

City of Albany Citizens' Police Review Board
Minutes of 12/03/01 Meeting
Albany Public Library
HBH Room

In Attendance: Manuel Alguero, Kenneth Cox, Morris Eson, Marilyn Hammond, Judith Mazza, Herman Thomas, Paul Weafer, and Michael Whiteman

Absent Eleanor Thompson

The meeting was called to order at 7:08pm. Chairman Kenneth Cox moved to accept the agenda. The motion was seconded. All approved.

Chairman Cox moved to accept the minutes from the November meeting. Paul Weafer seconded. All approved.

Public Outreach

Marilyn Hammond reported that she participated in a public outreach meeting with Personal Safety and Off-Campus Affairs of SUNY Albany. She noted that Justina Cintrón of the Government Law Center also attended and that the meeting went well.

It was reported that an outreach meeting was scheduled with One Hundred Black Men of the Capital Region for December 20th at their headquarters on Central Avenue.

Old Business

Paul Weafer reported that one complaint was held over for review from the November meeting because the monitor was unavailable. He noted that the monitor was in attendance at the meeting.

New Business

Review of Complaints. Paul Weafer reported that there were three complaints for review, but only two individual complainants were involved. He noted that one complainant had filed three complaints with the Board, two of which were to be reviewed at the meeting, and the complaints involved five separate events.

CPRB No. 16-01 (OPS No. 01-303). It was noted that Therese Balfe was appointed to monitor this case and that the complainant was not present at the meeting. Paul summarized the complaint. The complaint alleges that police officers approached the complainant's residence while he was sitting on his front steps, got out of their car and attempted to follow the complainant's nephew into the complainant's house without knocking or ringing the bell. One officer asked the complainant to turn his radio down

and the complaint reported that the complainant complied with this request. The complainant then alleges that when he turned to see if the officers had entered his residence, an officer maced him in the face. The complainant further alleges that the officer pushed him down the steps causing him to strike his face on the steps and the sidewalk. The complainant claims that he was taken to the hospital for injury, a large bruise, on half of his face.

Theresa Balfe reported that she had observed Detective Hendricks investigation of this complaint. Ms. Balfe stated that Det. Hendricks met with the complainant the morning after the incident and that she was present, but did not speak with the complainant. She reported that the complainant seemed disoriented and slow in his actions during the interview with Det. Hendricks. She noted that the complainant's statement was more detailed than his interview. He had a hard time following a train of thought, and asked to see a member of the Review Board. She stated that Det. Hendricks reviewed the procedure with the complainant and that she explained that she was there as a representative of the Board to observe the investigation.

Ms. Balfe noted that the nephew was supposed to be in attendance at the interview, but was not present. She reported that Det. Hendricks led the complainant through the chain of events during the interview, but he was hard to follow and distracted. She also reported that two to three neighborhood canvases were performed for witnesses. Ms. Balfe stated that Det. Hendricks kept her informed throughout the investigation.

It was reported that one neighbor alleged the complainant was dragged. Det. Hendricks interviewed another witness and the witness was abrupt and guarded. It was reported that when the complainant was taken to the hospital, he was intoxicated and spit in the ambulance workers' face.

Lt. Bruno reported that the officers who are the subject of the complaint were investigating a drug sale in the area and it was believed that the complainant's nephew had an outstanding warrant. He noted that a recommendation would be made to discipline the officers for failure to complete a field interview card during the incident.

Paul Weafer inquired about the police department's policy regarding the use of mace. Lieutenant Bruno responded that the use of mace is permitted on the force continuum to maintain control of a person after verbal warnings have been given.

Michael Whiteman moved to accept the findings of OPS, finding the complaint not sustained. Paul Weafer seconded. All approved.

CPRB No. 18-01 (OPS No. 01-324) and CPRB No. 22-01 (OPS No. 01-360). It was noted that Theresa Balfe was appointed to monitor these complaints and that the complainant was not present at the meeting. Paul Weafer summarized the complaint. The complainant filed three separate complaints regarding five events arising from the same incident. The complaints involve the complainant's unlicensed use of a motorcycle. The events complained of occurred on: 7/31/01; 8/1/01; 8/21/01; 9/5/01

and 9/6/01 for incidents of speeding. The complainant was ticketed for speeding at: 65 in a 30 mph zone; 103 in a 55 mph zone; and 67 in a 30 mph zone on Washington Avenue.

Paul Weafer noted that the complainant was never licensed during these incidents and was indignant when asked why there was not a licensed driver with him. Commander Breen noted that in these types of circumstances the licensed driver is supposed to be in the vicinity (either in a car or on another bike).

Therese Balfe noted that her report includes all three complaints filed by this complainant, but only two complaints were up for review. Paul Weafer responded that the Board could only make findings for the two cases that were ready for review, not the third.

First Complaint

7/31/01 Incident. Ms. Balfe reported that the complainant had a hard time producing witnesses. She summarized the complaint and reported her observations. When the complainant was stopped, he claimed another person was riding with him. However, the other rider was not present. The complainant alleged and she reported that he was issued tickets for failure to signal, unlicensed operation and speeding, and was placed in handcuffs and put in the back of the police car. He reported that a female was with the officer, and her statement was taken. The female (ride-along) stated that the complainant was upset and was handcuffed and put in the car to calm him down. The complainant also claimed that his bike was impounded.

8/1/02 Incident. The complainant alleged that he was pulled over by an officer on Washington and Colvin Avenues and issued a ticket for failure to comply, driving without a license and speeding. The complainant alleged that the officer from the night before arrived and said that he was going to impound the complainant's bike. The complainant claimed that the first officer stated, "you want to piss him off, why don't you piss on his hubcap."

8/21/01 Incident. The complainant alleged that an officer entered the complainant's home without permission and questioned him about driving his motorcycle without a license. He claims the officer made derogatory statements and was again issued written tickets. Theresa Balfe reported that the complainant wanted to the roommate to give a statement regarding the first incident and noted that the roommate was not present for the second incident.

Second Complaint

9/5/01 Incident. The complainant alleged he was riding his motorcycle with a guy he had just met when he was stopped for speeding by two officers. He claimed that he the officers questioned him about an earlier incident when the complainant was pulled over and used foul language toward him.

9/6/01 Incident. The complainant alleged that he was stopped in front of his house and asked to produce his license. He claims that he was pushed by the officer in front of witnesses, two ladies and two friends. He alleged that the incident was videotaped. Ms. Balfe noted that while the complainant alleges that he had a female passenger he had just met, witnesses reported that he was driving on his own and that the police officer did not push him or call names.

Therese Balfe reported that she had read all the statements pertaining to these two complaints. She reported that while a neighborhood canvass had been conducted, no witnesses could be found to back up the complainant's version of the events. With regard to both complaints, Ms. Balfe reported that Det. Hendricks found the stops to be justified, and that the mobile data transmissions at the stops support this.

With respect to the first complaint, Ms. Balfe stated that the female ride-along confirmed that the complainant was not under arrest, but was handcuffed only to calm him down.

With respect to second complaint, Ms. Balfe reported that Det. Hendricks went to the complainant's home to speak to the roommate on more than one occasion, but did not have the opportunity to speak with him a second time. She noted that pictures were produced that showed skid marks leading to the complainant's motorcycle, but reported that the videotape was never produced.

The police officer admitted to using the term idiot, he said "it's idiotic to drive without a license." Therese Balfe feels that the stops were justified and should be closed.

Michael Whiteman inquired about the age and race of the officers and how long they have been on the force: 0-5; 5-10; or 10-15 years? Commander Breen responded that both officers are white males, one has 25-30 years on the force and the other officer has 15 - 20 years on the force.

Marilyn Hammond inquired about the woman the complainant claimed was on the back of the bike, whom he didn't know. Ms. Balfe responded that the complainant claimed the woman jumped off the bike and ran. She noted that OPS was not able to interview her.

Manuel commented that the neighbors said the officers acted very professionally.

Paul Weafer moved to uphold findings of OPS. Michael Whiteman revised the motion, moving to find that the complaint was not sustained. Morris Eson seconded. All approved.

Discussion ensued about the complaint form. Morris Eson inquired about the affidavits, prepared by OPS, that are attached to the complaint form and submitted to the Board as a complaint. Morris Eson questions why the complaint form is not being filled out by the complainant. He noted that the intent of the Board was to have a complainant fill out the form by himself or herself and that it not be sworn to by the complainant.

Corporation Counsel agreed to address this issue at next meeting.

New Complaints Filed. Paul Weafer reported that three new complaints had been filed since the last meeting. He summarized the complaints as follows:

CPRB No. 33-01 - alleges excessive use of force and unlawful entry into a private home. A monitor was appointed.

CPRB No. 34-01 - a monitor was appointed.

CPRB No. 35-01 alleges rudeness and incivility. No monitor was appointed.

Draft Annual Report. The GLC reported that the Board's Annual Report would be completed and forwarded the Board in advance of its January meeting, to be taken up then.

Other Board Action. Paul Weafer reported that a letter was prepared and signed by the members of the Board for the Police Commissioner, regarding a complaint involving landlord/tenant dispute, asking for a policy review.

Paul Weafer also noted a proposed amendment to the Board's Operating Procedures. He asked the Board to review it in advance of the next meeting.

Chairman Cox noted that a training session on revisiting the law was scheduled for Dec. 11th from 6-8pm at the law school.

Discussion was had regarding the timeliness of the receipt of OPS reports in advance of the Board's monthly meetings. The Corporation Counsel agreed establish a time line for forwarding OPS' reports to the Board in advance of the monthly meetings. Paul Weafer suggested that reports be received by the Board at least ten days in advance of a meeting.

Michael Whiteman reported on the NACOLE Conference attended by both him and Eleanor Thompson. Mr. Whiteman noted that he has put together useful reference materials and has attached them to the report, which he concluded with several recommendations.

Patricia Salkin noted that the GLC had bid to host next year's NACOLE conference, but the Conference was already slated for Boston. She added that the GLC is planning to put together a regional conference for the Fall 2002 so as not to compete with NACOLE.

Public Comment. Louise Robach asked if the training on revisiting the law was open to the public. The Board responded it was training and therefore not an open meeting.

Chairman Cox moved to adjourn the meeting. Paul Weafer seconded. All approved.

The meeting was adjourned at 8:25pm.

Respectfully Submitted,

Michael Whiteman
Secretary