

**City of Albany**  
**Citizens' Police Review Board**  
**Albany Public Library, Washington Avenue (HBH Room)**  
**April 12, 2004**  
**6:00 p.m. - 8:00 p.m.**

**Present:** Manuel Alguero, Kenneth Cox, Barbara Gaige, Marilyn Hammond, Judith Mazza, Herman Thomas, Paul Weafer, and Michael Whiteman.

**Absent:** Eleanor Thompson.

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

Chairman Kenneth Cox called the meeting to order at 6:06 p.m. Chairman Cox noted that a quorum of the Board was present.

**II. Approval of the Agenda**

The agenda was reviewed. Chairman Cox moved to approve the agenda. Paul Weafer seconded the motion, and the motion carried unanimously.

**III. Approval of March 8, 2004 Meeting Minutes**

The minutes were reviewed. Michael Whiteman made a motion to approve the March 2004 meeting minutes. Barbara Gaige seconded the motion, and the motion carried unanimously.

**IV. Old Business**

A. *Unresolved Issue in Complaint*

1. CPRB No. 67-02/OPS No. C02-553 (Presented by Barbara Gaige)

Chairman Cox stated that the Board had an unresolved issue regarding a complaint that had been presented at a previous CPRB monthly meeting.

Barbara Gaige summarized the complaint and noted that the complaint was initially heard by the Board at its March 2003 meeting, and was referred to mediation by the OPS. Ms. Gaige stated that in November 2003, December 2003, and January 2004, the Board reviewed and closed several complaints that were referred to mediation, but which had never progressed through the mediation process. CPRB No. 67-02/OPS No. C02-553 was, therefore, referred back to the CPRB for review and a final determination. At its January 2004 meeting, the Board reviewed the investigation of the OPS and rendered a finding of "*sustained.*"

Ms. Gaige stated that the incident alleged by the complainant occurred at the New Covenant Charter School. Outside of the school, an officer was parked on the north side of Third Street, while parents waiting to pick up their children were parked on the south side of the street. Ms. Gaige stated that subsequent to the Board's January 2004 monthly meeting, the OPS reopened the case and rendered a finding of "**not sustained.**" She added that after the OPS rendered its finding, she spoke with two detectives at the OPS who stated that there were no witnesses to the incident who could corroborate the incident as either the officer or the complainant recollected. A woman who spoke to the officer at the scene of the incident, was interviewed by the OPS and stated that the officer was polite, courteous, and assisted her in making her way into traffic. The complainant, however, alleged that the officer was discourteous during the incident.

Ms. Gaige stated that at the Board's January 2004 meeting, she initially moved that the Board make a finding of "**sustained**" as to the complainant's allegation. Ms. Gaige stated, that as the OPS has completed their investigation, she recommends that the Board concur with the OPS's preliminary finding of "**not sustained.**"

Michael Whiteman stated that he would move to find "**not sustained**" as to the allegations in the complaint. He added that although the complainant's story is credible, he would find "**not sustained**" because a witness who was interviewed by the OPS stated that the officer was polite in his interactions with the complainant. Mr. Whiteman, therefore, stated that there is not enough information available for the Board to render a finding of "**sustained.**"

Mr. Whiteman expressed his disappointment that the complaint did not progress through the mediation process as intended. He added that there was no explanation given as to why the complaint was not mediated, but that it is his opinion that this complaint was ideal for mediation.

Ms. Gaige made a motion to adopt the OPS's preliminary finding of "**not sustained.**" Paul Weafer seconded the motion, and the motion carried 7-1 with Judith Mazza abstaining.

#### **IV. New Business**

##### **A. *New Complaints***

1. Three (3) new complaints were received since 3/8/04 meeting

Barbara Gaige read the summaries of the new complaints.

**CPRB No. 5-04.** The complainant alleged that he was kidnapped by the police department. He further alleged that the Albany Police Department is corrupt, has no ethics, no integrity, and no pride. The complainant added that the police violate citizens' rights on a daily basis with no repercussions. He also stated that the most severe punishment an officer will receive for a violation of constitutional rights, is suspension with pay. The complainant stated that the City of Albany is a "corrupted big size political machine" and is a one party controlled city. No monitor was appointed.

**CPRB No. 6-04.** The complainant alleged that on Friday, March 26, 2004 at 3:15 pm, an officer grabbed her son "by the back of the neck and forcefully push[ed] him across the street." She added that the officer also instructed her son to go across the street before he takes him to juvenile. The complainant alleged that a few minutes before the incident occurred, she had seen her son, alone on the corner of Lark Street and Livingston Avenue, waiting for his younger brothers, per her instructions. She alleged that she asked the officer several times why he had put his hands on her son, to which he did not respond. The complainant further alleged that the officer told her that she "was not acting like an adult," and told her to "go take a complaint out against him." The complainant alleged that she requested the officer's badge number, to which he replied, "can you see[,] can you read?" The complainant was never told why the officer pushed her son. A monitor was appointed.

**CPRB No. 7-04.** The complainant stated that his complaint is "based on bias-based profiling and strip searches." The complainant alleged he was leaving a store near 300 Clinton Avenue when he was stopped by an officer for no apparent reason. The complainant alleged that he provided the officer with his name, photo identification and a pay stub. The officer instructed the complainant to stand against a car while he "pat-frisked" him. The officer then told the complainant to put his hands on his head, and placed him in handcuffs and shackles. The officer then placed the complainant on the ground, pulled the complainant's pants down, and proceeded to search his rectum, where a plastic bag containing crack cocaine was found. The complainant alleged that the officer took the keys to his wife's car and had the car searched by dogs. The car was then towed. The complainant alleged that he was not driving the car, nor was he stopped for any traffic violations. The complainant alleged that his "4<sup>th</sup>

Amendment rights of unreasonable search and seizure [were] violated.” A monitor was appointed.

2. Two (2) new complaints for review

**CPRB No. 25-03/OPS No. C03-604** (Presented by Barbara Gaige)

Barbara Gaige summarized the complaint. On August 18, 2003, at 5:27 p.m., a police officer observed the complainant's boyfriend using a cell phone near the corner of Fourth Avenue and Elizabeth Street. The officer pulled the boyfriend over, parked his vehicle in the middle of the street behind the boyfriend's car, and called for back up to the scene. The complainant alleged that her boyfriend, along with his passenger, were stopped because they were talking on a cell phone while operating a motor vehicle. Additionally, it was determined by the officer that the vehicle the boyfriend was driving, was leased, and he was not the individual named on the lease agreement. Upon further investigation by the officers, it was found that both the boyfriend and his friend were in possession of marijuana. The boyfriend was arrested for possession of marijuana and unauthorized use of a vehicle. The friend was arrested for possession of marijuana. The complainant alleged that after the men were transported to the police station, the officers allegedly found crack cocaine in the back seat of the police car. The boyfriend was subsequently charged with drug possession of crack cocaine.

The complainant stated that while the officers were conducting the traffic stop, she arrived at the scene of the incident and exchanged words with the officers. She alleged that several minutes after she arrived, she was issued a traffic summons for imprudent speed. The officers had placed police vehicles at the north and south ends of the street to maintain order while they were conducting the traffic stop. The officers stated that the complainant drove down the road at a significant speed and was upset that her boyfriend and friend were being arrested. The four officers present at the scene were interviewed by the OPS, and each reported that they were alerted to the complainant's arrival at the scene by a loud engine approximately 100 to 125 yards from the corner of Second Avenue. The officers stated that the complainant's speed was imprudent due to the fact that there were cars parked on both sides of the street, a police vehicle stopped in the middle of the street, and there were approximately ten (10) to fifteen (15) people gathered on the street, curb, and sidewalk watching the incident. The officer who issued the uniform traffic ticket (UTT) to the complainant, stated that he and the trainee officer were working to keep the incident “under control,” as individuals from the neighborhood

were attempting to retrieve articles from the boyfriend's vehicle.

Ms. Gaige stated that officers placed marked police vehicles at each end of the street where the incident occurred. She added that according to the officers, the complainant was speeding when she arrived at the scene. In an interview conducted with the officers, they stated that the complainant's speed was imprudent for the situation, and that the complainant took several minutes to produce her driver's license when it was requested by the officers. Ms. Gaige stated that three witnesses to the incident were interviewed, and all stated that the complainant was driving too fast.

In her complaint, the complainant objected to the amount of time that elapsed from when she arrived at the scene, to the time when the officer issued her the ticket. Ms. Gaige stated that the investigation conducted by the OPS stated that the statute of limitations for a motor vehicle violation is one year. With respect to the allegation of crack cocaine being found in the back of the officer's police car, in an interview with the OPS, the officer stated that he checks the rear seat of the car before each shift, before placing a passenger in the vehicle, after the passenger is removed from the vehicle, and at the end of each shift. The officer who transported the boyfriend to the police station stated that he inspected the seat before placing the boyfriend in the car. Officers and witnesses stated that no strip search was conducted of the boyfriend or his friend. Ms. Gaige stated that the boyfriend plead guilty to possession of marijuana, but the crack cocaine charge was dropped with the Assistant District Attorney's approval, as the confinement for the two charges would be the same.

Ms. Gaige stated that the OPS made a preliminary finding of "*exonerated*" as to the arrest authority and procedure allegation for the boyfriend's arrest for possession of marijuana, and "*exonerated*" as to the arrest authority and procedure allegation for improper ticketing. Ms. Gaige made a motion to concur with the OPS's preliminary finding of "*exonerated*" as to both arrest authority and procedure allegations. Paul Weafer seconded the motion, and the motion carried unanimously.

**CPRB No. 27-03/OPS No. C03-661** (Presented by Paul Weafer)

Paul Weafer summarized the complaint. The complainant alleged that he and his girlfriend were arrested for criminal trespass in the second degree, a misdemeanor. He added that the complainant alleged that the officers were rude, cocky, and unprofessional during the incident, and arrested him for being in a house that he had permission to be in. The complainant stated that the owners had lived in the home for twenty-two (22) years, but

were now both disabled and unable to continue making their mortgage payments. Mr. Weafer stated that the house was being foreclosed and taken over by the Prudential Insurance Company. The complainant informed the officers that he had the permission of the owners to be in the home, and was given a key to enter the house. Mr. Weafer stated that the complainant had placed some of his property in the backyard of the home, which was fully enclosed by a fence with the only entrance being through the home, as the gate did not work. While the officers were at the home with the complainant, they made several attempts to contact the owners. According to the complainant, the individual who initially called the police regarding the trespassing, was a vindictive relative of the owners. The complainant was arrested for criminal trespass and brought to the police station. When the officers finally contacted the home owners, the complainant had already been discharged by the police. The complainant and his girlfriend were both given an appearance ticket, and were arraigned the next day for a misdemeanor charge. Mr. Weafer noted that three notarized letters were sent by the home owners, stating that the complainant had permission to be there, and that they had requested the complainant remain in the house until Prudential Insurance Company had made its walk through. The owners sent an additional letter to the judge who was handling the complainant's charge of criminal trespass.

Mr. Weafer stated that one of the detectives from the OPS who investigated the complaint contacted the Assistant District Attorney prosecuting the case to inform him that the OPS's investigation determined that the incident occurred as the complainant stated, and that he in fact had permission to be on the property. Mr. Weafer stated that the ultimate charge was an adjourned in contemplation of a dismissal (ACOD). The complainant alleged that he was told an ACOD was the equivalent to a guilty plea. Mr. Weafer stated that an ACOD is not the equivalent of a guilty plea, and in six months, the charge is sealed and disappears.

Mr. Weafer stated that the property left in the backyard by the complainant included a stereo, speakers, and a SONY walkman. He added that the complainant alleged that when he returned to the house after his release from the police station, neither his property in the backyard, nor his property in the home were there. The complainant stated that the police should have taken his property into custody while he was being arrested and detained at the Department. Mr. Weafer stated that according to the Albany Police Department's Standard Operating Procedures (SOP), the police do not take into custody property that is in a house or secured in a backyard.

In his complaint, the complainant made allegations of improper arrest and rudeness against the police department. He further alleged that the only reason he was arrested was because he was in the company of a Caucasian woman, and he is an African-American male. Mr. Weafer stated that when the officers arrived at the scene and asked the complainant his name, he provided them with a false name. He added that the officers could have ticketed the complainant for false impersonation, but did not. Mr. Weafer stated that one of the detectives from the OPS was assisting the complainant by calling the Assistant District Attorney to notify him that the complainant had the permission of the owners to be on the property.

Richard Lenihan, the monitor appointed to investigate the complaint, stated that had the owners' nephew not called the police with the allegation that the complainant was trespassing, the police would not have gone to the home. He added that the police made several unsuccessful attempts to contact the homeowners. Had they successfully reached the owners, the entire incident may not have occurred. Mr. Lenihan stated that the nephew had been at the home earlier in the day assisting the complainant in moving out his belongings, but due to animosity between the nephew and complainant, the nephew contacted the police regarding the complainant trespassing at the home. He added that the officers who responded to the call did not immediately arrest the complainant and charge him with trespassing. Rather, the officers spent approximately forty-five (45) minutes to an hour trying to resolve the matter. Mr. Lenihan stated that had the complainant provided the officers with his real name, they may have more readily believed that he had permission to be on the property. He added that the complainant was arrested and only charged with trespass, although he could have been charged with criminal impersonation.

Mr. Weafer stated that Commander Krokoff was familiar with the case, and that the complainant expressed his satisfaction with the thorough investigation done by the OPS. Commander Krokoff stated that the complainant sent a card to the detectives at the OPS thanking them for their efforts.

Mr. Weafer made a motion to concur with the OPS's preliminary findings of "*unfounded*" as to the arrest procedure allegation and the property handling allegation. Vice-Chairman Herman Thomas questioned whether the complainant's property had been located. Mr. Weafer responded that it was never found.

Judith Mazza questioned how an individual could be charged with

trespassing if he or she had keys to the property. Mr. Lenihan responded that simply because an individual has a key to property, does not mean he or she is authorized to use that property. Michael Whiteman stated that if an individual is given a key for a specific purpose and uses it for purposes not intended, then it is trespassing.

Barbara Gaige seconded Mr. Weafer's motion to find "*unfounded*" as to both allegation made in the complaint. The motion carried 7-1 with Dr. Manuel Alguero abstaining.

B. *Appointment of two new members to the Committee on Complaint Review for May 2004.*

The following Board members were appointed to serve on the Committee on Complaint Review for May 2004: Manuel Alguero, Barbara Gaige, Marilyn Hammond, Paul Weafer, and Michael Whiteman.

C. *Policy Review/Recommendations*

Chairman Kenneth Cox reported that on March 30, 2004, the CPRB met with Public Safety Commissioner John Nielsen, Assistant Chief Paula Breen, Assistant Chief Tony Bruno, Commander Steven Krokoff, and acting-Chief James Turley to discuss the Albany Police Department's policy on bias-based policing. Chairman Cox stated that the members of the APD were very receptive to the Board's suggestions, and provided the Board with the Department's new policy on bias-based policing. Chairman Cox read a letter to the Board from the APD: "CPRB Members: After having considered your input and advice with regard to our current Mission Statement and Prohibition Against Bias-Based policing, we have decided to implement the following changes. We will keep our current Mission Statement, and will add a separate section (enclosed) under "Officer Responsibility and Authority," immediately following our "Code of Ethics" which further emphasizes our prohibition against bias-based policing. Thank you for your input, and I look forward to more of these successful collaborations in the future."

Paul Weafer stated that the Board brought recommended changes to the meeting that the Board believed would strengthen the Department's bias-based policing policy. Mr. Weafer added that the Department accepted the recommendations, and that the APD should be proud of their new policy.

Barbara Gaige stated that she is pleased with the bias-based policing policy adopted by the APD, and with the information reported by the APD at the meeting.

Chairman Cox stated that the Board participated in an outreach meeting with Dr. Alice Green from the Center for Law and Justice. Chairman Cox stated that the meeting addressed questions that Dr. Green had submitted to the Board in a letter dated April 6, 2004. At the meeting, the Board provided Dr. Green with a copy of the revised bias-based policing policy. Chairman Cox stated that Dr. Green had a tremendous amount of input in the Department's policy on bias-based policing policy. Mr. Weafer added that he thought the meeting was very constructive, and that Dr. Green candidly expressed her opinions. He added that he believed Dr. Green appreciated the meeting and the responses the Board provided her.

D. *Report from the GLC*

Government Law Center Staff Attorney Renee Hebert gave the report.

Status of Complaints

It was reported that the Board has 18 active complaints, and has received three (3) new complainants since the March 8, 2004 meeting. The Board also has five complaints which remain suspended, three (3) from 2001, one (1) from 2002, and one (1) from 2004. To date, the Board has closed 128 complaints, and has received a total of 151 complaints.

Reports

It was reported that the Third Annual Report was being reviewed, and upon completion, will be forwarded to the Board for review and approval.

Training

It was reported that the Board participated in a training session with Assistant Chief Paula Breen on March 20, 2004. The training was a follow-up to the Board's January 2004 training on the Albany Police Department's use of force and pursuit policies.

E. *Report from the OPS*

Commander Steven Krokoff introduced Chief James Turley and Sergeant Eric Hook to the members of the Board. Chief Turley is the current acting Chief for the Albany Police Department, and Sergeant Hook is a new sergeant with the OPS.

Commander Krokoff reported that a first quarter report will be formalized and provided at the May 2004 Board meeting. It was reported that five (5) complaints

were filed with the OPS during the first quarter. He added that one (1) of the five (5) complaints was closed as “*no finding*,” and the remaining four (4) complaints remain open. It was reported that the APD received 30,781 calls for service during the first quarter, and made 1,922 arrests, excluding juvenile arrests. Commander Krokoff stated that the ratio of complaints filed, to the number of calls for service the APD responds to, is less than one percent.

## V. Public Comment

Chairman Kenneth Cox opened the meeting for public comment.

Grace White was recognized. Ms. White stated that the Board needs “teeth,” and believes that the public will not trust the Board until it does. She stated that it is important for the community to trust the Albany Police Department, and to know that their concerns are being heard by the Board. Ms. White inquired as to how she can assist the Board in achieving “greater powers.”

Dr. Alice Green was recognized. Dr. Green stated that she would like the Board to comment on the status of the complaint she filed in January 2004. Chairman Cox stated that Dr. Green’s complaint was removed from the Board’s review by the City of Albany due to a pending lawsuit. Paul Weafer added that the Board appointed a monitor to Dr. Green’s complaint. He stated that a special prosecutor was appointed to the to the case, however, and under the law creating the CPRB, the mayor, Common Council, and the City of Albany have a right to suspend a complaint from review by the Board if there is a pending criminal investigation and/or a civil proceeding. Dr. Green stated that she objected to the Mayor suspending her complaint.

Dr. Green stated that with respect to the APD’s bias-based policing policy, it is her opinion that the Department should be consistent in using either the terms “bias-based policing” or “racial profiling.” Dr. Green commented that the APD stated it has been collecting data to show that the Department does not participate in racial profiling. She added that the Department stated it has been collecting data since 2002, and this data should be incorporated in their bias-based policing policy.

Dr. Green congratulated Chief James Turley on his new position of acting-Chief in the Department. She stated that she has worked with him in the past and he has accomplished many positive things. Dr. Green expressed the fact that she had some concerns for the City of Albany in having an “acting-Chief,” rather than appointing a new Chief. Dr. Green questioned why Commissioner Nielsen appointed an acting-Chief. Dr. Green recommended that before anyone is appointed as the new Chief of the APD, the OPS, the APD, and the CPRB should offer a community forum for the public to learn more about Chief Turley and why the Department has an acting-Chief.

Chief James Turley was recognized. He stated that he has worked with many people in the Department throughout his years as an officer. Chief Turley commented that Assistant Chief Stephen Reilly was present at the meeting, Assistant Chief Paula Breen was in Washington, D.C., and Assistant Chief Tony Bruno will be involved with the Board. Chief Turley stated that he has been a police officer for 25 years, and was named acting-Chief last week. He added that he was born and raised in the City of Albany, is currently married, has three children, and four grandchildren. Chief Turley stated that his wife is a nurse at Albany Medical Center. During his career as a police officer, Chief Turley stated that he worked in Division 1 and 2, before working in Traffic, and then being promoted to Sergeant, Lieutenant, and Commander. For twenty of his twenty-five years as an officer, Chief Turley stated that he worked nights. In 2001, he was promoted to Deputy Chief, where he was responsible for the day-to-day operation of the Department, labor management, and discipline.

Chief Turley discussed initiatives the APD is planning on implementing. One of the initiatives is community policing. He added that there needs to be a focus on cooperation between neighborhoods and the police to reduce crime and address quality of life issues. Chief Turley stated that members of the APD are attending neighborhood group meetings approximately five days a week, and are also working to provide outreach to the community in conjunction with other City agencies, such as the Fire Department. Chief Turley stated that the APD is working to regain the trust of community, and that cooperation between the community and the police will help build that trust and lead to a better quality of life in the City of Albany.

Chief Turley addressed plans to restructure the APD. He stated that several years ago, each police station had station lieutenants. He stated that the three new Assistant Chiefs as well as several lieutenants will be moved back to the police stations. Chief Turley stated that four station lieutenants will be available to meet with the Board, and will be attending neighborhood meetings. He added that the Department will be working with neighborhood organizations to identify specific needs and quality of life issues. Chief Turley stated that each officer that comes to work everyday gives 110%, despite the fact that they may have personal issues or tragedies. He added that their personal situations do not effect the service they deliver to the public.

Chief Turley addressed Dr. Green's question as to why the APD refers to its policy as bias-based policing, rather than racial profiling. According to Chief Turley, the Department uses the term bias-based policing because it is more inclusive than the term racial profiling. The bias-based policing policy includes biases such as sexual orientation, ethnicity, and race. He added that with respect to the Department collecting data on APD bias-based policing, the process is in place, but they do not have technological resources to extract the data from the collection programs.

Chief Turley stated that he has the title, "acting-Chief," because he has not yet been

sworn in as Chief. He concluded by stating that he, along with the three new Assistant Chiefs, pledge to be open, responsible, and accountable to the people.

Paul Weafer stated that at the Board's meeting with the Commissioner, there was a question of the APD possibly reaching out to SUNY Albany to assist the Department in collecting data and statistics. Mr. Weafer stated that Commissioner Nielsen reported that the Department is considering working with SUNY Albany on data collection, and has pledged that the data, when available, will be made public. Chief Turley stated that he would be willing to discuss the data issue with the community.

Rob Worden from the School of Criminal Justice at SUNY Albany was recognized. Mr. Worden stated that a baseline establishment is important in the collection of data. He noted that a British report release two years ago stated that the benchmark for such data collection should be people who are "out and about" and could be stopped by the police.

Chairman Cox stated that the Board received Dr. Green's April 2004 letter, and intends to provide her with a written response to all of her inquires.

## **VI. Adjournment**

Chairman Cox moved to adjourn the meeting at 7:03 p.m. The motion carried unanimously.

Respectfully Submitted,

Michael Whiteman  
Secretary