

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

**Thursday, September 8, 2016, 6:00 p.m.**  
University at Albany, Downtown Campus – Milne Hall  
135 Western Avenue, Levitt Hall (Rm. M120)

**MEETING MINUTES**

**Present:** Larry Becker, Mickey Bradley (Chair), Reverend Victor Collier, Zach Garafalo, Charles Goodbee, Sr., Ivy Morris (Vice Chair)

**Excused Absences:** Mike Grady (Secretary)

**I. Call to Order and Roll Call**

Chair Mickey Bradley called the meeting to order at 6:06 p.m.

**II. Approval of the Agenda**

Ms. Morris motioned to approve the Agenda. Mr. Goodbee seconded the motion. The motion carried unanimously.

**III. Old Business**

**A. Complaints for Board Review**

**CPRB No. 30-14 / OPS No. CC2014-087**

(Presented by Mr. Becker)

Mr. Larry Becker summarized the status of the complaint and the incident. This case is being revisited by the Board following Mr. Becker's request for the OPS detective assigned to the case to review a phone interview recording; whether or not a revised OPS Preliminary Report was warranted was discussed. Following a careful review of the interview recording by both Mr. Becker and the investigating detective, Mr. Becker noted satisfaction that OPS ultimately completed its investigation, based on the difficulty to prove what exactly happened during the incident.

Synopsis of Allegation: The complainant alleged an officer told her son that "If the street lights were off. . . would beat their f---- as---- and that they "don't belong in the neighborhood."

1: Conduct Standards - Larry Becker motioned to agree with the OPS finding of **Not Sustained** (where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint).and Ms. Morris seconded the motion. There were no comments or discussion regarding this complaint. The motion carried unanimously.

Ms. Morris summarized the complaint.

Synopsis of Allegations: The complainant alleged the officers stated “You don’t belong on that side of Albany.” “You aren’t going to be sh---.” “You’ll be in and out of jail.” and “You’re from that crazy and disrespectful family. . .you’re lucky you are stopped in a well-lit area” and used profanity. The complainant’s grandchild alleged the officer touched the grandchild inappropriately by groping the grandchild’s groin area while conducting a search.

1: Call Handling – Ms. Morris motioned to agree with the OPS finding of **Not Sustained**, and Mr. Becker seconded the motion. There was no comments or discussion regarding this allegation. The motion carried unanimously.

2: Call Handling – Ms. Morris motioned to agree with the OPS finding of **Unfounded** (where the review shows that the act or acts complained of did not occur or were misconstrued), and Mr. Garafalo seconded the motion. The Investigative Monitor, Theresa Balfe, stated that OPS’ audio recording did not sway her interpretation of the incident. The motion carried unanimously.

#### IV. New Business

##### A. New Complaints

##### 1. Complaints for Board Review

Board member Mr. Garafalo summarized the incident and allegations.

Synopsis of Allegations: The complainant alleged an officer followed complainant for several minutes and waited 3 or 4 blocks before the alleged first violation occurred to pull complainant over. The complainant alleged an officer abused their authority by refusing to tell complainant what their name was or their partner’s name. The complainant alleged the officer has followed them before, in September or October of 2014, in front of complainant’s house where their car was parked. The officer allegedly walked around the complainant’s car and looked inside their car with a flashlight looking around inside the vehicle. The complainant further alleges the officer took an accident report from the complainant at Madison Ave. and Delaware Ave. and lied writing a false traffic ticket and threatened to give the complainant another ticket for tinted windows. The complainant stated demonstrating the proper use directional when leaving the first traffic stop. The complainant alleged that during a visit to South Street Station to speak with a supervisor about the tickets the complainant received the complainant was told no supervisor was available at that time.

1: Arrest Authority & Procedure – Mr. Garafalo motioned to agree with the OPS finding of **Unfounded**, and Reverend Collier seconded the motion.

Discussion: Larry Becker commented regarding rolling stops and how the complainant’s stop at the stop sign appears to be what is commonly known as a “rolling stop.” The Investigative Monitor, Theresa Balfe, noted the value of video recording for clarifying incident details.

The motion carried unanimously.

2: Conduct Standards - Mr. Garafalo motioned to agree with the OPS finding of **Unfounded**, and Reverend Collier seconded the motion. The motion carried unanimously.

3: Conduct Standards - Mr. Garafalo 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), and Reverend Collier seconded the motion. There were no comments or discussion regarding this allegation. The motion carried unanimously..

4: Conduct Standards - Mr. Garafalo motioned to agree with the OPS finding of **Unfounded**, and Larry Becker seconded the motion. There were no comments or discussion regarding this allegation. The motion carried unanimously.

5: Conduct Standards - Mr. Garafalo motioned to agree with the OPS finding of **Exonerated**, and Reverend Collier seconded the motion. There were no comments or discussion regarding this allegation. The motion carried unanimously.

6: Conduct Standards - Zach Garafalo motioned to agree with the OPS finding of **Ineffective Policy or Training** (where the matter does not involve guilt or lack thereof, but rather ineffective departmental policy or training to address the situation), and Ms. Morris seconded the motion.

Discussion: Mr. Garafalo noted his conversation with a detective regarding officer discretion and potential for retraining for issuing a Uniform Traffic Ticket (UTT) for use of a cell phone on the side of the road. Board members discussed the appropriateness of a ticket issuance by the officer, and whether *Ineffective Policy or Training* was the proper finding because it places the blame on the department, rather than if the officer was simply unaware of the rule regarding issuance of UTTs for using cell phones on the side of the road.

Five Board members agreed with the motion, with one Board member being the 1 nay (Bradley), opposed to the motion. With a 5-1 vote the motion passes.

7: Conduct Standards - Mr. Garafalo motioned to agree with the OPS finding of **Exonerated**, and Mr. Becker seconded the motion. There were no comments or discussion regarding this allegation. The motion carried unanimously.

**CPRB No. 30-15 / OPS No. CC 2015-052**

(Presented by Mr. Goodbee)

Mr. Goodbee reviewed and summarized the complaint.

Synopsis of Allegations: The complainant alleged an officer refused to complete an accident report when requested, and the officer smiled and laughed at the complainant.

1: Call Handling - Charles Goodbee motioned to agree with the OPS finding of **Exonerated**, and Rev. Victor Collier seconded the motion. There were no comments or discussion regarding this allegation. The motion carried unanimously.

2: Conduct Standards - Charles Goodbee motioned to agree with the OPS finding of **Exonerated**, and Rev. Victor Collier seconded the motion. There were no comments or discussion regarding this allegation. The motion carried unanimously.

**CPRB No. 35-15 / OPS No. CC2015-057**

(Presented by Mr. Becker)

Board member Mr. Becker summarized the complaint.

Synopsis of Allegation: The complaint alleged complainant was stopped on two separate occasions and on the second stop the officer allegedly stated, "you want me to make up more

charges to put on this summons?" The complainant stated being fearful that the officer would "lie on h--."

1: Arrest Authority & Procedure – Mr. Becker motioned to agree with the OPS finding of **Not Sustained**, and Reverend Collier seconded the motion.

Discussion: Mr. Becker stated that he reviewed the video and observed that the complainant was driving well over the speed limit when stopped. He noted the importance of audio and video recordings together. Further, Mr. Becker noted often when citizens are stopped by police and ticketed they feel intimidated by an officer's comments due to the relative difference in status of the citizen and police officer. Investigative Monitor, George Kleinmeier, agreed with Mr. Bradley's summary and had no further information to add. Ms. Morris pointed out that an individual's perception is a factor for citizens and officers to keep in mind because everyone's interaction with the police will be different depending on the individual's perception of the situation and comments made. For example, an officer suggesting the citizen could be ticketed for more than the officer is issuing the ticket for may make some individuals feel grateful, while others may feel threatened. OPS Commander Hicks noted the old car cameras where the audio was not working properly are no longer in use.

The motion carried unanimously.

**CPRB No. 37-15 / OPS No. CC2015-064**

(Presented by Mr. Garafalo)

Mr. Garafalo reviewed and summarized the complaint.

Synopsis of Allegations: The complainant alleged that while the electricity was off at his high rise apartment a police officer and a firefighter opened complainant's front door. An officer shouted "get your pants on!" and then left while the firefighter stayed asking medical questions in relation to the power outage. The complainant alleges phoning a supervisor at APD Central Station several times and never receiving a return call.

1: Conduct Standards - Mr. Garafalo motioned to agree with the OPS finding of **Unfounded**, and Reverend Collier seconded.

Complainant's Comments: The complainant reviewed the events outlined in the complaint to the Board. Complainant expressed feeling like the police department did not show to the complainant respect and that the complainant felt it was appropriate to wear underclothes in your own home. The complainant expressed difficulty communicating by phone with the police department and the Government Law Center/CPRB. The complainant also found it challenging to locate a Citizen Complaint Form in order to file the complaint initially without having internet access.

Discussion: Mr. Garafalo emphasized the importance of understanding an individual's perception and that it is hard to say what exactly happened. He further noted that when body cameras are fully operational in the city there will be footage that APD will be able to review and better know what occurs. Mr. Bradley apologized to the complainant about complainant's difficulties with communicating with the Government Law Center/CPRB and Police Department. He pointed out that this particular incident is challenging because there was a public safety concern and this can result in a gray area when determining whether the behavior was proper. Reverend Collier advised that there was no way to prove the case, not

that no one does not care about the complainant's case. The complainant accepted the apology.

The motion for *Unfounded* failed with 3 yeas (Bradley, Garafalo, Collier) and 3 neas (Goodbee, Morris, Becker).

Discussion: Mr. Becker stated a finding of **Not Sustained** (where the review fails to disclose sufficient facts to prove or disprove the allegations made in the complaint) would be a better finding because there are factual issues in dispute that the Board could not determine either way how the incident played out. **Unfounded** would be determining the APD's factual statements are what occurred and *Not Sustained* would be a more accurate finding based upon there being a legitimate dispute of the facts.

Mr. Becker motioned for a finding of **Not Sustained**. Ivy Morris seconded the motion. The motion carried unanimously.

2: Call Handling - Mr. Garafalo motioned to agree with the OPS finding of **Unfounded**, and Larry Becker seconded.

Complainant's Comments: Complainant indicated making several phone calls to the police station and had kept records of the dates and times and not receiving calls in return.

Discussion: Mr. Bradley requested clarification on whether there was no APD records of calls at all or whether there was an absence of these specific calls. Mr. Garafalo indicated no records existed of calls from the complainant's number. Mr. Bradley indicated to the complainant that the finding represents a lack of evidence to prove what happened either way, and that it is not about believing one side over another.

The motion carried unanimously.

**CPRB No. 02-16 / OPS No. CC2016-003**

(Presented by Mr. Bradley)

Mr. Bradley reviewed and summarized the complaint.

Synopsis of Allegations: On January 16<sup>th</sup>, at approximately 1 am, the complainant was treated at St. Peters Hospital for a hand wound when the complainant became involved in a conflict with a nurse. Hospital security and APD were called to the scene. The complainant alleges mistreatment and discrimination by hospital staff because of the complainant's status as transgender. The complainant further alleges that APD officers did nothing to assist the complainant. Later that evening, the complainant reported at Center Street Station the treatment experienced at the hospital and to also file a complaint against the complainant's primary care physician, who complainant states has sexually abused the complainant on two occasions in the prior weeks.

Discussion: Mr. Bradley noted how the complaint dealt with discrimination and sexual abuse, which connects to gender identity. The entire society has to learn how to be more accepting and understanding. Mr. Bradley pointed out that much of the behavior described in the complaint included people who are not the APD, including hospital personnel. The alleged sexual abuse occurred outside of the jurisdiction of the APD. Investigative Monitor, Albert Lawrence, reported that at the hospital the complainant made no complaints to police regarding an assault, but did report the medical treatment and how the complainant felt discriminated against.

1: Call Handling - Mr. Bradley motioned to agree with the OPS finding of **Unfounded**, and Reverend Collier seconded. There were no comments or discussion regarding this allegation. The motion carried unanimously.

2: Call Handling - Mr. Bradley motioned to agree with the OPS finding of **Unfounded**, and Mr. Garafalo seconded.

Discussion: Mr. Bradley indicated he was concerned that the desk officer the complainant spoke with about a possible sexual assault lacked sensitivity in taking the information for a complaint of sexual abuse. Many departments follow best practices of taking the information in a private setting by officers who are trained to best solicit information in response to sensitive information like a sexual assault. The complainant alleges that the officer asked questions like, "why did you return to the doctor a second time?" and "why wait until now to report the incident?" These are questions that have an undertone of blaming or lack of understanding about how victims of sexual violence commonly respond to attackers especially when they feel as though they can trust them.

The motion carried unanimously.

Mr. Bradley motioned for the Board to recommend the APD review their policies regarding taking allegations involving sexual abuse. Mr. Becker seconded the motion. The motion carried unanimously.

3: Conduct Standards - Mr. Bradley motioned to agree with the OPS finding of **Not Sustained**, and Reverend Collier seconded. There were no comments or discussion regarding this allegation. The motion carried unanimously.

4: Use of Force - Mr. Bradley motioned for a finding of **Not Sustained**. Reverend Collier seconded the motion.

Discussion: Mr. Bradley described the situation as a "he said, she said" situation where there is no way to determine what actually occurred and is better suited as a **Not Sustained** finding. Commander Hicks noted OPS rendered an **Unfounded** finding because there was no feasible way for the complainant's witness to not see what occurred because of the distance between the exit and where the witness stated to be standing; it is such a small proximity so the witness could not have missed seeing the complainant as the complainant was thrown outside down the stairs. Board members discussed the availability of video coverage in the station lobby and outside. Center Station cameras were updated to a higher resolution picture, but is not retained past 30 days. Board members discussed how the many various camera systems in the City do not have the same retention timeframes; the difference in timeframes for the complaint process and video retention can affect complaint reviews. Mr. Bradley suggested that the Police Department Liaison and Policy Review Committee address this issue and either make a recommendation or gather more information.

The motion for a finding of *Not Sustained* did not pass with 2 yeas (Becker, Collier) and 3 neas (Goodbee, Morris, and Garafalo). There is no finding for this allegation.

CPRB No. 11-16 / OPS No. CC2016-014

(Presented by Mr. Bradley)

Mr. Bradley, reviewed and summarized the complaint.

Synopsis of Allegation: The complainant alleged being issued a parking ticket in retaliation for an incident that the complainant and the complainant's fiancé were involved in at Central Station the day before. The complainant states having a valid vehicle handicap tag which the complainant told the officer the complainant keeps on the dashboard under the registration sticker. The complainant alleged being violently escorted out of Central Station.

1: Conduct Standards - Mr. Bradley motioned to agree with the OPS finding of ***Not Sustained***, and Reverend Collier seconded. There were no comments or discussion regarding this allegation. The motion carried unanimously.

2: Use of Force - Mr. Bradley motioned to agree with the OPS finding of ***Unfounded***, and Reverend Collier seconded. There were no comments or discussion regarding this allegation. The motion carried unanimously.

#### **B. Appointment of New Members to the Committee on Complaint Review for October 13, 2016**

Mr. Becker, Reverend Collier, Mr. Garafalo, and Mr. Goodbee, indicated their availability to hear complaints during the next meeting.

#### **C. Approval of 2015 Fourth Quarterly Report**

The 2015 Fourth Quarterly Report was approved unanimously.

Ms. Obie noted that an electronic and hard copy draft versions of the 2015 Third Quarterly Report was disseminated to Board members today for approval at the next Board meeting, on October 13, 2016.

#### **D. Committee / Task Force Reports**

##### By-Laws and Rules

No report was delivered pending the appointment of a Committee Chair. Chair Bradley solicited a volunteer to chair the Committee. Mr. Garafalo volunteered to become Chair for the By-laws and Rules Committee.

##### Community Outreach & Education

Chair Morris reported that the Committee met last in July. During the Committee's next meeting (date TBD), members will discuss further options for enhancing current community outreach efforts while improving the Board's visibility. Potential projects include finalizing the purchase of a pop-up banner, and public radio announcements. Ms. Morris noted that the limited availability of Citizen Complaint Forms for citizens who lack internet access should be addressed by the Committee.

Following several meetings with Citizen Action New York members, the Committee's previous plans for an informational outreach event in July for community organization leaders and stakeholders at Citizen Action New York's offices were postponed due to Committee members' schedule conflicts.

Tentative plans for Committee members to present at one of the University at Albany College and University Community Relations' (CUCR) meetings, pending Committee members' availability to attend.

#### Mediation

No report was delivered, pending the appointment of a new Chair following Board member Maritza Martinez's resignation from the Board in August 2016. Reverend Collier volunteered to become Chair for the Mediation Committee.

#### Police Department Liaison Policy Review/Recommendations

No report was delivered. Mr. Bradley advised that Committee Chair Mr. Grady was unable to attend tonight's meeting. Mr. Bradley noted that Mr. Grady currently has tentative plans for the Committee to meet and discuss several policy matters.

#### Public Official Liaison

Chair Mr. Bradley reported the Committee had no updates.

#### Task Force on Monitors

Chair Mr. Becker reported plans to schedule a meeting with Government Law Center (GLC) staff to discuss investigator research completed by the GLC. Mr. Becker looks forward to attending the 2016 Annual NACOLE Conference later this month and anticipates learning more about other Boards' investigation policies and procedures.

Mr. Bradley requested that the GLC forward an updated Committee List to Board members. Mr. Bradley noted several specifics contained in the by-law's committee membership requirements. Ms. Morris volunteered to become a member of the Task Force on Monitors.

### **E. Albany Law School Government Law Center, CPRB Coordinator's Report**

Maureen Obie, Coordinator for the CPRB, delivered the following report:

As of today, there are 29 active complaints. Of those 29 complaints, 8 were reviewed and closed at this meeting, leaving 19 complaints. A total of 695 complaints have been closed to date. Of those 695 closed complaints, 35 complaints that have been closed with no review. The total number of complaints that remain suspended from review is 6. The total number of complaints filed to date is 725. Since the Board's last meeting on June 9, 2016, the GLC received 3 Grievance Forms, resulting in a total number of forms received at 593. The Board's outreach to all individuals remains at 145 CPRB complaint forms received, or 24%.

Currently an Annual 2015 Report, and 2016 First, Second, and Third Quarterly Reports are pending. The GLC continues to address the Board's reports backlog.

The GLC's second round candidate search for a new Executive Director continues. Currently Bennett Liebman is serving as the GLC Interim Director. Two new part time Albany Law School research assistants have been hired for the 2016-2017 academic year - Angela West (3L), and Elizabeth O'Reilly (2L) who is in attendance this evening. Steven



Cummings (3L) was rehired as a third research assistant. Mr. Cummings also worked for the Board during the summer of 2016; based on his exemplary performance, it is a delight to welcome him back.

Currently 5 Board members have confirmed plans to attend the 2016 Annual NACOLE Conference in Albuquerque, NM. The GLC has processed all conference registrations and hotel room reservations. Board members are reminded to retain all receipts for their travel in accordance with the standard federal meals and incidentals per diem rate of \$51 per day. All receipts should be submitted to the GLC for reimbursement.

The next monthly Board meeting will be held on Thursday, October 13, 2016, at 6:00 p.m., at this location. A list of upcoming 2016-2017 Board monthly meeting dates were distributed to Board members this evening.

#### **F. Office of Professional Standards' (OPS) Report**

Commander Hicks reported that four body worn camera vendors are scheduled within the next several weeks to deliver to the Albany Police Department equipment to be piloted by 18 officers who volunteered to test cameras on a rotation basis during a four-month timeframe.

Albany Police Chief Brendan Cox recently implemented a policy whereby all officers have been issued business cards to be presented to any citizen who solicit an officer's name during an encounter.

During the next several weeks 10 new police officers are slated to begin training at the new Police Academy.

Mr. Bradley inquired about the status of the Department's efforts to address diversity representation on the force that reflects the local community. Commander Hicks advised that updated employment statistics are pending.

#### **G. Chair's Report**

Mr. Bradley noted the resignations for Board members Maritza Martinez and Kerry Mulligan - both significant losses for the Board and the City of Albany. He publicly expressed his appreciation for their exemplary service to the Board, noting Ms. Mulligan's commitment and thorough review of complaints, as well as Ms. Martinez's length of service, and invaluable feedback regarding complaint reviews. New Board members are needed to fill both current Common Council vacancies, and Board members were encouraged to solicit appointee applications by residents of the City of Albany.

Correspondence routinely mailed to complainants upon the GLC's receipt of a Citizen Complaint Form was revised recently. In the interest of time, while the revised correspondence has been implemented, Mr. Bradley stated plans to forward the revised templates to Board members for their review and feedback.

The number of complaints currently ready for review by the Board at its next meeting, and the status of reports for complaints recently unsuspended was confirmed.

Mr. Bradley noted that Commander Hicks is celebrating his birthday today. Commander Hick's strong commitment to the Board, as well as his consistently fair approach have created a positive and productive partnership with the Board.

**IV. Public Comment**

No public comments were made.

**V. Adjournment**

Mr. Bradley moved to adjourn the meeting at 8:17 p.m. Reverend Collier seconded the motion. The motion carried unanimously.

Respectfully Submitted,



The image shows a handwritten signature in cursive script that reads "Ivy Morris". The signature is written in black ink and is positioned above the printed name.

Vice Chair Ivy Morris