

**City of Albany
Citizens' Police Review Board
Albany Public Library
161 Washington Avenue – Large Auditorium
January 10, 2008
6:00 p.m. – 8:00 p.m.**

Present: Jason Allen, Daniel Fitzgerald, Ronald Flagg, James Malatras, John Paneto, and Anthony Potenza, and Fowler Riddick.

Absent: Andrew Phelan, Jr.

I. Call to Order and Roll Call

Chairman Jason Allen called the meeting to order at 6:00 p.m.

II. Approval of the Agenda

The agenda was reviewed. Chairman Jason Allen moved to approve the agenda. James Malatras seconded the motion. The motion carried unanimously.

III. Approval of the November 8, 2007 Meeting Minutes

Chairman Jason Allen noted that the November 8, 2007 meeting minutes will be ready for approval at the Board's February 2008 meeting.

IV. New Business

A. *New Complaints*

1. New Complaints Received Since December 20, 2007 Meeting

Chairman Jason Allen reported that no new complaints were received by the Board since its December 20, 2007 meeting.

2. New Complaints for Review

Chairman Jason Allen reported that there were two (2) new complaints on the agenda for review by the Board.

CPRB No. 11-07/OPS No. C07-284 (Presented by John Paneto)

John Paneto summarized the complaint. The complaint involved allegations of use of force, arrest authorities and procedures, and conduct standards. Mr. Paneto noted that the

complainant identifies herself as a disabled person. The complainant alleged that while at City Hall on business, a police officer tackled her using unnecessary force; a police officer filed a false report and arrested her; and the officer screamed at her and acted irrationally. Mr. Paneto reported that he reviewed the following documents: title II of the ADA of 1990; Section 504 of the Rehabilitation Act of 1973; ADA Accessibility Guidelines; City of Albany Website on EEO/Human Rights Commission; International Code Council; APD policy on use of force; APD policy on responding to calls involving emotionally disturbed persons; OPS report; and monitor's report. Mr. Paneto also noted that he visited City Hall to observe the disabled person entrances. It was noted that a monitor was appointed to investigate this complaint.

Mr. Paneto summarized the findings of the OPS on the use of force allegation as ***unfounded***; the arrest authorities and procedures allegation as ***unfounded***; and the conduct standards allegation as ***unfounded***. The OPS investigation revealed that the officer escorted the complainant to a chair at the security desk in the lobby of City Hall. The complainant admitted that the officer did not tackle or throw her to the ground. There were independent witnesses at City Hall who supported the actions of the officer as appropriate. According to the OPS investigation, based on the documents and statements submitted by the police officers and witnesses, the arrest documents are true and accurate. According to the OPS investigation and witness statements, there was no officer misconduct. One witness stated that "the complainant was completely out of line with the officer," "would not listen" to the instructions given her by the officer, and "walked past the metal detector." According to the witness statement, the officer repeatedly gave the complainant the option to leave the building, go through the metal detector or get arrested.

Mr. Paneto concluded that the complainant frequently visits City Hall and should have known the existing procedures for admission to City Hall. He noted that the complainant was not denied access into City Hall because of her disability. Mr. Paneto suggested that the complainant contact City Hall's EEO and/or the Albany Human Rights Commission with her concerns regarding City Hall's accessibility for disabled persons. Mr. Paneto also noted his concern that the structure of City Hall presents problems. Designating an entrance for disabled people does not adequately address the accessibility issue. The lower level entrance at City Hall is a wheelchair entrance. He reported that City Hall and the APD should design and implement an entrance that is more accessible to disabled people. Mr. Paneto further concluded that the officers acted within their discretion to enforce existing guidelines governing the entrance to City Hall. The issue of accessibility by disabled people into City Hall remains with City Hall and not the APD.

Mr. Paneto acknowledged that the appointed monitor, Joel Pierre-Louis, was present. Mr. Pierre-Louis stated that he did not have anything additional to add. The complainant was acknowledged. She stated that she did not agree with the findings of the OPS. The complainant explained that the officer lifted her off her feet and jerked her around. She stated that she was bruised for three (3) days and went to the South End Station to have them photograph her and they refused to photograph her. The complainant handed a

dismissal order to the Board. She stated that City Hall has no policy prohibiting her from using the left hand front door. She further stated that she cannot use revolving doors due to her disability, so she always uses that door. The complainant added that she is a City Hall volunteer. She does backstage security for City events, concerts, and festivals. She commented that she was at City Hall to file a challenge to her tax assessment. The complainant stated that she walked around the magnometer for the officer to use the wand on her because her crutch sets it off. The officer began to scream at her that she could not enter the lobby. The complainant noted her frustration at the officer for wanting her to walk around the building to the handicap entrance where she would have to wait for a long time because it is always empty and vacant. She added that since the officer is no longer stationed at City Hall, there have not been any problems. She continues to go through the same door he tried to prevent her from using. The complainant noted her disagreement with how her complaint was investigated.

Mr. Paneto commented that he made it clear in his report that the issue is City Hall's procedures regarding the disabled and not the police. He added that there were several witnesses at the scene. The complainant stated that there were no witnesses. She added that there was no one else in the lobby. Mr. Paneto stated that he recommends that City Hall revisit the accessibility to its building. The complainant stated that the court decided that she had a valid right to be in City Hall's lobby.

Mr. Pierre-Louis stated that he understood the complainant's frustration; however, she had three specific issues in her complaint. Those issues were: whether or not the officer acted irrationally; tackled her and dragged her across the floor in City Hall; and falsified documents pertaining to the complainant's arrest. Mr. Pierre-Louis added that the other issue raised was whether or not the complainant had the right to go around the magnometer. While other officers might have known the complainant, this officer did not know her and he was doing his job. When the complainant went around the magnometer, the officer reacted according to procedure. In addition, the officer had discretion on whether or not the complainant should go through the magnometer and he chose to ask the complainant to go through the magnometer. Mr. Pierre-Louis stressed that he and the Board took the complaint seriously. He added that three of the witnesses were employees of City Hall, and one of the witnesses was not an employee. Mr. Pierre-Louis summarized that he did not see what happened, so relied on documents not limited to: the information submitted by the complainant; the witness statements; and the officer statements.

Mr. Malatras explained the review process to the complainant. Assistant Corporation Counsel Jeff Jamison noted that he will look into the accessibility issue. Mr. Paneto moved to accept the OPS findings of **unfounded** for the use of force allegation; **unfounded** for the arrest authorities and procedures allegation; and **unfounded** for the conduct standards allegation. Chairman Allen seconded the motion. The motion carried unanimously.

CPRB No. 18-07/OPS NO. C07-525 (Presented by Fowler Riddick)

Fowler Riddick summarized the complaint. The complainant alleges harassment and intimidation by the police department and fire department in Albany and Colonie on several different occasions. The complainant further alleges that the officers are following her and conducting surveillances on her. Mr. Riddick acknowledged that the complainant was not present at the meeting. Daniel Fitzgerald asked if the OPS was unsuccessful in its attempt to interview the complainant. Mr. Riddick responded in the affirmative. Commander Burris Beattie added that the OPS tried to interview the complainant and was unsuccessful in obtaining the dates, times, or descriptions to help with the investigation. He noted that this was the second complaint filed by the complainant along the same allegations. Mr. Riddick added that the first complaint was filed in 2006. Commander Beattie noted that the OPS spoke to the complainant's clergy. He moved to accept the OPS findings of *no finding* on both counts of the conduct standard allegations. James Malatras seconded the motion. The motion carried unanimously.

B. *Appointment of New Members to the Committee on Complaint Review for February 2008*

The following Board members were appointed to the Committee on Complaint Review for February 2008: Jason Allen, Ronald Flagg, James Malatras, John Paneto, Anthony Potenza, and Fowler Riddick.

C. *Committee/Task Force Reports*

By-Laws and Rules/Mediation

Committee Chairman Jason Allen reported that the Board is waiting for Chief James Tuffey to provide comments to the mediator resumes. He added that the meeting with the Common Council's Public Safety Committee is scheduled for January 16th. The topic of that meeting is to discuss the mediation protocol and how it ties in with the legislation. Chairman Allen noted that the Board has to approve the resumes which were included in last month's meeting packets. He stated that the Government Law Center and members of the Board interviewed potential mediators in December 2007. Ronald Flagg noted that his concern is that the Chief and APD union representatives are satisfied with the candidates. Chairman Allen explained that the protocol states that once the complainant and the officer agrees to mediation, then there would be no investigation. However, the legislation states that all complaints will be investigated. Mr. Malatras stated that this would require an ordinance change. Chairman Allen moved to approve the list of mediator candidates. James Malatras seconded the motion. John Paneto abstained from voting. Mr. Paneto noted that he voted against the motion because he was not able to

review the resumes or attend the interviews. The motion carried six (6) yeas with one (1) abstain.

Community Outreach

Committee Chairman James Malatras reported that the brochure has been finalized and is ready to be professionally printed. He added that the brochure will also be available in Spanish. Mr. Malatras noted that the English version is posted on the website. He also noted that he has been working on a press release that will accompany the mailing out of the brochure to the community. Anthony Potenza suggested that the printing be done by a union print company.

Mr. Malatras mentioned that he would like to get a table at the NYS Black and Puerto Rican Legislative Caucus. Once he gets information on the event he will forward it to the Board. Mr. Malatras also noted that he communicated with the neighborhood associations on a regular basis before each Board meeting.

Police Department Liaison and Policy Review/Recommendations

Committee Chairman Daniel Fitzgerald reported that he has not yet met with Commander Beattie. Chairman Allen suggested scheduling a meeting with Commander Beattie to discuss the early warning system.

Public Official Liaison

Committee Chairman Ronald Flagg reported that the committee met with Deputy Mayor Phil Calderone and Chief James Tuffey to discuss the inconsistency between the mediation protocol and the City ordinance. Mr. Malatras added that the mediation program is a much needed, heavily worked on Board initiative.

Task Force on Monitors

Task Force Chairman James Malatras reported that the committee is scheduled to conduct a meeting with the monitors on January 24 to finalize the monitor's protocol.

F. *Nominations for Elected Board Officer Positions*

Chairman Jason Allen reported that nominations and elections for Board officer positions were scheduled for last month's meeting but were rescheduled to this meeting so more members could participate. He suggested that nominations and elections be held at this meeting since most members were present. The Board agreed. There was some discussion about keeping the same officer positions as previously. James Malatras moved to keep all current Board members in the same positions for another term. Ronald Flagg seconded the motion. The motion carried unanimously.

G. *Committee/Task Force Chair Elections*

Chairman Allen suggested that the elections for Committee/Task Force Chair positions also be held at this meeting. He added that he is okay with the present committee chairs and members. Chairman Allen asked if there were any members who wanted to be more involved. Mr. Fitzgerald responded that he would be willing to step down as Chair of the Policy Review Committee if any one wanted to Chair it. Chairman Allen moved to keep all current Committee/Task Force positions the same for another term. Ronald Flagg seconded the motion. The motion carried unanimously.

H. *Report from the Government Law Center (GLC)*

Government Law Center Coordinator of the Board Sharmaine Moseley gave the report.

Complaint Status as of Date of Meeting

It was reported that as of today, there are currently twenty-four (24) active complaints before the Board for review. Of those twenty-four (24) active complaints, two (2) were reviewed at tonight's meeting, which leaves the Board with twenty-two (22) active complaints.

It was further reported that two hundred forty-seven (247) complaints have been closed and nine (9) complaints remain suspended from review. The total number of complaints filed to date is two hundred seventy-eight (278).

Reports

It was reported that the Center is currently drafting the third quarter report for 2007, which should be ready for approval by the next Board meeting. It was also reported that the Board's November meeting minutes is currently being reviewed and will also be ready for approval by the next Board meeting.

NACOLE Conference

It was reported that the NACOLE Conference is scheduled for October 26 – 30, 2008 in Cincinnati, Ohio. Ms. Moseley asked the Board to let her know if they would like to attend this conference. Chairman Allen asked how many members the City will send this year. Ms. Moseley replied that it depends on how many members want to go. Chairman Allen asked do we want to have everything scheduled by this summer. Ms. Moseley responded that the sooner scheduled the better due to hotel reservation limits. Mr. Paneto noted that he was impressed by the professionalism of the conference. Chairman Allen asked that an email be sent to the Board regarding the conference. Mr. Paneto also

suggested that the APD should send a representative. Chairman Allen asked Commander Beattie to look into whether the APD would send a representative. Commander Beattie asked Ms. Moseley to send him the conference information. He also asked her to send a letter to the Chief. Commander Beattie noted his concern about funding an officer to attend the conference.

Board Meeting

It was reported that the next Board meeting is scheduled for February 14. Chairman Allen asked if the Board would prefer to reschedule the meeting date to February 7. The Board agreed to reschedule it to February 7.

Other GLC News

It was reported that GLC Director Patricia Salkin has returned from her sabbatical.

I. *Report from the Office of Professional Standards*

Commander Burriss Beattie reported the fourth quarter report will be ready by the next Board meeting.

J. *Report from the Chair*

Chairman Allen stated that he had nothing to report.

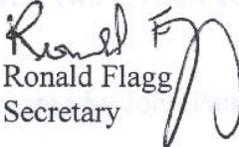
V. Public Comment

Chairman Jason Allen opened the floor for public comment. It was noted that Robert Tufano, a member of the Schenectady Police Review Board, was present. Mr. Tufano commented that he was present to observe the Albany Board process.

VI. Adjournment

Chairman Allen moved to adjourn the meeting. Ronald Flagg seconded the motion. The motion carried unanimously. The meeting adjourned at 7:20 p.m.

Respectfully submitted,


Ronald Flagg
Secretary