

City of Albany
Citizens' Police Review Board
Public Hearing
Albany Law School, Dean Alexander Moot Courtroom
February 3, 2004
6:00 p.m. - 8:00 p.m.

Present: Manuel Alguero, Kenneth Cox, Barbara Gaige, Judith Mazza, Herman Thomas, Eleanor Thompson, and Paul Weafer.

Absent: Marilyn Hammond and Michael Whiteman.

I. Call to Order

Chairman Cox called the public hearing to order at 6:04 p.m.

II. Public Comment

Chairman Cox opened the floor for public comment.

Dr. Alice Green was recognized. Dr. Green commented that she is troubled over the deteriorating relationship between the community and the Albany Police Department (APD). She added that the purpose of the Board was to improve this relationship. However, an issue that must be addressed is that the Board does not have enough power or authority to deal with a number of the issues that have been brought before it. Dr. Green stated that some possible solutions to this developing problem would be to provide the Board with money, its own budget, and to increase its power to investigate and monitor the activities and actions of the police department. Dr. Green also commented that there is a deteriorating relationship between the police and the community because the police department does not regard the community as a "real partner." Dr. Green added that if there is to be an improvement with respect to policies in the relationship between the police and the community, the Department needs to consider the people in the community as equal partners when dealing with the issues that have been raised over the years.

Dr. Green stated that she has been working with the Department for a long time, and in the past few years, it has been her observation that the Department is not considering many of the issues raised by the community and is not taking their suggestions seriously. She added that the Department has also become extremely closed in terms of sharing Department related information with the public. Dr. Green stated that the Center for Law and Justice has had difficulties acquiring basic information, such as arrest data and other statistics. Dr. Green stated that this information should be readily available to the public.

With respect to policies, Dr. Green referred to Belinda Watkins, who asked for ballistic reports, and filed a Freedom of Information Law (FOIL) request with the Department.

Ms. Watkins never received a response from the Department. Dr. Green also referred to a Profiling Policy that she was asked to develop with the Department. She stated that she worked with approximately fifteen other individuals on the policy. The expectation among the participants in developing the policy was that the Department would publicly issue the policy. Dr. Green commented that it took almost one year to receive the policy, and she believes that she is the only individual of the fifteen she worked with, to receive the profiling policy.

Dr. Green next addressed the Department's policies of hot pursuits and deadly use of force. Dr. Green noted that this was the 20th anniversary of the shooting death of Jessie Davis. She added that the death of Mr. Davis got a lot of people in the community actively involved in working to change problems they saw with the police department. Dr. Green stated that despite efforts, the community still does not have a clear understanding of the APD's policies on deadly use of force and hot pursuits, how officers are trained with respect to these policies, or what the practices are with respect to the policies.

Dr. Green addressed the shooting of Jason Mayo one year ago. She stated that the incident involving Mr. Mayo received no "real questions from this particular Board." There has been no report from the APD as to what exactly happened to Mr. Mayo, or why he was chased by officers. It was reported by the police officer involved in the incident that Mr. Mayo was selling drugs to another individual shortly before the chase began. However, according to Dr. Green, the officer knew there was a felony warrant issued for Mr. Mayo three to four months before the shooting occurred. Dr. Green stated that the officer knew Mr. Mayo, and knew where he lived. Dr. Green stated that it was unclear why the officers did not arrest Mr. Mayo prior to the shooting on the sealed indictment that had been issued.

Dr. Green stated that there appears to be more public concern regarding the David Scaringe incident because he was considered an innocent bystander, he was white, and he was middle class. Dr. Green stated that unless there are clear policies and the community knows what the training of the officers involves, innocent people can be killed. She added that it would be beneficial for the Department's policies to be widely distributed so that the community may become involved in commenting on those policies and working with the police department to change the policies that could be detrimental to public safety.

Dr. Green addressed the issue of racial profiling. She stated that poor people and people of color are the most effected groups. According to a letter that Dr. Green sent to the APD on October 15, 2002, the APD issued a policy on racial profiling. Dr. Green stated that the APD denies racial profiling exists in their department. She noted that according to the policy, it states that in order to meaningfully track citizen interactions with the police and demonstrate how officers do not engage in biased based policing, data must be

collected. Dr. Green stated that the APD has taken the position that biased based policing does not exist, and they are looking to collect data in order to show that it does not exist. Dr. Green stated that the APD has been collecting data since October of 2000, including tracking citizen interactions with the police and the officers' records of the perceived race and ethnicity of the individuals stopped. Dr. Green stated that people are still being stopped on the streets because of the color of their skin.

Dr. Green concluded by thanking the Board for providing this opportunity to speak.

David Kircher was recognized. Mr. Kircher thanked the Board for providing a forum in which to speak on the New Year's Eve, 2003 incident. Mr. Kircher stated that it was difficult for him to find out about the meeting and that in his opinion, more people would be present if the meeting were better publicized.

Mr. Kircher stated that he did not witness the shooting of David Scaringe, however, he was one block away from where the incident occurred. Mr. Kircher stated that he was leaving his place of work on Washington Avenue on New Year's Eve when the incident occurred.

Mr. Kircher described the events of the Scaringe shooting as he observed them. When Mr. Kircher left work, the streets were beginning to get busy. He walked towards Lark Street and stopped to speak with an individual who was sweeping the sidewalk. Mr. Kircher proceeded to walk in the direction of Henry Johnson Boulevard when he heard a siren. As he looked to the park, Mr. Kircher saw a car, driven by Mr. Reed, speeding through the park with a police car following. The police car had its lights flashing and the siren blaring loudly. Mr. Kircher stated that he was stunned at the speed at which Mr. Reed and the officer were proceeding through the park, considering the traffic and the number of individuals out that evening. Mr. Kircher stated that as he approached Henry Johnson Boulevard, there was the usual congestion of cars for 4:00 p.m. as people attempted to get onto I-90. He stated that a police car came from Washington Avenue, crossed Henry Johnson Boulevard, and turned right on State Street, heading west, but paralleling the cars involved in the pursuit traveling through Washington Park. Mr. Kircher commented that it was apparent the officer proceeding on State Street was attempting to cut off Mr. Reed's car, or at the least, catch up with the pursuit. As Mr. Reed's car approached Robin Street, Mr. Kircher stated that he expected the police car that was traveling west on State Street to turn his car perpendicular to Mr. Reed in order to act as a roadblock to stop the pursuit. Mr. Kircher stated that this did not happen as he had expected. As Mr. Reed's car turned down State Street, towards downtown Albany, a police car tried to intercept him. Mr. Reed swerved through the intersection at Henry Johnson Boulevard with the congestion of cars, and headed towards State Street. Mr. Kircher stated that he was concerned Mr. Reed's car would hit someone as people were crossing the street and cars were double parked along State Street. With their sirens blaring, the police cars continued to pursue Mr. Reed down State Street near Henry

Johnson Boulevard. Moments later, Mr. Kircher stated the cars stopped, although he did not know why. He then heard three or four gun shots. After a moments pause, approximately five more shots were fired. Mr. Kircher saw people hiding behind porch stoops and looking for protection. He stated that at this point he did not know if anyone had been shot, or if anyone was injured. As Mr. Kircher got to the intersection where the incident occurred, he saw David Scaringe in the street bleeding. He watched as the APD attempted to get individuals to speak as witnesses. Mr. Kircher stated that he observed people who were reluctant to speak. Mr. Kircher commented that he believes this reluctance may come out of a fear of retaliation by the police department.

On January 2, 2004, Mr. Kircher stated that he wrote a letter to Chief Wolfgang regarding the incident he had just observed, and asked him a series of questions that were of concern to him. The following are questions Mr. Kircher included in his letter:

- I. Is there a protocol in the APD as to when a chase should end?

Mr. Kircher stated that the only information he could find with respect to this question was in the Times Union newspaper which indicated that policy requires officers in a chase to weigh their options and consider the present danger. Additionally, all officers should be held accountable if they continue a chase that should have been discontinued. The dispatcher should broadcast a warning to use caution and not unreasonably endanger the lives of the public or fellow officers.

- II. Was it necessary to continue the chase when the individual was initially pulled over for a motor vehicle violation?
- III. Why were so many police cars involved in a pursuit for a motor vehicle violation?
- IV. Why didn't the officers use their cars as a blockade instead of exiting their vehicles? Why didn't the officers use their cars to block the gentleman in on the sidewalk so that he could not move? Why wasn't the gentleman blocked on a street corner so that he could not proceed any further?
- V. What was there to gain by capturing someone fleeing a motor vehicle violation?
- VI. Why did the APD draw and fire their guns in an intersection full of people?

Mr. Kircher commented that officers are trained to protect and serve the community, not just themselves.

VII. Why were so many shots fired?

VIII. What training do officers receive for marksmanship? How often do officers practice firing their weapons during stressful situations?

Mr. Kircher added that the city of Albany needs a police force that is trained properly and trained regularly.

IX. Why did so many of the bullets fired by the police officers miss their mark?

Mr. Kircher commented that the officers involved in the incident fired eight to nine bullets, however, an innocent bystander was killed and another was grazed by a bullet on his knee.

X. Do the officers receive regular training on how to act in crisis situations?

XI. How often are officers trained, and how often is Department protocol reviewed so that the established protocol does not collapse in situations such as this?

Mr. Kircher stated that if officers have to use their weapons, they have to be used effectively and efficiently so that others are not impacted by their actions. He also stated that APD policy states that a pursuit shall be discontinued when there is an exceptional danger to the public and/or the pursuing officers. Mr. Kircher added that this is a question that should be answered by the Board, the district attorney or special prosecutor, and the Albany Police Department. Mr. Kircher stated that as he observed the police chasing Mr. Reed down State Street and watched them swerve through the intersection at Henry Johnson Boulevard, it was his opinion that there was exceptional danger to the members of the community.

Mr. Kircher thanked the Board for their attention.

Isla Roona was recognized. Ms. Roona stated that there is a serious problem with the police department not providing information to concerned citizens. Ms. Roona added that she also wanted to bring attention to the fact that the Community Police Council, which was the resident body that was supposed to work with the police department to ensure that there is quality community policing in the city of Albany, was disbanded this past fall without notice. Ms. Roona commented that she was part of the Community Police Council, and it was her belief that the Council was disbanded because it was beginning to take effect and challenge some of the police department policies. Ms. Roona stated that the Mayor is now hand-picking people to serve on the Council. She commented that she was asked to serve on the Council by her neighborhood association.

The Council provided counseling to citizens, and worked to stop gun violence in the city of Albany. Ms. Roona stated that the Council had discussed the issue of gun violence in Albany for two years.

With respect to the David Scaringe incident on New Year's Eve, 2003, Ms. Roona stated that this was "obviously very scary." She commented that she had been in "shoot out" before in another city, and it was a terrifying experience. Ms. Roona commented that it is her opinion that nothing has been done about the grief and pain felt by those who were at the scene of the incident. She added that there have been no condolences from the APD to the community for the incident. Ms. Roona stated that officers did attend the funeral of David Scaringe, but in her opinion, that was not enough. She stated that the Board needs to do a thorough investigation of the incident, because the community does not trust what the Department is saying or reporting.

Ms. Roona also posed the question, "why are the 'good' police officers not on the street protecting the community?" Ms. Roona referred to Commander D'Alessandro, who she stated was moved and can no longer work in the community. Ms. Roona also stated that Lieutenant Finn was an excellent police officer. She added that she believed there to be a relationship between the injuries sustained by Lieutenant Finn and the "mode of operation that the police department was in" when the David Scaringe incident occurred.

Ms. Roona commented that the community should know what the police department policies are, and what training officers receive. A few weeks ago, Chief Robert Wolfgang and Commissioner John Nielsen attended a neighborhood association meeting. Ms. Roona stated that at the meeting, neither Chief Wolfgang nor Commander Nielsen provided a time frame as to the investigation of the David Scaringe incident, and would not comment as to how the investigation was progressing. Ms. Roona stated, that in her opinion, the Chief and Commander had a cavalier attitude about the situation.

Ms. Roona stated that the Board needs to demand "some teeth," and get information from the police department before the situation gets worse. Ms. Roona stated that an investigation by the Board will bring "a lot of stuff to the light of day, not just this one incident, but other things that have been going on in the police department need to be looked at" as well. Ms. Roona commented that law enforcement bodies from outside the community may need to come to the city of Albany to do a proper assessment.

Ms. Roona questioned why the drug dealing has not stopped on North Swan Street. She stated that when individuals from the neighborhood call the police department and demand that something be done about the drug dealing on Swan Street, the APD does not do anything to improve the situation. Ms. Roona stated that Swan Street is not cleaned up, the problems are just hidden. She added that officers like Commander D'Alessandro, who has been suspended, were doing something about the problem.

Ms. Roona concluded by saying that it is time for the Board to act. The Board must look at the APD's policies on gun violence and racial profiling. Ms. Roona commented that many people, instead of feeling safe when they see a police officer on the street, feel the exact opposite.

Carolyn McLaughlin was recognized. Ms. McLaughlin identified herself as a Common Council member representing the second ward. She stated that over the past couple of months, she has listened to residents from the city of Albany ask the Council questions with respect to activities within the police department, or asking members of the Council to come before the Board and ask difficult questions.

Ms. McLaughlin stated that she is almost ashamed of the work she did three years ago in relation to the development of the Board. She stated that she knew there was community support to establish a police review board that would "have teeth," and that would be able to provide a mechanism to get answers to questions (such as those that people have been asking for the past two or three months) on various issues within the city of Albany. Ms. McLaughlin stated that the Common Council originally proposed legislation that would ensure that if questions were asked, information would be provided.

Ms. McLaughlin stated that she disagreed with Ms. Roona's statement that we should look to outside the city of Albany to get some answers. She stated the Common Council looked outside the city for help when developing the Albany Citizens' Police Review Board. Ms. McLaughlin commented that the city has a Board that is the best the Common Council could establish. She added that in the development of the Board, the Council tried to empower the Board so that it would not have to struggle, as it is today, to get answers from the police department. Ms. McLaughlin stated that this may be the first opportunity to put the Board to a real test, and see how strong the legislation is. Ms. McLaughlin commented that what she has seen thus far of the Board is not strong enough, and the Board does not have the power it needs to provide answers to the people who are at the meeting tonight. Ms. McLaughlin posed a challenge to her colleagues on the Common Council, in particular, those on the Public Safety Committee, to review the legislation creating the Board, and provide legislation that would give the Board the power to do what needs to be done, so that the Common Council is not revisiting the same questions every time an issue arises in the city of Albany. Ms. McLaughlin stated that it is time to get answers. She added that the legislation creating the Board was developed to assist citizens and the police department. She commented that she does not understand why it is not being utilized to provide information that she believes would assist the police department in carrying out their duties, and give the community some assurance that they are being protected to the best of the APD's abilities.

Ms. McLaughlin concluded by asking the members of the Common Council to look at the ordinance for the Albany Citizens' Police Review Board and develop amendments that would enable the Board to address and get responses from the APD as have been

requested over the past few months. Ms. McLaughlin stated that she believes there are reasonable answers to all the questions that people from the community have put forth, and people have a right to get an answer.

Dominick Calsolaro was recognized. Mr. Calsolaro introduced himself as a member of the Common Council for the first ward. He thanked the Board for providing a forum at which to speak. Mr. Calsolaro stated that there are a lot of problems with the police department, although he does not know what they are. He commented that he receives phone calls, emails, and letters everyday from people voicing concerns about the police department.

Mr. Calsolaro addressed the issue of gun violence. He stated that he had requested a task force on gun violence, and it was passed by the Common Council at the first meeting of the year. Mr. Calsolaro commented that trying to get statistics from the Albany Police Department is difficult. He stated that he can go to a New York City website and information on every precinct within the police department is updated weekly. It is only one week behind the current statistics. Mr. Calsolaro stated that if you go to the Albany Police Department's website and go to their crime statistics, they are only updated through March of 2002. Mr. Calsolaro stated that the city of Albany spends more money per capita for its police department, according to the Gazette, than any other large city in the area, including Utica, Troy, and Schenectady. The second city spends almost \$100 less than the city of Albany. Despite this, Mr. Calsolaro commented that the city still has not updated their statistics, they cannot get information on how many guns were taken off of the streets in 2002 or 2003. Mr. Calsolaro asked how many of the guns that were taken off the street were illegal guns, where did those illegal guns come from, and are the police required to trace illegal guns.

Mr. Calsolaro addressed the issue of racial profiling. He questioned why the APD has not provided statistics as to this issue. Mr. Calsolaro commented that with respect to the suspension of Commander D'Alessandro, there is a pattern developing. Commander D'Alessandro was suspended the day after the public came to the Common Council with signs protesting what is happening to the Commander. Additionally, Mr. Calsolaro stated that a few years ago when Commander D'Alessandro was investigating overtime in the APD, he was moved from his position. Most recently, Commander D'Alessandro was suspended. Mr. Calsolaro questioned why this was occurring. He stated that he has been contacted by employees of Child Protective Services who informed him that Commander D'Alessandro was the best officer they worked with in the past fifteen years. Mr. Calsolaro also stated that he was contacted by guidance counselors for the Albany Public School system who told him that Commander D'Alessandro was the best officer they had worked with in all of their interactions with the APD.

Mr. Calsolaro stated that the community has a right to know what is happening within its police department. Citizens pay taxes, they are the ones who the APD are supposed to be protecting, and they have a right to know what is happening within the police department. Mr. Calsolaro questioned what it is that the police department is trying to hide by not disclosing requested information.

Mr. Calsolaro stated that he would like to see an internal investigation conducted by either the FBI or the US Attorney General's Office. He added that this investigation should be done on the entire inner-workings of the police department, not just the overtime. There are requests being made to the police department for public information, but there are no responses given. Mr. Calsolaro noted that it was previously mentioned that people in the community are afraid to speak out because they fear retaliation. Mr. Calsolaro stated whether or not retaliation by the APD actually occurs or not, the fact that people believe it to occur, requires an investigation into the matter.

Mr. Calsolaro concluded by stating that the police department needs to be held accountable to the public. The public pays taxes, and the salaries of the officers. Mr. Calsolaro requested that the Board address the issues he raised this evening.

Michael Mischler was recognized. Mr. Mischler stated that he attended the public hearing to show his support for the Board, so long as they will continue to move forward in a positive and strong way. He stated that the community wants the Board to take a stand, and insist on receiving answers from the Albany Police Department. Mr. Mischler stated that the public and the city of Albany supported the establishment of the Board. He stated that he had worked on developing a review board, such as this, for fifteen years. Mr. Mischler stated that he did not fully support the legislation creating the Board because he did not believe it was not strong enough. He added that some of the Board members have taken strong stances and have shown that despite being a weak Board, they are able to make a difference. Mr. Mischler stated that as long as the Board continues to move forward and take a stand, they will have his support.

Michael Roona was recognized. Mr. Roona stated that he was a resident of the Hudson Park neighborhood. Mr. Roona noted that Professor Worden, from the SUNY's School of Criminal Justice was in attendance. He then addressed the issue of obtaining data from the police department and making it available and accessible to the police department. Mr. Roona noted that the School of Criminal Justice works with the police department in collecting data. Mr. Roona stated, however, that the collected data seems to be withheld from the community. Mr. Roona commented that if these collaborations occur between the police department and the School of Criminal Justice, then the information ought to be readily available to the public, particularly if it is funded with federal grants or other public monies. Citizens need to have a better understanding of what is occurring within

the police department. Mr. Roona concluded by stating that federal money is used to collect local data, and that local data should be made available to local residents.

III. Adjournment

Chairman Cox moved to adjourn the meeting at 7:00 p.m.

Chairman Cox thanked everyone for attending the public hearing. He stated that the Board will take all of the issues raised very seriously. Chairman Cox stated that the Board intends to move forward in a collaborative and informative way. He announced the Board's next meeting was Monday at 6:00 p.m. at the Albany Public Library.

Respectfully Submitted,

Michael Whiteman
Secretary