officer stated that he had merely warned the managers of two (2) bars that his ex-girlfriend threatened to cause trouble if he was seen out with other women. The owners of these bars deny that she was banned from these establishments.

Mr. Bradley reported that the investigation indicated that the officer was found in violation of three (3) SOP's for which he was presumably disciplined. The violations were failure to report use of force; failure to notify the chief in writing of his police contact; and failure to notify an appropriate immediate supervisor of the matter when it occurred.

Mr. Bradley noted that monitor George Kleinmeier was assigned to this case and present at this meeting. However, Mr. Kleinmeier was not present during the initial investigation because the review of this case was suspended pending potential legal action. It was further reported that after the suspension was lifted the monitor reviewed the OPS investigation.

Mr. Kleinmeier reported that Mr. Bradley's reports on the findings were accurate. Mr. Bradley asked if the complainant was in attendance. It was noted that the complainant was not present.

Mr. Bradley reported that while the witness account, target officer's account, and responding officer's account vary from each other, all of the witnesses agreed with the fact that the complainant struck the target officer first and that the officer responded with a restraining move that was force appropriate. Mr. Bradley reported that the OPS finding for the use of force allegation was **exonerated**, where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper. Mr. Bradley further stated he agreed with this finding.

Mr. Bradley summarized the OPS finding for the off-duty conduct standards allegations as **unfounded**, where the review shows that the act or acts complained of did not occur or were misconstrued. The complainant alleged that the officer put her friend on a list banning her from certain bars. Based on the OPS investigation, the officer stated that prior to this incident she had told him that if she saw him out she would flip out. The officer admitted that he went to The Pub and The Stone Crow. Both establishments are owned by the same people. He advised the staff that his ex-girlfriend said that if she shows up there might be trouble. The officer stated that he had notified the staff because he would not want there to be any problems with the person who accompanied him that night. On the night of the incident with the complainant, the officer assumed that the complainant and her friend started as soon as they got there. One of the guys at the bar informed the officer that his ex was there. The officer responded that he did not have any say in the matter but if she starts trouble she starts trouble. The witness was texting the officer and the officer responded that she was going to end up back on the ban list. Not that he was going to put her there, but that they were going to put themselves there.

Mickey Bradley moved to concur with the OPS finding of **exonerated** for the use of force allegation. Chairman Edward Smart seconded the motion. The motion carried unanimously.

Mickey Bradley moved to concur with the OPS finding of **unfounded** for the off- duty conduct standards allegation. David Rozen seconded the motion. The motion carried unanimously.

CPRB No. 48-12/OPS No. CC2012-121 (Presented by Maritza Martinez)

Maritza Martinez summarized the complaint. The complainant alleged that on September 15, 2012 at about three fifteen (3:15) pm, her fourth (4th) amendment right was violated. She woke up to loud banging on her wooden glass apartment door. So she jumped out of her bed and ran to her bedroom window where she saw eight (8) to nine (9) detectives. The complainant immediately opened her apartment door and was forcefully shoved and pushed to the corner of her inside apartment door by detectives. The complainant asked for a search warrant for the forced entry. The detective grabbed her and twisted her arms behind her back, told her to shut up and handcuffed her. The complainant asked why was he doing this and can she get a search warrant? The detective took the complainant out of the apartment barefoot in the cold air for five (5) minutes and told her that she'll get the search warrant when he leaves. Meanwhile, other detectives were in the complainant's apartment searching her bedroom and her twenty (20) year old son's bedroom. The complainant's son and his girlfriend were taken from the bedroom undressed. The complainant's nineteen (19) year old son's bedroom was also searched.

The detective told her son that he would break his XBOX 360. A copy of the search warrant that was coming from the City Court instead of family court was not signed or dated. The detective looked and laughed at it and said "who him" looking at complainant's refrigerator at a picture of the President of The United States. The complainant alleged that her son along with several other African-American youth have been on-going targets of the Albany Police Department and detectives.

Ms. Martinez reported that monitor William Van Valkenburg was assigned to this case. It was noted that Mr. Van Valkenburg was present.

Mr. Van Valkenburg stated that he reviewed the police file. While the complainant had the opportunity to provide additional testimony, she did not. Mr. Van Valkenburg further reported that four (4) witnesses were scheduled to report to the OPS detectives on the incident, but none of these witnesses did. Detective Crist called the complainant and it was reported that the complainant cursed at Detective Crist and hung up on him. It was stated that Detective Crist called the complainant, while in Mr. Van Valkenburg's presence, where a meeting was scheduled for additional witnesses and the complainant to attend. It was reported that none of the listed witnesses or the complainant showed up to the meeting. Mr. Van Valkenburg reported that due to the lack of complainant response he was forced to rely on the police file.

Mr. Van Valkenburg stated that based on his review of the file he did not view any unreasonable activity. He further stated that when police enter a home with a valid search warrant they are allowed to gain control of the situation by moving people as necessary. Mr. Van Valkenburg stated that the complainant alleged that she was taken outside in the rain without her shoes. Based on the OPS investigation, the officer stated that she was taken outside, but that she was taken out onto a covered front porch. She was then brought inside where she was seated at a table in the kitchen. Mr. Van Valkenburg stated that the officers denied the allegations that the complainant's son and his girlfriend were taken from the bedroom in any state of nakedness. The son and girlfriend were reported to have had night clothes on, and were sitting in the living room during the search. According to the officers, no complaints were voiced during the search, and no complaints were filed by anyone other than the complainant.

Mr. Van Valkenburg noted that he was unsure of the nature of the complaint about the picture of the president on the refrigerator. Mr. Van Valkenburg reported that the police were executing the search warrant because the complainant's son was observed committing a robbery and had been identified by three (3) people. That was articulated as the reason for the search warrant, and not that the son was being targeted specifically due to race.

Ms. Martinez reported that she reviewed the following documents: Civilian Complaint Form; OPS Confidential Report; two (2) search warrants dated 9/18/12, one (1) with Albany Police court Judge's signature and one (1) without signature; Search Warrant Application dated 9/17/12; Incident Report; Supplementary Report; Call Transcript; Google Photos of Residential Property; two (2) CAD Call Tickets; Disciplinary Advise of Rights Statement; seven (7) IDCs; Memorandum printed on 4/1/13; and Supreme Court Toolbox printed 4/2/13.

Mr. Van Valkenburg reported that there had been two (2) warrants applied for in this case, and while one (1) was signed by the judge, the other was not. Mr. Van Valkenburg further stated that the officer testified that when he executed the warrants he was unaware that one (1) was unsigned. It was further stated that it has been upheld in court that if a deficient search warrant is utilized in good faith it is treated as applicable.

Ms. Martinez summarized the OPS finding for the use of force allegation as ***not sustained***, where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint. The complainant alleged that she was shoved and pushed by detectives when they entered her apartment. Based on the OPS investigation, the complainant's witnesses failed to show up two (2) times to meeting with OPS and that the detectives interviewed who were at the incident indicated that they did not see any shoving or pushing taking place. Ms. Martinez further stated that given what the detectives had to work with, she was in agreement with this decision.

Maritza Martinez moved to concur with the OPS finding of ***not sustained*** for the use of force allegation. Anthony Potenza seconded the motion. The motion carried unanimously.

Ms. Martinez summarized the OPS finding for the conduct standards allegation as ***no finding***, where the complainant is unavailable to clarify the complaint. The complainant alleged that other detectives took her twenty (20) year old son and girlfriend out of her son's bedroom undressed and searched his room. Her nineteen (19) year old allegedly had his bedroom searched as well and was told they would break his Xbox 360. Based on the OPS investigation, the detective said the complainant's son and his girlfriend were not taken out of their room undressed also denied saying he was going to break the nineteen (19) year old son's Xbox 360. The OPS indicated that both the complainant and a witness refused to cooperate with this investigation. Ms. Martinez further stated that she was in agreement with this decision given the refusal by both the complainant and the one (1) witness to cooperate.

Maritza Martinez 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. Martinez summarized the OPS finding for the arrest authority and procedure allegation as ***unfounded***, where the review shows that the act or acts complained of did not occur or were misconstrued. The complainant alleged that the search warrant she was given by the detective was not signed and that her Fourth (4th) Amendment rights were violated. Based on the OPS investigation, the OPS cited three (3) court cases where the affiant participated in every step of the process, prepared a warrant application, swore to it before a judge, answered the judge's questions, heard the judge indicate the warrant was approved, and received the warrant application back from the judge. The twenty (20) year old son had been identified as being one of three (3) seen at the scene of a burglary and was identified as possessing the stolen property back at the complainant's home. According to the OPS report, it is "objectionably reasonable for the affiant to rely upon an unsigned warrant because the judge has clearly communicated a finding of

probable cause.” Ms. Martinez stated that she concurs with the OPS finding of *unfounded*.

Maritza Martinez moved to concur with the OPS finding of *unfounded* for the arrest authority and procedure allegation. Mickey Bradley seconded the motion. The motion carried unanimously.

Ms. Martinez summarized the OPS finding for the conduct standards allegation as *no finding*, where the complainant is unavailable to clarify the complaint. The complainant alleged that the detective either looked at or laughed at the picture of the President of the United States. The OPS recommended that this allegation be closed as *no finding*. Ms. Martinez stated that she concurred with the OPS finding.

Maritza Martinez moved to concur with the OPS finding of *no finding* for the conduct standards allegation. David Rozen seconded the motion. The motion carried unanimously.

Ms. Martinez summarized the OPS finding for the conduct standards allegation as *exonerated*, where the acts which prove the basis for the complaint occur, but the review shows that such acts were proper. The complainant alleged that her son and other African-American youth have been the ongoing targets for APD and detectives. Based on the OPS investigation, the detectives indicated that the complainant’s twenty (20) year old son was a target based on probable cause that he committed a burglary. One (1) of the three (3), seen running from the burglary location, confessed that the complainant’s son was at the burglary scene and fled with stolen equipment and that he lived at complainant’s apartment where the stolen equipment was. Ms. Martinez stated that she concurred with the OPS finding.

Maritza Martinez moved to concur with the OPS finding of *exonerated* for the conduct standards allegation. Akosua Yeboah seconded the motion. The motion carried unanimously.

CPRB No. 51-12/OPS No. CC2012-123 (Presented by William McCarthy)

William McCarthy summarized the complaint. The complainant alleged that on October 27, 2012 at approximately 5:30 am, the complainant was coming around the corner of the Silver Slipper when four (4) police vehicles quickly pulled up on the curb and an officer stepped out and asked him where he was going. The complainant was then placed in the rear of one of the cars. While in the rear of the car, the complainant stated that an officer asked him “profile” type questions and that an officer was sarcastic to him. The complainant alleged that upon his release the officers were very angry with him and the officers were exchanging words. The officer allegedly then gave the complainant back his belongings which were contained in an evidence bag. It is alleged that in handing the complainant the evidence bag, the officer dropped the bag and instructed the complainant to pick it up. The complainant stated that he refused to pick up the bag and walked away. While the complainant was walking away he was grabbed by his wrist and shoulder and slammed into the concrete. The complainant alleged that being slammed into the concrete sent his bottom teeth through his lip. It is alleged that he was again detained, where

words were exchanged between himself and the officer. EMS showed up to the scene and the complainant was eventually released.

Mr. McCarthy reported that monitor Frank White was assigned to this case and was present. It was noted that Mr. White mixed up his case review and was unprepared to review this case.

Mr. McCarthy asked if the complaint was present. It was noted that the complainant was not present at the meeting.

William McCarthy moved to table discussion of this case. Mickey Bradley seconded the motion. The motion carried unanimously.

CPRB No. 54-12/OPS No. CC2012-132 (Presented by Akosua Yeboah)

Akosua Yeboah summarized the complaint. The complainant alleged that an officer stopped the complainant, put a gun to his head, and that the officer used profanity. It is alleged that the officer told the complainant to "shut the ***** up."

Ms. Yeboah reported that she reviewed the following documents: Confidential Reports; Call Details; IDC's; Correspondences to the complainant or guardian; Field Interview Report; Citizen Complaint Form; and APD's SOP concerning Juvenile records.

Ms. Yeboah summarized the OPS finding for the call handling allegation as *no finding*. Based on the OPS investigation, the APD received a call from dispatch about a group of males walking in the area in question. It was reported that these individuals may have been in possession of a BB gun. The officers stopped the males in question for investigation purposes as they met the description of "light skinned Black males," but there were no charges at that time. Officers approached with their service weapons drawn as there was suspicion of possession of a BB gun. It was noted that approaching an individual suspected of possessing a BB gun with weapons drawn is a standard practice. The complainant was handcuffed and patted down. No weapon was found on him and he was eventually released. The complaint admitted that the group was playing with a BB gun earlier but had "tossed it." The complainant was fifteen (15) years old at the time of the incident. At the time of the incident, the complainant's parents were not notified, nor were a supervisor notified of this incident. It was further reported that while the officer claimed to have filled out a juvenile contact cards, one was never located during this investigation.

Ms. Yeboah stated that a monitor was not assigned to this case.

Ms. Yeboah further noted that in this incident the officers involved were responding to a call. Some of the individuals in the group fit the description conveyed by dispatch to the responding officers. The group did not stop immediately, but upon additional prompts the group did stop. At that point, some members of the group were handcuffed and patted down. No weapons were found during the stop of the group, and they were released.

Ms. Yeboah reported that she was happy with the OPS investigation into this matter, and that it was a thorough investigation. However Ms. Yeboah stated that she is troubled by

some of the facts of the case. Ms. Yeboah mentioned she was troubled by the fact that a juvenile was stopped at gunpoint and handcuffed, and no parent was notified. She went on to state that a supervisor was not even contacted to do a further consultation about the incident. She is concerned with the fact that this officer treated the contact with a juvenile the same way as any other contact. Ms. Yeboah further stated that she finds the lack of video and missing juvenile contact card concerning.

Ms. Yeboah reported that the SOP does not require documenting on a juvenile contact card during an investigation. The SOP only requires the cards be filled out when an offense is committed by the juvenile. Ms. Yeboah reported that while it is not in the SOP it is her understanding that it has been long standing practice within the department to complete a juvenile contact cards when an officer has an investigatory interaction with a juvenile.

Ms. Yeboah stated that she concurred with OPS' conclusion of *no finding* which is where the complainant failed to produce information to further the investigation; or where the investigation revealed that another agency was responsible and the complaint or complainant has been refereed to that agency; or when the complainant withdrew the complaint; or where the complainant is unavailable to clarify the complaint; or where the officer is no longer employed by the city.

Ms. Yeboah reported that while she concurred with OPS' conclusion of *no finding*, she was deeply disturbed by the circumstances of the incident. Based on the evidence available she could find no support that the officer spoke to the complainant using inappropriate language as alleged. However, it appears to her that the officer in this matter felt that stopping a fifteen (15) year old male on the street at gun point, handcuffing and searching this young individual was such a routine matter as to not be worth the time it takes to document the incident. These facts are of great concern to Ms. Yeboah and she respectfully recommended that: The APD's SOP is revised to specifically address this type of contact with juveniles; a requirement for a juvenile contact card in any and all stops involving a juvenile; and the officer who is the subject of this complaint receive individual counseling and training with regard to practices and policies when encountering juveniles.

Anthony Potenza asked how the complainant was able to file the complaint if he was a juvenile at the time of the incident. Ms. Yeboah replied that his mother filed the complaint on his behalf.

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

David Rozen stated that if the SOP was modified to include any and all stops involving a juvenile it may then require officers to fill out cards for traffic infractions where a juvenile was present in the vehicle. Chairman Smart agreed with Mr. Rozen. He stated that a parent would like to be made aware that their child had contact with the police, even if it did not result in an arrest. Ms. Yeboah added that her motion would be to send

a recommendation to the OPS and the SOP language would be revised specifically by them.

Board Counsel Patrick Jordan mentioned that this discussion would not be able to be resolved at this meeting because if the SOP relied on the language expressed in the recommendation, it would force officers to fill out cards for all juveniles yelled at for jaywalking. Mr. Jordan further stated that it is common practice that while a juvenile contact card is filled out a parent may not be notified.

Ms. Yeboah stated that she is concerned with the officer's response to this incident. She reiterated that given the facts of the incident where a fifteen (15) year old was stopped at gun point, yet the officer did nothing to document the incident and carried on like it was a routine matter.

Chairman Smart agreed that this is not an issue that can be settled tonight, however he believed there is a major difference between the jaywalking mentioned by Mr. Jordan and the stop that was performed in this complaint.

OPS Detective Kathy Hendrick reported that due to a prior incident where a juvenile was handcuffed, the OPS training board is reviewing its juvenile procedures.

David Rozen proposed that the Board draft a letter to Deputy Chief Cox stating that this incident raised concerns over juvenile procedures. The Board is aware that the OPS is reviewing its procedures, but they would request that its Policy Review Committee be included in the discussion. Chairman Edward Smart seconded the motion. The motion carried unanimously.

It was noted that Ms. Yeboah was temporarily assigned to the Policy Review Committee.

CPRB No. 22-13/OPS No. CC2013-060 (Presented by David Rozen)

David Rozen summarized the complaint. On June 12, 2013 the complainant was leaving a shelter for the homeless on Sheridan Avenue. According to the complainant, he was approached by a woman who asked the complainant if he smoked marijuana. This woman was allegedly asking for a friend. Following this encounter, the complainant observed an officer standing next to two (2) APD police cars speaking to the woman. The complainant alleged that the woman and the officer were in a conspiracy together to set him up on fake charges.

Mr. Rozen reported that he reviewed the following documents: Albany Citizens' Review Board Complaint Form; and the OPS Confidential Report.

Mr. Rozen summarized the OPS report for the call handling allegations as *unfounded*, where the evidence reviewed shows that the act or acts complained did not occur or were misconstrued. Based on the OPS investigation, there was no evidence of any confrontation between the officer and the complainant. The officer did not recognize the complainant, and there were no ongoing investigations about the complainant that the officer was working on. It was further reported that the complainant went to the police station to discuss the complaint and he was reported to be under the influence of either

drugs or alcohol. It was noted that during the OPS interview, the complainant needed to read his complaint approximately eight (8) times to recall the incident.

Mr. Rozen stated that he concurred with the OPS finding of *unfounded* for the call handling allegation. He further stated that the APD officers were patrolling the area on the date of the incident and were simply having a conversation with the other citizen.

David Rozen moved to concur with the OPS finding of *unfounded* for the call handling allegation. Chairman Edward Smart seconded the motion. The motion carried unanimously.

B. Appointment of New Members to the Committee on Complaint Review for January 2014

Chairman Edward Smart noted that there were five (5) cases scheduled for review at the next meeting. Chairman Smart mentioned that the Board could carry those cases over to February and forgo the January meeting because the Government Law Center (GLC) would be closed at the beginning of the month. The closure of the GLC would leave the Board with only three (3) days' notice before the scheduled January 9th meeting.

The Board discussed its options in holding a meeting on a different date in January. The date of January 16th was chosen by the Board.

Maritza Martinez moved to postpone the January 9th meeting to January 16, 2014. Chairman Edward Smart seconded the motion. The motion carried unanimously.

The following Board members were appointed to the Committee on Complaint review for January 2014: Mickey Bradley, Anthony Potenza, David Rozen, William McCarthy, Maritza Martinez, Edward Smart, and Akosua Yeboah

C. Committee Task Force Reports

By-Laws and Rules

Chairman Edward Smart stated that Committee Chair Gene Sarfoh was not present at the meeting so a report will not be given.

Community Outreach

Committee Chair Akosua Yeboah reported that, in October two (2) outreach meetings were held. One (1) meeting with the Albany Community Policing Advisory Committee (ACPAC) and one (1) at the Hudson Park Association. It was further reported that member David Rozen attended the meetings along with Ms. Yeboah.

Committee Chair Yeboah further reported that the ACPAC is very eager to work with the Board, due to each group's overlapping missions of public safety and community relations with the police department. It was reported that Ms. Yeboah is currently in discussions with the chair of that committee, and will report on further developments.

Committee Chair Yeboah stated that she will not be able to attend the upcoming ACPAC meeting but Mr. Rozen has graciously agreed to attend and present on behalf of the Board.

Committee Chair Yeboah reported that the committee will resume discussions of the brochures in January when the new administration begins. It was further reported that the brochures are almost completed.

Mediation

Committee Chair Mickey Bradley reported that the mediator job description has been discussed by the Board via email.

Chairman Smart also mentioned that the posting for mediators had not yet gone out, because the job description has not been well defined. As soon as the description is finalized, the posting will be sent out.

Police Department Liaison-Policy Review/ Recommendations

Committee Chair Anthony Potenza stated that the committee had not met since the last meeting. However, based on tonight's meeting, there now may be a few topics for the committee to discuss. He said he would attempt to reach out and schedule a meeting.

Public Official Liaison

Committee Chair David Rozen stated that several members of the Board attended the National Association for Civilian Oversight of Law enforcement (NACOLE) conference. Mr. Rozen stated that a code of ethics was devised by NACOLE, and they would like all oversight groups to adopt the code of ethics. Mr. Rozen stated that while he believed the Board has been handling its business ethically, it would be preferential to have a formally adopted code which is available for review by the community, our elected officials, and the police. It was further stated that the code, if adopted, should be posted on the Board's website, so the community could access it.

David Rozen moved to adopt the NACOLE code of ethics and to notify NACOLE, Common Council and the Mayor's office of the adoption. Maritza Martinez seconded the motion. The motion carried unanimously.

Task Force on Monitors

Chairman Edward Smart requested that the Task Force on Monitors conduct an investigation on what transpired regarding CPRB No. 51-12/OPS No. CC2012-123.

Chairman Edward Smart stated that Task Force Chair Gene Sarfoh could not be present at the meeting so a report will not be given.

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 fifty-four (54) active complaints before the Board for review. Of those fifty-four (54) active complaints, five (5) were reviewed and closed by the Board at tonight's meeting. This leaves the Board with forty-nine (49) active complaints. There are at least five (5) cases ready for review at the January meeting.

It was reported that five hundred and seventy-two (572) complaints have been closed. The total number of complaints that are suspended from review is nine (9). The total number of complaints filed to date is six hundred and thirty-two (632).

It was further reported that since the Board's last meeting, the GLC received twenty-five (25) grievance forms, bringing the total number of forms received to four hundred and ninety-two (492). In response to the GLC's outreach to all individuals, the GLC has received one hundred thirty-six (136) CPRB complaint forms, which is 28% of grievance forms.

New Board Member/Re-Appointments

It was reported that new Board member Bill McCarthy has completed the required GLC and OPS orientation. He will be participating in the Citizens' Police Academy in early 2014 which would include a ride-along with the Albany police. Also, Board member Rozen was re-appointed to the Board to serve his first three-year term which will expire on October 26, 2016.

Elections/Nominations

It was reported that next month the Board will be holding nominations and then elections for Board officer positions. The GLC had enclosed a nomination form for members to fill out and return. At that time, elections will also be held for committee chairs as well as which members want to serve on a specific committee

NACOLE

It was reported that this year's NACOLE Conference in Utah had a great turnout with daily back-to-back informational sessions. Board members who attended the conference were asked to submit a report to the GLC. Members Rozen, Hammond, and Chairman Smart attended the conference. Mr. Rozen stated that he submitted his report regarding the NACOLE conference. The Board was strongly represented at the conference. Mr. Rozen reported that NACOLE is staffed by volunteers, and stated that they are looking for people to take up positions and to write articles for their publications. NACOLE is looking for information regarding mediation, and is particularly interested in what the CPRB does as it is a citizen's review board as opposed to a professional board.

Chairman Smart reported that there was a strong turnout. There were some changes in NACOLE leadership which the CPRB had a hand in. Chairman Smart further noted that he was encouraged by Mr. Rozen's ongoing work with NACOLE, and how Mr. Rozen went above and beyond including even staying extra days to work with NACOLE. It was reported that the next conference will be held on September 14th in Kansas City, Missouri.

Upcoming Meetings

It was reported that the next Board meeting is scheduled for Thursday, January 16th. It was further reported that the law school will be closed from December 23-January 6.

E. Report from the Office of Professional Standards

It was noted that OPS Detective Kathy Hendrick and Commander Michael Hicks were present. Commander Hicks reported that he is looking forward to working with the Board, and his door is always open to the Board.

Commander Hicks further reported that he will be working with his unit to investigate the pending cases, in an effort to be able to report on all of the cases that are pending.

F. 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. It was noted that there were no comments.

VII. Adjournment

Chairman Edward Smart adjourned the meeting at 7:38 p.m.

Respectfully Submitted,



Akosua Teboah
Secretary