

**City of Albany
Citizens' Police Review Board
Albany Public Library
161 Washington Avenue – Large Auditorium
March 13, 2006
6:00 p.m. – 8:00 p.m.**

Present: Jason Allen, Beresford Bailey, Ronald Flagg, Barbara Gaige, Judith Mazza, and Michael Whiteman.

Absent: Marilyn Hammond, Fowler Riddick, and Paul Weafer.

I. Call to Order and Roll Call

Chairperson Barbara Gaige called the meeting to order at 6:07 p.m. She noted that a quorum of the Board was present.

II. Approval of the Agenda

The agenda was reviewed. Judith Mazza moved to approve the agenda. Ronald Flagg seconded the motion. The motion carried unanimously.

III. Approval of the February 2006 Meeting Minutes

The February 2006 meeting minutes were reviewed. Jason Allen moved to approve the minutes. Ronald Flagg seconded the motion. The motion carried unanimously.

IV. New Business

A. *New Complaints*

1. New complaints received since the February 2006 Meeting

Judith Mazza reported that three (3) new complaints had been received by the Board since its February 13, 2006 meeting. Ms. Mazza read a summary of each new complaint.

CPRB No. 9-06

The complainant alleges detectives fabricated information given by him in an oral statement. According to the complainant, a statement was taken by one officer, yet the report of the statement was signed by an unknown officer. The complainant alleges that he was given page 2 of an incident report to sign by officers, claiming it was the oral report, despite advising officers that he could not read or write. The complainant further alleges that his signature on page 1 was altered.

A monitor was appointed to this complaint.

CPRB No. 10-06

The complainant alleges that while driving slowly on North Lake Avenue and Elk Street, looking for an address, an officer began to beep his horn in order to urge him to go faster. According to the complainant, the officer pulled beside his vehicle and began cursing at him to which the complainant responded by cursing back at the officer. The complainant claims that he and the officer stopped and exited their vehicles and after showing his badge the officer told him to “get the f*ck back in the car.” The complainant further claims that after he returned to his car, the officer called for back-up and about 10 officers arrived without uniforms and searched his car for no reason. The complainant alleges that the officer gave him three tickets, throwing them at him and saying, “I ain’t your brother n*gger.”

A decision as to whether or not to appoint a monitor to this complaint has not yet been made.

CPRB No. 11-06

The complainant alleges Albany and Colonie police officers have been harassing her by inserting themselves into her life without good cause and disseminating information about her, of which they have no direct knowledge. The complainant claims that since December 2004, police have conducted surveillance on her road with as many as four marked patrol vehicles. The complainant further alleges the following incidents during such surveillance: an officer pulled in front of her vehicle without warning during a snow storm, a patrol vehicle followed her bumper to bumper for more than a mile, and an officer sounded his siren behind her before pulling off into the parking lot of a restaurant. She also claims that police have visited stores that she frequents, the gas station where she fuels her car, a nursing home where she visits a friend, the college she attends, and her church.

A decision as to whether or not to appoint a monitor to this complaint has not yet been made.

2. New Complaints for Review

Chairperson Gaige reported that there were five (5) new complaints on the agenda for the Board’s review.

CPRB No. 14-05/OPS No. C05-203 (Presented by Barbara Gaige)

Chairperson Gaige summarized the complaint. The complainant alleged that he and his wife were involved in a domestic dispute and she left the residence to call the police. As he left the residence, he allegedly encountered police officers outside his residence. It is alleged that the officer ran up the porch steps and requested to know the complainant’s name. The complainant claims that he asked the officer why he wanted to know. Allegedly, at that point, the officer grabbed the complainant and attempted to throw him

off the porch. The complainant alleged, "All the time this was going on I was asking if I was under arrest." The complainant alleged he received no response from the officer and admittedly began to resist his lawful arrest. The complainant had alleged that when the officers learned that they could not throw him off the porch, they advised him he was under arrest and at that point he stopped resisting. It is alleged that the officers continued to use force by allegedly slamming the complainant to the ground, to punch and kick him, and that he suffered "serious pain."

Chairperson Gaige reported that she reviewed the paperwork at the Office of Professional Standards (OPS), and there were statements from four or five (4 or 5) police officers. When the first police officer arrived, he stated that the complainant was agitated. The police officer attempted to calm and talk to the complainant, he then attempted to take the complainant into custody, but he became irritated and very aggressive. The complainant continued to be agitated and tried to re-enter the residence. The police officer stated he used a bear hug to restrain the complainant until back up arrived, and he used a waist high porch rail as leverage by leaning the complainant against it. The officer further stated that if the complainant had gone over the rail, he would also have gone over the rail. The police officer denies using any force more than necessary to gain control.

The back-up officer noted that the complainant was actively resisting by pushing, flailing his arms, and attempting to break free. Other officers assisted with cuffing by holding the complainant's legs and assisting with the takedown. All police officers stated that no officer punched or kicked the complainant. During the takedown, the back-up police officer grabbed the complainant's legs as he was against the rail and, as the complainant went down, first officer also went down and hurt his knee. The complainant's wife stated that the complainant was resisting, putting his hands behind his back, and was agitated. The wife had lacerations and bleeding to the nose and lips, and there were children in the residence at the time of all this commotion. The monitor, Richard Lenihan, added that there were four (4) children involved.

The case was investigated and the recommendations were as follow:

Arrest Authority & Procedures – The police officer allegedly attempted to throw the complainant off the porch. This was found by the Office of Professional Standards (OPS) to be *unfounded*, where the review shows that the act or acts complained of did not occur or were misconstrued. An officer is allowed, by law, to use physical force when and to the extent he reasonably believes such to be necessary to affect an arrest. The complainant had injured his wife, and broken her cell phone in his agitated state. As the officer was trying to get him to calm down, he touched his arm and then the complainant became quite violent. That is when the officer put him in the bear hug and held him against the rail. Chairperson Gaige noted from the monitor's report that the police officer is of quite small stature and that he was using the rail to get a little more leverage.

Use of Force – The complainant alleged that he was slammed to the ground. The OPS also found this to be *unfounded*, where the review shows that the act or acts complained of did not occur or were misconstrued. The officer fell to the ground along with the complainant when an officer grabbed the complainant's legs and pulled him away from the railing. Both the complainant and the officer fell to the floor where the officers were able to gain control of the complainant and put him in handcuffs.

Use of Force – There was an allegation that he was punched and kicked by officers, causing him serious pain. The officers all denied using any other force other than what was necessary to gain control over the complainant and place him in custody, which was evidenced by his lack of physical injury; he was not injured in any way during the arrest. The monitor recalled that the complainant, by his own statement, stopped resisting arrest.

Chairperson Gaige moved to accept the three (3) findings of the OPS: the arrest authority and procedures allegation around the attempt to throw the complainant off the porch was *unfounded*; the use of force allegation that he was slammed to the ground was *unfounded*; and the use of force allegation that he was punched and kicked by the officers was *unfounded*. Chairperson Gaige mentioned that the wife observed all of this and her only comment was that he was resisting while they were taking him down, and did not mention any punching or kicking. She also noted that the complainant was not present at the meeting.

Judith Mazza seconded the motion. The motion carried unanimously.

CPRB No. 1-06/OPS No. C06-31 (Presented by Judith Mazza)

Ms. Mazza summarized the complaint. She noted that a monitor had been appointed to the complaint. The complaint is signed by the complainant's mother. This young woman and her boyfriend were driving along the intersection of Central Avenue and Grant one morning at 12:00 a.m. on their way home and the car was stopped. The police officers were on liquor authority detail and a call came in that shots were fired around Watervliet Avenue and Hunter Avenue. The complainant's car was in the area and was stopped. The police officers came up on both sides of the car. The young man was the driver and the young woman the passenger. She claimed that an officer came up and approached her side of the vehicle, and told her to put her hands up where they could be seen. She complied. She complained that the officer touched her inappropriately while she was in car and also afterwards outside the car, in her private parts. It was more of a pat down and that is the general part of the complaint. She stated that they actually complied with everything they were asked to do. It is alleged that when she got out of the car, she was also searched and patted down and touched inappropriately.

Ms. Mazza reviewed the records at the OPS. She found that there were many officers involved - about six (6) - because of the number of police cars called to the shots fired in the area. However, the officers involved in the actual stop itself did approach the vehicle and admitted to asking both the young man and woman to put their hands up. Both

complied. When the officer on the passenger side approached the car, the officer asked her if she had a gun or if she had anything. The officer saw something shiny between her legs and the young woman said it was a cell phone. The police officer reached in and took the cell phone out from between her legs because the officer was concerned that it could be a firearm.

The young woman then exited the vehicle as instructed with her hands raised up behind her head. At that point, the officer then searched where he/she could see that she had no weapons in her waistband. The officer only felt the front part of her jacket, which was up in the air. There were no firearms found, but the jacket at the time was away from her body.

All of the officers at the scene said that they didn't see her patted down in any other way, but could tell by her clothing and seeing her short jacket raised up that she did not have any weapons. She was told to sit on the bumper. Both complied with all instructions and had no weapons. They were then told why they were stopped and that they could then leave. The complainant states in her complaint that she thought that it was racial, yet no one - in the complaint or during the interview of the complainant's daughter or the daughter's boyfriend- say that any racial language was used. Neither complained during the interview that any abusive language was used; they were told to do something and so they did it. From the dispatch report, it was found that all of this took place in ten (10) minutes. During that time, they did a search of the car, there were no guns, and they did a search of her person inside the car and found no weapons.

Ms. Mazza found a conflict. In the complaint and the interview with the complainant, the young woman never mentions a cell phone, but the police officers do in their statements. She, however, mentions a purse, but the police officers do not. The boyfriend said that they opened her purse, looked inside, and then gave it back to her.

Theresa Balfe, the appointed monitor, found the same discrepancies. She sat in on both interviews with the complainant, the young woman - her daughter, and the young man - her daughter's boyfriend, and she noted in her findings that there is no mention of racial remarks. She counted seven (7) police officers and three (3) direct interviews.

The complainant described a uniformed officer as coming to her door, but it was the non-uniformed officer that was at her door. One police officer recognized the fact she was frightened and confused, that she had never been stopped by the police before, yet both complied. Another police officer spoke to her, but there was no record of the conversation. She stated that she didn't say anything during this transaction. There were between six and seven (6-7) police officers present the whole time. The officer didn't ask her to hand him the phone - he took it. Then she was asked to exit the car and there was no pat down, no bodily contact, only contact with her jacket.

A gentleman was recognized. He commented that he doesn't know much about police procedure, but when they pull you over and they think that there may be a weapon in the car, they will ask the passengers to put their hands where they could be seen.

The issue here is was there inappropriate touching in the process.

Michael Whiteman asked where Hunter is in relation to the intersection of Grand and Central Avenues. Ms. Mazza responded that they were at the corner of Central and Grand; the call for shots fired was in that area. Other police officers went to the area where the shots were fired. This car was stopped because it was the only car leaving the area.

Ms. Balfé stated that before they stopped the car, they had also stopped two young women walking down the street and questioned them, asking if they had heard any gunshots. The complainant's daughter and her daughter's boyfriend weren't the first people stopped, they were the first stopped in a car.

The complainant was recognized. It was her understanding that they were patted down two times and it wasn't a simple pat down of her jacket. She stated that it is unfortunate that this is the report that was given. Had they only searched and pulled out the cell phone from between her legs in the car, maybe she wouldn't have arrived at the house in the manner that she did. She is still very affected. This is a child that won the Lieutenant John Finn award for community service; it is unfortunate that when she sees a police car she becomes very frightened.

As far as the first allegation of call handling during the traffic stop, the OPS recommended that the investigation be closed as *exonerated*. The acts which provide the basis of the complaint occurred, but the review shows that such acts were proper and appropriate. As far as the second allegation of call handling involving inappropriate touching during the pat down search, the OPS recommended that the investigation be closed as *not sustained*. The review failed to disclose sufficient facts to prove or disprove the allegations. The officer admits to taking the phone and conducting a pat down on the front part of her jacket and found no weapon, but did so in full view of others and was not touching her at the time.

Judith Mazza noted concern with the complainant's description of the police officer. The officer who admits to being complained about does not fit the description given. The description is contradictory; it doesn't match. The police officer who said "I did it" doesn't fit the description of the complainant's version. No officer out of the officers present fit her description.

Michael Whiteman commented that he attached zero weight to this discrepancy. He explained that three months ago he was accosted at his home. Five (5) minutes had passed before the police arrived. He commented that he was appalled by his inability to recall any substantial descriptive information about the man who accosted him. The fact

that the complainant cannot identify accurately the person who talked with her or did whatever was done is insignificant.

Mr. Whiteman asked at what point in a search a female officer would be called in. Assistant Chief Anthony Bruno responded that given the immediacy, the officers at the scene would do what they had to do – a cursory search. Assistant Chief Bruno added that for anything more intrusive than a brief pat down, a female officer should and would be called. He further commented that he would like to see the OPS and the Board do more with this complaint, and would like an opportunity to speak with the complainant and her daughter. Chief Bruno agreed to report back about what transpires between him, the complainant, and the family.

Judith Mazza then moved to table the complaint until the Board's next meeting. Michael Whiteman seconded the motion. The motion carried unanimously.

CPRB Nos. 4-06 and 5-06 (Presented by Judith Mazza)

Ms. Mazza reported that these two complaints were received about the same incident. Letters relating to both complaints were received from the Chief of Police. Judith Mazza read the letters verbatim.

On January 30, 2006, the Government Law Center received a complaint filed by [Complainant Numbers CPRB 4-06 and 5-06]. After a review of the complaint[s] and underlying incident, it was concluded that [the complainants were] not involved in the underlying incident and [were] merely . . . witness[es]. Therefore, OPS will not investigate [these] complaint[s] as [they have] no vested interest in the incident.

Signed by the Chief of Police.

Ms. Mazza noted that as far as the Board is concerned, it cannot take these complaints any further since the Chief has decided that neither of the complaints will be reviewed or investigated by the OPS.

Michael Whiteman commented that these two complaints underscore the importance of the long delayed recommendation on the issue of standing to make a complaint. He explained that here we have two disinterested witnesses; usually we look for disinterested witnesses as more reliable than interested witnesses. We have two disinterested witnesses who have made complaints that allege misconduct by officers in the street. We don't know the validity of the complaints because they either are not being investigated or are being investigated, but are not being shared with the Board. In either event, Mr. Whiteman finds it a troubling circumstance. The issue of how the statute should be construed, with respect to standing to make a complaint, and whether the proper construction of the statute as it now exists precludes consideration by this Board of these two complaints supports the statute being amended. Mr. Whiteman concluded by saying

that he would be unhappy to see these two complaints go by the Board because of an unfortunate incident of timing. He then moved to table these two complaints until such a time as the Board and the City Council, if necessary, reviews the complaint standing issue.

Judith Mazza commented that part of the problem is that the alleged victim did not complain. Therefore, someone witnessing the situation cannot complain about the officer's behavior if the alleged victim does not complain. She stated that sometimes the alleged victim is often afraid to make a complaint because he or she will then become more of a victim or there is another circumstances occurring where the victim doesn't want to make a complaint. She added that if no one else can complain about an incident and bring an incident before the Board, then the Board has another problem on its hands.

Ronald Flagg noted his concern that the citizen who witnesses something could not appropriately make an informed complaint about something they thought they saw.

Chairperson Gaige commented that two items were troubling her: 1) the Local Law states that the OPS shall investigate all complaints; and 2) the Board cannot find a jurisdiction where witness complaints are not accepted. The task force is trying to come up with a compromise that is acceptable to all parties.

Complainant 4-06 was recognized. She commented that although two complaints were submitted, there was a third person who also saw what went on. She stated that she doesn't agree with the Chief; she does have a vested interest because she lives in community and her complaint has merit.

Councilman Corey Ellis was recognized. He commented that if there is a statute already in place, how come there has to be a compromise. He added that the Council makes the law and would like it to be followed.

Chairperson Gaige responded that it is not a question of the law, but how a "complainant" should be defined, who has standing, and who can be a complainant. She reported that there is disagreement amongst Board members and with the Chief. If someone witnesses something, he will take a witness statement. But, he does not believe that it is something that the OPS would investigate and return back to the Board. She concluded by stating that there are disagreements on the process and who is legitimately complaining.

Councilman Ellis doesn't believe that it is in the department's discretion to define who the complainant is.

Vice-Chairman Jason Allen commented that the Board should not support termination of these complaints.

Ms. Mazza moved to send the complaint back to the OPS for investigation. Mr. Whiteman commented that if the Board returns the complaint to the OPS, it would cause

an unnecessary confrontation. He added that they need to reach a decision as to how the Board construes the statute before it goes any further.

The motion made to table this discussion until these issues are resolved carried unanimously. Ms. Mazza noted for the record that this was not a dead issue.

CPRB No. 10-06/OPS No. C05-563 (Presented by Jason Allen)

Vice-Chairman Allen reported that Ms. Mazza had read this complaint as a new complaint. He commented that the complaint was not presented to the Board to determine whether or not a monitor should be appointed. Vice-Chairman Allen proposed that the Board table this complaint until a determination is made as to whether or not to appoint a monitor, specifically because one of the allegations is that an officer used a racial slur.

Ms. Mazza noted that when she read the complaint, she believed that the Board would have assigned a monitor. Vice-Chairman Allen then moved to appoint a monitor. Judith Mazza seconded this motion. The motion carried unanimously.

B. Appointment of two new members to the Committee on Complaint Review for April 2006

The following Board members were appointed to the Committee on Complaint Review for April 2006: Jason Allen, Beresford Bailey, Ronald Flagg, Judith Mazza, and Michael Whiteman.

C. Committee/Task Force Reports

By-Laws Committee

Committee Co-Chairman, Michael Whiteman, noted that the committee had not met and that it had nothing new to report.

Community Outreach

Committee Chairperson, Judith Mazza, commented that the Board is still getting responses back from the letters sent out to area churches regarding complaint forms. Government Law Center (GLC) Senior Staff Attorney Justina Cintrón Perino reported that the GLC is revising the complaint form to include: a box advising complainants that mediation is an available alternative. Ms. Perino added that the GLC is also updating the complaint form cover sheet to reflect the locations where forms are made available to the public. She agreed to have draft changes to the form and cover sheets available for the Board's review at its April meeting.

Chairperson Gaige asked the Board to consider adding commendations to the complaint form. She added that some agencies have this in addition to complaints. Assistant Chief Bruno noted that whenever the Department receives commendations or thank you notes, they are reduced to writing, and then given to the officer and his supervisor to be placed in his personnel file.

Ronald Flagg asked why this issue came up. Chairperson Gaige replied that Portland, Oregon has a spot on their form for commendations. Ms. Perino offered to forward samples of complaint form from other oversight agencies that include commendations. She noted that other jurisdictions have on their complaint forms boxes where an individual can check complaint, commendation, inquiry, and suggestion.

The Board decided to table discussion and consideration of this suggestion until a later time.

Mediation

Committee Chairperson Barbara Gaige gave the report. She reported that the first meeting of the committee occurred on Friday, March 10th. Chief James Tuffey, the Deputy Chief, three (3) Assistant Chiefs, and two (2) union representatives were all present. They made progress for the first meeting, and have set up the next meeting for the first part of April to work on establishing guidelines/protocols for mediations.

Policy Review/Recommendations

Committee Chairman Jason Allen gave the report. Chairman Allen reported that he, Board Chairperson Gaige, and Judith Mazza met with Chief Tuffey and Assistant Chief Bruno. Assistant Chief Bruno introduced himself and noted that he will now oversee the OPS. He explained that he has been with the police department for 15 years and spent five years in OPS before he went to patrol.

At the meeting, the Committee and the Chief agreed to coordinate a second meeting with the Coalition for Accountable Police and Government regarding their complaint from last summer. One of the specific items talked about was the seizure fund, which remained an open item. When the federal investigators found this to be an issue, they kept it as an open item. The Chief wrote a letter to close it out with the corrective action that was taken.

Ms. Mazza reported that she had asked if the Chief would be able to produce a redacted version of the pursuit and use of force policies that they can publish to the public. The Chief responded that as the policies exist now, they cannot be published. She then responded to Dr. Green's complaint by stating that at this point the Board has no authority to copy and distribute the pursuit and use of force policies.

Chief Tuffey was not clear as to whether these policies can be distributed publicly or if he would review them, and, if there was anything that needed to be redacted, then the policies would be redacted and distributed. The Chief did report that pursuits are being stopped by him, his deputy chiefs, and his supervisors.

Ms. Mazza presented concern with the out of date Standard Operating Procedures in the SOP Manual. Chief Tuffey is in the process of reviewing the way the book is issued and published to prevent things like that from occurring.

Chairman Allen noted that the committee spent quite a bit of time during the meeting discussing the data that was presented about the race-based profiling. It was decided that the committee would consult with Professor Robert Worden at SUNY Albany School of Criminal Justice as to how to interpret the data and what format to place it in.

Public Official Liaison

Committee Chairman Ronald Flagg noted that the committee had nothing new to report.

D. *Approval of Report*

Judith Mazza moved to approve the Board's Fourth Quarterly Report for 2005 as prepared and submitted by the Government Law Center. Ronald Flagg seconded the motion. The motion carried unanimously.

E. *Report of the Government Law Center (GLC)*

Senior Staff Attorney, Justina Cintrón Perino, gave the report.

Complaint Summary

As of the date of the meeting, it was reported that there were 28 active complaints before the Board for review, three (3) of which were in the process of being closed. Ten (10) complaints are suspended from review, and a total of 219 complaints have been filed with the Board to date.

Research Tasks

Definition of Complainant/Complaint and Standing – specific questions as to how two jurisdictions handled these issues were researched. A memo was drafted and reported to the task force at its meeting on March 9th.

Number of Complaints filed with the APD and the Number filed with the CPRB – numbers were compiled and forwarded to the task force during its meeting. The numbers indicate that complainants are more likely to file with the Board than with the APD.

Procedure for Issues of Concern, Complaints concerning Policy, Practice, or Procedure – the GLC drafted a form for the Board’s review. The Board may wish to consider a cover sheet, explaining the form and its use.

Number of Complaints filed by Witnesses – the GLC is still in the process of gathering the numbers. Because the GLC’s filing system has not yet been captured in an electronic format, this task requires a manual review of all 219 files.

Outreach

As earlier reported, the complaint form is being redrafted to include the mediation query and additional locations where assistance can be given and forms can be accessed. A draft will be prepared and forwarded.

The Board was urged to initiate the redevelopment of its brochure. The GLC agreed to assist.

Training

It was reported that Reverend Bailey had participated in a ride-along with the Albany Police Department. It was also reported that new member Fowler Riddick had met with Ms. Perino for three (3) hours of Orientation, and is in the process of reviewing six (6) hours of orientation tapes and materials. A ride-along for Mr. Riddick was scheduled for Thursday afternoon (3/16/06).

FOIL Request

It was reported that the GLC had received a Freedom of Information Law Request for a full copy of the Albany Police Department’s Standards Operating Procedures Manual. A copy of the public version of the manual was prepared, and is awaiting pick-up by the requesting party.

E. *Report from the Office of Professional Standards*

Assistant Chief Anthony Bruno introduced himself. He commented that he is trying to get his bearings.

F. *Report from the Chair*

Chairperson Gaige brought to the Board’s attention that new member Fowler Riddick, who was appointed by the Mayor, in near completion of orientation and will be a voting member by the next meeting. She noted that Mr. Riddick has a scheduling conflict with the Board’s monthly meetings. He currently serves as a member of the County Legislature, and that body meets on the same night as the Board. Chairperson Gaige asked if a member was willing to move to change the Board’s meetings to the fourth

Monday of the month. No motion was made, and the Board reserved action on this matter.

V. Public Comment

The floor was opened for public comment.

Jose Lopez was recognized. Mr. Lopez inquired about his complaint. Chairperson Gaige explained that the OPS was still in the process of conducting its investigation of the complaint, and had not yet submitted its findings to the Board. She noted that when the report is complete, the OPS will forward it to the Board and he should expect to receive a letter from the Board notifying him that the complaint is ready to be presented at a monthly meeting.

Mr. Lopez explained that he is making a complaint of police harassment; the police are hassling him and following him around. He noted that this is very difficult to prove. This started with a complaint that he made three years ago to the Health Department about a female doctor.

Common Councilman Dominick Calsolaro was recognized. Councilman Calsolaro noted concern with the Chief's take on not taking complaints from witnesses. He commented that it seems hypocritical that the police department will go around and talk to witnesses that see things in relation to criminal activity, but will not take a citizen complaint from a witness that might not have been the victim. The meaning behind the CPRB was to get complaints and investigate them.

Councilman Calsolaro mentioned that Syracuse, New York just did a racial profiling report that cost \$25,000. Syracuse has about 140 more police officers than Albany. So, it would cost less for Albany to do a full statistical study. It can be done and shouldn't take months and months to do. The reporter that wrote the article about Syracuse sent him a copy and the Common Council could pay for it by passing a resolution to get the money for these statistics.

Councilman Calsolaro welcomed Assistant Chief Bruno back. He concluded his comments by saying that there are a number of Board positions that will be opening up in October. The Board should get the word out and let interested individuals know that they should send a letter of interest with a resume to either the Mayor's Office or the Common Council.

Dr. Alice Green was recognized. She began by welcoming Assistant Chief Bruno back. She commented that she had a number of questions about her complaint. She asked whether she would be receiving a letter. She added that since she cannot have a copy of the policies, she doesn't know what the Board did.

With regard to the issue of standing, Dr. Green hopes that the Board doesn't limit the standing of witnesses. Dr. Green commented that the Board still has not addressed the policy issue regarding the police use of deadly force. She stated that as a citizen, she has an investment in how police carry out policy. Since the Board is supposed to entertain any and all complaints, she

doesn't see what the issue is. She added that standing is very broad. If the Board is going to change it, she believes it should include policy complaints.

Ms. Mazza responded by saying that the Board is considering a form and procedure to address policy complaints. Ms. Mazza added that individuals need a forum to make a complaint about policies, processes, and issues which would be different from complaints about police behavior during an incident. She explained that Dr. Green's complaint was not reviewed by the OPS in the same way that a complaint about a particular incident of misconduct would be reviewed. In looking at her complaint, there were two policy issues: vehicle pursuits and use of force. Both policies were revised from the time that Dr. Green made the complaint. Unfortunately, the Board cannot make the policies available to her. However, Ms. Mazza will work with the Government Law Center to draft a letter about what the Board did with respect to her complaint.

Ms. Mazza noted that the standing issue goes beyond defining a "complainant," which is different than the policy issue. Chairperson Gaige stated that the proposed form would allow citizens to bring to the Board's attention concerns in the same way Dr. Green did. The form is not intended to take the place of witness complaints, but rather to be about policy and procedure complaints. In response to Dr. Green's inquiry about where policy complaints would fit into the process, Ronald Flagg stated that it is too soon to see how the form will be folded in and, therefore, it is too soon to comment.

Dr. Green asked about the number of vacancies on the Board. She was told there will be four vacancies in October. Dr. Green commented on the absence of the Board's newest member, and his inability to attend meetings. Dr. Green suggested that when the new members of the Board are selected, there should be someone "from the streets," perhaps someone who was previously incarcerated. She concluded by stating that there shouldn't be someone on the Board who cannot make the meetings.

Dr. Green commented about proposed revisions to the complaint form. Dr. Green noted the suggestion to add a commendation to the form, and added that she doesn't believe this would help the public. She noted a proposal to add a query about mediation, yet the Board hasn't decided what to do about mediation. Dr. Green commented that someone from the public should be involved with mediation.

Chairperson Gaige commented that the form is not final. She added that what is being proposed for the form is an inquiry about whether or not the complainant would be interested in mediation. Chairperson Gaige reported that nothing has been finalized yet. Dr. Green asked whether or not the Board would consider having a public presence as part of the mediation discussions.

Dr. Green believes that the Mayor or Chief Tuffey should publicly articulate the policy regarding racial profiling and make a statement/position about the composition of the police force, which has not yet been done. She noted that when she met with the former Chief, he told her that they want to increase the makeup of the department to include more people of color. The former Chief suggested that they lower their hiring standards, which Dr. Green found insulting. She posed the following questions: What is the department's goal or commitment? Do they want the

officers to reflect the makeup of the city or do they want to add 10%? She stated that the community should be involved in the process.

Mark Mishler was recognized. He noted that he is an attorney in Albany and has been involved with issues of civilian oversight and accountability in Albany for close to 25 years. He worked with Dr. Green on the first proposed review board in 1984. He served with Dr. Green and Reverend Bailey on the Community-Police Relations Board until 1986. With that background, he is disturbed by some of the things he has heard and disturbed that the Board doesn't seem disturbed as they ought to be with the things that are happening. He commented that the issue of standing should not be an issue, period. The law defines what a complainant is, it does not limit a complaint to someone who is a victim or target of the alleged police misconduct. A complaint is a written complaint related to an allegation of police misconduct. Once the complaint is filed, the Board has certain obligations and the police department and the OPS have certain obligation. He urged the Board in the strongest way that he could to communicate to the Mayor and to the Chief that any narrower interpretation of what a complaint is, is a violation of the statute enacted by the Common Council. This is improper, incorrect, counterproductive and detrimental if the goal is to have accountability from the police in Albany. He urged the Board to take this strong stand.

Mr. Mishler commented that it is his understanding that there has also been a determination made by the police department that matters that are brought to their attention in ways other than the official complaint form are simply not investigated or shared with the Board. He stated that not everyone knows about the complaint form or that officers discourage use of the complaint form. The Board should demand access to that information so they can know what is going on, what types of concerns have been brought to the police department, and what they are doing about it. The public expects the Board to fulfill its function and wants them to resist any efforts to limit or narrow the Board's ability to function as a civilian review board.

Mr. Mishler noted that he reviewed the legislation and it calls for the implementation of an early warning system so that the department knows when there are repeat offenders and that information is looked into and shared with the Board. To the best of his knowledge, the department hasn't implemented a policy like this in 6 years.

With regard to monitors, he was troubled to hear that even though a complaint alleged that a police officer used a racial slur that the Board had not yet appointed a monitor. He commented that the legislation is quite clear; any allegation or violation of civil rights requires the appointment of a monitor - it is not discretionary. He concluded by asking why there is a question if the Board should appoint a monitor.

Barbara Gaige thanked the public for their comments, for being present, and encouraged them to come back.

VI. Adjournment

Ronald Flagg moved to adjourn the meeting. The motion was seconded by Jason Allen. The meeting was adjourned at 7:38 p.m.

Respectfully Submitted,

Ronald Flagg
Secretary