

**City of Albany
Citizens' Police Review Board**

Thursday, April 23, 2015, 6:00 p.m.

GWU the Center, 274 Washington Avenue, Teen Center Community Room

MEETING MINUTES

Present: Larry Becker, Mickey Bradley, Charles Goodbee, Sr., Maritza Martinez, Ivy Morris, Eugene Sarfoh, Rev. Edward B. Smart

Excused Absence: David Rozen

I. Call to Order and Roll Call

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

II. Approval of the Agenda

Board member Mickey Bradley motioned to accept the Agenda, and the motion was seconded by Maritza Martinez. The motion carried unanimously.

III. Old Business

Chairman Rev. Smart explained that a revision was made to the 2014 Third Quarter Report. He thanked Maureen Obie and the GLC for implementing the changes. Gene Sarfoh moved to accept the report, and Maritza Martinez seconded the motion. The motion carried unanimously.

IV. New Business

A. New Complaints

1. New Complaints Received since the March 13, 2015 Meeting

Mickey Bradley summarized the new complaint.

CPRB No. 7-15 / OPS No. CC2015-18

According to the Complainant, the police have been physically, sexually, emotionally, and mentally abusing her since 2014 through the "tele-offensive program," a cyber-Internet program established to punish and discipline sex offenders. Complainant contends she is not an offender and that the police put materials into her body, and harassed and embarrassed her in public by threatening her life and making derogatory comments. She states that APD force-feed her aspirin in her foods creating ulcers, that they took pictures of her for pornography purposes in her house, and that they hired individuals to plant drugs on her property.

A monitor **was** assigned.

2. Complaint(s) for Board Review

Mickey Bradley read the complaint. The Complainant alleges that on June 24, 2014, Complainant was double parked on State Street, when a man in a white car honked his horn at him to get around. The man went to the side of Complainant's car, and said "what the hell are you doing?" Complainant yelled back. The man in the white car then passed Complainant, did a U-turn, and came back as if he intended to attack Complainant. Complainant exited his car, and the man pulled out his police badge. Complainant alleges the police officer then told Complainant that he had Complainant's license number and that Complainant would be hearing from him. Complainant alleges that the officer used a racial epithet against him. The next evening, Complainant found a parking ticket on the windshield of his car at the place of his residence. Complainant contends that the officer should not be able to ticket him at his home for an incident that happened elsewhere a day earlier. Complainant also does not feel safe knowing that the officer has a personal problem with him.

Mr. Bradley asked if Complainant was at the meeting. It was noted that the Complainant was not present. Mr. Bradley invited the assigned monitor to provide additional information.

The monitor advised that she did not agree with the detective's initial report and offered suggestions; the report was returned without revision. The monitor did not agree with the second segment of the complaint dealing with call handling; specifically, why the ticket was issued the next day. The officer admitted that he did not know if the Complainant had committed a violation; OPS found that no Standard Operating Procedures (SOP) violation occurred. Monitor felt that, in her opinion, an officer should first confirm whether an action is allowable before taking such extreme action. The monitor held that a simple warning to the Officer would suffice, but the report was returned without revision nevertheless.

Mr. Bradley was disturbed because no one he spoke with during his review of the investigation knows of any other case where an off-duty officer issued a parking ticket in this manner. The officer did not check to see if it was permissible to ticket in this way, nor did he call for an active patrol. It has been confirmed that there is no policy or law identified that would be violated by issuing a ticket in this manner, although it is unusual. The officer did identify himself as off-duty during the incident, and the officer was on-duty when he issued a ticket the next day. There is reason to believe that this officer has been advised that while what occurred was not illegal, it is not the way that Albany Police Department chooses to conduct its business. The monitor specified that the OPS detective did a thorough search regarding the legality of issuing the ticket, the monitor did not see any indication in the report regarding the officer receiving a warning. Mickey Bradley further explained that although the charges were exonerated, it does not mean that the complaint was useless. In fact, this complaint will help to ensure that such an occurrence does not happen again.

1: Conduct Standards - In reference to the officer's use of profanity and a racial slur, the OPS issued a finding of *Not Sustained* (where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint). Complainant asserts that the officer used profanity toward him, but the officer denied this. The officer says that he did not call Complainant a racial slur.

Mickey Bradley motioned to accept OPS' finding of *Not Sustained* and the motion was seconded.

Mr. Goodbee asked how the finding could be not sustained when the Complainant had his wife as a witness. Mr. Bradley responded that the Complainant's wife was in the bank at the time, and there were no other witnesses. Mr. Becker inquired whether or not an off-duty police officer has to identify himself as a police officer before talking to an individual about a traffic infraction. Is there an SOP on the issue?

Commander Hicks explained that an officer would not have to identify him/herself, although OPS would like them to. If an off-duty officer approaches a person and asks them to move their car, they do not have to identify him/herself as an officer. If the conversation then turns into a heated conversation, at that point one may have to identify oneself.

Rev. Smart agreed with Mr. Becker. The officer was not operating as an officer at the time this discussion ensued. Rev. Smart stated concern regarding where the officer lived. With information from the monitor it seems that the officer went out of the way, while on duty, to personally issue the ticket the following day. Rev. Smart asked Commander Hicks if a revised policy in regards to off-duty officers had been considered. Rev. Smart pointed out that was not the first time this issue has occurred. An African American woman was driving on a dark road previously when an off-duty officer in a truck with tinted windows pulled her to the side of the road by honking his horn, and "scared the lady half to death." According to Rev. Smart, it was clear that the officer did not issue the ticket for blocking traffic; the officer issued the ticket for blocking him; it was clearly personal.

Monitor explained that, according to Mr. Bradley, this officer was spoken to by OPS. Similar incidents do not happen often; this officer was new to the force, and she just wanted to ensure that he was sent a clear message. Monitor asserted that the entire street was blocked, and that the officer was trying to solve the traffic problem. Rev. Smart asked if there was video footage showing that the street was blocked; monitor answered in the negative. Rev. Smart then asked her how she could assert that the street was blocked, given that the only source of that information was the officer's report. Also, Rev. Smart asserted that that street normally had horrible traffic congestion.

Mr. Goodbee asked if the police officer was advised that he should be more reserved, and if similar incidents are recorded in a file. Rev. Smart responded that one of the CPRB's great accomplishments was APD's Early Warning System. The Early Warning System was put into effect through cooperation with the CPRB and APD. When a police officer works on Pearl Street and gets complaints, the commanders and officers know to review the officer's history, and then send the officer to the Pine Hills neighborhood, where he does not receive complaints. Having three complaints in one year triggers this system, and it helps neutralize problems without harming the officer.

1: Conduct Standards - Complainant alleges the officer used profanity and a racial term. Mr. Bradley motioned to accept the OPS finding of *Not Sustained*, and the motion was seconded by Larry Becker. The motion failed in a 4-2 split.

2: Call Handling - Complainant alleges that the officer failed to ticket Complainant until the day following the violation. The officer was off-duty at the time of the infraction, and off-duty officers do not carry parking tickets on their person. As such, the officer had to wait until he was back on-duty.

Mr. Bradley pointed out that although the letter of the law was not violated, the spirit of the law was, and in those cases, we suggest that training occur. Mr. Bradley also gave credit to OPS leadership for addressing these issues. Mr. Bradley was satisfied with the *Exonerated* finding, knowing that such a conversation had already taken place.

Mr. Becker noted that according to SOP, the officer claims he was interested in clearing up the double parking situation. He noted that things would have gone better if the off-duty officer had initially identified himself as an officer. If he had simply identified himself, Complainant would have moved the car. The officer, therefore, should take some credit for what transpired. Mr. Becker indicated that the police should have a discussion amongst themselves about what the proper way to deal with this would be. Rev. Smart agreed, and advised that the CPRB would be sending recommendations to APD.

Mr. Sarfoh inquired regarding the reason why the CPRB is devoting so much time on an issue that closely resembles situations historically presented to the Board. He indicated that the Board has a sense of the incident that cannot be derived from the investigation. At some level there the officer abused his discretion. While the Board was not present to see what the interaction was, it is very unusual for a citizen to be ticketed the next day at his or her house. Mr. Sarfoh indicated that it is unusual, but not unprecedented, to serve someone a ticket after the fact; however, not in circumstances similar to this. For example, someone is sent to the hospital and it is determined that they did something wrong and they are served a ticket. What is particularly disturbing about this case is that if the officer had simply identified himself before telling the Complainant to move, then this all would have been avoided. Mr. Sarfoh agreed that the remedy to this issue would be a talking-to or an SOP adjustment, although he was unsure what an adjustment would entail considering that tickets can be issued after the fact. This issue deals more with an officer's lack of common sense and might be best addressed by sitting that officer down.

Ms. Martinez noted having an issue with the exonerated finding given that in order to issue a finding of exonerated the acts must be proper. The CPRB, however, has indicated that the officer's acts were not proper, therefore she will not vote for exonerated. Mr. Sarfoh responded that this is a case where the officer should be advised that they created an issue that was unnecessary. Tickets may be issued after the fact, so that the officer did not do anything he was not allowed to do. The officer exercised poor judgment; if OPS already talked to him then that is all that needs to be done. Mr. Goodbee indicated that he understood Mr. Sarfoh's position, but that the issuance of the ticket would not have been necessary had the police officer identified himself in the beginning.

Mickey Bradley motioned to agree with the OPS finding of *Exonerated* (where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper), and Gene Sarfoh seconded the motion. The motion was defeated 4-2.

Mr. Bradley made a second motion that **the Board recommended additional conversation or training for all officers in regards to his actions**, and Gene Sarfoh seconded the motion. The motion carried unanimously.

Detective Hendrick asked what the finding on the first charge was. Rev. Smart explained they would have to vote again, because there are new members on the Board.

Rev. Smart then welcomed the following new members: Mr. Larry Becker, a mayoral appointee, and Ms. Ivy Morris, a more recent mayoral appointee. Ms. Morris is still in training and will not vote during this meeting. Mr. Charles Goodbee is a Common Council appointee.

1: Conduct Standards - Mr. Bradley motioned to agree with the OPS finding of *Not Sustained*, and it was seconded by Larry Becker. The motion carried unanimously.

CPRB No. 8-13 / OPS No. CC2013-022

(Presented by Gene Sarfoh)

The complaint arises from an event that occurred on March 10, 2013. Gene Sarfoh had reviewed an OPS file that included the field interview, a work order for the camera, and IDC report, a 12-page investigation report, the 5-page handwritten Citizen Complaint Form, the initial monitor's report, dated October 22, 2013, as well as an addendum monitor's report, dated April 1, 2014. The issue was initially brought to the CPRB's attention, and was turned over to OPS for further handling.

Complainant alleges that police stopped his vehicle, handcuffed him, and searched his vehicle. He alleges that the officers placed marijuana and crack cocaine inside the vehicle, and that as a consequence of this stop he was publicly humiliated. He alleges that the officers were loudly stating that he uses crack, and that they found crack cocaine in the vehicle. Complainant also alleges that he was discriminated against because he is white; the incident occurred in a predominantly African American neighborhood.

According to Complainant, he was on his way home, and was looking for parking. At the time of the incident he was on his phone with his partner, communicating with him about where to park. Three officers, who were part of a three-man unit, confronted him. A State Trooper was one of the people in the vehicle (this is due to "Operation Impact"). Complainant was pulled over for failure to use a turn signal, but he was not arrested or charged, because this was a traffic stop. According to Complainant, he was pulled over and interrogated as to why he was in the neighborhood. He said that he lived there, but the officers said that that did not make sense. He explained he was on his way home. Complainant believes that he was under suspicion because he was White in a predominantly Black neighborhood. Complainant also believes there were suspicions that he was engaged in drug activity; he was confronted with the allegation that they found crack cocaine in the vehicle, and a small amount of marijuana. He denied that this could be possible. Once the contraband was noticed, he was handcuffed. The unit the three officers were in did have a PBR system, however, no footage was available, and it was confirmed that the system was inoperable. There was a work order for that piece of equipment since February 26, 2013 and the incident occurred on March 10, 2013, therefore there was no surveillance footage to aid the investigation.

Mr. Bradley was originally assigned to this case, and he identified an issue where the partner on the phone was not brought in as a witness, and that person has now been brought in. Mr. Bradley also noted a discrepancy in the officers' interviews; one of the APD and the State Trooper both recollect that the vehicle was pulled over for a traffic violation. Both indicate they had no reason to believe that the Complainant was involved in any drug activity before he was pulled over.

The third APD officer indicated that Complainant was observed stopping at a known drug location, getting out of the vehicle, going into the location and then getting back into the vehicle and driving away. Based on this and the subsequent vehicle and traffic violation, the Complainant was pulled over. Surveillance footage confirms a vehicle and traffic violation was committed;

there is discussion over whether there was a reason to believe he was involved in drug activity. APD canvased the area later and spoke to a few people; no one offered any substantive recollection of this incident.

Complainant was not in attendance during the meeting. Two monitors were assigned, and the monitor who gave the most recent report was in attendance. Monitor did not research the incident as thoroughly as the first monitor because they were asked to address the issues raised by a Board member.

The monitor reported investigating whether it was a drug stop or a traffic stop. The partner on the phone did not know anything except the fact that he was on the phone. There was a discrepancy between the officers in the cars that still existed when they were interviewed a second time; they provided the same conflicting testimony as before. The officer driving the car indicated that Complainant stopped at a location know to the driver as a drug location, got out of the car, went into the location, left, got back into the car, and continued driving. The APD officer riding as a front passenger and the Trooper in the back do not recollect any of this. Monitor's major question is whether or not the person that was driving indicated that he saw him park at a known drug location, and then saw him go in and come out. Would that not mean that the officers must have stopped, or would have had to drive very slowly, in order to see this sequence of events?

Mr. Goodbee inquired if when the officers stopped the Complainant they asked for ID, or proof of residence. Mr. Sarfoh indicated that there does not seem to be any issue with his contention that he lived in the area. They spoke to the person he was on the phone with, and there is no dispute that the Complainant lived nearby.

The monitor reported that two of the officers believed it was a traffic stop for failure to signal at two consecutive turns. Outside evidence indicates that the driver failed to signal; however, this discrepancy with recollection is still disturbing and calls into some question the information being presented. The driver also does not recall a state trooper being in the back of the car. Rev. Smart noted that this appears to have been a traffic stop because a field interview card was filed out; SOP only has this done at traffic stops so it could not have been a drug stop. Mr. Sarfoh replied that the field interview card does not mention drugs at all, it only mentions a traffic stop. The monitor noted that the drug issue only occurred when the officers saw drug paraphernalia and white powder on the floor of the car which turned out to be sugar. The crack cocaine was field-tested and came back negative. The marijuana found in the passenger area was a small amount, not significant enough to make an issue of it. APD was not going to do anything to Complainant based on the amount of marijuana found and once the sugar came back negative the handcuffs were removed.

Rev. Smart was further distressed due to issues with the cameras and radios. Although this particular camera had been out of service, substitute cars are available when an officer is expected to make traffic stops and SOP requires a camera. The Board has indicated this numerous times. A problem also exists when there are three officers, one of whom does not remember the Trooper being in the car, and two officers agree that it is a traffic stop, while one believes it was a drug stop.

Mr. Sarfoh noted that the driver did observe the traffic violation. When Complainant was confronted with the contraband he first said that it was not his; then he said he gave a ride to someone earlier that day, and that might be the reason it was there.

1: Arrest Authority and Procedures - OPS issued a finding of ***Exonerated***. Complainant alleges that he was stopped, ordered out of his vehicle, and searched. Police claim that his failure to signal was the reason for pulling him over, and a street camera showed that Complainant's vehicle failed to signal twice. Police also claim that what looked like crack cocaine, as well as a device used to smoke crack cocaine, were in plain view. Marijuana was also in plain view. As such, Complainant was taken outside of his vehicle, handcuffed, and searched. Police report that Complainant consented to the search, although consent was not required based on the observations that they made. The field test produced a negative result; Complainant states that the crack cocaine was actually sugar, and that he had given a ride home to a friend before the officers had searched his car. The officers had probable cause for stopping the vehicle and searching it.

Gene Sarfoh noted struggling with this finding because at face value, he motioned to agree with OPS finding of ***Exonerated***, or that there appeared to be something in Complainant's car that gave them reason to suspect it was crack cocaine, and that the remnants in the vehicle are enough to raise suspicion of drug activity. Having said that, there is some credence to the claim that he was pulled over because he did not fit in in the neighborhood. The motion was seconded by Mickey Bradley.

Mr. Bradley wanted to know if the witness (the partner on the phone) was not useful because the witness did not have helpful information, or if the witness was not useful because in order to be a witness one must have an eyewitness account. Mr. Sarfoh explained that the witness was interviewed after Complainant mentioned the witness, but that witness said that he did not observe what happened, and that he was not at the scene and never came to the scene. Commander Hicks added that a witness is anyone who has information. The motion carried unanimously.

2: Conduct Standards - OPS issued a finding of ***Unfounded***. Complainant alleges that the officers planted marijuana in his vehicle, but does not allege that he witnessed the officers doing this. He alleges that he told the officers that he gave someone a ride home, because he was too afraid to tell the police that he knew they planted stuff in his car. He also alleges that the marijuana appeared right when the officers pulled him over. The officers stated that they did not plant crack cocaine or marijuana remnants in the car.

Mr. Sarfoh contended that if you take the complaint at face value, it does not make sense to plant drugs on someone just to let them go, and to have the tests come back as negative. Mr. Sarfoh motioned to accept the OPS finding of ***Unfounded***, and Mickey Bradley seconded the motion. The motion carried unanimously.

3: Conduct Standards - OPS issued a finding of ***Not Sustained***. Complainant alleges that the officers embarrassed him in public, and they loudly accused him of using crack cocaine. The officers claim that they were discreet in their search, and did not yell. Because there was no camera or video taken, Mr. Sarfoh motioned to agree with the OPS finding of ***Not Sustained***, and the motion was seconded by Gene Sarfoh. The motion carried unanimously.

4: Conduct Standards - OPS issued a finding of ***Not Sustained***. Complainant alleges that he was discriminated against because he was White. He conceded that the officers did not openly talk about his race, and based his allegation solely on the feeling he had when he was asked why he was in the neighborhood. He alleges that the officer asked him why he lived there, to which

Complainant responded that it seemed prudent at the time. The officer then allegedly asked why he chose this neighborhood. Complainant felt like he was targeted because he was a Caucasian in a predominantly black neighborhood. The officers deny having any racial bias and noted that what did not make sense was why Complainant was driving round, not the fact that Complainant lived there. A camera indicates that the Complainant committed a traffic violation while there is no way to prove or disprove that the officers had a racial bias. The OPS finding was *Not Sustained*. Mr. Sarfoh motioned to agree with the OPS finding of *Not Sustained*, and it was seconded by Charles Goodbee. The motion carried unanimously.

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

(Presented by Larry Becker)

Larry Becker noted that the Complainants were in attendance. Mr. Becker thanked the Complainants for attending, and for filing a complaint.

1: Call Handling - Officers filed a false accident report and tow report, blaming the Complainant who was not questioned or at fault.

2: Conduct Standards - Officers allegedly threw Complainant's license on the ground and refused to retrieve it; officer used obscenities.

Allegedly, Complainant 2 (hereinafter Son) was blamed for an accident that was not his fault. The complaint also alleges that Son's car was unnecessarily towed, and that Son was issued tickets that Son did not deserve. Son's father, Complainant 1 (hereinafter Father) feels that Son was discriminated against because of his youth, and that the officer wanted to "stick it" to Son. Allegedly, the officer asked Son if Son had a criminal record, and then unnecessarily towed the vehicle. When Father tried to speak to the officer, the officer responded, "who the f-k do you think you are talking to?" Father says that there were two witnesses, but these witnesses are afraid of APD and would rather not get involved.

1: Call Handling - OPS issued a finding of *Unfounded*. Father and Son allege that APD filed a false accident report and tow report blaming Son for an accident where Son was never questioned and where it was not Son's fault, and that Son should not have been issued tickets. Son feels discriminated against due to age, and that the vehicle was towed unnecessarily. OPS found that neither Officer filed a false report. An accident report, tow report, and two uniform traffic tickets were completed, as per SOP. One officer was a traffic safety officer and accident investigator (hereinafter Officer 2); the other was a regular police officer (hereinafter Officer 1). Officer 2 felt that vehicle needed to be towed, as it was not drivable in his opinion, and the location of the vehicle was causing traffic to back up on Central Avenue during rush hour. This occurred on May 14, 2014, at approximately 5:50 p.m. Because towing takes time, Officer 2 called towing through Albany dispatch for a faster result. The tow slip stated there was front end damage to Son's vehicle; the front left side was bent. Officer 2 alleges that Son admitted to causing the accident, saying "I did not see them stop in front of me at the light." One of the victims said that they heard Son say, "I thought she was moving." Officer 2 issued two uniform traffic tickets based on the evidence provided. Son decided to plead guilty in Traffic Court, and admitted fault. Allegedly, Son admitted fault in a phone conversation with OPS. Father was not at the scene at the time of the accident or during the initial interaction with Son and Officer 2, and therefore has no standing.

Rev. Smart explained to Father that Father couldn't bring a complaint due to his not having standing. Son was 22 when the accident occurred, meaning Son is legally an adult; therefore his

parents cannot act on his behalf. Father stated to Rev. Smart that he was there at the time of the accident; therefore Father had his own complaint. Father said also that the phone conversation in which Son admitted fault to OPS never occurred.

Father alleges that the police were not there at the time of the accident. Allegedly, a woman's van collided into the back of a truck. Rev. Smart wanted to know where Father was getting this information from, and Father could not produce witnesses. Father asserted that he observed Officer 2, up the road, away from the accident. Father asserts that the accident did not hold up traffic. Father alleged that the damage to the front of the car was there prior to the accident, and that Son did not hit another car with his front. When Officer 2 arrived, the officer took command. Father asserts that Officer 2 is the one that started all the problems, and Father alleges that Officer 2 did not like that Father was taking pictures. Father asked Officer 2 if Father and Son could leave. Officer 2 responded, "who the f--k do you think you are talking to? I am having it towed." Father asked why the car needed to be towed, and stated that he had insurance that would cover the cost for towing. The next day Father had the vehicle inspected, and no damage was found. Father also contends that Officer 2 also gave Son a ticket for going through a red light, but Son never went through a red light. Son wanted to go into police training, and allegedly Officer 2 took advantage of this, and told Son that Son had to "clean this mess up" or Son would not be going to the academy. Father further asserted that Officer 2 asked Son if Son had a record of using drugs.

Mr. Becker noted that all parties agree that there were three cars, including the Son's car, a truck, and a van. According to OPS, there is a dispute between Son and the other drivers. Son contends that the accident was caused by one of the vehicles in front of him hitting another vehicle. The drivers of the other two vehicles say that the Son's car struck them, driving the other cars toward the light. Son admits that his vehicle struck the vehicle in front of him, although Father says it was just a tap. The tow slip showed front-end damage on the vehicle. According to Officer 2, when Father asked to call in a tow, Officer 2 had already called for a tow. Officer 2 said that the accident occurred during rush hour, and that it was blocking up traffic, and that public safety concerns motivated towing the vehicle. OPS did find that one of the drivers from the other cars agreed that the vehicle did not need to be towed, but the other two drivers of the other two vehicles both said they did not hear any foul language from the officers. As for the ticket, according to Officer 2, Son admitted to causing the accident by stating, "I did not see them stopped in front of me at the light." One of the victims of the accident, who maintains she suffered whiplash, could not see who made the statement, but she believed it to be Son, because she heard, "I thought she was moving." Officer 2 issued 2 uniform traffic tickets based on the evidence he was provided with. OPS found that Son was within his legal rights to argue the ticket but chose not to. The first ticket was for driving too closely. According to OPS, two people who were in front of Son said that Son caused the accident. Father alleges that one of those people said that the police "are going to screw your son."

The towing was within the discretion of Officer 2 who was faced with cars and traffic. Father said that the truck got its end badly hit; and that the other car's front was hit badly, because the van hit the truck. Allegedly, the truck driver said that the driver of the van "nailed him." Father asserted that in the record there is certification that the car passed inspection, and Mr. Becker agreed that he had seen something in the record that said that the car had passed inspection. Father argued

that Son's little car would not have been able to push both the van and the truck through a light. Father said that Son stayed because Son is a good kid, and did not want to take off.

Mr. Becker explained that the OPS finding of unfounded occurred because of the two drivers' alleged statements against Son, and the fact that Father was not able to have the two drivers speak on his behalf and say the things that Father asserts they said. The two people who were in the accident beside the son did not hear any profanity spoken by any of the officers. Father explained that he believes in professionalism, and that the obscenities are not important, the car was important. According to Father, to write up that a small car was able to push a larger van and a truck through traffic is absurd. Father also said that having a car towed for being unusable makes no sense when the car passed an inspection the next day. Father also said that if Son caused the accident, then Son would have hit the tow hitch of one of the other vehicles, which would have caused a lot more damage than that which occurred. For these reason, Father believes Officer 2 made a false report. Father also stated that Son took a drug test that came back negative, and that Son is a model youth with a 4.0 GPA.

Mickey Bradley commented that Father and Son do each other great credit, and that Son could not have a more passionate advocate in his corner. Mr. Bradley also thanked Father for his kind words about the CPRB, and thanked Son for filing a complaint. Mr. Bradley explained the CPRB is not looking to see if Officer 2 made the right decision, but instead if Officer 2 violated procedure or overstepped his authority. The issue before the CPRB is, taking into account the evidence available at the time, did Officer 2 abuse his power of discretion.

In regards to (1), Mr. Becker moved to agree with the OPS finding of *Unfounded*, and it was seconded by Gene Sarfoh. The motion carried unanimously.

With regard to (2) Father states that when he went to talk to the officer, seeking permission to tow his car himself, Officer 2 said "who the fuck do you think you are talking to." Officer 2 denied that he said this, and Officer 1 said that Officer 2 acted in a professional manner. The other parties also said that they did not hear rude language from the officers; there is no contrary evidence by the two witnesses. Mr. Becker motioned to agree with the OPS finding of *Unfounded*, and it was seconded by Gene Sarfoh

Mr. Bradley commented that when he first read this a *Not Sustained* seemed more appropriate. Mr. Becker then motioned that the finding should be changed to *Not Sustained*, and it was seconded by Mickey Bradley. The motion carried unanimously.

Rev. Smart conveyed his best wishes to Father and, and invited them to submit to Internal Affairs any evidence that might change something in the future.

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

(Presented by Maritza Martinez)

Maritza Martinez reported that Complainant alleges that on April 15, 2014, he was stopped and questioned by an officer on bicycle duty about selling pictures of The Grateful Dead near Ben and Jerry's on Lark Street. Complainant states that the officer asked him for ID, and that he gave the officer his drivers license. After questioning, Complainant alleges that the officer threw his ID to the floor. Complainant repeatedly asked the officer to pick his ID up, but the officer stated that if Complainant did not leave the area, than he would be "f-- arrested." The officer then entered the Ben and Jerry's store, and Complainant followed the officer into the store, once again asking the officer to pick up his ID. He was again told to "get the f-- out before I arrest you." Complainant

alleges that the officer put his gloves on in an intimidating manner as he was getting on his bike. Complainant alleges that he went to the South Station to speak to a supervisor about filing harassment charges.

Ms. Martinez reported that no monitor was assigned to this case. The Complainant was not present.

Ms. Martinez reported that according to the officer, Complainant was stopped and questioned by an officer on bicycle duty about selling pictures of The Grateful Dead near Ben and Jerry's on Lark Street. The officer alleges that Complainant was blocking the entrance to the store. The officer asked Complainant if he was selling the pictures and Complainant answered no. The officer stated that it looked like Complainant was selling the pictures and a vendors permit is required to do so. The officer reports asking the Complainant for ID and the Complainant produced his drivers license. The officer asked Complainant to move from the step because he was blocking a potential fire exit. The officer alleges that Complainant refused to move, so the officer put Complainant's ID on the floor 10 feet from where plaintiff was sitting as a way to get him to move. Officer states that he put on his bike gloves, got on his bike, and left.

Ms. Martinez reported that the OPS report indicates that a thorough investigation was conducted.

1: Call Handling - Complainant alleges that the officer unlawfully questioned Complainant in regards to him selling pictures. Complainant claims that he only had the pictures on display. The officer claims that Complainant was uncooperative, and that Complainant asserted he was not selling anything. The officer advised the Complainant that if he was selling or if he intended to sell that he would need a vendors permit; the officer also stated that others in the store said Complainant had been known to sell pictures outside of the Ben and Jerry's before. According to OPS, the officer had probable cause to stop and question Complainant as it did appear that Complainant was selling pictures, and that the officer could not know if Complainant had a permit unless he asked. The officer also claimed that Complainant was blocking the entrance, which was a fire hazard.

OPS issued a finding of *Exonerated*. Ms. Martinez motioned to agree with the OPS finding of *Exonerated*, and it was seconded by Charles Goodbee. The motion carried unanimously.

2: Conduct Standards - Complainant alleges that the officer threw Complainant's drivers license on the ground and refused to retrieve it. Complainant further asserts that the officer used obscenities, and put his gloves on in an intimidating manner. The officer stated he did not throw Complainant's license, but instead placed it on the ground 10 feet away from the steps in order to get Complainant to move because Complainant was blocking the exit, which is not only a safety hazard, but is also bad for the business. The City of Albany Common Council Policy #363.6 prohibits all vendors from vending in a manner that interferes with pedestrian or vehicular traffic or other legitimate business in the City of Albany. With regard to the officer's use of obscenities, the officer did not recall using them, and stated that he generally does not use them when dealing with the public. As far as the officer putting on his gloves in an intimidating manner, the officer stated that bikers gloves require putting them on carefully, and that closing his hand in a fist like motion is typical to making sure they are on fully and comfortably.

OPS issued a finding of *Not Sustained*. Ms. Martinez motioned to accept the OPS finding of *Not Sustained*, and it was seconded by Larry Becker. The motion carried unanimously.

Gene Sarfoh described this complaint that arose from an incident on June 19, 2014. Mr. Sarfoh reviewed the OPS file, including 4 IDCs, one domestic incident report, another incident report, a cap report, a rollcall memo, SOP for when the APD is dealing with an EDP, and mental health regulations for when dealing with emergency missions, a redacted confidential report, including the Citizen Complaint Form, and a letter from the Complainant, dated July 2, 2014.

Complainant alleges that APD officers failed to follow the correct procedures for what began as a domestic violence incident. Complainant alleges that the incident was actually a mental health episode, and that the responding officers failed to appreciate this and handle it properly. According to Complainant, when the officers responded to the house, Complainant's partner answered the door unclothed, and the arriving officers did nothing about that. He also states that she should have been taken to the Capitol District Psychiatric Center for an evaluation, which APD failed to do according to proper procedure.

Mr. Sarfoh reported that both the radio roll call, and the call received from a neighbor, seemed to indicate what would normally be a domestic violence issue. The neighbor complained that there was angry, loud yelling and fighting. The radio call from Complainant himself indicates that he was having a domestic dispute with his fiancée. In the background, a woman reportedly yelled that Complainant is trying to kill himself. While Complainant is on the phone, he stated, "Yeah, she thinks I am trying to kill myself," or something to that effect. When the officers arrived, they claim that they did not open the residence door, but that the fiancée told the officers she needed to get dressed and when they entered she was fully clothed. Complainant and fiancée both admit that they have been diagnosed with mental health issues, and they are taking medications. APD waited for Complainant to gather up his belongings, leave the house and go to work. In his initial discussion about the complaint, the Complainant indicated that he had been stuck in the apartment for some time, that he had not been sleeping, and he was concerned for his safety. He reported that his fiancée was having a psychiatric episode, which culminated in him calling 911 to request assistance. According to Complainant, based on what the officers confronted it should have been clear that she needed psychiatric intervention; Complainant states that APD treated the incident like a simple domestic violence incident.

The officers stated they confronted two people having some sort of domestic incident, and that is how it was described to them. They claim they did not confront the fiancée in a state of undress. The officers further contend that both fiancée and Complainant accounted for their mental health history: she indicated she would be seeing a counselor sometime later that day. They were both otherwise uncooperative relative to domestic issues, and with that APD filled out the appropriate paperwork and left.

Complainant was not in attendance during the meeting.

1: Conduct Standards - Complainant alleges that the officers' conduct was insulting and inappropriate as they conversed with his fiancée while she was unclothed, and that the officers talked to her for several minutes without asking her to put clothes on. The officers state that she talked to them through the front door, and that she put on clothes prior to opening the door; both

officers stated she opened the door dressed. Complainant did not witness the fiancée answer the door because he was in another room.

OPS issued a finding of *Not Sustained* (where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint). Mr. Sarfoh motioned to agree with the OPS finding of *Not Sustained*, and it was seconded by Maritza Martinez. The motion carried unanimously.

2: Call Handling - Complainant alleges that the officers mishandled the incident by not treating the girlfriend as an EDP rather than a domestic incident; Complainant, however, called 911 and stated a domestic incident at his address. A neighbor also called and described a domestic incident. Complainant and his girlfriend were both uncooperative with the officers, as indicated in the domestic incident report. The officers did not have the information necessary to authorize an arrest under the mental health law. The officers did follow the SOP for a domestic incident, as they are required to file a domestic report, and a victim's right form, which both Complainant and girlfriend refused to sign. OPS issued a finding of *Exonerated* (where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper). Mr. Sarfoh motioned to accept the OPS finding, and it was seconded by Charles Goodbee. The motion carried unanimously.

CBRB No. 29-14 / OPS No. CC2014-073

(Presented by Mickey Bradley)

Complainant alleges that on August 5, 2014, he called the police to intervene in a dispute he was having with his landlord regarding a late rent payment. Two officers responded to the scene. One officer spoke to Complainant, while the other talked to the landlord. Complainant claims that the officer was rude and swore at him, and that the behavior was racially motivated. When Complainant asked for the officer's name and badge number, the officer did not give the information although the information was on the uniform. When another person present began filming the scene, Complainant states that the officer backed down somewhat, apologized and left. Complainant says that he chased after the officer's vehicle and that the officer almost ran over his feet. Two witnesses confirm the allegation of rude language, and the officer himself admits to cursing and name-calling. The witnesses did not agree that the actions were racially motivated, or that Complainant was nearly run over by the officer as he drove away.

Complainant and monitor were in attendance. The assigned monitor had nothing to add.

Mickey Bradley was happy to report that the two parties were able to discuss the incident, and the conversation was allegedly open, civil, productive, and very satisfying to both of them. This informal mediation indicates how formal mediation can work. Mr. Bradley thanked both the Complainant and the officer for talking through their issues, as well as Commander Hicks and Detective Hendrick who coordinated this effort.

1: Conduct Standards - Complainant alleges that the officer was verbally abusive and aggressive toward Complainant. Complainant and two witnesses say that the officer used obscenities and seemed agitated. The officer admits to swearing and calling him names, and the officer apologized. OPS issued a finding of *Sustained*. Mr. Bradley moved to accept the OPS finding of *Sustained*, and it was seconded by Maritza Martinez. The motion passed with a vote of 5.

2: Conduct Standards - Complainant alleges that the officer almost ran over Complainant's feet as he drove away. The officer stated that Complainant was not standing near the pathway of travel.

Both witnesses and the landlord all state that the car did not come close to Complainant's feet, as Complainant was not even near the officer. OPS issued a finding of *Unfounded*. Mr. Bradley moved to accept the OPS finding of *Unfounded*, and it was seconded by Gene Sarfoh. The motion passed with a vote of 5.

3: Conduct Standards - Complainant alleges that the officer's statements were racially motivated. When OPS spoke to Complainant, Complainant was unable to provide an example of such motivation. Both witnesses stated that they did not feel it was racially motivated, and that the officer was just having a bad day. OPS issued a finding of *Not Sustained*. Mr. Bradley motioned to accept the OPS finding of *Not Sustained*, and it was seconded by Ms. Martinez. The motion carried unanimously.

B. Appointment of New Members to the Committee on Complaint Review for May 14, 2015

Mr. Sarfoh, Mr. Goodbee, Ms. Martinez, Rev. Smart, Mr. Becker, and Mr. Bradley all agreed to review complaints for the next meeting.

C. Committee and Task Force Reports

By-Laws and Rules

Committee Chair David Rozen was not in attendance.

Community Outreach

Nothing to report.

Mediation

Mediation Committee Chair Maritza Martinez reported that a planning committee is preparing for Mediation Training. The Training date is TBD.

Police Department Liaison Policy Review / Recommendations

Police Department Liaison Policy Review / Recommendations Committee Chair Mickey Bradley had nothing to report.

Public Official Liaison

Public Official Liaison Committee Chair Rev. Edward Smart had nothing to report.

Task Force on Monitors

Task Force on Monitors Chair Eugene Sarfoh stated that there was no report at this time. Rev. Smart provided Mr. Sarfoh with the name of a monitor who is interested in working again.

D. Nominations/Elections for Elected Board Officer Positions

The Outreach and Education Committee Chair position is currently vacant due to Akosua Yeboah's resignation. Current Committee members include Mr. Rozen, Ms. Martinez, and Mr. Sarfoh. Mr. Sarfoh pointed out that he plans to move out of Albany shortly, thus not allowing him

to stay on the Board effective in June. Ms. Martinez cannot act as Chair, while she is Mediation Committee Chair according to the bylaws. The Board could not speak for Mr. Rozen during his absence.

There currently exists a Complaint Review Committee Chair vacancy. Mr. Bradley volunteered for this position.

The Office of Secretary is currently vacant due to Ms. Akosua Yeboah's departure. Chairman Smart moved to install Board member Mickey Bradley as the Secretary, and the motion was seconded by Charles Goodbee. The motion carried unanimously.

E. Approval of January 8, 2015, and March 12, 2015 Meeting Minutes

Rev. Smart motioned to approve the January 8, 2015 meeting minutes, and Mr. Bradley seconded the motion. The motion carried unanimously.

Mr. Sarfoh motioned to approve the March 12, 2015 meeting minutes, and Ms. Martinez seconded the motion. Chairman Smart excused himself from voting. The motion carried unanimously.

G. Report from the Government Law Center

Interim Coordinator for the CPRB Maureen Obie delivered the GLC report.

Complaint Inventory as of April 23, 2015:

The complaint inventory as of today: There are 41 active complaints for the Board to review. Of those 41 complaints, 6 were reviewed and closed at this meeting. This leaves the Board with 35 active complaints. The Board has at least 7 cases that are ready to be reviewed at the Board's next meeting on May 8, 2015. To date, 633 complaints have been closed. The total number of complaints that have been suspended is 10, bringing the total number of complaints filed to date to 683. Since the last meeting on March 12, 2015, the GLC received 3 Grievance Forms, bringing the total number of Grievance Forms received to 565. In response to the Board's outreach to all individuals we have received 153 Citizen Complaint Forms, which is 27%.

Board Vacancies and Reappointments:

Joining the Board for the first time this evening is Ms. Ivy Morris, who was appointed by Mayor Kathy Sheehan on April 6, 2015. Mr. Gene Sarfoh is expected to resign from the Board later this summer. One (1) Common Council vacancy currently exists; upon Mr. Sarfoh's departure from the Board the number of Common Council vacancies will increase to two (2).

The next CPRB meeting will be held on May 8, 2015. Board meeting packets will be mailed by Monday, April 27.

H. Report from the Office of Professional Standards, Albany Police Department

OPS Detective Kathy Hendrick and Commander Michael Hicks were present. Commander Hicks reported that the Early Warning System has identified an officer. A minimum of 11 new and well-trained officers will be sworn in soon.

I. Report from the Chair

Chairman Smart reported that the 2015 Annual NACOLE Conference will be held in October in Riverside, CA. All Board members are encouraged to attend. The GLC will cover expenses for transportation, as well as room and board.

Chairman Smart reported that business cards would be provided for new Board members.

Mickey Bradley thanked Chairman Smart for representing the Board during a conference call with the Ferguson, MO, Task Force created to develop a civilian review board.

Chairman Smart expressed his gratitude to the Board, the GLC, and APD, for their well wishes and continued support during his recuperation.

V. Public Comment

There were no public comments.

VI. Adjournment

Rev. Smart moved to adjourn the meeting at 8:51 p.m., and the motion was seconded. The motion carried unanimously.

Respectfully submitted,


Secretary