

**City of Albany
Citizens' Police Review Board
GWU the Center
274 Washington Avenue – Teen Center Community Room
May 8, 2014
6:00 p.m. - 8:00 p.m.**

Present: Mickey Bradley, Anthony Potenza, Maritza Martinez, David Rozen, and Eugene Sarfoh

Absent: Marilyn Hammond, Edward Smart, and Akosua Yeboah

I. Call to Order and Roll Call

Vice-Chairman David Rozen called the meeting to order at 6:00 p.m.

II. Approval of the Agenda

Vice-Chairman David Rozen moved to approve the agenda. Eugene Sarfoh seconded the motion. The motion carried unanimously.

III. Approval of the December 12, 2013 Meeting Minutes

The December 12, 2013 meeting minutes were reviewed. Vice-Chairman David Rozen moved to approve the December 12, 2013 meeting minutes. Anthony Potenza seconded the motion. The motion carried unanimously.

IV. Old Business

A. CPRB No. 10-14/OPS No. CC2014-034

Vice-Chairman David Rozen reported that this case was received by the Board on April 16, 2014 and the complaint was read to three (3) board members who agreed that the case should not be reviewed because it did not contain allegations of misconduct by a member of the Albany Police Department. Vice-Chairman Rozen reported that pursuant to the Board's operating procedures a majority of the Board must agree, so five (5) members must agree.

Mickey Bradley asked for a quick summary of the complaint.

Vice-Chairman Rozen stated that the complaint was filed against members of the judiciary. No APD officers were complained about in the complaint.

Vice-Chairman David Rozen moved to not accept the complaint because it does not involve Albany police officers and is out of the Board's jurisdiction. Eugene Sarfoh seconded the motion. The motion carried unanimously.

B. CPRB No. 3-13/OPS No. CC2013-003

Vice-Chairman Rozen stated that this case was initially reviewed by the Board in September of 2013. It was reported that at that time the Board made its finding, but had also asked for an informal mediation because the mediation program was not in place at that time. Mr. Rozen reported that at that time the Board sent a letter requesting mediation, and the Board received a letter from Chief Krokoff which stated that the officer in this case declined to participate in mediation.

V. New Business

A. *New Complaints*

1. New Complaints Received since the April 10, 2014 Meeting

Vice-Chairman David Rozen reported that the Board received seven (7) new complaints since its April 10, 2014 meeting. Mr. Rozen stated that Akosua Yeboah was not present so Mickey Bradley would read the new complaints.

Mickey Bradley read the new complaints as follows:

CPRB No. 8-14/OPS No. CC2014-030

According to the complainant, the police failed to arrest certain people for damages and crimes committed against the complainant and her children by other individuals. Instead the complainant had her kids taken away and she was sent to jail while nothing happened to the other individuals. On March 4, 2014, he was pulled over shortly after midnight. According to the complainant, when he picked up his brother he realized that his signal light was not working because someone hit his car. While questioning the complainant, the officer allegedly threatened to give the complainant several tickets, if the complainant gave him attitude. The officer allegedly gave the complainant four tickets. The complainant believes that the officer pulled him over because of his and his brother's race.

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

Mickey Bradley stated that he believed that when a complaint is filed alleging racial profiling a monitor should be assigned.

Mickey Bradley moved to appoint a monitor to this case. Tony Potenza seconded the motion. The motion carried unanimously.

CPRB No. 9-14/OPS No. CC2014-036

According to the complainant, he received a ticket for a traffic infraction on the same day that the APD received his complaint from the CPRB. The complainant alleges that he received a ticket for driving 50 mph in a 30 mph speed limit. According to the complainant, the last time he received a ticket was in December of 2013, so this was a coincidence. The complainant further alleges that an APD detective called him on February 28, 2014 and was very bullish and defensive about him filing the CPRB complaint.

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

CPRB No. 10-14/OPS No. CC2014-034

According to the complainant, he alleges that he was misrepresented by attorneys in the Public Defender's Office and the District Attorney's office. The complainant further alleges misconduct by a couple of judges.

On April 16, 2014, three members of the Board were read this complaint verbatim and agreed not to accept and review it. This decision must be made by a majority vote of the Board which is currently five (5). The case was put on tonight's agenda under "old business" and closed out accordingly.

CPRB No. 11-14/OPS No. CC2014-034

According to the complainant, on March 10, 2014, an officer forged a tape showing the complainant committing a robbery at Shop Rite. The complainant further alleges that an officer pushed his face into a glass. The complainant claims that the officer is racist, threatened to smack him, made everyone lie on the complainant, and refused medical treatment.

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

CPRB No. 12-14/OPS No. CC2014-031

According to the complainant, on April 17, 2014 he locked his keys in his car. While he was trying to retrieve his keys, an officer allegedly approached the complainant and questioned him. Although, the complainant explained what happened to the officer, the officer allegedly told the complainant to put his hands up and detained him. Another officer arrived on the scene, with his weapon allegedly pointed at the complainant. The officers realized that the complainant's keys were locked in his car, so they released him. The complainant alleges that the officers told him that he had no right to try to break into his car to get his keys.

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

CPRB No. 13-14/OPS No. CC2014-038

According to the complainant, on March 23, 2014, he went to the police department to file a complaint about an illegal purchase of property in Kansas City, Missouri.

According to the complainant, the Sheriff's Department in Kansas City told him to file a complaint at the APD and the APD will forward the complaint to Kansas City because they do not accept complaints by mail or phone. The complainant alleges that when he went to the APD, the office told him that he cannot accept the complaint because he has no jurisdiction in Kansas City. The complainant alleges that another officer brutally took him by the neck and pushed him out of the police station. According to the complainant, he followed the officer to a room because he thought that the officer was going to get someone else to help him.

It was noted that a decision on whether to assign a monitor has not yet been made.

CPRB No. 14-14/OPS No. CC2014-037

According to the complainant, on April 15, 2014, an officer allegedly approached the complainant in front of Ben and Jerry's and asked the complainant if he was selling photographs. The complainant responded in the negative. This occurred twice. The complainant gave the officer his license. After confirming the complainant's information, the officer allegedly threw the complainant's license onto the ground and refused to pick it up after repeated requests made by the complainant. The complainant followed the officer into the store and asked him to pick up his license. The officer allegedly threatened to arrest the complainant if he did not leave the store. They both left the store where the same back and forth requests and responses occurred.

It was noted that a decision on whether to assign a monitor has not yet been made.

2. Complaint(s) for Board Review

CPRB No. 35-05/OPS No. CC2005-656 (Presented by Maritza Martinez)

Maritza Martinez stated that this case has been pending for a few years because it suspended by the Mayor's office due to litigation stemming from the incident.

Ms. Martinez reported that she reviewed the following documents: Compliant Form; two (2) Confidential OPS Reports; two (2) APD CO Report; three (3) Call Tickets; APD Field Contact Report; NYS Arrest Record; NYS Incident Report; CPRB document; 2 APD Property Report; APD Use of Force Report; APD Admission Screening Report; Department of Parole Facts; Parole Violation Notice; Warrant for Arrest; Sworn Affidavit by the Complainant; Sworn Affidavit by Other individual involved; Letter from Ex-Chief Tuffy; IDC; Letter from CPRB chair to complainant; and Monitor's Report.

Ms. Martinez summarized the incident. The complainant alleged that on November 22, 2005, officers driving a red Jeep stopped the vehicle the complainant was riding in with a friend who resides in Troy. The complaint alleges that he was removed from the vehicle in a violent and angry way. The complainant alleges that the officers found a glass tube under the seat of the vehicle and planted it in his eyeglass case and stated "take this as a lesion." Ms. Martinez reported that the complainant alleges he is a victim of racial profiling. Based on the OPS investigation, the officers were in the area conducting a stationary surveillance of a residence suspecting drug activity in part of Operation Impact program after officers received information that there was drug activity being performed at the location, and there was a handgun involved. Ms. Martinez stated that the officers observed a vehicle being driven by a white male pull in front of the target address and observed a black male exit the vehicle and interact with an individual sitting on the steps of the target address. The male then reentered the vehicle and pulled away from the address. Ms. Martinez stated that according to the driver's statement, the complainant was at the target address long enough for him to roll and smoke a cigarette. The officers waited until the vehicle was away from the location then proceeded to stop the vehicle. Ms. Martinez stated that according to the officers involved, as the officer approached the vehicle and spoke to the passenger, the complainant kept his right hand hidden from view near his waist band and under his coat. The officer told the complainant to keep his hands where he could see them. The officers did this for safety purposes and because of information of a handgun. Ms. Martinez stated that according to the report, the complainant refused to follow instructions and the officers told complainant to leave the vehicle so they could perform a pat down. This pat down led to an altercation where the complainant elbowed the officer. The second officer, who was interrogating the driver, moved in to assist the officer who was struggling with the complainant. One officer gave the complainant two (2) forearm strikes to the upper back area in order to gain compliance. The complainant was then handcuffed and brought to the station where complainant was advised that he had a parole warrant.

Ms. Martinez reported that in March of 2006 Mayor Jennings sent a letter to the CPRB suspending the investigation because the complaint was being handled in court proceedings. Ms. Martinez further reported that in 2013, Chairman Smart received notice from the Department of Law stating that the case should be reopened because its investigation was complete. In March of 2013, the OPS reopened its investigation based on concerns expressed by the monitor assigned to the case.

Ms. Martinez reported that in the OPS report, two (2) separate investigations were performed by two (2) separate detectives in OPS, and based on concerns raised by the monitor both officers reported back to OPS for follow up interviews.

Ms. Martinez summarized the OPS finding for the use of force complaint. Ms. Martinez stated in both OPS reports the recommendation is for *exonerated* which is where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper. Ms. Martinez states that according to the OPS report the officers had been observing the address for drug activity and had information that a gun may have been involved. The complainant did not comply with requests to show his hand. He elbowed the officer, and the officer used force in compliance with departmental policy. This force

was documented in a use of force report immediately following the incident. Ms. Martinez stated that she concurs with the OPS finding of *exonerated*.

Maritza Martinez moved to concur with the OPS finding of *unfounded* for the use of force allegation. Anthony Potenza seconded the motion. The motion carried unanimously.

Ms. Martinez summarized the OPS finding as *not sustained* for the conduct standards allegation. Ms. Martinez stated that in both OPS reports the recommendation is for *not sustained* which is where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. Ms. Martinez stated that there was no evidence to prove or disprove that the officers planted the glass tube or stem. The other person involved in the incident denied owning the stem. Ms. Martinez stated that based on the evidence she concurs with the OPS finding of *not sustained*.

Maritza Martinez moved to concur with the OPS finding of *not sustained* for the conduct standings allegation. Vice-Chairman David Rozen seconded the motion. The motion carried unanimously.

It was stated that monitor Joel Pierre-Louise was assigned to this case and was present.

Mr. Pierre-Louis reported on the arrest authority and procedures allegation where the complainant alleged he was arrested due to his race. Mr. Pierre-Louis stated that he had spoken with OPS Detective Hendrick about this case and has worked with her as she reinvestigated this case after a previous detective investigated it. Mr. Pierre-Louis stated he was concerned because the officers made this stop because the location was being monitored for drug activity and potential illegal weapons at that location and a previously issued search warrant for that location had resulted in the seizure of illegal weapons. The officers observed the complainant in front of the target residence and was stopped in his friend's vehicle a short while later. Mr. Pierre-Louis reported that the officers claimed they had detained the complainant for a crack stem found on his person. There are conflicting reports as to where the pipe was found, because the driver of the car reported it was found under the passenger seat. Mr. Pierre-Louis inquired that if the officers stopped a vehicle because of drug activity and potential weapons why was only one individual searched and arrested. Mr. Pierre-Louis stated that the officer's explanation for this was the fact that the complainant was uncooperative while the driver cooperated but it is his feeling that if there is a concern for safety then they should search the vehicle. Mr. Pierre-Louis reported that the vehicle was not searched, the driver was not searched, and the driver was released after answering some pedigree information. Mr. Louis expressed concern that the complainant was charged with loitering and possession when the driver was allowed to leave. Mr. Louis stated that because of the disparity in treatment he would have to disagree with the OPS finding of *unfounded*.

Mikey Bradley inquired if the driver was of a different race as the complainant.

Mr. Pierre-Louis stated that that was correct, and their treatment was different. Mr. Pierre-Louis stated that the driver and the complainant did not really know one another. Who is to say that the driver was not in the area to purchase drugs for himself or that the complainant was buying drugs from the driver.

Ms. Martinez stated that in the OPS report it revealed that the complainant had worked on the driver's vehicle so they did have some sort of a relationship. Ms. Martinez stated that she agrees that there was some unequal treatment of the driver, because the driver had enough time to roll a cigarette. Why he was not questioned as to the contents of that cigarette. Ms. Martinez stated that following the finding protocol she agreed with the OPS finding because there was concern of a handgun on the cite, they had asked multiple times for the complainant to show his hands and the complainants lack of cooperation escalated the situation. Ms. Martinez stated that according to the OPS report it was then that the complainant elbowed the officer, and it appears that this lack of cooperation caused the disparity of treatment.

Mr. Pierre-Louis stated there is a difference in terms of the facts, because the complainant stated he did not elbow the officer. Mr. Pierre-Louis reported that the driver of the vehicle heard a heated argument between the officer and the complainant but he did not witness any physical altercation between them. Mr. Pierre-Louis stated that in his view if the basis for the stop is looking for drug activity after stopping a vehicle then the officers should do a search for drugs in that vehicle or the driver of the vehicle.

Anthony Potenza inquired if an officer can use discretion with regard to how they handle each individual.

OPS Commander Michael Hicks stated that the officers would need probable cause to search the vehicle.

Mr. Pierre-Louis stated that the facts of what was searched are in question, because the complainant and driver stated that the pipe was found under the passenger seat. Mr. Pierre-Louis stated that the officers need an articulable suspicion to stop the vehicle, and with the basis for the stop being that the complainant was in front of a known drug location is looked at more harshly. Mr. Pierre-Louis reported that he is aware that officers have discretion in handling their matters, but discretion should not be used arbitrarily or discriminatorily. Mr. Pierre-Louis states that if there was a fear of illegal drugs in the area the driver should have also have been search.

Ms. Martinez stated that the OPS relied on the fact that the complainant was not cooperative which brought attention to him and that he was the one who went up and approached the house. Ms. Martinez stated that while she agreed with the OPS, however, she wanted her concern over the difference in treatment of the two (2) individuals noted.

Mickey Bradley stated that he is opposed to the finding of *unfounded* because there were two (2) individuals in the same situation were treated differently and there was a dispute about where items had been found, what was said and if any physical altercation occurred.

Maritza Martinez moved to concur with OPS finding of *unfounded* for the arrest authority and procedures allegation. Vice-Chairman David Rozen seconded the motion. The motion failed to carry with four (4) in favor and one (1) opposed.

Mickey Bradley moved for a finding of *not sustained* for the arrest authority and procedures allegation. Eugene Sarfoh seconded the motion. The motion failed to carry with four (4) in favor and one (1) opposed.

Ms. Martinez stated for the remaining arrest authority and procedures allegation, the OPS finding was *exonerated* which is where the acts which provided for the basis for the complaint occurred, but the review shows that such acts were proper. The complainant alleged that the driver was released without being issued a ticket. Based on the OPS investigation, the car was not pulled over for a traffic violation, but had been stopped because of the drug activity in the area. The complainant had gone to the house that was being watched. Ms. Martinez stated she is in agreement with the OPS finding of *exonerated*.

Mr. Pierre-Louis stated that he doubts that if the situation were reversed in that if the driver was black and the passenger was white that this situation would have played out the same way. Mr. Pierre-Louis stated that the driver was not even asked what was in the item he was smoking. It could have been marijuana. This shows that there was not the same treatment between the two individuals.

Maritza Martinez moved to concur with the OPS finding of *exonerated* on the arrest authority and procedure allegation. Vice-Chairman David Rozen seconded the motion. The motion failed to carry with four (4) and one (1) opposed.

CPRB No. 47-13/OPS No. CC2013-125 (Presented by Anthony Potenza)

Tony Potenza stated that this complaint contains two (2) counts of use of force.

Mr. Potenza stated that a monitor Theresa Balfe was assigned to this complaint and was present.

Mr. Potenza reported that he reviewed the following documents: Citizen Complaint Form; Monitors Report; OPS Confidential Report; Arrest Reports; five (5) IDC; Incident Report; Call Ticket; report on field test of substance which field tested positive for heroin; Property Report; Use of Force Report; Subject Resistance Report including the use of taser; Booking and Arrest Report; Bench Warrant; K-9 Utilization Report; and Strip Search Report.

Mr. Potenza stated that the improper use of force allegation comes from members of the APD using force in apprehending him as he tried to escape capture and arrest for sale of a controlled substance. Mr. Potenza stated that video footage provided by Home Depot shows the movement of the police unit and the complainant. The complainant ran into the side of the vehicle. The complainant alleged that he was deliberately run over, but based upon the video evidence presented by the OPS investigation the OPS finding is of ***unfounded*** which is where the review shows that the act or acts complained did not occur or were misconstrued. Mr. Potenza stated that he concurred with the OPS finding of ***unfounded***.

Ms. Balfe stated that she reviewed the video from Home Depot. It was clear from the video that the complainant was running around and the vehicles were moving in an attempt to keep him contained in the parking lot. Ms. Balfe stated that the complainant made a sale, saw the police response, and began running. Ms. Balfe reported that the complainant's own statement is telling in this case as he stated he did have 3.5 grams of pot which is only a violation, but he was charged for several charges. Ms. Balfe stated that the complainant disregards what a crime is. In the video she could see him flailing his body around in an attempt to out run the police. Ms. Balfe stated that he was unaware of his surroundings and he actually ran straight into the vehicle. Ms. Balfe stated that for the other allegation where the complainant alleged he was punched in the face, it was night time so the handcuffing and arrest were not caught well enough on video to be ascertained. Ms. Balfe further stated that in the complainant's booking photo there were no indications of him being punched in the face. While the arrest is not captured on video there was no indication of the complainant being punched. Ms. Balfe stated that the OPS investigation was thorough.

Anthony Potenza moved to concur with the OPS finding of ***unfounded*** for the use of force allegation. Mickey Bradley seconded the motion. The motion carried unanimously.

Mr. Potenza summarized the OPS finding as ***not sustained*** for the use of force allegation that the complainant was punched multiple times while handcuffed. Mr. Potenza stated that based on the OPS investigation, the detectives involved submitted paperwork regarding their use of force which indicated that the complainant was resisting. The detectives used recognized compliance techniques to gain control of the situation. Mr. Potenza reported that the documents were consistent with the statements given, but the video did not capture that section of the arrest due to lighting conditions. Mr. Potenza stated that during this incident a taser was deployed but it was not effective due to the thickness of the complainant's clothing.

Ms. Balfe stated that the complainant was refusing commands during this time and the officers were assisting each other. During the altercation, one police officer stated to the other that he needed a second because his finger needed to be pushed back into place because the altercation had broken his finger. Ms. Balfe stated that the injury to the officer shows that there was some resistance. The IDC's contained statements from all officers involved that they all told the complainant to stop running. When the complainant stopped he refused to place his hands behind his back.

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

CPRB No. 21-13/OPS No. CC2013-061 (Presented by Maritza Martinez).

Maritza Martinez summarized the complaint. The complainant alleged that the officer, who responded to her call, was rude, laughed in her face, and stated under his breath that the location of her residence probably added to her car being vandalized. The officer allegedly did not take the complainant seriously.

It was noted that the complainant was present. The complainant stated that prior to the date of this incident she had previously had issues with the person she believed to have vandalized her vehicle. This person lived above her in the building. The complainant stated that there was about four thousand (4000) dollars in damage. When she called the police station, it took the officer approximately thirty (30) minutes to arrive on the scene. The complainant stated that the officer continued to tell her to calm down, while she was attempting to tell him that the people who did it were the tenants who lived above her in the building. The complainant stated that the officer barely looked at her vehicle. He stated that since she lives in a college area things like this happen. The complainant stated that she responded to that by saying this sort of thing can happen anywhere regardless of the area, and the officer responded by laughing in her face. The complainant stated that when she went back into her building she could hear the individuals who lived in her building laughing about what they had done, and saying that they were going to get away with it. She then went back outside and told the officer what she had overheard, and also that the front window of her apartment was also smashed, as she was going back into her apartment. The complainant stated that later that evening the two (2) individuals she believed vandalized her vehicle were arrested for damaging property, inciting a riot, and assaulting a police officer.

Ms. Martinez asked the complainant if the officer drove away while she was still there.

The complainant responded in the affirmative. She stated that as she was telling him the window was kicked in, the officer got into his vehicle and left. She further stated that it was upsetting to her that she knew the person who had done this to her property lived above her, and she felt unsafe. The complainant stated that when the vandal was charged later that day, her case was essentially dropped so they could focus on the crimes he was actually charged with.

Ms. Martinez stated that according to the OPS report, the officer stated that he waited until the complainant left then went upstairs to knock on the suspect's door. Ms. Martinez stated that his statement is different from what the complainant stated here at the meeting, and a monitor was not assigned to this case.

Ms. Martinez reported that she reviewed the following documents: Citizens Complaint Form; Confidential Report; Letter from Commander Hicks; Criminal Investigation Report; APD investigation Report; Cad Call; and Phone Log.

Ms. Martinez summarized the OPS finding for the call handling allegation as *unfounded*, where the review shows that the act or acts complained of did not occur or were

misconstrued. The complainant alleged that an officer failed to satisfactorily investigate her complaint that her vehicle was vandalized by her upstairs neighbor. Ms. Martinez stated that based on the OPS report she would have been in favor of the finding of **unfounded** but based upon what the complainant had presented at the meeting she would like to consider this finding as **sustained**.

Eugene Sarfoh asked if there was an incident report generated for this interaction.

Ms. Martinez stated that an incident report was generated, but the report does not indicate that the officer went upstairs even though the officer told OPS that he had gone upstairs.

Eugene Sarfoh asked the complainant if she had reason to believe that her upstairs neighbor had committed the crime.

The complainant responded that her roommate had previously been punched by one of the neighbors. There was a restraining order in place from that incident. She further stated that when she was in the home she could hear them shouting that they did it and will get away with it.

Anthony Potenza asked if OPS believed that this was appropriately investigated.

Detective Hendrick replied in the affirmative. She further stated that the incident report was sent to the criminal investigation unit for further investigation.

Mickey Bradley stated that the question is not if the case was properly adjudicated but whether this officer properly investigated the case seriously and properly. Mr. Bradley stated that we know he sent his report for further investigation to the criminal investigation department but in the complainant's presence he did not do what seemed like a proper amount of investigation to the complainant's knowledge.

Maritza Martinez moved for the Board to adopt a finding of **sustained** for the call handling allegation. No Board member seconded the motion. The motion failed.

Mr. Rozen stated that based on the facts discussed at the meeting and the OPS investigation he would recommend **not sustained**.

Vice-Chairman David Rozen moved to adopt a finding of **not sustained** for the call handling allegation. Eugene Sarfoh seconded the motion. The motion failed on a vote of three (3) to two (2).

Board Counsel Patrick Jordan stated that a case with this amount of disagreement should be forwarded to the Chief of Police for his determination because it could allow for a different finding or a further investigation.

Maritza Martinez moved to forward this complaint to Chief Krokoff for further investigation. Eugene Sarfoh seconded the motion. The motion carried unanimously.

Ms. Martinez summarized the OPS finding for the conduct standards allegation as **not sustained** where the review fails to disclose sufficient facts to prove or disprove allegations made in the complaint. The complainant alleged that the officer laughed at

her under his breath and stated that her geographical area may have contributed to her being a target. Ms. Martinez reported that she has to agree with the OPS finding because there simply is not enough information to make a determination of what actually happened.

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

Vice-Chairman David Rozen explained to the complainant what had transpired today, and thanked her for attending the meeting.

CPRB No. 27-13/OPS No. CC2013-070 (Presented by Anthony Potenza)

Anthony Potenza reported that this complaint alleged a conduct standards infraction but it did not specify a date. Mr. Potenza further reported that no monitor was assigned in this case.

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

Mr. Potenza reported that he reviewed the following documents: Citizen Complaint Form; Confidential Report; Booking Report; Arrest Report; Call Ticket; and IDC.

Mr. Potenza summarized the complaint. The complainant alleged that the officers threatened to put him in jail for something not that serious, put him in handcuffs to scare him. The complainant alleged that the officer wanted to get out at midnight and did not want to deal with the paperwork.

Mr. Potenza summarized the complaint. The complainant saw a uniformed police officer approaching him and made an attempt to leave the area by grabbing his bicycle. The complainant's female companion remained seated on the porch. Based on the OPS investigation, it was not reasonable to the officer for the complainant to attempt to leave the area so quickly and the acts caused the officer to have reasonable suspicion to believe that criminal activity was afoot. Mr. Potenza stated that the complainant attempted several times to interrupt the interview the officer was conducting with the female on the scene. The officer had probable cause to believe a trespass was occurring so he placed the complainant in handcuffs and put him in the rear of a police vehicle. After conducting an interview with the female the officer arrested her for criminal possession of a controlled substance. Once the female was arrested, the complainant was uncuffed and allowed to leave.

Mr. Potenza stated that the female individual agreed to be interviewed as a witness, but she failed to show up for any interviews. Mr. Potenza stated that DVR footage of the transport of the female showed a professional interaction between her and the officer.

Mr. Potenza stated that concurred with the OPS finding of ***not sustained*** where the review fails to disclose sufficient facts to prove or disprove allegations made in the complaint.

Anthony Potenza moved to concur with OPS finding of ***not sustained*** on the conduct standards allegation. Maritza Martinez seconded the motion. The motion carried unanimously.

CPRB No. 31-13/OPS No. CC2013-082 (Presented by Vice-Chair David Rozen)

Vice-Chair David Rozen summarized the complaint. The complainant alleged that that she was not treated in a civil manner and that she needed an in-depth understanding of what happened. Vice-Chair Rozen stated that the complainant provides no time, date or location of any incident that she is referring to.

Vice-Chair Rozen stated that a monitor was not assigned for this case.

Vice-Chair Rozen reported that he reviewed the following documents: Citizen Complaint Form; OPS Confidential Report; Call; Letter to Complainant; APD Booking and Arrest Report; and USPS Receipt of Certified Mail.

Vice-Chair Rozen reported that the complainant had been arrested multiple times over many years. This complaint was submitted in 2013 but this individual only had arrests in 2013 after the date of this complaint. Vice-Chair Rozen stated that based on the number of arrests and the vague complaint the OPS was unable to ascertain the nature of the complaint. Vice-Chair Rozen stated that OPS attempted to make contact with the complainant and sent a letter instructing her to contact their office. That letter was sent as certified mail and was received and signed by the complainant. Vice-Chair Rozen reported that according to the OPS report, the complainant had been residing at the Interfaith Partnership for the Homeless but OPS were unable to contact her there because she was kicked out due to her stealing, being drunk and getting into an argument with a supervisor

Vice-Chair Rozen stated that the OPS recommends a finding of ***no finding*** for the call handling allegation, where the complainant failed to produce information to further the investigation or where the complainant is unavailable to clarify the complaint. Vice-Chair Rozen stated he agreed with the OPS finding because it is unknown as to what the complainant is alleging.

Vice-Chair David Rozen moved to concur with the OPS finding of ***no finding*** on the call handling allegation. Mickey Bradley seconded the motion. The motion carried unanimously

CPRB No. 35-13/OPS No. CC2013-088 (Presented by Eugene Sarfoh)

Eugene Sarfoh reported that he reviewed the following documents: OPS Confidential Report; Citizen Compliant Form; GLC Correspondence; and APD Citizens Rights Form.

Mr. Sarfoh summarized the complaint. The complainant alleged that she was approached by officers who requested her license and keys. The complainant further alleged that she was not violating the law, but her vehicle was towed and she was required to walk over three (3) miles to her home. Mr. Sarfoh stated that these events were preceded by a call that indicated that an individual's ex-wife had been running in the street and through people's yards. In response to that call an officer was dispatched to the location, interviewed the complainant, and determined that she was not the party who was the focus of the call, but the officer did observe that the complainant appeared intoxicated. The complainant acknowledged that she had been at a party, had a few drinks at the party, and might not be in the proper condition to drive. Mr. Sarfoh reported that according to the OPS report, the complainant was encountered in her vehicle but her keys were under her seat at the time. Based on that interaction the officer was uncomfortable allowing her to drive home. In his OPS interview, he offered to arrange for a cab or to transport the complainant himself. According to the officer, the complainant declined this offer, indicating she would either walk, or go back to the party and get a ride from there. Mr. Sarfoh stated that according to the complainant she walked a distance of three (3) miles home and is upset that her vehicle was subsequently towed, and had to pay a fee to retrieve it from the lot.

Vice-Chair David Rozen stated that the complainant is present. The complainant stated that she was at a party that had been around the corner. She drove her car to the Stewarts parking lot where she was going to park her vehicle and sleep for a little while. After she closed her eyes, the officer arrived on the scene and asked if she had had anything to drink that evening. She told the officer that she had two (2) beers. The complainant stated that she had the beers between five (5) and seven (7) pm and it was around eleven (11) pm when the officer spoke to her. The complainant stated that she does not remember being asked if she needed a ride home, but did remember being asked if she had a cell phone which she did not have. The complainant stated that the officer was belligerent and bullying towards her. The complainant stated that she believed she was doing the right thing by pulling over for being tired, but then her vehicle was towed making her walk home.

Maritza Martinez asked if the officer made her walk the line. The complainant replied in the negative. She stated that the officer did not give her any directions and out of her frustration she said what do you want from me, do you want me to walk the line. The complainant stated that she offered to walk the line to prove that she was not intoxicated. The complainant noted that she does not remember the exact sequence of when she was told she would not be able to drive her vehicle home, if it was before or after walking the line.

Mickey Bradley explained to the complainant that there are two (2) portions of this complaint - the first being that the officers did not offer the complainant a ride home.

Mr. Bradley stated that from what the complainant just stated it appears that she does not remember if they did or did not actually offer her a ride home, so it becomes a “he said she said” situation. Mr. Bradley stated that the reason the officer asked for the keys to the vehicle was that the complainant was not in a proper condition to drive. The complainant pulled over on her own because she felt she was not in the proper condition to drive. Mr. Bradley further stated that it seems that the complainant is more upset about what she saw as bullying. However, this was not articulated in her complaint so it was not investigated in that manner.

The complainant asked what would give the officers the ability to tow her vehicle, when she was simply sitting in it and attempting to sleep.

Vice-Chair Rozen stated that the officer was acting in an attempt to protect both the complainant and other members of the public, because while she was simply sitting in the car she could have put the keys in the ignition and drove away posing an actual risk. Vice-Chair Rozen commended the complainant for pulling off the road when she was tired. The officer had reason to believe she was mildly intoxicated and could pose a risk behind the wheel of a vehicle.

The complainant again asked what was the officer’s basis to believe she was not able to drive her car if all she did was voluntarily walk the line.

Mr. Sarfoh stated that in the officer’s report he noticed that the complainant had bloodshot eyes, impaired motor control, he smelled an alcoholic beverage on her breath, that she had acknowledged just leaving a party and having some alcohol to drink at that party. Mr. Sarfoh stated that based on all of that they were concerned about the complainant’s ability to drive. Mr. Sarfoh stated that to the extent that they were able to tow the vehicle, there is policy that supports that decision by the officers.

Mr. Sarfoh further stated that the officers believed that the complainant would be unsafe to drive her car at that time, so her vehicle was towed from the location. Mr. Sarfoh summarized the OPS finding for the call handling allegation as *exonerated* where the acts which provide for the basis for the complaint occurred, but the review shows that such acts were proper. The complaint alleged that she was approached by officers who asked for her keys to which complainant responded she was not violating the law. Mr. Sarfoh reported that based on the OPS investigation, the complainant was stopped in a vehicle because upon her own admission she felt she was incapable of driving at that time. The officers who observed her at the scene felt that she may have been intoxicated and it is within the SOP to have vehicles towed for the safety of the driver. Mr. Sarfoh stated that based on the above he agreed with the OPS finding of *exonerated*.

Eugene Sarfoh moved to concur with the OPS finding of *exonerated* in the call handling allegation. Maritza Martinez seconded the motion. The motion carried unanimously.

Mr. Sarfoh summarized the OPS finding for the second call handling allegation as ***not sustained*** where the review fails to disclose sufficient facts to prove or disprove the allegation made in this complaint. The complainant alleged that she was forced to walk home after the officers towed her vehicle, yet the officers involved stated that transportation was offered and the complainant elected to walk home. Mr. Sarfoh stated that based on the OPS investigation he agreed with the OPS finding of ***not sustained***.

Eugene Sarfoh moved to concur with the OPS finding of ***not sustained*** in the call handling allegation. Maritza Martinez seconded the motion. The motion carried unanimously.

CPRB No. 37-13/OPS NO CC2013-093 (Presented by Mickey Bradley)

Mickey Bradley stated that there are two (2) allegations in this complaint, both stemming from an incident in which the complainant said she saw her downstairs neighbors – a man and his 10-year-old nephew – on her fire escape, looking into her window at midnight on August 23, 2013. When the complainant contacted her landlord the next morning, she was instructed to get a report from the police regarding the incident. The complainant alleged that she then called South Station to report the incident, she was allegedly told that the neighbors' actions were not criminal and that the officer hung up on her. Mr. Bradley reported that the OPS finding for the conduct standards allegation was ***unfounded*** where the review shows that the act or acts complained did not occur or were misconstrued.

Mr. Bradley stated that a tape of the phone conversation in question exists. In the tape, the officer asked several questions about the incident, including whether the area in question, outside her window, is a patio with stairs and an overhang. The complainant says it is. The officer says that if it is a public space available to anyone who resides in the building, there may be nothing the police can do. The complainant says people are not supposed to be on the patio. The officer says that would be up to the landlord to tell them, not the police. The complainant says "Thank you"; the officer says, "You're welcome," and both parties hang up. Mr. Bradley stated that based on the tape he agreed with the OPS finding of ***unfounded*** for the conduct standards allegation.

Mickey Bradley moved to concur with the OPS finding of ***unfounded*** in the conduct standards allegation. Anthony Potenza seconded the motion. The motion carried unanimously.

Mr. Bradley reported that after the phone call, the complainant went to headquarters in person to report the incident. An officer later came to her home to investigate, which became the basis of the second allegation. Mr. Bradley reported that the complainant alleged that the officer did not pursue criminal charges against the neighbor and that when she asked for a written report, the officer told her it was in the computer.

Mr. Bradley reported that OPS's finding for the second conduct standards allegation is *exonerated*, where the acts which prove the basis for the complaint occurred, but the review shows that such acts were proper. Mr. Bradley reported that according to the OPS investigation, the officer in question says that the complainant did not specifically mention the neighbor looking into her window, only that she was having a problem with the neighbors downstairs hanging out on the front stoop. As such, the officer determined that no crime had been committed and he did not create a crime report. The officer says the complainant did not ask for a report, saying only that she needed something to prove the police where there to show to her landlord. The officer advised her on how to get a copy of the call ticket. The officer also advised the complainant on options for dealing with her neighbor dispute, specifically, to go back to the landlord or to seek help in civil court. Mr. Bradley stated that based on the evidence presented he agreed with the OPS finding of *exonerated*.

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

CPRB No. 38-13/OPS NO CC2013-095 (Presented by Mickey Bradley)

Mickey Bradley stated that on August 26, 2013, the complainant called 911 to report a fire in her building, which she believed was started by a 10-year-old boy who lives in the apartment below her. Mr. Bradley reported that the complainant alleged she was told by the investigating officer that nothing could be done because of the boy's age. She also says that when she asked for a written report, she was told it was in the computer and could be looked up.

Mr. Bradley summarized the OPS finding for the call handling allegation as *unfounded* where the review shows that the act or acts complained about did not occur or were misconstrued. Based on the OPS investigation, upon arrival, the fire department found no flames or smoke or ash, though they did note a burnt aroma in the air. Mr. Bradley stated that officers knocked on doors in the building but got no additional information from residents. The officer spoke with the boy and his uncle, both of whom denied the boy was lighting paper on fire. Mr. Bradley stated that the officer involved did file an Investigation Report documenting the incident and identifying the boy as a possible suspect and the report was forwarded to the Children and Family Services Unit for further investigation.

Mr. Bradley noted that the OPS detective investigating this complaint was unaware of the investigation report at the time he interviewed the complainant, and was therefore not able to bring it to her attention. When he discovered the report later, he contacted the complainant to make her aware of it. Mr. Bradley stated that based on the fact that a

report was created and the boy identified as a possible suspect, he agreed with the OPS finding of *unfounded* for the call handling allegation.

Mickey Bradley moved to concur with the OPS finding of *unfounded* in the call handling allegation. Eugene Sarfoh seconded the motion. The motion carried unanimously.

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

The following Board members were appointed to the Committee on Complaint Review for June 2014: Mickey Bradley, Anthony Potenza, Maritza Martinez, David Rozen, and Eugene Sarfoh

C. Committee Task Force Reports

By-Laws and Rules

Committee Chair David Rozen stated he had nothing new to report at this time.

Community Outreach

Vice-Chairman David Rozen stated Committee Chairperson Akosua Yeboah was not present but he was asked by her to make a few comments.

Vice-Chairman Rozen reported that the Board was asked to be present at the next ACPAC meeting on May 20th meeting, and Committee Chairperson Yeboah will be present at that meeting. He invited any Board members to attend as well.

Mediation

Committee Chair Mickey Bradley stated that the committee continued to move down the path to get mediation in place. Mr. Bradley reported that mediators have been selected and are currently attending the Citizens' Police Academy. Since the Board's last meeting, the committee interviewed and selected another mediator. Mr. Bradley extended his thanks to Anthony Potenza, Akosua Yeboah, Sharmaine Moseley and Christine Caputo-Granich (counsel for the police officers' union) for their hard work and commitment. Mr. Bradley stated that he felt very good about the mediators who were chosen so far. Mr. Bradley concluded by stating that after the mediators complete the Citizens' Police Academy and are trained by the GLC the mediation can begin.

Police Department Liaison-Policy Review/ Recommendations

Committee Chair Anthony Potenza reported that the committee is still working on getting a meeting scheduled with Chief Krokoff.

Public Official Liaison

Vice-Chairman David Rozen stated that Committee Chairman Edward Smart is not present.

Task Force on Monitors

Task Force Chair Eugene Sarfoh reported that he has been having conferences with the monitors, but while he has some recommendations on what to work on he left his full report in his office so he will present his report at a later meeting.

Sharmaine Moseley reported that monitor Joel Pierre-Louis has resigned from his duties as a monitor. Mr. Pierre-Louis received a job which does not permit him to be a monitor on this Board. Ms. Moseley further reported that with Mr. Pierre-Louis' resignation it leaves the Board with six (6) monitors.

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 (50) active complaints before the Board for review. Of those fifty (50) active complaints, six (6) were reviewed and closed by the Board at tonight's meeting. This leaves the Board with forty-four (44) active complaints. It was further reported that due to the backlog of cases before the Board, a meeting to review only cases have been scheduled for next Thursday May 15th at 6pm. There are seven (7) cases on agenda for that meeting. For the June 12th meeting, there are five (5) cases ready for that agenda.

It was reported that five hundred and ninety-five (595) complaints have been closed. The total number of complaints that remain suspended from review is nine (9). The total number of complaints filed to date is six hundred and forty-seven (647).

It was further reported that since the Board's last meeting, the GLC received two (2) grievance forms, bringing the total number of forms received to five hundred and twenty-seven (527). In response to the GLC's outreach to all individuals, the GLC has received one hundred forty-four (145) CPRB complaint forms, which is 27%.

New Board Member/Re-Appointments

Ms. Moseley reminded the Board of Board member McCarthy's resignation as well as three (3) Board members terms will expire in October. Two (2) of those members (Sarfoh and Bradley are up for re-appointment). However, member Potenza has reached the term limit mark. With that said, the Board currently has one (1) mayoral vacancy and there will be a Common Council vacancy in October. A letter has been sent to the Common Council and Mayor seeking re-appointments and the filling of those vacancies.

NACOLE

It was reported that this year's NACOLE Conference is in Kansas City, Missouri from September 14-18. At the last meeting, it was reported that three (3) Board members and the Chair will be attending this year's conference. Chairman Smart, Vice-Chair Rozen and members Sarfoh and Hammond have been registered for the conference. Ms. Moseley asked those members to submit their dates for travel. Ms. Mosely reported that once she has that information, the GLC will make the hotel reservations and flight arrangements.

Reports

It was reported that at the meeting with the Common Council it was decided that the quarterly and annual reports can be much shorter. As a result, the GLC are almost caught up with the drafting of the reports and they are undergoing review. The reports should be ready for approval by the Board's June meeting.

E. Report from the Office of Professional Standards

OPS Detective Kathy Hendrick and Commander Michael Hicks were present. Commander Hicks stated it is his goal to bring in detectives from his unit to come to the meetings to observe what the Board does.

F. Report from the Chair

Vice-Chairman David Rozen stated that he gave his report as the Board has moved through its agenda.

V. Public Comment

Vice-Chairman David Rozen opened the floor for public comment.

There was a question from the audience inquiring as to who makes the decision into which cases are assigned a monitor.

Vice-Chairman Rozen replied that when the GLC receives a complaint, a phone call is placed to five (5) members of the Board who make a decision based on the allegations in that complaint as to whether a monitor should be assigned.

Mr. Bradley stated that if there is an allegation of excessive force or violation of civil rights those cases are generally assigned a monitor.

There was a question from the audience about whether OPS tracks any statistics on what officers are receiving complaints.

Commander Hicks responded, yes OPS uses a system that tracks complaints against officers and they have been doing that for five (5) years. Commander Hicks reported that the system keeps track of complaints against the officer with specifics of what that

complaint is and what the outcome of that particular complaint was and that this system goes back for five (5) years.

There was a question from the floor as to how that data is handled and observed.


Commander Hicks stated that the data is monitored so if there are multiple complaints against an individual that person gets flagged and there are procedures in place to handle that person.

Vice-Chairman Rozen stated that he is impressed with OPS's separation from APD in its investigations. Vice-Chairman Rozen stated that while the Board agrees with OPS often it is because they are doing a good job in the review of the cases and they have gone above the complaint and penalized officers who violate the SOP even when that is not complained about. Vice-Chairman Rozen stated that with OPS's help some of the SOP that the Board has specified as being problematic has been changed.

VI. Adjournment

Vice-Chairman David Rozen adjourned the meeting at 7:23 p.m.

Respectfully Submitted,


Akosua Yeboah
Secretary