

**City of Albany
Citizens' Police Review Board
Albany Public Library
161 Washington Avenue – Large Auditorium
October 9, 2007
6:00 p.m. – 8:00 p.m.**

Present: Jason Allen, Ronald Flagg, James Malatras, John Paneto, and Andrew Phelan, Jr.

Absent: Daniel Fitzgerald, Anthony Potenza, and Hon. Fowler Riddick.

I. Call to Order and Roll Call

Chairman Jason Allen called the meeting to order at 6:00 p.m. He noted that a quorum of the Board was present.

II. Approval of the Agenda

The agenda was reviewed. Chairman Allen moved to approve the agenda. Ronald Flagg seconded the motion. The motion carried unanimously.

III. Approval of the June 12, 2007 Meeting Minutes

Chairman Jason Allen asked board members if they had any comments on the June 12, 2007 minutes. James Malatras responded that he was not able to review the minutes. Chairman Allen moved to table approval of the minutes until the next meeting of the Board. The motion was seconded by Ronald Flagg. The motion carried unanimously.

IV. New Business

A. *New Complaints*

1. New Complaints Received Since September 11, 2007 Meeting

Andrew Phelan reported that there were three (3) new complaints received by the Board since its September 11, 2007 meeting. Mr. Phelan read a summary of each new complaint.

CPRB No. 20-07

On June 6, 2007, the complainant alleges that she reported her car missing to the APD. On July 6, 2007, the complainant alleges that the APD informed her that her car was found in Alabama and gave her the number to the Alabama Police Department. The complainant claims that she went to Alabama to recover her car. On September 12, 2007,

the complainant alleges that her car was towed by an Albany officer. She further alleges that she went to two police stations and was told that she was at the wrong station. The complainant states that she is not going to pay for any towing expenses.

A monitor was not appointed to investigate this complaint.

CPRB No. 21-07

On September 15, 2007 at around 5 p.m., the complainant alleges that while he was at Lark Fest with his alligator, he was approached by an animal control officer. The complainant further alleges that when the officer asked him to leave, he told him that he has a license to own the alligator. The complainant claims that the animal control officer acknowledged that he was aware that the complainant has a license and then the officer called the police. When the police arrived they asked the complainant to leave. According to the complainant, the police should be concerned about other things like the people he saw drinking alcohol at the Lark Fest.

A monitor was not appointed to investigate this complaint.

CPRB No. 22-07

On Friday, September 21, 2007 at around 9:30 p.m., the complainant alleges that while driving his sister's car on Lark Street by Orange Street, as he approached a road block, an officer asked him to pull over to the side of the road. The complainant further alleges that when the officer asked him for his registration and drivers license, he gave him his registration but not his license because he lost it two days prior and was not able to go to the DMV to get a new one. The complainant claims that the officer started asking him questions like where he was going and if he had anything in his car that he was not suppose to have, to which he responded in the negative. When the officer asked the complainant to unbuckle his seatbelt and step out of the car, the complainant claims that he reached for his seatbelt quick and the officer asked him to slow down and grabbed his hands using no force but holding onto them. While the officer continued to hold the complainant's hands while he got out of the car, the complainant alleges that he said twice that "I'm tired of you mo****fu****s." Then about four (4) to five (5) officers grabbed him. The complainant claims that while one officer was pulling him forward, the other officers were pulling him backwards. The complainant further claims that one officer bent him over and started banging his head against the car, while the other officers were trying to pull him away. Then the officer pulled the complainant's head onto the ledge of the door choking him. After the other officers pulled the complainant away, the complainant alleges that he said to the officer "You are going to choke me for an inspection sticker." The officer walked over to the complainant and punched him in the left side of his head. The complainant further alleges that after he was arrested and taken to the station, he told the arresting officer that he was injured, but he did not need to go to the hospital. Pictures were taken of the complainant at the station.

A monitor was appointed to investigate this complaint.

2. New Complaints for Review

Chairman Allen reported that there were four (4) new complaints on the agenda for review by the Board.

CPRB No. 37-06/OPS No. C06-683 (Presented by Jason Allen)

Chairman Jason Allen summarized the complaint. The complainant alleges that he was beaten up by the Albany Police outside of Nick's Sneaky Pete's. Chairman Allen noted that there was a lot of press coverage regarding this complaint. He noted that the complainant was present at a previous CPRB meeting when the complaint was reviewed, and provided the Board with additional information. Chairman Allen stated that at that time, the Board voted to send the complaint back to the OPS for further investigation, and to interview the witnesses and complainant in the presence of a monitor. Chairman Allen stated that the further investigation of the complaint was complete and accompanied by a letter from Chief Tuffey. He reported that the letter stated that Chief Tuffey received a letter from the complainant's counsel, requesting that the case be withdrawn from the CPRB. Chairman Allen added that the letter from Chief Tuffey is dated September 18, 2007. The first item addressed by Chief Tuffey was that one of the complainant's witnesses said that he grew up with the complainant, but had not seen him in five (5) years. This witness worked at the club as a promoter, and did not see the complainant that night. He learned from the other employees of the club of the complainant's actions. Chairman Allen reported that the Chief stated in the letter that the line of sight of this witness to the complainant was not there. Chairman Allen stated that the letter from Chief Tuffey stated that the complainant is withdrawing his complaint regarding his arrest of October 20, 2006. Chairman Allen asked if the complainant was present. It was noted that the complainant was not present. Chairman Allen asked the Board if the case should be closed. James Malatras stated that the OPS had conducted two (2) investigations of the complaint, and the complainant asked for it to be withdrawn. Mr. Malatras stated that he thought that it should be closed as *no finding*. Chairman Allen moved to close the case with *no finding*. Mr. Malatras seconded the motion. The motion carried unanimously.

CPRB No. 6-07/OPS No. C07-127 (Presented by Andrew Phelan, Jr.)

Andrew Phelan summarized the complaint. He summarized that the complainant worked for a local rental agency, and parked his truck in front of 537 Hudson Avenue in the city of Albany. He was there to do some repair work on some rental property. He was approached by police officers, who asked him "what he was doing there," to which he replied "I don't have time now, I'm busy." The complainant alleges that the officer approached him, grabbed him, and jammed his shoulder into a wall, and shoved him into the rose bushes. The complainant also alleges that he was handcuffed, dragged down the driveway, and pushed into the fender of the police unit, and questioned. While being

questioned by the OPS, the complainant alleges that he had been detained for one and a half hours. Mr. Phelan stated that he went to the OPS on October 1, 2007 and October 5, 2007, and reviewed the OPS investigative report. He noted that in regard to the call handling allegation, many police officers were in the area because of an increase in home burglaries that had occurred while students were away. According to police records, 49 burglaries occurred between 12/1/06 and 1/31/07.

Mr. Phelan reported that the officers observed the complainant peering into a home, checking the door handle, and disappearing around the alleyway. The officers circled the block in search of the complainant, and observed him coming back out of the alleyway, and placing an object into his van. The actions by the complainant raised the officers' suspicions that a crime had occurred. The officers' suspicions were further intensified when they attempted to speak to the complainant, and by his own admission, the complainant refused to speak to the officers, and continued to walk away.

Mr. Phelan noted that in regard to the use of force allegation, the complainant alleges that he was grabbed by the officers, thrown against the wall, and then pushed into the rose bush, where he sustained scratches, and was placed in handcuffs. Mr. Phelan further noted that the officers reported that they observed the complainant acting suspiciously in the area designated as being a high crime area for burglaries. The officers attempted to speak with the complainant, who admittedly refused to speak with the officers, further raising the officers' suspicions. The officers at this point used physical force to detain the complainant while they conducted an investigation into what he was doing, and whether he had a right to be in that location. The officers obtained enough information to confirm that the complainant was in fact a maintenance employee, and not someone committing a crime. The complainant was released, and as is required of the SOP, a field interview card was completed.

Mr. Phelan noted that in regard to the arrest authority and procedure allegation, the complainant alleges that he was detained in handcuffs for an hour and a half. Mr. Phelan reported that the officers admitted to detaining the complainant by the use of handcuffs; however, the officers deny that the complainant was detained for an hour and a half. Mr. Phelan reported that the officers' call route checked the complainant at 11:03, and various checks were made for warrants, and vehicle registration, and the checks came back negative. Mr. Phelan noted that the unit failed to return to service after the stop, and at approximately 11:44 requested the Albany Police department dispatcher to call the Yellow Cab dispatcher for information on the Yellow Cab. The unit at that time was at the corner of Central and North Main Ave.

Mr. Phelan noted that a monitor was assigned to investigate this case. He asked if monitor Theresa Balfe or the complainant was present. Mr. Phelan noted that both the monitor and the complainant were not present. He reported that in regard to the call handling allegation, while working at two rental properties, the complainant alleges that the officers asked him for identification, and handcuffed him. Mr. Phelan stated that he agreed with the findings of the OPS as *exonerated*. He reported that in regard to the use

of force allegation, the complainant alleges that the officer grabbed him, jammed his left shoulder into the garage wall, and shoved his right hand into the rose bushes. Mr. Phelan stated that he agreed with the findings of the OPS report as *exonerated*. Mr. Phelan reported that in regard to the arrest authority procedures allegation where the complainant alleges that he was detained in handcuffs for an hour and a half, he agreed with the OPS finding as *unfounded*.

Chairman Allen stated that he noticed that one of the items brought up in regard to the call handling allegation was that students were away. Chairman Allen asked for verification that the students were away, and what break were students on. OPS Detective Kathy Hendrick responded that it was winter break. Ronald Flagg agreed that the students were on their winter break. James Malatras stated that although he agreed with the OPS findings, it seemed that the dialogue between the officers and the complainants became elevated. Mr. Malatras further stated that although the complainant admittedly was sarcastic to the officer, the officer replied “Don’t make me bring you down, don’t make me bring you down.” Mr. Malatras stated that it seemed that the discourse was not at a level it should be at, which further exacerbated the situation. He further stated that the Board probably got this complaint because of the verbal exchange between the officer and the complainant. He added that this is a case where we are dealing with misunderstanding, and not dealing with communicating the right way.

Chairman Allen asked what the actual detention period was. Andrew Phelan stated that he read the police reports and the officers got the call at 11:03. The officers went to the scene to check it all out. The complainant alleged that he was detained for an hour and a half, but the same officers that responded to that call, according to the call sheet, were on the corner of Central Ave and Main St. at 11:44. Chairman Allen asked if the police were called to the scene. Mr. Phelan responded that the police were called, and were in that area because of the high rate of burglaries. Commander Beattie stated that there was no proof that anyone was sarcastic to anyone. He added that the complainant admitted to not complying with the officers when they asked him to stop so they could investigate why he was there. Commander Beattie further added that there is no witness to this case. Mr. Malatras stated the Board was provided with the transcript, and it seemed fairly detailed. Commander Beattie stated that the OPS does not ask for verbatim reports from the officers. He added that the questions are more like, “did you state this or did the complainant state that,” but as far as going line by line through the statement, it does not happen. Mr. Malatras stated that the dialogue seemed a little weird, and either what is written did not happen, or there is an issue. Mr. Malatras proceeded to read from the transcript the dialogue between the officer and the complainant.

John Paneto reported that the monitor appointed to the case just arrived. Chairman Allen recognized Theresa Balfe, and updated her on what they talked about thus far. He recapped the allegations, beginning with the officers being on other calls within ‘x’ amount of time, which minimized the actual allegation of the complainant. Chairman Allen added that they were trying to reconcile whether the language was appropriate, and if it actually occurred. Chairman Allen asked monitor Theresa Balfe if she had come

across anything in her review of the transcripts. Ms. Balfe replied that they do not get to see transcripts anymore. Chairman Allen asked Ms. Balfe if she asked if the language was used. Mr. Malatras added that according to the complainant's statement he had kicked a few butts in his day. Ms. Balfe stated that the complainant actually admitted in the interview that he was very sarcastic and antagonizing.

Monitor Theresa Balfe asked the Board if they knew that the complaint was not written by the complainant, but by the woman who just arrived at the meeting. Mr. Malatras asked the woman if the complaint was written by her. The woman replied that she wrote it immediately after it happened. She added that she asked the complainant to sit down and tell her what happened. Andrew Phelan clarified that the complainant was not here, and the woman agreed. Ms. Balfe stated that at the meeting where the woman was present, the complainant did not seem interested in pursuing the filing of a complaint. The woman agreed that the complainant did not want to file the complaint but she wanted to file the complaint for the citizens of Albany. She stated that she is also a property manager of student housing, and she had just come from an incident where she had to call the police. She added that she is a firm believer and thankful for the Albany police. The woman stated that she was concerned that something like this could transpire and involve a drunken college kid. She further stated that the complainant did not want to pursue filing a complaint. The woman added that her maintenance man is not trained in management techniques.

Chairman Allen stated that what is problematic for the Board is that the complainant is not here to present his side of the story. The woman stated that the letter that she received did not indicate exactly what the procedure was tonight. Chairman Allen further stated that there is no witness to corroborate the exact sequence of what happened between the officer and the complainant. The woman added that she did not know the complainant was supposed to be at the meeting and that the meeting was just to go over what had been reviewed so far. Chairman Allen replied that the case has been reviewed and that there is a monitor's report. The woman stated that she could ask the complainant to come to the meeting. Chairman Allen replied that it was not necessary because Ms. Balfe provided a very thorough report, and it represents what occurred during the interview very well.

Ronald Flagg stated that they are not suggesting that the officer did have a right to do what he did. But when an officer is faced with a sarcastic and demeaning citizen, what are the expectations of the APD? He added that a line has to be drawn where the officer is not fed into that negativity and let it escalate to a point where somebody gets hurt. Mr. Flagg further stated that he would like to forward this to the OPS as a concern.

Theresa Balfe stated that another concern to be taken into account was the size of the complainant. Ms. Balfe further stated that although she understands the concern of the woman, the complainant is a very large man. Ms. Balfe explained that as a private investigator, she reacts very differently to someone who is calm. She added that the officers have to look at the situation according to a standard operating procedure, and

since the man was very large, she did not find the officers' reaction strange. James Malatras stated that logic would say that if someone larger than you is trying to goad you, the officer should try to neutralize that by not tit-for-tatting back. Chairman Allen stated that if someone is not complying and walking away, and you have already tried talking to him or her, you can not just let them walk away. Mr. Malatras replied that he is not saying not to give forcible commands, which is different from tit-for-tatting. Ms. Balfe stated that the complainant was not wearing any hat, jacket, or nametag identifying him as a maintenance man. She further stated that the woman, in an attempt to rectify the situation, ordered badges or nametags the day of the incident. Mr. Malatras asked the woman if she has had a similar situation with an officer and a maintenance man since that last incident. The woman replied that she had not. She added that she has never had an incident in the 20 years that she has been managing properties in the area.

Chairman Allen noted that he could not comment on whether the officer was having a bad day or whether the officer was overreacting or not. He stated that at the same time, though, had the complainant stopped when he was asked to, then this probably could have been prevented. The woman stated that she knows that some of her college students can be sarcastic. She further stated that although the maintenance man did start to walk away, the officers never stated why they were stopping him; they just shouted commands at him, which was shown in the record. Mr. Malatras stated that the police officer was approaching the complainant while he was at a building that was generally not occupied during those weeks, and perhaps they wanted to question the complainant not just about him, but also about a burglary that just occurred. The woman reiterated that the maintenance man is not the professional, and that she expected more from the Albany Police Department. John Paneto noted that the Albany Police detectives were at the meeting and were listening to her comments.

Andrew Phelan moved to accept the OPS findings of *exonerated* for the call handling allegation; *exonerated* for the excessive use of force allegation and *unfounded* for the arrest and authority procedures allegation that the complainant was held in handcuffs for an hour and a half (1.5 hours). Chairman Allen seconded the motion. The motion carried unanimously. The woman asked the Board to translate what just transpired. Chairman Allen replied that the Board would follow up in a letter to the complainant defining the different levels of findings. He added that the Board has exonerated the officer on the call handling allegation, excessive use of force allegation, and arrest authorities and procedures allegation.

CPRB No. 13-07/OPS NO. C07-282 (Presented by James Malatras)

James Malatras summarized the complaint. The complainant alleges that on April 19, 2007, the police pulled up outside his residence, and a state trooper began questioning him about drinking alcohol from an open container. The police vehicle was a special community unit that contained several police officers and a state trooper. The complainant alleges that he was confused by the trooper's inquiry, because he did not possess any alcohol, but there were two (2) empty beer cans next to him.

Simultaneously, an acquaintance of the complainant met the complainant on the porch to ask for a cigarette. The complainant pulled out one butt from the pack, and stated "Oh, not that one." The trooper stated that the first cigarette was actually a blunt, or marijuana. The complainant stated that it was not drugs, nor did he do drugs. After some more back and forth, where, among other things, the complainant flicked a cigarette at the police vehicle; the trooper told the complainant that he would get cited for littering. One of the police officers asked for the ID's of both the acquaintance and the complainant. The complainant admits that after the officer asked for his ID, he became agitated, cursing at the officers and asking why they needed his ID because they knew where he lived. The trooper subsequently placed the complainant under arrest for disorderly conduct. Mr. Malatras noted that the facts surrounding the arrest are in conflict. The complainant alleges that he did not comply, because the trooper kept moving around. The complainant further alleges that the trooper stated that the complainant was resisting arrest, and then the trooper started hitting him with his fists. The complainant further alleges that he dropped to the ground, and curled up to offset the trooper's kicks and punches. The complainant also felt another person striking him in the face, but he did not know who. The complainant further claims that he was lifted and slammed into the pavement and felt as if he was being strangled. After the complainant was handcuffed, he claims that he was no longer struck by any of the officers. The complainant alleges that he sustained injuries to his left eye, his cheek from being rubbed on the pavement, scratches on his knee, a swollen lip, and a swollen nose from being struck by the officers. The officers stated that any injuries sustained by the complainant were because of falling due to the complainant resisting arrest, not because of excessive force. The complainant was arrested for disorderly conduct, and resisting arrest. The OPS reported that the allegation of the use of excessive force should be closed as ***unfounded***, since the acts did not occur or were misconstrued.

James Malatras reported that he reviewed various documents related to the case, which included witness statements by several of the complainant's family, the state trooper, the APD officers on the scene, related support personnel, neighbor witnesses, the monitor's report, pictures of the complainant shortly after his arrest, and other relevant documents. Mr. Malatras further reported that the main allegation raised by the complainant was excessive use of force, but there are conflicting statements from the various witnesses. For instance, while two of the complainant's immediate family members indicated that they saw the trooper punching the complainant while one of the APD officers was holding him and pulling his hair, another family member of the complainant stated that this, in fact, did not occur. The family member stated that the complainant fell to the ground because he was resisting the officers' commands. Mr. Malatras further reported that the complainant's spouse stated that she got the video recorder and taped the incident, but that tape was never offered for review. He noted that while the facts are unclear about the behavior of the state trooper, the Board's jurisdiction is limited to the behavior of the APD officers. Mr. Malatras added that although the APD officers were implicated in the use of excessive force by the complainant's son and wife, his niece disputes that the APD officers used excessive force. The state trooper, in a sworn

statement, indicated that the APD officers were not involved in the scuffle, and that they should stay clear while he made the arrest.

James Malatras reported that there were other issues raised in the complaint. First, the complainant was never actually cited for the original open container violation. Secondly, there may be a need for more training of these special units that contain APD officers and state troopers, because the trooper made almost all contact with the complainant. Thirdly, this was a minor offense that was blown up into a full-fledged dispute, and subsequent arrest, because from the record it appears that the trooper had some sort of history with the complainant. Mr. Malatras asked the monitor if there was anything he wanted to add. Monitor George Kleinmeier was recognized. Mr. Kleinmeier stated that he had nothing to add. Mr. Malatras asked if the complainant was present. It was reported that the complainant was not present.

James Malatras noted that Mr. Kleinmeier indicated in his report that he agreed with the findings of the OPS, as *not sustained*, because the record diagramming the actions of the APD officers did not indicate excessive force. Mr. Malatras also moved to have the CPRB's Policy Committee talk to the Albany Police Department to see how these special units can be better trained to avoid the problems that were raised in this case. He stated that the troopers and the APD should clearly work better together, and the officers should have tried to stop the situation from spiraling out of control. Mr. Malatras requested that the Board consider writing a letter to the State Police stating its concern about how a small offense was blown into a larger fight that ended in an arrest and how to avoid additional unnecessary confrontations in the future.

James Malatras stated that he did not understand how the combination of the APD officers and State troopers is supposed to work. Commander Beattie replied that under the OPS' Impact Grant, the State gave the APD funding for various projects and commitments. The State also agreed to assist the APD by giving them manpower via the presence of the State Police. Commander Beattie stated that he thinks they are completing their third year with the State trooper's help. He stated that it is his understanding that there is a maximum of six (6) troopers per four (4) to twelve (12) shifts, four (4) to five (5) days a week. Those troopers are then assigned to various APD officers who work with the Strategic Deployment Unit. The officers and troopers ride together in what is referred to as blue and grey patrols. Therefore, approximately six (6) two-person (2) units are put out per four (4) to twelve (12) shift, most days of the week. The troopers are there to supplement the APD manpower. They are assigned to various areas throughout the city, depending upon quality of life issues, etc. Unfortunately, the APD do not get the same troopers all the time because it is based on need. Commander Beattie reported that the State troopers receive the same basic training as the APD. He stated that the APD can not dictate what the troopers' training is, and vice versa. If a situation like this occurred then the APD would address it informally, at the supervisory level with the State Police. In order to address it formally, more training would be needed than just putting them on the street, which would defeat the purpose of the blue and grey patrols.

James Malatras added that most of the issues in this complaint did not involve the APD, but rather the State trooper, which the Board does not have jurisdiction over.

Commander Beattie replied that through the OPS investigation, the Trooper was interviewed by a Sergeant or Lieutenant of the State Police. The OPS also informed the complainant that they can only look at the actions of the APD officer, and not the State Police. The OPS gave the complainant the information on whom to contact at the State Police, and where to go, so the complainant would have to follow up with the State Police. Commander Beattie further stated that the APD and State Police then exchanged paperwork on the allegations, but the APD did not interview the State trooper in question. The APD could ask the State Police to ask certain questions of the trooper in question, and they will do the same with the APD. Mr. Malatras asked Chairman Allen what were his thoughts about the Board writing a letter to the State Police. Mr. Malatras added that the interesting thing about this complaint is that it centered on the actions of the trooper. This is a complaint that started off by an officer saying you should not have an open container, to someone being arrested for resisting arrest and disorderly conduct, which seems like a pretty big leap from an open container citation, which the complainant was not given. Mr. Malatras noted that the complaint had very little to do with the Albany police.

Chairman Allen stated that there was nothing that prevented the Board from recommending a finding. Mr. Malatras stated that the letter could read that the Board received a complaint that was really only tangentially related to the APD, whom the Board has jurisdiction over, and centers on a State trooper. The Board can not make a finding of fact or guilt, but the Board is concerned that a really small issue became a very big issue. Commander Beattie stated that Detective Hendrick said that the complainant also made a formal complaint with the State Police, and the State Police are, therefore, investigating it. He added that the OPS informs the State Police if they get a complaint regarding one of the State troopers. The State Police will open an investigation based on OPS' phone call, and they will reach out to the complainant. In this instance, Commander Beattie stated that he believed that the complainant went to the State Police on his own, and they are conducting an investigation. Commander Beattie stated that he is not privy to the investigation or its status. Chairman Allen asked the Board if it would be reasonable to table this complaint pending the outcome of the State Police investigation. Ronald Flagg replied that the Board should send a letter to the State Police and let them know that the Board is equally concerned with its investigation of this complaint.

John Paneto stated that he had a housekeeping issue. He stated that he has been on the Board for about a year now, and this is the third or fourth State trooper-involved complaint that has been before the Board that the Board has not been tracking. He stated that instead of tabling it, the Board should let the State Police conduct its own business. Chairman Allen stated that he could think of one other complaint involving a State trooper who was a witness, but could not think of another one. Mr. Malatras added that there was one closed case that involved a complainant being pulled over. Chairman

Allen noted that case did not involve a blue and grey patrol, but a trooper patrolling in the City of Albany. Mr. Malatras added that the Board keeps a record of closed cases which goes into its reports. Mr. Flagg stated that if the complainant also filed a complaint with the State Police, it would certainly reinforce the Boards' concern to follow up with its concern. Chairman Allen suggested that the Board write a letter to the State Police, and see the result of its investigation before the Board makes a determination on this complaint, because the Board is not privy to everything yet. Commander Beattie stated that the State Police, unless it is a criminal investigation, which this is not, are not obligated to discuss the results of their investigation at all. Commander Beattie further stated that if the OPS and Board came down too hard on the State Police then the State may not assist the APD in the future. He added that he did not know if that would make it more difficult to conduct a parallel investigation with the State Police in the future.

Chairman Allen stated that the Board could craft a letter stating that the Board received a complaint about a State trooper and would like to know when their investigation is complete. Mr. Flagg suggested that Board Counsel Patrick Jordan write the letter. Mr. Malatras moved to accept the findings of the OPS of *not sustained* concerning the allegations in the complaint, and write a carefully tailored letter to the State Police regarding the behavior of the trooper involved. Commander Beattie asked to be copied on the letter. Chairman Allen agreed and noted that the OPS could review it before it is sent, to ensure that their concerns are met, and the blue and grey patrols are not jeopardized. Detective Hendrick asked Mr. Malatras whether the Board agreed with the OPS finding of *unfounded* or *not sustained*. Mr. Malatras clarified that he meant to agree with the finding of *unfounded*. Ronald Flagg seconded the motion. The motion carried unanimously.

CPRB No. 14-07/OPS No. C07-320 (Presented by Chairman Jason Allen)

Chairman Jason Allen summarized the complaint. He summarized that the complaint concerns an incident that happened on April 22, where four (4) units were called to Sheridan Avenue for a reported shooting. Chairman Allen noted that on that same day, an inter-departmental correspondence (IDC) was sent from a Sergeant reporting that a woman appeared at the station, stating that a plain clothes officer took her bike from her son, who was at the scene, and she wanted it back. As stated in the IDC, the Sergeant polled units 103, 108, 109, 203, and 208, to see if there was a bike at the scene, and if they had taken it away, as the complainant's mother stated. The officers present at the scene stated that they had no recollection of a bike being taken. While the woman was at the OPS filing a complaint the next day, she called her son from her cell phone, and the investigating officer started to speak to the son, who ended up hanging up on the OPS. According to the IDC, the woman said to the investigating officer that she did not want to bring her son in, for fear that he would be questioned on the shooting as well.

Chairman Allen reported that he reviewed the IDC from the officers, the sequence of events from the OPS, and an incident report from the shooting, which noted the units that appeared at the scene. These were all uniformed units, and there were no plain clothes

detectives or any detectives called to the scene. The complaint was filed by the mother, and the complainant never showed up to the OPS or the police station to follow up on it. Chairman Allen reported that in the sequence of events, on July 10, the mother called again to the OPS stating that she “ran across” someone who had her bike. Despite certified letters and phone calls, the OPS had been unsuccessful in reaching the complainant or the complainant’s mother. Chairman Allen asked if the complainant was present. It was noted that the complainant was not present. Chairman Allen stated that a monitor was not assigned to this case, and asked if there were any questions from the Board. Ronald Flagg asked if the mother of the complainant had called the OPS in May to say someone had told her about the bike. Chairman Allen replied that in July the complainant reported that she “ran across” someone that had her bike. Mr. Flagg asked if the woman called the OPS with that information. Chairman Allen replied in the affirmative.

Chairman Allen moved to agree with the OPS’ findings that the investigation be closed as *no finding*. James Malatras seconded the motion. The motion carried unanimously.

B. *Appointment of New Members to the Committee on Complaint Review for November 2007*

The following Board Members were appointed to the Committee on Complaint Review for November 2007: James Malatras, John Paneto, and Andrew Phelan, Jr.

C. *Committee/Task Force Reports*

By-Laws Committee

Committee Chairman Jason Allen noted that the committee had nothing new to report.

Community Outreach

Committee Chairman James Malatras stated that the Community Liaison Program is moving along slowly. He acknowledged and thanked Ms. Muthig, one of the Committee’s liaisons, for attending tonight’s meeting. Mr. Malatras further reported that the Committee is still working on the CPRB brochure for its community outreach, and hopes to have it ready for the Board’s review shortly. Chairman Allen suggested that Chairman Malatras send out an email restating what action he needs from people, and what support is needed from specific communities. Chairman Allen noted that it was great to see people from the community present, and that the Board is trying to go out to meetings in the community as well. He acknowledged that students were present in the audience. John Paneto added that he told the students that the Board would be available to speak with them after the meeting.

Mediation

Committee Chairman Jason Allen reported that the Government Law Center sent a letter to the CPRB about a meeting that is going to occur tomorrow after lunch. He then asked who would be present for the meeting. Government Law Center Coordinator of the Board Sharmaine Moseley replied that Chairman Allen and James Malatras were to attend. Andrew Phelan asked where the meeting was, and what time was it scheduled for. Chairman Allen replied that it was at the police headquarters at 1:00 p.m. He explained that the purpose of the meeting is to introduce Peter Glassman to the Union, Chief and the Command Staff and to discuss the mediation program to make sure expectations are set. Chairman Allen added that Mr. Glassman has a pool of mediators and wants to make sure that the expectations match the pool that he has. He noted the commitment of commencing the mediation program on January 1, 2008.

Chairman Allen summarized the mediation program. He noted that there are certain complaints that are not allegations of excessive use of force and discrimination, but are complaints that are allegations of unprofessional conduct such as rudeness. Through the mediation program, the Board would offer a complainant the option to sit in a room with the target officer, upon his or her agreement, with a mediator and talk it through, and to understand if there was a misunderstanding. The Board's expectation is that complainants walk away from the process more satisfied than perhaps what you saw earlier this evening, where the complainant and police officer were rude to each other, and unfortunately it turned into a "he-said-she-said." Chairman Allen explained that it is problematic to the Board when the complainant is not here, and the Board can not recommend a corrective action to a police officer that may affect his career with no witnesses, or no complainant. Mediation is a process to get the complainant and officer, to talk things over in the presence of a mediator.

Police Department Liaison and Policy Review/Recommendations

Chairman Jason Allen reported that police department liaison Dan Fitzgerald was not present, and an update had not been received from him.

Public Official Liaison

Committee Chairman Ronald Flagg stated that there was nothing to report at this time. Chairman Allen requested that a meeting be set up with the Common Council and the Deputy Mayor to update them on the meeting with the APD Command Staff regarding the mediation program.

Monitors Task Force

Chairman Jason Allen reported that James Malatras agreed to Chair the Task Force on Monitors. Mr. Malatras replied in the affirmative, and added that he just received the copy of the comments that the monitors submitted after the meeting, and he stated that he is reviewing that now.

D. Report from the Government Law Center (GLC)

Government Law Center Coordinator of the Board Sharmaine Moseley gave the report.

Complaint Status as of Date of Meeting

It was reported that as of today, there are currently twenty-nine (29) active complaints before the Board for review. Of those twenty-nine (29) active cases, four (4) were reviewed at tonight's meeting.

It was further reported that two hundred thirty-eight (238) complaints have been closed and seven (7) complaints were suspended from review. The total number of complaints filed to date is two hundred and seventy (270).

Board Happenings

It was reported that Board member Mauri Davis Lewis has resigned from her position on the Board. The Mayor has communicated to the GLC that he will appoint someone soon to fill that position. It was noted that a copy of Ms. Davis Lewis' resignation letter was in the Board's meeting packets.

It was reported that the GLC have been in communication with the Common Council regarding member Ronald Flagg's reappointment and are waiting on a response from them.

Training

It was reported that the GLC would like the Board to start thinking about possible 2008 training topics and submit any ideas to the GLC. By the next meeting, the GLC would like to be able to circulate to the Board a list of proposed training topics to be considered for next year to fulfill the Board's training requirement.

James Malatras asked if there was a way to tie the Board's training requirement with the mediation training. Sharmaine Moseley replied that it could be arranged. Mr. Malatras asked how long after the Mayor appoints a member could they be trained and start voting. Ms. Moseley replied that the Government Law Center conducts its orientation for new members, and coordinates with the OPS to do an abbreviated orientation, before the new member would be allowed to vote.

CPRB Brochure

It was reported that the previous CPRB draft brochure was created in a Quark program and the pictures used were of low resolution so the GLC is looking at purchasing new photos and are expecting to have a draft of the brochure for the Board's review by the next meeting.

Board Meeting

It was noted that the next Board meeting is scheduled for November 13th at Albany Law School in the Dean Alexander Moot Courtroom.

E. Report from the Office of Professional Standards

Commander Burris Beattie reported that in the second quarter, the Department handled 39,356 calls for service. Out of those calls for service, 2,031 arrests were made, which did not include juvenile arrests. Commander Beattie noted that the Department received nine (9) citizen complaints, which was less than one percent (1%).

Commander Burris Beattie reported that in the third quarter, the Department received 40,491 calls for service. Out of those calls for service, 2,766 arrests were made, which did not include juvenile arrests. Commander Beattie noted that the Department received five (5) citizen complaints. Commander Beattie then asked parties of the audience to identify themselves. The audience members identified themselves as Journalism students at SUNY Albany. Commander Beattie informed them that there is a Police Exam on November 17, and the application deadline is next week. He noted that he will be available after the meeting if anyone was interested in the exam.

G. Report from the Chair

Chairman Jason Allen stated that he had nothing new to report, except from the letter he received regarding Mauri Davis Lewis' resignation. Chairman Allen noted that he does not know who the replacement will be, but looks forward to getting that person engaged in the Board. Chairman Allen further stated that he did try to call Mauri Davis Lewis to wish her well, and got busy signals, but will try again. He noted that although her tenure was short, she did a great job while she was on the Board. Chairman Allen further noted that according to Ms. Davis Lewis' letter, when she retires she would like to be considered again for the Board. It would be great to have a trained Board member who really enjoyed it back on.

Chairman Jason Allen stated that in regard to the mediation meeting that is coming up, it would be a good focus of the Board in terms of making the world a better place. Chairman Allen noted that the CPRB case tracker is great in terms of case status. He asked if there was any visibility on some of the older complaints that were sent back to the OPS for further investigation, like line twenty one (21) and line twenty four (24). Detective Hendrick replied that the complainant whose case is on line twenty four (24) was sent a certified letter, since there were no other contact numbers, and she believes the letter was returned. Chairman Allen commented that the complainant was attended the meeting when her complaint was reviewed, so he was surprised. Commander Beattie stated the Board should have line 21 by the next meeting.

V. **Public Comment**

Chairman Jason Allen opened the floor for public comment. He noted that there were no comments offered.

VI. **Adjournment**

Chairman Jason Allen moved to adjourn the meeting. Ronald Flagg seconded the motion. The meeting was adjourned at 7:05 pm.

Respectfully submitted,


Ronald Flagg
Secretary