

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

Thursday, May 14, 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., Ivy Morris, David Rozen, Gene Sarfoh

Excused Absences: Maritza Martinez, Reverend Edward B. Smart,

I. Call to Order and Roll Call

Vice Chairman David Rozen called the meeting to order at 6:02 p.m.

II. Approval of the Agenda

Vice Chairman David Rozen motioned to approve the Agenda, and to have new complaints CPRB No. 50-13 / OPS No. CC 2013-131 moved to last on the Agenda. Board Member Mickey Bradley seconded the motion. The motion carried unanimously.

III. New Business

A. New Complaints

1. New Complaints Received since the April 23, 2015 Meeting

Vice-Chair David Rozen reported that the Board received four (4) new complaints since its April 23, 2015 meeting.

Board Member Mickey Bradley explained that only new complaints that were not assigned a monitor were read at the meeting to help ensure that monitors are assigned to cases that need one. This measure is an additional opportunity for Board members to decide if a monitor should be assigned.

Mickey Bradley read two (2) of the four (4) new complaints. The two (2) new complaints are listed as follows:

CPRB No. 8-15 / OPS No. CC2015-22

According to the Complainant, Complainant was spoken rudely to by an officer and clerk at APD while at booking to file an aggravated harassment complaint. Complainant claims that the officer and clerk refused to provide their names. Complainant asked to be connected to a sergeant. Complainant alleges that clerk put the receiver down and never returned. Complainant alleges that Complainant has been trying to get the APD to act for a month, and that the APD knows who the harasser is, and where to locate them.

A monitor **was not** assigned.

David Rozen motioned that a monitor be assigned to **CPRB No. 8-15 / OPS No. CC2015-22** given that civil rights issues may have been involved. Board Member Ivy Morris seconded the motion. The motion carried unanimously.

CPRB No. 9-15 / OPS No. CC20-15 (not yet assigned)

According to the Complainant, on March 29, 2015, Complainant called 911, and the person who answered was rude. This rude person pretended to have a foreign accent, and to not understand what the Complainant was saying, and then disconnected the call. Complainant also alleges that APD officers have willfully not responded to a crime in progress. Complainant alleges that, on March 22, 2015, he contacted APD in regards to a threat received by a citizen. The officers who arrived explained that a verbal assault is not a crime that can result in arrest, and that Complainant should instead file for a protection order.

A monitor **was not** assigned.

David Rozen motioned to approve the new complaints as they now are. The motion was seconded and carried unanimously.

2. Complaint(s) for Board Review

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

(Presented by Larry Becker)

Board Member Larry Becker detailed the complaint. Complainant bought a house from someone in Kansas City, Missouri, and that man cheated them. The house did not belong to him. Complainant was in Albany, NY, and the Sherriff's Office of Kansas City told the Complainant to make a complaint at the Albany Police Department, and that the Albany office would send the complaint with his signature, because the Kansas office could not accept complaints by phone or email. On March 23, 2015, Complainant went to Center Station to file a complaint. Complainant asked APD to initiate the complaint, but the head of the APD station refused to accept the complaint because APD would not travel to Kansas City to arrest the person. Complainant told the officer that Complainant only needed to make a formal complaint for the Sherriff's Office of Kansas City, but the officer still refused assistance. Complainant asked if there were someone else who could help, but the officer did not respond. The officer then started walking away and opening doors; Complainant followed, believing that the officer was leading Complainant to someone else who could help. A younger officer then held Complainant violently by the neck, and threw Complainant out of the Station. Complainant then went to the police station near the Department of Motor Vehicles (DMV), and the policeman there explained that New York law forbids the police to work on the behalf of other states. Complainant was offended at how he was treated by APD, and believes an investigation is warranted.

The assigned monitor reported that the officers who were on duty that day were identified and questioned, but they had no recollection of the alleged incident. There were no records of the incident, and no video of the incident. Complainant was contacted in Israel by email. There was no other evidence, therefore there was nothing to investigate.

Larry Becker also conducted his own investigation, and reviewed other documentation. He inquired about the station video, and APD reported that the station video is only kept for 30 days. The incident complained of occurred on March 23 at center station, and the complaint was dated April 16, 2014. It was mailed on that date from Israel, and took 12 days to arrive at the GLC. It had the GLC timestamp on it, and it was 36 days after the incident. Mr. Becker reported that efforts were made to locate the video, but it gets recycled every 30 days. The complaint was extremely general in reference to the offending officer; no name was given and the general description given could have fit any number of officers.

Larry Becker also said that the OPS investigating detective did a good job investigating. The detective contacted the station and got a rollcall of those who were working at the time of the alleged incident. He sent out an inter-office memorandum, and received 13 responses. Those who responded included the officers, the sergeant, and the lieutenant. No respondent had a recollection of the event. There were a number of emails between the OPS investigating detective and the Complainant. OPS tried to find additional information that would help in discovering who the offending officer might be, but Complainant explained that he was so upset at the time that he failed to record any additional information.

However, OPS was forwarded a drawing of the police station, with detailed demarcation, (x's and o's as to where people [lieutenant/officer/himself] were in the station). The OPS detective also said that the drawing was an accurate view of station at the time the incident occurred.

Based on the information from the complaint, and the communications from the Complainant (drawing included), the only change that Larry Becker would make of the recommended findings would be to change the finding from *No Finding* to *Not Sustained*, which is (where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint). Larry Becker proposed this because the Complainant provided a lot of information about where the event occurred, but he could not identify any officer in particular.

Mickey Bradley asked Detective Hicks: What happens when the information is there, but we cannot determine who the subject of the complaint is? Detective Hendrik responded that it was given a finding of *No Finding* because the complaint failed to provide additional information. In this instance, the complaint was closed for failure to provide more information. Mickey Bradley wanted to know how OPS differentiates between *No Finding* and *Not Sustained*. Gene Sarfoh asked if there is an issue with regard to the date. Larry Becker explained that the dates were fairly close, and OPS confirmed who was on duty that day.

Larry Becker made a motion to issue a finding of *Not Sustained*, and Gene Sarfoh seconded the motion. The motion carried with a 5-1 vote. David Rozen contended that a finding of *No Finding* was appropriate.

Charles Goodbee reviewed the complaint, the Citizen Complaint Form, the APD report, the APD call ticket, the APD blotter page about equipment assigned, the monitor's report, and the OPS report. Charles Goodbee noted that both OPS and the monitor did a very thorough job in investigating.

According to the Complainant, the Complainant was in front of his house at 5:00 a.m. when 2 plainclothes police officers jumped out of an unmarked car and restrained him with handcuffs and harassed him for no reason. The Complainant also alleges that the officers threatened to Taser him. Also, the handcuffs were too tight on his wrists, and so they left marks on his wrists.

1: Arrest Authority and Procedures - OPS reported a finding of *Exonerated* (which is where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper). The OPS detective assigned discovered that the Complainant was acting erratic, wearing a hoodie, and sweating while keeping his hands in his pockets. When asked to take his hands out of his pockets, he refused. The officers then placed him in handcuffs in order to ensure officer safety.

Charles Goodbee motioned to agree with the OPS finding of *Exonerated*, and Gene Sarfoh seconded the motion. The motion carried unanimously.

2: Conduct Standards - OPS reported a finding of *Unfounded* (where the review shows that the act or acts complained of did not occur or were misconstrued). Complainant alleges that the officers threatened to shot him with a Taser. The officers deny the statement was made. The blotter shows that these police officers were not assigned Tasers on that day. After reviewing the records, Charles Goodbee indicated that he agreed with the OPS finding.

David Rozen inquired whether just because an officer does not have a Taser on them, does that mean they cannot threaten to use a Taser. Mr. Goodbee stated that he was not sure, but this is a he said/she said issue.

Charles Goodbee motioned to agree with the OPS finding of *Unfounded*, and Larry Becker seconded the motion. The motion carried with a 5-1 vote. David Rozen held that a *Not Sustained* finding was appropriate.

3: Use of Force - OPS reported a finding of *Not Sustained* (where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint). Complainant alleged that the handcuffs were too tight, that they were painful, and that they left marks on his wrist. The officers assert that the Complainant never mentioned that the handcuffs were causing pain. Handcuffs are not comfortable. The officers offered to have Albany Fire Department evaluate him because of his erratic behavior. Complainant denies that APD made such an offer.

Charles Goodbee motioned to agree with the OPS finding of *Not Sustained*, and Larry Becker seconded the motion. The motion carried unanimously.

NOTE: In the following complaint, Complainant B discussed his frustrations with the system at several different points. As such, the symbol (—) will be used to show where he interjects.

This is actually two complaints stemming from the same incident. Although they were filed separately by the CPRB, they were filed jointly by OPS.

On June 19, 2014, APD officers responded to a domestic dispute at the Complainants' home. Allegedly, Complainant A (hereinafter "A") was attacked by her Uncle (hereinafter "Uncle") who lives in the flat above her. Backup and an ambulance were summoned for Complainant A, who had a cut lip. After questioning the parties, APD determined that it was Complainant A who had first punched her Uncle and threw an object at his car, resulting in an estimated \$500 dollars in damages. As a result, Complainant A was determined to be the aggressor in the dispute, and Uncle was found to have acted in self- defense. Complainant A's boyfriend, Complainant B (hereinafter "B"), claims that the officers were verbally abusive to him while on the scene, and that they called him names, and threatened to arrest him. He also states that he was forced to stay outside the residence, and was holding the couples' 5-month-old son.

Both the monitor and the Complainants were present, and so Mickey Bradley explained that first the monitor will add his insights. Then the Complainants will be allowed to speak.

The monitor reviewed the OPS report and the 16 IDC reports from the officers on the scene. The monitors explained that it was the supervisor at the scene who determined who the aggressor was, and that the supervisor then ordered Complainant A to be arrested.

Mickey Bradley then explained the CPRB's process to the two Complainants. He explained that they did not have to speak, but if they wanted to speak, they would only have 5-7 minutes. Also, they should avoid using the names of the officers, and although they can use their own names if they choose, they did not have to. Mickey Bradley then explained that the CPRB will go one by one through the 7 charges in the complaints, state OPS' finding, and then vote.

B spoke first:

B said that he was pulling up to the house when A ran up to him. Her lip was busted, and she said that she was assaulted by Uncle, who just a week earlier blew trial for chasing his brother down the street with a shotgun. B said this was all on record. A called the police, and APD came to the scene. B wanted revenge because Uncle hit his girlfriend. Because Uncle would not come outside, B threw a rock at Uncle's car. B tried to explain this to APD, and alleges that he does not get along with the police. B also said that he used to work at SNUG Ceasefire. B alleged that, ever since the complaint was filed a year ago, he was threatened with death, he has been falsely arrested, and his brother is facing trial. B says that he has witnesses from United Tenants (UT) and footage of police officers allowing Uncle and friends to take B's stuff out of B's apartment, and either carry it away, or throw it to the curb.

B alleges that the ex-chief said there would be a meeting with a representative from UT. UT staff saw Uncle stealing items from B's apartment, and she took pictures and video. Allegedly, she called the police and they told her that this issue was civil, and not criminal. B further alleged that

the police searched his baby stroller for guns, and made him sit outside with his baby during the incident in question.

Allegedly, the ex-chief of police agreed to set up the meeting, but also said that he did not want B at the meeting, but B asserted that he would be there, because it was about him. When B went downtown with the UT staff the police officers took a report, but no one has been arrested or charged.

B continued to recount events that took place during the night in question. He asserted that the police called the ambulance for A, and that A was assaulted. He asserted that the APD hates him a lot, and would do anything to hurt him. B explained that he did have a past (14 years in prison), and he claimed that that is why the police had animosity toward him. B asserted that he had been out of jail for 5 years, and that he has lived a clean life since he got out. He said he worked for Albany SNUG Ceasefire as a supervisor. He said that he has received numerous awards, and that he has been in the papers. He said he is an active force in the community, and has meet with the Mayor, and Senator Stewart-Cousins. He explained that he is tired of the fact that the APD allegedly continues to harass him. When he reported more complaints, the people who enter the complaints started to argue with him, and told him he did not have a claim. B asserted that he had video and witnesses.

B noted that this type of situation is what happened in Baltimore. He explained that he was further frustrated by the fact that his complaint was a year old. He noted that a young man had been Tased and killed by Albany police; another was Tased and brought back from a level of unresponsiveness. The Complainant stated that he was fired from SNUG due to this incident, and he asked if the Board understood him and his frustrations.

The Complainant critiqued the Board itself, and stated that he asked a lot of politicians about the CPRB, because he did not understand why his issue was finally being addressed a year later. He stated that he could be the next dead man, but felt as though he was not being taken seriously. He noted that as soon as he starts showing resistance, he will be charged and railroaded through the system. He reported losing all of his personal property. He said that the police were accessories to the crime, because they held him at bay as his property was stolen. He claims that when he said he would call the NY State Troopers, the police said they would arrest him, and threatened to kill him stating that they would catch him at night, and catch him off guard. He said the APD said they had the biggest gang in the world.

B's comments exceeded the 7-minute public comment limit, and Board member David Rozen advised the Complainant of this.

--B inquired about the video footage he brought with him to the meeting.

Mickey Bradley told B that he understands the anger that B feels based on the claims that B is making, and then explained what the Board was responsible for. The Board is investigating the complaint related to the June 19, 2014 incident, and cannot investigate the other alleged complaints. B said that he understood that his unrelated assertions were not part of the complaint, but he brought them up because when he goes back to file more complaints with Internal Affairs staff at 200

Northern Boulevard, he is being harassed by them as a result, and they are following him outside. Mickey Bradley recommended that B file another complaint, and acknowledged that filing a complaint based on the fact that you are harassed for filing complaints is problematic. While Mickey Bradley acknowledged the seriousness of B's concerns, he reiterated that the CPRB can only hear the complaint before them tonight.

Mickey Bradley then described the CPRB complaint review process step-by-step. First, the complaint is sent to OPS. Second, OPS investigates. Third, the CPRB determines if the OPS investigation issued a valid finding.

Then A spoke: leading up to the incident, she was at work. B called her at work and told her that Uncle had called the police, saying she had machine guns. Allegedly, the police came to her home, and inspected the baby stroller and the house for machine guns. When she returned home, she approached Uncle, who was drunk. This was not the first time the police were called, this issue had been going on since February 2014. A stated that she asked Uncle why he was doing this, and Uncle laid his hands on her. She called the police, and the police called the ambulance for her. She sustained whiplash, a black eye, a swollen face, and a busted lip. Uncle had no injuries. She asserts that she was not the aggressor, she has no criminal record, and she works for the School District. She noted that she was fired from the School District due to the incident. She claims that she was respectful to the person who handcuffed her. The handcuffs hurt. At the time of the incident, the police were more concerned with her boyfriend, and told him that he could not come across the street. She asserts that they were worried more about Uncle's car than they were about her. She asserts that she was assaulted, and that when she went to the hospital, no one was there for her. When she came back from the hospital, pictures were taken of her face by police.

--A then offered these pictures to the CPRB. Mickey Bradley advised he had already seen them in the report.

-- Complainant B wanted to know what picture he was referring to. Mickey Bradley advised that he had seen the pictures of Complainant A's busted lip in the report.

Mickey Bradley reviewed the findings:

1: Call Handling - A believes that police took too long to respond to the scene. She called at 8:57 p.m., but they did not arrive until 9:09 p.m. Dispatch recordings indicate that dispatch called a unit at 9:05, and that the unit was on the scene by 9:11 p.m. The call was categorized as Priority 1. Center Station units were directed to the scene, even though it was South Station's jurisdiction, because there were no South Station units available. South Station units then became available before the Center Station units reached the scene.

Given the number of calls that night, OPS found that the amount of time it took them to respond was reasonable, and 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). Mickey Bradley motioned to agree with the OPS finding of *Exonerated*, and Gene Sarfoh seconded the motion. The motion carried unanimously.

2: Call Handling - Complainant A alleges that she needed medical attention and that the ambulance took 20 minutes to arrive. Call ticket and radio transmissions indicate that Engine 2 was dispatched at 9:15 p.m., about 4 minutes after the first officer arrived. Engine 2 arrived at 9:18. Albany Fire Department (AFD) then called for an ambulance at 9:18 p.m., and an ambulance arrived on scene at 9:24 p.m. (6 minutes later).

At this point during the Board meeting, B interrupted and asked what was happening. Mickey Bradley explained that these are charges, and when OPS looks at them they determine what parts of the allegations would be a violation of their policy. B stated that he did not have a problem with the ambulance arrival time. Mickey Bradley noted that OPS must have interpreted from the complaint that there was dissatisfaction with the arrival times.

The OPS finding was *Unfounded* (where the review shows that the act or acts complained of did not occur or were misconstrued). Mickey Bradley motioned to agree with the OPS finding of *Unfounded*, and Ivy Morris seconded the motion. The motion carried unanimously.

3: Conduct Standards - B alleges that he was harassed and called derogatory names. The officer denies these charges, and the other officers on scene say that the officer did not act unprofessionally or make inappropriate comments. Multiple officers claim that B was making sexist and racist comments toward the officer. They say that they did not threaten B with arrest, but did state that he could be arrested if he continued interfering with the police investigation. They described his behavior as disobedient and hostile.

OPS made a finding of *Not Sustained* (where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint). Mickey Bradley motioned to agree with the OPS finding of *Not Sustained*, and Gene Sarfoh seconded the motion. The motion carried unanimously.

4: Arrest Authorities and Procedures - A claims that she was falsely arrested, and that Uncle should have been arrested. Mickey Bradley noted that the NYS Office for the Prevention of Domestic Violence states "an officer is not required to arrest every family member who may have been involved in a misdemeanor family offense." Also, the officer must consider certain criteria when attempting to identify and arrest the primary aggressor. One criteria is whether any threats were made, and whether the person acted defensively. Through the investigation on the scene, it was determined by APD that A was the primary aggressor, and that Uncle was acting in self-defense. It is not in the purview of the Board to determine who should have been arrested. The Board does not know all the details of the case. The Board determines if what the officer did is within the jurisdiction of their role as an officer. The question before the Board is if the officer on the scene had the authority to arrest who they believed to be the aggressor.

-- B interrupted to ask who called the police at the time of the incident in question.

Mickey Bradley responded that two people reportedly called the police. Uncle's wife called at 8:56 p.m., and B called the police afterward; the two calls were linked. The other call that came in from the other party was not listed as a Priority 1/Domestic Dispute - it was listed as a Priority 2.

OPS issued a finding of *Unfounded* (where the review shows that the act or acts complained of did not occur or were misconstrued). Mickey Bradley agreed with the OPS finding of *Unfounded*. He explained to B that he was just saying that the supervisor on the scene was acting within his/her authority when he/she authorized the arrest.

-- B expressed his frustrations and said that it does not take a rocket scientist to figure out what happened on the scene. B argued that the fact that he threw a rock at Uncle's car, and the fact that A was injured, should have been all the context that the police would need. B commented that all of the police support one another. Mickey Bradley explained again that he was not saying he agreed that A was the aggressor, but instead that the arrest was not outside the bounds of what the supervisor was allowed to do. B felt that this meant that property was more important than human life. Mickey Bradley again attempted to explain what the Board's responsibilities are. B asked if Mickey Bradley saw pictures of Uncle, and the broken glasses. Mickey Bradley said that he remembered seeing glasses. B felt that, if APD is going to do an investigation, they should start with the man that just blew trial for the attempted murder of his brother. Although A had never been stopped a day in her life, A has lost her job.

Mickey Bradley again motioned to agree with the OPS finding of *Unfounded*, and Gene Sarfoh seconded the motion. The motion carried unanimously.

5: Use of Force - A alleged that an officer forcibly tried to interlock her already-injured finger while she was being handcuffed, and then ignored her when she complained. Mickey Bradley noted that the officer said that A did not say this while being cuffed, and there are no other witnesses.

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). Mickey Bradley motioned to agree with the OPS finding of *Not Sustained*, and Charles Goodbee seconded the motion. The motion carried unanimously.

6: Conduct Standards - Mickey Bradley reported that according to APD, B claims that he has been targeted by the APD. B has a history of police contact, but these interactions are the result of his own activity. They included multiple accusations of domestic disputes and disorderly conduct. A week before the incident, a family member made two domestic calls to the police in regards to B. On the day of the incident, a neighbor called to report him in the street with a gun.

The OPS finding was *Not Sustained* (where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint). Mickey Bradley motioned to accept the OPS findings of *Not Sustained*.

-- (Unidentified) asked what the complaint was about. Mickey Bradley summarized the case.

-- During the explanation, B again expressed his frustration with the complaint review process. He wanted to show his photos to the Board members. He asked why Uncle's pictures were not with the complaint. Mickey Bradley replied that there is no complaint in reference to Uncle. A and B stated that they both had a protective order against Uncle. Mickey Bradley explained that the complaint had to be filed with the Board. David Rozen stated that the Board does not agree or

disagree with officers, the Board decides solely whether or not OPS did a complete and thorough investigation.

Mickey Bradley motioned again to accept the OPS finding of *Not Sustained*, and Gene Sarfoh seconded the motion. The motion carried unanimously.

7: Call handling - B alleges he was not allowed to enter his residence. The police reported that he was allowed inside, but that he chose to stay outside with his child.

OPS issued a finding of *Unfounded* (where the review shows that the act or acts complained of did not occur or were misconstrued). Mickey Bradley disagreed, and thought that it should be a finding of *Not Sustained*, because B is asserting one situation, while the APD is asserting another.

-- B interjected that the APD made him stay outside. He asserted that the police were lying. Mickey Bradley and David Rozen both explained that the Board considered the situation a he said-she said situation where there are conflicting reports from 2 or more parties on the issue. B reiterated that he was not allowed into the house. Gene Sarfoh said that the police may have wanted to have B outside so that B's uncle would come out. B made clear that Uncle was A's uncle, not B's uncle. B stated that he could have stayed in a different area of the house while the police dealt with Uncle.

Mickey Bradley made a motion to disagree with OPS, and make a finding of *Not Sustained*, and Ivy Morris seconded the motion. The motion carried unanimously.

-- B interjected, and asked to be allowed to speak, Mickey Bradley wanted to say something first, and B agreed. Mickey Bradley asked B to stay until the meeting was over, because Mickey Bradley wanted to continue the conversation after the CPRB finished its other business. B explained that he talked to politicians, and as told that the CPRB was powerless. B had planned to bring people with him, but the plans fell through. He reported that he saw Mayor Sheehan three weeks ago at an event, and asked why his 1 year old complaint had still not been heard. She said she did not handle such matters. B asked where he had seen David Rozen before, and David Rozen told him that they had both been at the police chief's retirement gathering. B was surprised that after he spoke to Mayor Sheehan, he was contacted the next week that his complaint was scheduled for review. Although he had heard the CPRB was bogus, he still wanted to go through the process. He stated that he was very upset about the answers that he received tonight, and noted that police refused to speak at a recent "build a relationship with the community" meeting. David Rozen advised B that everything that occurred at the meeting was public record, and could be gotten through a FOIL request.

As Complainant B exited the meeting room, David Rozen thanked him for his comments.

CPRB 50-13 / OPS No. CC2013-131

(Reviewed by Gene Sarfoh)

Gene Sarfoh reported that he reviewed the OPS file, which was extensive. A monitor was assigned to this incident, and the report was thorough. Gene Sarfoh reviewed 18 IDC's, an incident report relating to the arrest, an arrest report, a use of force report, rollcall from the date at issue, the call ticket, photos of the driver side rear, photographs of rear bumper, also case law regarding *Rem v. U.S.* (a Supreme Court case involving probable cause), an article involving Miranda, the Citizen

Complaint Form (comprised of 3-page typed complaint by Complainant), and the OPS Confidential Report (14 pages that also included ER records).

Mr. Sarfoh reported that the complaint arose from an incident that occurred in November 2013. When the Complainant arrived at his parked vehicle at Washington Park, he was confronted by an officer. The officer pulled alongside him, and told him his plate light was illegal. Complainant got into a conversation with the officer explaining there was nothing wrong with the light. The officer requested the Complainant's license and ID. Allegedly, the officer grabbed Complainant's forearm when Complainant said he did not do anything wrong. Complainant alleges that the officer went back to the police car with Complainant's information when several other officers arrived on the scene. Complainant then tried to make a phone call. Allegedly a Trooper who was riding with an APD officer pulled Complainant out of his car and told him he was under arrest. Pushing and pulling ensued. Complainant says that while he was being put in handcuffs he was punched, kneed and Tasered while he was not resisting. Complainant also alleges that his car bumper and rear light were damaged, and he sustained lacerations to his forehead. He further alleges that his blood was on the rear bumper, and that he was not read his Miranda rights.

Mr. Sarfoh reported that all the officers involved were interviewed and gave statements. The first officer on scene said she observed Complainant's vehicle, and that the taillight was too bright. The Complainant and the officer went back and forth about whether the plate light was too bright, and the Complainant felt as though he was being harassed. According to the officer, she was just simply attempting to issue a warning. Matters escalated from that initial conversation. Complainant felt harassed, and therefore refused to provide his information. He just wanted to leave. He was then informed that back up was being called. The situation seemed to calm down, and an officer was able to get his information. When additional officers arrived on the scene, things escalated really badly. The Complainant was arrested, a struggle ensued, a Taser was used, and hence the complaint.

The Complainant was not present at the meeting; the monitor, however, was present. The monitor stated that there was video footage for a portion of the incident. He reported that it would appear that as the Complainant was sitting in his car, he reached out and pulled the Trooper toward him. At that point, all the officers surrounding the car pulled the Complainant out of his car, a struggle ensued, and they pulled him off camera, on to the grass in Washington Park. That was when the initial officer returned from the patrol car and Tasered the Complainant.

Board Member Charles Goodbee inquired if the video showed the Complainant pulling the State Trooper. The monitor replied yes. Gene Sarfoh reported that it seems that the police pulling him out of his car and taserer him was in response to him grabbing the Trooper

1: Call Handling - OPS issued a finding of *Exonerated* (which is where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper). Complaint said he was denied water and a phone call while in custody in the hospital. That is not a decision that the police can make, but instead is a decision that the hospital makes; water was also available inside the cell. The Complainant also requested his phone call, but for security reasons this was denied. The Complainant, however, was allowed access to a phone call while at South Station.

Gene Sarfoh motioned to accept the OPS finding of *Exonerated*, and Mickey Bradley seconded the motion. The motion carried unanimously.

2: Arrest Authority - Complainant stated that APD did not have the right to arrest him. He believes that there was no reason to stop him because the lights on his car were proper, therefore, being stopped violated his 4th Amendment rights. OPS contended that the officers had probable cause. Mr. Sarfoh explained that when police see a traffic violation, they automatically have probable cause to believe the violation took place, hence they had the authority to pull the car over. Just because Complainant then shut off the car does not mean that his plate is no longer a violation. *Rem v. U.S.* states that if police observe a traffic violation, they automatically have probable cause to stop you. OPS rendered a finding of *Exonerated* (which is where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper).

Gene Sarfoh moved to agree with OPS's finding of *Exonerated*.

Charles Goodbee asked whether the taillights were actually too bright. Mr. Sarfoh replied that there was no evaluation of the taillights themselves. The taillights only matter because the officer thought they were too bright; it does not matter if they, in fact, were. Office of Professional Standards Detective Hendrik offered that the initial officer was a traffic safety officer, and her role is to handle traffic violations.

Larry Becker inquired regarding the reason why the incident escalated so quickly. He noted that while *Rem* is still good law, there are NY laws that say that officers cannot take advantage of minor traffic violations to do what they want. If this occurs, then in accordance with the NYS Constitution, it becomes an improper stop. Mr. Becker further noted that he does not approve of the manner in which situations quickly escalate.

Gene Sarfoh reported that there was a mention in the report to "operation impact," but there was no evidence in the report to suggest that the officer was part of that. Mr. Sarfoh noted that is why a Trooper was riding with APD. There was no indication in the report that there was another reason for the stop besides the believed traffic violation. In essence, an officer was trying to do her job, a frustrated party reacts, and things escalate from there. She attempted to calm the Complainant down. Things escalated once the back-up officers arrived, among which were some "operation impact" members. Matters escalated when there was physical contact with the Complainant and the State Trooper, and video footage documents that occurrence. The Complainant was frustrated, and now he felt outnumbered by the officers, and his response transitioned from non-compliance, to compliance, back to non-compliance.

Gene Sarfoh motioned to agree with the OPS finding of *Exonerated*, and Ivy Morris seconded the motion. The motion carried unanimously.

3: Use of Force - OPS issued a finding of *Exonerated* (which is where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper). Complainant alleges he did nothing to prompt their behavior, and that APD kicked, punched, and Tasered him. The video shows that the officer did have probable cause to pull him over; it also shows the Complainant grabbing the trooper. The audio shows that the officer was trying to be respectful, and

that the Complainant was being rude. The Complainant was attempting to leave the scene, and would not recognize the officers' authority. The video shows the Complainant pulling the Trooper into his car. The police used the right amount of force necessary to subdue the Complainant, and they kept telling him to stop resisting, which he refused to do. Complainant refused to be arrested.

Gene Sarfoh agreed with the OPS finding of *Exonerated*, and motioned to accept it. David Rozen asked the monitor if the Complainant was reportedly resisting, and the monitor replied yes. The motion was seconded by Mickey Bradley. The motion carried unanimously.

4: Arrest Authority and Procedures - 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).

The Complainant alleges that the police broke his lenses during what he deemed an unlawful arrest. The Complainant says he got new glasses on the day of the incident. Police went to the store where he said he got his glasses. Store personnel reported that the Complainant had not been in that part of the store in months. The Complainant never signed an eye doctor form. Police are not liable for damages that occur when a person resists a lawful arrest. There were glasses found at the incident scene, but the police were unsure who they belonged to.

Gene Sarfoh motioned to agree with the OPS finding of *Not Sustained*, and it was seconded by Ivy Morris. The motion carried unanimously.

5: Arrest Authority and Procedures - The Complainant alleges he was not read his Miranda rights, but he was never interrogated or questioned, so Miranda rights were not an issue in this case.

Gene Sarfoh motioned to agree with the OPS finding of *Exonerated* (which is where the acts which provide the basis for the complaint occurred but the review shows that such acts were proper).

Charles Goodbee inquired as to when someone should be read Miranda rights. Gene Sarfoh explained that Miranda rights are outside the scope of the CPRB.

Mr. Sarfoh made a motion to agree with OPS's finding of *Exonerated*, and it was seconded by Larry Becker. The motion carried unanimously.

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

Larry Becker, Charles Goodbee, and Gene Sarfoh indicated availability to hear complaints for the next meeting.

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 reported that the Chair of the Public Safety Committee for the Common Council was present. David Rozen encouraged the Board to attend the Common Council meeting scheduled for tomorrow, and noted that he could not attend due to a prior engagement.

Mediation

Committee Chair Maritza Martinez was not present at the meeting. Mickey Bradley delivered the report. The quest to determine a date to train mediators continues; the training date was extended to September. The Mediation Committee and APD are revisiting the issue regarding who will conduct that training. Mickey Bradley concluded that he looked forward to moving ahead with the training.

Police Department Liaison Policy Review/Recommendations

Committee Chair Mickey Bradley reported that there is nothing to report.

Public Official Liaison

Committee Chair Edward Smart was not present, and no report was delivered in his absence.

Task Force on Monitors

Task Force on Monitors Chair Eugene Sarfoh stated that he was working with Maureen Obie to schedule a meeting tentatively in June. David Rozen questioned a monitor's lack of attendance at the meeting. Maureen Obie explained that there had been confusion over when the monitor was available, and that this confusion was the reason for the monitor's absence. David Rozen then retracted his recommendation to dismiss the monitor.

D. Nominations/Elections for Elected Board Officer Positions

Larry Becker requested to be on both the Mediation Committee and the Police Department Liaison Committee. Charles Goodbee requested to be assigned to the Education and Outreach Committee.

Maureen Obie pointed out that currently there is no chair for the community outreach committee. Ivy Morris volunteered to become the Education and Outreach Committee Chair. Charles Goodbee also joined the Education and Outreach Committee. New Board members were encouraged to join committees and to be involved in the community.

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 Fourth Quarterly Report and the 2015 First Quarterly Report

Mickey Bradley moved to approve the reports, Gene Sarfoh seconded, the board agreed 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 the complaint inventory as of today. There are 39 active complaints pending review. Of those 39 complaints, 5 were reviewed and closed at this meeting. This leaves the Board with 34 active complaints remaining. The Board has at least 7 cases that are ready to be reviewed at its next meeting on June 11th. To date, 633 complaints have been closed. The total number of complaints that remain suspended from review is 11. The number of complaints filed to date is 686. Since the last meeting on April 23, the GLC received two Grievance Forms, bringing the total number of Grievance Forms received to 567. In response to outreach to all individuals, the Board has received 153 CPRB complaint forms, which is 27%.

Board Vacancies and Reappointments

The Board has currently one mayoral, and one Common Council vacancy

The next CPRB meeting will take place on June 11th, at 6:00 p.m. Meeting packets will be mailed by Thursday, May 28th.

The NACOLE Early Bird Registration deadline is in early July.

I. Report from the Office of Professional Standards

OPS Detective Kathy Hendrick attend the meeting on behalf of Commander Hicks due to a schedule conflict. Detective Hendrick had nothing to report.

J. Report from the Chair

David Rozen mentioned that SUNY Albany is currently conducting an assessment study of the Board. Maureen Obie is sending a draft benchmarking survey questionnaire to the Board, and Board members should respond with their approval or disapproval of it.


V. Public Comment

Board members and several community members briefly discussed Common Council and its current vacancies, as well as how to apply to become a CPRB member.

VI. Adjournment

David Rozen moved to adjourn the meeting at 8:07 p.m. Mickey Bradley seconded the motion. The motion carried unanimously.

Respectfully Submitted,


Secretary