

City of Albany
Citizens' Police Review Board Meeting
GWU the Center
274 Washington Avenue, Teen Center Community Room
March 12, 2015
6:00 p.m. - 8:00 p.m.

MINUTES

Present: April Bacon, Larry Becker, Mickey Bradley, Charles Goodbee, Maritza Martinez, David Rozen, and Eugene Sarfoh

Excused Absence: Edward B. Smart

I. Call to Order and Roll Call

Vice Chairman David Rozen called the meeting to order at 6:05 p.m.

Vice Chairman David Rozen announced that Chairman Edward Smart is unavailable for tonight's meeting because he recently suffered a heart attack and continues to recover. Mr. Rozen stated that Chairman Smart is in the Board's thoughts and prayers and that the Board wishes him a speedy recovery. Mr. Rozen noted that Chairman Smart sends his regards to the Board.

II. Approval of the Agenda

Mickey Bradley moved to approve the agenda. Maritza Martinez seconded the motion. The motion carried unanimously.

III. Old Business

A. CPRB No. 33-13/OPS No. CC2013-091 (Presented by M. Bradley)

David Rozen explained that CPRB No. 33-13/OPS No. CC2013-091 is an old complaint for which the Board asked the Chief of Police for recommendations.

Mickey Bradley explained that this case was originally reviewed by Akosua Yeboah, but because she is no longer with the Board he will be reading the Chief's recommendation.

Chief Krokoff stated in his letter "At the September 11, 2014 meeting, upon review of [CPRB No. 33-13/OPS No. CC2013-091], the CPRB was unable to render a finding by a majority vote on the call handling allegation that an officer pulled the complainant over for a seatbelt ticket and after he left multiple troopers showed up. The Board expressed concern that the complainant was stopped for a seatbelt infraction when there are more serious crimes occurring in the City of Albany. The officer that initiated this traffic stop is assigned to the Traffic Division's Traffic and DWI Enforcement Officer. As such the officer is required to have a comprehensive working knowledge of all aspects of the Vehicle and Traffic Law of NYS, which includes Section 1229

seatbelts. As per the SOP the officer will fairly and impartially enforce the provisions of the V & T Law to prevent and/or reduce the severity of motor vehicle crashes, which the wearing of seatbelts has been proven to do. The complainant in this matter was lawfully issued a traffic summons for violation of the V & T Law and, therefore, the call handling section of the investigation should be closed as recommended, or exonerated.”

It was noted that Gene Sarfoh arrived.

Mickey Bradley moved to concur with OPS’ and the Chief’s recommendations of **exonerated** on the call handling allegation. Maritza Martinez seconded the motion. The motion carried unanimously.

B. CPRB No. 12-14/OPS No. CC2014-031 (Presented by M. Bradley)

David Rozen noted that this case had been Mickey Bradley’s case to review and that the Board asked the Chief of Police about breaking one (1) allegation into two (2) separate allegations.

Chief Krokoff stated in his letter “At the November 20, 2014 meeting, upon review of [CPRB No. 12-14/OPS No. CC2014-031] the CPRB suggested that the finding of use of force be broken into two categories. The CPRB suggested the allegation of the complainant being handcuffed be closed as exonerated, which was consistent with the findings of OPS. The allegation regarding the officer’s weapon being drawn should be closed as not sustained. Upon further review of the investigation the department agrees with the CPRB with making the use of force allegations two counts, one being exonerated and the other as not sustained.”

Mickey Bradley moved to **accept** the Chief’s recommendation and to **close** the complaint. Maritza Martinez seconded the motion. The motion carried unanimously.

IV. New Business

A. New Complaints

1. New Complaints Received since the January 8, 2015 Meeting

Vice-Chair David Rozen reported that the Board received six (6) new complaints since its January 8, 2015 meeting. Mr. Rozen noted that Mickey Bradley will read because Akosua Yeboah has stepped down and the Board currently has no Secretary.

Only new complaints that were not assigned a monitor were read at the meeting. Mr. Bradley explained that this is done to help ensure that a monitor is assigned to the cases that need one this is an extra opportunity to decide if a monitor should be assigned.

Mickey Bradley read the new complaints.

All six (6) new complaints are listed as follows:

CPRB No. 1-15 / OPS No. CC2015-003

According to the complainant, on October 11, 2014, the Albany Police arrived at the apartment of her friends. To refrain from being an impediment the complainant waited outside of the apartment

with an unrelated friend. As the front door to the apartment opened, the complainant saw her friend being arrested and escorted downstairs by two police officers. As the officers approached the front door, the complainant walked in the doorway and asked why they were arresting her friend? The complainant was immediately pushed back by one of the officers. She alleges that the force of the shove, caused her to lose her balance, fall backward, strike her lower back on doorstep and her head on the porch. The complainant alleges an ambulance was called due her substantial head and back pain. The complainant was taken to Albany Medical Center where she had continued head and neck pain, followed by fainting and vomiting. After a series of tests, the complainant was diagnosed with having sustained a concussion.

A monitor **was** assigned.

CPRB No. 2-15/ OPS No. CC2015-005

According to the complainant, on December 14, 2014, at three (3) a.m., he was kicked in the head and punch in the face by two people at the Capitol City Mission. The complainant went to the police station where he attempted to report his assault, but the officer informed him that according to the staff of the Mission he had walked into the wall. The complainant alleges that the police and the mission staff are "in cahoots".

A monitor **was not** assigned.

CPRB No. 3-15 / OPS No. CC2015-006

According to the complainant, on January 11, 2015, two officers responded to a domestic disturbance call. The complainant alleges that upon the officers' arrival the complainant was removed from the residence, questioned, and made out to be a villain when in fact the complainant was the victim.

The complainant alleges that he was sucker punched by a man in the jaw which resulted in a contusion to the chin area, a lacerated tongue and three chipped teeth. The complainant also alleges that he was pinned down by two women who were occupants of the residence. The complainant alleges that while he was questioned he cooperated as best he could and insisted on being taken into police custody because it appeared the officers were not interested in conducting a genuine or appropriate investigation and that the officers' focus was only on the complainant.

The complainant further alleges that the officers refused to place the complainant in handcuffs. The complainant alleges he was told to stand before the car and place his hands on the hood of the vehicle for approximately 5 minutes in zero degree weather. The complainant alleges he insisted on being taken into custody so that he could speak with a judge. The complainant also alleges that at no time was he asked if he wanted to press charges.

The complainant then alleges he was told that he was "not safe" and needed to be brought somewhere "safe." While the complainant was being transported to a local hospital's ER, he alleges that the officers told him that he was in commission of a crime, stating that the complainant was an intruder in the home he was assaulted in. The complainant also alleges that

the officers owed the homeowner a 'favor' due to her night not going as planned and that he was the only one to be charged that evening for trespassing.

The complainant further alleges that he spoke with an officer the Monday following the incident and the officer stated that he had "no reason" to be at "22 Bender Ave" in the first place, and that he was an intruder who was only not arrested because the officers who were present "felt sorry for him." The complainant also inquired who the officers were that night and was refused an answer. The complainant states that he is not looking for a "sorry" but that he wants the police to be held accountable for what was inappropriately done, or that which was unprofessional, or anything suggestive of a "cover up" of a crime.

A monitor **was not** assigned.

CPRB No. 4 -15 / OPS No. CC2015-007

According to the complainant, on December 13, 2014, at approximately 8:00 p.m., the complainant was arrested. The complainant alleges that after the arrest he was injured alleging officers used excessive force resulting in a bloody and swollen face. As a result of the injury, the complainant was taken to Albany Medical Center for treatment. The complainant alleges that based on the area of the injury hospital staff believed it necessary to perform an x-ray and cat-scan of the complainants face and neck. The complainant alleges his earrings were removed by a nurse and given directly to an officer who told him they would be put into the complainant's property. The complainant alleges that when he was escorted to the precinct by a different officer, he was told that there was no record of earrings being put into his property. Complainant alleges he asked to speak to someone concerning his property to no avail. Complainant alleges that the earrings cost \$2,000.00, and he has a receipt.

The complainant also alleges that he had \$980.00 in his possession but only \$130.00 was turned in and held as evidence.

A monitor **was** assigned.

CPRB No. 5-15 / OPS No. CC2015-009

According to the complainant, on December 23, 2014 at approximately 12:05 a.m., the complainant observed a police vehicle behind her for a few blocks before it activated its lights and pulled the over. The officer immediately asked for license and registration and, when asked why the vehicle was pulled over, the officer rudely responded that he did not have to tell the complainant anything until he received the complainant's information. The officer then demanded the complainant to give him their license and registration. During this interaction another officer was using his flashlight to look into the interior of the vehicle while the interior lights were on. There were two or three law enforcement vehicles on the scene. The complainant received a Uniform Traffic Ticket for failure to stop at a stop sign. The complainant requested that the other officers' names be placed on the ticket; the officer stated that he did not have to put his partner's name on the ticket. The complainant asked the officer why the location was different on the ticket than where the stop occurred and asked why she was followed for 3 to 4 blocks. The officer responded by threatening to give the complainant a ticket for tinted windows and telling her not

to worry about how he performed his job. The complainant identified this officer as one who harassed her in front of her home a month prior to the incident. The complainant was released from the original stop at approximately 12:22 a.m.

The complainant was pulled over in front of 102 Morton Avenue, at approximately 12:25 a.m. The complainant was pulled over by the same officer. As she is pulled over she retrieved her phone and called her mother and placed it on speakerphone because she felt unsafe. The officer threatened to give her a ticket if she did not hang up her phone and asked for her license and registration. The complainant, feeling threatened, hung up the phone but placed it on record mode and immediately handed the officer her information. Three to four police cars arrived on the scene and the complainant was given tickets for improper signal and operating a motor vehicle while using a cellphone. The complainant states that this was an act of retaliation, and the uniform traffic tickets that were issued on the scene included inconsistencies and false information.

The complainant went to South Station to get a Complaint Form; she wrote a statement and then waited two hours for a sergeant to arrive before she left.

A monitor **was** assigned.

CPRB No. 6-15 / OPS No. (no number yet)

According to the complainant, on February 6, 2015, at approximately 5:40 p.m., after dropping a passenger off at a store he was stopped on Second Street. He was issued a ticket for failure to signal and for parking on the pavement. The complainant believes that these charges were "trumped up". The complainant was then questioned about why he was in the area and when he started acting nervous he was dragged out of his vehicle and handcuffed. The complainant was made to stand in the cold while his car was searched without his consent. The complainant states he was threatened by an officer while he was being released. The complainant noted that, as a law abiding senior citizen, being detained was upsetting to him.

A monitor **was** assigned.

2. Complaint(s) for Board Review

CPRB No. 29-13/OPS No. CC2013-080 (Presented by M. Bradley)

Mickey Bradley summarized the complaint. It was alleged that on the night of February 7, 2013, the complainant awoke at home experiencing the symptoms of an asthma attack and his live-in girlfriend called EMS for assistance, but when he began feeling that the asthma attack was causing a heart attack they called another friend who arrived to drive them to the hospital. On way to hospital they were approached at a stop sign by two men who offered to sell them drugs. They refused the offer and were immediately stopped by police who accused them of trying to buy drugs. The complainant alleges that the officers ignored his need for medical attention and ordered him and his girlfriend to exit the vehicle and produce identification. The complainant alleged that the officer let the two (2) women go and arrested him for a parole violation. While at the Police Station the complainant's requests for medical attention were repeatedly ignored but

that he eventually passed out and woke up at the hospital. The complainant stated that the officer attempted to pressure the complainant into refusing medical treatment because he did not want to stay the night in the hospital, and that if he had to he would talk to the judge and make sure he was sent to jail. A nurse was informed of this threat and she retrieved a doctor who also asked if he was threatened, the complainant also told that doctor about the threat. After this the complainant went into cardiac arrest and was taken to the cardiac department of the hospital. Finally, the complainant stated that the officer lied about the events surrounding his arrest, resulting in the revocation of his parole and causing him to be sent back to jail.

Mr. Bradley asked if the complainant was present, and it was noted that the complainant was not present.

Mr. Bradley stated that a monitor was assigned to this case. It was noted that monitor William Van Valkenburg was not present.

Mr. Bradley stated that according to the OPS investigation, the officers recalled a completely different version of events. The officers involved stated that the complainant was never in a car or in the company of two women, but was walking by himself when he was observed engaged in a hand to hand drug transaction with a known drug user. The target officer stopped the complainant and subsequently found seven (7) clear plastic bags containing a white powdery substance. Mr. Bradley noted that an Oral Statement Report indicated that the complainant commented at the scene that he had found the bags on the ground and that they contained soap and not drugs. The officers then arrested the complainant for possession of an imitation controlled substance. The officers stated that no time prior to booking at central station did the complainant indicate that he was in distress or request EMS services but that a couple of hours later, at approximately 5:30 a.m., the complainant indicated that he was having breathing problems and EMS was contacted. Mr. Bradley noted that an Incident Report on file with APD indicated that the complainant's vital signs were normal and the complainant was taken to Albany Medical Center for further evaluation where he received a cardiac catheterization procedure and was discharged later that day.

Mr. Bradley stated that the discrepancies in the two stories cannot be explained by a different perspective on the same interaction and that it is not simply details that are different but large factual assertions differ greatly between the complainant's version of events and the officer's version.

Mr. Bradley stated that OPS identified four (4) alleged violations in this complaint. The first allegation was one of arrest authority and procedures alleging that the target officer made a false arrest of the complainant for possession of imitation crack cocaine. According to the OPS investigation, the officer stated that the complainant was walking and that at no time was he in a vehicle and at no time was he in the company of females. Backup officers who were on scene nine (9) seconds after the radio call also stated that the complainant was not in a vehicle nor was he with two (2) women; additionally, the call ticket indicates that the target officer was conducting a street encounter by checking a subject and not conducting a traffic stop. The call ticket does not contain any vehicle information and no occupant name was noted in the Call Event Log. Mr. Bradley stated that it is not reasonable to believe that the target officer would

initiate a traffic stop, transmit that he was checking a party, fail to enter or broadcast the license plate of a vehicle he had stopped and then release the other two (2) alleged occupants without running a search on the law enforcement data management system to confirm their identities. A Property Report filed at the time of arrest indicated that seven (7) clear plastic bags containing a white powdery substance were taken from the complainant's person and an oral statement report indicated that complainant acknowledged those bags at the time of arrest. OPS recommend the finding of *unfounded* which is where the review shows that the act or acts complained of did not occur. Mr. Bradley stated that he agreed with OPS.

Maritza Martinez stated that these are totally different scenarios and she had difficulty with this one because this complaint was so extensive and detailed, making it difficult to believe that something like that could have been made up. Ms. Martinez stated that she had difficulty with this because it becomes an issue with deciding who is telling the truth.

Mickey Bradley stated that he agrees and it is difficult when there are two (2) completely opposing versions of events. Mr. Bradley stated that it is challenging because when he was looking for some of the facts and other evidence in this case there were issues due to this complaint being filed 6 months and 5 days after the alleged incident which is slightly longer than what is typically allowed. Because of that length of time records which may have existed at the time were no longer available, for example there were no remaining records of an EMS call from the home because EMS does not save its records for that length of time, any DVR that might have existed would not have been held for that period of time. Mr. Bradley explained that while some records were unavailable there were records of the incident created closely after the incident that tended to agree with the officers' rather than the complainant's version of events. Mr. Bradley indicated that a particularly frustration portion of this complaint was that some of the evidence which would have been helpful like the names and contact information of the two (2) women he stated were with him were not provided in his original complaint despite the detail of the complaint, and the detective investigation the complaint made at least four (4) attempts to contact the complainant to get that information but was, unfortunately, never able to do that. Mr. Bradley stated that he is not trying to talk Ms. Martinez out of abstaining but simply wanted to explain that while he had similar feelings he wanted to show how he was able to get more comfortable with the decision.

Gene Sarfoh moved to concur with the OPS finding of *unfounded* for the arrest authorities and procedures allegation. Larry Becker seconded the motion. The motion carried with six (6) for and one (1) abstaining - Maritza Martinez.

Mr. Bradley stated that the second allegation is of conduct standards. The complainant alleged that the target officer refused medical attention requested by the complainant. According to the OPS investigation, the target officer stated the complainant never indicated that he was suffering from an asthma attack nor did the complainant request medical attention on the scene. Another officer indicated that, while in booking, the complainant requested medical but that no medical treatment was requested prior to that. An Admissions Screening sheet was filed by Matron Fletcher on the date of the incident at 04:05 hours the document indicated that the complainant seemed to be under the influence of alcohol but was alert and had good contact orientation. The matron did not note any symptoms of injury nor did she diagnose any breathing difficulties the

complainant was having; the complainant's signature is at the bottom of the Report. Mr. Bradley noted that an Incident Report was filled at 06:00 hours in reference to a prisoner's medical treatment; it indicated that at approximately 05:30 hours a detainee complained of difficulty breathing while being lodged in a cell. AFD and EMS were dispatched to central booking where complainant was evaluated and all his vital signs appeared to be within normal standards and the complainant was then transferred to Albany Medical Center for evaluation and or treatment. Mr. Bradley stated that based on this information it is clear that the complainant did require medical attention while in central booking and that attention was provided to him, although it cannot be proved or disproved that he requested medical treatment prior to being in central booking. OPS recommended that this allegation be closed as *not sustained* which is where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint.

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

Mr. Bradley stated that the third allegation was one of conduct standards. The complainant alleged that the officer attempted to coerce him into not accepting medical attention by threatening him with jail time. According to the OPS report, the target officer denies the allegation. In the complaint the complainant stated that the threat was reported to medical staff and the attending physician was made aware. The attending physician was interviewed regarding this alleged incident. The doctor stated that he observed no coercive behavior by the target officer and that he received no notification from any of his staff that they had observed or had been advised of such a threat and that the complainant had made no such claims directly towards him. OPS recommended that this portion be closed as *unfounded* which is where the review shows that the act or acts complained of did not occur or were misconstrued.

David Rozen asked if the Board and Mr. Bradley would feel more comfortable keeping the allegation as unfounded or if he would not sustained where it is more a he said she said scenario.

Mr. Bradley stated that this is one of the few elements of this complaint that is readily available for inspection by independent verification. Mr. Bradley continued, the complaint specifically stated that a doctor involved in this encounter had a certain experience. Mr. Bradley added that the doctor has stated that he did not have that experience and that no one notified him of the coercion, he did not see it, and the complainant never told him about all three (3) of those things the complainant specifically stated occurred. Mr. Bradley stated that based on the doctor's statement, he agrees with the finding of *unfounded*.

Maritza Martinez stated that she believes that it should be not sustained, because it is unclear as to what could have been done or said quickly under the officer's breath and that someone else may not have heard it.

Mr. Bradley replied that here the complainant didn't state this was something said under the officer's breath and that the complainant kept to himself; it was alleged that the officer made a direct threat to him, a nurse came and the complainant told the nurse that the officer had just threatened him. The nurse asked if that actually happened and the complainant said yes. The nurse then ran and retrieved the doctor who asked about the threat and the complainant again said

that it happened. Mr. Bradley stated that the content of that allegation was asked of the doctor who has stated that none of that occurred. Mr. Bradley stated that this complaint is about an overt threat as opposed as something simply between a complainant and an officer.

Mickey Bradley moved to concur with the OPS finding of *unfounded* for the conduct standards allegation. Eugene Sarfoh seconded the motion. The motion carried five (5) to two (2) with David Rozen and Maritza Martinez voting against the motion.

Mr. Bradley stated that the fourth allegation was one of conduct standards. OPS recommended that this portion be closed as *unfounded* which is where the review shows that the act or acts complained of did not occur or were misconstrued. The complainant alleged that the officer lied during a parole hearing resulting in the complainant being violated on parole and sent back to jail. According to the OPS investigation, the officer's interview statements were consistent with the officer's testimony during the parole hearing and constant with all other available data, interviews, and reports. There is no evidence or proof that the officer is lying as both the IDCs sent by officers, Call Tickets, and back up officers corroborate the target officer's version of events. Mr. Bradley stated that based on the available information he would concur with OPS.

Mickey Bradley moved to concur with the OPS finding of *unfounded* for the conduct standards allegation. Eugene Sarfoh seconded the motion. The motion carried unanimously.

CPRB No. 23-13 / OPS No. CC2013-059 (Presented by D. Rozen)

David Rozen summarized complaint. On June 20, 2013, at approximately 1:00 a.m., the complainant was approached by officers at intersection of Oak and Second Streets, and the officers made false accusations about an incident occurring at Clinton Avenue and Lark Street. The complainant alleges that he was illegally searched, threatened with being charged with obstruction of governmental administration and impersonation. The complainant further alleges that he was placed in handcuffs that were too tight which caused his wrist to swell, and alleging that an officer called him a "Dummy." The final allegation is that the officer threatened to bring further charges if the complainant filed a complaint.

Mr. Rozen stated that he reviewed the following materials; APD OPS Confidential Report, CPRB Complaint Form, Citizen Grievance Notification Report, IDC, Crime Analysis Crime Advisory Perp Description, Call Details, Disciplinary Advise of Rights, Order for Officer Interview, Video Surveillance Tape, and a Conversation with Detective.

Mr. Rozen explained that the complainant was walking down the street and he claims that he was walking towards an incident. The officer claims that the complainant was checking car doors and that there was an order out stating that there were a lot of larcenies into vehicles in that area. Based on that information, the officer approached the complainant and questioned him about what he was doing, and what his name was. The individual would not give his first name and would only say he was Mr. [last name]. The officer ran the name given to him into the system and found nothing, and told the individual that he would be charged with false impersonation if he continued to proceed in that manner. Mr. Rozen reported that records indicate the officer used his mobile data terminal to access records in the area for information on the individual named Mr.

[last name]. The officer indicated that then the individual got agitated verbally and assumed a physically aggressive stance.

Mr. Rozen explained that he was able to review the video surveillance, the camera was set to night mode and grey scale making it not the easiest to view but you could see the officer and the complainant. Mr. Rozen stated he could see the officer question the individual and the complainant become agitated and could see the complainant moving his arms around indicating to Mr. Rozen that he was agitated. Mr. Rozen stated that the agitation gave the officer reasonable suspicion that a crime had been committed or was about to be committed, the officer then placed handcuffs on and then began a pat down in compliance with Terry v. Ohio. The officer and back up officers reported that the individual who was placed in handcuffs never stated they were too tight or made any indication that they were too tight. All officers involved do not recall calling the individual a “dummy” or threatening him if he made a complaint.

David Rozen asked if the complainant was present, it was noted that the complainant was not resent.

Mr. Rozen stated that the first allegation is of conduct standards. The complainant alleged that the target officer stated that the complainant could be charged with obstruction of justice and false impersonation. OPS recommended *exonerated* which is where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper. Mr. Rozen explained that here the complainant alleged that an officer threatened to arrest him. Based on the OPS investigation, the officer reported that the complainant provided him with a false name and gave him information consistent with a charge of false personation, and the call ticket indicated that the officer ran the false name given to him.

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

Mr. Rozen stated that the second allegation is of arrest authority and procedures. The complainant alleged that he was unlawfully searched. OPS recommended *exonerated* which is where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper. According to the OPS investigation, there was an increase in reported larcenies from vehicles in the area; the officer’s familiarity with crime trends in his particular zone, and the officer’s observation of the complainant’s suspicious behavior, namely checking car doors and the complainant’s evasive and aggressive demeanor, established a reasonable suspicion that a crime had been or would soon be committed. Based on the totality of these circumstances it is reasonable to suspect that the complainant may be armed with a dangerous instrument or weapon. The complainant was secured with handcuffs and a pat down frisk was done to ensure officer safety.

David Rozen moved to concur with the OPS finding of *exonerated* for the arrest authority and procedures allegation. Eugene Sarfoh seconded the motion. The motion carried unanimously.

Mr. Rozen stated that the third allegation is of use of force. OPS recommended *not sustained* which is where the review fails to disclose sufficient facts to prove or disprove the allegation

made in the complaint. The complainant alleged that the handcuffs were tight and caused swelling to his wrist. According to the OPS investigation, the officer stated that the complainant was handcuffed in compliance with training and the complainant did not indicate that he was in pain or request medical attention.

David Rozen moved to concur with the OPS finding of *not sustained* for the use of force allegation. Larry Becker seconded the motion. The motion carried unanimously.

Mr. Rozen stated that the fourth allegation is of conduct standards. OPS recommended *not sustained* which is where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that the officer called him a dummy. The officer denied making those statements. Mr. Rozen stated that based on that this is a he said she said scenario.

David Rozen moved to concur with the OPS finding of *not sustained* for the conduct standards allegation. Charles Goodbee seconded the motion. The motion carried unanimously.

Mr. Rozen stated that the fifth allegation is of conduct standards. OPS recommended *not sustained* which is where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint. The complainant alleged that the officer threatened to arrest him if he filed a complaint. The officer denied making those statements and another officer further denied that the target officer made such a statement.

David Rozen moved to concur with the OPS finding of *not sustained* for the use of conduct standards. Larry Becker seconded the motion. The motion carried unanimously.

CPRB No. 05-13 / OPS No. CC2013-009 (Presented by M. Martinez)

Maritza Martinez noted that she reviewed the following documents; Citizen Complaint Form, OPS Confidential Report, CAD Call dated 12/10/12, Arrest Report, Subject Resistance Report, Oral Statement Report, NYS Incident Report, APD Supplemental Report, Map of Burglaries in the Area, APD Return to Court, APD Sworn Statement, Forensic Investigation Unit Photograph of Complainant's Injury, Six (6) IDC's, Disciplinary Advise of Rights, and Albany Medical Center Report.

Ms. Martinez noted that a monitor was assigned to this case, and it was noted that monitor Richard Lenihan was present.

Mr. Lenihan stated that the two (2) officers question were in plain clothes and working the Center Square neighborhood in response to several burglaries that had occurred in that area in the past several months. The complainant was known to these particular officer based on a prior incident, and there had been a call about a suspicious person in the area. The officer approached the complainant and asked him to come and talk to them. The complainant alleged that he was afraid he was going to be robbed so he ran. The officers ran after the complainant who then fell down, sustaining injury to his face. While the complainant was running he took six (6) glycine bags of heroin and threw them on the ground and was charged with possession of drugs, resisting arrest and he had a razor blade on him. The supervisor had responded and questioned the complainant

and the complainant made an utterance that he was in the area to trade drugs for sex in a nearby apartment. Mr. Lenihan reported that there were no other witnesses listed.

Maritza Martinez asked if the complainant was present, it was noted that the complainant was not present.

Ms. Martinez stated that there are two (2) allegations, one (1) for use of force, and the other for conduct standards.

Ms. Martinez summarized the complaint. The complainant was walking through Washington Park to Knox Street and took a shortcut through a parking lot to reach Myrtle Avenue. A man in light brown pants and a black shirt approached him and said "come here"; the complainant said "no" because he thought it was somebody that was going to rob him. The complainant alleges that the officers took him down and one (1) of them beat him in the head. When the complainant asked why they were beating him the officer said to ask Obama. Complainant alleges that at no time did the officers identify themselves to him as they were in plain clothes. The officers called EMS to treat the injury to the complainant's head and while in Albany Medical Center the officer stated that he had better not file a complaint because if he did there would be more charges added.

Ms. Martinez stated that the first allegation is of use of force. OPS recommended *exonerated* which is where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper. According to the OPS investigation, the two (2) officers were interviewed and in IDCs from Chief Krokoff to a Lieutenant which requested an immediate investigation of the SOP in this case. The officers stated that the complainant exited an alley, walked out to the curb and looked around; his actions coupled with time of day seemed suspicious, and the officers identified themselves as police officers and commanded the complainant to stop. One of the officers stated he had dealt with the complainant in the past and the complainant indeed knew him to be an officer. The officer asked that if the complainant did not know them to be police officers then why did he try to discard the drugs when running from them. Officers stated that when apprehended the complainant would not take his hands from his pockets after being ordered to do so several times, officers attempted to grab his wrists but the complainant flexed and pulled his arms away. The officers chased the complainant, caught up with him and took him down to the ground where the complainant struck his head on the concrete base of the alley fence. The complainant was repeatedly ordered to stop resisting, yet he rolled onto his back and kicked at both officers' legs, one officer issued two (2) open handed strikes to the complainant's face and then the complainant complied. A subject resistance report detailing two (2) open hand-to-face strikes was filed by the officer as per SOP.

David Rozen asked if there was a video of the incident.

Ms. Martinez stated that there was no video, but there were photos of the injury.

Maritza Martinez moved to concur with the OPS finding of *exonerated* for the use of force allegation. April Bacon seconded the motion. The motion carried unanimously.

Ms. Martinez stated that the second allegation is of conduct standards. OPS recommended *not sustained* which is where the review fails to disclose sufficient facts to prove or disprove the

allegation made in the complaint. The complainant alleged that the officer held him down and beat him in the head; when he asked why he was being hit he was told to ask Obama, and that he was told if he filed a complaint there would be more charges. According to the OPS investigation, the officers deny beating the complainant and stating go ask Obama and threatening the complainant with more charges. Ms. Martinez stated that this is a he said she said scenario and without an independent witness she would concur with OPS.

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

CPRB No. 07-14 / OPS No. CC2014-021 (Presented by E. Sarfoh)

Eugene Sarfoh summarized the allegation which alleges one count of unlawful acts. The complainant alleged that, on March 3, 2013, while exiting a store he was approached by several officers and that one (1) officer removed approximately seven hundred and eighty dollars (\$780) from his pocket, kept the money and refused to return it.

Mr. Sarfoh noted that he reviewed the OPS file which contained the following documents: seven (7) IDCs, including several officers identified as being involved in this event, Grievance Notification Report, Call Ticket, Complainant Form, and OPS Confidential Report.

Mr. Sarfoh explained that this case needed to be reviewed with the information noted on the Call Ticket that was reviewed. He noted that shortly after this alleged incident the complainant arrived at the Police Station to make this complaint the officers were able to reference the location specified and pull up the Call Ticket for that incident. Review of that Call Ticket reveals that earlier that afternoon that there was a 911 call indicating that there were marijuana sales in front of the store. Officers were dispatched to that location and there was some discrepancy on the Call Ticket as to which units arrived to the scene. During the subsequent investigation some officers identified stated that they were not working at that particular time. Mr. Sarfoh explained that the reason for this discrepancy was that there was a shift change that was not reflected in the system. Mr. Sarfoh stated that there were several officers who did confirm that they were there and did respond to that location based on the call about drug activity. The officers indicated that upon their arrival they did not see anyone in front of the store so they went inside and spoke with the clerk who indicated that there had been a group outside of the store who left. The officers stated that they left the store without having any interaction with the complainant.

Mr. Sarfoh stated that there was no in car video recorded, but there was store surveillance video that was reviewed that confirms the arrival of the officers, their departure, and that they had no interaction with anyone during that period, including the complainant. Mr. Sarfoh stated that one officer interviewed was the officer present at the station when the complainant arrived to make his complaint. That officer recalled the complainant rather agitated but had difficulty giving an accurate account of the facts and seemed unsure of the facts that he was trying to provide. The officer recalled the complainant arriving with four (4) or five (5) family members and he seemed to be prodded by family members. OPS recommends *unfounded* which is where the review shows that the act or acts complained of did not occur or were misconstrued. Here the complainant alleges that he was exiting store and was approached by officers where an officer

removed approximately seven hundred and eighty dollars (\$780) and refused to return it to him. Based on the investigation, officers did respond to that location, but the officers stated that upon arrival there was no one outside; the officers deny having contact with the complainant. Neither of the officers who were confirmed as being present at the scene fit the description given by the complainant. Video surveillance confirms the officer's recollection of the events. OPS interviewed the store clerk and did not recall any interaction between complainant and the officers.

It was noted that the complainant was not present.

Mr. Sarfoh noted that no monitor was assigned to this case.

Eugene Sarfoh moved to concur with the OPS finding of *unfounded* for the unlawful acts allegation. Maritza Martinez seconded the motion. The motion carried unanimously.

B. Appointment of New Members to the Committee on Complaint Review for April 2015

David Rozen explained this portion of the Agenda for the benefit of new members. He reported that the next meeting is most likely going to be held on the second Thursday of April; the members present routinely commit now to being assigned a case for review at the next meeting.

The following Board members were appointed to the Committee on Complaint Review for April, 2014: David Rozen, Maritza Martinez, Eugene Sarfoh, Larry Becker, and April Bacon.

C. Committee Task Force Reports

By-Laws and Rules

Committee Chair David Rozen stated that he had no report at this time.

Community Outreach

David Rozen explained that this committee had been chaired by Akosua Yeboah who wanted him to inform the Board that it had recently agreed to be on SUNY Albany's radio station. Mr. Rozen noted that Maritza Martinez participated in that broadcast. Maritza Martinez reported that it was a great experience which introduced the CPRB to the UAlbany community as well as others who listen to it. Mr. Rozen noted that the interview is archived on the UAlbany Radio website.

Mr. Rozen mentioned that he, Mickey Bradley, Chief Krokoff, Deputy Chief Brandon Cox, Beverly Padgett from ACPAC, and Leah Golby Chair of Common Council's Public Safety Committee were all present at the New Leader's Council of the Capital Region. There was a two (2) hour discussion about community policing in Albany.

Mediation

Committee Chair Maritza Martinez stated that the Board is moving forward with planning a mediation training, and they have met with Peter Glassman who will facilitate that training. Committee Chair Martinez stated that during a recent meeting Commander Hicks, Detective Hendrick, APD Union's Council Christine Caputo Granich, Mickey Bradley and GLC staff members were present. All participants worked together to draft a training agenda and training materials and invite all CPRB members to attend when the training occurs.

Mickey Bradley added that it was a good meeting, and two additional meetings will be held before the actual training.

Police Department Liaison Policy Review/Recommendations

Committee Chair Mickey Bradley reported that there is no report except that the Committee looks forward to working with the new Police Chief following pending staff transitions.

Public Official Liaison

Committee Chair Edward Smart was not present.

David Rozen reported that in January the Board testified in front of the Public Safety Committee. Former member Yeboah, Chairman Smart, Ms. Martinez and Mr. Rozen were present and there was good dialogue about the Public Safety Committee. Mr. Rozen stated that the APD was represented along with the ACLU and others. Many recommendations were discussed during the meeting.

David Rozen stated that a farewell party was held at Albany Law School for Sharmaine Mosley.

Task Force on Monitors

Monitor Task Force Chair Eugene Sarfoh stated no report at this time.

D. Nominations/Elections for Elected Board Officer Positions

David Rozen explained that there is an open vacancy for the Secretary position due to former member Yeboah stepping down. Additionally, the new members will need to decide on which committees they would like to be a part of and possibly Chair of. Mr. Rozen explained that they are to let the GLC know of their intentions so that a slate can be drafted, and will be voted on at the next meeting.

E. Approval of November 20, 2014 Meeting Minutes

Mickey Bradley moved to approve the November 20, 2014 meeting minutes. Eugene Sarfoh seconded the motion. The motion carried unanimously.

F. Approval of 2014 Third Quarterly Report

Mickey Bradley moved to approve the 2014 Third Quarterly Report. Maritza Martinez seconded the motion. The motion carried unanimously.

G. Report from the Government Law Center

Government Law Center (GLC) Coordinator for the CPRB Maureen Obie delivered her report.

Complaint Inventory as of Date of Meeting

Ms. Obie reported that included in tonight's meeting materials is the Complaint Database Scorecard. To date, there are currently forty one (41) active complaints before the Board for review. Of those forty one (41) active complaints, four (4) were reviewed and closed by the Board at tonight's meeting. There are thirty seven (37) active complaints pending review by the

Board. There are at least seven (7) cases that are ready to be reviewed at the next meeting on April 9.

Six hundred twenty seven (627) 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 seventy seven (677).

Since the Board's last meeting on January 8, the GLC received six (6) Grievance Forms, bringing the total number of Grievance Forms received to five hundred sixty two (562). In response to our outreach to all individuals, we have received one hundred fifty three (153) CPRB Complaint Forms, which is twenty seven percent (27%).

Board Vacancies and Reappointments

Mickey Bradley was reappointed on to the Board, on February 16, 2015, by the Common Council for a second term.

There is still one vacancy on the Board - a Common Council vacancy from which Akosua Yeboah resigned.

Three (3) members have been appointed to the Board: they are Charles Goodbee, April Bacon, and Larry Becker.

Benchmarking Study Update

The Center for Human Services Research at the University at Albany has been contracted to conduct a formative evaluation study and to identify benchmark indicators for the Albany Citizens' Police Review Board (CPRB).

There are three main components to the study: a literature review and comparison of the model used in Albany relative to other approaches throughout the country; a formative evaluation looking at past outputs, such as cases handled; and the identification of benchmark indicators for tracking future performance. The purpose of the study is to provide an independent assessment of the CPRB that is useful to the Board and the community

As part of the process, University researchers will be contacting Board members and other stakeholders involved with the Board to give them an opportunity to participate in interviews about the CPRB. It is likely that contacts for interviews will be occurring over the next month. The final research report, with findings on all three major aspects of the study, is tentatively scheduled for delivery in August.

The study researchers are Dr. Brad Watts and Dr. Camille Barnes who joined us this evening.

I. Report from the Office of Professional Standards

OPS Detective Kathy Hendrick was present and had nothing to report.

J. Report from the Chair

David Rozen stated that Chairman Smart wanted to thank Maureen Obie for doing a phenomenal job stepping in to the Coordinator role, and really stepping into the deep end when new Board members needed to receive Orientation. David Rozen noted that Chairman Smart wanted to welcome the new members and hopes to see them soon.

V. Public Comment

Melanie Trimble, Chapter Director from the NYCLU, thanked and welcomed the new members and stated that each year she recommends that the Board have independent Counsel because it is a conflict of interest in having city provided Counsel. Ms. Trimble stated that it is the NYCLU's position that the CPRB should have subpoena power whether or not it will be used. She explained that it is currently a very friendly environment in the Common Council and Police Department although that might not always be the case. Ms. Trimble requested that the Board do what is necessary to utilize the power needed for the future. She noted that she is happy to hear about the benchmarking study, and that researchers will be hearing from her office as they start working with the Police Department. She hopes that we are setting a good example for the state.

Leah Golby, Chair of the Common Council Public Safety Committee, welcomed the new members and Maureen Obie. Councilperson Golby stated that with the one (1) remaining Common Council vacancy the Council needs the Board's help. It has been noted that it would be helpful to have more women members on the Board. There were four (4) interviews for the previous vacancy all of whom were male; two (2) of those individuals were appointed. With respect to the one (1) remaining vacancy, the Common Council would prefer that it be filled by a woman. There was a previous call for Board applications that has since expired.

David Rozen stated that Councilperson Golby has invited the Board to participate in the interviews for new Board members. He noted that both Akosua Yeboah and he attended previously. While they did not ask questions directly they shared feedback with the Council and were available to answer any questions.

Mickey Bradley welcomed the new members and extended well wishes to Chairman Smart. Mr. Bradley acknowledged Akosua Yeboah's service to the Board and noted that she had to resign because she took a position with the City. He highlighted Ms. Yeboah's great service and contributions to the City.

David Rozen stated that Akosua Yeboah was the Chairwoman of the Community Outreach Committee and made it a point to attend most neighborhood association meetings in addition to numerous community gatherings.

VI. Adjournment

Mickey Bradley moved to adjourn. Maritza Martinez seconded the motion. The motion carried unanimously.

Respectfully Submitted,


Secretary

