

**City of Albany
Citizens' Police Review Board
GWU the Center
274 Washington Avenue – Teen Center Community Room
June 26, 2014
6:00 p.m. - 8:00 p.m.**

Present: Marilyn Hammond, Maritza Martinez, Anthony Potenza, David Rozen, Eugene Sarfoh, Edward Smart and Akosua Yeboah

Absent: Mickey Bradley

I. Call to Order and Roll Call

Chairman Edward Smart called the meeting to order at 6:03 p.m.

II. Approval of the Agenda

Marilyn Hammond moved to approve the agenda. David Rozen seconded the motion. The motion carried unanimously.

III. Old Business

CPRB No. 1-07/OPS No. CC2006-596 (Presented by Anthony Potenza)

Anthony Potenza stated that this case is almost 8 years old because its review had been suspended by the Mayor's office pending litigation. Mr. Potenza stated that when this case was first presented to the Board in 2007, the Board failed to reach a unanimous decision on a finding.

Mr. Potenza summarized the complaint. The complainant alleged that the police used excessive force in restraining the complainant after he refused to allow officers admittance into his apartment. The officers had been responding to a 911 call, claiming that the caller could hear a woman screaming. The complainant alleged that he was alone in the apartment at the time of the incident. It is alleged that when the complainant came out of his home the officers threw him into a wall, knocked him down, handcuffed him and then put him in the back of a patrol car. The complainant alleges excessive use of force and improper call handing.

Mr. Potenza reported that monitor George Kleinmeier was assigned to review the case. He stated that the date of the incident was September 19, 2006, and the CPRB received the complaint on September 22, 2006.

Mr. Potenza reported that the original OPS report failed to answer some questions that were posed by the Board. Those questions included: Is it the APD's policy to allow

officers to enter a home without a warrant on the basis of an anonymous 911 call from outside the dwelling? Has the SOP been reviewed regarding this issue? Has the officer been retrained? Why was the use of force allegation deemed to be exonerated by OPS? Mr. Potenza reported that in December of 2006 Mayor Jennings suspended the Board's ability to review the complaint because the city was conducting an investigation.

Mr. Potenza stated that the first OPS investigation had reported that both the improper use of force and call handling allegations were *exonerated*.

Mr. Potenza reported that while the Mayor had suspended the review of this complaint for further investigation, at that time monitor Joel Pierre-Louis, who had been assigned the case, disagreed with the OPS findings and was also consulted with by the Mayor's office while the case was further investigated.

Mr. Potenza stated that the updated OPS report noted that the allegations were further investigated and that the allegations are recommended to be closed as follows. The call handling allegation is now recommended to be closed as *ineffective policy or training* which is where the matter does not involve guilt or lack thereof, but rather ineffective departmental policy or training to address the situation. Mr. Potenza explained that according to the updated OPS report and the APD, the OPS has since professionalized training activities since the date of the incident, and this unit is in charge of the continued training of officers. It was reported that part of the training unit's responsibility is to ensure members of the department are properly trained on all techniques and to keep these policies up to date.

Mr. Potenza reported that monitor George Kleinmeier was assigned to this case and was present. Mr. Kleinmeier stated that he agreed with both Mr. Potenza's summary of the case and with the OPS findings.

Mr. Potenza stated that based on the updated report he concurred with the OPS finding of *ineffective policy or training* for the call handling allegation.

Anthony Potenza moved to concur with the OPS finding of *ineffective policy or training* for the call handling allegation. Marilyn Hammond seconded the motion. The motion carried unanimously.

Mr. Potenza summarized the OPS finding for the use of force allegation as *exonerated* where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper. The complainant alleged that he was pushed against a wall by the officer. Based on the OPS investigation, the officer admitted to using force when the complainant did not allow them access to his residence. The officers stated that they pushed him against the wall and told the complainant to put his hands behind his back. When the complainant refused was when he was brought to the ground and put in handcuffs. Mr. Potenza reported that at the time of the incident the officer's believed that there was a person in danger, and that the complainant was obstructing them from doing their duties. Mr. Potenza stated that upon further review the officers did not actually have authority but the officers believed they were acting under the appropriate authority. Based on this belief, the OPS still recommended a finding of *exonerated* where the acts

which provide the basis for the complaint occurred, but the review shows that such acts were proper.

Akosua Yeboah asked if an officer is unaware of a policy, would that be grounds for exoneration. Mr. Potenza replied that having an officer who is unaware of the policy does not exonerate them but, he has reviewed the OPS finding and agrees with it.

Anthony Potenza moved to concur with the OPS finding of *exonerated* for the call handling allegation. Marilyn Hammond seconded the motion. The motion carried unanimously.

V. New Business

A. *New Complaints*

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

Chairman Edward Smart reported that the Board received five (5) new complaints since its May 8, 2014 meeting. Secretary Akosua Yeboah read the new complaints as follows:

CPRB No. 15-14/OPS No. CC2014-041

According to the complainant, on May 16, 2014, he went to the Morton Avenue Police station with his girlfriend and three-month old child for court. In search of his attorney, the complainant peeked into court room one to see if his attorney was present. The attorney was not present. While the complainant had the court room door open, the officer inside waved his hand for them to let the door go. The complainant alleges that while holding his three-month child in the lobby, the officer approached him and asked if he had something to say to him. The complainant responded "I'm just waiting for my lawyer. I was seeing if he was in the courtroom." The complainant further alleges that the officer aggressively asked him "You sure you don't have something to say to me." According to the complainant, he gave his child to his girlfriend and the officer allegedly told them to leave. The complainant and his girlfriend went to the front and asked for the Sergeant. They explained what happened. The complainant alleges that when they asked to file a complaint, the Sergeant allegedly said he did not think it was a big deal to do so. The complainant claims that they asked the Sergeant for the officer's badge number and were denied. The complainant went to the Henry Johnson Headquarters and filed a complaint.

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

Chairman Edward Smart asked Coordinator of the Board Sharmaine Moseley how many votes were in favor of appointing a monitor.

Ms. Moseley replied that the vote was five (5) against and two (2) for the appointment of a monitor.

CPRB No. 16-14/OPS No. CC2014-041

According to the complainant, on May 16, 2014, she went to the Morton Avenue Police Court with her boyfriend and her three-month old child. In search of their attorney, they peeked into court room one to see if he was present. The attorney was not present. The officer behind the judge's area waved his hand for them to leave. The complainant alleges that while they were in the lobby, the officer approached them and asked her boyfriend (who was holding their three-month old) if he had something to say to him. Her boyfriend told the officer that he was just looking for his lawyer. The complainant further alleges that the officer got in her boyfriend's face and aggressively asked him if he had something to say to him because he can get out. The complainant further alleges that they asked for the officer's name and he refused. The complainant claims that the officer told them to leave and if they came back he would charge them with trespassing. The complainant further alleges that they went to the front of the building to ask for a complaint form from the Sergeant but the Sergeant allegedly told them that he did not feel that they needed to file a report. The Sergeant also informed them that he did not have any complaint forms.

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

CPRB No. 17-14/ OPS No. CC2014-048

According to the complainant, on April 29, 2014, he was at Schenectady Family Court and his child's mother informed the judge that the complainant's driver's license was suspended. His attorney informed him to contact the chief of Albany police because her significant other is an Albany Police officer. The complainant alleges that on May 8, 2014 he was informed that his license had been run through their system. The complainant believes that his license was run by the officer who is the significant other of his child's mother.

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

CPRB No. 18-14/ OPS No. CC2014-054

According to the complainant, on June 9, 2013, he attended a festival at Washington Park with his wife and some friends in which he brought two bottles of alcohol. The complainant alleges that one of the bottles was consumed and the other was placed in a cooler and loaded into a friend's car. The complainant further alleges that his wife and the friend went to Rocks and had a few drinks. Afterwards they returned to the car, where the complainant removed the bottle of alcohol and a 2-liter bottle of soda. The complainant alleges that about a minute later an Albany police car pulled up behind the group with lights and sirens on. The complainant alleges that the officers exited the vehicle and proceeded to question their activities. The complainant responded by telling the officer he was retrieving the unopened alcohol to bring it back to their hotel room. The complainant further alleges that the officer asked where he got the alcohol from and if he could see it. The complainant alleges that the officer asked to search him and he declined. The complainant then alleges that his wife and friend continued walking and stopped in a restaurant to get dinner. The complainant met them in the restaurant. While

the complainant was pulling money out of his pocket, the top of the rum bottle was seen by a different officer who accused him of stealing it. The complainant told the officer that it came from his cooler located in a friend's car. The complainant alleges that the officer put his hand on his gun, pointed his finger in the complainant's face, and demanded that he turn the bottle over to him. The complainant alleges that the officer took the bottle, left the restaurant, and raised it in the air at which time the complainant took a picture of the bottle and the officer.

It was noted that a monitor was appointed to investigate this complaint. It was also noted that although the incident occurred more than a year ago, the Board voted and agreed by a vote of 5-2 to accept and review the complaint due to the allegations in the complaint.

CPRB No. 19-14/ OPS No. CC2014-052

According to the complainant, on May 14, 2014, the complainant's son witnessed a car accident in which a van smashed into a truck. The complainant's son had to brake quickly and in doing so he cracked his front bumper on the van's tow hitch. The complainant alleges that the officer asked the complainant's son if he was involved and if he had a criminal record because if he did he would find out. The complainant alleges that the officer was treating his son like a criminal. The officer then gave the complainant's son two tickets: one for going through a red light and the other for following too close. The complainant then alleges that another officer arrived at the scene and appeared to take charge. The complainant alleges that he asked the second officer if his son could leave with his car but the officer insisted that it be towed. The complainant alleges that the officer asked him "Who the f**k do you think you are talking to?" when the complainant questioned him regarding alternatives to having the car towed. The complainant alleges that once the tow company came the officer instructed him to tow the complainant's son's car. The complainant further alleges that the officer filed a false report indicating that the whole front bumper was damaged.

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

2. Complaint(s) for Board Review

CPRB No. 16-13/OPS No. CC2013-038 (Presented by Akosua Yeboah)

Akosua Yeboah stated that this complaint contained allegations of call handling. Ms. Yeboah stated that monitor Bill Van Valkenburg was assigned to this complaint and was present.

Ms. Yeboah reported that she reviewed the following documents: Confidential Reports; Call Details; Intra-Departmental Correspondences; Correspondences to the Complainant; Citation Reports; Police Records; Citizen Complaint Form; APD Booking and Arrest Report; Review Notes; and Monitor's Report. Ms. Yeboah stated that there was a video of the incident that she did not view, but the monitor viewed it. She further stated that she reviewed the monitor's summary of the video.

Ms. Yeboah stated that she would describe the underlying facts of the incident based on the documents and records reviewed which included signed statements from both the complainant and the witnesses. Ms. Yeboah reported that this was an incident where the complainant was stopped after being observed talking with a person whom an Albany police officer believed to be a known gang member suspected of selling drugs. The officer stated that he stopped the complainant because he witnessed a transaction between the two and believed it to be a drug sale. Ms. Yeboah reported that after the officer stopped the complainant, the officer discovered that the complainant was driving with a suspended license. The complainant did not have any documentation to prove otherwise. The officer then informed the complainant that she would have to immediately stop driving the vehicle. The officer issued the complainant a ticket. The officer gave the complainant the option of calling someone to pick up the vehicle rather than having it towed and incurred an expense to the owner. The complainant called her mother to pick up the car.

Ms. Yeboah stated that there were a couple of notable discrepancies between the officer's account of the incident and that of the complainant and witness. Ms. Yeboah reported that the officer claimed that the complainant did not use a signal when pulling away from the curb and into traffic and that was one of the reasons for the stop, while the complainant claimed that she signaled. The complainant stated that she felt that she was followed, harassed, and profiled by the officer for stopping at a store and conversing with a friend, while the officer claimed that he did not in any way profile the complainant. Ms. Yeboah noted that the report of the Board's independent monitor highlights that during the investigation, the complainant described the individual she was speaking to as a friend at one point and as an in-law at another point.

Ms. Yeboah stated in conclusion that, while she found it believable that the complainant might remember using her traffic signal when pulling away from the curb, the officer was still within his authority to make a stop because of the suspicion of a drug sale in a high-crime area. During the investigation, the complainant declined to provide the OPS with the name of the person with whom she was speaking, which is her right, but this information could have confirmed her claim that it was not the person identified by the officer as a gang member and drug dealer. The fact that the complainant declined to provide the information, lends more support to the officer's version of the story.

Ms. Yeboah read a request from the investigating detective to show how any requests to the complainant were phrased. "Just a quick follow up question to our interview, the gentlemen you were talking to at Lark and Orange you stated was an in-law. Can you send me his name, contact number and brief description? Any info you can send would be helpful. Thanks."

Ms. Yeboah stated that she believed that the complainant felt targeted by the officer given that her car in particular was followed and then stopped. However, there was no evidence in the record showing that the officer acted in an unprofessional manner or in any way that was inconsistent with his authority at the time during the stop. The officer chose to issue a ticket rather than arrest the complainant and impound the vehicle. This

indicates that the officer was showing a degree of leniency with the complainant rather than treating her as a target for harassment or abuse of police power.

Ms. Yeboah stated that the OPS finding for the call handling allegation as ***not sustained*** where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. Ms. Yeboah further stated that based on the documents she reviewed and with no evidence to the contrary she agreed with the OPS finding of ***not sustained***.

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

Ms. Yeboah stated that the monitor Bill Van Valkenburg was present. Mr. Van Valkenburg stated that he agreed with everything Ms. Yeboah reported.

Mr. Van Valkenburg further stated that he felt that the complainant had exaggerated a bit. Mr. Van Valkenburg stated that he felt that it was unlikely that both driver and passenger distinctly remembered using a turn signal seven (7) weeks after the incident occurred. Mr. Van Valkenburg further stated that the complainant has an extensive history of traffic tickets which tend to corroborate the fact that she may have been pulled over for a traffic infraction. Mr. Van Valkenburg stated that while the complainant claims she was followed and harassed, she was simply followed for about a mile and a half, from Lark Street to around Henry Johnson, where the officer saw a safe area to stop her. Mr. Van Valkenburg stated that he reviewed the video from the vehicle, and while the audio was bad, he could see from the video that no anger was exhibited with gestures or raised voices.

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

CPRB No. 11-13/OPS No. CC2013-029 (Presented by Maritza Martinez)

Maritza Martinez stated that this complaint has a companion complaint which she will be reviewing next. Ms. Martinez stated that there are two (2) components to the complaint which is that the complainant asked to see a copy of a search warrant but was never supplied with it and the complainant never received a property receipt for items taken from her home.

Ms. Martinez reported that she had reviewed the following items: OPS Confidential Report; Citizen's Complaint Form; Albany Police Department Grievance Notification Report; Letter from Citizens' Police Review Board Chairman Smart; sixteen (16) Intra-Departmental Correspondences; two (2) CAD Calls; CAPSNET Booking and Arrest Report; Incident Report; APD Field Investigation/Contact Report; two (2) APD Sworn Statements; APD Community Response Unit/Information Registration Form; APD Property Report; Albany City Court Warrant; and an Affidavit of Search Warrant. Ms. Martinez stated that the date posted on the warrant was the date of the incident.

Ms. Martinez asked if the complainant was present. It was noted that the complainant was present.

The floor was then turned over to the complainant for comment.

The complainant stated that the officers told the landlord to leave the area. When the landlord attempted to provide the keys to the door to officers, the officers proceeded to break the door down. The complainant stated that the police officers took televisions from her apartment and that she never received a receipt for the televisions. The complainant stated that the officers used too much force in knocking the door in, and the door is still broken.

Ms. Martinez summarized the complaint. On April 3, 2013, members of the Albany Police Department (APD) and detectives cornered the complainant's car on Livingston Avenue, removed her boyfriend who was the driver, asked her to turn the car off and to not get on her phone at any time. Both the complainant and her two (2) children were told to remain in the car. The complainant stated they were in the car for over half an hour. The officers indicated to the complainant that her apartment was going to be searched and asked her if she had the keys to her apartment. The complainant asked for a search warrant. The police told her they were in the process of getting one, and the complainant refused to give them her keys until she received the warrant. The complainant learned there was another squad at her apartment and that they were going to bust her door down. The complainant told police that her landlord who is her grandmother, lived upstairs and that they could get the key from her. The officers responded that they would not be getting the keys from her landlord/relative, because they wanted the complainant's keys. The complainant again asked to see the search warrant. The officers indicated that telling the complainant to supply the keys meant they would not have to damage her front door. The complainant responded that she would not give the keys to the officer. They did not have her permission to search her house. The complainant stated that after the APD busted her door down and went inside, the police then let her drive down to her apartment. The complainant stated that she was never shown a search warrant and the officers searched her apartment, took property from the apartment, and she was never given a receipt for the seized property. The complainant was handcuffed and seated in her living room while the officers conducted their search. The officer then explained to the complainant why the warrant was executed and why the TV's, which had been stolen in a previous burglary, were removed. The complainant's boyfriend, who was arrested, admitted to stealing the TV's and admitted to having crack cocaine in the vehicle they were stopped in.

Ms. Martinez reported that sixteen (16) various officer IDC reports were included in the OPS report. A few of the officers on the scene verified hearing the complainant ask for a copy of the search warrant. They all verified executing a search warrant as instructed. Two officers said given the nature of the case and possible safety issues, the Judge issued a "no knock" search warrant on the target property. The officer in charge indicated that he left a copy of the search warrant on the table located in the living room of the house.

The complainant stated that she never received a warrant.

Ms. Martinez summarized the OPS finding for the call handling allegation as ***not sustained*** where the review fails to disclose sufficient facts to prove or disprove the allegations made by the complainant. The complainant alleged that she was never given a copy of the search warrant. Based on the OPS investigation, the case detective did leave a copy of the warrant on the living room table in the complainant's apartment. At the time of the traffic stop and the initial detention of the complainant, the case detective was not present and was assigned to other duties in the operation. Therefore, if a copy of the warrant was requested at the time, it would not have been feasible to produce to the complainant. The case detective indicated that after the warrant was executed and the scene was safe that a copy of the warrant was left for the complainant in her residence.

Ms. Martinez stated that she concurred with the finding of ***not sustained*** because there was not enough evidence to make a decision either way. The complainant is stating that she never received a copy of the warrant but the detective stated he left a copy at the residence.

The complainant stated that she still does not have a copy of the warrant.

Chairman Smart stated that the police were operating with a warrant and a warrant was issued on the date of the incident. The complainant reiterated that she never got a copy, and that they only told her they were working on getting it which means to her that they did not have one at the time.

Chairman Smart asked OPS Commander Michael Hicks to describe how a police officer could get a warrant, and also what a "no knock" warrant would mean.

Commander Hicks responded that a "no knock" warrant is when the officers do not have to knock on the residence. They can just enter. The warrant allows officers to just go in. It is given when people could destroy evidence or are potentially dangerous. Commander Hicks stated that if the complainant was still looking for a copy of the warrant, the attorney handling the criminal case would have a copy of it. Commander Hicks further stated that the police can file for a warrant in many ways, including over the phone.

The complainant stated that the officer physically entered the apartment and did not allow anyone to open the door. The complainant believed that the police acted the way they did because of the neighborhood they live in. The complainant further stated that their door is still ruined by this incident. The complainant reiterates that she was never provided a copy of the warrant and that she simply wants to see one.

Commander Hicks stated that the OPS investigation did not disagree with the complainant, but it cannot be proven one way or another. Commander Hicks further stated that there is a warrant signed by a judge.

The complainant asked why is it acceptable to allow the police to knock down someone's door, when they are offered the keys to the residence.

Ms. Martinez stated that based on the definition of a "no knock" warrant the officers had the authority to knock down the door.

The complainant stated that she was detained by a unit that asked for the keys for her residence. When she refused, she was held in her car until other officers had already knocked her door down.

Akosua Yeboah stated that if there are two (2) units dealing with the situation why would one (1) unit ask for the key while there is a “no knock” warrant in place.

Chairman Smart asked the complainant if he was correct in his understanding of the situation in that the officers had asked for the key and the complainant refused to give them the key until she saw a copy of the warrant.

The complainant replied in the affirmative. She stated that she had told the officer that she wanted to see a warrant before she was going to give them a key.

Chairman Smart stated that the officer had a valid warrant, even if it was not a physical copy that he could show her on paper at that time. Chairman Smart stated that the officers did not have to show the copy of the “no knock” warrant.

Maritza Martinez moved to concur with the OPS finding of *not sustained* for the call handling allegation. Marilyn Hammond seconded the motion. The motion carried five (5) to one (1) with Akosua Yeboah opposing the motion.

Ms. Yeboah stated that she is opposed to the finding of *not sustained* because based on the 4th amendment people have a right to be secured in home unless the police show you a warrant.

Ms. Martinez summarized the OPS finding for the second call handling allegation as *exonerated* where the acts which provide the basis for the complaint occurred but the review shows such acts were proper. The complainant alleged that the officers failed to provide the complainant with a property receipt. Based on the OPS investigation, the officer indicated that the items seized from the residence were confirmed items from a previous burglary and therefore evidence. According to an officer interviewed, the complainant in this instance would not be privy to a copy of the property report.

Maritza Martinez moved to concur with the OPS finding of *exonerated* for the second call handling allegation. Marilyn Hammond seconded the motion. The motion carried unanimously

CPRB No. 17-13/OPS No. CC2013-048 (Presented by Maritza Martinez).

Maritza Martinez stated that this complaint contained multiple allegations of call handing. Ms. Martinez further stated that the complainant alleged: that there was an illegal search of the vehicle the complainant was driving and it was done while children were in it; that an illegal strip search was done in a closed area with no visible cameras; that officers made threats and verbal assaults and negative comments; and that the complainant was never read his Miranda Rights.

Ms. Martinez stated that monitor George Kleinmeier and was present at this meeting.

Ms. Martinez reported that she reviewed the following documents: APD Transmissions; Interrogation Video; OPS Confidential Report; Letter from Deputy Superintendent to Chief of Police; Citizen Complaint Form; APD Booking & Arrest Report; APD Field Investigation and Contact Report; two (2) APD Sworn Statements; APD Community Response Unit Information Registration Form; APD Property Report; APD Strip Search Report; two (2) CAD Calls; APD Incident Report; APD Supplemental Reports; CAPSNET APD Incident Report; CAPSNET Field Interview; CAPSNET Booking & Arrest Report; APD Local Person Record; CAPSNET APD Booking & Arrest Report; three (3) APD Canine Utilization Report; Intra-Departmental Correspondence; Protocol/Policy statement on Arrest/Prison Transport/Prisoner Transport & Security; Legal Cases – Arizona vs Grant which speaks of circumstances authorizing a warrantless car search, and the Chimel case which speaks to exceptions where there is concern for officer safety but where there is also intent to safeguard any evidence of the offense that an arrestee might conceal or destroy; Copy of Court Order; Affidavit of Search Warrant; and Seven (7) Summaries of IDC Reports.

Ms. Martinez summarized the complaint. The complainant stated that on April 3, 2013, detectives conducted an illegal search of his vehicle while his children were inside the vehicle along with his girlfriend. The search was done after he was taken away from the car. The complainant was then taken to the precinct where he was ordered to take his multiple layers of clothing off. The complainant stripped down to his shorts and was ordered to take those off as well. The complainant alleged that he told the detective that he had been strip searched before and was allowed to keep his shorts on. The complainant stated that the detective told him he was in charge that day and was doing it the proper way. The complainant described in his statement the remainder of what followed and the comments that were made that left him feeling humiliated and absolutely disrespected. The complainant stated that he is looking for justice and correction on the part of anyone who would reprimand the detectives who did the strip search as he stated they crossed the line with comments made about his hygiene. The complainant also stated that the search was done in a private location outside of camera view and that at no point did any one read him his rights.

Ms. Martinez summarized the OPS finding for the call handling allegation as *exonerated* where the act occurred, but the review shows that such acts were proper. The complainant alleged that the officers conducted an illegal search of the vehicle he was driving. Based on the OPS investigation, the lead detective on the operation indicated specific probable cause had developed during the narcotics investigation of the complainant. Narcotics were removed from the “grabbable” area of the vehicle which the complainant had been driving at the time of his lawful arrest. According to the OPS, this type of seizure is allowable under a search incident to arrest which is a recognized and lawful exception to the warrant requirement. Ms. Martinez stated that she agreed with the OPS finding of *exonerated* for the call handling allegation.

Chairman Smart asked Commander Hicks if he could define what “grabbable” area is.

Commander Hicks stated that the center console of the vehicle or behind, under, and above the seats would all constitute “grabbable” areas in a vehicle.

Maritza Martinez moved to concur with the OPS finding of *exonerated* for the call handling allegation. David Rozen seconded the motion. The motion carried unanimously.

Akosua Yeboah inquired as to why there were the names of two (2) monitors on the OPS confidential report. Chairman Smart replied that one (1) monitor had been assigned and when he stepped down from his position a new monitor was assigned.

Ms. Martinez 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 allegations made by the complainant. The complainant alleged that his vehicle was searched while occupied by children. Based on the OPS investigation, the detective conducting the search of the vehicle stated it was unoccupied at the time of the search. Another officer stated that the children had been removed from the car so they were not in it while the search was done. Ms. Martinez stated that she concurred with the OPS finding of *not sustained* for the second call handling allegation.

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

Ms. Martinez summarized the OPS finding for the third call handling allegation as *exonerated* where the act occurred, but the review shows that such acts were proper. The complainant alleged that he was the victim of an illegal strip search. Based on the OPS investigation, the complainant was strip searched by the Albany police after the execution of the narcotics warrant on the complainant's residence, recovery of narcotics from the vehicle the complainant had been driving, and a lengthy surveillance of the complainant prior to 4/3/13 that alleged sales of narcotics. A strip search subsequent to these factors would be lawful as the nature of allegations warranted a search of one's person for additional contraband. Ms. Martinez stated that she concurred with the OPS finding of *exonerated* for the third call handling allegation.

Maritza Martinez moved to concur with the OPS finding of *exonerated* for the third call handling allegation. Marilyn Hammond seconded the motion. The motion carried unanimously. Ms. Martinez summarized the OPS finding for the fourth call handling allegation as *exonerated* where the act occurred, but the review shows that such acts were proper. The complainant alleged that he was strip searched in an area not recorded by surveillance video. Based on the OPS investigation, it is the policy of APD to conduct strip searches in designated areas specifically not monitored by video recording for purposes of ensuring privacy of those being searched. The SOP was reviewed for this investigation and such practice was outlined in APD SOP Article #64.1 page 8C, line 8 which reads "If authorizing a strip search and a visual body cavity inspection, ensure that the arrestee is taken to an area that ensures the utmost privacy & where there are no other detainees present."

Maritza Martinez moved to concur with the OPS finding of *exonerated* for the fourth call handling allegation. David Rozen seconded the motion. The motion carried unanimously.

Ms. Martinez summarized the OPS finding for the fifth call handling allegation as *not sustained* where the review fails to disclose sufficient facts to prove or disprove the allegations made by the complainant. The complainant alleged that while he was being strip searched he was subjected to threats, verbal assault & negative comments. Based on the OPS investigation, all of the detectives interviewed indicated the strip search was conducted in an orderly & professional manner as is their usual standard of operation. Ms. Martinez stated that unfortunately this becomes a “he said she said” situation and there is no evidence to corroborate the evidence.

Maritza Martinez moved to concur with the OPS finding of *not sustained* for the fifth call handling allegation. David Rozen seconded the motion. The motion carried unanimously.

Ms. Martinez summarized the OPS finding for the sixth call handling allegation as *unfounded* where the review shows that the act or acts complained did not occur or were misconstrued. The complainant alleged that the detective failed to read him his rights. Based on a video of the interview conducted with the complainant, it was revealed that at 5:39 p.m. on April 3, 2013, a detective advised the complainant of his rights and carefully read him his Miranda Rights. The detective stopped after every sentence to ask if the complainant understood what he was saying. The complainant responded at all times – “Yes sir.” The review reveals that the complainant was indeed advised of his rights and the claim that they were never read is *unfounded*.

Maritza Martinez moved to concur with the OPS finding of *unfounded* for the sixth call handling allegation. Marilyn Hammond seconded the motion. The motion carried unanimously

The complainant from the previous complaint stated that she was dissatisfied with this process, because the police had stated the opposite of her complaint. The complainant further stated that she felt the process was reviewed in favor of the officers. The complainant stated that she believed that the officers are simply stating the opposite of what had actually happened.

Chairman Smart thanked the complainant for presenting her case at the meeting.

CPRB No. 19-13/OPS No. CC2013-054 (Presented by Eugene Sarfoh)

Eugene Sarfoh stated that this incident occurred on May 8, 2013.

Mr. Sarfoh reported that he had reviewed the following documents: OPS Confidential Report; Witness Statement; and IDC which detailed the officer duties and responsibilities.

Mr. Sarfoh summarized the complaint. The complainant's landlord received a phone call from a police officer asking if the complainant still resided in that apartment. The complainant alleged that this phone call was in regard to a political incident, because when this occurred he was a candidate for the Albany Common Council. Mr. Sarfoh stated that the complainant had called the officer about the phone call. The officer allegedly agreed that he made the call, but made the inquiry because he had heard that the complainant did not live there anymore.

Mr. Sarfoh stated that according to the OPS report the officer who made the call had been a long time beat officer and was working in response to potential drug activity in and around that apartment building. Mr. Sarfoh stated that the officer was out of work for some time and when he returned to the area, the concerns about drug use had resurfaced because of loitering and specific individuals in the area. Mr. Sarfoh stated that the officer had been making inquiries about who was living there in an effort to understand who belonged on the premises for legitimate reasons. Mr. Sarfoh stated that the OPS investigation revealed the officer's interest in the residents were in reference to ongoing interest in responding to drug activity that was an issue in that location and not for any political motivations.

Mr. Sarfoh summarized the OPS finding for the conduct standards allegation as **unfounded** where the acts which provided the basis for this complaint occurred but where the review shows that the act or acts complained did not occur or were misconstrued. Based on the OPS investigation, the officer did make contact but did it because he wanted to know who lived there because he was a part of the neighborhood engagement unit. There were people hanging around the residence and he was operating within his duties and was proactively checking the area. The landlord was contacted and interviewed and stated that she had been contacted by the officer about people loitering on her property. She told the officer that she did not want those people on her property. The complainant believed that he was targeted for running for political office and that he was being forced out of his residence. Mr. Sarfoh stated that during the investigation it was revealed that the complainant had been evicted for nonpayment of rent.

David Rozen and Maritza Martinez stated that they would recuse themselves from this case.

Akosua Yeboah asked if the officer had been investigating the nonpayment of rent. Mr. Sarfoh stated that the complainant was evicted for nonpayment of rent, but the complaint was about officers targeting the complainant for no reason. Mr. Sarfoh stated that while it was not detailed as to why the complainant believed that the officer was calling his landlord, there was a portion of the complaint which alluded to the fact that the officer had been working with the landlord to assist with an eviction in an attempt to force political pressure. The officers were in an ongoing investigation to identify residents of the building in an attempt to understand who was allowed to be in the building or on the grounds. The contact was purely investigatory and not personal in any way.

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

Chairman Smart stated that there will be times that all members will know a subject in the case, but as long as they believe they can vote impartially they should cast a vote. Chairman Smart stated that a recusal is not required based on knowledge of the individual, but only based on an inability to vote impartially based on the case.

CPRB No. 5-14/OPS No. CC2014-026 (Presented by David Rozen)

David Rozen summarized the complaint. The complainant alleges that on March 4, 2014 at approximately 12:25 a.m., he was driving from college. While driving, he realized that his signal was not working, so he got out of the car then noticed that someone had hit his car without stopping. He proceeded to pick up his brother from work at St. Peter's Hospital. On their way home, an Albany Police Department identified car pulled his vehicle over.

The Albany Police Department officer took the complainants particulars, called for backup, went back to his marked vehicle, his partner asked him a question while he was talking to complainant's brother. The officer allegedly stated: "If I gave him attitude he will also give him as many tickets as he wants." The officer returned from the marked car and gave the complainant four (4) tickets. The tickets were for: insufficient headlight; insufficient signal light; late turning signal; and bad tires. The complainant felt the only reason he was stopped was because the car contained two black guys in the early morning.

Mr. Rozen reported that monitor Theresa Balfe was assigned to this case and was present.

Mr. Rozen stated that he reviewed the following documents: Citizen Complaint Form; OPS Confidential Report; Complaint Withdrawal Form; CAD Call; and Safety Net Web Documents.

Mr. Rozen stated that the complainant met with the OPS detectives, and after discussion, he wanted to withdraw the complaint. Mr. Rozen further stated that the assigned monitor was not present for this discussion and it is his opinion that it would have been beneficial for her to be present at that meeting. Mr. Rozen stated that this is an issue that he would like the monitor's committee to look at.

The report alleges that the complainant had not gone to the Albany Police Department Center Station to make a complaint. At Center Station he met with a Sergeant because he was not entirely sure/clear with his understanding of the traffic stop. The Office of Professional Standards detective talked to the complainant at length and addressed any questions/concerns. Following the conversation, the complainant wished to withdraw his complaint and filled the appropriate paperwork.

Ms. Balfe stated that the OPS report was short and did not follow the standard protocols. Ms. Balfe stated that she filled in some of the report but even then it was lacking due in

part to the fact that there were no appropriate allegations. Ms. Balfe stated that she was surprised that there was a complaint based on the documents she was provided with, but she reviewed the paperwork that was filled out at the time of the interview. Ms. Balfe stated that she believes that it would have been beneficial if a monitor was present during the initial interaction. Ms. Balfe stated that she reviewed the documents that the complainant signed. She believes there may have been a misunderstanding and that it would be odd for an officer to simply state to someone that if they gave the officer attitude they would get ticketed without some initial escalation. Ms. Balfe stated that there may have been some words exchanged between the officer and the complainant's brother for the officer to make a comment about attitude.

Mr. Rozen stated that he wanted to know why backup was called for a simple traffic stop. He was told that it is part of the SOP that if there is a stop later in the evening backup is required.

Ms. Balfe stated that a call for backup would have been acceptable if it was possible that the complainant's car had been hit. Ms. Balfe stated that she felt that the scenario the complainant presented was questionable in that he got out of his vehicle and stated that he knew his car was hit, but did not give a description of why he knew it was hit, what happened or where the accident occurred. Ms. Balfe stated that there may have been another reason for him to stop in the middle of the road. She would have wanted to ask more questions to the complainant if this was an active complaint.

Mr. Rozen stated that he would concur with the OPS finding of *no finding* because this complaint was withdrawn by the complainant.

Detective Hendrick stated that in this case when her report was written she was unaware that a monitor had been assigned.

Ms. Balfe reported that she had been leaving messages for the OPS and Detective Hendrick but there had been a quick turnaround of this case at the OPS. Ms. Balfe stated that she has been with the Board since 2001 and she has only had something like this happen twice.

Commander Hicks stated that he talked to the complainant and there was a major language barrier with this individual and it made the filing of the complaint difficult. Commander Hicks further stated that there are no simple traffic stops and this was a difficult one which was exacerbated by the communication issues.

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

B. *Appointment of New Members to the Committee on Complaint Review for September 2014:*

The following Board members were appointed to the Committee on Complaint review for September 2014: Mickey Bradley, Anthony Potenza, Maritza Martinez, Eugene Sarfoh, and Chairman Edward Smart

C. Summer Meeting Schedule

Chairman Edward Smart stated that the Board will not meet during the summer.

*D. Approval of the 2012 First, Second, Third & Fourth Quarterly Reports
Approval of the 2013 First, Second, Third & Fourth Quarterly Reports*

Akosua Yeboah moved to approve both the 2012 and 2013 first, second, third, and fourth quarterly reports. Anthony Potenza seconded the motion. The motion carried unanimously

E. Committee Task Force Reports

By-Laws and Rules

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

Community Outreach

Committee Chair Akosua Yeboah stated that the Board and GLC had hired a new student assistant Jordine Jones who will be helping with accelerating our ability to contact community groups and to help schedule community outreach meetings.

Chairman Smart stated that there will be a meeting with the NYCLU on July 8 at 4pm. Chairman Smart encouraged all Board members attendance at this meeting. Chairman Smart stated that it is his belief that the meeting should be used for discussing subpoena power, independent counsel, and the issue of standing. The Board's current position is that only people who are directly affected by the allegation can file.

Committee Chair Yeboah stated that the Board's brochures are in the final stages of preparation, and should be completed by the September meeting. She further stated that the community outreach committee will be adding mediation to the brochures.

Mediation

Chairman Edward Smart stated that Committee Chair Mickey Bradley was not present. Coordinated of the Board Sharmaine Moseley stated that the mediators have completed the Academy training. The next steps are appointments and GLC training.

Police Department Liaison-Policy Review/ Recommendations

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

Chairman Edward Smart stated that he would like a discussion about policy. The Board should discuss the policies and notifications that they receive from the police department so the Board is not notified of incidents from the Times Union.

Public Official Liaison

Committee Chairman Edward Smart reported that while there was a meeting with the Common Council's Public Safety Committee, the Chair was not able to make the scheduled meeting. Chairman Smart further stated that this meeting would be held to discuss independent counsel and subpoena power.

Task Force on Monitors

Task Force Chair Eugene Sarfoh reported that he has conferred with monitors and has discussed their work. Mr. Sarfoh stated that the last meeting with the monitors was a while ago and there needs to be a meeting with the monitors to provide updated information. Mr. Sarfoh stated that this meetings will take place because there have been issues with report length, complainants and discussion of cases. Mr. Sarfoh stated that he wants to meet with monitors and have a refresher regarding OPS expectations and the Board's requirements for monitors. Mr. Sarfoh reported that he wants to hold this meeting within the next month or so.

Chairman Smart asked the Board if it would be necessary to hire a new monitor. Sharmaine Moseley stated that the Board is down to five (5) monitors.

Mr. Sarfoh stated that he is unsure if new monitors needed to be hired.

F. Report from the Government Law Center

Government Law Center (GLC) Coordinator for the CPRB Sharmaine Moseley was unable to read the report so it was delivered by GLC intern Stephan Weiss.

Complaint Inventory as of Date of Meeting

Mr. Weiss reported that as of today, there are currently forty one (41) active complaints before the Board for review. Of those forty one (41) active complaints, six (6) were reviewed and closed by the Board at tonight's meeting. This leaves the Board with thirty five (35) active complaints. There are six (6) cases ready for review at the Board's next meeting in September.

It was reported that six hundred and eight (608) 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 fifty-two (652).

It was further reported that since the Board's May 8th meeting, the GLC received nine (9) grievance forms, bringing the total number of forms received to five hundred thirty-six (536). In response to our outreach to all individuals, the GLC has received one hundred forty-six (146) CPRB complaint forms, which is 27% of complaints filed.

Board Member Resignations/Re-appointments

It was reported that last month, the GLC notified the Common Council and the Mayor seeking the re-appointments of members Sarfoh and Bradley and the Mayoral vacancy created by former member McCarthy. In October, there will be a Common Council vacancy created by member Potenza's expired terms. The GLC has not received a response from those offices regarding these re-appointments and vacancies.

NACOLE

It was reported that his year's NACOLE Conference is in Kansas City, Missouri from September 14-18. We have had some changes as to who will be attending this year's conference on behalf of the CPRB. Members Rozen and Hammond are no longer attending. Chairman Smart and member Sarfoh will be attending on behalf of the CPRB. Conference registrations, hotel reservations and flights have been completed.

Reports/Minutes

It was reported that by the Board's September meeting, the GLC plan to be caught up with the outstanding reports as well as the Board's meeting minutes.

G. Report from the Office of Professional Standards

OPS Detective Kathy Hendrick and Commander Hicks were present. Commander Hicks reported that on July 8th at 11am at city hall the Albany Police Department will be swearing in new officers and the police academy will start for the new officers on the July 9th.

H. Report from the Chair

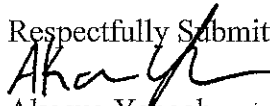
Chairman Edward Smart stated that he gave his report as the Board has moved through its agenda.

V. Public Comment

Chairman Edward Smart opened the floor for public comment.

VI. Adjournment

Chairman Edward Smart adjourned the meeting at 7:40 p.m.

Respectfully Submitted,

Akosua Yeboah
Secretary