

City of Albany
Citizens' Police Review Board
Albany Public Library (HBH Room) Washington Avenue
December 9, 2002
6:00p.m. – 8:00 p.m.

Present: Manuel Alguero, Kenneth Cox, Barbara Gaige, Marilyn Hammond,
Judith Mazza, Eleanor Thompson, and Michael Whiteman.

Absent: Herman Thomas and Paul Weafer.

I. **Call to Order & Roll Call**

Chairman Kenneth Cox called the meeting to order at 6:10pm. The reports of the Government Law Center (GLC) and the Office of Professional Standards (OPS) were given at the start of the meeting.

II. **Approval of Agenda**

The agenda was reviewed. Chairman Cox moved to approve the agenda, with the exception of the GLC and OPS reports, which had been presented at the start of the meeting. Barbara Gaige seconded the motion. The motion carried unanimously.

III. **Approval of September 2002, October 2002 and November 2002 Meeting Minutes**

The September 2002, October 2002 and November 2002 meeting minutes were reviewed. Michael Whiteman moved to accept the minutes. Barbara Gaige seconded the motion. The motion carried unanimously.

IV. **Old Business**

Chairman Cox provided a follow-up report on a meeting with the Mayor that took place on November 19, 2002. Chairman Cox reported that, in addition to himself, Herman Thomas and Eleanor Thompson were present at the meeting. Chairman Cox also reported that the reappointment of Herman Thomas by the Mayor and Eleanor Thompson by the Common Council was discussed.

V. **New Business**

A. *New Complaints*

Chairman Cox reported that four (4) new complaints had been received by the Board since the November meeting. Chairman Cox reported the following with respect to the four (4) complaints:

CPRB No. 66-02: Monitor appointed. The complaint involves excessive force.

CPRB No. 67-02: No monitor appointed. The complaint involves harassment/rudeness.

CPRB No. 68-02: No monitor appointed. The complaint involves harassment arising from talking loud in an office.

CPRB No. 69-02: No monitor appointed. The complaint involves harassment.

Chairman Cox reported that there were five (5) new complaints for review.

CPRB No. 46-02/OPS No. C02-474. Barbara Gaige gave a summary of the complaint. According to Ms. Gaige, this complaint was the second complaint made by the complainant. The original complaint involved a situation where the complainant was arrested for unlicensed operation when officers discovered that he had left his vehicle unattended. In this second complaint, the complainant alleged that one of his witnesses, his wife, was not interviewed by the Office of Professional Standards. However, his wife initially did not appear until the pepper spray had been sprayed on the complainant and therefore, was unable to provide an account of what had happened until that point. OPS closed the complaint with a finding of “unfounded.” Ms. Gaige agreed with OPS’s finding, and moved to make a finding of “unfounded.” Judith Mazza seconded the motion. The motion carried unanimously.

CPRB No. 49-02/ OPS No. C02-381. Barbara Gaige gave a summary of the complaint. A woman called the police department described a man whom she had seen masturbating behind the Getty Mart and Department of Motor Vehicles. The complainant was stopped by a uniformed officer on South Pearl Street across from the City Mission and was frisked. The officer informed the complainant of the call. The complainant denied engaging in the behavior complained of. The complainant alleged that the officer asked if he had ever been arrested, but the complainant replied no. The complainant claimed the officer pulled up his record and confronted him about previous charges the officer claims were on the complainant’s record. The complainant also alleged that the officer used derogatory language to refer to him, which the complainant claimed the officer scribbled in his notebook.

Ms. Gaige visited OPS, reviewed OPS’s file regarding its investigation of the complaint and spoke with the detective assigned to the complaint. The officer was interviewed and denied using the words “liar,” “pervert” or “pee-pee toucher.” The officer admitted that there had been an error in

the reading of the record. The officer thought the complaint was the perpetrator when, in fact, the complainant was the victim. A field investigation contact report indicated that the complainant was skiddish and because of the information received, the officer said that he lied. All officers arrived very shortly after the call was dispatched, so the first officer estimated that his arrival time was within fifteen seconds of the dispatch. The other officers arrived within a brief period of the conversation with the complainant. It was alleged that the complainant was the only one in the area who came out from behind the service station where the woman allegedly saw the lewd behavior.

Ms. Gaige noted that the complainant went to South Station almost immediately after the incident and was given directions on how to file a complaint. She added that she also saw the pages from the police officer's notebook, however, there was nothing to indicate that the police officer had scribbled the words alleged by the complaint. According to Ms. Gaige, the officer sequentially numbered the pages in the notebook and there was no indication that pages that could have contained the derogatory names were taken out.

The monitor, Albert Lawrence, was recognized. According to Mr. Lawrence, the investigation was thorough, adding that OPS had interviewed all police officers involved, contacted and spoke to the witnesses listed on the complaint.

It was reported that OPS's closed its investigation with a finding of "not sustained."

Judith Mazza inquired about the running of the complainant's name in the computer to pull up his record. Barbara Gaige explained that the officer had pulled up the complainant's record and misread the information, believing that the complainant was the perpetrator when he was the victim.

Manuel Alguero commented that the last page of the report by OPS indicates that the officer checked the complainant's criminal history. Barbara Gaige responded that she did not believe that the complainant's criminal history was relevant.

Dr. Alguero inquired about the complainant's claim that the officers threatened him with arrest. Judith Mazza clarified by explaining that there was no arrest. It was merely a stop and frisk conversation. The complaint is about name calling and being told to leave the city or else face arrest. However, the target officer denied these allegations and there was no attempt to arrest him. According to the investigative report, the complainant was detained in an effort to have the caller identify the man

she reported seeing behind the gas station. However, the caller was unable to give a positive ID.

Barbara Gaige moved to make a finding of “not sustained.” Marilyn Hammond seconded the motion. The motion carried unanimously.

CPRB No. 56-02/ OPS No. C02-466. Eleanor Thompson gave a summary of the complaint. The complainant alleged that she had sought the help of officers regarding a neighbor that was harassing her, but the officers failed to assist her. She further alleged that while handling previous complaint, the officer was rude and made insulting comments regarding the complainant being a Section 8 tenant. Ms. Thompson reported that OPS attempted to schedule an appointment, but the complainant refused to meet and indicated they should contact her attorney. According to the investigative report, however, the complainant refused to give the attorney’s name. It was reported that OPS, in its preliminary finding, recommended that the investigation be closed as “unfounded.”

Manuel Alguero requested to hear from the monitor assigned to this complaint. The monitor, George Kleinmeier, was recognized. Mr. Kleinmeier reported that this complaint stemmed from a previous complaint dealing with the driveway to the complainant’s rented residence. According to Mr. Kleinmeier, the deed to the home does not permit the complainant to park in the shared driveway because it would block access to the rear of the home and the adjacent home.

The complainant was recognized. According to the complainant, the complaint stems from an old complaint that her car was not moved. She alleged that her neighbors were bothering and harassing her for parking on private property. The complainant explained that she was in her house sleeping when someone began banging on her door. She claimed two complete strangers wanted her keys so that they could move her car. According to the complainant, she was parked in a place that was not bothering anyone. She fell asleep and heard banging on the door again. She went into the living room to call the police. She was told the police were on the way. The property owners have an agreement regarding the parking.

Dr. Alguero moved to go into executive session to hear the complaint. Barbara Gaige seconded the motion. The motion carried unanimously.

The complaint was discussed during the executive session. Commander Anthony Bruno offered to assist the complainant with her parking situation and requested that she contact him at his office. Eleanor Thompson moved to accept the finding of OPS, and make a finding of “unfounded.” Manuel Alguero seconded the motion. The motion carried unanimously.

CPRB No. 57-02/OPS No. C02-428. Eleanor Thompson summarized the complaint. The complainant alleged an officer began questioning her son for no reason. The officer put a hand on his firearm, causing her son to become scared and run away. The complainant claimed drew his gun and yelled, “stop or I’ll shoot you’re a*s.” According to the complainant, her son ran into the house. The complainant attempted to ask the officer what the problem was with her son. However, the officer failed to respond. The complainant went into her home and when she came back out to obtain something from her car, the officer jumped out from behind the car and yelled to the complainant “put your f*cking hands over your head.”

According to the investigative report, a canvass was conducted and witnesses were interviewed. The preliminary finding of OPS recommended that the investigation be closed as “unfounded.”

Residents reported that the officer did nothing wrong from where they witnessed the event. One witness said he did not see the officer put his hand on his weapon and she did not hear him make any statements. One witness went to speak to the commanding officer to explain professional manner in which the officer conducted himself. Another witness was sitting outside and saw the whole thing and corroborated the statement. The complainant’s son gave a sworn statement to detectives on the day of the incident indicating he was in possession of a stolen loaded firearm, which he admitted to throwing away prior to running away from the officer.

Ms. Thompson recommended the case be closed with a finding of “unfounded.”

The complainant was recognized. She explained that she has seen this officer harassing kids in the neighborhood and knows the officer who is the subject of this complaint and the officer’s wife. The complainant claimed the officer said he stopped to say “Hi” to her 19 year old son, which, in her opinion, was totally unnecessary since her son and the officer were not buddies or friends. According to the complainant, the officer claimed her son had a gun, but they did not anything during the search of her house. It wasn’t until the evening that a gun was recovered from the back yard. The complainant explained that her son ran because the officer had pulled a gun.

Following his arrest, the complainant claimed her son told her the officers questioned him for hours, then another officer came back in plain clothes and talked to him some more. Her son told her the officer indicated he better sign a statement or risk getting 25 years to life. In addition, the complainant claimed her son was denied an opportunity to make a telephone call to her while he was in jail.

According to Commander Anthony Bruno, the subject officer was familiar with the complainant's son and had seen him that day and said "hi." Both officers in the car said that he was acting nervous and standing to one side. Commander Bruno added that something was said and the complainant began to run. When officers arrived at the complainant's home, they found a magazine clip. The gun was later found in the back yard of the residence.

According to Ms. Thompson, the investigative file indicated that a witness on the porch saw the whole thing, but claimed to have seen nothing wrong with the conduct of the officers.

Dr. Alguero asked for clarification as to whether a gun was pulled. It was reported that the gun was not drawn and pointed at the complainant's son, it was pointed at the complainant. Commander Bruno stated that he suspected that guns were drawn in this situation as a precaution. According to Manuel Alguero, the incident could have gotten nasty, but ended peaceably because of the restraint showed by the police.

Michael Whiteman inquired as to why the officer would pull a gun on the complainant. Commander Bruno explained that prudence dictates that officers be prepared in a situation where people are going in and out of a house and a magazine to a gun has been discovered.

Dr. Manuel Alguero commented that many of the witnesses do not seem to corroborate the complainant's version of the events.

Judith Mazza commented that the circumstances require an understanding of procedure. Did the officer act in accordance with procedure.

Chairman Cox asked the complainant if there is an outcome that would be satisfactory to her. The complainant said she recognized the officer's behavior because she has seen him harass kids on the street all the time. He lives in the neighborhood. He has had other complaints.

Marilyn Hammond and Barbara Gaige suggested mediation as an option. The complainant stated that she did not understand what mediation was. Chairman Cox commented that the process could be explained to her by the Government Law Center. The complainant responded that she would be amenable to mediation.

Michael Whiteman summarized the complaint, noting that there seem to be four (4) incidents that comprise the complaint: 1) the stop of the complainant's son; 2) and 3) two (2) incidents of the officer's gun being pulled (there is not a dispute as to the facts, just as to the meaning); and 4) the denial of an opportunity to make a phone call. Mr. Whiteman added

that while mediation may be appropriate, it appears that the police officer was justified in his conduct under the circumstances presented.

Judith Mazza pointed out that there were three officers involved, not just one.

Manuel Alguero commented that the recommendation of mediation is appropriate for this complaint because it appears the complainant feels that there is a history behind this incident, which needs to be addressed by a conversation between the complainant, the police department, and the officer.

Barbara Gaige asked the complainant if her reaction would have been different if it involved a different officer. The complainant said that it would not have been different.

Marilyn made a motion to recommend that the complaint be referred to mediation. Judith Mazza seconded the motion. The motion carried unanimously.

CPRB No. 59-02/OPS No. C02-477. Dr. Manuel Alguero summarized the complaint. The incident occurred on November 19, 2002 at 6:00 p.m. on Madison and Quail Streets. The complainant alleged an officer responded to the scene of an auto accident, but only spoke to witnesses that were white not black. She is African American and the other driver was white. The complainant filed the complaint prior to receiving the accident report, but alleges African American witnesses were not interviewed and the officer refused to interview her.

The monitor, George Kleinmeier, was recognized and commented that the complainant's claim was false. According to Mr. Kleinmeier, there were contradictions in the complaint, including the complainant's claim that she never got a copy of the accident report although she had in fact received it.

Dr. Alguero noted that OPS recommended the investigation be closed as "unfounded." Dr. Alguero moved to accept OPS's finding and make a finding of "unfounded," noting that there was no corroboration by witnesses. Marilyn Hammond seconded the motion. The motion carried unanimously.

B. *Appointment of two new members to the Committee on Complaint Review for January 2002*

The following Board members were appointed to the Committee on Complaint Review for the January meeting: Paul Weafer, Manuel Alguero, Marilyn Hammond, Herman Thomas and Michael Whiteman.

C. *Report from the GLC*

Staff Attorney Justina Cintrón gave the report. It was reported that the Board had 36 active complaints, 73 closed complaints and four suspended complaints. Of the 36 active complaints, 4 remain suspended. According to Ms. Cintrón, there have been a total of 112 complaints filed with the Board since the Board began reviewing complaints in May of 2001. The Board was directed to review the summary of new complaints filed, which had been given to each member at the start of the meeting.

CPRB Complaint No. 66-02. It was reported that the GLC had received the complainant's original handwritten statement, which was forwarded by the Center for Law and Justice. Ms. Cintrón explained that the Center was unable to make copies of the statement because it was written in pencil and could not be legibly photocopied. It was reported that a GLC staff member transcribed the statement for the Board's review.

CRPB Complaint Nos. 47-02 and 56-02. It was reported that the complainant resubmitted both complaints with additional documentation. The additional documentation included a doctor's note, a list of dates the complainant alleges she was harassed by the APD by phone, and a letter to appear for a parking violation, which was the subject of 47-02.

Board members who attended the NACOLE Conference were requested to submit their receipts for reimbursement.

It was reported that Chairman Cox, Herman Thomas and Eleanor Thompson met with the Mayor to discuss the reappointment of Mr. Thomas and Ms. Thompson. Also discussed at the meeting were Board outreach initiatives, including a press release about Board members' attendance at the NACOLE Conference and a one page insert about the Board that would be mailed to the residents of Albany in a city-wide mailing.

Ms. Cintrón reported that she had been in contact with Barbara Samel, Counsel the Albany Common Council, regarding the reappointments of Eleanor Thompson and Barbara Gaige.

It was reported that Chairman Cox met with Commissioner John Nielsen to discuss the outstanding complaints that have been referred to mediation. It was also reported that the GLC is working on obtaining a schedule of police union and community organization meetings in an effort to schedule meetings with those organizations.

D. *Report from OPS*

Commander Anthony Bruno gave the report. According to the Commander, the following constitute the year to date and November 2002 figures:

Traffic/Street	5,414 (YTD)/343 (Nov. 1-27)
Traffic	12995 (YTD)/770 (Nov.)
Calls for service	11,9451 (YTD)/1,067 (Nov.)
Arrests	8,791 (YTD)/625 (Nov.)

VI. **Public Comment**

Chairman Cox opened for the floor for public comment.

The complainant who filed CPRB No. 49-02/OPS No. C02-381 was recognized, and inquired as to whether or not he could ask questions about his complaint. The complainant also inquired about the process to appeal the Board's finding. Assistant Corporation Counsel Todd Burnham responded that his only remedy was Article 78 proceeding, which must be filed within four (4) months.

An unidentified woman was recognized, and inquired as to how investigations were conducted and how the Board's decisions were made. She also asked if all of the Board's findings are against the complainant because it appeared to be the case from what she had heard.

Judith Mazza clarified that the Board does not conduct investigations. Chairman Cox added that the Board only reviews the process and does not have the authority to investigate. Barbara Gaige noted that the Board is a review authority. Manuel Alguero explained that the Board's review is not similar to what is done in a courtroom.

The complaint who filed CPRB No. 50-02/OPS No. C02-420 was recognized, and explained that her complaint stems from an auto accident involving her daughter and granddaughter. She commented that it was a very traumatic event and she needed to be present at the meeting because the incident should never have happened.

It was reported that new brochures and complaint forms should be forwarded to OPS.

VII. **Adjournment**

The meeting adjourned at approximately 8:00 p.m.

Respectfully Submitted,

Michael Whiteman
Secretary