

**City of Albany
Citizens' Police Review Board
161 Washington Ave. - Albany Public Library
Large Auditorium
September 12, 2005
6:00 p.m. – 8:00 p.m.**

Present: Jason Allen, Ronald Flagg, Barbara Gaige, Marilyn Hammond, Judith Mazza, Herman Thomas and Michael Whiteman.

Absent: Beresford Bailey and Paul Weafer.

An executive session was held before the start of the regular meeting. No action or votes were taken during the session.

I. Call to Order and Roll Call

Chairperson Barbara Gaige called the meeting to order at 6:35 p.m. Chairperson Gaige noted that a quorum was present and added that Board members Beresford Bailey and Paul Weafer were absent.

II. Approval of the Agenda

The agenda was reviewed. Vice-Chairman Herman Thomas moved to accept the agenda. Ronald Flagg seconded the motion. The motion carried unanimously.

III. Approval of the July 2005 Meeting Minutes

The July 2005 meeting minutes were reviewed. Marilyn Hammond moved to approve the minutes. Ronald Flagg seconded the motion. The motion carried unanimously.

IV. Report from the Chair

Chairperson Gaige deferred her report, commenting that she would fill in anything that was not addressed by the committees.

V. Committee Reports

A. *Outreach Committee*

Committee Chair Judith Mazza reported that she and Chairperson Gaige had spoken, and had planned to call a meeting of the outreach committee to compile a list of individuals, groups, and organizations that need to be contacted so that the Committee could go out and start working with them. Chairperson Mazza also reported that the Committee would like to go out to the schools - middle and high school - and talk to young people about the review board, what it does, and how these students can make a complaint. Chairperson Gaige commented that she had spoken with Dr. Green before the meeting and Dr. Green invited the Board to participate with her when she goes into health classes to educate students about what to do when approached by

the police. Chairperson Gaige reported that a meeting would be set up with Dr. Green to talk about the role of the CPRB, and that she would be seeking members to volunteer to go.

B. *Mediation Committee*

Government Law Center Senior Staff Attorney Justina Cintrón Perino reported that she sent an email, on the Board's behalf, to Lauri Stewart, the Board's mediation consultant from Portland inquiring about the report she agreed to prepare for the Board following her visit to Albany in June 2005. Ms. Stewart responded that a report would be forthcoming – within two weeks. Chairperson Gaige commented that once the report is received, the Board will talk with the Chief, the Office of Professional Standards, the Union, if the Union is still willing, and other interested parties about working on a protocol for mediation.

VI. **Old Business**

A. *Further Investigation Follow-up*

CPRB No. 8-04/OPS No. C04-203 (Report given by Vice-Chairman Herman Thomas)

Vice-Chairman Thomas summarized the action taken on the complaint.

He reported that this complaint had been sent back to the Office of Professional Standards (OPS) for further investigation of how long one of the subject officers had been on the force and how the complainant learned this information; whether or not a second subject officer was present during the stop of the complainant; and a statement made by a third subject officer. A follow-up report was received back from the OPS. Vice-Chairman Thomas reported that the further investigation did not turn up anything new.

Vice-Chairman Thomas asked if the Board members present had any comments. No comments were offered. He then moved to close the case with a finding of *Not Sustained*. Marilyn Hammond seconded the motion. The motion carried unanimously.

VII. **New Business**

A. *New Complaints*

1. New complaints received since the July 2005 Meeting

Judith Mazza reported that one (1) new complaint had been received by the Board since its July 11, 2005 meeting. Ms. Mazza read a summary of the complaint.

CPRB No. 26-05

The complainant alleges that while he and several friends were playing a board game at a local Dunkin Donuts, he was asked by the store clerk to take the game elsewhere because the group was annoying the store clerk and a co-worker. As the complainant was preparing to leave, an Albany police officer arrived. According to the complainant, the officer was "rude and clearly discriminating against them, due to the average age of the

table being in the late teens.” The complainant alleges that when he walked past the officer to leave, he acknowledged the officer’s name and badge number, which infuriated the officer. The complainant claims the officer then shoved him hard across the room and continued to shove him over and over again until they reached the parking lot. The complainant further alleges the officer threatened to bash his teeth in for talking back; threatened to lock him up or to have him spend the night in jail; physically forced him to stay and would not tell him whether or not he was being detained or arrested; and used profanity and aggressive tones towards the complainant’s friends.

A monitor was assigned to this complaint.

2. New complaints for review

Chairperson Gaige reported that three (3) new complaints were on the agenda for review.

CPRB No. 05-05/OPS No. C05-80

Chairperson Gaige reported that this complaint had been assigned to Paul Weafer. However, Mr. Weafer was absent. She then moved to table review of the complaint until the next monthly meeting. Jason Allen seconded the motion. The motion carried unanimously.

CPRB No. 13-05/OPS No. C05-202 (Presented by Chairperson Barbara Gaige)

Chairperson Gaige summarized the complaint.

This complaint originated on April 8, 2005 at approximately 4:00 pm. The complainant states that she was driving southbound on Lexington Avenue from Clinton Avenue when she saw two young men against the trunk of an Albany Police Department (APD) unit seeming to be handcuffed by two Albany police officers. The complainant alleges as she drove around the police unit, continuing south on Lexington Avenue, a dark-colored, unmarked police unit was coming north on Lexington Avenue, and recklessly drove into the complainant’s lane causing her to drive her vehicle onto the curb. The complainant states there were two vehicles heading north and the police unit was the second vehicle, which pulled out from behind the first into her lane without warning or caution. The complainant alleges she was forced to swerve her vehicle off the road to prevent any serious injury at the hands of the Albany Police Department.

Chairperson Gaige reported that she went down to the OPS and reviewed their file regarding this incident. The first officer was traveling north on Lexington in a marked vehicle and observed two males walking south on Lexington. One had a large knife. The officer notified the dispatcher of the location and his observations. The second vehicle to respond was a marked car. He heard the stop on the radio at Clinton and Judson. This officer assisted with the handcuffing of the two males without incident. No vehicle failed to yield in his approach to the area and he used his lights and sirens. One of the officers who responded stated he had an unmarked unit that shift, but that he did not respond to this particular incident. Two officers were in another unmarked unit and were told by the dispatcher to assist with the weapons call. They had arrived by going east on Sherman and then north on Lexington. The driver stated he drove professionally. No vehicles failed to yield. The partner in the car stated the driver did not drive in a reckless manner or endanger. This car was using lights and sirens. Another officer

responded in an unmarked unit. The officer recalls going west on Clinton from Henry Johnson and south on Lexington to Orange. This officer stated that he “used reasonable care and no vehicles failed to yield.” Two other officers responded in another unmarked vehicle; all vehicles yielded to this driver; the driver used reasonable care. They were south on Lexington from Clinton Avenue. The dispatcher had been given the description by the first officer and the dispatcher had immediately requested all units in the immediate area to respond. Additional units were then assigned as this was a priority call.

The investigation by OPS revealed that none of the unmarked vehicles responding matched the complainant’s description. The complainant said that the vehicle was dark in color, and as it came out around the first vehicle, it had turned on the blinking white lights “on its lower part.” The OPS reports indicate that all unmarked vehicles owned by the APD have white and red strobe emergency lights that are activated on one switch. On certain vehicles the red lights can be activated independent of the white, but not vice versa. You cannot, on APD unmarked units, use just the white lights. You have to either have red and white or just red, but not white alone. It is not known to the APD if other agencies responded within the city, such as the ATF, FBI, DEA, US Marshalls, Probation, Parole, Sheriff, or NYS Police. All could have been in the area at the time and could have responded, but there is no need for them to “check in or talk to dispatch or anything else.”

The monitor, Joel Pierre Louis was not present, however, his report indicated that he also reviewed the same information that Chairperson Gaige had reviewed, and stated that he sustains the findings of Detective Murray’s confidential report. Chairperson Gaige then made a motion to accept the findings of the OPS of *Not Sustained*. The motion was seconded by Marilyn Hammond. The motion carried unanimously.

CPRB No. 25-05/OPS No. C05-309 (Presented by Judith Mazza)

Judith Mazza summarized the complaint.

Ms. Mazza reported that the OPS’s preliminary finding on this complaint was *No Finding* because it involved members of the Colonie Police Department. According to Ms. Mazza, there is no standing to review the complaint because the incident did not happen in the city of Albany, it happened in the Town of Colonie. The Colonie police were involved, and the complainant complained about use of force and being searched. She then moved to close the complaint, accepting the finding of the OPS, and send the complaint to the Town of Colonie. Vice-Chairman Thomas seconded the motion. The motion carried unanimously.

B. *Appointment of two new members to the Committee on Complaint Review for October 2005*

In addition to the Chair of the Committee, Judith Mazza, the following members were appointed to the Committee on Complaint Review for October 2005: Jason Allen, Herman Thomas, Paul Weafer, and Michael Whiteman.

C. *Approval of Second Quarterly Report*

The Second Quarterly Report for 2005 was reviewed. Chairperson Gaige asked if there were any additions or corrections to the report. None were offered. Judith Mazza then made a motion to accept the Second Quarterly Report. Ronald Flagg seconded the motion. The motion carried unanimously.

D. *Policy Review/Recommendations*

Policy Committee Chairman Jason Allen reported that the committee meeting scheduled to take place before the regular meeting did not occur. Chairman Allen thanked the Government Law Center for sending out a reminder notice, and noted that the meeting did not have presence from the Albany Police Department. Chairman Allen commented that in the future, the committee would appreciate advance notice if meeting participants are unable to attend the meeting because committee members make efforts to leave their jobs early to attend these monthly policy meetings.

Chairman Allen reported that the Policy Committee had no comment at this time regarding the complaint from the Coalition for Accountable Police and Government. He added that the committee would continue to work with the CPRB to formulate a response to the complaint.

Chairman Allen thanked the Albany Police Department for the data that was transmitted via email, adding that the committee can now move forward in designing a database on the process for data mining, data reporting, and data capturing.

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

Ms. Perino gave the report.

Status of Complaints

As of the date of the meeting, it was reported that there were 20 active complaints before the Board for review. Six (6) complaints remain suspended, and 182 have been closed. A total of 208 complaints have been filed with the Board since it began reviewing complaints in 2001.

It was reported that the GLC forwarded a follow-up list of outstanding complaints to Assistant Corporation Counsel Patrick Jordan. These complaints require the input of the Corporation Counsel's Office. The GLC hoped to receive a response to these items to report on at the next monthly meeting.

Training

It was reported that almost one year has passed since the three newest members of the Board began their terms. However, these members have not yet completed their ride-alongs – a total of three (3). Ms. Perino agreed to send reminders and to try to facilitate the scheduling of the ride-alongs.

NACOLE

It was reported that the GLC had sent a letter to the City, asking how many Board members it would send to this year's NACOLE Conference. The City agreed to send four (4). Ms. Perino added that the Center needs to know who those four members will be. She listed those members who had attended past NACOLE Conferences. In 2001, Eleanor Thompson (*former member*) and Michael Whiteman attended the conference in Denver, Colorado. In 2002, everyone except Vice-Chairman Herman Thomas attended the conference in Cambridge, Massachusetts. In 2003, Barbara Gaige and Michael Whiteman attended the conference in Los Angeles. In 2004, Chairperson Gaige, Marilyn Hammond, Judith Mazza, and Vice-Chairman Thomas attended the conference in Chicago. As soon as the GLC knows the names of those members attending this year's conference, the Center would begin making the appropriate travel arrangements.

Reports

It was reported that the Third Quarterly Report for 2005 would be ready for review and approval at the October Meeting.

Correspondence

It was reported that correspondence from a current complainant was distributed to Board members as part of their meeting materials. The letter is in response to a follow-up letter sent by the Board regarding its review of the complaint in June and information provided by the complainant's attorney. Board members were asked to review the correspondence.

Meetings with the Chairperson

It was reported that Chairperson Gaige and Ms. Perino are meeting on a regular basis to follow-up on various items between meetings.

Mediation

It was reported that the GLC had drafted and sent thank you letters to all of the individuals who attended the series of meetings with Lauri Stewart in June. Included with the letters was a complete set of materials that Ms. Stewart brought with her and distributed during the meetings. A thank you letter was also drafted and sent to Ms. Stewart.

Appointment/Reappointment

It was reported that the GLC had prepared and distributed to members information regarding appointments and reappointments to the Board, including term information. Ms. Perino noted that the terms of two Board members, one of which is no longer eligible for reappointment, expire in October. Since Vice-Chairman Thomas has served two consecutive terms, the legislation does not allow him to serve a third term at this time. He is, however, eligible for reappointment in one year. Because Mr. Thomas holds the position of Vice-Chair, the Board must elect a new Vice-Chair once his term expires. Chairperson Gaige's term will also expire in October. However, since she was initially appointed to fill the unexpired term of Dr. Morris Eson (*former member*) and has only

served one term of her own, it appears that she would be eligible to be reappointed for a second term.

Ms. Perino reported that she forwarded the appointment and term information to Mr. Jordan so that the Corporation Counsel's Office could begin facilitating this process. She commented that there appears to be an error in the appointment of Jason Allen and/or Ronald Flagg. These two members may not have been appointed according to the original schedule, and one or both of their terms may need to be adjusted accordingly.

The GLC agreed to draft correspondence to the Mayor and the Common Council notifying them of the term expirations.

F. *Report from the OPS*

Detective Sergeant Eric Kuck reported that two new detectives have joined the OPS - Mike Romano, who started since the last meeting, and a newly-appointed detective, Kevin Seal who was not able to attend tonight's meeting, but will be present at next month's meeting. He added that with these two additions, the OPS is at full capacity.

VIII. Public Comment

The floor was opened for public comment. Dr. Alice Green asked about the mediation report, and inquired about how it will be handled – will it be a public report? Chairperson Gaige responded that the report will be made available to the public once it is received.

Dr. Green added that she had a question about policy-related issues and inquired as to whether the Policy Committee will look into them or at least find out what the issues are. She reported that she was at the Common Council meeting the other night and a gentleman raised a question about profiling. She added that the Board may wish to touch base with the Common Council to find out if there is an issue there the Board might want to look at. She also reported that in the newspaper there was an issue on hot pursuit and whether the police department acted appropriately. She asked if there was a policy. She commented that she wondered if these things are a concern for the policy committee.

Dr. Green then inquired about the executive session held before the meeting. She commented that the Board should have explained to the public its reasoning for entering into the Executive Session. Chairperson Gaige explained that there was an issue involving the behavior of a Board member that had to be addressed with counsel present. She added that the Board felt there was a violation of its bylaws and felt that discussion of the issue belonged in an executive session because it was with reference to a particular person on the Board and the Board wanted to consult with counsel on the issue. Dr. Green commented that it would be better for the public if the Board went into executive session following its meetings. She added that she believed the Board had agreed to do this. Judith Mazza responded that because of the particular issue, the Board felt that it needed to address it before it had started the meeting. Ms. Mazza apologized for the change in order, and stated that the Board's usual protocol is to hold an executive session at the end of the meeting.

IX. Adjournment

Ronald Flagg moved to adjourn the meeting. The motion was seconded by Jason Allen. The motion carried unanimously, and the meeting adjourned at 7:30 p.m.

Respectfully Submitted,

Ronald Flagg
Secretary